

Business Insurance

Reporting Weekly For Corporate Risk, Employee Benefit and Financial Executives / \$2.50 a copy

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\$48 million punitive award trimmed by judge to \$2 million

SAN DIEGO—Finding a \$48 million punitive damage award assessed by a jury excessive, a state court judge slashed to \$2 million the judgment against three companies that made leaky polybutylene pipe systems or system parts.

A trial court jury in April awarded punitive damages of \$48 million to Coles Development Co. Inc. and \$190,000 to homeowners in the largest of a series of verdicts against Shell Oil Co., Hoechst Celanese Corp., Eljer Industries Inc. and an Eljer
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Corporate capital guidelines stress balance

By ALINE SULLIVAN

LONDON—Guidelines released last week by Lloyd's of London on the introduction of corporate capital strike the "right balance" between the interests of existing members and those of prospective corporate investors, Chairman David Rowland contends.

The 305-year old insurance market, in a revolutionary move, is planning to admit its first corporate investors on Jan. 1.

Corporations that become members will have limited liability for their underwriting losses at Lloyd's, while individual members will continue to face unlimited liability.

Lloyd's officials say the rules released last week in a document titled "A Guide to Corporate Membership" address concerns that existing members may be squeezed out in favor of the new corporate investors.

However, Mr. Rowland noted that potential corporate investors have expressed a similar fear that traditional Lloyd's names will have their pick of the best syndicates.

"We have striven to achieve equity between members," said
Continued on page 19

Health reform's side effects

Workers comp integration plan may cut costs

By MEG FLETCHER

CHICAGO—President Clinton's proposal to integrate workers compensation medical care with a reformed general health care system may offer insurers and employers better opportunities to control workers comp medical costs.

While they are receptive to the idea, most observers still have many questions about how—and if—the proposal would work.

Labor representatives generally applauded the plan, under which workers would still receive first-dollar medical coverage, though one official said he had hoped the workers comp and general medical systems would be merged.

The Clinton proposal does not go that far, however. Workers comp insurers and self-insured employers would still pay for the cost of workers comp medical care, but that care would be delivered through qualified health plans set up by regional health care alliances or by companies with more than 5,000 employees.
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Firms to lose much control over programs

By CHRISTINE WOOLSEY

WASHINGTON—While employers may bog themselves down looking at tiny details of the Clinton health reform plan, the biggest shock may be in the big picture: Companies will lose basic control over their health care plans.

Even companies with more than 5,000 employees, which would be allowed to establish their own health purchasing alliances rather than join regional alliances with smaller employers, still will have relatively little freedom to design their own plans.

Turning over the reins of health care management is particularly worrisome for employers because they have little faith that they will reap the savings the Clinton administration is promising.

In fact, if the Clinton plan is adopted, it could wipe out any gains employers have made from creating innovative programs to control their health care costs.
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Proposal would kill flex plans

By JERRY GEISEL

WASHINGTON—In one fell swoop, President Clinton's health reform plan would essentially kill most corporate flexible benefit programs.

The knock-out punch comes on page 239 of the 239-page draft of the administration proposal: "Section 125 plans (so-called 'cafeteria plans') are amended to exclude employee contributions for health benefits."

If it becomes law, that provision would destroy nearly all types of flexible benefit plans set up under Section 125 of the Internal Revenue Code. These include:

- Premium conversion plans, in which employees make pretax contributions to cover their portion of the health care premium.

These plans now blanket Corporate America because they add virtually nothing to employers' administrative expenses while lowering em-

ployees' true cost by reducing workers' actual taxable income.

- Flexible spending account plans, in which employees reduce their salaries to make pretax contributions to pay for uncovered health care expenses, like medical plan deductibles, or a benefit the employer does not offer at all, like vision care.

Although it's not explicit, the proposal prob-
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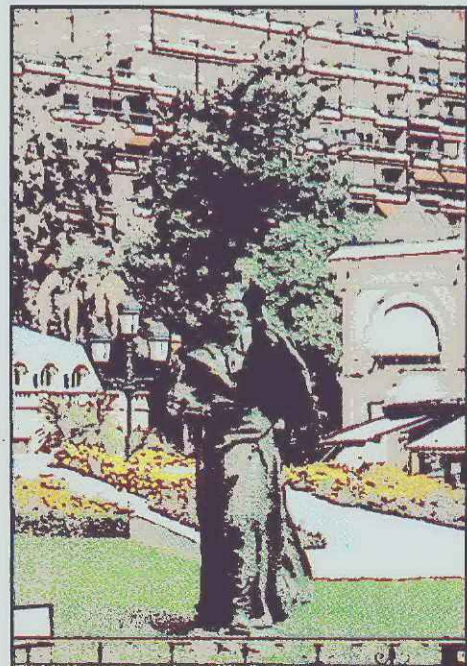


Photo by Kathryn McIntyre

Reinsurers calm despite cats

Property rates will rise, but little change expected in casualty market

By GAVIN SOUTER and JAMES M. BURCKE

MONTE CARLO, Monaco—The only way to go is up for commercial property insurance and reinsurance rates during year-end renewals.

How far up, though, will depend on which side of the ocean you're standing.

The severe shortage of catastrophe reinsurance capacity, the resulting high cost of cat coverage and the determination of reinsurers to stiffen terms and conditions for both proportional and excess-of-loss property reinsurance contracts should lead to increased prices for property coverages, executives meeting here earlier this month agreed.

While some reinsurers and brokers are expecting healthy rate increases for pri-

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mary property insurance in Europe, property insurance rates in the United States will not increase by much unless the risk includes a catastrophe component.

And, casualty rates, particularly in the United States, will remain soft for at least another year, insurance and reinsurance

executives agree.

A mood of calm seriousness and a willingness to compromise to find solutions was reported by many of the insurance and reinsurance industry executives at the 37th Rendez-Vous de Septembre, the annual gathering of the world's reinsurance industry held Sept. 6-11 in Monte Carlo.

That was a marked change from one year earlier, when Hurricane Andrew—which had ripped through southern Florida days before the meeting began—and its effect on property catastrophe coverage were virtually the only subjects of conversation.

Property cat coverage still was the focus of this year's meeting, though discussions usually drifted to a related topic: the huge flow of capital to the new monoline prop-
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Update

Big punitive award slashed

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subsidiary (BI, April 26).

Both the developer and the homeowners attributed flood damage and other problems to faulty plumbing systems. The jury found the companies liable for damage and guilty of fraud for producing a product they knew was defective.

If Coles does not accept the reduced award, the judge said he will order a new trial. Coles' attorney could not be reached.

Shell will ask the judge to reconsider the award based on a new California Supreme Court ruling that proving fraud requires a showing that plaintiffs actually relied on misrepresentations, said David Ring, an attorney with Fabris, Burgess & Ring in San Francisco who represents Shell.

Eljer said Travelers Indemnity Co. of Illinois, Eljer's first-layer excess insurer from 1982-86, has paid about \$6.9 million in claims related to the Qest plumbing system after a U.S. appeals court granted coverage (BI, Aug. 24, 1992). Eljer said it may pay its share of the \$2 million punitive award out of that reimbursement.

Travelers has notified Eljer that its limits for 1982-83 are exhausted. Several insurers that wrote coverage excess of the Travelers layer are disputing coverage in Illinois state courts.

State liable in toxic dump case

RIVERSIDE, Calif.—The state of California is liable for damages caused by chemicals it allowed to leak from the Stringfellow Acid Pits, a jury found in the first trial in the largest toxic dumping personal injury suit in the nation.

After a seven-month trial, a Riverside County Circuit Court jury found the state liable but awarded residents of the community of Glen Avon only \$160,000 of the \$3.1 million sought.

The trial involved claims by 17 of 3,800 residents of the rural community 50 miles east of Los Angeles. The next trial is tentatively set to begin in 12 months.

Besides the state, the only remaining defendant was a defunct metal plating company that the jury acquitted. Earlier 10 other defendants had settled claims out of court (BI, March 8).

Meanwhile, attorneys for Montrose Chemical Corp. and Admiral Insurance Co. have completed briefing prior to California Supreme Court review of *Montrose vs. Admiral*, one of three major coverage suits related to Stringfellow dumping. The insurer sought high court review after an appeals court granted coverage under a continuous trigger theory (BI, March 9, 1992).

Montrose vs. Superior Court, the second coverage case involving the duty to defend issue, also is awaiting Supreme Court review. Oral arguments in that case have been scheduled for Oct. 5 in Los Angeles. The third coverage case—*Montrose vs. American Motorists*—also is up for Supreme Court review.

Insurance oversight battle

WASHINGTON—The House Banking Committee is scheduled to vote this week on an anti-redlining bill that contains a provision granting the Federal Insurance Administration the power to regulate the solvency of foreign insurers and reinsurers.

H.R. 1287 was introduced by Rep. Joseph P. Kennedy II, D-Mass., in response to alleged redlining in inner-city areas (BI, March 1).

Another anti-redlining bill, introduced by Rep. Cardiss Collins, D-Ill., won approval of the House Energy and Commerce Committee last week. H.R. 1188 does not include solvency language. The Collins measure sets up pilot projects to gather data about the availability of commercial insurance in five cities.

The dueling redlining bills represent a battle for oversight of the insurance industry between two powerful congressmen, Commerce Committee Chairman John D. Dingell, D-Mich., and Banking Chairman Committee Henry Gonzales, D-Texas. By the end of last week, some predicted that if the Kennedy measure wins committee approval, Rep. Dingell will move swiftly to get at least part of his controversial insurance solvency bill, H.R. 1290, enacted to retain jurisdiction over the industry.

Du Pont appeals Benlate award

LITTLE ROCK, Ark.—E.I. du Pont de Nemours & Co. is appealing a Sept. 3 jury verdict that it pay more than \$10 million in damages to 23 Arkansas farmers whose crops were found to be damaged by Du Pont fungicide Benlate DF.

The award, issued Sept. 3 by a U.S. District Court jury in El Dorado, Ark., will be paid from a \$500 million reserve excess of insurance the company established in 1991 to pay claims related to Benlate 50 DF, according to Dianna Smith, corporate insurance manager for Wilmington, Del.-based Du Pont.

Meanwhile, another Benlate trial continued last week in Broward County Circuit Court in Hollywood, Fla.

Plaintiffs in these and more than 400 other lawsuits allege that the fungicide, pulled from the market in 1991, caused billions of dollars in damage to crops and ornamental plants (BI, June 21).

Du Pont settled a Georgia case—the first Benlate 50 DF suit to reach trial—for \$4.25 million on Aug. 12 (BI, Aug. 16).

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Errors & Omissions

• Richard Clayton, former governmental insurance adviser in the Bahamas, left that post earlier this year when his contract expired. He was not dismissed as stated in the Sept. 13 issue. *Business Insurance* apologizes for the error.

Investigation of two insurers spans the U.S. and Cayman

By DOUGLAS McLEOD

JUPITER, Fla.—Two Cayman Islands insurers operated by a Florida businessman are targets of investigations and regulatory action in the United States and Cayman.

Cayman officials last month revoked the license of Association Insurance Co. Ltd., a self-described group captive operated by Delta Management Inc., which is a Jupiter, Fla.-based company headed by Anthony J. Damoulis.

Charles Scott, an official with

the Cayman Financial Services Supervision Department, would not say why AIC's license was revoked but noted that Cayman government officials are conducting "an ongoing investigation" of the insurer's operations.

The probe is not being conducted by insurance regulators, but Mr. Scott declined to say which government agency is investigating AIC.

He also would not say whether the inquiry is related to a government investigation of Gilbert Connolly, Cayman deputy in-

spector of financial services who was suspended from his job last month (BI, Sept. 13).

Bob Meek, detective chief inspector with the commercial crime branch of the Cayman police, also declined to comment.

Meanwhile, Mr. Damoulis' activities have attracted regulatory attention in the United States: Florida regulators are attempting to seize the assets of Delta Management and several of Mr. Damoulis' other companies, charging that they are alter egos

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Buried in the budget law

Benefit managers must deal with medical support orders

By NANCY P. JOHNSON

WASHINGTON—Thanks to a little-noticed provision in the recently approved budget law, benefit managers may increasingly find themselves right in the middle of domestic disputes.

Benefit managers, who have long complained about having to administer court orders that divide up the savings and pension plan assets of divorcing spouses, say new budget rules on health plans

will create even more problems.

Since Aug. 10, plans have been required to honor "qualified medical child support orders," known as QMEDs, which courts may issue to require a divorcing spouse to provide coverage for his or her children (BI, Aug. 23).

Plans were already required to honor "qualified domestic response orders," or QDROs, the orders that divide savings and pension plan assets, and benefit consultants and benefit managers

chorus that the new orders are "QDROs all over again."

Under the new rules, employers are required to develop and have on file written procedures for determining if a QMED is valid, as well as procedures for dealing with QMEDs. Employers will be required to keep track of dependents' names and addresses, which will be especially important when mailing COBRA notifications.

The QMED orders "have the potential to create even more problems," says a consultant. *Continued on page 25*

AIDS compensation

Canadian victims of tainted blood weigh settlement

By GAVIN SOUTER

OTTAWA—Insurers and provincial and territorial governments are offering \$130 million Canadian (\$99.1 million) in compensation to people who contracted HIV from infected blood.

The offer, which requires the victims to drop all suits against all defendants and promise not to file additional lawsuits in the future, covers people who received

tainted blood before screening started in 1985.

This proposal would replace a federal program that paid infected people \$30,000 Canadian (\$22,800) per year. Insurers—which would pay \$30 million Canadian (\$22.8 million)—and the Canadian Red Cross are participating, and all the provinces and territories except Nova Scotia, which has a more generous plan.

The program would:

• Pay \$30,000 Canadian (\$22,800) a year for life for people infected with HIV or AIDS.

• Pay \$20,000 Canadian (\$15,200) immediately to an infected person or a surviving

spouse.

• Pay \$20,000 Canadian a year for four years for surviving spouses.

• Pay \$4,000 Canadian (\$3,046) a year for four years for each surviving dependent child.

Hemophiliacs have brought about 120 lawsuits in provincial courts against federal, provincial and territorial governments; doctors and hospitals; the Red Cross; and drug firms, said John Plater, a vp of the Canadian Hemophiliac Society in Toronto.

Neither the companies nor the governments are admitting liability. Victims are currently considering the plan. **BI**

Business Insurance to publish RMIS directory

Business Insurance will publish its annual directory of risk management information system vendors in the Dec. 6 issue, which will include a report on trends in risk management automation systems and analysis.

There is no charge to be listed in the directory, but companies wishing to be included in the directory must fill out and return a questionnaire pro-

vided by *Business Insurance*.

If your company sells software to corporate risk management departments and you have not received a questionnaire, please contact Kerry Dziubek, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590; 312-649-5398.

The deadline for returning completed questionnaires to *Business Insurance* is Oct. 15.

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Vol.27, No.39—Business Insurance (ISSN 0007-6864) is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to Business Insurance, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207-3185; 800-678-9595 or 313-446-1611. Copyright 1993 by Crain Communications Inc.

KWELM proposal receives nod from creditors

By ADRIAN LADBURY

LONDON—Major policyholders of Walbrook Insurance Co. Ltd. and four other insolvent insurers are giving their initial approval to a proposed scheme of arrangement for the companies.

The plan, drafted by the insurers' provisional liquidator, Coopers & Lybrand, proposes payments over time of up to 40% of the claims owed to 100,000 policyholders and creditors, 90% of which are U.S.-based.

The total claims owed by the insurers, collectively known as the KWELM companies and which were members of the line slip managed by H.S. Weavers (Underwriting) Agencies Ltd., could amount to \$9 billion by the year 2033 (BI, Sept. 13).

Members of the informal creditors committee, a representative sample of creditors and policyholders and some of the biggest claimants, prefer the scheme of arrangement to a formal liquidation because the scheme will pay out more money more quickly at a lower cost.

A spokesman for one U.S. firm, which bought tens of millions of dollars of coverage from the companies, said he hopes the scheme can be used as an example of how insolvent U.S. insurers can be run off.

"I think that the scheme represents a very positive step forward for creditors of the KWELM companies and also other companies because in a sense we have created the wheel which I hope can be used in other instances by other policyholders," said Bob Poyourow, assistant general counsel for GAF Corp. GAF was a member of the creditors committee until it recently ceded its seat to the International Policyholders Assn., a group representing the interests of policyholder in insurer insolvencies (BI, Feb. 10, 1992).

The U.K. Policyholders Protection Board, itself a key member of the KWELM creditors committee, also backs the scheme.

The PPB manages a guaranty fund, financed by British insurers, that was established under Policyholders Protection Act of 1975 to compensate policyholders and creditors of failed U.K. non-life insurers. The PPB in July reluctantly accepted a House of Lords ruling that it must pay at least part of the claims of overseas policyholders of failed U.K. insurance companies (BI, July 19).

Chris Hughes and Ian Bond, the Coopers & Lybrand partners responsible for the scheme, estimate that KWELM policyholders that qualify for

Continued on page 4

PBGC premium hike considered

Agency must undergo reform to survive, current and former directors agree

By MARK A. HOFMANN

WASHINGTON—An inter-agency task force will recommend that the Clinton administration propose legislation raising premiums employers with underfunded pension plans pay to the Pension Benefit Guaranty Corp., administration officials said last week.

The task force, comprising officials from several federal agencies, as well as the PBGC, also will recommend faster funding schedules for employers with underfunded pension plans.

In addition, the task force will propose that employers provide—in a simpler format—infor-

mation to plan participants about the financial condition of their pension plans and the limits of PBGC benefit guarantees.

These proposals, if accepted by Labor Secretary Robert Reich, would be included in PBGC reform legislation the administration expects to send to Congress soon.

"Current law is not working," an administration official said, noting that present funding rules are too weak, exposing the PBGC to escalating liabilities.

Meanwhile, the current executive director of the PBGC and his immediate predecessor agree on at least two things: The PBGC isn't soon going to collapse, but it still

must undergo significant reforms.

But current Executive Director Martin Slate and James Lockhart, the PBGC's chief during the Bush administration, disagree on the severity of the PBGC's plight.

Mr. Slate insists the agency "has more than substantial revenues and assets on hand to make benefit payments as they come due for the foreseeable future."

But Mr. Lockhart says that if the PBGC were a private insurer, it would long ago have been taken over by state regulators.

In fact, Mr. Lockhart, who is now a managing director of Smith Barney Shearson in New York, said that if the PBGC were a prop-

erty/casualty insurer, its combined ratio over the past three years would have been 184%—far worse than that of many insurers that have become insolvent.

Nevertheless, Mr. Lockhart said the "pensioners will continue to get their checks, even if they come from the taxpayers, as those of depositors in the (savings and loan associations) did."

The "PBGC was modeled after the departed Federal Savings & Loan Insurance Corp. They share the same moral hazards of a government insurance program that ignores the marketplace and actually encourages losses through un-

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Market-share liability rejected in lead paint case

By JOANNE WOJCIK

BOSTON—Individuals injured by lead paint contamination in their homes cannot sue manufacturers under a market-share liability theory in Massachusetts, a federal appellate court has ruled.

In its Sept. 10 ruling in *Santiago vs. Sherwin-Williams Co.*, the 1st U.S. Circuit Court of Appeals follows the recent trend in rejecting market-share claims in lead liability cases.

Market-share liability has been limited primarily to cases involving DES, an anti-miscarriage drug prescribed to women during the 1940s through 1970s that was later found to cause birth defects. The theory was first applied by the California Supreme Court in 1980 and has since been adopted by appellate courts in California, Florida, Hawaii, New York and Washington state.

While the plaintiff in the Massachusetts case tried to draw parallels between the DES cases and her own situation, the 1st Circuit cited two critical differences between the cases.

First, DES was found to cause identifiable and unique harms. But the symptoms of lead poisoning are similar to harm that could be caused by hereditary, social or other environmental factors.

Second, DES was not present in products that were common in homes or the environment. Lead, however, is ubiquitous, the court found.

The court also stated that market-share liability was an inappropriate theory to apply to bulk suppliers of ingredients that cannot control the design and marketing of the final product.

In 1987, Monica Santiago, now 20, sued Sherwin-Williams, NL Industries Inc., Eagle-Picher Industries Inc., Atlantic Richfield Corp. (as successor to International Smelting & Refining Co.) and SCM Corp. (as successor to Glidden Co.) for negligence, breach of warranty and concert of action.

Ms. Santiago alleged that these companies manufactured and marketed all—or virtually all—of the white lead pigment used in lead paints sold in the United States between 1917—the year in which her childhood residence in Boston was built—and 1970.

She claimed that between Nov. 9, 1972—the day she was born—until 1978—the day her family moved—she ingested lead paint that had been applied in layers to the walls and woodwork of her home at various times between 1917 and 1970.

As a result, Ms. Santiago's blood had high levels of lead by the time she was 1 year old, and by age 4 she had to undergo chelation therapy to remove the lead

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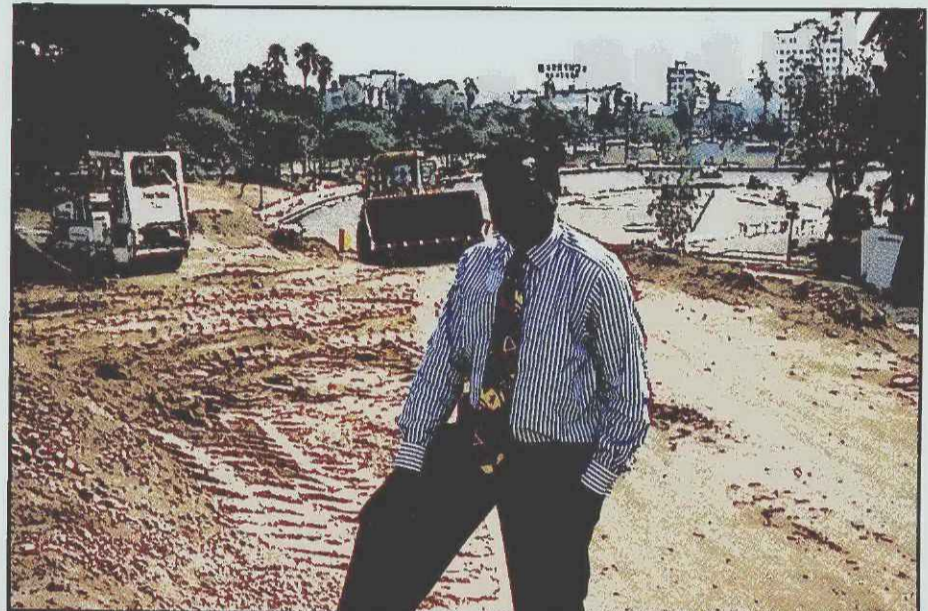


Photo by Joe Coomber

LACTC Risk Manager Abdoul Sesay negotiated the pollution wrap-up program.

Wrapping up risk

L.A. subway project covers pollution exposure

By JOANNE WOJCIK

LOS ANGELES—Contractors for the Los Angeles subway project, digging deep below the surface of the nation's second-largest city, can rest assured they will be covered for any liability should an environmental mishap occur.

And, it's a sure bet that tunneling as deep as 100 feet below the heart of this one-time boom town will provide any number of surprises, pointed out Abdoul R. Sesay, risk manager for the Los Angeles County Transportation Commission.

"We've found hydrocarbons, solvents, underground storage tanks," he said.

Contractors, of course, prepare for possible environmental risks by taking soil samples and examining historical documents like property ownership records and newspaper accounts of fires and hazardous chemical spills. Still, "it's very unpredictable what you'll find," Mr. Sesay said. "We are building a construction project in an old, metropolitan city."

Oil wells once dotted the landscape several blocks north of Wilshire Boulevard and a pocket of naturally occurring

methane gas leveled a department store not far from the famous La Brea Tar Pits less than a year before the construction crew's first pick breached the city's crusty surface.

Modern technology will take care of the methane gas problem, said Mr. Sesay, and modern insurance—an environmental liability wrap-up program that may be the first of its kind—will protect contractors from pollution risks.

Contractors working on the Los Angeles Metro Rail project have \$20 million in pollution liability coverage through the owner-controlled program underwritten by Zurich-American Specialties.

Architects and engineers on the project carry another \$5 million in errors and omissions pollution liability coverage, also underwritten by the New York-based Zurich-American Insurance Group unit.

The coverages, which attach above a \$500,000 self-insured retention, were brokered by Willis Corroon Corp. of Los Angeles working with Willis Corroon's Environmental Insurance Services

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Late notice of claim voids pollution cover

By SARA MARLEY

ATLANTA—Liability insurers are entitled to deny coverage to a policyholder that fails to give notice even after it becomes aware of pollution and, in fact, hires a firm to clean it up, a federal appeals court has ruled.

A panel of the 11th U.S. Circuit Court of Appeals affirmed a lower

court's summary judgment that Canadyne-Georgia Corp. did not give prompt written notice to Continental Insurance Co. and American Universal Co. when the company became aware of contamination at two sites.

The two insurers named in Canadyne's appeal were among several that wrote primary and excess liability coverage for the Fort

Valley, Ga.-based chemical company from 1965 to 1984.

Both state and federal environmental authorities had repeatedly notified the company of pollution, the court said. And Canadyne also acknowledged the pollution by its actions and in letters and memos, though it did not tell insurers until years later.

"Canadyne knew or should have

known from the numerous studies, warnings and other events undertaken throughout the 1980s that the pesticide contamination making its way through the soil and into the ground water at both (sites) could cause extensive property damage both on- and off-site; and that Canadyne would most likely be responsible for the

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KWELM scheme

Continued from page 3

PPB protection, primarily professional partnerships like law and accounting firms, could be owed up to \$1 billion by the KWELM companies.

The PPB would pay 90% of the claims owed to these policyholders and then attempt to recover funds from the scheme managers.

The PPB spokesman said last week the scheme satisfies all the requirements laid down by the Policyholder Protection Act and that it is "clearly preferable to liquidation for the policyholders and creditors."

If the response from sample policyholders and creditors on the KWELM creditors committee is representative of the entire group, the scheme could well be approved by creditors at a Nov. 17 meeting in London.

Approval requires the votes of 50% of all creditors and 75% of creditors in terms of claims owed.

"We think the agreement reached is acceptable and we intend to vote for (it), especially after an examination of what the alternatives might be. We cannot speculate on the outcome (of the vote), but this is certainly the best option available," said a Hartford, Conn.-based spokesman for ITT/Hartford Group Inc., a member of the creditors committee that ceded and assumed reinsurance to and from the KWELM companies.

The spokesman listed three key reasons why the scheme should be approved: more assets will be available under the scheme than through liquidation; some claims will be paid much more quickly; and claims will be resolved "in a more orderly fashion."

"My thought is that it will be

accepted," said Phillip Rocher, partner with Wilde Sapte, the London law firm that has represented FOJP Service Corp., which oversees the risk management programs for several large Jewish hospitals in New York. FOJP is also on the creditors committee.

"The people on the creditors committee represent a very large proportion of the claimants by value, and it is a very good cross-section of the policyholders by type. For instance, Hartford acted as both inwards and outwards reinsurer, the International Policyholders Assn. represents many of the big industrial policyholders, and my clients represent the medical malpractice and liability side, plus a good mix of short- and long-tail creditors," he said.

The IPA, which represents about 15 KWELM creditors that bought hundreds of millions of dollars of coverage from the com-

panies, also supports the scheme, said Marialuisa S. Gallozzi, an attorney with Covington & Burling in Washington, which represents the association.

"One of the goals of the IPA is to seek new and efficient ways of dealing with such problems, and this scheme appears to address many of the concerns of the policyholders. This is a constructive and creative way to approach what proved to be a very complex insolvency," said Ms. Gallozzi.

Also giving thumbs up to the scheme is Jonathan Bank, a partner with Buchalter, Nemer, Fields & Younger in Los Angeles, which represents liquidators of Transit Casualty Co., which ceded reinsurance to the KWELM insurers.

"Transit, as a member of the creditors committee, signed an approval (of the document) indicating their basic agreement and optimism that the scheme will

hopefully succeed... It reached the conclusion that it is the best alternative of all the various options and provides the best opportunity to reach the dividends for the (Transit) shareholders, at the fastest possible pace and at the lowest cost," he said.

Mr. Bank noted that Transit is "exposed for millions and millions of dollars," including long-tail pollution claims. He said he is confident that scheme would ensure equity between long-tail and short-tail policyholders.

However, he is not surprised that the provisional liquidators think KWELM claims could total \$9 billion and take 40 years to pay. "The \$9 billion... has evolved over a period of time and should not be a surprise considering the type of business the companies wrote."

Of the 40-year payout period, he said: "My guess is that it will be wound up before that and that they, quite rightly, are simply being conservative."

The PPB believes it will not pay out as much as Mr. Hughes and Mr. Bond at Coopers believe.

Based on their \$1 billion estimate of claims owed to PPB policyholders, the board would have to pay a total of \$540 million, assuming it pays 90% of the claims and recovers 40% through the scheme.

"We have not arrived at a figure as high as that, said PPB Secretary Derek Wright, explaining that the PPB has conducted its own analysis. "The cost (to the PPB) will be pretty substantial, but hopefully not as high as that."

Both the PPB and the provisional liquidators are satisfied that the PPB can raise the cash needed to pay claims.

"In very broad terms, and I could be a few percentage points out here, we reckon that there is probably a backlog of claims which could come in quickly (which the PPB would pay). Based on the figures given to us by the PPB, they seem to be OK on a cash-flow basis," Mr. Bond said.

The PPB may have to assess British non-life insurers 0.5% of premium by year end and another 1% next year, he said. But, he added, the PPB will collect some money from the KWELM estate.

Mr. Wright noted that the PPB can assess insurers a maximum of 1% of premium annually. All DTI-authorized non-life insurers can be assessed, though reinsurers and marine, aviation and transport insurers are exempt.

A 0.5% assessment last year raised 80 million pounds (\$121.2 million). Since British insurers' premium volume is increasing this year, a full 1% levy could generate up to 170 million pounds (\$262.8 million), "more than enough to cover the initial demand," said Mr. Wright.

The success of KWELM's U.S. policyholders in their battle for compensation from the PPB may not be repeated in future cases.

A spokeswoman for the Assn. of British Insurers, which represents most of the insurers that will have to cough up funds to the PPB, said that negotiations already are under way with the British Department of Trade and Industry to amend the Policyholder Protection Act.

"We are currently talking with the DTI about amending the act in order to narrow it down to what the U.K. insurers originally thought it was meant to cover. We hope that geographically it will only cover the European Community and only protect Mr. and Mrs. Joe Public for their motor claims and the like," she said. **BI**

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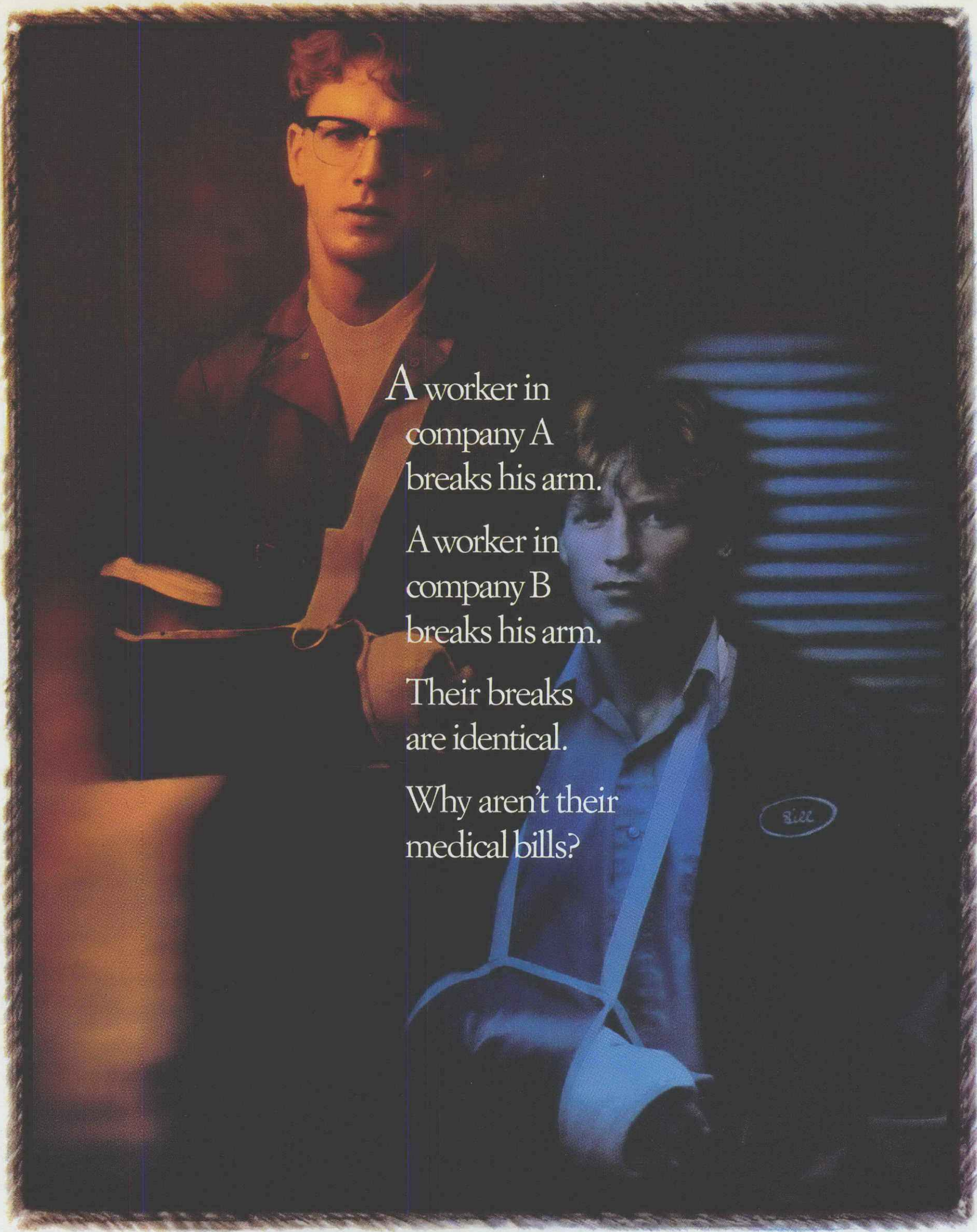
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Du Pont offers benefits to laid-off workers

WILMINGTON, Del.—E.I. du Pont de Nemours & Co. will offer employees one year of medical, dental and life insurance benefits, as well as one month's severance pay for every two years of employment, when it lays off 3,000 employees by the end of this month.

The severance costs alone will result in a \$375 million charge against third-quarter earnings.

The chemical company will dismiss an additional 1,500 by the middle of next year, doubling the number of workers Du Pont has laid off since 1990, when it employed 133,000 worldwide. Unlike previous cutbacks, this round will move beyond Du Pont's headquarters to include its operating plants, particularly those that make nylon.

—By Sara Marley

Benefit Beat

Focusing on family

The percentage of companies that offer some type of work and family program is slowly growing, according to a recent survey by Hewitt Associates.

In 1993, the percentage of employers that offer some kind of child care assistance rose to 78% from 74% in 1992. Of those, 94% offer dependent care spending accounts and 39% offer resource and referral services—the two most common forms of child care assistance. The percentage of employers sponsoring child care centers—9%—remained unchanged.

Elder care programs are offered by 20% of employers, up 4% from 1992. Of those, 76% offer elder care services through a resource and referral program. Only a small number of employers offer other types of elder care, like counseling and long-term care insurance.

Flexible scheduling arrangements are offered by 60% of employers, up from 58% in 1992. The most common arrangements are: flexible work hours, offered by 73% of these employers, and part-time employment, offered by 67%. Other forms of flexible scheduling are: job sharing, offered by about 32% of employers; compressed work weeks, 21%; and work-at-home arrangements, 16%.

The survey collected data prior to the Aug. 5, 1993, effective date

of the Family and Medical Leave Act, and therefore does not reflect employer response to the new law.

Copies of the survey are available for \$35 each. Contact Diane Schuett at Hewitt Associates, 708-295-5000.

—By Nancy P. Johnson

Ohio alliance

DAYTON, Ohio—The Miami Valley Employers Health Action Council, a coalition of 31 employers in Ohio, has established a group purchasing alliance in which a single third-party administrator and a single health care management company will serve the health care needs of the employers' 150,000 employees and dependents.

Similar endeavors have been es-

tablished by coalitions in other communities, including Cedar Rapids, Iowa, and Minneapolis (BI, Aug. 2; July 13, 1992).

Community Mutual Insurance Co. of Cincinnati will administer the program, which encourages employees and their families to seek care from a network of physicians managed by Wright Health Associates in Dayton, Ohio.

Coalition members include Dayton Power & Light Co., General Motors Corp., Robbins & Myers Inc. and NCR/AT&T.

—By Christine Woolsey

Health benefits poll

Most Americans think their employers should provide health benefits and they are willing to share the cost, a new survey shows.

Eighty-three percent support an employer mandate with employees contributing to the cost, according to a recent public opinion survey conducted by the Employee Benefit Research Institute and The Gallup Organization Inc.

However, just 45% of Americans said employers should provide those benefits free of charge, down from 60% in 1992.

The national health care debate also may be beginning to help Americans understand the real cost of employer-provided health insurance, the survey found.

Respondents estimated their employer-provided health insurance cost \$2,473 per year in 1992, up from \$2,118 in 1992. EBRI tabulations of Health Care Financing Administration data show employer contributions to group health insurance averaged \$2,834 per insured employee in 1991, the latest year for which figures are available.

Support for a government-financed and administered health care system appears to be waning, the survey found.

Only 57% of respondents to the 1993 survey said they think the federal government should provide health insurance to all Americans, but 23% withdrew their support if such a program means a tax increase.

In 1992, 63% said they think the federal government should provide health insurance to all Americans, but 24% withdrew their support if it means a tax hike.

The 1993 survey also showed that most Americans continue to rate the U.S. health care system overall as good or fair.

In 1993, 59% of those surveyed rated the system as good or fair, compared with 56% in 1992.

However, Americans' rating of the health care they receive remained relatively high.

In 1993, 77% of those surveyed rated the health care they receive as excellent or good, 18% rated it fair and 4% rated it poor. In 1992, 83% rated their health care excellent or good, 13% rated it fair, and 4% rated it poor.

Cost remains Americans' biggest concern about their personal health care. Fifty-four percent in 1993 and 1992 said cost was their biggest concern, while only 28% in 1993 and 31% in 1992 said quality was their top concern.

Copies of the survey are available for \$50 each for EBRI members and \$100 for non-members. Summaries cost \$25 for EBRI members and \$50 for non-members. Contact Malaika Barnes at EBRI, 2121 K St. N.W., Suite 600, Washington, D.C. 20037; 202-775-6338.

—By Joanne Wojcik

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Opinions

Averting a different crisis

IT SOUNDS SO SIMPLE and so politically correct on the surface.

Reducing to \$150,000 from \$235,840 the amount of employee compensation that can be used in determining pension benefits and contributions—a proposal advanced by the Clinton administration and approved by Congress as part of the recently signed budget law—isn't going to hurt anyone but corporate fat cats while raising federal revenues.

Right? Wrong. Dead wrong.

The ramifications of the proposal go far beyond cutting the CEO's pension benefits a bit.

Instead, the biggest blow will be felt by employees in the \$65,000 to \$80,000 salary range who could see the screws tighten on their 401(k) plan contributions.

That could happen because the 401(k) deferrals by a company's high-paid employees will become—because of the \$150,000 "covered compensation" limit—a much higher percentage of their pay.

Thus, the average percentage of salary deferred by so-called "highly compensated" employees as a group may be more than Internal Revenue Service rules allow. If that happens, a portion of the contributions from some employees may be returned and considered part of their taxable income.

Here's the kicker: Due to the way the IRS 401(k) non-discrimination test is run, it is employees at the lower end of the "highly compensated" group—not the execs who earn really big bucks—who will have their 401(k) contributions returned.

To be sure, employees earning more than \$65,000 a year don't fall in the category of hard-up. On the other hand, they certainly aren't fat cats, and 401(k) plans are an important means for these employees to save for retirement. The new, lower covered compensation limit increases the likelihood that these employees in this salary range may not have sufficient retirement savings.

Undoubtedly, employers will set up more non-qualified pension plans. But is it good public policy to increase the percentage of retirement benefits covered through non-qualified plans?

If a company fails, benefits promises made through non-qualified plans can become worthless since such plans typically are uninsured and employees owed such benefits are at the end of the line in a bank-



ruptcy proceeding.

At the same time, small firms may decide—given the cut in benefits for top executives—that the advantages of offering a qualified plan no longer outweigh the disadvantages, including the ever-increasing cost of meeting government rules.

That would create even more problems.

Regrettably, the new, lower covered compensation limit is yet another in a series of moves that the federal government has taken in recent years that is slowly eroding the nation's private pension system. Already, complex government rules, like the IRS non-discrimination rules, have virtually killed the formation of new defined benefit plans.

The future that is unfolding—less savings for retirement, fewer defined benefit plans, more retirement benefits provided through non-qualified plans—isn't a very pretty one.

We hope the Clinton administration and Congress recognize the emerging trends and begin to reverse actions that threaten Americans' retirement security.

It would be indeed tragic that if this administration, which has vowed to solve the health care crisis, finds itself creating a pension crisis.

Letters

Don't allow Keene to be driven into bankruptcy

To the editor: Should Keene Corp., a company that has done more than any other to make money available for people who are sick with asbestos-associated illnesses, be "rewarded" by being driven into bankruptcy and having its employees thrown out of work? Let's look at these facts:

- Keene's landmark insurance coverage dispute made more than \$400 million available for that company to pay claims. When this decision was followed by other courts in cases involving other companies, it helped release billions of dollars of insurance funds to pay claims for hundreds of thousands of people with asbestos-associated conditions.

- Keene has been urging Congress for

more than a decade to pass fair asbestos compensation legislation, to be funded by the companies involved.

- Keene has pushed for deferred trial dockets for those claimants who are not now sick but are worried that they may become sick later.

- Keene has asked courts to supervise attorneys' fees to make sure they are reasonable. Studies show that asbestos contingent fee lawyers make \$1,000 to \$5,000 an hour by taking 30% to 50% of awards and settlements.

However, Keene has now run through the last of its insurance assets and is running out of money. It does not have enough funds to continue resolving its 98,000 pending claims one at a time, nor the new cases being filed at the rate of 2,000 per month.

Keene already has paid more than \$450 million to settle and defend nearly 100,000 claims, despite its minimal, brief and unprofitable involvement with a company it bought in 1968 for \$8 million.

Earlier this year, Keene filed for a "limited fund, mandatory settlement class action" in federal court. On July 1, a sweeping injunction was issued, halting all asbestos-related litigation against Keene

and freeing it from paying virtually all asbestos-related judgment. This will enable Keene to negotiate a settlement that would fairly allocate its remaining \$100 million in assets among competing claimants.

However, a handful of lawyers are attacking Keene and this limited fund class action because it might provide a solution to save companies and jobs, while maximizing the money going to sick claimants and minimizing the money going to—you guessed it—lawyers.

Keene took the limited fund class action path to allow it to pursue a settlement to end all of the asbestos-related litigation it faces and allow it to get on with its business. The process would maximize Keene's remaining assets and avoid yet another bankruptcy filing by an asbestos defendant.

Keene, and sick asbestos claimants, deserve a better fate than bankruptcy. History shows that bankruptcy just enriches lawyers and further delays payments to those who need them most.

Stuart E. Rickerson
Vp/General Counsel
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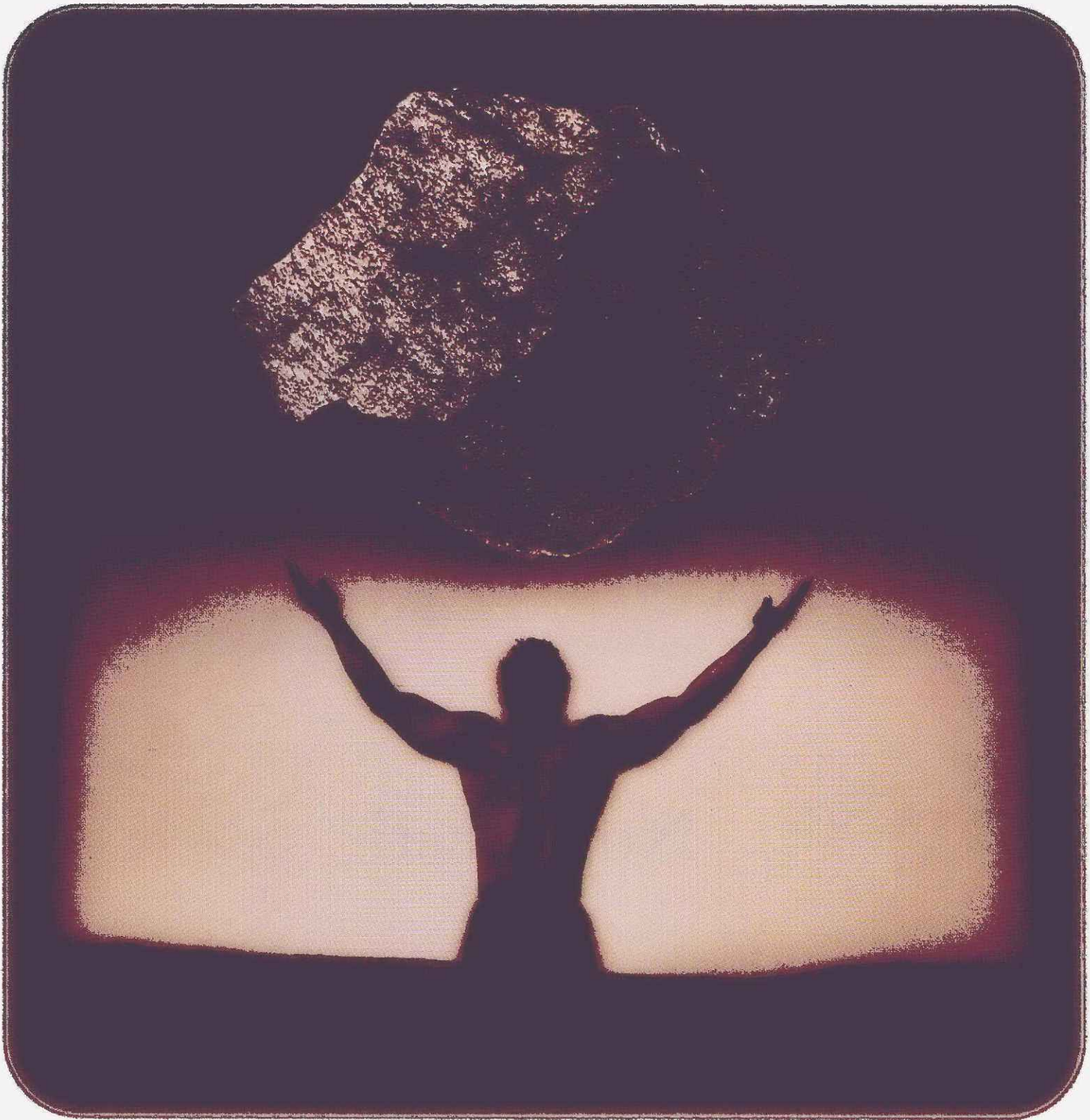




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INTERNATIONAL

'Ring fence' plan unworkable: Chatset

By ADRIAN LADBURY

Costs, losses too great to be practical, analyst predicts

LONDON—Lloyd's of London syndicate analyst Chatset Ltd. is casting a jaundiced eye on the market's optimistic plan for returning to profitability with new corporate capital.

Chatset warns that plans to "ring fence" pre-1986 liabilities from new corporate members will prove far too expensive for the market's current members to bear alone. As part of its push for new corporate capital, Lloyd's pro-

poses reinsuring these liabilities with a new reinsurer, NewCo.

Chatset also warns that names still face a huge bill for losses incurred on years left open from 1986 and more recent years. These losses, together with the cost of transferring pre-1986 liabilities to NewCo., far outweigh the benefits of remaining in the market, the analyst argues.

These costs would come on top of an estimated 1 billion pound

(\$1.55 billion) loss for the 1991 underwriting year, whose results will be announced next year, and a 250 million pound (\$387.5 million) loss in 1992, Chatset says.

Chatset also has a warning for potential corporate capital members: If Lloyd's NewCo. scheme does not also include the liabilities of Lioncover Insurance Co. Ltd.—the company created in 1987 to run off the long-tail losses of syndicates managed by PCW

Underwriting Agencies Ltd.—corporate names will be exposed to repeated levies on the market to shore up Lloyd's Central Fund, which backs Lioncover.

However, if Lioncover is included in NewCo., the added cost of running off its liabilities would be far too big for current members to shoulder, Chatset says.

"The costs of this would be horrendous. The names simply could not afford it," said Charles Sturge, who with fellow editor John Rew offered these gloomy scenarios in Chatset's annual tables of Lloyd's syndicate results, which was released last week.

Chatset estimates that the deficit for all open years as of Dec. 31, 1991, is about 5 billion pounds (\$9.35 billion at year-end 1991 exchange rate) and that a "considerable" proportion of this will be attributable to pre-1986 liabilities.

It is the cost of these pre-1986 liabilities that Chatset says could make the proposed ring-fence scheme too expensive for members, though no estimates are yet available for how much the NewCo. plan will cost Lloyd's members.

To illustrate the size of the problem facing current names, Mr. Rew estimated how much it would cost a name to pay his or her share of the estimated 5 billion pounds in losses and continue to underwrite in 1994.

He predicted that current names could end up paying amounts equal to as much as 65% of their 1993 stamp capacity to remain in the market in 1994.

"So when considering paying up their losses this year in order to continue to underwrite into 1994, they must remember that to be solvent they will need to have at least 55% to 65% of their stamp

Continued on page 16

A new era for Skandia

Wolrath charts course to put Skandia Insurance ahead of the Nordic pack

By MARIA KIELMAS

STOCKHOLM, Sweden—Skandia Insurance Co. Ltd. Chief Executive Bjorn Wolrath prides himself on getting his priorities straight no matter what his situation.

As a student leader in the 1960s, he jokes, his priority was not left- or right-wing politics but the price of beer.

Today, Mr. Wolrath says he has set Skandia's priorities in order. The company will focus future operations on the Nordic region and other markets with low insurance risk and concentrate on direct insurance, rather than reinsurance.

However, Skandia America Reinsurance Corp will continue in the United States as a highly selective and technically advanced non-life reinsurance underwriter, he said (see related story).

These ambitions are far more modest than the madcap expansions by other Nordic insurance companies in the 1980s.

"I think that what you have seen in the financial crises in the Nordic countries is that deregulation came too quickly to players who were not used to it," Mr. Wolrath told *Business Insurance*. "I think that every company has been hit by this in one way or another. Big surplus values for some companies shrank dramatically. Now we are moving into a consolidation phase, where everyone is reorganizing their business, concentrating on core operations, cutting down on loans. Danish companies are moving back (to the Domestic market). There are hardly any Danish companies with operations outside the country, and Denmark is becoming provincial."

Skandia's half-year results—including underwriting profits that rose 23.6% from 1992 levels to 241 million Swedish kronor (\$29.5 million)—indicate that it has recovered from the turbulence of previous years (*BI*, Sept. 6). But the industry and the stock market are asking how long Skandia,

Continued on page 17

Skandia America's outlook is upbeat following upheaval

By JAMES M. BURCKE

MONTE CARLO, Monaco—Skandia America Reinsurance Corp. is "pleased" with its current course nearly a year after abruptly canceling an initial public stock offering and trimming operations to specialize in facultative casualty business.

"We said we wanted to reduce our scope of operation and focus on facultative casualty. We have achieved our volume and treaty goals and we are pleased," said Anders Grabo, first senior vp and chief underwriting officer at Skandia America in New York.

Skandia America made major headlines last fall after its parent, Skandia Group, at the last minute pulled the plug on an estimated \$162 million IPO for the U.S. facility. Among the reasons for the decision was that the beleaguered parent company, a major player in last year's Nordic insurance crisis, needed to retain its investment in Skandia America on its balance sheet to pass solvency requirements (*BI*, Nov. 2, 1992; Oct. 5, 1992).

The parent later announced that Skandia would downsize and, according to Mr. Grabo, "focus on what we know best": casualty business.

The decisions prompted the resignation of Skandia America Chairman and CEO James F. Dodd.

Unfortunately for Skandia America, the U.S. casualty reinsurance market has remained extremely soft for the past year. Skandia America may fall short of its 1993 volume goals because it "does not want to compromise its underwriting standards," said Mr. Grabo.

Continued on page 18

Bermuda's integrity at stake: Butterfield

By ROGER SCOTTON

HAMILTON, Bermuda—Registrar of Companies Malcolm Butterfield is appealing for continued vigilance in servicing and policing the island's fast-expanding insurance industry.

Discussing the impact of recent growth in Bermuda's international business (see related stories, pages 40 and 43), Mr. Butterfield cautioned that the island's integrity and security "must not be compromised."

Nor should quality of service provided by Bermuda insurers and reinsurers be allowed to deteriorate, he said.

"The standards and rules for acceptance into our insurance industry must be kept high and if individuals and companies do not or cannot meet such requirements, they should not be permitted to do business in Bermuda," he told a Rotary Club meeting.

The island's chief insurance regulator said that with the recent influx of large, specialty reinsurers focusing considerable attention on Bermuda, "we must remain focused on the issues that have brought Bermuda forward as a successful jurisdiction."

BERMUDA

Mr. Butterfield warned against complacency and said it was the job of professional services providers and regulators to ensure the Bermuda market remains "sound and stable."

"As the first and perhaps most important step in preventing problems, the public and private sectors must be vigilant in screening persons who will be doing business in Bermuda and the business plans they propose," he said.

Because of the Bermuda insurance industry's solid reputation and record, "many people and companies will want to be part of this success, particularly if their own reputation needs enhancing."

Mr. Butterfield urged that the industry "not allow growth to dilute our reputation for quality."

Bermuda has built a successful and strong insurance and reinsurance market and attracted companies of the highest caliber, he told the meeting. "Quality of service, security, confidence and integrity are characteristics of our market that must be protected and maintained," he said. **BI**

German employers plead for health reforms

By DON KIRK

BONN—German employers are pressing for further reform of the nation's health care system.

Klaus Murmann, president of the German Employers Assn., said gains from government-mandated curbs on health care spending will be wiped out without additional reforms, including the introduction of deductibles.

And, Mr. Murmann rejects a government plan to make companies contribute to a new statutory insurance program that covers long-term nursing and invalid care (*BI*, July 26). "Employer contributions to health care have reached their limit," he said.

Employer and employee contri-

butions to the German health care system are 13.4% of gross wages, a record level reached in 1992. Since then, severe budgetary restrictions on spending for drugs and some types of treatments have created a rare surplus in the system of 2.6 billion deutsche marks (\$1.61 billion), which compares with a loss of 9 billion deutsche marks (\$5.59 billion) last year.

That surplus prompted German Health Minister Horst Seehofer to announce: "The German health insurance system is healthy again."

Not so fast, Mr. Murmann replies.

"Even more can be done. We want company health care contributions to drop. Further reforms



"We can't afford a system that pays for everything," says Klaus Murmann, president of the German Employers Assn.

are needed to cut costs of hospitals. We can't afford a system which pays for everything. A second stage of health care reforms must contain some form of deductible for the insured."

Individuals should pay more out of their own pockets for dental care and hospital costs, he pointed out, noting that the German

health care system provides 90% of the population with near first-dollar coverage.

That comes at a big price: Since 1960, health care spending has increased twice as fast as the German gross national product and six times as fast as the cost of living index.

The situation is grave, Mr. Murmann said. Without further cuts in the health care system, rising health care costs will plague employers, he said, noting that 37.4% of employers' payroll costs consist of contributions to health care, pensions and unemployment insurance programs.

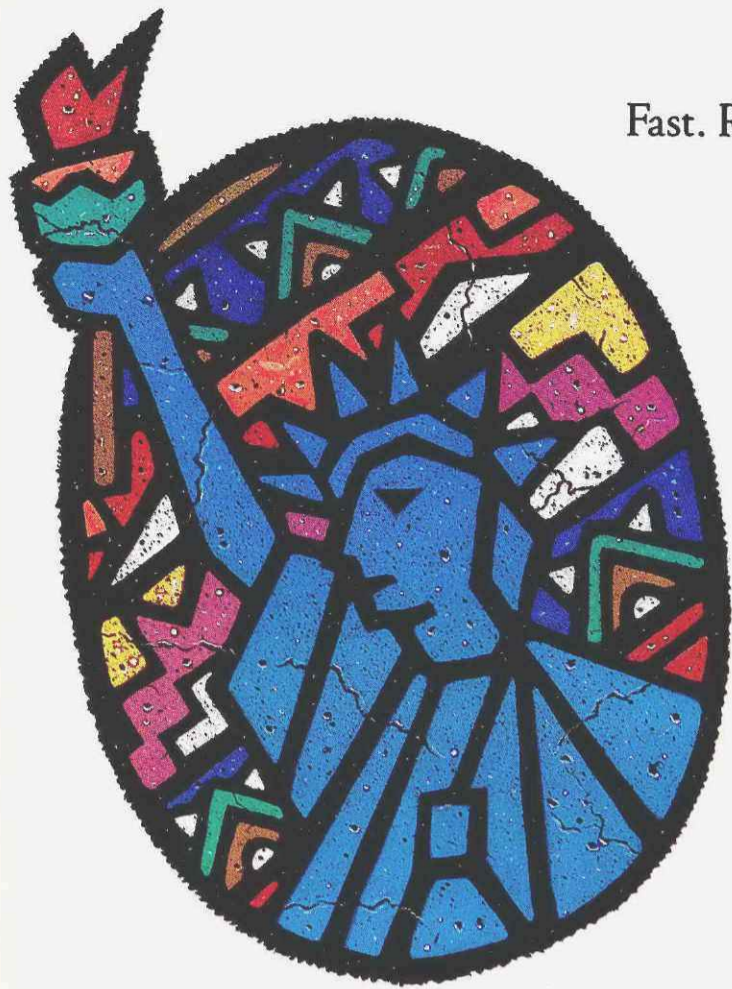
"A drop in contributions would help lower production costs," said Mr. Murmann.

And, to make matters worse, the government intends to pass legislation that would force the nation's sickness funds and health insurance companies to pay nursing and other long-term care costs.

"Germany is losing its attractiveness to foreign investors because of high production costs," said Mr. Murmann. "To get out from under the burden of reunification, Germany must remain competitive in world markets. The additional burden from pensions and long-term nursing insurance would eat up an even greater share of payroll and keep production costs high."

Mr. Murmann estimates that

Continued on page 16



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Chatset report

Continued from page 13

capacity (about twice their present deposits) available to pay Lloyd's over the next two years," Mr. Rew said.

And, as Mr. Rew advises names: "The first thing you do when you are in a hole is stop digging."

The issue of whether Lioncover should be included within NewCo. is a double-edged sword, the editors say. If it is ring-fenced, the current names will not be able to pay the cost, but if it is not, new capital will shy away from the market, they claim.

Lioncover has already placed a significant strain on the Central Fund, a report from Lloyd's shows.

"Since Lioncover was established, it has been necessary to substantially increase its reserves for asbestos and environmental liabilities, as well as product liability and other non-marine casualty exposures. Up to 31 July 1992, a total of 150 million pounds (\$232.5 million) had been paid from the Central Fund to cover the deterioration of the initial discounted Lioncover reserves, and an additional 51 million pounds (\$79.1 million) is due to be paid in November 1993," according to Lloyd's guidelines to corporate capital, which also were released last week (see story, page 1).

But Chatset contends the losses will continue to grow because Lioncover is "grossly underreserved".

According to Lioncover's latest annual accounts, as of Dec. 1, 1992, it faced gross outstanding liabilities of 944.6 million pounds (\$1.43 billion at year-end 1992 exchange rate), which includes an unspecified amount of incurred-but-not-reported claims. Reinsurance recoveries were set at 344 million pounds (\$521.2 million), leaving net outstanding liabilities of 600 million pounds (\$909 million).

Lioncover's 1991 accounts showed gross outstanding liabilities of 569 million pounds (\$1.06 billion at year-end 1991 exchange rate), including IBNR losses of 253.2 million pounds (\$473.5 million), and reinsurance recoveries of 290 million pounds (\$542.3 million), for a net liability of 279.6 million pounds (\$522.9 million).

Chatset estimates that if the size of the undisclosed IBNR claims for 1992 is in line with the previous three years, Lioncover probably set aside about 250 million pounds (\$378.8 million) for the unreported claims in 1992.

But Chatset contends the figure is too low.

Thus, if Lioncover were left outside the ring fence created by NewCo., the entire market—both corporate and individual names—would face a "constant drain from the Central Fund levies."

Despite all the pessimism in its annual review, Chatset's predictions for the fortunes of Lloyd's syndicates in 1991 and 1992 were relatively positive.

The editors predict the 1991 underwriting year, which closes at the end of 1993 under Lloyd's three-year accounting system, will be a "loss in excess of 1 billion pounds (\$1.55 billion) when all losses are accounted for."

Lloyd's itself predicted a 1 billion loss for 1991, while the Assn. of Lloyd's members has estimated 1.5 billion pounds (\$2.33 billion).

Chatset believes 1992 will produce a loss of only about 250 million pounds (\$387.5 million). **BI**

Germany

Continued from page 13

adding long-term care to the coverage already offered by the German health care system would increase employers' share of total social security contributions to 40% of payroll.

While employers have indicated some support for long-term care coverage, Mr. Murmann claims that forcing the nation's sickness funds—to which employers pay premiums—to finance the cost of the coverage is the wrong step.

"The system is programmed for a cost explosion," he said. "Just how we can be expected to secure Germany as a location for investment is beyond me."

Instead, employers and industry in Germany support long-term care coverage that is financed

through premiums paid by workers to insurance companies, not the sickness funds.

"This alternative is fair, economically sound and will not burden companies," he said.

The plan proposed by employers would set premiums at between 26 and 35 deutsche marks (\$16.15 to \$21.75) a month.

Individuals over 35 and under 70 would pay the maximum premium. The older an individual is when he or she begins to pay premiums, the less coverage he or she would receive.

Those who cannot afford to pay long-term care premiums would be insured through a fund financed by a proposed 15% reduction in pay to employees for national holidays. That would raise an estimated 9 billion deutsche marks (\$5.59 billion) annually.

The German health care system is programmed for a cost explosion,' says Mr. Murmann.

Under pressure from unions, the legal system and employers, the government gave up an earlier plan to help reduce employers' long-term care financing burden by freeing them from the obligation to give employees sick pay for the first day an employee is ill.

Alternatives to the current German health care system are needed, agreed M.M. Arnold, a health systems research expert

from the University of Tuebingen.

Mr. Arnold claims that current government reforms will not hold down costs beyond 1996.

"It's not enough to keep contributions down," he said. "Demographic developments and continued spending contradict contribution stability."

Mr. Arnold claims an ever-decreasing German work force, combined with an increase in retirees, will cause the German health care system to collapse.

"We have to leave the idea that medical care can be financed through a solidarity system. It's hard. Just how hard it will be depends on if we can put more competition into our health care system," he said.

Negotiations on the issue of long-term nursing care were expected to continue today. **BI**

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INTERNATIONAL

Skandia's future

Continued from page 13

and other Nordic insurers, can all remain provincial before an outsider will want a slice of the Scandinavian market.

"It is easy to pinch business (from a competitor), but it is not easy to build up companies from scratch," said Mr. Wolrath. "If you look at the U.K. and European companies, there are none which have been able to grow in any significant way."

Mr. Wolrath insists that Skandia will continue growing in its home market—the Nordic countries. Its share of the Swedish market has risen to 21% from 19.7%. In Norway, the insurer's share has risen to 17.1% from 16.6%. "We are gaining market share, and someone else is losing,"

he said.

In contrast, he notes, Swedish insurers Trygg Hansa SPP and Wasa Insurance Co. have lost 4% and 8%, respectively, of their Swedish market shares.

Mr. Wolrath rebuts some stock market analysts' prediction that the Nordic insurers, now concentrating on their home turf, will start fighting for market share and cut rates.

"If you want to pinch business, you have to get in with either rebates or low prices, but you won't make any money," he said. "There are a lot of Nordic insurers with a lot of problems because they are losing market share and have to fire people. You can't get an eager salesman to go out and look for business if he is worried about losing his job."

But he rejects the notion that

'We are gaining market share, and someone else is losing,' Bjorn Wolrath says.

Skandia will now become a boring company isolated in the northern tip of Europe. It has a major operation in the United Kingdom under Skandia UK Holdings Ltd. Skandia also is planning a big move into Italy, believing that, after deregulation, the company's century-long expertise in rating, claims handling and customer service will stand it in good stead.

On the corporate side, some of

the earnings growth will go toward reducing corporate debt, now standing at 13 billion Swedish kronor (\$1.64 billion). About half of this consists of loans to finance companies. Mr. Wolrath says that the aim is to reduce the debt to 7 billion or 8 billion Swedish kronor (\$884.8 million to \$1.01 billion), depending on how the direction of currency markets.

Rumors to the contrary notwithstanding, he insists that Skandia is not closing shop in the United States. Instead, he says, it is just becoming more selective. "We have decided that we prefer to be much closer to evaluating risks, and so we will concentrate on facultative business. You can say that we are moving out of the property sector, staying in the casualty sector, moving out of the treaty business—not totally but to

a large extent—and concentrating upon facultative business."

The U.S. operations will be managed by Don Alexander, formerly head of Skandia's Canadian operations. Skandia has sold off most of the Canadian operation and is no longer writing new business in that country.

"The U.S. market is behaving much better than the European market; we earn money there," said Mr. Wolrath.

But he has little faith in the future of the reinsurance market as a whole. "Look at Bermuda. I expect that this year \$4 billion to \$5 billion will go into Bermuda, all of it with the same aim: to write specialty catastrophe business. Very soon (the new players) will realize that they don't have the expertise to write catastrophe business, and they will move to normal business," which will increase capacity and lower prices.

The European reinsurers are behaving in a similar fashion, he said. Any capacity problems stemming from Lloyd's of London's problems will be made up for by other sources, he said. "The French are expansionist operators, and the German companies all want to be No. 3 in the world after Munich Re and Swiss Re. No one should have any doubts about that. It all means that premiums will be kept at a reasonably low level, and I believe that there will be hard times for reinsurers."

The most dramatic change over the long term for Skandia will be an expansion of its international life insurance and financial services division. That expansion will transform Skandia from a predominantly non-life insurer and reinsurer to predominantly a life company.

The international life operations started in London when Skandia Life Assurance Co. Ltd. was created. "Then we set up in the U.S., but we had a lot of problems. But now Skandia American Life is growing like a mushroom."

Other life operations are in Switzerland, where Skandia persuaded the insurance authorities to change the law to permit unit-linked life insurance and investment funds, the international life division's principal products.

Mr. Wolrath boasts that the U.S. life operation will start making a profit this year, four years after the unit was established. The normal payback period for new life operations in the United States is eight years, according to Mr. Wolrath.

Skandia is also targeting the Latin American markets as life insurance and pension regulations are liberalized. The Colombian operations are being transformed to mainly life business, and Mexico could become a specific target should the North American Free Trade Agreement be ratified.

Mr. Wolrath acknowledges that Skandia learned a hard lesson in its non-life operations in Latin America "in the 1970s when the locals were keeping 1% and we were reinsuring the rest."

The timing of Skandia's shift into more international life business has been influenced strongly by Sweden's currency regulations. Currency controls were slapped on as a national security measure in 1939 at the outbreak of World War II and remained in place until the mid-1980s. Swedish companies needed central bank authorization to set up subsidiaries outside the country.

The only way to use capital outside the country was to set up

Continued on next page

Bet you didn't know we manage close to a billion dollars in claims.

Billion

INTERNATIONAL

Wolrath

Continued from previous page
branch offices to take inward reinsurance. That approach made Skandia one of the top five largest reinsurers worldwide in the 1970s.

Different criteria applied in the United States, because Skandia America was an autonomous operation dating from an original joint

Skandia America

Continued from page 13

The company hopes to write \$250 million in gross volume in 1993, he said. First-half volume was about \$100 million. Skandia is now writing largely on a net-line basis, he said.

By comparison, Skandia America wrote net premiums of \$371.7 million in 1992 and \$404.4 million in 1991.

After the IPO was dropped at the last minute some of Skandia America's leading ceding clients began "to wonder what was going on," concedes Mr. Grabo. And some companies hesitated to do business with Skandia America late last year and early this year.

Now, though, some of those clients are "back on board," he said, adding that Skandia America has "renewed its targeted accounts."

'We are far more secure than we were,' says Skandia America Re's Anders Grabo.

Property reinsurance now makes up only about 10% of Skandia America's book of business, a fact that Mr. Grabo says could be a big advantage. Ceding companies, he points out, no longer need to worry about exposure to catastrophes like Hurricane Andrew, on which Skandia America lost about \$120 million.

"If anything, we offer improved security. Cats are not an issue for us anymore," Mr. Grabo noted. "We are far more secure than we were."

Skandia America has no plans to transfer any of its surplus, which stood at \$293.4 million at year end, back to its Swedish parent, Mr. Grabo said. "We will not withdraw surplus. We need to have a substantial surplus base in this country," he explained, pointing to the upcoming implementation of risk-based capital standards by U.S. insurance regulators.

The company is getting some competition on casualty business from some unexpected sources: As other reinsurers reduce their property catastrophe exposures, they are turning to casualty reinsurance, creating more pressure on rates.

"We see a lot of old timers and newcomers jumping on the casualty train," Mr. Grabo remarked.

While he noted that casualty facultative reinsurance pricing has remained "pretty stable, primary pricing is not going in the right direction—the market is weakening."

Skandia America has lost some business to competitors and has had to cancel other business because "we have to stick to our guns and maintain underwriting standards," Mr. Grabo said.

Losing business is particularly tough because Skandia America wants to make it clear that its downsizing campaign is over.

"We don't want to lose more

venture established in the U.S. between Skandia and the U.K.'s Prudential Corp. at the beginning of this century.

Although Skandia's problems caused by the failed takeover attempt by Norway's UNI Storebrand and Denmark's Hafnia Holding are over after both companies disposed of their Skandia stakes, questions remain about its

business. We have no wish to further reduce underwriting," Mr. Grabo said, adding that the reinsurer is hoping to attract new clients during year-end renewals.

The company is planning no increase in volume in 1994, however. "It doesn't make sense to grow in the current market environment," he said. **BI**

shareholder voting rights structure (BI, June 14).

Under Skandia's voting system, each shareholder has the same voting power regardless of the amount of stock he holds. Calls for Skandia to modernize its voting system have come from many stock analysts and, during the takeover attempt, from disgruntled investors of UNI Storebrand and Hafnia.

"We are not in any extreme hurry to change this because it has worked well in the turbulent years," Mr. Wolrath said. "The small shareholders have realized that after all this fighting, they have something to say and they are the decision-makers—whether the voting rights are changed or not. One of the interesting side effects of the Skandia voting rights is that the small shareholders have power." **BI**

Lead paint ruling

Continued from page 3
from her body.

Chelation therapy is a procedure in which a person with lead poisoning is given chemicals that bind with the lead, enabling the body to excrete the toxic substance more rapidly.

Ms. Santiago had been diagnosed with a hyperactivity-attention disorder and motor skill difficulties that medical experts attribute to lead poisoning.

Rejecting her claim last year, the trial court held that Massachusetts law does not permit plaintiffs to sue for market-share liability in lead paint cases.

Ms. Santiago appealed and sought certification of the market-share liability issue from the state Supreme Court.

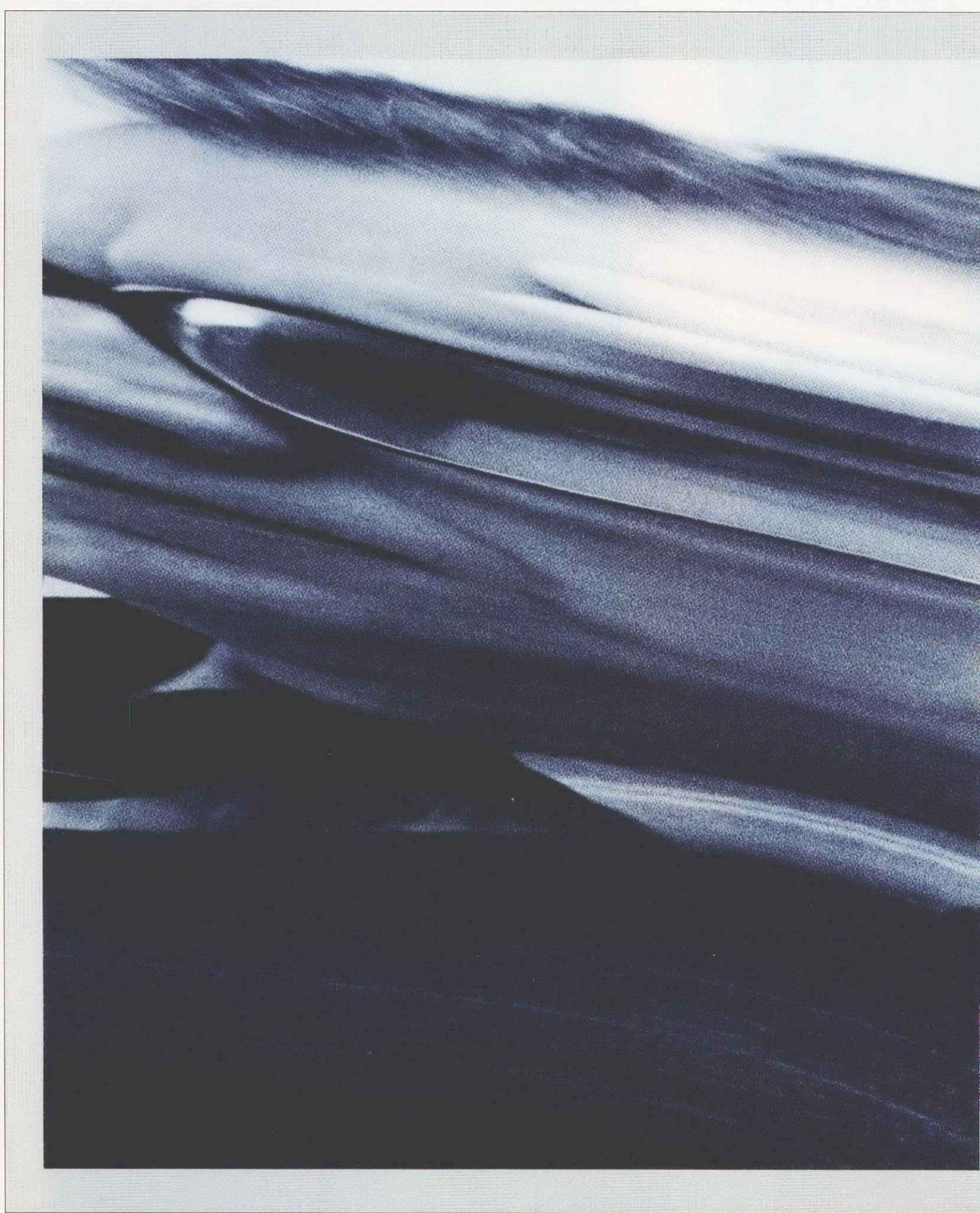
Finding her claims too indefi-

nite, the 1st Circuit rejected them.

"Simply put, allowing plaintiff's market-share claim to proceed despite plaintiff's inability to pinpoint with any degree of precision the time the injury-causing paint was applied to the house on Leston Street would significantly undermine both of the articulated reasons for the identification requirement," the appellate court said.

Furthermore, "several of the defendants were not in the white lead pigment market at all for significant portions of the period between 1917 and 1970, and therefore may well not have been market suppliers at the time the injury-causing paint was applied to the walls of plaintiff's home," the court added.

Santiago vs. Sherwin-Williams Co., U.S. Court of Appeals for the First Circuit, No. 92-2263.



Corporate capital

Continued from page 1

Mr. Rowland. "I believe that we have struck the right balance and that the terms and requirements set out in this document are fair and reasonable in relation to individual and corporate members alike."

The 106-page guide outlines for the first time the conditions under which corporate members will be able to join the insurance market. It also explains the structure and operation of the market and provides some financial and statistical background for corporate members and licensed Lloyd's advisers.

The requirements set by Lloyd's for corporate members include:

- Each corporate member must have a net worth of at least 1.5 million pounds (\$2.3 million).
- Corporate members with net

worth of less than 5 million pounds (\$7.7 million) must deposit funds at Lloyd's equal to 1.5 million pounds made up of highly liquid assets. The remainder of their assets can consist of a broad range of investments, including letters of credit.

- Corporate members with net worth greater than 5 million pounds also would be required to have 1.5 million pounds on deposit, though these funds may be composed entirely of letters of credit or a wider range of investments.

- All corporate members will require a sponsor and a licensed "Lloyd's adviser," which will act in a capacity similar to that of current members agents.

- The 1994-1996 annual subscription fee for corporate members will be not more than 0.5% of premium income limits. In addition, contributions to the Lloyd's

Central Fund will be set at 1.5% of premium income limits.

- Starting next year, all members, individual and corporate, will be advised of the maximum charges, contributions and levies for the year prior to Jan. 1.

- Corporate members must spread their capacity at Lloyd's across a minimum of five syndicates, allocating not more than 20% of their premium income to any one syndicate.

"The new capital providers will bring new disciplines to the market, which will be of benefit to our existing individual members," said Mr. Rowland. "The influx of this new capital will enhance Lloyd's capacity, enabling all our members to benefit from the much improved conditions in the international insurance industry."

Corporate advisers to Lloyd's welcomed the publication of the guide, saying that it should prove

attractive to potential investors. Lloyd's has been advised on the admission of corporate capital by U.S. investment bank J.P. Morgan & Co. Inc., U.K. investment bank S.G. Warburg & Co. Ltd and by U.K. law firm Freshfields.

The Assn. of Lloyd's Members, which represents more than 9,000 names, also welcomed the rules. But the group added that the loyalty and confidence of existing members should be rewarded by preserving existing syndicate capacity for individual members and by limiting corporate members' voting rights over the next several years.

"We fully support the introduction of incorporated membership of Lloyd's," said ALM Chairman Neil Shaw. "This will provide the means to secure Lloyd's long-term capital base and offer existing members the most realistic way forward by both widening their

underwriting options and underpinning the society's net resources."

No decision has been reached as yet on corporate names' voting rights. Mr. Rowland said he expects a report from a working party on voting rights, led by Mark Sheldon, senior partner of the British law firm Linklaters & Paines, before the end of this year.

"I believe that it is important that all sections of the membership should have fair and equitable representation and voting rights," said Mr. Rowland. "The existing system of one vote per member does not reflect members' underwriting commitments."

Lloyd's Chief Executive Peter Middleton pointed out last week that individual names will continue to provide the bulk of capital at Lloyd's for the foreseeable future. He said corporate capital will "provide the stabilizers to the motorbike," a reference to a fall he suffered the previous weekend on his own motorcycle.

Rumors spread by opponents of the plan to introduce corporate capital that Lloyd's was trying to "edge out" existing members are absolutely unfounded, Mr. Middleton said. "That should be absolutely clear to anyone of average intelligence who reads this document."

"There will be absolutely no letting up on the things we have to do to make this society profitable," he said. "It will be necessary to implement many further changes: costs must be driven down, professional standards must be reinforced, the regulatory regime must be seen to operate effectively and we must find fair solutions to our past problems."

To advise corporate members, Lloyd's is creating what Lloyd's Deputy Chairman Robert Hiscox called a "new animal," the Lloyd's adviser.

Until now, members have had to rely exclusively on the advice of officially accredited members' agents to suggest which syndicates they should join.

All the existing members' agents will automatically qualify as Lloyd's advisers. But if corporate members wish to entrust their Lloyd's affairs elsewhere, they can appoint a new Lloyd's adviser, as long as the adviser finds it approved by the Council of Lloyd's.

Lloyd's advisers cannot act in any way as legal agents of corporate members, as members agents currently are allowed to do.

Mr. Hiscox denied that the creation of the new category of Lloyd's adviser reflected skepticism among corporate investors over the quality of service provided by existing members agents, many of which are being sued for negligence by current members reeling from huge underwriting losses.

Lloyd's officials are anxious to attract corporate investors to prevent further deterioration in the market's capital base, caused by losses of more than 6 billion pounds (\$9.28 billion) over the three most recent underwriting years to be closed (BI, Aug. 30). Capacity from individual names is expected to drop to as low as 7.5 billion pounds (\$11.6 billion) in 1994 from 8.88 billion (\$13.45 billion) this year.

Lloyd's is not in a position to demand that corporate members pay for past losses or compensate existing members, said Mr. Rowland. However, "all members underwriting for the 1994 account—both individual and corporate—will benefit from the 1985

Continued on next page



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Corporate capital

Continued from previous page and prior 'ring fence' proposals and from the cap on annual subscriptions and Central Fund contributions," he said.

Mr. Rowland said rising insurance rates in most parts of the world mean that capacity at Lloyd's will need to reach about 10 billion pounds (\$1.55 billion) simply to maintain current underwriting levels.

Mr. Hiscox warned potential corporate members that the guidelines published last week do not constitute a prospectus. "But I would like

to think that we have used prospectus standards, the standards of a P.L.C. document," he said, referring to British corporate documents. "We want absolute daylight on the workings of Lloyd's."

Existing members at Lloyd's will be able to vote in person or by proxy on the proposed admission of corporate capital at an extraordinary general meeting, scheduled for Oct. 20.

Members at a July 5 extraordinary general meeting voted overwhelmingly in favor of the Lloyd's business plan, which contained the proposal to allow corporate capital (BI, July 12; May 3). ■

PBGC outlook

Continued from page 3 sound programs and subsidies," he said.

Messrs. Lockhart and Slate offered their assessments during separate sessions of the 12th Annual Employee Benefits Symposium sponsored by the International Society of Certified Employee Benefit Specialists last week in Washington.

Mr. Slate also told a luncheon crowd that the Clinton administration "will soon be sending a legislative package to Capitol Hill, a package that will be mean-

ingful and comprehensive" in its reforms of the PBGC. He quickly added, however, that "we are not at a point where I am able to share specific recommendations with you."

Mr. Slate did tell his luncheon audience that the PBGC "will soon publish our final regulation on the valuation of plan benefits," perhaps before the end of this month.

"One effect of the regulation will be to adjust the PBGC interest-rate assumptions to more closely reflect current practice in the private sector," he said.

The PBGC chief also said that

"in the next couple of weeks, the General Accounting Office will report that it was able to complete a full audit and validate the financial condition of the PBGC's single-employer insurance program. This is, of course, only a step in the right direction, and much more needs to be done."

The PBGC needs more tools than only the threat of ordering an involuntary plan termination to "avert situations that can harm pensions," Mr. Slate said.

He called the threat of termination "often too blunt an instrument" and said the administration task force that has been drafting the PBGC reform proposals has explored the possibility of undefined intermediate approaches, besides forced plan terminations, to promote benefit protection.

The PBGC's deficit current totals about \$2.5 billion, even though the agency's insurance program covering multiemployer pension plans operates at a surplus.

In fact, the agency's deficit for its insurance program for single-employer plans stands at more than \$2.7 billion.

Mr. Lockhart warned that, when deciding how to shore up the PBGC's financial condition, Congress and the administration should not attempt to increase the premiums charged to employers with well-funded plans. "Premiums for underfunded plans should be raised, but only after the reforms are implemented so that the PBGC knows what it is insuring."

Among the reforms advocated by Mr. Lockhart are rethinking rules that have discouraged the operation of defined benefit plans and simplifying pension plans.

He said the federal budget's cash-flow accounting for the PBGC has "fooled" opponents of PBGC reform because it "accounts for all the premiums and interest on past years' premiums as income, but only about half the cash expenses and none of the accrued expenses related to terminated plans are included. As a result, the PBGC appears to be contributing \$800 million rather than losing \$5.8 billion," he said.

"Cash-flow budgeting is the same budgeting that helped obscure the S&L problem for so many years," according to Mr. Lockhart.

Minimum funding requirements should be increased for plans that present the greatest risk to the PBGC, and the PBGC should not guarantee new benefits or benefit increases created by changes to plans that are underfunded for vested benefits until they become fully funded, he said.

Steps also should be taken to improve the PBGC's ability to recover funds from bankrupt sponsors of terminated plans, he said.

Mr. Lockhart also said he would change the makeup of the PBGC's board. Rather than having three full Cabinet secretaries serve on the board, he said, perhaps deputy secretaries should serve because they would be more likely to meet regularly and "provide more normal governance structure."

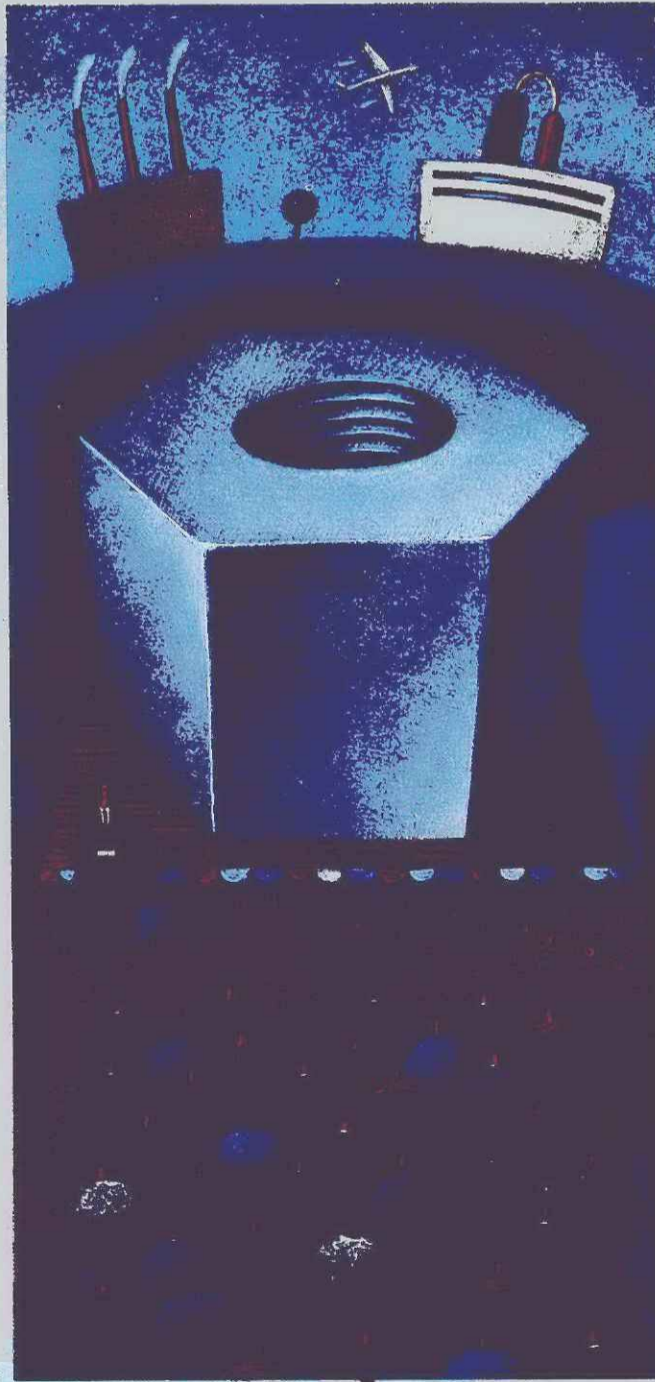
Mr. Lockhart also recommended that the executive director's position be upgraded and clarified.

Ultimately, the role of the PBGC must be rethought, said Mr. Lockhart.

"Private-sector companies are now insuring unfunded executive pension plans. Most of PBGC's flat-benefit single-employer plans are insurable. Serious consideration should be given to beginning to take steps to privatize this program," he said. ■

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AAU Raising Your Expectations

Insider Trading

American International Group Inc.: Leslie D. Gonda, director, indirectly disposed of by gift 50,000 shares of common stock at \$23.13 per share on June 7, and now directly and indirectly holds 1,430,266 common shares.

American International Group's stock was trading at \$98.88 per share on Sept. 10.

Chubb Corp.: Joseph A. Morein, vp, exercised an option for 300 shares of common stock at \$30.22 per share on July 27, and now directly and indirectly holds 2,068 common shares.

Chubb stock was trading at \$89.88 per share on Sept. 10.

General Re Corp.: Ronald E. Ferguson, chairman, exercised an option for 3,460 shares, and disposed of 164 shares, of common stock at \$116.19 per share from June 22 to June 30.

Mr. Ferguson also indirectly acquired by gift 174 shares of common stock at an unreported price per share on June 23.

Mr. Ferguson now directly and indirectly holds 49,067 common shares.

General Re stock was trading at \$131.13 per share on Sept. 10.

Hilb, Rogal & Hamilton Co.: John C. Adams, officer and director, purchased 4,000 shares of common stock at \$12.75 per share on July 26, and now directly and indirectly holds 85,000 common shares.

Walter L. Smith, vp, exercised an option for 1,375 shares of common stock at \$8.18 per share on June 14. Mr. Smith now directly holds 2,580 common shares.

Hilb, Rogal & Hamilton stock was trading at \$14.38 per share on Sept. 10.

Marsh & McLennan Cos. Inc.: Robert Clements, president, exercised an option for 20,000 shares of common stock at between an

unreported price and \$49.38 per share from July 26 to July 28.

To cover expenses of the transaction, Mr. Clements turned in 13,967 shares for \$85.69 per share from July 29 to July 28 and sold 6,000 shares in the open market at between \$86.25 and \$87.06 per share from July 26 to July 28.

Mr. Clements also indirectly exercised an option for 11,524 shares of common stock at \$49.38 each on July 26.

To cover expenses of the transaction, Mr. Clements turned in 11,524 shares for \$85.69 per share on July 26, and now directly and indirectly holds 62,817 common shares.

Lawrence J. Lasser, director, sold 1,064 shares of common stock at \$88.25 per share on July 2, and now directly and indirectly holds 38,200 common shares.

Adele S. Simmons, director, sold 7,500 shares of common stock

at \$86.07 per share on July 13, and now directly and indirectly holds 126,084 common shares.

Marsh & McLennan stock was trading at \$91.38 per share on Sept. 10.

Ohio Casualty Corp.: Charles D. Mencer, retired, exercised an option for 2,400 shares of common stock at between \$27.25 and \$56.25 per share on June 14.

To cover expenses of the transaction, Mr. Mencer turned in 1,200 shares for \$63.25 per share on June 14. Mr. Mencer now directly holds 2,400 common shares.

Ohio Casualty stock was trading at \$69 per share on Sept. 10.

Phoenix Re Corp.: Phoenix Home Mutual Insurance Co., beneficial owner, sold 226,000 shares of common stock at between \$30.25 and \$31 per share from July 13 to July 16, and now di-

rectly holds 1,015,400 shares of common stock.

Phoenix Re stock was trading at \$35.50 per share on Sept. 10.

RLI Corp.: Gerald D. Stephens, president, disposed of by gift 100 shares of common stock at an unreported price per share on June 14.

Mr. Stephens now directly and indirectly holds 384,541 common shares.

RLI stock was trading at \$24.63 per share on Sept. 10.

Insider Trading is compiled by Invest/Net Trading Group Inc. of Fort Lauderdale, Fla., from reports filed with the Securities and Exchange Commission. Insider Trading tracks stock sales and purchases by insurance industry directors and officers. The column is distributed by Tribune Media Services Inc.

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Caymans action

Continued from page 2
of Cayman-domiciled Olympus Fire & Casualty Co. Ltd.

Olympus—formerly known as ReCo Ltd. and formerly headed by Mr. Damoulis—is now in provisional liquidation in Cayman and was separately ordered into receivership in Florida.

Florida regulators raided Delta's offices following the July receivership order and have taken custody of the company's records.

The California Insurance Department separately banned ReCo in February for filing phony audited financial statements, among other reasons.

In interviews, Mr. Damoulis said he is fighting the Florida department's move to seize Delta Management and his other companies, and blamed ReCo's problems partly on the company's former California surplus lines agent, whom ReCo has sued.

He also charged that the revocation of AIC's license in the Cayman Islands was politically motivated, though he offered no further explanation.

Mr. Damoulis defended AIC, which he said would have provided badly needed coverage to members of AIC's 15 business and professional association shareholders.

"We really don't know why the company was suspended and very quietly revoked," he said.

"To close something down because you don't understand it and without documentation—that's wrong."

AIC was licensed in the Caymans in 1990 as Emerald Insurance Co. Ltd., changed its name to Zeus Indemnity Insurance Co. Ltd. in 1992, and adopted its current name in March 1993.

The insurer is owned by 15 non-profit business groups and acts as a captive insurer for their members, according to promotional material.

Delta Management manages the associations and operates AIC, which also used B.R.I. Management Services (Cayman) Ltd. as its Cayman Islands manager until the license revocation.

AIC reported total assets of \$6.7 million in an unaudited opening balance sheet dated April 1. This total included \$3.3 million in bonds issued by the associations and backed by their ability to assess members, Mr. Damoulis said.

The groups cover a variety of business interests, including vehicle fleet, truck, tow truck, taxi, limousine and garage operators; restaurant and tavern owners; building contractors; sports-events operators; alarm and security specialists; stable and dude ranch operators; and attorneys.

Only three of the associations—American Vehicle Ass. Inc., National Vehicle Assn. Inc. and Assn. of Business Enterprises Inc.—are currently active, according to Mr. Damoulis.

While Mr. Damoulis said each of the groups has its own board of directors, he added that he was an original director of several of the groups and that he and a business partner, N. Fraser Schuh III, organized the groups' acquisition of AIC earlier this year.

Mr. Schuh, a lawyer who is listed in Florida incorporation records as the registered agent for most of the groups, also serves as general counsel for the associations and U.S. counsel for AIC, according to Mr. Damoulis.

Mr. Damoulis also serves as president of Oklahoma-domiciled National Vehicle, one of the most active of the AIC shareholders.

National Vehicle and the two other active associations have recently tried to form marketing relationships with insurance producers in California, triggering an Insurance Department investigation there into whether AIC has illegally solicited business in the state, confirmed Dennis Ward, chief of the California department's enforcement division.

Documents obtained by *Business Insurance* show that Mr. Damoulis continued efforts to drum up business for AIC even after Cayman Islands regulators had suspended the insurer's license June 8, barring it from writing new or renewal contracts.

Acting as president of National Vehicle, Mr. Damoulis wrote to Los Angeles-based surplus lines broker John Lepire on July 23 describing the AIC program and enclosing marketing material.

Mr. Lepire denies producing

any business for National Vehicle or AIC. However, Coast Marketing Services, a company operating from Mr. Lepire's Wilshire Boulevard office suite, solicited producers on National Vehicle's behalf, offering "an alternative to high-cost auto insurance," documents show.

Automobile & Commercial Managing General Agents, another Los Angeles-based company, has since taken over marketing the program, and last month sponsored a seminar for re-

tail marketers at the Los Angeles Airport Marriott Hotel.

Mr. Damoulis confirms he attended the seminar. However, he maintains that he did not learn of the Caymans' June 8 suspension order or Aug. 24 revocation of AIC's license until Aug. 27, the day after the seminar.

"No one knew the company's license was suspended," Mr. Damoulis said.

Royal Montross, marketing manager for Automobile & Commercial, also said he was unaware

'We really don't know why the company was suspended and very quietly revoked. To close something down because you don't understand it and without documentation—that's wrong,' says Anthony J. Damoulis of AIC.

of the Cayman regulatory actions.

"I had heard that there were some legal glitches, but whoa," Mr. Montross said.

Mr. Scott, the Cayman regulator, said AIC's registered office in Cayman was notified of the license suspension in June.

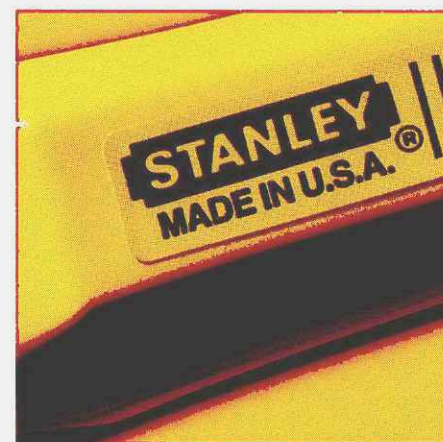
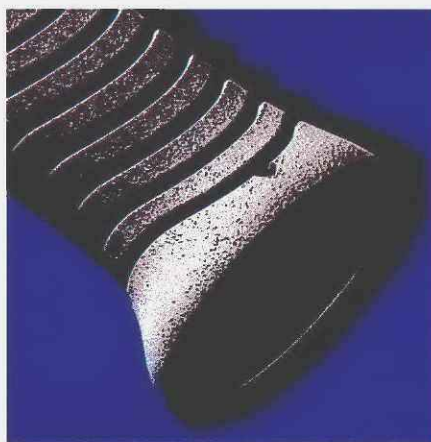
Mr. Damoulis also argues that he was engaged in a legal effort to recruit association members who have the option of obtaining insurance certificates from an association master policy. He pointed to a favorable opinion on the plan's legality from Aguilar & Sebastinelli, a San Francisco law firm that has represented many offshore insurers in regulatory matters, including ReCo.

Complaining that Cayman regulators have not explained why they revoked AIC's license, Mr. Damoulis also charged that regulators shut the company down be

Continued on next page

HOW KEMPER LOOKS

We think there's more than one way to hammer out a plan.



Continued from previous page
cause they didn't understand how it works.

"Because (Mr. Scott) didn't understand it, he didn't like it," Mr. Damoulis said.

Acknowledging that he can no longer operate AIC, Mr. Damoulis added that National Vehicle and the other associations may now self-insure the coverages they offer members.

Meanwhile, though, Mr. Damoulis is facing other problems stemming from his operation of ReCo, now known as Olympus Fire & Casualty.

ReCo reported assets of \$5.9 million, policyholders surplus of \$5.6 million and earned premiums of \$277,886 in an unaudited financial statement dated June 30, 1991.

The California department barred ReCo in February, finding that the insurer:

- Submitted phony audited balance sheets for the years 1988 through 1990.

The financial statements were purportedly audited by Ernst & Young in Cayman, but the firm actually performed no audit work for ReCo after reviewing the insurer's opening balance sheet in August 1988, according to partner Allan Gee.

- Had its Cayman license suspended from November 1991 until February 1992, when it was reinstated.

Separately, Mr. Damoulis claimed he did not learn of the suspension for nearly a month, though the insurer's former Cayman manager said he notified Mr. Damoulis within days, according to court papers in a suit ReCo filed against its California surplus lines broker, Laraine A. Clark.

- Failed to show that it owned \$2.2 million in bonds it claimed on

its balance sheet and that it actually held \$3.25 million reportedly on deposit in two bank accounts.

- Had no reinsurance, despite issuing policies with limits as high as \$100 million.

ReCo changed its name to Olympus in January 1993, and was ordered into provisional liquidation in the Cayman Islands in July, according to Mr. Scott.

Mr. Damoulis, ReCo's former president, said the company has been inactive since November 1991.

Its name was changed because the insurer planned to resume operating after running off the former ReCo business, Mr. Damoulis explained, adding that Delta Management served as the U.S. administrator for ReCo/Olympus until April 15.

After Olympus collapsed in Cayman, though, the Florida Insurance Department obtained its

own receivership order against the insurer.

Florida regulators then raided Delta Management's offices and seized the company's records.

In July, a Florida judge ordered Delta Management and several other companies to show cause why they should not be considered alter egos of Olympus and why the Florida Insurance Department should not seize their assets as part of the Olympus receivership.

Companies covered by the Florida order were: Delta Holdings Inc., which is Delta Management's parent; Delta PFC Inc.; MDG Inc.; and Delta Management (Cayman) Ltd.

Mr. Damoulis, who has moved to new offices in Jupiter since the raid, said he will fight the show-cause order.

A hearing is scheduled for Oct. 29. **BI**

QMED orders

Continued from page 2
tential to be troublesome," said Martin S. Brown, corporate manager-employee benefits at The Clorox Co. in Oakland, Calif., who has already received a QMED. "We already are spending about 10% of our energy on QDROs, which are a big headache."

The new orders may be worse, some consultants warn. Pension assets can be determined and divided up, but the QMEDs address health benefits in the future, said Mary Lynn Eubanks, a consultant with Hewitt Associates in Lincolnshire, Ill.

While QMEDs are not a big problem now, they could become common as judges see children without medical coverage, especially ones with costly medical needs, said Mr. Brown.

Multistate companies will have trouble keeping benefit procedures consistent if judges in some states use the orders more often than others, he added.

Benefit managers dread that QMEDs will require as much administrative work as QDROs. Dealing with QDROs "is a long, cumbersome process for us," said Dennis Nirtaut, manager-employee benefits at Continental Bank Corp. in Chicago. It includes receiving, acknowledging, reviewing and marking up the order, then returning it to the attorney for revisions, he said. The process may be repeated over and over.

"Not many attorneys are knowledgeable about QDROs—most of the QDROs sent to us are junk," said Mr. Nirtaut. Frequently those orders are obviously copied from a previous order, sometimes with the names of the previous participants inadvertently left in.

Benefit managers are relieved that the QMED order can't require a plan to provide any type of benefit that is not already provided under the plan. This means that a plan can still apply its pre-existing condition limits when adding participants.

The law leaves many details about the new orders unclear.

For example, the law, which amends ERISA and Medicare rules, calls for Medicare-eligible children to be enrolled immediately. But it is unclear if others must be enrolled immediately or if they must wait for open enrollment, said Ms. Eubanks.

And consultants are unsure whether the QMED is portable.

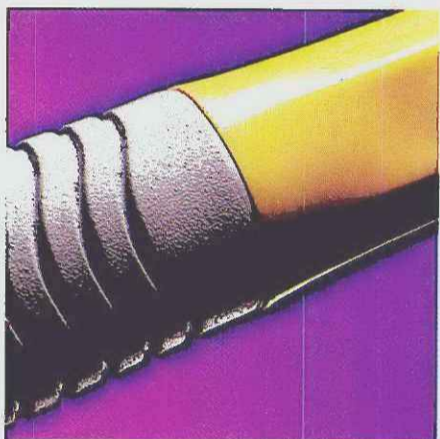
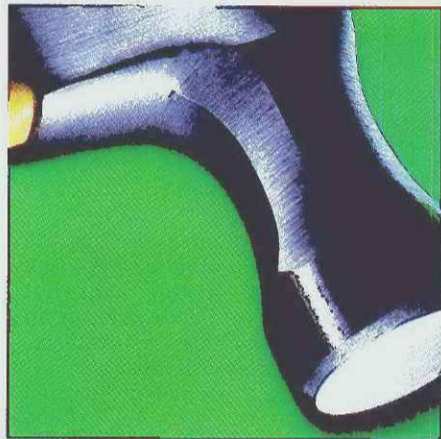
Ms. Eubanks says that if the employee switches jobs, the benefit plan's responsibility has ended—unless the employee and dependents select COBRA continuation—and a new court order must be obtained for the new employer's benefit plan.

But, Ginny Peabody, applied research consultant at Alexander & Alexander Consulting Group in Newburyport, Mass., has a different take on the provision. The QMED "wouldn't necessarily terminate when the employee terminates employment" because, for example, child support orders follow an employee from job to job. "This is a stumbling block."

And, it isn't clear how to deal with providing coverage for children who live outside the employee's coverage area, "especially if the employee's plan is an HMO, rather than an indemnity plan," said Steven Oberdorf, senior attorney at consultant Noble Lowndes in Roseland, N.J.

Ms. Peabody of Alexander Consulting recommends that employers meticulously obtain—and update—names of dependents so they receive COBRA notices. **BI**

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Late notice

Continued from page 3
cleanup of that contamination," the three-judge panel wrote.

Canadyne, the court said, took several actions that indicated it was aware of a potential claim or occurrence, including giving notice to some of its insurers and hiring environmental consultants and a law firm.

Canadyne knew of pollution at its headquarters in Fort Valley as early as 1971, the court found. In addition, the company:

- Hired environmental consultants in 1982.
- Notified its environmental impairment liability insurer in June 1984.
- Acknowledged contamination in an August 1984 purchase agreement to sell the plant to Security Chemical Co. and also put a hold-harmless clause in the agreement.

- Spent \$2.4 million cleaning up the site in 1986.

The Environmental Protection Agency placed the Fort Valley site on its National Priorities List in 1988, but Canadyne did not give first notice of a claim or occurrence on this site to Continental and American Universal until Oct. 6, 1989, the appeals court found.

Arsenic, lead and zinc used in manufacturing the pesticides DDT, Chlordane, Lindane and Toxaphene contaminated the ground water, which was used as city drinking water.

Environmental authorities also targeted another site Canadyne used. The Georgia Department of Natural Resources first expressed concern about pollution at the Peach County landfill in Powersville, Ga., in 1972, and the EPA put it on its National Priorities List in September 1983. Canadyne dumped pesticides there in the '70s.

In October 1983, Canadyne gave notice to its EIL insurer of a potential claim, but not to its general liability insurers. One year later, the EPA declared Canadyne a potentially responsible party for the site.

Canadyne sought coverage from its primary and excess liability insurers for cleaning up the two sites, notifying them of its claim for the Peach County site in 1986 and for the Fort Valley site in 1989.

In addition to Continental and American Universal, insurers that wrote primary and umbrella coverage for the company from 1965 through 1984 are: Admiral Insurance Co.; Northwestern National Insurance Co.; Lexington Insurance Co., a unit of American International Group Inc.; Stonewall Insurance Co.; and United States Fire Insurance Co.

The insurers denied coverage and Canadyne filed suit in 1990. The suit was filed in state court, but later moved to a federal court in Atlanta, which sided with the insurers on the issue of late notice.

On appeal, Canadyne argued that the insurers were not harmed by the delay in notification. Canadyne also claimed that the policies do not require notice until the company has actually received a claim or knows that an occurrence has damaged the property of a potential claimant.

Canadyne also said it did not notify its umbrella insurers because it did not know its claims would exceed its primary insurance. But, primary policies provided \$500,000 limits, which Canadyne should have known would not be sufficient, the 11th Circuit panel said.

Attorneys for Canadyne and its insurers were unavailable for comment.

There is no prevailing standard in federal courts for what constitutes late notice, said Eugene Anderson, a policyholder attorney with Anderson, Kill, Olick & Oshinsky in New York.

Although the Canadyne suit was moved to federal court, the judges from the 11th Circuit, which comprises Alabama, Florida and Georgia, were ruling on state law.

Like New York and about 10 other states, Georgia enforces standards for policyholder notice, Mr. Anderson said.

About one quarter of the states have an extremely liberal interpretation, which requires insurers to prove they were prejudiced by the late notice. Another quarter put the burden of proof on the policyholder, while the rest of the states are undecided, he said.

Canadyne-Georgia Corp. vs. Continental Insurance Co., American Universal Insurance Co. et al., 11th U.S. Circuit Court of Appeals; No. 92-8547.

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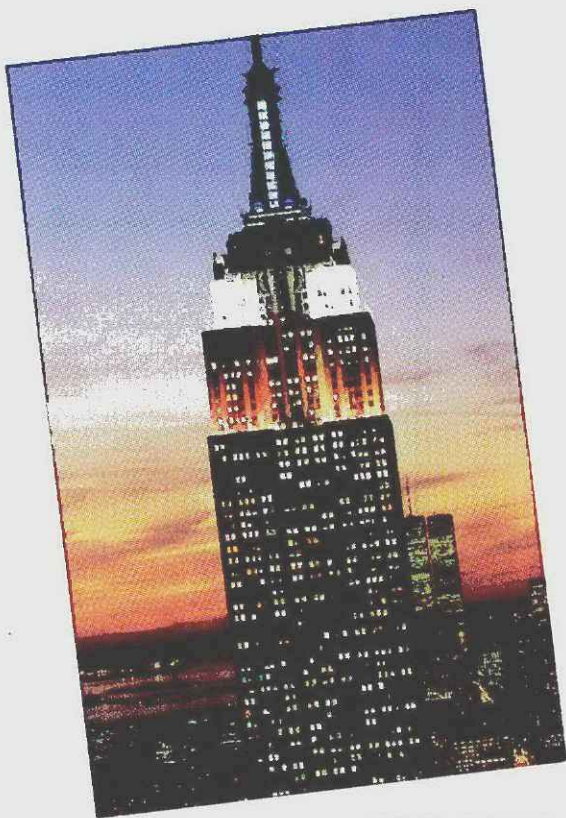
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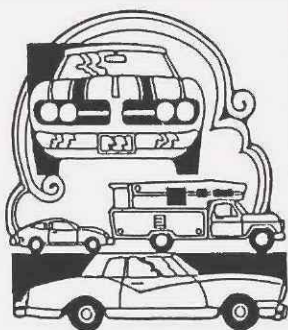
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The future of reinsurance

Gluckstern foresees fewer and bigger players in market

By MARK A. HOFMANN

WASHINGTON—The 21st century will dawn with far fewer reinsurers and insurers seeking business in a more heavily regulated marketplace, predicts the head of the largest broker market reinsurer in the United States.

Stephen M. Gluckstern, chairman, president and chief executive officer of Zurich Reinsurance Centre Holdings Inc., offered that assessment earlier this month at a financial seminar sponsored by Smith Barney Shearson.

Mr. Gluckstern also is chairman, president and CEO of the holding company's operating subsidiary, Zurich Reinsurance Centre Inc.,

formed earlier this year. ZRC is a lead writer of brokered, working-layer, excess-of-loss and pro data reinsurance treaties (*BI*, March 15). It offers reinsurance to commercial liability and personal lines insurers, and to some commercial property insurers.

The company's main shareholders are Centre Reinsurance Holdings Ltd., which is headed by Mr. Gluckstern, and Fund American Enterprises Holdings Ltd.

Mr. Gluckstern led his audience through a brief history of the reinsurance market from the early 1980s and offered his perspective on reinsurance in the opening years of the next century.

"Windfall" profits, irrational

pricing and the emergence of unexpected historical losses characterized the 1980s market, he said.

The marketplace of the present decade contains far fewer players than that of 10 years ago, he said. He noted that in 1982, 129 professional reinsurers regularly reported their underwriting results to the Reinsurance Assn. of America. By 1992, that number had dwindled to 54 as reinsurers merged.

And the largest companies are only getting larger. Combined, the 10 largest reinsurers controlled 69% of the market in 1992, up from 56% a decade earlier, he said. Although this growth has been referred to as a "flight to quality—what that means is bigger guys are getting bigger," he said.

"People don't want to buy reinsurance from people with \$50 million (in capital)," he said. "As we found out after Hurricane Andrew, people with \$50 million can literally disappear overnight."

Mr. Gluckstern added that larger reinsurers also have a better return on equity than their smaller counterparts. "Not only do you have to be big to survive," but reinsurers also probably have to be big to attract investors, he said.

Other characteristics of the reinsurance market of the 1990s are declining investment income and capital gains, increased regulatory and accounting activity, and increased frequency and severity of natural and man-made disasters, he said.

Many of the trends are expected to continue into the 21st century. The number of big professional reinsurers will continue to shrink, probably into the 15-to-20 range, he said. There will also be fewer insurers, with the market dominated by global players—such as American International Group Inc. and Chubb Corp.—and niche underwriters, while the middle ground vanishes, he predicted.

Mr. Gluckstern also foresees greater "securitization of all types of insurance risk," although he said he is not certain how the process would work. He added that he doesn't think this process of securitization will necessarily take the form of the various insurance futures traded on the Chicago Board of Trade.

Mr. Gluckstern also expects more accounting and regulatory "interference" with the business of insurance and reinsurance. A "de facto" federal reinsurance program is possible for some risks that the private market will never be able to totally handle. Had Hurricane Andrew hit Long Island rather than South Florida, "we would have been a lot closer" to the existence of such a federal program, he added.

Mr. Gluckstern also said that insurers and reinsurers in the future would recognize their environmental liability exposures on their financial statements.

Asked what major new casualty risks he foresees, Mr. Gluckstern predicted that upcoming exposures would be less likely to be health-related and more likely related to changes in tort law or policy interpretation.

"As a CEO, I worry generically when I go to bed at night," he said. Those worries revolve around whether even a strong, sophisticated reinsurer like ZRC might be missing something that ultimately cuts across all the policies it underwrites, Mr. Gluckstern said. **BI**

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Rebecca Shafer is Senior Vice President and National Director of the Workers' Compensation Consulting Program at Aon Risk Services in Hartford, Connecticut. Ms. Shafer is currently developing Aon's Workers' Compensation Injury Management Program and training consultants across the country.

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John F. Roskopf is Senior Vice President and Risk Management Consultant with Rollins Hudig Hall in Chicago. Mr. Roskopf is a member of the Major Account Brokerage Division and manages projects in several areas including risk management, consulting and alternative risk financing.

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William P. Barr served as the 77th Attorney General of the United States (1991–1993). As Attorney General, he served as chief law enforcement officer and legal advisor to the President and U.S. Government, supervised the Justice Department's staff, budget, six litigation divisions, and 93 U.S. Attorney offices. Mr. Barr also established innovative programs to combat violent crime and set significant new enforcement policies in a wide range of areas including financial institutions, health care, environmental, civil rights and antitrust.

New Issues on the Horizon

Stephen F. Selcke was appointed Director of the Illinois Department of Insurance by Governor James Edgar in September of 1991. Prior to this position, he was Director of the Governor's Office of Legislative Affairs. Mr. Selcke has served in Illinois State Government for 16 years.

The Symposium is free of charge. Seminar materials, breakfast, lunch and a cocktail reception are provided. For reservations or further information contact: Emily L. Bennett (312) 704-3814. Deadline for registration is October 29, 1993.

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At CoreSource, we focus on innovative up-front strategies to help our clients reduce total costs and increase productivity without sacrificing the quality of care for their employees. We place primary importance on involving our clients' top management to design, implement and manage comprehensive, community-based healthcare and workers compensation packages. Our workers compensation programs not only pay claims but focus on prevention and cost controls in all facets of the program. The results: fewer claims per employee, reduced lost time and lower overall program costs. The CoreSource approach includes:

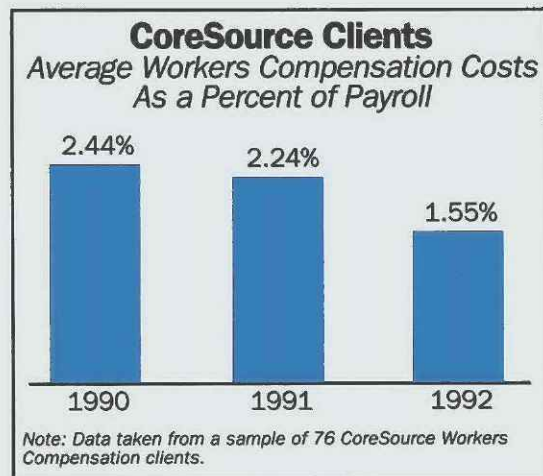
- Accident reduction through proactive prevention programs
- Expert medical management including the advantages of managed care
- Ensuring maximum productivity by returning workers to the job quickly
- Fair and accurate claims payment
- Management of disputed claims
- Management of cases in litigation
- Risk management analysis

Local Perspective, National Resources

CoreSource combines the resources of a national operation with the focus, knowledge and responsiveness of a local company. From our 25 regional offices, we manage \$1.4 billion in client healthcare and workers compensation programs covering 1.5 million lives. All programs are designed around the local delivery systems taking community norms into consideration.

Proven Results

CoreSource data indicates that our clients' workers compensation costs are spiraling downward. On average, from a sample of 76 CoreSource Workers Compensation clients across many industries, program costs as a percent of payroll have dropped more than 36 percent over a three year period.



The United States' workers compensation system is in crisis but we continue to find solutions. In these trying times, you should be working with the best in the business.

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*Social Security Administration

CORESOURCE

Healthcare & Workers Compensation Solutions

Datebook

SEPTEMBER

SEPT. 26-29. National Assn. of Mutual Insurance Cos. Annual Convention in Chicago; \$300 for NAMIC members, \$420 for non-members. NAMIC, 3601 Vincennes Road, Indianapolis, Ind. 46268; 317-875-5250.

SEPT. 26-29. Behavioral Healthcare Tomorrow conference in San Francisco, sponsored by the Institute for Behavioral Healthcare; \$595. IBH, 4370 Alpine Road, Suite 108, Portola Valley, Calif. 94208; 415-851-8411.

SEPT. 27-28. The 401(k) Course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$490 for Foundation members, \$540 for non-members. International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

SEPT. 27-28. Sixth annual ERISA Litigation Conference in New York, sponsored by Prentice Hall Law & Business and Fordham University Law School; \$695. Also Feb. 17-18, 1994, in Orlando, Fla. Dominic Vecchione, Prentice Hall Law & Business, 270 Sylvan Ave., Englewood Cliffs, N.J. 07632; 800-447-1717, ext. 8034.

SEPT. 27-28. Advanced Reinsurance seminar in New York, sponsored by The College of Insurance; \$525. The Center for Professional Education, The College of Insurance, 101 Murray St., New York, N.Y. 10007; 212-815-9021.

SEPT. 27-28. Workers Compensation and Claim Handling seminar in Long Grove, Ill., sponsored by Kemper Risk Management Services; \$500. Kemper Risk Management Services, 1 Kemper Drive, K-4, Long Grove, Ill. 60049-0075; 708-540-4901.

SEPT. 27-29. Reimbursement Planning: Implementing Customer-Focused Strategies to Assure Reimbursement in the New Healthcare Reform Environment program in Boston, sponsored by the Pharmaceutical Division of the Institute for International Research; \$1,195. Institute for International Research, 708 Third Ave., New York, N.Y. 10017-4103; 212-661-3500.

SEPT. 27-30. Eighth Annual Seminar on Insurance Fraud in San Francisco, sponsored by the International Assn. of Special Investigation Units; \$275 for IASIU members, \$375 for non-members. International Assn. of Special Investigation Units, 110 William St., 24th Floor, New York, N.Y. 10038; 212-669-9200.

SEPT. 28. ADA: One Year Later conference in New York, sponsored by the New York Business Group on Health; no charge for NYBGH members, \$30 for non-members. Stuart Lerner, New York Business Group on Health Inc., 622 Third Ave., 34th Floor, New York, N.Y. 10017-6752; 212-808-0550, ext. 12.

SEPT. 28. Climate Change and the Insurance Industry: The Next Generation seminar in New York, sponsored by The College of Insurance; \$300. The College of Insurance, 101 Murray St., New York, N.Y. 10007; 212-815-9201.

SEPT. 29-30. Flexible Benefits Course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; \$490 for Foundation members, \$540 for non-members. International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

SEPT. 30. Insurance Coverage Litigation: Emerging Issues and Recent Developments satellite conference, sponsored by the Practising Law Institute; \$160. Multiple locations across the United States. For more information, contact: Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

SEPT. 30. Insurance Coverage Litigation: Critical Issue and Strategies program broadcast via satellite, sponsored by the Practising Law Institute; \$144 for PLI members, \$160 for non-members. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5710.

SEPT. 30. Legal Update on Americans with Disabilities Act and the Family and Medical Leave Act in

Stamford, Conn., sponsored by the Southern New England Chapter of the International Society of Certified Employee Benefit Specialists; \$20 for ISCEBS members, \$30 for non-members. Paul Lambert, Southern New England Chapter, ISCEBS, P.O. Box 8089, Stamford, Conn. 06905-8089; 203-431-6420.

SEPT. 30-OCT. 1. Securities Litigation: Current Strategies and Developments seminar in New York, sponsored by the Practising Law Institute; \$585 for PLI members, \$650 for non-members. Also Oct. 21-22 in San Francisco. Practising Law Institute, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5710.

OCTOBER

OCT. 4-5. Information Systems/Information Technology/Advanced Technology for Property & Casualty Claims conference in Philadelphia, sponsored by the Institute for International Research; \$1,195. Also Oct. 14-15 in Santa Monica, Calif. Conference Administrator, Institute for International Research, 708 Third Ave., Fourth Floor,

New York, N.Y. 10017-4103.

OCT. 4-5. Litigating Insurance Coverage Cases seminar in San Francisco, sponsored by Federal Publications Inc.; \$800. Also Nov. 4-5 in Washington. Insurance Litigation Course, Federal Publications Inc., 1120 20th St. N.W., Washington, D.C. 20036; 1-800-922-4330 or 202-337-7000.

OCT. 4-8. Basic Property Conservation seminar in Long Grove, Ill., sponsored by Kemper Risk Management Services; \$850. Kemper Risk Management Services 1 Kemper Drive, K-4, Long Grove, Ill. 60049-0075; 708-540-4901.

OCT. 5-6. Reform: Health Care and Retirement Planning conference in Washington, sponsored by the National Employee Benefits Institute; \$95 for NEBI members, \$295 for non-members. National Employee Benefits Institute, 2445 M St., Suite 400, Washington, D.C. 20037; 800-558-7258.

OCT. 5-6. Reform: Health Care and Retirement Planning conference in

Washington, sponsored by the National Employee Benefits Institute; \$95 for NEBI members, \$295 for non-members. National Employee Benefits Institute, 2445 M St. N.W., Suite 400, Washington, D.C. 20037; 1-800-558-7258.

OCT. 6. Fundamentals of Ergonomics seminar in Long Grove, Ill., sponsored by Kemper Risk Management Services; \$300. Kemper Risk Management Services, 1 Kemper Drive, K-4, Long Grove, Ill. 60049-0075; 708-540-4901.

OCT. 6-8. The 47th annual Council on Employee Benefits Fall conference in Arlington, Va., \$475 for CEB members, \$575 for non-members. Carl S. Lazaroff, 1144 E. Market St., Akron, Ohio 44316; 216-796-4008.

OCT. 6-9. American Society of Chartered Life Underwriters & Chartered Financial Consultants 1993 National Conference in Kansas City, Mo.; \$395 for Society members, \$495 for non-Society members. American Society of CLU & ChFC, 270 S. Bryn Mawr Ave., Bryn Mawr, Pa. 19010-2195; 800-392-6900.

OCT. 7. Options for Long-Term Care Insurance conference in Bethpage, N.Y., sponsored by the New York Business Group on Health; \$25. Stuart Lerner, New York Business Group on Health Inc., 622 Third Ave., 34th Floor, New York, N.Y. 10017-6752; 212-808-0550, ext. 12.

OCT. 7. Spotlight on the Financial Sector for Risk Management and Financial Institutions in London, sponsored by the Assn. of Insurance & Risk Managers in Industry & Commerce and Willis Corroon Ltd.; 100 pounds (\$154) for AIRMIC members, 130 pounds (\$200) for non-members. AIRMIC Secretariat, 6 Lloyd's Ave., London EC3N 3AX; 071-480-7609.

OCT. 7-8. Medicaid Managed Care conference in Washington, sponsored by the Healthcare and Insurance Institute division of the Institute for International Research; \$1,095; \$495 for state and federal Medicaid officials. Institute for International Research, 437 Madison Ave., 23rd Floor, New York, N.Y. 10022; 212-661-8740.

Continued on next page

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Continued from previous page

OCT. 10-12. Charting Healthcare's Future conference in Reston, Va., sponsored by the American Managed Care Pharmacy Assn.; \$495, for AMCPA members only. Molly Barlow, Conference Coordinator, AMCPA, 2300 Ninth St. S.; Suite 210, Arlington, Va. 22204; 703-920-8480.

OCT. 10-12. Public Risk Management Assn. Mini Conference in Orlando, Fla.; \$225 for PRIMA members, \$325 for non-members. Public Risk Management Assn., 1117 N. 19th St., Suite 900, Arlington, Va. 22209; 703-528-7701.

OCT. 10-13. Risk Management Forum in Monte Carlo, Monaco, co-sponsored by the Assn. Europeenne des Assures de l'Industrie and the Risk & Insurance Management Society Inc.; 6,000 French francs (\$1,020) for risk managers; 8,500 French francs (\$1,445) for others; 2,500 French francs (\$425) for students. AEAI/RIMS Risk Management Forum, SOCFI, 14 Rue Mandar, 75002 Paris, France 331-4233-8994; fax: 331-4026-0444.

OCT. 11-12. International Benefits Information Service Interchange: Focus on Latin America in Fort Lauderdale, Fla.; \$600 for IBIS Briefing Service subscribers, \$675 for non-subscribers. Cathleen Reidy, International Benefits Information Service, 250 S. Wacker Drive, Suite 600, Chicago, Ill. 60606-5834; 312-993-7000.

OCT. 11-13. Property Valuation seminar in Long Grove, Ill., sponsored by Kemper Risk Management Services; \$600. Kemper Risk Management Services, 1 Kemper Drive, K-4, Long Grove, Ill. 60049-0075; 708-540-4901.

OCT. 11-15. The Practice of Reinsurance training course in Surrey, England, sponsored by Euromoney Training; 2,702.5 pounds (\$4,056). Hilary McCann, Director-Europe-Euromoney Training, Euromoney Publications P.L.C., Nestor House, Playhouse Yard, London EC4V 5EX; 071-779-8784.

OCT. 13. The Changing Managed Care Marketplace conference in Uniondale, N.Y., sponsored by the New York Business Group on Health; \$25. Stuart

Lerner, New York Business Group on Health Inc., 622 Third Ave., 34th Floor, New York, N.Y. 10017-6752; 212-808-0550, ext. 12.

OCT. 14-15. Forty-second Governor's Industrial Safety and Health Conference in Seattle, sponsored by Washington state Department of Labor and Industries; \$20. Department of Labor and Industries, P.O. Box 44050, Olympia, Wash. 98504-4050; 206-956-5445.

OCT. 14-15. 17th annual Employment Law Seminar in San Diego, sponsored by the Defense Research Institute; \$425 for DRI members, \$475 for non-members. Defense Research Institute Inc., 750 N. Lake Shore Drive, Suite 500, Chicago, Ill. 60611; 312-944-0575.

OCT. 17-19. Business Insurance Workers Compensation Conference in San Diego, sponsored by Business Insurance and IBF/International Business Forum; \$595 for risk, employee benefit and safety managers; \$795 for other. IBF/International Business Forum, 50 Charles Lindbergh Blvd., Suite 400,

Uniondale, N.Y. 11553; 516-229-2375.

OCT. 18-19. Analyzing Insurance Company Financial Statements seminar in New York, sponsored by The College of Insurance; \$495. Also Oct. 20-21. The Center for Professional Education, The College of Insurance, 101 Murray St., New York, N.Y. 10007; 212-815-9201.

OCT. 18-19. Using Fronting to Manage Risk and Save Insurance Costs forum in New York, sponsored by Executive Enterprises Inc.; \$995. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6990; 1-800-831-8333.

OCT. 18-22. Advanced Property Conservation seminar in Long Grove, Ill., sponsored by Kemper Risk Management Services; \$850. Kemper Risk Management Services, 1 Kemper Drive, K-4, Long Grove, Ill. 60049-0075; 708-540-4901.

OCT. 20-22. Claims Management course in Denver, sponsored by the Risk & Insurance Management Society

Inc.; \$750 for RIMS members, \$850 for non-members. RIMS Education Department, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017; 212-286-9292.

OCT. 20-22. Techniques of Risk Control course in Washington, sponsored by the Risk & Insurance Management Society Inc.; \$700 for RIMS members, \$800 for non-members. RIMS Education Department, 205 E. 42nd St., Suite 1504, New York, N.Y. 10017; 212-286-9292.

OCT. 20-23. Seventh International Reinsurance Congress in Hamilton, Bermuda, sponsored by Coopers & Lybrand and Hawksmere Ltd.; \$925, \$875 for Bermuda residents, 595 pounds (about \$893) for U.K. residents. Hawksmere Ltd., 12-18 Grosvenor Gardens, London SW1W 0DH; 071-824-8257.

OCT. 21-22. Environmental Insurance seminar in Coronado, Calif., sponsored by Federal Publications Inc.; \$900. Also Nov. 15-16 in Washington. Environmental Insurance Program, Federal Publications Inc., 1120 20th St. N.W., Washington, D.C. 20036; 1-800-922-4300 or 202-337-7000.

OCT. 24-27. Society of Chartered Property & Casualty Underwriters' Annual Meeting and Seminars in Baltimore; \$335, for Society of CPCU members only. Rebecca A. Bodenner, Society of CPCU, P.O. Box 3009, 720 Providence Road, Malvern, Pa. 19355-0709; 215-251-2739.

OCT. 25-27. Fundamentals of Insurance course in New Orleans, sponsored by the Risk & Insurance Management Society Inc.; \$700 for RIMS members, \$800 for non-members. Also Dec. 6-8 in San Diego. RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

OCT. 26-27. Business Interruption seminar in Long Grove, Ill., sponsored by Kemper Risk Management Services; \$500. Kemper Risk Management Services, 1 Kemper Drive, K-4, Long Grove, Ill. 60049-0075; 708-540-4901.

OCT. 28-29. Mental Health Provider Networks forum in Washington, sponsored by the Institute for International Research's Health Care & Insurance Division; \$1,095. Conference Administrator, Institute for International Research Inc., 708 Third Ave., Fourth Floor, New York, N.Y. 10017; 212-661-8740.

OCT. 31-NOV. 3. National Assn. of Independent Insurers 48th annual meeting in Toronto; \$350 for NAI members, \$450 for non-members. National Assn. of Independent Insurers, 2101 S. Arlington Heights Road, Suite 150, Arlington Heights, Ill. 60005; 708-290-6336.

NOVEMBER

NOV. 1-3. Risk Management seminar in Las Vegas, sponsored by Federal Publications Inc.; \$925. Also Nov. 8-10 in Washington. Risk Management Program, Federal Publications Inc., 1120 20th St. N.W., Washington, D.C. 20036; 1-800-922-4330 or 202-337-7000.

NOV. 4-5. The Seminar for Non-Insurance Professionals (Property/Casualty) in New York, sponsored by The College of Insurance; \$495. The Center for Professional Education, The College of Insurance, 101 Murray St., New York, N.Y. 10007; 212-815-9201.

NOV. 8-10. Bonds, Liens and Insurance seminar in Boston, sponsored by Federal Publications Inc.; \$925. Also Dec. 6-8 in Santa Fe, N.M. Bonds, Liens and Insurance Program, Federal Publications Inc., 1120 20th St. N.W., Washington, D.C. 20036; 1-800-922-4330 or 202-337-7000.

NOV. 13-17. 22nd Employee Assistance Professionals Assn. Annual Conference in Anaheim, Calif.; \$395 for EAPA members, \$495 for non-members. Employee Assistance Professionals Assn., 4601 N. Fairfax Drive, Suite 1001, Arlington, Va. 22203; 703-522-6272.

The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please include the price of meetings and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

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to

The Ohio National Life Insurance Company

The undersigned initiated this transaction and acted as financial advisor to Pennsylvania National Mutual Casualty Insurance Company

Conning & Company

Zurich Re Centre names senior vps

Brian A. Hughes appointed senior vp-actuarial and **Adrienne W. Reid** appointed senior vp of underwriting at Zurich Reinsurance Centre Inc. in New York.

Mr. Hughes previously was a senior vp/chief actuary for Skandia America Reinsurance Corp. Ms. Reid previously was vp/facultative account manager with General Re Corp.

Also at ZRC: **Emily Canelo** named vp of contracts. She previously was with North American Reinsurance Corp.

In other reinsurance changes:

Steven Petlick joined North American Reinsurance Corp. in New York as vp and actuary. He was formerly vp at Continental Reinsurance Corp.

David M. McNichols named vp at Constitution Reinsurance Corp. in New York.

Harry Chadwick joined Reinsurance Management Services of Chadwick, N.J., as senior vp.

Robert A. Rogers joined Navigators Group Inc. in New York as senior vp of Navigators Management Corp. and will be responsible for the ceded reinsurance operations of Navigators Insurance Co.

Judith M. Tracy named regional director of treaty operations in Chicago for Prudential Reinsurance Co.

Charles A. Hachemeister, senior

vp of F&G Re Inc. in Morristown, N.J., died Sept. 9 of a brain tumor.

Insurers

Barry S. Porter named to the new position of chief financial officer for Ohio Casualty Co. in Hamilton, Ohio, and its units.

Patrick N. Preddy named president of China American Insurance Co. The New York-based company is a joint venture between American International Group Inc. and People's Insurance Co. of China.

Neil H. Ashley became CEO and assumed management duties for 20th Century Industries. He succeeds **Louis W. Foster**, who retired as CEO Sept. 1 but remains chairman of the insurance holding company he founded.

Alan Goldfarb named loss control services officer at Reliance National Insurance Co. in Philadelphia. He had been a loss control property consultant.

William G. Fitzpatrick promoted to vp and actuary at General Casualty Insurance Co. of Sun Prairie, Wis.

J. Scott Bradley appointed senior actuary and senior vp of Richmond Insurance Co. Ltd. in Bermuda.

Carl Castoldi appointed executive vp and chief operating officer of the agency brokerage group domestic operations of Continental Corp. in New York. Also at Continental, **Jim Baldya** and **Robert Maley** named vps of the Continental Insurance Healthcare unit.

R. Tucker Kirk promoted to senior vp in charge of the recreational products division of Universal Underwriters Insurance Co. in Overland Park, Kan.

Thomas Green named vp of underwriting with Amwest Surety Insurance Co. of Woodland Hills, Calif.

Ronald F. Goetsch named regional vp-surety for SAFECO Corp. in Seattle.

Agents/brokers

Robert E. Duncan named vp in the surety bond division of Near North Insurance Brokerage Inc. of Chicago.

James D. Thomas joined as vp and **Jere Feel** was promoted to vp at Risc Inc. of Dallas.

Paul Williams named a vp at Hummel Cos. Inc., a regional independent agency in Rolling Meadows, Ill.

James M. Orff named manager of loss control engineering for Hobbs Group Inc. in Waltham, Mass.

Other suppliers

Judith S. Cipriana named vp of National Professional Group Risk Management Services Inc. in Chicago.

William F. Ramonas named president of American Risk Protection Consultants, an American Risk Group Inc. unit. Mr. Ramonas had been senior vp and global manager for property loss control at Johnson & Higgins.

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 CAPITAL RE

Insurer Topics

A special editorial section sent exclusively to insurers and reinsurers

Prudential opens eyes with sale of notes

Technique offers mutuals a way to raise capital

By GAVIN SOUTER

An innovative way for mutual insurers to raise outside capital without excessive regulatory entanglements has sparked interest among investment bankers and insurers.

This breakthrough could prove timely for some mutuals that may face problems meeting the impending statutory risk-based capital requirements for life/health insurers, analysts say.

However, companies must get special permission from their state insurance authorities before they embark on this capital-raising exercise, and some states may not permit mutual insurers to raise capital in this manner.

The fanfare was prompted by Prudential Insurance Co. of America, which issued surplus notes in April as a means of raising capital. Surplus notes are a kind of subordinated debt backed by a mutual's surplus.

The Roseland, N.J.-based mutual insurer raised \$300 million through a private placement of the notes, which mature in 2003 and carry an interest rate of 6.87%.

However, in what is drawing the most attention, Prudential received permission in advance from New Jersey regulators to make payments on the notes without first obtaining regulatory permission for each payment. Previously, mutual insurers in New Jersey issuing such notes would have had to seek approval from regulators before making any payments.

This generally deterred mutuals from issuing the instruments.

"The issue was oversubscribed and a stable market in the notes has grown up over the past couple of months," a Prudential spokesman said.

Prudential is using the money from the issue to fund its post-retirement liabilities under FAS 106, which requires companies to account for non-pension benefits paid to retirees, he said.

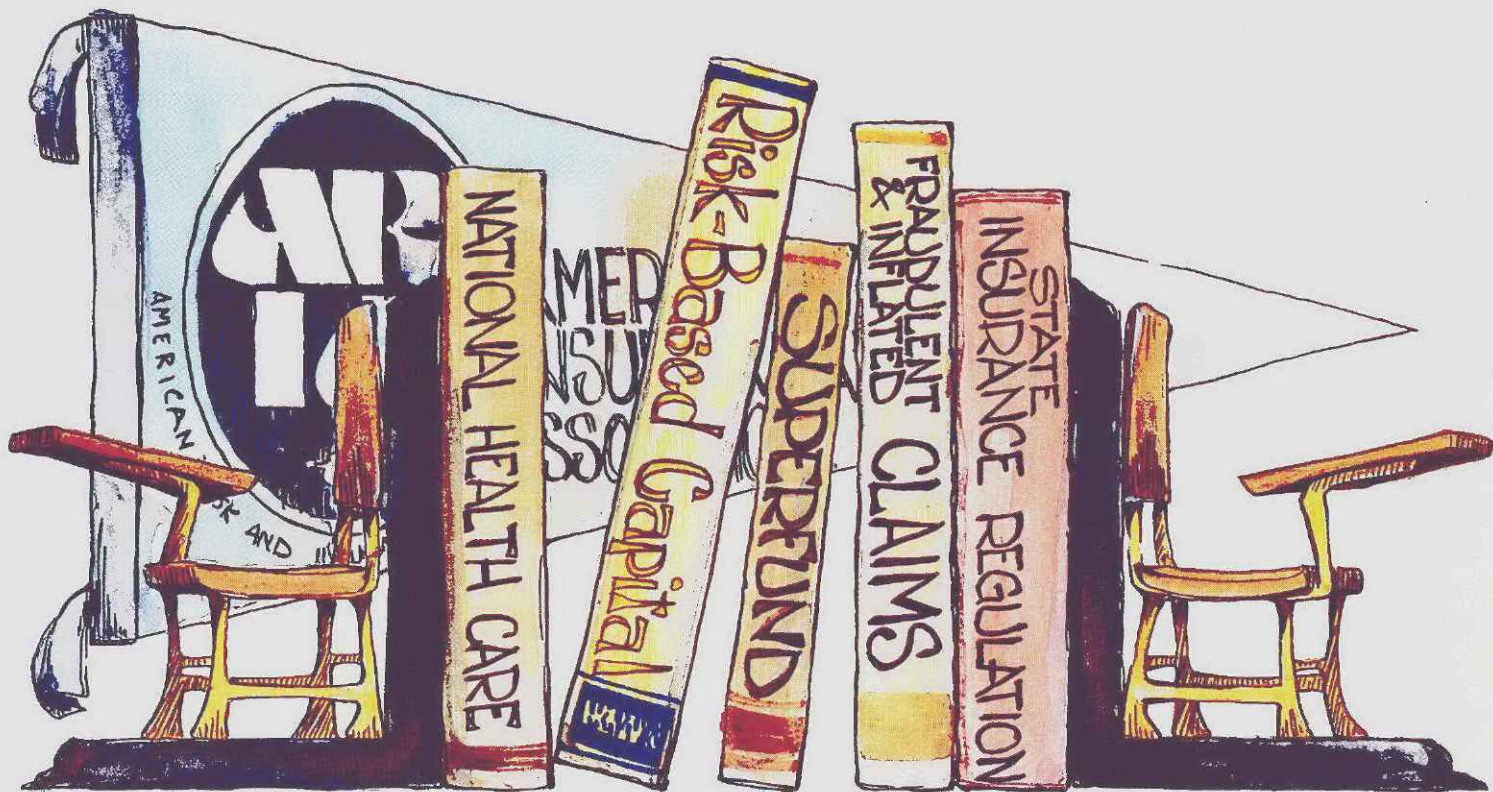
The surplus notes issue is a tax-efficient means of funding for future liabilities, said Marty Pfinsgraff, treasurer at Prudential.

If the company had instead sold assets or stock to obtain funds, it would have had to pay capital gains tax, he explained. "In the long term, it's attractively priced capital for mutual insurance companies," Mr. Pfinsgraff said.

Because of their operating structure, mutual insurers do not have many of the same capital-raising instruments at their disposal as stock companies.

The New Jersey Insurance De-

Continued on page 32H



Fielding 'hot' industry issues

Risk-based capital rules among concerns voiced at ARIA meeting

By JUDY GREENWALD

SAN FRANCISCO—The potential misuse of risk-based capital standards is a "serious concern for the industry today," an official of the Casualty Actuarial Society says.

Risk-based capital guidelines could potentially be misused by regulators to measure an insurance company's maximum allowable profits, warned David P. Flynn, president of the Arlington, Va.-based CAS.

The question, he said, is how to prevent the guidelines "from being used and misused in the state regulatory process," which could be exacerbated by frequent turnover among insurance regulators.

Mr. Flynn was one of several speakers at a luncheon session on "hot topics" during the American Risk & Insurance Assn.'s annual meeting in San Francisco last month. The session covered a broad range of issues, including using "appointed" actuaries, environmental hazards, insurance fraud, tort reform efforts and the state of the reinsurance market.

ARIA is a Sacramento, Calif.-based society that promotes the science of risk management through education, research, literature and communications.

Discussing the background of risk-based capital guidelines, Mr. Flynn observed that an insurer's capital currently has to fall below a certain value before state regulators can intervene. This threshold varies widely from state to state, ranging from \$600,000 for property/casualty companies in the District of Columbia to \$5.3 million for P/C insurers based in Alaska.

The shortcomings of this system have been the target of much scrutiny in recent years. In 1989, the General Accounting Office issued a report that discussed several perceived problems in the state insurance regulation system and also questioned the effectiveness of the National Assn. of Insurance Commissioners.

Two years later, a House panel headed by Rep. John Dingell, D-Mich., issued a scathing report on state insurance regulation,

which discussed the failure of four major property/casualty companies and drew an analysis between the insurance industry and the savings and loan crisis (*BI*, March 25, 1991; Jan. 14, 1991).

The Dingell report also identified insufficient state regulation as one of the key conditions that allowed seriously undercapitalized companies to continue to write business.



State regulators were also active during this period, said Mr. Flynn. An NAIC policy agenda on solvency regulation focused on the adequacy of the annual statement for spotting troubled insurers, including disclosures and reserve and capital requirements.

The agenda also evaluated the need for a model law that would require variable capital and surplus requirements based on the nature and volume of business underwritten by an insurer, among other factors.

In February 1990, working groups got started on this agenda, which resulted in risk-based capital guidelines for life/health insurers that take effect with the 1993 financial statements, and guidelines for the property/casualty industry will take effect with the 1994 statements.

Among other "hot" issues discussed at the luncheon were:

- Appointed actuaries. The concept of appointed actuaries is to have actuaries who would give an opinion of the adequacy of an insurer's surplus report to the insurer's management but also be responsible to state regulators.

The question is whether any actuary, given the complexity of the industry and the types of exposures that are covered, can reliably express a useful opinion on the adequacy of surplus that does not have numerous caveats, Mr. Flynn said.

Because of these inherent difficulties in

giving an opinion of an insurer's surplus, actuaries in Canada were granted an exemption from liability over their opinions in civil litigation, he said. In fact, the exemption was crafted by the Canadian Bar Assn. "I wonder, will the American Bar Assn. do the same?" Mr. Flynn asked.

- Environmental hazards. The whole question of environmental liabilities "involves a lot of problems, a lot of sites, a lot of money," said Kevin F. McCarthy, director of the Rand Institute for Public Justice in Santa Monica, Calif.

He noted that it had been originally envisioned that the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or Superfund, would only involve taking care of 200 sites. The total is now about 1,400 and growing. Less than 20% of these sites have been taken care of, Mr. McCarthy said.

Another big problem is cost. Given an estimated \$30 million to clean up each site, it could cost nearly \$50 billion to clean up just the sites identified to date, he said. Conceivably, the ultimate cost could run into the "hundreds of billions."

A second component of Superfund costs, he said, is the transactional cost associated with cleanups. For insurance companies, "you're talking about a very large total cost, regardless of what happens," said Mr. McCarthy. Uncertainty also "clouds the problem," he said. While it may have been determined that a site needs to be cleaned up, the question is: "How clean is clean?" he said.

Should sites be cleaned up enough to eliminate health risks, or to the level where they are restored to their "original, pristine condition?" Mr. McCarthy asked. This decision could make a big difference in costs, he said.

Also, in addition to the costs of personal injury or damage claims that arise because of proximity to the sites, the "even larger uncertainty" is natural resource damages and potential claims for the diminishment of enjoyment of the property, Mr. McCarthy said.

Continued on next page

'Hot' topics

Continued from previous page

Mr. McCarthy said other questions include: whether Superfund will be reauthorized by Congress next year in its current form, which is unlikely; whether it will be modified substantially; or whether there will be administrative changes and reforms to the Environmental Protection Agency's regulatory approach, which is the most likely option.

• Tort reform. The climate for tort reform during the next few years "will be very different" from what it was during the last hard market, during the 1984-1986 period, Mr. McCarthy predicted. One reason is the Clinton administration's attitude toward the

issue, he said.

Early tort reform efforts tried to get generic reforms passed, he said. Now they are "much more targeted" in terms of what people are looking for and the results they expect to get.

The focus has changed as well, said Mr. McCarthy. The focus today generally is on procedural issues, such as streamlining the discovery process, and even substantive areas are looked at in terms of specific issues, such as caps for punitive damages.

Another factor to consider is that case law helped drive the need for reform in the '70s and '80s, but that has now "slowed down if not reversed," he said.

The tort reform focus also has shifted to the state from the federal level.

The insurance industry per se is likely to demonstrate a new attitude toward future tort reform efforts, Mr. McCarthy predicted. Many insurers feel they got "burned" during the last big tort reform push in the mid-'80s and are not likely to take a "back-seat role" in the future, he said.

A key question for future tort reform efforts is the impact of health care reform, when there will be "all sorts of things up for grabs," said Mr. McCarthy.

• Fraudulent and inflated claims. California's workers compensation market is rife with fraud, though the problem exists nationwide, said John P. Benson, vp for Zenith Insurance Co. of Woodland Hills, Calif., who specializes in investigating fraudulent claims.

In California, the medical pro-

viders "drive the system," he said. There are medical clinics in Los Angeles that bill \$50 million to \$60 million a year. "You can imagine the financial impact that has on the (insurance) industry," said Mr. Benson. And attorneys work closely with these doctors, he said. "This is a very organized little system."

Reform efforts will not make workers compensation fraud disappear, he said. Several states have reformed their workers comp systems and fraud perpetrators already have figured out how to get around the system, he said.

In July, California adopted a workers comp reform package, which means there will be a "year of good down time," Mr. Benson said (BI, July 26). "But in a year, these people are going to figure

out new ways to take advantage of the system."

Mr. Benson said it will be his job to stay "two or three steps ahead of them."

In the past, insurers have just raised rates to offset fraud losses, though today the industry is relying more on investigators to spot and prosecute fraud, which hopefully will have an impact, he said.

• The post-Andrew insurance market. The reinsurance market has changed "quite a bit" because of last year's staggering catastrophe losses, said Terre E. Troxell, vp-research and technical services for the National Assn. of Independent Insurers in Des Plaines, Ill.

He pointed to accounting changes involving funded catastrophe covers introduced by the Financial Accounting Standards Board at the urging of the Securities and Exchange Commission.

FASB has determined that a ceding company's obligations under funded covers must be reported as liabilities on the insurer's financial statements (BI, April 5).

These changes affected an estimated \$1 billion of Hurricane Andrew losses, he said. "That really put a crimp on the market."

The discussion was moderated by Richard A. Derrig, senior vp of the Automobile Insurers Bureau of Massachusetts. **BI**

Education lacks global perspective

By JUDY GREENWALD

SAN FRANCISCO—Risk management and insurance education faces "rough seas" ahead, and the next five years will be critical in determining whether the discipline prospers or declines, the president of the American Risk & Insurance Assn. says.

"I question whether we and our association have made as much



progress in certain key areas as we ought to have made," said Harold D. Skipper Jr., the C.V. Starr distinguished professor of international insurance at Georgia State University in Atlanta.

Mr. Skipper raised the issue during his incoming address as president of ARIA at the association's annual meeting last month in San Francisco.

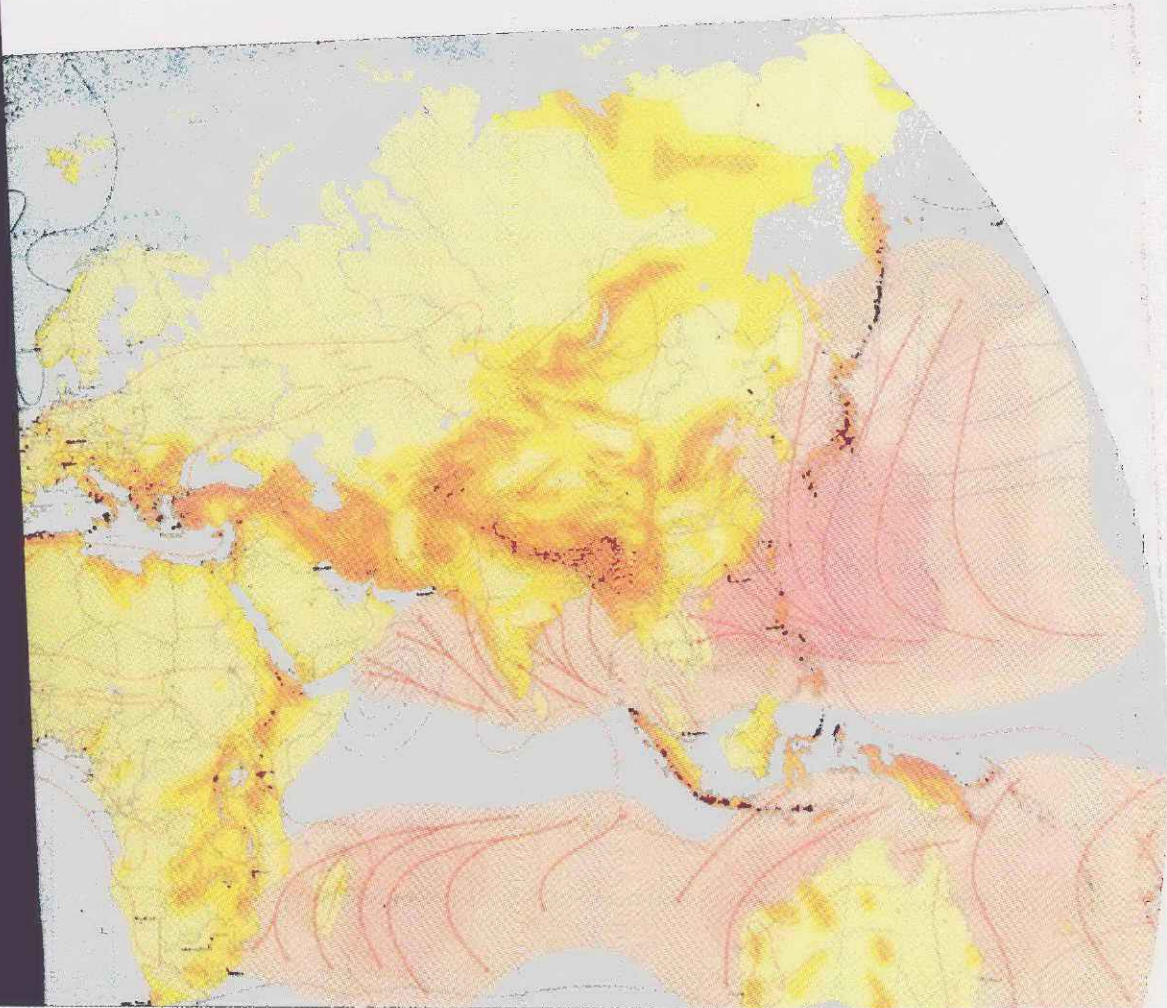
ARIA, a Sacramento, Calif.-based society with a membership hailing from academic institutions and the insurance industry, promotes the science of risk management through education, research, literature and communications.

According to the Commission on Admission to Graduate Management Education, Mr. Skipper said, three key issues will affect business students and programs in the future: accelerating rates of change, increasing demographic diversity and globalization of world markets.

Pointing to the first factor, Mr. Skipper asked, "Do our courses prepare students for the world of the 21st century, where change is

Continued on page 32D

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Education

Continued from page 32B
 the only constant, or do they reflect a more static world view?"

To understand change, students must be helped to appreciate the social, economic and political forces that drive it, Mr. Skipper said. "I fear that too often we treat (risk management and insurance) in isolation from these catalysts of change."

Pointing to the changing demographics of the United States, including its aging population and growing immigration, Mr. Skipper asked, "To what extent are we weaving the implications of these and other demographic trends into our courses?"

tioned how effectively risk management and insurance students are being taught to examine the discipline's international dimensions.

It may be time to take out the word 'American' from ARIA's name, says Harold D. Skipper Jr.

Mr. Skipper said he looked at five leading introductory textbooks for international references and found that only 45 out of 3,345 pages, or less than 1.5% of the total, contained any non-U.S.

references. While the discipline's fundamentals, which are presented in these texts' early chapters, are in one sense international, "surely the explicit international dimensions and environment of risk and insurance warrant more than a 1.5% coverage," Mr. Skipper commented.

Among the association president's suggestions were:

- Demonstrate the role and importance of risk management and insurance education to other academic colleagues and others within the universities.

"We should help our academic colleagues to include discussions of risk and its management within their finance, management, marketing, accounting and other courses and material," Mr. Skipper

ARIA meets in San Francisco

SAN FRANCISCO—About 210 attendees gathered at the American Risk & Insurance Assn.'s annual meeting here in August.

ARIA is a society devoted to furthering the science of risk and insurance through education, research, literature and communication. The association, which was founded in 1932, draws members from academic institutions and the insurance industry all over the world.

Next year's ARIA conference will be held Aug. 21-23 in Toronto. For more information, contact ARIA's executive director, Pat Cheshier, at the School of Business Administration, California State University, 6000 J St., Sacramento, Calif. 95819-6088; 916-278-6609.

said. "We should encourage such cross-fertilization both as a means of enhancing and reinforcing student learning and as a means of establishing the role and impor-

stance of our discipline with our peers," he said.

"We should studiously avoid the myopic view that risk management professors have sovereignty over risk."

- Review the content and balance of course offerings and textbooks carefully.

"Indeed, we should strive to lead our business schools in the three areas of change, diversity and globalization if we are to operate at the highest levels," Mr. Skipper said.

For instance, if the goal is to internationalize teaching, the most effective way to accomplish that is to spend substantial periods of time abroad.

While university rules often penalize faculty for spending time abroad when they should do the opposite, and there are other difficulties as well, "the benefits of meaningful international experience routinely outweigh the costs," Mr. Skipper said.

- Establish a more active involvement with the risk management and insurance "practitioner communities."

"A more active involvement in no way suggests academic compromise," said Mr. Skipper. "This involvement should be at both the individual and the association level."

Mr. Skipper pointed out that ARIA's general and institutional membership has declined in the past few years.

"I was exceedingly disappointed that some of the largest companies did not join with us this year. Of course, the fault lies with us for not establishing our value to them," he said.

- Examine ARIA with the "same critical eye" that is brought to courses and research.

Among other suggestions, Mr. Skipper suggested it may be time to take out the word "American" from ARIA's name "to reflect a more international perspective."

"Insurance and the management of risk lie at the heart of every major economy," he said.

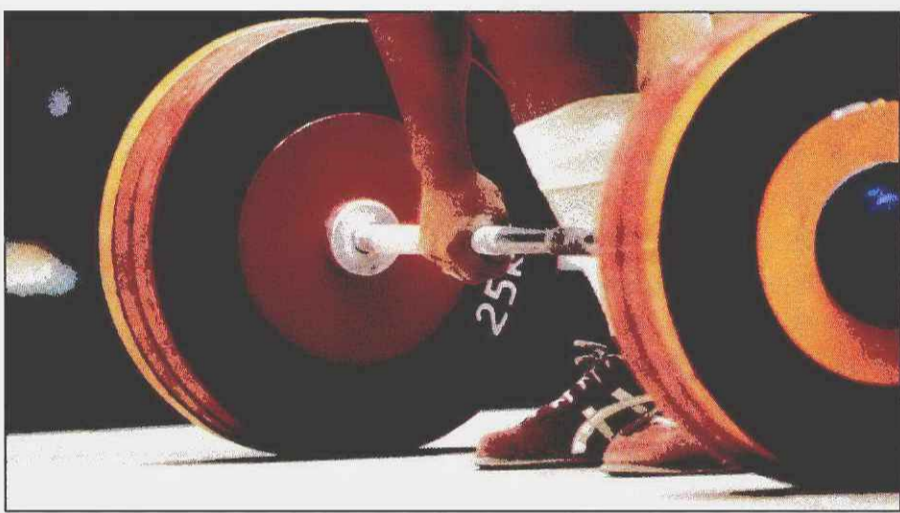
"With increasing development, risk management and insurance become even more crucial.

"Our task is to ensure that our contributions to our discipline's improvement reflect faithfully students' and the public's needs, not just through the balance of the 1990s, but into the next century," Mr. Skipper said.

This task requires a redoubling of efforts to: teach risk management and insurance fundamentals, "for they are timeless"; avoid undue emphasis on institutional details, for they are transient; and ensure that our curricula provide points to view, not points of view, by building in elements of change, diversity, and globalization.

"If we do these things, I personally feel confident that we will not only avoid missing the boat, but that they may even let us captain it," said Mr. Skipper.

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Examining underwriting ethics

Improving technologies requiring insurers to tackle tough questions

By JUDY GREENWALD

SAN FRANCISCO—Should the recent operation that separated the Lakeburg Siamese twins ever have been performed?

Given that it appeared highly unlikely beforehand the surviving twin would live, the answer is "no," says John D. Golenski, president of the Bioethics Consultation Group in Berkeley, Calif. "It was an experiment. I think the twin surviving is an experimental animal."

However, "I would certainly change my mind if this child survives," he added.



The operation to separate the Siamese twins, along with topics ranging from diabetes testing to redlining in the inner cities, were covered during a session on ethics and underwriting regulations at the American Risk & Insurance Assn.'s 1993 annual meeting last month.

Mr. Golenski later told *Business Insurance* that while this particular

operation was performed with public funds, he would have objected even if it had been privately insured.

Publicly as well as privately pooled funds are intended for appropriate medical procedures, where there is some hope of recovery, he said. The doctors who performed the surgery "were playing a game for experimental purposes and trading on people's sense of desperation," said Mr. Golenski. Even if the surviving twin does live a few months, there is still little hope of long-term recovery, he said.

As of last week, several weeks after the operation, the surviving twin's condition had improved and had been upgraded, though she still was listed as "serious."

Laying the groundwork for the discussion, Mr. Golenski said ethics are often confused with morals. Morality involves determining a course of action using a set of rules. Ethics, he said, involves dealing with conflicts of basic values.

Hospitals, for example, are institutions with a multiplicity of individuals providing care, each of whom comes to work with a unique set of principles and rules, "yet somehow we have to make a decision," he said.

The ethics process allows people with different sets of beliefs to come to some conclusion about a specific set of actions, said Mr. Go-

lenski. The focus is not on right or wrong, but what to do when there is a conflicting sense of good. "How do you choose the good you want?" he said.

One example of this in the insurance industry is community rating vs. experience rating. "One is not good, one is not bad," he said.

Discussing ethics and underwriting from the perspective of a life and health insurer was Robert P. Carver Jr., actuary-group insurance for Metropolitan Life Insurance Co.'s Western Group Operations in San Francisco.

Mr. Carver said that while he was happy with Mr. Golenski's formal definition of ethics, for the purposes of business, a definition of ethics should include integrity, honesty, fair dealing, good faith and compliance with the law. It is the last quality, he said, that "can make situations a little bit more difficult."

Mr. Carver first turned to the issue of genetic testing in the insurance industry. It has recently become an issue because of the Human Genome Project, a government project to map human genetic information. There is concern that because of this project, the ability to ascertain individuals at risk for genetic disease will exceed the ability of medicine to treat persons with these disorders, said Mr. Carver.

A comparable situation, however, now can be found in the use of tests for diabetes and high blood pressure, which identify people at risk for these diseases, he said.

The issue comes down to a discussion of risk classification, or "discrimination," as it is termed by some people, vs. equality of access, Mr. Carver said. It is difficult for people to understand how "discrimination" can "result in equity in the marketplace," he said.

Mr. Carver cited a 1991 survey by the American Council of Life Insurance, in which 51% of respondents said they believed risk classification is unfair. Only one in five thought it was fair to charge people who are predisposed to cancer higher rates. Florida, Pennsylvania and New York are among the states that either already forbid the use of genetic tests or are considering such legislation.

A joint statement on genetic testing by the ACLI and the Health Insurance Assn. of America said that testing will be added to the means that are already at insurers' disposal, such as family medical history, for underwriting life and health insurance, according to Mr. Carver.

The statement stressed that insurers would not reject large numbers of applicants based on the new tests. In addition, it said, there are few people with genetic predispositions to illnesses who do not already suspect there is a problem. Therefore, insurers would reject few people solely on the basis of genetic tests that would not have been rejected under current underwriting practices.

The statement does state, however, that insurers will want access to all prior genetic test data to avoid adverse selection, and to ensure that people pay a fair price for coverage, Mr. Carver noted.

Mr. Carver also discussed the issue of accepting "best or better" risks in health insurance. Is it ethical, he asked, to use risk selection to see that different risks pay their appropriate share? "My initial reaction is that the answer is 'Yes,'" said Mr. Carver.

Continued on page 32H

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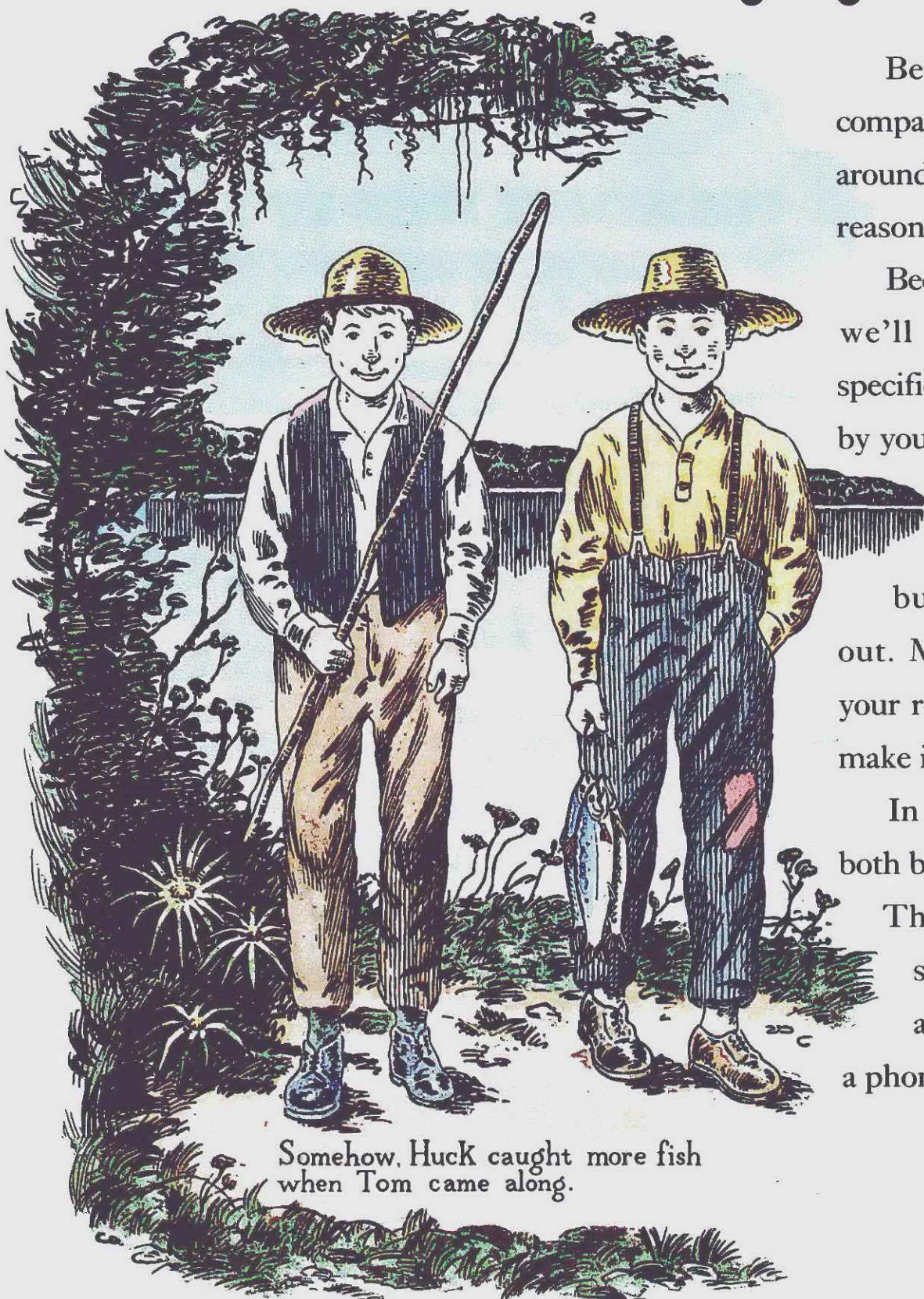


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Ethics

Continued from page 32F

A different twist to the question, he said, would be: Is it ethical to terminate coverage for persons whose health care costs are high? And is a risk selection system ethical if it excludes an ever-larger part of the population for coverage?

The final question, said Mr. Carver, is what are the ethical considerations for an insurer's response to shareholders and other policyholders if it is not using risk selection when it is competing with other insurers that do?

"These are some of the questions that will have to be answered by many of us in the near future," he said.

John S. Touchstone, vp-special risk operations for Fireman's Fund Insurance Co. in San Francisco, offered a property/casualty insurer's perspective of ethics in underwriting.

Mr. Touchstone said part of the reason insurers have an image problem with the public is that the industry uses a selection process "to select the individuals and the businesses that we want to do business with" and, of course, those with which it does not want to do business.

Property/casualty insurers have established a set of values they feel is ethical in terms of operating a profitable business. However, last year's hurricanes in Florida and Hawaii and the Los Angeles riots created a tremendous amount of negative publicity for insurers.

Involved here were allegations of redlining and withdrawing from certain segments of the market, said Mr. Touchstone.

In Florida, for example, several insurers have withdrawn from the market after sustaining heavy hur-

ricane losses last year. From the perspective of the industry and shareholders, withdrawing from a market after heavy losses there guarantees solvency and helps companies fulfill their duty to other policyholders, said Mr. Touchstone.

From the individual's point of view, premiums were paid but the first time there was a loss, the insurer abandoned the market. This raises the issue of "loyalty and fair and just dealing," Mr. Touchstone said.

Another issue is redlining in the inner cities. People say if they cannot afford the high rates insurers charge, the insurers might as well not offer coverage at all. Having no insurance, however, makes it difficult for people in these areas to obtain loans and operate their businesses.

Does the insurance industry have an ethical obligation to provide insurance to the inner-city customers? asked Mr. Touchstone. Insurers have two options, he said. One is to pass on the cost of operating in the inner city to other policyholders to compensate, and the other is for the industry to absorb the cost itself.

Regulators, he said, "have a very important part in terms of mitigating, reducing the conflict that arises between the industry and the general public."

It is their responsibility to see that insurers operate ethically and are still able to sustain long-term growth. And it is also their responsibility to the public to make sure that insurers are financially strong, solvent and do not engage in unethical practices, said Mr. Touchstone.

The session was moderated by Jack M. Nelson, Robert F. Corroon professor of insurance and risk management at The College of Insurance in New York. **B1**

Mutuals

Continued from page 32A

partment will be viewing the Prudential issue as a test case and it will probably take several months before the department considers allowing another mutual insurer to conduct another issue, he said.

The issue was put together by investment banks First Boston Corp., Goldman Sachs & Co. and Prudential Securities, a unit of the insurer.

The Prudential deal has generated interest in private placements by other mutual insurers in other states, said Donna L. Halverstadt, vp-financial institutions at Goldman Sachs in New York.

"A number of mutuals are looking into the topic of surplus notes. Some have focused on it as a result of the Prudential transaction. In other cases, we have brought it to their attention," she said.

The Prudential issue could be interesting for other mutuals, agreed Robert H. Gruhl, senior vp and chief financial officer at Liberty Mutual Insurance Group.

Liberty Mutual has no current need for extra capital, he said. But "surplus notes as structured along the Prudential issue are an attractive source of capital for mutual companies if there is a business need," he said.

Mutuals that follow this course should be wary of all of the implications of raising money through note issues, said Michael Smith, an insurance analyst with Lehman Bros. in New York.

"Surplus notes probably carry with them all the requirements that stock would carry. That is, (mutuals) will find that they will have holders of the notes looking over their shoulders to see what they are doing," he said.

And, issuing notes is unlikely to be an option for all but the largest mutual insurers, he said.

"I think that mutuals that are having any difficulties would find it very expensive because they would not be attractive to the market," Mr. Smith said.

It would probably only be an option for the 10 to 15 largest mutuals in the country, agreed Mike Albany, an insurance analyst with A.M. Best Co. in Oldwick N.J.

Prudential's issue made good economic sense because it was an inexpensive way to raise funds for a specific commitment, even though \$300 million is not a large sum when compared with Prudential's total capital, he said.

Prudential has capital and surplus of about \$10.5 billion.

Mr. Albany said some mutuals may also consider issuing notes to help them meet risk-based capital

requirements for life/health insurers, which take effect with 1993 annual statements filed next year.

Although most large mutuals will not have difficulty meeting the requirements, some in the lower end of the top 15 may need to bolster their surplus, and raising funds through a notes issue is an effective way of doing this, he said.

"Some of the companies that are considering demutualizing may look at this as an alternative," Mr. Albany added.

However, mutuals considering demutualization see other attractions as well, said Goldman Sachs' Ms. Halverstadt.

"(Surplus notes) would allow a company to write more business and can be a part of a company's overall business and financial strategy, but that's different from the flexibility of being a public stock company," she said.

But before they head to the financial market, mutuals first have to receive permission from their state insurance commissioner.

In Prudential's case, the New Jersey authorities were satisfied with its capital, a New Jersey Insurance Department spokesman said.

"But every request will be done on a case-by-case basis, and there will be an extensive review of the company," he said. **B1**

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Market outlook

Continued from page 1
erty cat reinsurers being formed in Bermuda (see story, page 40).

One reinsurance executive noted that while cat coverage constitutes only about 15% of his company's book of business, he was spending about 85% of his time at the Rendez-Vous talking about the cat coverage his company writes or the new competition from Bermuda.

Still, while both ceding companies and reinsurers were worried about the lack of cat coverage capacity, there was not the sense of panic or urgency that dominated conversations a year ago in the wake of Andrew.

In other words, a single \$15 billion catastrophe that was unimaginable just more than a year ago is now old hat in the reinsurance industry.

"The discussions were much

more professional and less hectic than previous years, and it provided a good basis for the coming renewal season," summed up Axel Biagosch, director of Colonia Insurance A.G. in Cologne, Germany.

"There is a sense of calm," noted John R. Berger, executive vp of F&G Re Inc. in Morristown, N.J. "A year ago, the market was crazy...people lost sleep," Mr. Berger said.

However, he added, "whether this is the calm before the storm, I don't know."

To some, it indeed was perhaps too calm.

"It's been a very bland set of meetings. It has been very strangely subdued," said Graham D. Brice, president of International Risk Management (Bermuda) Ltd.

Many reinsurance executives at the annual gathering expressed disappointment that rates—with the exception of property catastro-

phe coverage—are not rising more steeply.

"Rate improvement is very slow," Mr. Brice noted, referring to primary property rates and, therefore, rates for proportional property reinsurance. "While rates are up in Europe, there's no progress in the U.S." he said, adding there's not much progress on the horizon.

The Rendez-Vous typically marks the beginning of the discussions for year-end reinsurance renewals.

Top executives in the property/casualty reinsurance business meet to discuss, in general, terms and conditions and get a feel for the mood of the industry. But the hard haggling does not really start in Europe until the Baden-Baden reinsurance meeting held in late October.

Still, some would venture guesses about how renewals would shape up, especially regarding everyone's

favorite subject: property catastrophe coverage.

There is still the potential for 10% to 15% increases in property catastrophe reinsurance rates, according to Juergen Zech, chairman of Gerling-Konzern A.G. in Cologne.

This is despite sizable increases last year and the increase in capacity for catastrophe reinsurance in Bermuda, he said.

Although there have been no large catastrophe losses yet this year to drive the rates up higher, two close calls—Hurricane Emily and Typhoon Yancy in Japan—have reminded policyholders, insurers and reinsurers of the potential for huge losses, Mr. Zech said.

"We were spared by Typhoon (Yancy) and Hurricane Emily, but they show how risky this business is and catastrophe rates will harden as a result," he predicted.

James N. Stanard, chairman, president and CEO of Renaissance Reinsurance Ltd., one of the new Bermuda catastrophe reinsurers, expects rates for cat cover to rise by up to 40% at year-end renewals. Rates rose by that amount during April 1 and July 1 renewals, he noted.

"The Jan. 1 renewals will come up to that level, but then rates won't get any higher," Mr. Stanard observed.

Others disagree, remarking the property cat rates have risen as high as they possibly can.

"We think that cat rates have reached the top," said Jacques Blondeau, president of SCOR S.A. in Paris.

"For lower layers, we already are at 35% to 40% rate on line, and it would be meaningless for the ceding company to pay more. When ceding companies buy coverage at 40% rate on line with one mandatory reinstatement and you have a big loss, what you are only getting back is 10% or 20%. So rates have reached a limit."

"How can you pay more?" than the current rates? asked F&G Re's Mr. Berger.

"Over the next 12 months, if we have cat-free loss experience, pricing will come down and the spiral will be back," predicted Ajit Jain, president of Berkshire Hathaway Inc.'s reinsurance division in Stamford, Conn., referring to the "spiraling" of risks in the retrocessional market.

Mr. Jain said this would be a pity, because cat rates are only at a sufficient level for risks located on the East and West coasts of the United States and in the United Kingdom. "There are still a number of regions in the world where cat prices need to go higher."

Others agree with Mr. Jain and see prices for cat cover falling over time.

Over the next two or three years, rates will decline a bit, Mr. Blondeau said, with rates on line for lower cat layers dropping to 25% to 30%.

While there is a difference of opinion on where property cat rates are headed, there is little debate on the subject of capacity: Everyone agrees there is a severe shortage of cat coverage capacity, even with capital pouring into the new Bermuda facilities.

The extra capacity falls well short of demand, said Charles Holland, managing director of the reinsurance division of Johnson & Higgins Ltd. in London.

"The catastrophe market won't change very much this year, because it is still undergoing some damage control in terms of pricing and retentions," he said.

The new Bermuda reinsurers can only provide aggregate cat limits of about \$1.5 billion, compared with worldwide catastrophe capacity of \$5 billion to \$6 billion that has been lost, said Benito Pagnanelli, deputy general manager of Assicurazioni Generali S.p.A. in Trieste, Italy.

"Yet we can estimate that we might face a world catastrophe loss of \$25 billion, so there is still a large shortfall," he said.

Donald Kramer, chairman of Tempest Re Ltd., another of the new Bermuda reinsurers, estimates that the new facilities will raise up to \$4 billion in capital, but that's still less than the \$6 billion that is needed to satisfy demand for cat covers.

The capacity going to Bermuda is not excess, said SCOR's Mr. Blondeau. "We think that the capacity gap may be as large as \$7 billion to \$8 billion."

Still, some say that capacity for

Continued on page 38

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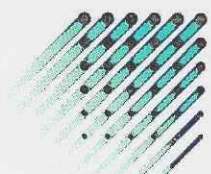
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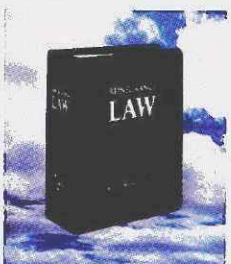
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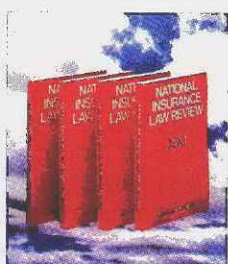


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New reinsurance game

MONTE CARLO, Monaco—At the same time as rates for property catastrophe and other forms of reinsurance are on the rise, other, more fundamental changes are taking place in the reinsurance industry.

◆◆◆◆
37th
Rendez-Vous
de Septembre

◆◆◆◆
For example, ceding companies are increasingly demanding that their reinsurer have huge amounts of capital—the so-called flight to security (*BI*, Aug. 30).

In addition, ceding companies are buying larger amounts of coverage from fewer reinsurers.

"It has become evident that the shape of the market has

Only the highly capitalized need play

Changed... that ceding companies are looking for much more 'chunky' capacity," said Michael A. Butt, president and chief executive officer of Mid Ocean Reinsurance Co. Ltd., one of the new Bermuda catastrophe reinsurers.

"The market had been too atomized," he said at the 37th Rendez-Vous de Septembre, noting that many small reinsurers had been quoting extremely small lines of catastrophe capacity. That has now changed, though. "There has been a massive withdrawal of periphery players," Mr. Butt said.

New capital is flowing into the market, especially in Bermuda, in "chunky" amounts, he said.

The fact that new companies are highly capitalized will have a great impact on the market, Mr. Butt remarked. "The size of capital, and its quality, is sufficient so that if you pull it out, you destabilize the market."

"Only people with tremendous capital and surplus will survive in the international reinsurance market," Mahmoud Abdallah, senior vp of American Re-Insurance Co. in Princeton, N.J., said shortly before the Rendez-Vous began.

The number of reinsurers writing business will be much smaller in 1994 than in 1993, he said.

Another change in the marketplace is an increased desire by reinsurers to see a return on capital,

said Norman Wayne, chairman and CEO of CIGNA Reinsurance Co. in Philadelphia. "Four years ago in Monte Carlo, you would not have heard it mentioned. Before, they looked at underwriting results and market share," he said.

Now there is a perception that reinsurers' return on capital is insufficient and it needs to be increased, Mr. Wayne said.

By concentrating on return on capital, reinsurers finally are accepting the attitude of most other U.S. companies, he said.

As the property catastrophe reinsurance market tightens, some reinsurers are noting another change in the market: the freer flow of information, especially about catastrophe risks, between insurers and reinsurers.

"We are receiving more information from ceding companies about the true disclosure of risk,

especially for wind exposures," said Patrick Peugeot, chairman of SCOR S.A. in Paris. "We have a much better view of the risk for primary insurers worldwide."

Others say even if ceding companies are giving reinsurers more data, it still is not enough.

"No primary company really knows its cat exposure. They say they are doing better, but they really aren't," said Jacques Tanguy, director and manager of Compagnie Transcontinentale de Reassurance. And, he noted, some of the problem is false assumptions by reinsurers.

While most attention has been on U.S. catastrophes—and most reinsurers are pricing cat coverage accordingly—"Europe can have just as big of a catastrophe as the U.S.," said Mr. Tanguy, noting that the 1990 European windstorms caused almost double the \$4 billion in insured damage from Hurricane Hugo, the second-most-costly U.S. catastrophe.

As the world insurance market becomes more global, reinsurers must differentiate between insurers in different nations, Mr. Tanguy said.

"How can you treat the Turkish market like the Japanese market?" he asked. "You have to consider each and every market separately. The size of the companies is different, the capital and surplus is different."

For example, in the Philippines, "most companies have less than \$2 million in capital and surplus," Mr. Tanguy said, adding that these insurers must be treated differently than U.S. insurers that have hundreds of millions of dollars in surplus.

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Market outlook

Continued from page 36

cat coverage can only rise because of the new Bermuda capital and because most of the capacity that will leave the cat market has already been withdrawn.

"Most of the existing players have cut as much as they want from their cat exposures," Mr. Jain commented.

Still, one of the hot rumors of the week had Munich Reinsurance Co., the world's largest reinsurer, reducing its cat exposures by up to 40%.

Munich Re will reduce its catastrophe capacity this year, but it is too early to predict the size of the contraction, said Fedor Nierhaus, a board member at Munich Re in Munich, Germany.

The reinsurer is cutting back on capacity because of the reduction in retrocessional capacity, he said. "This has to be reflected by a reduction in capacity in some very highly exposed regions, but we are not able to quantify this yet."

However, he noted that primary regions that will be affected by Munich Re's decision to reduce cat capacity will be windstorm- and earthquake-prone regions of the United States.

"But it is still important to note that, even taking this into account, we are still the reinsurer that offers by far the highest catastrophe capacity," Mr. Nierhaus said.

Cutbacks by companies still in the market, like Munich Re, can have an important, yet hard-to-assess effect on the overall market, said Michael A. Butt, president and CEO of Mid Ocean Reinsurance Co. Ltd., the oldest of the Bermuda cat reinsurers.

While most of the reinsurers that intend to withdraw from the

Continued on next page

Continued from previous page
 market have already withdrawn, some companies may continue to cut back the property cat capacity they offer for up to 18 months, he explained.

"You can't count it, but the effect is the same," Mr. Butt said of this lost capacity.

Capacity is still shrinking for both catastrophe coverage and for proportional treaties covering large commercial property risks, according to Balz Heyer, manager for northern, central and eastern Europe at Swiss Reinsurance Co. in Zurich.

"We have increased premium volume like never before... maybe even double," he said.

This has partly been due to the withdrawal of capacity in the London market, Mr. Heyer said. For example, besides the drain on capacity at Lloyd's of London, NRG Victory Reinsurance Ltd. has withdrawn from the non-life market and Mercantile & General Reinsurance Co. P.L.C. has sharply reduced its non-life capacity in the past year.

Rates for large industrial property risks in Germany have increased by between 20% and 25% over the past year, Mr. Heyer said.

"This area will soon be profitable. And although there is still a lot to do on smaller fire risks in Germany, a lot of progress has been made," he said.

In the Netherlands, too, rates have improved, but increases in France have only just begun, Mr. Heyer said.

"Rates in Europe have been increasing since the beginning of 1992," noted Herve Cachin, president of Societe Anonyme Francaise de Reassurance in Paris. "Rates are still inadequate but they are going up."

For example, basic property insurance rates have increased 10% to 15% in France in the past year, Mr. Cachin said. However, a total increase of 30% to 35% is needed for French rates to be adequate.

Primary rates in France need to increase between 10% to 25%, agreed John Engstrom, managing director of M&G Re in London.

"Other than that, German fire rates are OK, the U.K. is not in bad shape, but could be better; Italy and Spain are beginning to improve, but it is going very slowly; and in Scandinavia, Sweden and Norway are getting better but Denmark still needs to improve a lot," he said.

Following its decision to reduce its non-life business because of poor underwriting results, non-life business now only makes up about one-third of M&G Re's business, Mr. Engstrom said, adding that M&G Re's non-life premium volume of about \$100 million in 1992 will be substantially lower this year.

However, M&G Re will go back to ceding companies that rejected the reinsurer's terms last year to see if they are again interested in buying coverage from M&G Re at the reinsurer's terms, Mr. Engstrom said.

Increasing rates and improving loss records in Europe will lead to a demand for increased commissions on proportional business by direct insurers, said Mr. Zech of Gerling.

"We will definitely make sure that proportional commission rates go up," he said.

But reinsurers themselves are making new demands on ceding companies. For the second year running, European reinsurers are demanding that proportional treaties contain occurrence limits, also known as loss caps, which are

designed to cap the amount of catastrophe losses recoverable under a proportional treaty.

Some reinsurers say the caps are necessary because proportional treaties—while not usually regarded as a catastrophe coverage—are a very effective form of protection device against catastrophe exposures, and they are unlimited," noted James F. Dowd, chairman and CEO of broker Willis Faber North America Inc. in New York, which changed its name last week from G.L. Hodson & Son Inc.

"People buying proportional coverage are using it as a cheap alternative to catastrophe capacity," Berkshire Hathaway's Mr. Jain observed.

The drive to introduce loss caps is being led by Munich Re, ceding company executives say.

Munich Re is pushing to introduce
Continued on next page

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Market outlook

Continued from previous page
duce loss caps, said Mr. Nierhaus. "We are taking the line that we want to limit catastrophe exposures on proportional business like we do in non-proportional business," he said.

The reinsurer tried to impose loss caps last year with mixed success, Mr. Nierhaus said. "Now it is a general line that we want to take over the coming years."

Reinsurers should achieve their aim as the hard reinsurance market will make it difficult for ceding companies to resist the pressure, Mr. Nierhaus said.

Swiss Re is keen to introduce some kind of mechanism to restrict natural catastrophe exposures, said Mr. Heyer.

"The basic strategy is to move the burden more to the insurer and the policyholder. If we are not successful in doing that, we will try to take out the natural catastrophe exposures from proportional treaties and reinsure them on a non-proportional basis," he said.

To transfer some of the burden back to the ceding companies and policyholders, Swiss Re will look for large increases in policy deductibles. For example, in the Netherlands, deductibles need to be doubled and in Germany they need to be tripled to meet Swiss Re's goal, Mr. Heyer said.

"We looked for loss caps last year but without much success outside of the U.S.," said Mr. Engestrom of M&G Re.

This year, M&G Re will attempt to take catastrophe risks out of proportional treaties or rate them on an excess-of-loss basis within the treaty, he said.

"We would like to exclude natural catastrophes from pro rata treaties but that won't happen overnight," Mr. Engestrom said.

Occurrence caps will stick in Europe, said Berkshire Hathaway's Mr. Jain. "Pro rata reinsurance is dominated by large reinsurers who can make the caps stick. There's no way small companies can walk away from this."

However, implementing the caps "will be tougher in the U.S.," he said.

Some doubt, however, that reinsurers will have the muscle to make the loss caps stick during the upcoming renewal season.

The caps "won't happen in 1994, but could in '95," said SAFR's Mr. Cachin.

If they do succeed, the reinsurers will radically alter the way proportional reinsurance is written and upset long-standing relationships between ceding companies and reinsurers, said one European insurer.

"If you put limits on catastrophes, it is not proportional reinsurance anymore—it is non-proportional. You are taking away a very important part of the protection," the insurer said.

If reinsurers impose catastrophe limits, they will not be able to emphasize the long-term nature of reinsurance relationships as they have in the past and ceding companies are likely to change reinsurers more frequently, he said.

"You see proportional relationships that last 10 to 25 years but non-proportional business is based much more on price," the insurer said.

But other ceding company officials say that although they will not accept catastrophe loss limits in proportional treaties this renewal season, they may consider them next year.

The imposition of loss caps is understandable, because reinsurers themselves are effectively having their own coverage limited by the near disappearance of the retrocessional market, said Mr. Biagosch of Colonia.

"Last year, they wanted caps from Jan. 1, 1993, but we resisted that. This year they are giving us more notice and I can build up my own funding," he said.

Colonia might accept loss caps in proportional treaties at its Jan. 1, 1995, renewal, he said.

While some reinsurers still are not satisfied with the increases in European property insurance rates, nearly all agree that rates are increasing more swiftly in Europe than in the United States, except for catastrophe-exposed risks.

"The bad news is on the U.S. side—no improvement in bread-and-butter property business and

casualty business," said SCOR Chairman Patrick Peugeot.

Personal lines rates are improving in the United States—where they can," said Robert F. O'Leary, president and chief operating officer of reinsurance broker Willcox Inc. in New York. However, he added that political concerns in states like California and Florida are keeping rates in those catastrophe-exposed areas from rising as much as they should.

James E. Dwayne, president of Prudential Reinsurance Co. in Newark, N.J., said that overall U.S. primary insurance conditions remain "very tough. The cycle really has not yet turned for property" and reinsurers still are not receiving adequate prices for U.S. proportional property treaties.

There are virtually no rate increases for property insurance in the United States unless the risk is "cat-exposed," he noted.

"Until the property market turns, it's still going to be very tough" for U.S. reinsurers, he said.

In Europe, he added, "There's a little bit more balance between premiums and risk," so proportional reinsurers are getting a better price, he said.

"It seems to be a good time to be in the reinsurance business in Europe," Mr. Dwayne said.

While precious little time was spent discussing casualty renewals during Rendez-Vous meetings, insurers, reinsurers and brokers agree that the soft U.S. casualty insurance market likely will not turn in 1994.

"Casualty is getting more and more competitive," said F&G Re's Mr. Berger.

"You can't make any money by writing lots of casualty business," said Pru Re's Mr. Dwayne. "I don't think the smart money will go out and write more casualty business."

"The market is stupid. Pricing for general casualty business is totally inadequate," remarked Jerome Karter, executive vp of SCOR U.S. Corp. in New York, adding that a SCOR study shows that casualty rates are 40% lower than their level at the height of the hard market of the mid-1980s.

Casualty rates are not rising in

the United States because "you are seeing very good combined ratios by the big companies," said Frederick Kist, who heads Coopers & Lybrand's casualty actuarial and risk management consulting practice in Atlanta.

"I am not seeing a turn for at least a year," Mr. Kist said. "You won't get a turnaround until the pain gets worse."

He noted that the low investment returns now being generated by insurers have made low overall rates of return more palatable for insurance company boards of directors.

However, Mr. Kist said a major catastrophe on the scale of Hurricane Andrew or greater could also turn the casualty market.

Daniel Marren, president of Commercial Risk Partners Ltd. of Bermuda, which writes "shared risk" reinsurance, contends that it will take "a major U.S. insurance company insolvency to turn the market." And, he added, he doesn't see that happening soon.

Still, many reinsurers have a healthy appetite for casualty business, especially after reducing the property cat volumes.

Few will admit they are adding to their casualty books, but will point their fingers at their competitors. The most honest response was given by one U.S. reinsurance company executive, who conceded: "Everyone's trying to write more casualty—big and small."

"Casualty reinsurance is still seen as desirable," Willcox's Mr. O'Leary said.

Traditional reinsurers are very interested in diversifying their portfolios, especially if they write large amounts of catastrophe-exposed property business, Mr. O'Leary said. As these insurers cut back their property underwriting, they must write more casualty business to make efficient use of their capital, he reasoned.

However, reinsurers are not just eying casualty business in their attempts to diversify their books, with many companies showing an interest in expanding their marine, fidelity/surety and aviation business, Mr. O'Leary said.

Virtually all reinsurers will admit, however, that plunging into the casualty market after pulling capacity from property business is the wrong approach.

"We think it is a bit childish for some of our competitors to say 'Let's forget about property and move back to casualty.' When you look at the rates, it doesn't make sense," SCOR's Mr. Blondeau said.

While capacity for U.S. casualty business is growing, reinsurers are searching high and low for retrocessional capacity, especially for property catastrophe business. Gone are the days when the London excess-of-loss reinsurance market was a plentiful source of retrocessional capacity.

"The retrocessional market is nearly dead," said Serge Osouf, president of SCOR's reinsurance operations. He noted that SCOR now writes retrocessional covers only on a case-by-case basis.

"The game is to have as much control as possible over the business that we write," added Mr. Blondeau, explaining that it is impossible to know what really makes up a retrocessional book of business.

"We have some retro protection, but the cost is very high," said Jacques Tanguy, director and manager of Compagnie Transcontinentale de Reassurance in Paris.

"I would hope" there would be at least some retrospective capacity, said Pru Re's Mr. Dwayne. "There'll be capacity, but it won't come cheap."

Others, however, say that more retrocessional capacity may be in the wings just as the cat cover crunch will ease.

"At the end of the day, a lot of people will be writing retros," said Berkshire Hathaway's Mr. Jain.

With the uncertainty in the market over capacity for retrocessions and cat coverage and doubts about the adequacy of proportional reinsurance rates, year-end reinsurance renewals could be delayed, said Mr. Brice of IRM (Bermuda). "The renewal season may go on to February or March."

New cat facilities plan to be around for the long-haul

Firms say their critics are just envious

By JAMES M. BURCKE and GAVIN SOUTER

MONTE CARLO, Monaco—The growing number of property catastrophe reinsurers in Bermuda see themselves as

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de Septembre
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long-term players in the reinsurance market, not merely as short-term sources of coverage in a capacity-starved cat

market. "You can't have a \$750 million or a \$500 million reinsurance company that is not looking at the long-term," said Graham D. Brice, president of International Risk Management (Bermuda) Ltd. IRM's parent, Swiss Reinsurance Co., is helping form Partner Reinsurance Co. Ltd., which hopes to attract \$750 million in capital.

Officials of the fledgling facilities who attended the 37th Rendez-Vous de Septembre say they have two basic goals: to serve as a

needed source of property catastrophe reinsurance capacity and to generate high returns for their investors.

The second point is extremely important, the executives stress: While reinsurance market officials, especially those from continental Europe, are worried that the new Bermuda reinsurers may soon begin to compete on rates, the managers of the Bermuda companies say they must price business responsibly to ensure the generous returns they have promised their investors.

Companies like Mid Ocean Reinsurance Co. Ltd., the first and the largest of the Bermuda cat reinsurers, are "in business to generate returns to their investors," said Michael A. Butt, president and chief executive officer.

Mid Ocean has attracted more than \$735 million in capital, both through a private offering and a subsequent initial public offering, "because we have said we will give a better return than other invest-

Continued on next page

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Bermuda market

Continued from previous page

ments," Mr. Butt said. While many are skeptical whether the Bermuda companies will be long-term market players or whether the flow of capital to Bermuda will be good for the reinsurance industry, Bermuda executives are careful to rebut these concerns point by point.

Still, some Bermuda executives say the stability of the Bermuda facilities is being questioned simply because competitors are envious of the huge levels of capital flowing to the Atlantic island. One executive put it even more succinctly: Bermuda's critics have a "testosterone problem."

Another said the Bermuda reinsurers' critics have "a Jurassic Park mentality and they will go the way of the dinosaur."

Altogether, the new Bermuda cat reinsurers will attract nearly \$4 billion in new capital by the end of this year, asserted Donald Kramer, chairman of Tempest Re Ltd., a facility that has attracted more than \$500 million in capital.

"I originally thought there would be only \$2.5 billion," he said, adding that about \$6 billion in new capital worldwide would be needed to replace property catastrophe reinsurance capacity lost within the last year.

When all of the Bermuda facilities are up and running, about \$200 million in catastrophe coverage per program will be available worldwide, another Bermuda reinsurer predicted. That's down from about \$250 million in capacity available before Hurricane Andrew ravaged Florida.

The new capacity will be sufficient to meet most needs this year-end renewal, providing there are no large catastrophes before the end of the year, said Juergen Zech, chairman of Gerling-Konzern A.G.

"But if we have no major storms this year or next year, then there will be too much capacity," he said.

Despite the huge amounts of capital flowing to Bermuda, many reinsurers—especially those in continental Europe—are skeptical of whether the Bermuda facilities will be long-term markets.

Some question whether the Bermuda cat reinsurers will continue to write once the market softens, whenever that happens, while others fear that the companies could become insolvent.

For instance, Jacques Tanguy, director and manager of Compagnie Transcontinentale de Reassurance in Paris, pointed to the Bermuda reinsurance companies, like Mentor Insurance Ltd. and Insco Ltd., that wrote reinsurance in the late 1970s and became insolvent or abandoned the market after big losses in the early 1980s.

"These are no different," Mr. Tanguy remarked. "I'm not all convinced about Bermuda. I am not convinced we'll see much different from the late '70s."

There is also a worry that the investors in the new facilities are not committed to the reinsurance industry, said Christian Excoffier, president of Axa Reinsurance in Paris.

"I have no doubt that the professional reinsurers will fulfill their commitments, but people wonder whether the private investors will. If I was a ceding company, I would make sure that the leading company is responsible (for paying the claims)," he said.

Observers are surprised at the volume of capital going to Bermuda, and there are fears that it could jeopardize the recovery of

other reinsurance markets, said James M. Payne, chairman of broker Sedgwick Payne Ltd. in London.

"We are seeing a big flow of capital into a marketplace that has never been famed for its stability and continuity, and there is a concern that this could destabilize the green shoots of recovery in London and Europe," he said.

The need for the extra catastrophe capacity is also questionable, Mr. Payne said.

"The fact that a large amount of capital has left the industry does not matter as long as consumers' needs are being met," he said.

The reinsurance and insurance markets have redistributed capacity to meet clients' needs, and this redistribution has led to a weaker demand for reinsurance, Mr. Payne said.

"Primary insurers are retaining more of their risks, and although they are unaccustomed to it, I don't know that they are unhappy about it," he said.

One of the consequences of the redistribution of the risk has been higher primary rates, so insurers are more able to underwrite with less reinsurance protection, Mr. Payne said.

However, the managers of the new facilities counter these arguments—especially those that predict their demise—by pointing out that they are in business to stay and plan to make a name for themselves as prudent and professional underwriters.

"To be a success in Bermuda, you must be at the top end of the capital requirement and then use that capital wisely," said Mr. Butt.

He explained that Mid Ocean and the other Bermuda reinsurers are taking three steps to ensure that they are accepted as "quality" reinsurers:

- They are attracting quality sponsors.
- They are amassing huge amounts of capital.
- They are attracting quality managers.

While investors are hoping to make huge returns from their investment in Bermuda, they also realize they have entered "the highest end of the risk business—the end of the line," Mr. Butt said, referring to property cat business written on a net-line basis.

The investors that are supplying the capital "coming into Bermuda are expecting catastrophes to happen. They are prepared," said James N. Stanard, chairman, president and CEO of Renaissance Reinsurance Ltd., which has been writing business since late June. "That makes it easier for us to bear true risk."

Most publicly held insurers and reinsurers must generate stable earnings to keep shareholders and stock analysts happy, he noted. "Our investors do not expect that."

Instead of assuring investors of consistent earnings, "Our mission is to survive the Big One," summed up Mr. Kramer.

Some skeptics are not sure that's possible. While the Bermuda reinsurers are attracting large amounts of capital, some are worried that it might not be sufficient to pay all claims if several catastrophes of the magnitude of Hurricane Andrew strike during the companies' first year of business.

And even if claims do not wipe out the companies' capital, investors "will go away because they will lose money and not get the return on capital" they were promised, Mr. Tanguy asserted.

The Bermuda reinsurers reply that they are taking extremely detailed steps to make sure their ag-

gregate risk in any one geographic area is limited.

"Control of aggregates is a key part of our approach," explained Mr. Kramer, noting that Tempest Re underwriters will ask for voluminous data from ceding companies and employ the latest computer programs—including a catastrophe modeling system developed by Risk Management Software Inc.—to make sure that aggregate exposures in a particular region do not exceed the reinsurer's guidelines.

"We will really go out and do our research," Mr. Kramer vowed, noting that Tempest Re will study the details of ceding companies'

that is even more expensive than Swiss Re (catastrophe rates)," he said.

The new capacity provided by Partner Re will serve the needs of clients, "but it will be expensive," Mr. Heyer said.

While many ceding companies say they either have contacted or will call upon the Bermuda cat reinsurers because they represent an important source of property cat capacity, others are wary of the companies.

For instance, some attending the Rendez-Vous speculated that some ceding companies might not buy coverage from the new Bermuda facilities, especially if they only of-

get the first priority" when a ceding company designs its cat coverage program, said Mid Ocean's Mr. Butt. "But rigid rules are not in (ceding companies') best interest," he said.

"Some people say you have to be in business for at least a year or you have a security problem," remarked Mr. Brice of IRM (Bermuda). "With \$750 million in capital, you have no security problem."

"If Bermuda represents good and secure capacity and you don't have an option, you'll go to Bermuda," said James E. Dwayne, president of Prudential Reinsurance Co. in Newark N.J. Mr. Dwayne said he would be willing to investigate retrocessional capacity offered by the new Bermuda cat facilities.

Even if some ceding companies decide to boycott the Bermuda reinsurers, executives like Mr. Butt are not worried: They believe there will be plenty of demand for their capacity.

Others are worried that the huge amount of capacity that has poured into Bermuda—a level that most observers, agreeing with Mr. Kramer, say does not come close to replacing the property cat catastrophe that has been lost in the past year in the London, Scandinavian and continental European markets—will eventually result in a rate war.

Bermuda underwriters are not worried, however. They do not see a glut of property cat catastrophe any time soon, and they stress that they will not chase premium volume with low rates because of the commitments they have made to their investors.

While Mr. Butt concedes that Mid Ocean could drop its rates if market conditions warrant, if prices drop too low, "maybe we will come out and that will force prices back up."

Prudential Re's Mr. Dwayne agreed: "Bermuda will be a disciplined market."

"This is not naive capacity. They are going to be careful," added John R. Berger, executive vp of F&G Re Inc. in Morristown, N.J.

The executives of the Bermuda reinsurers also agree on one other

Continued on next page

Despite the huge amounts of capital flowing to Bermuda, many reinsurers—especially those in continental Europe—are skeptical of whether the new Bermuda property catastrophe facilities will be long-term markets.

exposures as much during the rest of the year as it does during renewal season.

Mr. Stanard of Renaissance Re said his company's underwriting philosophy is based on ensuring that Renaissance Re receives the most information possible from the ceding company and then analyzes the risk—including aggregates—to underwrite the coverage properly.

"We are writing a smaller number of significant lines because we want to know about the insurer's exposures. You cannot do that if you write only small shares.

"We want to be as good as the best when it comes to measuring exposures," he observed.

For example, while many reinsurers will divide the United States into eight zones to measure accumulations, Renaissance Re wants "to break exposures down by county," Mr. Stanard said.

In return for high-quality underwriting and extra capacity, the new facilities will demand high premiums, said Balz Heyer, a director of Swiss Re, which is forming Partner Re in Bermuda.

"We will need an excellent price

fer a total of \$40 million to \$50 million in aggregate limits. The reason: They are unwilling to pay high rates to reinsurers that have never paid any of their losses in the past.

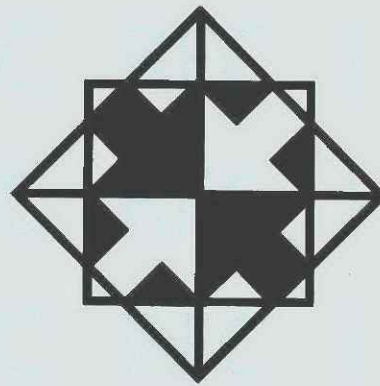
However, very few ceding companies, especially publicly held reinsurers, will stick to this line of reasoning, said Robert O'Leary, president and chief operating officer of reinsurance intermediary Willcox Inc. in New York. Very few companies would want to risk directors' and shareholders' wrath following a catastrophe if they did not purchase catastrophe protection that had been available from the Bermuda reinsurers, he said.

"You are going to have to go to Bermuda at the end of the day" if a ceding company wants the full property cat limits available, pointed out Tempest Re's Mr. Kramer.

The executives of the Bermuda reinsurers do concede, however, that they have not yet built up long-term business relationships and say they know their role, for now, in the market.

"It is perfectly fair that those who have paid losses in the past

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Bermuda market

Continued from previous page
point: Their companies were not formed to steal business from other reinsurers.

"Bermuda hopes it doesn't destroy the existing market," Mr. Butt said.

However, other reinsurers are concerned that Bermuda cat reinsurers will expand their coverages to cover non-catastrophe property and casualty business to balance their book of business.

"If they do that, they will be providing more capacity where it isn't needed," said Norman M. Wayne, chairman and CEO of CIGNA Reinsurance Co. in Philadelphia.

Some Bermuda executives reject suggestions that it is impossible for reinsurers to exclusively write property catastrophe reinsurance.

"We will evaluate other opportunities, but we think there is a true opportunity for a specialist company" writing property cat coverage, said Renaissance Re's Mr. Stanard. "And if the cat market doesn't get any softer, there's a tremendous opportunity."

However, other Bermuda reinsurers say that other coverages could eventually be offered.

"We will start with property, but we could eventually offer motor collision coverage...but we will not cover long-tail risks," said Swiss Re's Mr. Heyer.

The new cat reinsurers chose to domicile in Bermuda primarily for tax and regulatory reasons, the executives say, adding that Bermuda also offers the infrastructure needed to operate.

"It's regulatory and tax—I don't know which is more important," said Mr. Kramer. "If we are going to innovate, we need flexible regulation." For instance, he said Tempest Re may offer its ceding companies three- to five-year policy terms, and "the regulation in the U.S. becomes a big impediment" when trying to design new types of products.

"Tax is a big (reason) why we chose Bermuda," Mr. Butt said. "It's no accident; everyone else has, too."

The tax advantages are only one of the reasons that French reinsurer SCOR S.A. decided to form Compass Reinsurance Ltd., a property cat facility sponsored by SCOR and Banque Paribas, in Bermuda.

"The tax reasons are obvious, but we could have gone to Guernsey or wherever," said SCOR President Jacques Blondeau. But "we are going to have large U.S. investors and, for whatever reasons, they suggested Bermuda. It's a controlled environment, an English-speaking country and it has market leaders."

Although most executives at the Rendez-Vous predicted there will be several more new Bermuda companies announced before the end of the year, several large reinsurers said they would not consider following the trend.

"Basically they are betting on the weather, and you cannot quantify that," said CIGNA Re's Mr. Wayne.

If the Bermuda reinsurers price their products well and are lucky with the weather, they could make a lot of money. But CIGNA would not be prepared to risk the huge potential losses, he said.

Mercantile & General Reinsurance P.L.C. also has no interest in forming a catastrophe reinsurer in Bermuda, said Managing Director John Engestrom.

The new facilities may turn out to be no more than short-term op-

portunities in a hard market and fade away when the market softens, he said.

"At the moment, they fill a need, but it is not part of our philosophy; we don't want to be short-term," Mr. Engestrom said.

Besides being regarded by many as good news for the property catastrophe reinsurance market, the formation of the Bermuda cat reinsurers also is giving the entire island a new presence in the world insurance community.

"Bermuda has reached critical mass. The recent activity has validated Bermuda as a serious market," said Mr. Kramer.

While they agree the new formations have raised the status of the Bermuda market, others note that the business written by the Bermuda cat reinsurers transcends Bermuda.

"We don't view ourselves as a Bermuda market—we're an interna-

tional market," said Renaissance Re's Mr. Stanard.

Mr. Kramer noted that while the Bermuda cat reinsurers are not yet approved as reinsurers in the United States, he does not expect ceding companies to run into any regulatory problems because they cede business to the Bermuda companies. Since property catastrophe reinsurance is short-tail business, "You have to pay claims within 90 days or you're not going to be a factor in the market," he explained.

'If we are going to innovate, we need flexible regulation,' says Donald Kramer, chairman of Tempest Re Ltd. 'The regulation in the U.S. becomes a big impediment when trying to design new types of products.'

However, rather than apply individually to become authorized reinsurers in the United States, Mr. Kramer suggested that the Bermuda reinsurers, because of their huge capitalizations, could attempt to be recognized en masse by the National Assn. of Insurance Commissioners, much as the member companies of the Institute of London Underwriters have done (*BI*, Sept. 3, 1990).

"That may be a very valuable thing for us if we can put it together," he said.

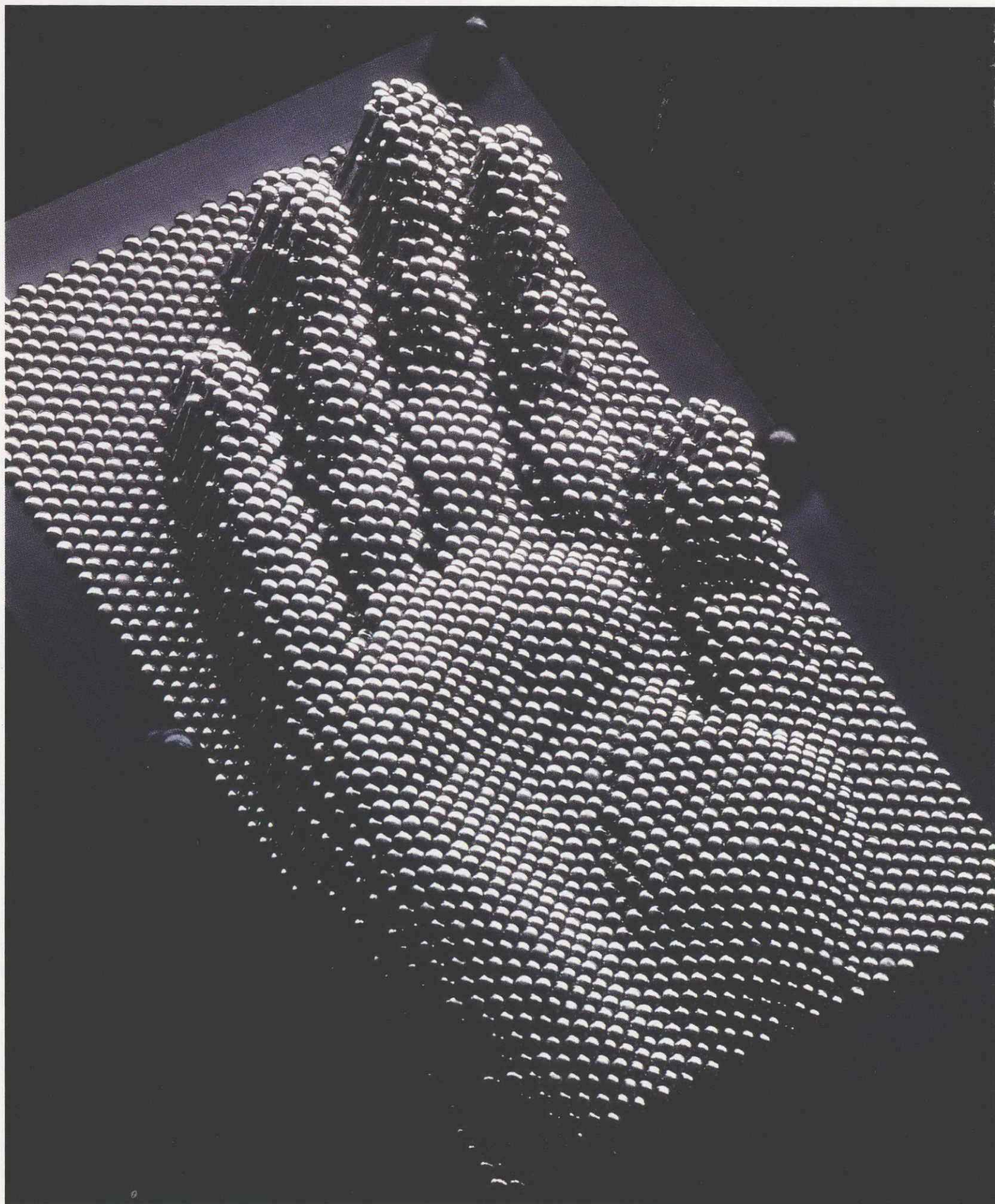
The flow of catastrophe reinsurance capital to Bermuda is posing one problem for the island: finding housing suitable for high-paid reinsurance executives.

For example, many of the Bermudians attending the Rendez-Vous exchanged gossip about the high rents—sometimes approaching \$25,000 a month—being charged for upper-quality homes on the island.

However, renting may be the only option for some executives: Under Bermuda law, non-Bermudians can only purchase single-family houses priced above \$1.4 million.

"If rents go high enough, I might consider retiring and renting out," quipped Mr. Brice, who lives in a condominium.

Seriously, he added, "From one aspect, the boom is bad news for Bermuda because it will be inflationary."



Bermuda's cat facilities a hot topic

By **JAMES M. BURCKE**
and **GAVIN SOUTER**

MONTE CARLO, Monaco—Bermuda was the toast of Monte Carlo.

◆ ◆ ◆ ◆
**37th
Rendez-Vous
de Septembre**

Nearly every conversation at the 37th Rendez-Vous de Septembre eventually turned to what by week's end was a most familiar question:

What do you know about the Bermuda catastrophe reinsurers?

The people with the answers—the Bermuda reinsurance executives attending the Rendez-

Vous—were the most popular people at the gathering.

Brokers and ceding company executives attempted, sometimes in vain, to book an appointment with the officials, and lines formed around them at cocktail parties and receptions.

That was fine with the Bermuda executives, who relished the chance to dispel rumors spread by competitors that the companies already were slashing prices or would not be in business for long (see story, page 40).

However, they primarily spent the week explaining to potential clients the philosophy behind the facilities and, in some cases, booking new business.

Following are facts and figures about the facilities represented at the Rendez-Vous:

• **Mid Ocean Reinsurance Co. Ltd.** The first of the Bermuda property cat reinsurers, Mid Ocean wrote an astounding \$236.9 million in net premiums between Nov. 1, 1992, when it started operations, and July 31.

However, this is still a very conservative level of premium compared with Mid Ocean's capital and surplus of \$738 million as of July 31, pointed out Michael A. Butt, the reinsurer's chairman and chief executive officer.

Mid Ocean, originally sponsored by Marsh & McLennan Cos. Inc. and J.P. Morgan & Co., attracted

\$359 million in initial capital from more than 50 individual and institutional investors. An initial public offering on Aug. 4 raised an additional \$325 million in capital.

However, while formed to write property catastrophe reinsurance, Mid Ocean is not limiting its book to only that line of business.

"We are looking for other opportunities," said Mr. Butt, explaining that Mid Ocean will write aviation, marine and energy reinsurance.

The company also will consider writing retrocessional coverage for "selected accounts," including Lloyd's of London syndicates, he said. "Mid Ocean will give capac-

ity to those syndicates at Lloyd's that have real underwriting skill and value."

However, Mid Ocean does not write funded covers. "Mid Ocean is a risk-taker," Mr. Butt explained. But, the company will work with ceding companies to customize programs. "We will look at what the client wants," he said.

Mid Ocean now offers up to \$20 million in aggregate limits per program.

"We started at \$5 million to \$7.5 million," Mr. Butt noted, pointing to the increase in capital. "You have to be careful at the start."

Of the business written for 315 clients as of July 31, 40% was U.S. business, 21% was U.K. business, 14% was Japanese business and 11% was Australian business, with the rest coming from other nations.

Unlike most of the other Bermuda cat reinsurers, Mid Ocean will set rates and terms for cat programs. However, Mid Ocean, like the rest of the Bermuda companies, will primarily follow rates and terms set by London underwriters, as long as the Bermuda underwriters believe the conditions are sufficient.

However, he believes that in two or three years, after it establishes itself as a property cat reinsurance market, Bermuda reinsurers will become a lead, rather than a secondary, market.

Besides Mr. Butt, Henry C.V. Keeling, Mid Ocean's senior vp and underwriter, attended the Rendez-Vous. Mr. Keeling formerly was deputy underwriter for syndicate 51 at Lloyd's, managed by Taylor Clayton (Underwriting Agencies) Ltd.

• **Tempest Re Ltd.** Tempest Re will begin underwriting property catastrophe reinsurance this month after its \$500 million private placement "went over the top," according to Chairman Donald Kramer.

The amount of capital raised by Tempest Re could hit \$525 million, which would make it "one of the largest private placements in history," said Mr. Kramer, former chairman of NAC Re Corp.

General Re Corp. is the lead investor in Tempest Re, with American International Group Inc. among the other investors, Mr. Kramer said.

Tempest Re will offer up to \$10 million in property cat coverage for primary insurers, though "we will consider retrocessions," said Mr. Kramer.

The reinsurer will act as a following market, writing behind leads set in London and elsewhere, he said.

Tempest Re will participate in layers that it believes are priced properly to match the risk, not just because a large rate has been quoted by the lead underwriter. "It may be better to charge a 4% (rate on line) for a higher layer than a 60% rate for a lower layer," he said.

Initially, 55% of Tempest Re's business is expected to be U.S. risks. However, Mr. Kramer expects that proportion to shift to 55% non-U.S. business by the reinsurer's second year of operations.

"We will be looking to write a spread across the states," Mr. Kramer said. "Part of our underwriting philosophy is to get the right balance."

Unlike many of the other Bermuda cat reinsurers that are plan-

Continued on next page

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Cat facilities

Continued from previous page
 ning to write on net-line basis, Tempest is considering buying retrocessional coverage on its own book. "If we do a good job of diversification and do our job right, we can place our retrocessions," Mr. Kramer said.

He noted that having General Re as a sponsor will help Tempest Re market its retrocessional program. "I can sell our retro on the strength of that culture," he said, referring to General Re.

Underwriting and other services will be provided to Tempest Re by General Re Underwriting Services Ltd., a new Bermuda-based Gen Re subsidiary formed in connection with Tempest Re. Tempest Re will pay a fee to General Re Underwriting for its services, Mr. Kramer said.

Apart from Mr. Kramer, other officers of Tempest Re include President John Hollis, the former president of General Re (U.K.) Ltd., and Vp/Underwriter David Rove, who attended the Rendez-Vous with Mr. Kramer.

• **Renaissance Reinsurance Ltd.** Renaissance Re, which started writing business in late June, has attracted \$140 million in capital, including \$20 million from USF&G Corp.

Chairman, President and CEO James N. Stanard said the company has encountered no resistance from ceding companies since it started writing business: The company has written more than \$50 million in net premiums in a little more than two months, which is about half of its projected annual volume.

The business written so far by

in the newspaper," he observed. Renaissance Re is writing traditional coverage, rather than funded covers or other alternative products, because of the high returns that can be made writing traditional catastrophe reinsurance, Mr. Stanard said.

Renaissance Re normally will follow rates and terms set in London or other reinsurance markets, "but in the U.S. we set the terms for some business" where the reinsurer's research indicates that the terms set by other reinsurers may be deficient.

Unlike some of the other Bermuda cat companies, which are contracting with other organizations for services, Renaissance is conducting most of its operations in-house. It now has a staff of six people, including Mr. Stanard, and he hopes to add four or six more by the end of the year.

While some have suggested that the Bermuda cat reinsurers may only stay in business while there is a capacity shortage, Mr. Stanard said Renaissance Re is in business to stay, making it clear that he has cut all of his ties to USF&G. "We're in it for the long term. I have no place to go back to," he joked.

• **Partner Reinsurance Co. Ltd.** This facility, which is being formed by Swiss Reinsurance Co. Ltd. and Head Insurance Partners L.P., hopes to attract \$750 million in capital, said Graham D. Brice, president of International Risk Management (Bermuda) Ltd., whose ultimate parent is Swiss Re.

About \$500 million of capital will be raised through an initial public offering to be held within the next few months, and Swiss

ing on how successful we are with outside investors," said SCOR President Jacques Blondeau.

Of that amount, SCOR will contribute 10% to 12%, he said. However, he stressed that the company will be "totally separated from SCOR."

Mr. Blondeau said about \$100 million has already been "firmly committed."

Unlike the executives of other facilities, who say their companies are in business for the longer

term, Mr. Blondeau concedes that the organizers will reassess Compass Re's future after five years.

"What we have said to investors is that we are organizing the company for five years. At the end of five years, we will reassess the situation—whether we want to stay in this business or move on to something else," Mr. Blondeau said.

"At this stage, we do not believe in what some of our competitors are saying, which is that when the

market turns we will turn the company into a 'normal' reinsurance company. We don't think there is enough technical expertise in Bermuda to run a 'normal' reinsurance company," he said.

Mr. Blondeau is quick to add that he does not consider catastrophe coverage to be an "easy business to underwrite."

But, "from a purely technical standpoint, it is far less complicated than casualty. With casu-

Continued on next page

'At this stage, we do not believe in what some of our competitors are saying, which is that when the market turns we will turn the company into a "normal" reinsurance company,' SCOR President Jacques Blondeau says of Compass Re.

Renaissance Re includes not only July 1 renewals, but partial-year business written for ceding companies whose programs renew Jan. 1 and March 1, said Mr. Stanard, a former executive vp with F&G Re Inc. who held a variety of other management posts with USF&G before joining Renaissance Re.

Altogether, Renaissance Re has written about 50 programs, about two-thirds of which are U.S.-based. However, clients also include French, Japanese, British and Australian ceding companies.

While Mr. Stanard said some of the acceptance by U.S. insurers could be connected with his reputation in the industry, he noted that Renaissance Re has attracted lots of interest from insurers in Australia, where he is not known.

In fact, Mr. Stanard said, Renaissance Re has failed to write only one program it had quoted. That ceding company, a U.S. regional insurer, decided to buy coverage only from its existing reinsurers, he explained.

Renaissance offers \$5 million to \$7.5 million in property cat aggregate limits, "though we can go higher," said Mr. Stanard.

Besides writing property cat business, Renaissance Re also will consider marine, aviation and per risk excess property business.

Mr. Stanard noted that the company prefers to write above the lower layers of a cat reinsurance program. "If we have a claim, you will have read about (the disaster)

Re itself will invest \$100 million to \$150 million, Mr. Brice said.

A further \$25 million will be invested by affiliates of John Head & Partners, and \$130 million will be invested by financial institutions.

The capital should be in place by Nov. 1 so that Partner Re can write year-end renewals, he said. The company will concentrate on property catastrophe coverages, but it will also write marine and aviation catastrophe covers.

Northern Europe and the United States will be the principal markets for Partner, but it will also consider Japanese business, said Balz Heyer, a director of Swiss Re in Zurich.

"We want to build up our relationships with clients who want this coverage... Many of our clients are very interested in what we are offering," he said.

While Swiss Re will underwrite on behalf of the new reinsurer, IRM (Bermuda) will manage back-room operations, Mr. Brice said.

Partner will be headed by Herbert Haag, a board member of Swiss Re who will serve as CEO.

Partner is being organized to follow terms and conditions set by other reinsurers, Mr. Brice said.

• **Compass Reinsurance Ltd.** Compass Re, being formed by French reinsurer SCOR S.A. and investment bank Banque Paribas, hopes to attract \$300 million to \$350 million in capital, "depend-

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Cat facilities

Continued from previous page

ality, you have to be extremely careful about the legal aspects, the wording, etc. Cat, by its very definition, is short-tail, and the wording of your contract is fairly standard," he explained.

The company is intended only to write "pure property cat business," Mr. Blondeau added.

Compass Re will write a worldwide book of business, with one-third composed of U.S. risks; one-third composed of European business; and the remaining one-third made up of Japanese, Asian and other risks.

"The key to success is to write worldwide," Mr. Blondeau said.

Underwriting duties will be split between Paris and Bermuda. SCOR already has a presence in Bermuda through Commercial Risk Partners Ltd., and Mr. Blondeau said "We may use some of the people at Commercial Risk" to provide services to Compass Re.

• **International Property Catastrophe Reinsurance Co. Ltd.** IPC Re, formed by American International Group Inc., writes property cat business but will consider non-catastrophe property/casualty business.

The company was capitalized at \$300 million, 24.4% of which was contributed by AIG and the remainder by unidentified investors.

IPC will offer aggregate limits of \$2.5 million per contract and \$5 million per program, said James Bryce, IPC's senior vp-underwriting. But, following year-end renewals, IPC may double that to \$5 million per contract and \$10 million per program, he said.

The reinsurer is now considering submissions but has not yet written any business, he explained.

IPC will take a scientific approach to underwriting, Mr. Bryce emphasized. "That will mean looking at the original rates being charged by cedants, and catastrophe reinsurers have not always

done that in the past," he said.

For the first year, IPC will be a following market rather than a quoting market.

"After Jan. 1, 1994, we will have a better feel of what is happening in the market and that will allow us to possibly write other types of coverage, including quota-share business," Mr. Bryce said.

IPC has a representative office in London headed by Peter J.A. Cozens.

"This will allow us to be very active with the broker market, as most international catastrophe business is handled by brokers," Mr. Bryce said.

Joseph C.H. Johnson is president and chief executive of IPC.

Besides the facilities whose executives attended the Rendez-Vous, several other Bermuda cat reinsurers are on the drawing board.

For example, CNA Insurance Cos., Aon Corp. and a unit of Lazard Freres & Co. are forming a Bermuda company to write property cat and other coverages.

The sponsors hope to raise \$500 million in capital through a private placement, with Corporate Partners, the Lazard unit, contributing up to \$250 million (BI, Sept. 6).

Unlike many of the other facilities, the CNA-Aon facility—which has not yet been named—will be a lead underwriter of catastrophe programs and may write up to \$20 million or more in limits on a single program.

Another Bermuda facility in the works is Global Capital Reinsurance Ltd., which is being organized by Johnson & Higgins and investment banker Goldman Sachs & Co.

Global Capital has attracted more than \$300 million in capital, said Robert F. O'Leary, president and chief operating officer of reinsurance broker Willcox Inc., a J&H subsidiary. The investment offering for the facility had been fully subscribed, he added.

The reinsurer will be in operation in time to write year-end renewals, he said. **BI**

The attendance question: Are there great advantages to drawing a smaller crowd?

By JAMES M. BURCKE

MONTE CARLO, Monaco—While the demand for property catastrophe reinsurance and the formation of specialist cat reinsurers in Bermuda dominated conversations at the 37th Rendez-Vous de Septembre, another subject surfaced in many conversations:

Were there really fewer people in attendance?

The same question is asked nearly every year, but this year nearly everyone's answer was an unqualified "yes."

The organizers of the Rendez-Vous reported that attendance this year was down by more than 7% to 2,040 from 2,200 in 1992. However, many of those attending thought the falloff was even greater.

None of the participants conducts a head count and the registrants never all gather in one place, so it's impossible to know how many people really show up at the Rendez-Vous.

To help participants arrange business meetings, the event's organizers publish a book that is distributed at registration and lists the preregistered attendees, their

companies and their hotels.

Many base their assessment of the attendance by flipping through the book and noting the colleagues and business associates who are missing. The process usually ends with the remark, "The book sure seems thinner this year."

For once, they were right. The 1992 and 1991 books contained 104 pages of registrants. The 1993 book contained only 97 pages.

Numbers aside, some said they could tell that attendance had fallen, if only because it was easier to find a table in the lobby lounge of the Loews Monte Carlo hotel, which ranks with the Hotel de Paris and the Cafe de Paris as the most popular places to hold business meetings during the week.

"You used to be able to sell tables (at the Loews); now, you could give them away," quipped attorney Jonathan F. Bank of Buchalter, Nemer, Fields & Younger in Los Angeles.

"Six years ago, everywhere you went was mobbed and you could never get a seat," added John R. Berger, executive vp of F&G Re Inc. in Morristown, N.J.

Some participants noted other changes at the Rendez-Vous.

For example, Michael Butt, president and chief executive officer of Mid Ocean Reinsurance Co. Ltd. of

Continued on next page

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Commercial Risk

Continued from previous page
 ever, to limit Commercial Risk's liability and to keep premiums low, the insurer's risk would be capped at \$1.5 million aggregate in any one year and \$3 million over three years.

In addition, the contract would include a profit commission to the policyholder.

The coverage gives the policyholder "budgetable premiums at a guaranteed cost," with a chance to share in the profits if loss experience is favorable, Mr. Marren said.

Workers comp constitutes a "fair amount" of Commercial Risk's business, though Mr. Marren added the company can design products that include general liability, product liability and workers comp risks in one package.

When designing such a program, Commercial Risk usually deals

with both the corporate risk manager and the company's chief financial officer, as well as its broker, he said.

"Risk managers are becoming more cognizant of financial insurance products, but there still are great misconceptions," Mr. Marren said.

Commercial Risk consists of two separate underwriting companies: Commercial Risk Reinsurance Ltd. in Bermuda and Commercial Risk Re-Insurance Co. of Vermont.

Policyholders decide which company will actually write a program, Mr. Marren said.

"Some people are more happy with U.S. paper," he explained, noting that the Vermont company wrote more business than the Bermuda insurer in 1992.

Commercial Risk also operates Commercial Risk Services, a unit in Morristown, N.J., that markets on behalf of the Vermont company.

The latest member of the Commercial Risk family is Lafayette Insurance Managers, a Vermont captive management company formed in association with Yankee Captive Management Co. of South Burlington, Vt.

Lafayette Insurance Managers has been designed to provide management services for captives that participate in programs underwritten by Commercial Risk, Mr. Marren explained.

He proudly notes that Commercial Risk is part of the "alternative market," designed to give clients options besides traditional insurance mechanisms.

Commercial Risk's success proves there is dissatisfaction with traditional insurance solutions, he said. "Doing \$100 million in volume in eight months shows there are some problems in the market," Mr. Marren said.

—By James M. Burckle

Swiss Re deploys teams to work with affiliates in U.S., Great Britain

MONTE CARLO, Monaco—In an effort to increase its control of operations in the United States and United Kingdom, Swiss Reinsurance Co. is sending special teams

from its head office in Zurich to work with its subsidiaries in those markets.

The two-year project, which started in January, will study how Swiss Re can improve control over those operations, said Balz Heyer, a director at Swiss Re.

"The U.S. and the U.K. are our two biggest markets and, until now, they were managed by our subsidiaries and we did not interfere," he said.

But, due to the importance of the markets and the increasing size of ceding company risks, Swiss Re in Zurich wants to take greater control of certain accounts, Mr. Heyer said.

"Now we have small organizations in the U.S. and the U.K. that will work on certain accounts in these countries to assist the local companies," he said.

The two teams of about 10 people will report to Zurich but will work out of London and U.S. offices, Mr. Heyer said.

"They will communicate with the daughter companies and meet with certain clients," he said. Typically, the teams will work on large multinational accounts, like a large U.S. company that has big exposures in Europe.

"Before, our strategy was to have clear market segregation, and this was successful for most areas but not always with others, like large industrial clients," he said.

"Maybe we need to get greater control," Mr. Heyer said.

—By Gavin Souter

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VIKING

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WESTCHESTER SPECIALTY GROUP

umbrella, excess casualty and specialty property business

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Prudential will keep major stake in reinsurance unit, says executive

MONTE CARLO, Monaco—Prudential Insurance Co. of America could remain the majority owner of Prudential Reinsurance Co. for several years, Pru Re's president says.

While Prudential is strongly considering spinning off Pru Re through an initial public offering either this year or early next year, it will maintain a majority stake in the reinsurer after the IPO, Pru Re President James E. Dwayne said at the 37th Rendez-Vous de Septembre.

Prudential put Pru Re on the block in March at an asking price of \$1.2 billion but abandoned its attempt to find a private buyer last month (BI, Aug. 23)

The insurer is willing to move slowly in any attempt to sell the reinsurer to the public to ensure that Pru Re remains "a growing, prosperous company," Mr. Dwayne said.

Prudential "is truly interested in having a vibrant company going out on its own," he said. "If it takes two or three years, so be it."

However, he said Prudential would likely eventually sell a majority of the company to the public.

While Prudential did an about-face when it canceled the private offering and announced it might embark on an IPO for Pru Re, the reinsurer's clients have taken the decision in stride, Mr. Dwayne said.

"We have had great feedback from clients, and many think it is a better plan if we go public," he said.

—By James M. Burckle

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 37th
 Rendez-Vous
 de Septembre
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KINGSCROFT INSURANCE COMPANY LIMITED
(formerly Kraft Insurance Company Limited,
Dart and Kraft Insurance Company Limited
and Dart Insurance Company Limited)
- and -
WALBROOK INSURANCE COMPANY LIMITED
- and -
EL PASO INSURANCE COMPANY LIMITED
- and -
LIME STREET INSURANCE COMPANY LIMITED
(formerly Louisville Insurance Company Limited)
- and -
MUTUAL REINSURANCE COMPANY LIMITED
(a Bermudian registered company)
- and -
IN THE MATTER OF
THE COMPANIES ACT 1985 OF GREAT BRITAIN
AND

MUTUAL REINSURANCE COMPANY LIMITED
- and -
IN THE MATTER OF
THE COMPANIES ACT 1981 OF BERMUDA

NOTICE IS HEREBY GIVEN that by Orders dated 30 July 1993 and 4 August 1993 made in the above matters in the High Court of Justice (England) and in the Supreme Court of Bermuda respectively separate meetings are to be summoned of the Scheme Creditors (as defined in the Scheme of Arrangement hereinafter mentioned) for the purpose of considering and, if thought fit, agreeing to a Scheme of Arrangement ("the Scheme") proposed to be made between the above-mentioned companies (together "the Scheme Companies" and each a "Scheme Company") and the Scheme Creditors hereinafter mentioned, namely:

1. the Scheme Creditors other than those who are Protected Policyholders (each as defined in the Scheme of Arrangement); and
2. the Scheme Creditors who are Protected Policyholders (as so defined).

Such meetings will be held at Alexandra Palace, Wood Green, London N22 4AY on 17 November 1993 at the times mentioned below, namely:

1. in the case of the Scheme Creditors other than those who are Protected Policyholders:

- (a) the meeting of Kingscroft Insurance Company Limited at 2.00 p.m.;
- (b) the meeting of Walbrook Insurance Company Limited at 2.05 p.m.*;
- (c) the meeting of El Paso Insurance Company Limited at 2.10 p.m.*;
- (d) the meeting of Lime Street Insurance Company Limited at 2.15 p.m.*;
- (e) the meeting of Mutual Reinsurance Company Limited at 2.20 p.m.*; and

2. in the case of the Scheme Creditors who are Protected Policyholders:

- (a) the meeting of Kingscroft Insurance Company Limited at 2.25 p.m.*;
- (b) the meeting of Walbrook Insurance Company Limited at 2.30 p.m.*;
- (c) the meeting of El Paso Insurance Company Limited at 2.35 p.m.*;
- (d) the meeting of Lime Street Insurance Company Limited at 2.40 p.m.*;
- (e) the meeting of Mutual Reinsurance Company Limited at 2.45 p.m.*;

* or as soon thereafter as the previous meeting shall have concluded or been adjourned

at which place and respective times all the said Scheme Creditors are requested to attend.

Each Scheme Creditor or his proxy will be required to register his attendance at the meetings he is entitled to attend prior to their commencement. Registration will commence at approximately 12.30 p.m.

The chairman of the meetings will address Scheme Creditors generally on the Scheme and on the issues relevant to voting at the commencement of the first meeting.

The Scheme is proposed between each Scheme Company and its Scheme Creditors, being creditors in respect of any claim arising out of a liability to which the Scheme Company is subject at the date of the Scheme or to which it may become subject thereafter by reason of an obligation incurred before that date, except any claim which would have been preferential under applicable statute in a liquidation of that Scheme Company or a claim in respect of the costs or expenses of the Scheme (both of which will be payable in full).

On a liquidation of a Scheme Company, certain creditors would be entitled to protection under the Policyholders Protection Act 1975. The Policyholders Protection Board has agreed to join in the Scheme and to make payments in accordance with its terms to any Scheme Creditor who, being a Protected Policyholder, would be entitled to protection under the Policyholders Protection Act 1975 on a liquidation of a Scheme Company and who, in addition, is eligible for protection under section 16(9) thereof.

Any creditor of one or more of the Scheme Companies who is or believes that he may be entitled to attend the relevant meeting of a Scheme Company against which he has a claim may obtain a copy of the document containing the Scheme and an explanatory statement in compliance with section 426 of the Companies Act 1985 of Great Britain and, in addition, in relation to Mutual Reinsurance Company Limited only, section 100 of the Companies Act 1981 of Bermuda, and the forms of proxy for use at the meetings, from the Provisional Liquidators of the Scheme Companies at Coopers & Lybrand, St Andrew's House, St Andrew Street, London EC4A 3AY or at the office of the below-mentioned Solicitors at the address given below.

Memoranda on the Policyholders Protection Act 1975 and on the Ackman appeal in proceedings in relation to the said Act are contained at Appendices XIV and XV to the explanatory statement. Any person who is in any doubt whether he is a Scheme Creditor of a Scheme Company and, if so, a Scheme Creditor other than a Protected Policyholder, or a Scheme Creditor who is a Protected Policyholder, should consult his own legal adviser without delay.

Scheme Creditors may attend and vote at the relevant meetings in person or by proxy and are, in any event, requested to complete the forms of proxy and return them to the Provisional Liquidators of the Scheme Companies at Coopers & Lybrand, St Andrew's House, St Andrew Street, London EC4A 3AY by 5.00 p.m. on 12 November 1993 (London time), although if not so returned they will be accepted at any time prior to the commencement of the meetings (and may be handed in no earlier than 12.30 p.m. on the day of the meetings at the place fixed for them).

By the said Orders the courts have appointed Christopher John Hughes or, failing him, Ian Douglas Barker Bond or, failing him, Gareth Howard Hughes to act as chairman of the meetings and have directed the chairman to report the results thereof to the respective courts.

The Scheme will be subject to the sanction of the High Court of Justice (England) and the Supreme Court of Bermuda.

Clifford Chance
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Dated 8 September 1993.

Solicitors to
I D B Bond and C J Hughes
Provisional Liquidators
of the Scheme Companies

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Walbrook Insurance Company Limited
El Paso Insurance Company Limited
Lime Street Insurance Company Limited
Mutual Reinsurance Company Limited

Kingscroft was variously known as "Dart", "Dart and Kraft" and "Kraft" Insurance Company Limited; Lime Street was formerly Louisville Insurance Company Limited.

Any holder of a policy or contract of insurance in which any one or more of the companies participated may be a creditor of them, either now or in the future.

An alternative to Liquidation

Ian Bond and Chris Hughes of Coopers & Lybrand have been appointed Provisional Liquidators of all the companies (referred to together as "KWELM") by the High Court of Justice (England) and also, for Mutual Reinsurance, the Supreme Court of Bermuda.

Ian Bond and Chris Hughes have proposed, as an alternative to liquidation, a Scheme of Arrangement under the Companies Acts of England and Bermuda. The purpose of the Scheme is to enable the companies to pay their creditors a percentage of their claims as they are agreed, whilst retaining sufficient cash assets to pay the same percentage to creditors whose claims are agreed later.

The Scheme of Arrangement cannot go ahead unless it is approved by creditors. The Courts have authorised meetings of creditors to consider and, if thought fit, approve the Scheme. These meetings are to be held on 17 November 1993 at Alexandra Palace, Wood Green, London, England. Holders of policies or contracts of insurance in which the companies participated may vote at the meetings or appoint a proxy to do so.

Find out more

A series of presentations has been arranged to brief policyholders and their brokers or other advisers on the Scheme, and to answer their questions. Meetings will be held at 2.00 p.m. (local time) as follows:

Date	Venue
27 September 1993	London Press Centre New Street Square London EC4A 3JB
7 October 1993	Roosevelt on Madison Avenue 45 East 45th Street New York, NY 10017
8 October 1993	The Westin Hotel 909 North Michigan Avenue Chicago, Illinois 60611
12 October 1993	Hyatt at Los Angeles Airport 6225 West Century Boulevard Los Angeles 90045
14 October 1993	Hotel Nikko Atlanta 3300 Peachtree Road NE Buckhead Atlanta, Georgia 30305
15 October 1993	Grapevine Convention Center 1209 South Main Street Grapevine, Texas 76051 (Near Dallas/Fort Worth Airport)

For more information call the Provisional Liquidators on ++44 71 212 8120 (UK 071 212 8120), or write to them at KWELM, St Andrew's House, 20 St Andrew Street, London EC4A 3AY, United Kingdom. Full details of the Scheme are available on request.

Execs voice support for Lloyd's

But market expected to lose prominence

By GAVIN SOUTER and JAMES M. BURCKE

MONTE CARLO, Monaco—Few insurance and reinsurance executives expect to see Lloyd's of London collapse—and even fewer would welcome its demise.

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37th
Rendez-Vous
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Despite being a major competitor for many of the reinsurers at the Rendez-Vous de Septembre, Lloyd's is an integral part of the insurance industry and the world's markets would be weaker without it, many said.

But though it has a good chance of survival if it attracts corporate capital and cuts its expenses, Lloyd's will become an increasingly marginal player in the insurance game, they said.

Capacity reductions throughout the London market have made Lloyd's and London companies less able to compete with rivals in the United States, Europe and now Bermuda, they contend.

"I don't want to see Lloyd's collapse because it would reflect badly on the whole reinsurance industry," said Balz Heyer, manager for northern, central and eastern Europe for Swiss Reinsurance Co. in Zurich.

The disappearance of Lloyd's

would also create an opportunity for unprofessional and insecure insurers to enter the market, said Christian Excoffier, president of Axa Reinsurance in Paris.

"Lloyd's is essential because it provides balance in the international insurance market. If it collapsed, you would have an increase in speculative capital and that would not benefit ceding companies," he said.

Although U.S. ceding companies are not relying on London as much as in previous years, they are hoping they can continue to rely on the London market for support, said Robert F. O'Leary, president and chief operating officer of reinsurance broker Willcox Inc. in New York.

"London underwriters have

been pompous and arrogant in the past, but you don't want them to go into the soup," he said.

Not the least of the reasons why insurers and reinsurers want to see Lloyd's survive is that Lloyd's syndicates act as a reinsurer or retrocessionaire for many companies, several reinsurers said.

Although the reduction in capacity means that Lloyd's role as a reinsurer is dwindling, it is still the lead reinsurer for many insurers including Gerling-Konzern A.G., confirmed Chairman Juer-gen Zech.

Although Assicurazioni Generali S.p.A. is buying less reinsurance from Lloyd's due to its reduced capacity, it is still confident in the security of the market, said Benito Pagnanelli, deputy general

manager of Generali in Trieste, Italy.

"The solvency of Lloyd's is still good. Although it is not as good as before, the security of the whole market has deteriorated over the past five years," he said.

However, some of Generali's policyholders are concerned about the security of Lloyd's and ask whether it participates on Generali's reinsurance programs, he said.

Lloyd's also remains a major reinsurer for Colonia Insurance A.G. in Cologne, confirmed Director Axel Biagosch. "We don't buy as much coverage from Lloyd's as we used to, but that is because Lloyd's changed and there is not the capacity available," he said.

Colonia has filled the holes in its coverage left by Lloyd's with coverage from continental European reinsurers, Mr. Biagosch said.

But not all of Lloyd's former clients are successful in transferring their coverage to the continent.

"We can see why Lloyd's has its problems," said Mr. Heyer of Swiss Re. "We are offered a lot of business that was written at Lloyd's, and we cannot accept it because it is bad business."

One of the reasons why Lloyd's has slipped behind competitors is the poor caliber of some of the middle management at the Corp. of Lloyd's, said Andrew Goodier, a director of European International Reinsurance Representatives in London.

Although the top management at Lloyd's is excellent, its middle managers are inefficient and old-fashioned, he said.

Lloyd's has identified corporate capital as its main hope for the future and most reinsurers seem to agree with that ambition.

"Lloyd's needs corporate capital, and we hope it gets corporate capital," said Graham D. Brice, president of International Risk Management (Bermuda) Ltd.

The sheer volume of money currently being poured in to the insurance industry should guarantee some corporate capital for Lloyd's, said Jay A. Novik, president of European International Insurance Co. Ltd. in Barbados.

Corporations are eager to join Lloyd's, and those that join first will reap the most benefits, said James M. Payne, chairman of broker Sedgwick Payne Ltd.

"People that join now will have quite a few benefits, not the least of which is that 1994 should be a good, profitable year," he said.

The United States, and possibly China, will be major sources of corporate capital, according to Michael A. Butt, president and CEO of Mid Ocean Reinsurance Co. Ltd. in Bermuda.

There is a great deal of interest from corporations in investing in Lloyd's, said Charles Holland, managing director of the reinsurance department of Johnson & Higgins Ltd. in London.

J&H has formed a joint venture with Salomon Bros. examining the possibilities of corporate capital.

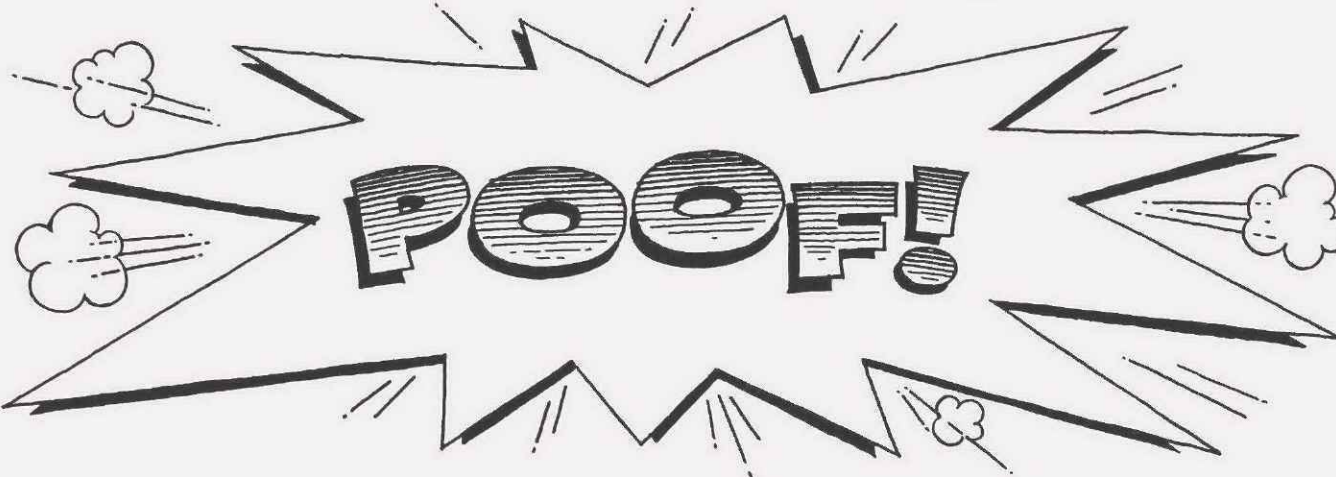
By the year 2000, all of the capital of Lloyd's will be corporate—either directly from companies or from incorporated groups of individual members, Mr. Holland said.

This would effectively end unlimited liability, the hallmark of Lloyd's for more than 300 years, but again this is necessary change, reinsurers say.

"Unlimited liability will disappear," said Ajit Jain, president of Berkshire Hathaway Inc.'s reinsurance division in Stamford, Conn. "Unlimited liability and limited liability cannot exist at the

Continued on next page

Lawsuits Have A Funny Effect On Non-Profit Board Members. (They Disappear.)



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Continued from previous page same time, and it's only a matter of time before unlimited liability disappears altogether."

"Unlimited liability is an outdated idea, and no name in his right mind will sign on now for unlimited liability," said Mr. Brice of IRM (Bermuda).

Liability for past losses will still be a major stumbling block for Lloyd's as it tries to attract corporate capital, according to Herve Cachin, president of Societe Anonyme Francaise de Reassurances in Paris.

"I don't believe too much in corporate capital" as the salvation for Lloyd's, he said.

"The business plan is a good plan—the best that can be implemented. But, will it be enough to save Lloyd's?" he asked.

"I am skeptical that corporate names will be that interested because the ring fence is not waterproof," Mr. Cachin said.

In its business plan, Lloyd's announced that it would "ring fence" pre-1986 liabilities and they would be reinsured into a Lloyd's-administered reinsurer called NewCo. (BI, Aug. 30).

Lloyd's is taking a very optimistic view about its ability to attract corporate capital, said John Engestrom, managing director of Mercantile & General Reinsurance Co. P.L.C., in London.

"You hear a lot about corporate capital waiting in the wings, but the operative word is 'waiting,'" he said.

Corporations will be wary about the ability of Lloyd's to ring fence the past liabilities, agreed Mr. Engestrom.

Other executives are concerned that the ring fence will be too effective and Lloyd's will not meet all of its past liabilities.

Some in the United States are worried that the formation of NewCo. and the ring fencing of past-year long-tail liabilities will mean that Lloyd's someday will cut off payments for pollution and asbestos claims to the U.S. marketplace, said Frederick O. Kist, the Atlanta-based managing partner for Coopers & Lybrand's casualty actuarial and risk management consulting practice.

To ensure that NewCo. will have sufficient funds to meet its liabilities, it should be allowed to in some way participate in future profitable underwriting at Lloyd's, said Mr. Novik of European International Reinsurance.

In the more immediate future, 1994 will see a further reduction in the number of syndicates and capacity at Lloyd's.

As few as 140 syndicates will still be underwriting in 1994, compared with the more than 228 that are currently underwriting, said Mr. Payne of Sedgwick.

Syndicate mergers and the closure of poorly performing syndicates will continue throughout the year, he said.

Overall, Lloyd's capacity will not decline by more than \$1 billion next year, because syndicates will increasingly use quota-share reinsurance to build capacity, said Mr. Butt. "New capacity will come to Lloyd's as quota-share in 1994 and as corporate capital in 1995."

And though the reduction in capacity has halved the amount of catastrophe reinsurance capacity in London, the London market will still set terms and conditions for catastrophe coverage, said Mr. O'Leary of Willcox.

This is vital for Lloyd's survival, according to Mr. Brice of IRM.

Lloyd's cannot let its capital or its influence diminish too greatly because "Lloyd's will only exist if it is a leader," he said. "A Lloyd's

broker won't sign a slip led by Mid Ocean in Bermuda because of ego."

In addition to fewer syndicates, Lloyd's and the London market should have fewer brokers, said one U.S. broker.

There are still nearly 100 Lloyd's brokers, but "the distribution system in London cannot handle that many. . . There must be consolidation," he said.

"We want to work with Lloyd's, but they have set up the most costly distribution system" of any insurance market, the broker said. "Break the barriers and let insurers go direct or base compensation to Lloyd's brokers on the value-added services they provide."

The broker also noted that Lloyd's syndicates have been attempting to reduce brokerage commission, primarily on catastrophe coverages. "Here they are in deep you-know-what, and here they are trying to cut brokerage terms." BI

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New ventures unveiled at Rendez-Vous

By **JAMES M. BÜRCKE**
and **GAVIN SOUTER**

MONTE CARLO Monaco—The Rendez-Vous de Septembre is traditionally a time for reinsurers and other companies to make big announcements.

While the announcements coming out of the 37th annual gathering were not as earth-shattering as in some years, like in 1990 when Aon Corp. announced it was making an unsolicited—albeit unsuccessful—bid for Cotton & Black

Corp. (*BI*, Sept. 24, 1990), there still was news aplenty:

- International Risk Management Group, the captive management powerhouse, is forming a broker in Bermuda, International Risk Brokers Ltd.

While IRM always had a Bermuda brokerage license and placed reinsurance for its captive, the company decided to form a stand-alone brokerage unit for several reasons, explained Graham D. Brice, president of International Risk Management (Bermuda) Ltd.

First, some IRM clients expressed an interest in having an autonomous brokerage unit place their reinsurance, rather than an operation that also managed captives, Mr. Brice explained.

In addition, IRM formed the brokerage unit to place business with Chubb Atlantic Indemnity Ltd., a Chubb Corp. facility formed in Bermuda earlier this year that writes excess workers compensation and directors and officers liability insurance (*BI*, May 10). IRM (Bermuda) manages Chubb Atlantic.

The new brokerage also will broker reinsurance on behalf of IRM captive to the new Bermuda catastrophe reinsurers, he said.

The brokerage unit will be managed by Senior Vp John Walsh, who now heads a two-person staff. However, the staff will soon double in size, Mr. Brice said.

- Paris-based Compagnie Transcontinentale de Reassurance ex-

pects to nearly double its capital and surplus by the end of the year to 650 million francs (\$16.2 million) from about 360 million francs (\$64.3 million) currently.

The company's current capital and surplus is "totally insufficient" in today's market," said Transcontinentale Director and Manager Jacques Tanguy.

The capital increase is just part of the expansion on which Transcontinentale has embarked, according to Mr. Tanguy.

"We have built up the technical management of the company in the last five years to be ready to expand when the time comes," he explained.

That time appears to be now.

Mr. Tanguy predicts that 1993

and 1994 will be "good years" for the reinsurance industry, while 1995 will be "stable" and 1996 will mark the return of competition for property risks—"unless there is a big catastrophe."

To take advantage of those good years—and its increased capital base—Transcontinentale plans to increase its premium volume to between 1.8 billion and 2 billion francs (\$321.7 million and \$357.4 million) in 1994, Mr. Tanguy said.

By comparison, Transcontinentale wrote 1.25 billion francs in premiums in calendar-year 1991 (\$241.3 million), the last year for which figures are available.

Currently, about 30% of Transcontinentale's business comes from France, about 30% comes from other European Community nations, about 15% comes from North America and about 15% comes from the remainder of the world. The reinsurer does not write business in South America and most of Africa.

The percentage of business coming from outside Europe and North America increased following the opening of a Singapore branch office at the beginning of this year, Mr. Tanguy said.

The Singapore office "is working out well. We came in when some other players fell back," he said.

Transcontinentale writes primarily property business; casualty, marine and aviation reinsurance constitute a very small portion of its book of business, Mr. Tanguy said. About 70% of its business is proportional reinsurance, with the remainder made up of excess-of-loss and catastrophe coverage.

- Unistrat Holding of Amsterdam, which manages the P.A.R.I.S. political risk insurance pool, is "transforming" itself into a risk-bearing insurance company, announced Louis Habib-Deloncle, president of Unistrat.

The new company, Unistrat Assurances, will be 25% owned by SCOR S.A., which is a major shareholder in Unistrat Holding; 25% owned by COFACE, the French government's political risk insurance unit, which is a pool member; and 15% owned by Unistrat's current management. The remaining 35% of the new company will be offered to other insurance-related businesses, including three to five of the insurers that are now members of the P.A.R.I.S. pool.

Mr. Habib-Deloncle is not ruling out possible U.S. investment.

The organization of the new company will result in the demise of the pool, Mr. Habib-Deloncle noted. The decision to form the new company was made because "pool members could not agree" on strategy, he said.

"In the past, (the pool) had a committee structure that was supposed to form unanimous consent. That didn't always happen. We will have better decision-making with the company setup," he explained.

"Now, we will be able to define strategy more clearly."

The new insurer, which will be based in Paris, will be capitalized at 130 million French francs (\$23.2 million), Mr. Habib-Deloncle said. The company is hoping to offer up to \$7.5 million in capacity per risk when it begins writing at the beginning of 1994.

"We will start by covering investment risks," but the insurer also hopes to write "expatriate" protection like expulsion coverage and kidnap and ransom insurance, he said.

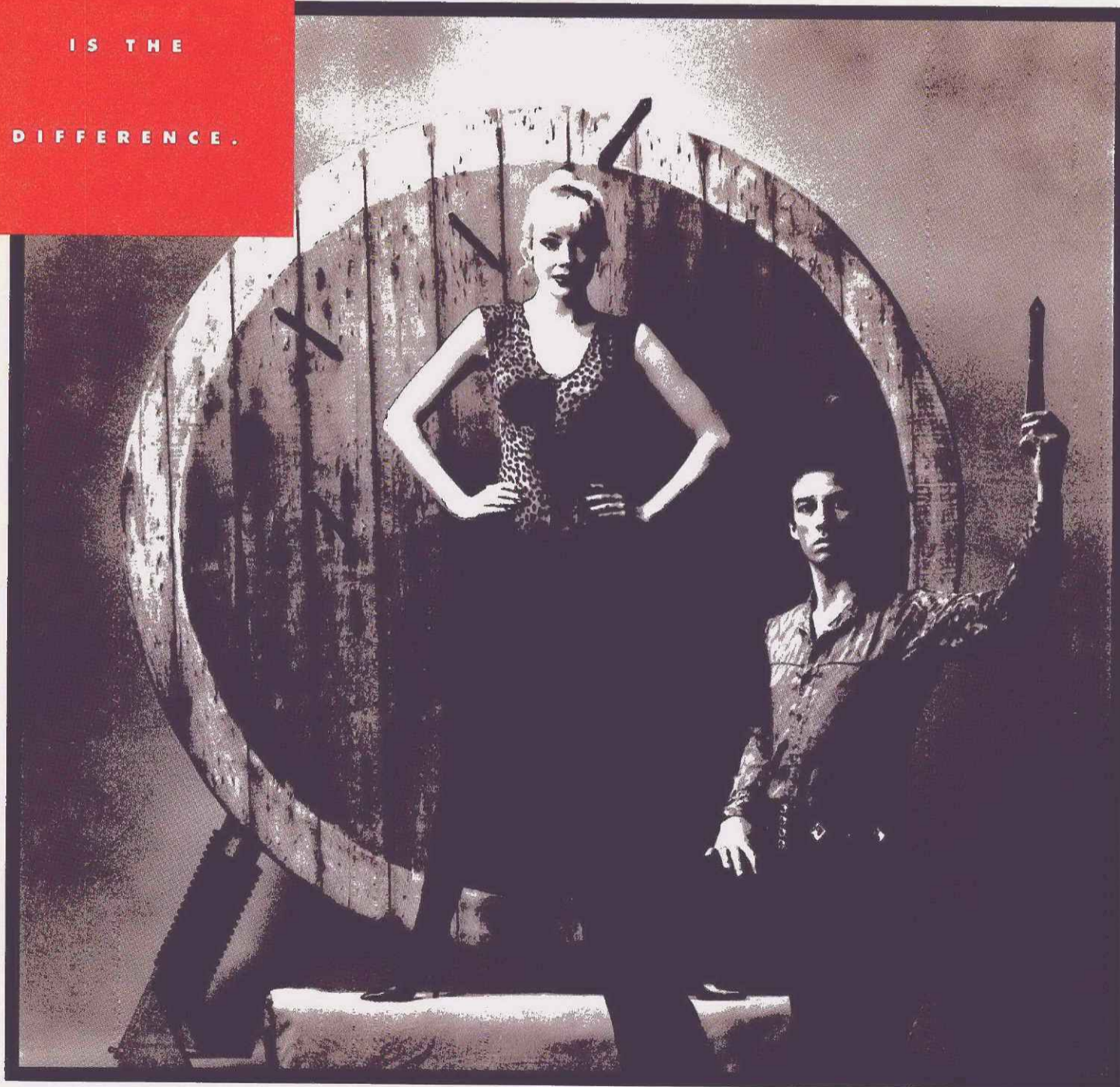
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TOP FIVE INDEPENDENT WHOLE-SALE BROKERAGES. WHEN EVEN THE MOST ORDINARY RISK DESERVES AN EXTRAORDINARY SOLUTION, CALL CRC. PERFORMANCE IS THE DIFFERENCE. 

Continued from previous page
 Unistrat Assurances will retain at least 35% of the business it writes, ceding the remainder to the same group of reinsurers, which includes SCOR, that reinsures the P.A.R.I.S. pool, he said.

Mr. Habib-Deloncle has no doubts that the new company will be successful. "We know that the demand is there for private political risk insurance" as opposed to coverage written by government agencies, like the Overseas Private Investment Corp. in the United States.

Unistrat Assurances will own 100% of Unistrat Corp. of America, an underwriting manager that accepts business on behalf of The Unity Fire & General Insurance Co. of New York, a SCOR subsidiary.

Unistrat of America currently offers up to \$2 million in political risk capacity.

While the organizational shift means the end of the P.A.R.I.S. pool, one thing remains the same: Unistrat Assurances will be "the only private monoline political risk insurer in the world," according to Mr. Habib-Deloncle.

P.A.R.I.S., which will continue to write business through the end of the year, writes about \$20 million in premiums per year, covering exposures in nearly 90 countries.

More than 35% of its clients are

Workers comp

Continued from page 1

However, there was speculation last week that the administration was considering an emergency redraft of the four-page workers comp section of the president's 239-page health reform proposal. The redraft reportedly may require the immediate merger of the workers comp and general health care systems.

The administration reportedly was considering such a position to generate employer support for its overall health care reform package, especially among small firms.

Under the draft proposal, an injured worker requiring non-emergency treatment would receive care from the health plan in which he or she is enrolled for other medical services.

To make this feasible, the proposal would override state laws allowing injured workers to choose any health care provider.

Emergency care could be sought from any provider.

In addition, each health plan would be required to offer specialized care for workplace injuries, either directly or through contracts with other providers.

Each health plan also would

have on staff a workers comp case manager to coordinate treatment and rehabilitation of injured workers with workers comp insurers and self-insured employers and "to facilitate rapid return to work."

Health plans would be reimbursed for treatment of work-related injuries by workers comp insurers or self-insurers based on a fee-for-service schedule set by the health alliance or through negotiated arrangements.

The draft proposal also explicitly states that "nothing in this policy alters or diminishes the effects of state workers compensa-

tion laws as the exclusive remedy for work-related injuries."

"What they have done has preserved and strengthened aspects of the traditional system that work well," said Peter Rice, legislative counsel for Liberty Mutual Insurance Co. in Boston.

The workers comp medical system will continue to be a state-based system, with claims ultimately paid by workers comp insurers and self-insured employers, Mr. Rice said. In addition, employers will still have an incentive to maintain safe workplaces because workers comp insurance

Continued on next page

'We know that the demand is there for private coverage,' points out Mr. Habib-Deloncle.

French companies. The pool's policyholders include 43 of the top 100 industrial companies in France, Mr. Habib-Deloncle said.

Fifteen percent of the pool's policyholders are U.S. companies, 10% are U.K. companies, 10% are German firms and the remainder come from other European nations.

• Royal Insurance Holdings is cutting back its reinsurance underwriting operations in the United States with the sale of its U.S. subsidiary, American Royal Reinsurance Co., to QBE Insurance Group Ltd.

The purchase price is \$59 million; the sale is expected to be completed by Sept. 30.

American Royal Re wrote net premiums of \$41 million in 1992 and had net assets of \$54 million at year end.

"This agreement to sell American Royal Re represents a significant diminution of our reinsurance exposure, which has been identified as a non-core business longer term," pointed out Richard Gamble, group chief executive of Royal.

• CLM Advisers, part of Sedgwick Group P.L.C., launched a fund that is intended to become a corporate member of Lloyd's of London.

The CLM Insurance Fund, which will invest in U.K. stocks, will commit part of its capital to Lloyd's.

The fund will be a limited liability company listed on the London Stock Exchange.

"The fund is designed to appeal not only to institutional investors but also to private investors for whom the costs of establishing and maintaining their own corporate member could outweigh the potential benefits," a CLM statement said.

The stock portfolio will be managed by BZW Investment Management in London.

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Workers comp

Continued from previous page will continue to be experience-rated, he said.

Administration health care planners have made "two major improvements" over the current system, Mr. Rice said.

• First, the proposal would override state laws giving employees the choice of any provider.

"People can't shop around for a doctor who will say they can't go back to work," Mr. Rice said.

"The plan should reduce the frequency of 'dueling docs,'" said Robin Obetz, an attorney with Vorys Sater Seymour & Pease in Columbus, Ohio, who serves on the U.S. Chamber of Commerce's Labor Relations Committee.

The choice of the initial provider is controlled by the injured employee in 29 states and by employers or insurers in 15 states, according to a 1992 report by the Workers Compensation Research Institute. The remainder of the states use some other approach.

However, by overriding state laws regarding choice of provider, the proposal also would eliminate the ability of employers or insurers to direct care, points out Craig A. Berrington, senior vp and general counsel with the American Insurance Assn. in Washington.

Regardless of the provision's scope, "I am confident the legislative process will correct the prob-

lem," Mr. Berrington said.

From a labor perspective, changing choice-of-provider rules would furnish "a golden opportunity to restore trust and confidence in the decisions and deliberations that medical providers make regarding work-related illnesses and injuries," said James Ellenberger, assistant director for the AFL-CIO's Department of Occupational Safety and Health in Washington. "We can only do that if we are convinced the gaming is ended."

"There are incredible opportunities present in this approach that could result in substantial cost savings by reducing friction costs and litigation over medical issues simply by reducing doctor shopping and efforts by the parties to workers comp to control the choice of providers, determinations made about causation, extent of impairment and return to work," Mr. Ellenberger said.

Others note that the choice-of-provider provision would bolster the use of managed care, since managed care will be a big ingredient in the health plans formed by regional alliances.

Generally, "I'm encouraged by the support for managed care," said Rodger S. Lawson, president of the Alliance of American Insurers in Schaumburg, Ill.

However, one workers comp scholar noted that the proposal would set what some would say is

an important precedent.

"This (provision) represents serious federal incursion into state workers compensation programs," said Peter Barth, an economist at the University of Connecticut at Storrs. "While not necessarily a bad one, this community of people interested in workers comp should pause and reflect."

"The overall impression is (the proposal) opens the door pretty wide for creation of a federal workers comp system," said Gregory A. Saxum, workers compensation director for Eastman Kodak Co. in Rochester, N.Y.

• The second major improvement, according to Mr. Rice, is the proposal that health plans be reimbursed for workers comp-related treatment by workers comp insurers or self-insured employers according to a fee schedule or alternative arrangements.

For example, a health care plan could bill workers comp insurers based on per case capitated rates. And, health plans would be permitted to negotiate rates with individual workers comp insurers and self-insurers that vary from the fee schedule.

This provision should reduce health care cost-shifting to the workers comp system, which pays first-dollar medical costs, insurer and employer spokesmen note.

The rule that each health plan designate a workers comp case manager also won praise.

The case manager is expected to ensure that the plan of treatment for an injured worker meets appropriate protocols and is designed to assure rapid return to work, the draft said.

But there may be a downside to the proposal.

For example, the case managers may simply add another layer of bureaucracy, said Mr. Saxum, who also is president of the National Council of Self-Insurers.

"What seems to be lacking in the very broad proposal is an understanding that workers compensation requires a very different type of case management," said Judith Greenwood, director of research, training and information with the West Virginia Workers Compensation Division. For example, the case manager must cope with the prospect of litigated claims and requires extensive communication among parties.

Under the proposal, the scope of health care benefits for work-related injuries would continue to be defined by the states.

Mr. Barth questions whether insurers and employers would be required to provide broader rehabilitation benefits than those currently required by state law.

Mr. Ellenberger says no. "This is not an effort to mandate vocational rehab."

And, while the proposal says that "disputes related to whether an injury or illness is work-

related are resolved in accordance with existing state laws," it is "very unclear" how the disputes would be resolved, Mr. Saxum said.

"There is the potential to make workers compensation administration for employers and employees more cumbersome, complex and costly," he said.

The timetable for implementing the proposed plan varies with the type of plan. For regional alliances, the federal requirements related to workers comp would become effective two years after implementation of health care reform in a particular state. The plan would take effect in 1998 for large corporations that form their own health care alliances.

It also would create a Commission on Health Benefit and Integration "to study the feasibility and appropriateness of transferring the financial responsibility for all medical benefits (including those now covered under workers comp and automobile insurance) to the new health system."

The departments of Labor and Health and Human Services would provide staff support to the commission, which must draft a report by July 1, 1995.

In the interim, the two federal departments would be authorized to conduct "a demonstration project in one or more states" to develop "protocols for the treatment of work-related injuries." ■

GOP health reform plans take coverage burden off of employers' backs

By MARK A. HOFMANN

WASHINGTON—Unlike President Clinton's health reform plan, separate plans released last week



by House and Senate Republicans would not require employers to provide health care coverage to employees.

The Senate plan would require all employees to buy coverage; the House plan would not. Both plans rely more heavily on individuals and less heavily on employers than the Clinton plan does.

Despite the sharp differences between the Clinton and GOP proposals, bipartisanship seemed the order of the day.

Sen. John Chafee, R-R.I., the chief architect of the Senate GOP plan, insisted that his party was "not drawing any lines in the sand."

This conciliatory tone drew praise from a leading voice on health care issues on the other side of the aisle. "After the horrible experience of the budget, a much closer working relationship" is emerging between Republicans and Democrats on health care reform, said Sen. John D. Rockefeller IV, D-W.Va., who supports President Clinton's plan.

Republican senators propose capping the tax-deductibility of employer-paid health premiums. The actual amount would vary by region. The cost of coverage up to the cap would be totally deductible to the self-employed.

The Senate plan also calls for the creation of regional purchasing alliances for small businesses. Unlike the Clinton proposal, the GOP plan would make membership in these purchasing groups voluntary and would limit participation to employers and employ-

ees in businesses with no more than 100 employees and to individuals who do not participate in an employer health plan.

To help promote universal coverage, the GOP Senate plan would create a system of vouchers for those too poor to purchase their own insurance. This subsidized coverage would be phased in over a period of years.

Like the Clinton proposal, both Republican plans also are de-

Sen. John Chafee says the Republicans are 'not drawing any lines in the sand' on health care reform.

signed to curb medical malpractice costs. In at least one controversial area, though, the Republican plans go further than the Clinton proposal: Both GOP plans would cap non-economic damages at \$250,000 in medical malpractice cases. The president's plan stops short of such caps.

The GOP House plan is less sweeping than its Senate counterpart in some respects. Under the House plan, no one would be required to purchase insurance, though health insurers would be required to offer at least one standard and one catastrophic plan for small businesses that employ two to 50 people. Health insurance premiums for the self-employed would be fully tax-deductible.

And, the House plan would create low-tax "Medisave" accounts to help individuals save for medical expenses.

The House plan would also specifically pre-empt state laws that restrict the use of managed care. ■

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Lack of malpractice award caps attacked

By LOUISE KERTESZ

Insurers and doctors are torn between hopes that the Clinton health reform plan would help lower medical malpractice premiums and awards and the nagging suspicion that costs will not come down until non-economic damage awards are capped.

President Clinton's plan does include several steps strongly backed by tort reform advocates, like reducing awards by amounts victims get from collateral sources and allowing periodic payment of damages in some cases.

But the legal, medical and insurance communities are quick to note that the health care reform plan did not adopt the favorite cause of tort reform advocates: caps on awards for pain and suffering.

"Without some sort of significant cap, other reform proposals... will have no meaningful impact (on premiums)," said Lawrence Smarr, executive director of Physician Insurers Assn. of America. Washington-based PIAA represents 44 domestic physician-owned or controlled insurers, or about 60% of the private physician market.

"It doesn't appear to be a serious proposal," said Phil Hinderberger, vp and general counsel at Norcal Mutual Insurance Co., a medical malpractice insurer in San Francisco.

Caps on non-economic damages form a critical part of California's widely praised Medical Injury Compensation Reform Act of 1975, which also includes some of the measures President Clinton proposes.

That law has "stabilized insurance premiums, reduced defensive medicine and (had) a salutary effect on the doctor-patient relationship," said James S. Todd, executive vp of the American Medical Assn. in Chicago. "At the same time, there has not been a public outcry that they are being denied appropriate settlements."

"I want to make it absolutely clear that the cap is most important—or some limitation on damages. It doesn't have to be a cap... You could give juries much more explicit guidance than they have today," explained Martin S. Connor, president of the business-backed American Tort Reform Assn. However, he allowed that the Clinton proposal should reduce the cost of malpractice insurance.

Some business groups think the Clinton proposals would work—perhaps too well for their taste. Recognizing that recovery from a doctor's malpractice insurer is limited, "any smart plaintiffs lawyer" will consider filing suit against the drug or medical device companies that the Clinton plan would not cover, said Charles F. Preuss, a principal with Preuss, Walker & Shanagher in San Francisco, which represents drug companies. "It's strictly a pragmatic approach."

The Pharmaceutical Manufacturers Assn., the AMA and other powerful lobbies are forming the National Medical Liability Coalition to lobby for pro-business product liability provisions in the national health plan.

Malpractice reform has never been a top health care priority for employee benefit managers. Instead, they have focused on "what things they do have control over," like utilization and reimbursement,

said Roy Lyons, vp/manager of the employee benefits department at Johnson & Higgins in Los Angeles.

Philosophically, employers back tort reform as a way to lower costs. But looming health care problems make changing medical malpractice laws seem like "pie in the sky" to most businesses, he said.

Medical malpractice premiums—at a total cost of about \$8 billion annually—constitute only about 1% of the nation's health care tab. But that is still an "awful lot of money," said James Cathcart, vp of governmental and corporate relations at Doctors Co. Insurance Group, a malpractice insurer in Napa, Calif.

The Clinton administration's draft health reform proposal contains eight provisions related to

medical malpractice. Two would establish pilot projects: One would make health plans, as enterprises, liable for malpractice rather than

'It doesn't appear to be a serious proposal,' says Phil Hinderberger of Norcal Mutual.

individual doctors; the other would examine what effect physician practice guidelines would have on malpractice suits.

The plan also proposes:

- Using alternative dispute reso-

lution in medical malpractice cases. Consumers with a claim against a health care provider would first be required to follow an non-binding ADR system, but could later file suit in court.

- Requiring malpractice suits to include an affidavit signed by a medical specialist "practicing in a field relevant to the claimed injury."

- Limiting attorneys fees for malpractice cases to one-third of an award, with individual states allowed to impose lower limits.

- Making public the malpractice awards and settlements reported to the National Practitioner Data Bank (BI, Nov. 4, 1991).

- Reducing malpractice awards by amounts the victims recover from other sources, like health in-

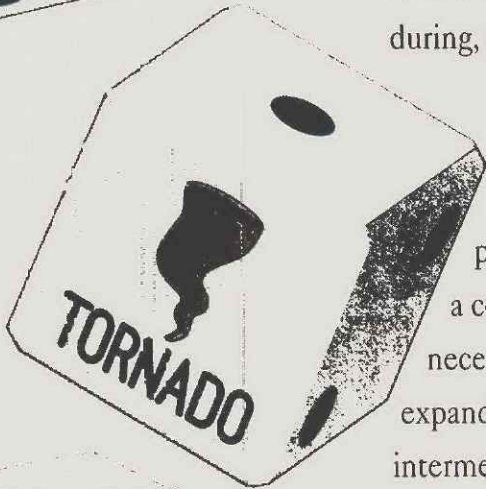
surance.

- Allowing defendants to pay malpractice awards in installments, rather than as lump sums, "as appropriate to reflect the need for medical and other services."

California plans already successfully use ADR in non-malpractice cases and expanding binding ADR to malpractice would further cut costs, said Maureen Corcoran, who heads the health care practice division at San Francisco law firm Pillsbury, Madison & Sutro.

But she faulted the "enterprise liability" pilot project. Shifting liability to a managed care firm, she said, disrupts the careful balance that is needed between doctors' incentives to control costs and their obligation to provide the best care possible.

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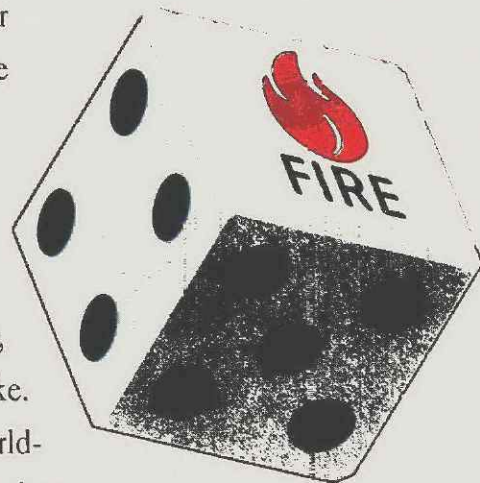


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WA WESTERN ATLANTIC

Reform to aid employers: Official

By MARK HOFMANN

WASHINGTON—Employers that provide health benefits to the dependents of employees should see "considerable" relief under the Clinton health plan, one of the plan's architects promises. Her audience, though, seemed skeptical of some aspects of the plan. At a symposium sponsored by the International Society of Certified Employee Benefits Specialists, Judith Feder drew a loud moan when she mentioned the administration was considering a "surcharge" on self-insured companies.

Another moan greeted Ms. Feder, principal deputy assistant secretary for planning and evaluation in the Department of Health and Human Services, when she dropped this bombshell: The Clinton administration plans to eliminate nearly all types of flexible benefit plans (see story, page 1).

Other details of the Clinton proposal were more predictable. Employers with fewer than 5,000 employees would be required to join health purchasing alliances under most circumstances, said Ms. Feder. Retirees do not count toward that 5,000.

A lower minimum would have required much more government oversight and could have stifled innovation, which she said occurs

most often in larger firms.

Companies that self-insure would have to offer the same benefit package offered by the alliances and would have to offer employees their choice of plans, she said.

Employers that have more than 5,000 eligible employees would be permitted to join the alliances if they wished. They would initially be charged an experience-based premium that would be shifted to the particular alliance's community-based premiums over time.

Employers would not be required to cover retirees between age 55 and age 65. Companies might face a one-time levy to cover early retirees, Ms. Feder allowed, but generally people who retire before they are eligible for

Medicare would be covered in the alliances.

Answering a question from the audience, Ms. Feder said the administration is not planning to allow employers with fewer than 5,000 eligible employees to combine to form their own self-insured plans independent of the alliances. "We're not expecting that kind of aggregation," she said.

Alliances would probably charge large companies a premium equal to 7.9% of payroll. Small firms would pay a smaller, unspecified premium. Ms. Feder did not detail how large a surcharge might be levied on self-insured plans to help finance the alliances.

Ms. Feder said employers who

provide coverage for employees' dependents not currently covered under another plan would come out ahead under the new system, because the cost of providing that coverage would be shifted to the larger pools. Employers' contributions would be determined on a per worker basis, she said.

She added that employers' premiums for part-time workers will be assessed on a pro rata basis.

The administration is "committed to integrating" workers compensation health benefits into the reformed national health care system, Ms. Feder said. Workers compensation insurers would pay the premiums for injured workers into the alliances and the alliances would be required to have specialists available to provide rehabilitation for injured workers, she said (see story, page 1).

That is the first step of a two-step process. Next the administration plans to create a national commission charged with finding ways to integrate the workers comp system more fully into the larger health care system, she said.

Although workers compensation insurers will retain a role in the reformed health care system, Ms. Feder noted that the role for insurance agents and brokers who specialize in health coverage will be greatly diminished. Ms. Feder said they would be reduced to selling policies for supplementary benefits not covered under the alliances.

Single-payer proponent calls reform inadequate

WASHINGTON—President Clinton has "basically designed a plan for the suburbs" that doesn't address the health care problems of rural or inner-city residents, asserts the author of legislation that would establish a Canadian-style single-payer health care system.

Rep. Jim McDermott, D-Wash., predicts that although "we will pass a bill by Easter," the legislation that Congress approves won't be what President Clinton has proposed.

Although Rep. McDermott wouldn't go so far as to proclaim victory for his single-payer bill, H.R. 1200, he told a press briefing last week that the administration had incorporated many of his ideas in its proposal.

Rep. McDermott has lined up 89 co-sponsors—all Democrats—for H.R. 1200, also known as the "American Health Security Act." The bill would, among other things, create a federal health care financing system for state-administered health plans. Patients would continue to choose their own physicians and hospitals.

Rep. McDermott said that by creating health purchasing alliances, the administration simply imposed another layer of administration that "prevents people from looking up" and seeing that the program is really a government program. He added that by creating what are essentially single-payer health systems in each state, the administration recognized "the political reality that managed competition wouldn't work everywhere."

—By Mark Hofmann

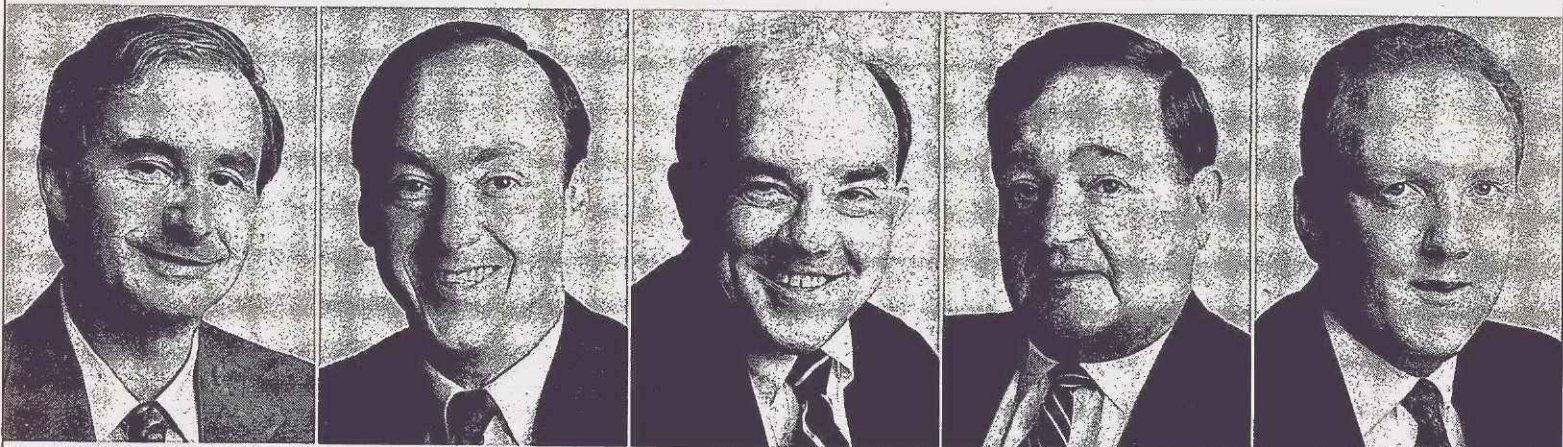
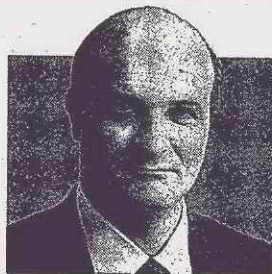
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Flex plans

Continued from previous page

ably would also destroy so-called full-fledged flexible benefit programs in which employees receive "flex dollars" or "flex credits" to be used for health care. Employees can typically take unused credits in cash, which then is taxed, or rolled over into 401(k) plans.

Any doubts that the proposal only would apply to premium conversion plans or flexible spending accounts were quashed last week by Judith Feder, an official at the Department of Health and Human Services and a member of the Clinton health reform task force.

Ms. Feder said at a benefits conference that the administration intends to amend Section 125 to remove health care as a eligible benefit in a flex plan (see story, page 56).

The proposal would not affect another popular Section 125 plan—spending accounts in which employees make pretax contributions to pay for child care expenses. Group term life insurance also could still be financed through spending account.

For several months, White House officials have been straightforward about their intent to eliminate the programs, benefit lobbyists say.

"The White House has been fair and open. We felt this was the likely result based on the feedback we had been getting. It was not a surprise," said Ken Feltman, president of the 750-member Employers Council on Flexible Compensation, a Washington-based trade group that represents both employers and flex plan administrators.

While the administration did not say why it wants to remove health care from flexible benefit programs, one reason may be obvious.

"There is a lot of revenue here. They are scraping for ways to finance health care reform without a major tax increase," said Frank McArdle, a consultant with Hewitt Associates in Washington.

Allowing the tax break on flex plans would cost the Treasury Department a total of \$17.6 billion between 1991 and 1995, the congressional Joint Committee on Taxation estimates.

Flexible benefit programs have grown spectacularly over the last several years as health care costs have risen sharply. Between 1987 and the start of this year, the number of full-fledged flexible benefit plans jumped to 1,061 from 462. At the same time, the number of firms with flexible spending accounts only—rather than full-fledged plans—increased to 467 from 254, according to Hewitt Associates.

Section 125 has driven much of this growth. It is Section 125 that lets employees funnel pretax contributions into FSAs to pay for uncovered health expenses. FSAs make it easier for employers to shift costs—by raising deductibles, for instance—since employees pay in pretax dollars.

Full-fledged plans can also let employees select benefit packages that meet their individual needs. For instance, someone whose spouse receives health care coverage through his or her own employer might buy a low-cost individual-coverage health plan and apply the unused flex dollars toward extra vacation days.

Benefit managers and consultants agree that removing health care expenses from Section 125 would be fatal to flexible benefit plans as they are currently designed.

"It is a stunning blow," said Cathy Wooster, benefits planning manager at Barnett Banks Inc. in Jacksonville, Fla.

"This doesn't leave much for flex plans," said Harry Conaway, a principal with William M. Mercer Inc. in Washington.

Others say flex programs would survive, but in a different form—one without the tax advantages associated with Section 125.

Companies might, for example, set up accounts with a pool of money that employees could tap to buy taxable benefits, like homeowners or auto insurance. Employees would be taxed on employer contributions.

"Even without tax advantages,

the concept of choice remains very important. Even without Section 125, there still will be plenty of flexible benefit plans," said Tom Butterworth, a Hewitt consultant in Rowayton, Conn.

In fact, health reform could give flex plans an added boost. "If all employees get the same comprehensive set of benefits, employers may want new ways to differentiate their benefit packages from competitors'.

"If health care reform happens, the differentiation on health benefits essentially will be eliminated.

By offering other benefits in a flexible benefit plan, like homeowners insurance, and subsidizing those benefits, an employer will be able to continue to differentiate itself," said Tom Grass, a consultant with The Wyatt Co. in San Diego.

Others say it would be rash—just because the administration has made a proposal—for companies to make any moves to dismantle their flex plans. They note that the entire administration proposal faces fierce opposition and its fate remains very much in doubt.

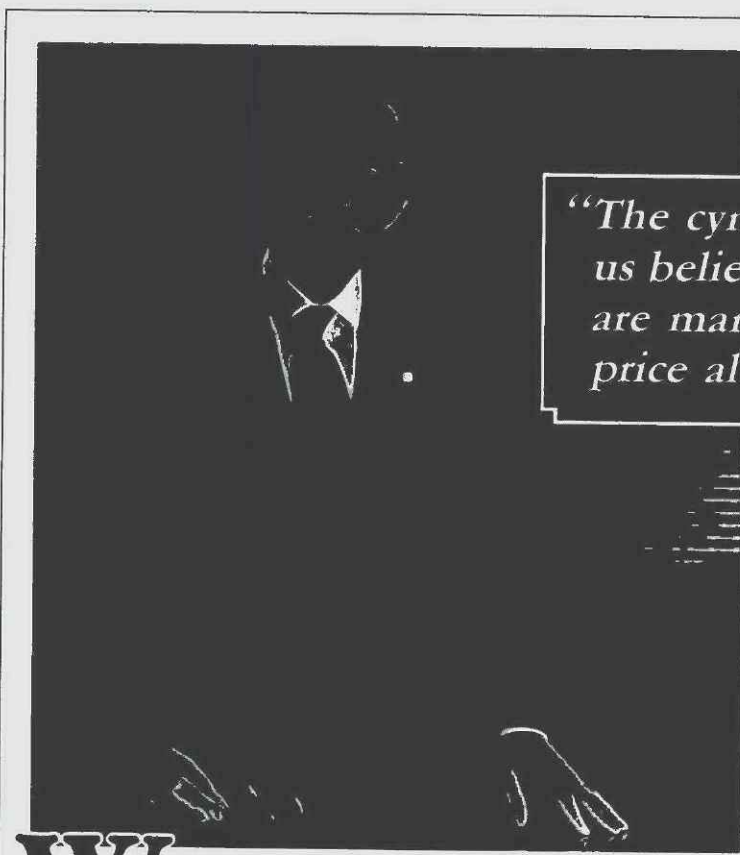
"I'd sit back and wait and see.

Continue to do what you are doing. The administration proposal may change," advises John Welch, a principal with A. Foster Higgins & Co. Inc. in Washington.

Benefit managers agree.

Dow Corning Corp. plans to roll out a flex program, as planned, on Jan. 1, said Larry Muzzy, benefits manager.

"We'll keep our eyes open and our ears to the ground. But we don't have to make any decisions yet," said Kevin Flatly, vp-employee benefits at American Express Co. in New York. **B**



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Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	15,035
Sub-total	28,114
Associations	392
Government, Unions and Educational Institutions	1,120
Commercial Consumers	
Sub-total	29,626
Insurance Agents and Brokers	8,788
Insurance Companies	7,977
Accountants, Actuaries, Attorneys & Consultants	3,572
Adjusters, Appraisers, TPA's, Captive Managers & Health Care Providers	1,849
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The National Network of Premier Health Systems

L.A. subway

Continued from page 3
Group in Nashville, Tenn.

The subway project program is one of only a handful of environmental wrap-up programs assembled nationwide, according to Willis Corroon Vp John Theiss.

"Abdoul and (the Metropolitan Transportation Authority) pioneered the environmental wrap-up," he said.

Besides providing a certain comfort level for the county transit authority, the wrap-up program—one of six wrap-ups covering various aspects of the subway project—makes it easier for minority contractors to bid on the project, according to Mr. Sesay.

LACTC "is a public entity, and we have an obligation to make sure wherever we can to open up new opportunities for small busi-

nesses and minority and women-owned businesses," Mr. Sesay explained.

"If we put out a contract with insurance requirements of \$5 million or \$10 million, including contractors pollution liability, very few (insurance) companies would be able to provide that capacity. And even if they can get it, the price would be exorbitant.

"When you consider that minimum premiums are \$15,000 to \$20,000 a year for this type of coverage, that's just out of the question for this particular project," Mr. Theiss concurred.

Under the wrap-up program, by contrast, winning bidders are given three options for meeting the required \$500,000 self-insured retention: provide a letter of credit to show financial responsibility for the amount; purchase deductible coverage from the MTA; or pro-

vide evidence of their own insurance.

Purchasing coverage through the MTA wrap-up is mutually advantageous, according to Mr. Theiss, since the contractor deducts the cost of insurance from its bid, passing on the savings to the MTA, and premiums are based on the value of the contract, which is considerably lower than the cost if the coverage was purchased on the open market.

"So instead of having to pay \$20,000 for a CGL contract on that \$100,000 job, in effect it's costing you \$5,000," Mr. Theiss estimated.

In addition, the environmental wrap-up program ensures prime contractors that their coverage will apply to the subcontractors working under them, he added.

Because the number of prime contractors and subcontractors involved in the project are innumer-

able, with new bids being let for each phase of construction of the 400-mile system, it's good to know no stone has been left unturned, according to Mr. Sesay.

"We are embarking on the largest construction project in the United States and perhaps even the world," he said.

The Metro Red Line Segment 1, which runs through downtown Los Angeles between Union Station and MacArthur Park, opened in January 1993. Segment 2 of the Red Line will open at Wilshire Boulevard and Western Avenue in 1996 and at Hollywood and Vine in 1998. Segment 3 of the Red Line will branch out in three directions—to North Hollywood, East Los Angeles and the Mid-City Pico/San Vicente area—and is scheduled to be done by 2000.

In addition to the 22.7-mile Red Line subway, the Metro Green line

is currently under construction between Norwalk and El Segundo. This 20-mile line opens in late 1994. Construction on the 13.6-mile Pasadena Blue Line light rail system begins later this year and will be open by 1997.

The other segment of the North-South Metro Blue Line is already operating between downtown and Long Beach.

And Metrolink, Southern California's commuter train network, connects commuters from Ventura County, Santa Clarita, San Bernardino and Riverside to the downtown Los Angeles Union Station. Commuter lines to Orange County and outlying areas will open later.

A rail transit line serving the San Fernando Valley and an extension to Los Angeles International Airport are under study.

Continued on next page

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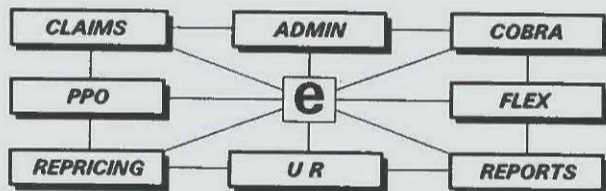
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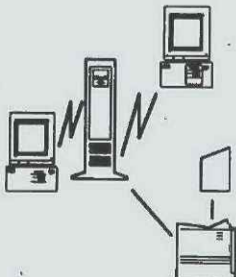
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L.A. subway

Continued from previous page

"When you look at the big picture on this project, you're talking 30 years and \$200 billion," observed Mr. Theiss.

And because the project is publicly funded, it must meet strict environmental safety standards set by the state Legislature, pointed out Mr. Sesay.

"We're in California, where they have one of the strictest environmental laws in the country," he said.

"My job is to make sure everything runs smoothly and that we

have the coverages to address" potential environmental liabilities.

To meet that goal, contractors on the project travel to other parts of the world to find the latest technology to avoid certain hazards, such as the methane gas that occurs naturally beneath the Los Angeles Basin, according to Mr. Sesay.

Then, environmental consultants conduct an environmental assessment, which involves researching all public records and documents that they can find to determine if, for example, a spill has been reported at a particular

site to any regulatory agency, Mr. Theiss explained.

The consultants also conduct ti-

environmental hazard like an underground storage tank, Mr. Theiss added.

'From a risk management perspective, I think it's one of the most interesting positions because I am doing more wrap-ups than perhaps any single entity in the country,' says LACTC Risk Manager Abdoul R. Sesay.

tle searches on adjacent properties to determine whether prior owners may have left behind an

Finally, the consultants take soil samples from holes bored the depth of the subway tunnels to

find contaminants.

"So the element of surprise is taken away as a result of the contractors doing their job," Mr. Theiss said.

"If there's a contaminant there, if there's gas there, they know that."

After each environmental assessment is completed, another contractor in charge of abatement follows in the construction process, according to Mr. Sesay.

It was this synchronization that persuaded the underwriters at Zurich-American Specialties to provide environmental liability coverage for the project, according to Mr. Theiss.

"We put together a whole underwriting submission with all these criteria," said Mr. Theiss. "The underwriters were impressed by the thorough precautions taken," as well as by the caliber of the project management, he said.

The LACTC "carefully selected some of the best and brightest people around" to work on the project because "we are making history," Mr. Sesay pointed out.

"And, from a risk management perspective, I think it's one of the most interesting positions because I am doing more wrap-ups than perhaps any single entity in the country," he added. "I'm managing at least six wrap-ups at the same time, and there are more to come."

Fortunately, Mr. Sesay is an old hand at assembling and managing wrap-ups.

From 1986 to 1988, he worked as a production coordinator specializing in construction wrap-up projects for Marsh & McLennan Inc. in Africa and the West Indies. And he put his knowledge to work as risk manager for the city of Philadelphia, which he left in 1990 to join the LACTC as its first risk manager. Before 1990, the transit authority had no risk manager.

"Basically, an environmental wrap-up is similar to a construction wrap-up," Mr. Sesay explained. "The only difference is the exposures."

When you build a tunnel, you not only have" digging contractors, but also design professionals and environmental consultants and abatement firms.

"I saw that and decided we needed to close all the loopholes and have a wrap-up across-the-board for contractors, design professionals and environmental consultants."

But while the concept is similar to a construction wrap-up, "when we're talking about environmental impairment liability, we're talking about a totally different breed of cat within the insurance industry," Mr. Theiss observed.

"Traditional insurance is slip-and-fall and burning buildings. But we're talking about an exposure that is driven by legislation," he said.

"Secondarily, there's a great deal of technical insight required to understand what's going on."

So the insurers that offer such coverage use non-traditional underwriters like environmental engineers, according to Mr. Theiss.

Assembling the complex program took almost two years.

Since it was completed in November 1992, wrap-up programs have been put together to cover Superfund site cleanups with limits as high as \$25 million, Mr. Theiss explained.

"But we believe we were the first organization to go to a full-blown wrap-up concept in the marketplace," Mr. Sesay commented.

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Employers

Continued from page 1

Consultants and employers say they can't determine what immediate actions, if any, companies should take until more details of the reform plan are released.

However, employers already see their grip loosening as the government tells them what benefits to offer their workers and the amount employers must contribute for those benefits.

At the same time, employers don't believe the administration's estimates of the savings the reform plan will generate, which is the reward employers have been promised for giving up control over their plans.

"The plan is employer-financed, but it's not employment-based health benefits," said Rick Smith, director of health care policy at the Assn. of Private Pension & Welfare Plans in Washington.

Among employers' chief concerns so far is the reliability of the proposed cap on employer premium contributions. Under the proposal, employers are required to pay 80% of the weighted average premium for employees covered by regional or corporate health alliances, while employees are responsible for paying the remaining 20%.

Contributions for most employers are capped at a maximum of 7.9% of payroll, but the maximum for companies with 50 or fewer employees ranges from 3.5% to 7.9%.

Most observers remain skeptical that the payroll tax will generate enough revenue to purchase the levels of coverage proposed under the Clinton plan.

"Most employers pay about 11% of payroll now. Suggesting a premium cap that is 25% to 30% below what the market bears now is a flight of fancy," charged John Erb, a principal with A. Foster Higgins & Co. in New York.

"If there is a revenue shortfall" because the payroll tax isn't high enough, "I don't know where the money is going to come from," said Susan Brown, senior manager of Deloitte & Touche's actuarial, benefits and compensation consulting practice in Chicago. "The government is likely to come back and say their estimates were wrong and increase the cap."

The only alternative would be for purchasing alliances to "go back and negotiate horrendously reduced rates with providers," Ms. Brown said. "But there is some question about how far you can try to push provider rates down without massive revolt."

The uncertainty surrounding the 7.9% payroll tax cap makes it virtually impossible for employers to accurately gauge whether they will pay more or less under the new system, pointed out Charles Kerby, a principal in the Washington office of William M. Mercer Inc. "There is not enough information in the preliminary document to enable employers to perform hard number calculations."

Observers also remain skeptical about the administration's estimate of the cost of providing the proposed standard benefit package: \$1,800 for individuals and \$4,200 for families.

In fact, most employers expect their costs to increase based on the benefit levels in the standard benefit packages proposed by the administration, which are richer than what some employers currently provide (*BI*, Sept. 13).

In addition, the requirement to pay for health care coverage for part-time employees and independent contractors is bound to in-

crease employers' costs.

Under this proposal, employers would be required to make contributions toward health care premiums for part-time employees on a pro-rated basis. The proposal defines such workers as individuals working more than 10 hours but fewer than 30 hours per week. Employers also would make contributions on behalf of independent contractors, which are defined as individuals who earn more than 80% of their annual incomes from one employer.

The rule was designed to "discourage employers from designating employees as independent contractors in order to avoid payment of health insurance premiums," according to a draft of the proposal.

Yet, many employers now hire part-time employees and independent contractors to avoid added benefit costs.

"The part-time stuff is a backbreaker. If employers have to pay premiums for these folks, they just won't hire them," Mr. Erb said.

Other employers that rely heavily on part-time workers, like hotels and retailers, would have to control labor costs by limiting wage increases, Ms. Brown noted.

Large employers that would be able to continue to self-insure their health plans also would see costs rise because they could not longer limit or eliminate coverage for certain types of services since corporate plans must conform with the standard benefit package.

In fact, President Clinton's proposal contains several provisions that could discourage large employers from continuing to self-insure their health benefits.

For example, self-funded employers may be surtaxed to help finance the overall reform effort.

The proposal amends the Employee Retirement Income Security Act of 1974 so that employers belonging to regional alliances are no longer exempt from state laws relating to employee benefit plans. Also, the ERISA pre-emption no longer applies in states that choose to establish single-payer health systems.

Employers that form their own corporate alliances would retain their ERISA pre-emption, but questions about its scope remain. According to the draft of President Clinton's proposal, the ERISA pre-emption would be modified to "permit taxes and assessments on employers or health benefit plans in corporate alliances if the assessments are non-discriminatory in nature."

"The reason companies self-insure isn't only to get around state mandates, but to enjoy premium tax savings and to get control of reserves," noted Martin Brown, corporate manager of employee benefits for Clorox Co. in Oakland, Calif.

Several details in the preliminary proposal may discourage Clorox from continuing to self-insure, though the company has been moving toward fully insured managed care arrangements in recent years anyway, Mr. Brown noted.

"There is not a lot of incentive to continue to self-fund," Mr. Erb noted. "But I can't see them blowing away ERISA with the stroke of a pen."

Employers say the proposal discourages companies from forming corporate alliances. For example, the administration is considering a 1% payroll tax on all corporate alliances to help fund public health services and a 1.5% payroll tax to help fund medical research and education.

"The option to be outside the government-run purchasing alliances is illusory," the APPWP's Mr. Smith said. Large businesses are particularly upset that all public subsidies to employers and employees are denied to employers who choose to form corporate alliances, he said.

Also, employers forming their own corporate alliance would have to provide health care coverage to terminated workers for up to six months or pay a 1% payroll tax to cover unemployed workers. Employers in regional alliances do not face this requirement.

If the corporate alliance fails to pay the health plan premium for an employee for whatever reason, the employer would have to pay for the cost of all services rendered to the employee.

Corporate alliances are subject to the same cost containment goals as are regional alliances. In general, the proposal limits annual increases in the growth of premiums through a national inflation factor tied to the Consumer Price Index. Corporate alliances that fail to meet these limits would be required to purchase coverage through regional alliances.

Health plan premiums in corporate alliances could be based on community rates, the corporation's own experience or a combination of the two. But, if employers that form corporate alliances find that their premium costs are higher than for employers in regional alliances, the administration's proposal doesn't make it easy for companies to obtain immediate relief from their cost problems.

Large employers would have the opportunity to periodically switch to regional alliances, but the employer must pay a risk-adjusted, weighted average premium for a

period of four years, after which the rates charged to that employer adjust to obtain a community rate over four years.

Employers and consultants also remain wary about the way President Clinton proposes to pay for retiree health care coverage, which is the only section in the draft released earlier this month that is labeled "under review."

Under the proposal, if a worker takes early retirement at age 55 from a company with a retiree medical plan, the employer would contribute 20% of the premium cost to insure the retiree, and the government would pay the remaining 80%. Companies that do not offer a retiree medical plan would not have to contribute anything for retiree coverage; retirees would pay 20% of the cost of their coverage and the government would pay 80%, the plan says.

On the surface, the proposal "looks like a huge windfall for a lot of companies that want relief from the responsibility of covering their retirees. If I were a General Motors or Ford, I'd be jumping up and down," Ms. Brown said.

Many employers may offer workers early retirement, despite the possibility that they may have to pay a one-time surcharge if they do so, consultants say.

Other companies may want to eliminate retiree medical plans altogether since it appears that the government will be taking over the major responsibility for covering retirees.

The administration says savings from Medicare and Medicaid changes will finance retiree coverage, but consultants and employers remain skeptical. "I don't know where the money will come from to pay for this," Ms. Brown said. **BI**

Everything you wanted to know...

By JERRY GEISEL

Frequent questions about reform proposal answered

WASHINGTON—Ever since copies of the Clinton administration's 239-page blueprint for reforming the nation's health care system were released this month, benefit advisers have been hit by a barrage of questions from employers asking how the proposal would work.

Many of those questions, but not all, are answered in the document. Administration officials continue to fine-tune the proposal, though, which is expected to continue right up to the time President Clinton formally presents his package before a joint session of Congress Wednesday evening.

To aid employers in understanding the Clinton health reform proposal, *Business Insurance* interviewed benefit consultants and lobbyists for their answers to the questions benefit managers are asking most frequently.

Those questions and answers, based on interviews as well as an analysis of the Clinton health reform plan document, follow:

Q: Would employers or employees be taxed if companies continued to provide health care benefits beyond the standard package proposed by the administration?

A: No. Under a special grandfather provision, employees would not be taxed, and employers would continue to be able to take tax deductions for benefits that exceed the standard package for 10 years after the enactment of

the legislation.

To qualify for this special treatment, the benefits would have had to be provided as of Jan. 1, 1993. In addition, employers must register their health plans with the Department of Labor before Dec. 31, 1994.

Q: Are employers with more than 5,000 employees the only entities that could establish corporate health alliances and remain outside state-chartered regional health alliances?

A: No. Taft-Hartley plans, also known as multiemployer welfare plans, as well as individual union plans and rural electric and telephone cooperatives also could establish corporate health alliances if they covered more than 5,000 employees.

Q: Could 10 employers, each with 500 employees, form a corporate alliance?

A: No. However, White House Senior Domestic Policy Adviser Ira C. Magaziner told business lobbyists last week that the administration would review the issue.

Q: How many health plans would regional and corporate health alliances offer?

A: A regional health alliance would be required to offer at least one fee-for-service plan and two other health plans: a low-cost plan, which would essentially be an HMO-type arrangement, and a PPO-type organization, in which cost sharing would vary depending on whether a plan participant opted for services inside or outside a fixed list of providers.

A corporate-sponsored health

alliance also would be required to offer at least one fee-for-service plan and two other types of health plans. While the Clinton document does not explicitly say so, it is strongly implied that the other two plans would have to be an HMO and a PPO-type arrangement, said Henry Saveth, a principal with A. Foster Higgins & Co. Inc. in New York.

Q: Could an employer, with its own corporate health alliance, be forced by the government to disband its alliance and join a regional alliance?

A: Yes. This could happen in several situations. If an employer's workforce falls below 4,800 employees, it would have to join a regional alliance.

In addition, if an employer was unsuccessful in controlling health care costs, it also would have to join a regional alliance.

This would happen if the employer's costs exceeded an allowed rate of growth, known as the "inflation factor," during two of any three years.

In 1996, for example, the allowed rate of growth would be the rise in the Consumer Price Index, plus 1.5 percentage points. An adjustment also would be made for population growth. An employer could petition the Department of Labor for an adjustment in its inflation factor to compensate for unusual changes in its workforce, such as a big increase in the number of older workers with high health care costs.

"If you don't get your costs in line, you can lose your right to run your own plans," said Diana

Reace, a consultant with Hewitt Associates in Lincolnshire, Ill.

Q: Could employers operate corporate health alliances in states with single-payer health care systems?

A: Each state with a single-payer system would have the authority to prohibit employers from operating health alliances outside the system.

Q: How many regional health alliances could a state establish?

A: There is no limit on the maximum number of regional health alliances that could be established. However, a state would have to establish a minimum of one regional alliance.

In addition, only one regional alliance could be established in a specific geographic region.

For example, if the state of Illinois defined Cook County as a specific region, only one regional health alliance could be set up by the state in that county.

Q: What percent of employees' health care premiums would an employer be required to pay?

A: In general, an employer would have to pay 80% of the "weighted" average of premiums offered through an alliance. This essentially would be the average of the premiums charged by the different health plans offered through an alliance.

Employers with corporate alliances would have to pay a higher percentage of the premium for low-wage workers. For workers earning less than \$15,000 per year, the employer would have to pay the greater of 80% of the av-

Continued on next page

Q&A

Continued from previous page
average premium or 95% of the premium for the lowest cost plan available to the employee in the corporate alliance.

However, in situations where there are two working spouses in a family, an employer could pay much less than 80% of the premium for family coverage.

Q: How much would an employer pay for family coverage?

A: It would depend on the average number of workers per family in the alliance. If two-parent families in an alliance have an average of 1.5 workers per family, the employer's per worker contribution for a two-parent family would be 80% of the average family premium divided by 1.5.

The administration document provides an example of how this would work: Assume the average family premium is \$4,200, 80% of which would be \$3,360.

To come up with the premium an employer would pay, that \$3,360 would be divided by 1.5, which equals \$2,240.

As a result, if there were two working spouses, each spouse's employer would pay a \$2,240 premium to the alliance, or a total of \$4,480.

If the employee with family coverage had a non-working spouse, the employer would pay \$2,240.

This schedule would be a boon to companies that now are providing some employees with family coverage because an employee's spouse works for an employer that does not provide health care coverage. These employers could see their health care costs decrease substantially compared to their current expenditures.

On the other hand, firms that don't offer health coverage—often smaller companies—would have a

new benefit cost to pay.

"Clearly, there are winners and losers," said Tom Butterworth, a consultant with Hewitt Associates in Rowayton, Conn.

Q: What are the maximum health care costs employers would pay?

A: That would depend on employer size and average wage base. Premiums paid by employers in regional alliances with more than 50 employees could not exceed 7.9% of payroll.

For employers with fewer than 50 employees, caps would be placed on their premiums as a percentage of payroll, with the size of the cap linked to their average per employee wage costs. For example, if wages averaged less than \$12,000 per employee, the employer's premium contribution would be capped at 3.5%, and if wages averaged between \$12,000 and \$15,000 per employee, the cap would be 3.8% of payroll. The size of the cap would steadily increase until it reached 7.9% of payroll for employers whose payroll costs averaged more than \$24,000 per employee.

Q: Would employers have to continue to pay for retiree health care coverage?

A: This issue still is under consideration. However, Mr. Magaziner told business lobbyists last week that a proposal is under consideration in which employers with retiree health care programs as of Jan. 1, 1993, would pay 20% of retiree health care premiums while an unspecified retiree "subsidy" program would pay the remaining 80% of the premium. This program would apply for retirees over age 55, who are not yet eligible for Medicare.

If the employer didn't offer retiree health care coverage, the retired worker would pay 20% of the premium, and the subsidy pro-

gram would pay the remaining 80%.

It isn't clear how this program, if approved, would apply to employers that offer health care benefits to retired workers who are over age 65 and eligible for Medicare.

Q: What percentage of the premium would employers pay for part-time workers?

A: Premiums would be pro-rated with 30 hours as the base. For example, if an employee worked 10 hours per week, the employer would pay one-third of what it would pay for employees working at least 30 hours a week.

White House officials say premiums would be pro-rated down to one hour a week.

Q: What kind of financial standards would apply to self-funded health plans?

A: Self-funded plans would have to establish a trust fund with reserves equal to amounts they owed to providers at any one time.

A new national guaranty fund, administered by the Department of Labor, would reimburse providers in the event a self-funded plan collapsed.

This national guaranty fund would be run similar to state guaranty funds. Apparently, that would mean that other self-funded health plans could be slapped with special charges if a self-funded plan failed and couldn't pay promised claims.

Q: How exactly would the reform proposal control costs?

A: Health alliances would have their budgets set by a new national board in Washington. Because alliances would only have a fixed amount of money, insurers presumably would have a greater incentive to negotiate lower fees with hospitals and physicians so they could win contracts from alliances. **BI**

Update**ADA suit challenges AIDS cap**

ALEXANDRIA, Va.—A lawsuit filed in federal court last week claims that the Americans with Disabilities Act prohibits a Virginia firm from capping health benefits for employees with AIDS.

The ADA generally prohibits disease-specific restrictions on benefits (*BI*, June 14).

An unidentified Victory Van Corp. employee is challenging caps—\$25,000 per year and \$50,000 lifetime—on AIDS benefits the company imposed in 1991. His medical bills already stand at \$18,000 and will probably exceed the caps, especially since he has begun using the drug Neupogen, which costs \$287 a day, said his attorney, Eric M. Drattell of Howrey & Simon in Washington.

A complaint also has been filed with the Labor Department.

Bills limit aircraft liability

WASHINGTON—Companion bills introduced in the House and Senate last week would place restrictions on product liability suits against manufacturers of general aviation aircraft.

Introduced in the House by Rep. Dan Glickman, D-Kan., and Rep. James Hansen, R-Utah; and in the Senate by Sen. Nancy Kassebaum, R-Kan., the bills would limit to 15 years the period in which civil product liability suits can be filed against aircraft manufacturers after an accident or injury. State laws that permit a shorter period of repose would be allowed to stand.

Unlike previous—and unsuccessful—bills, the new measures would not eliminate joint and several liability in aircraft cases.

Hodson changing its name

NEW YORK—G.L. Hodson & Son Inc., the U.S. reinsurance brokerage subsidiary of Willis Corroon Group P.L.C., is changing its name to Willis Faber North America Inc.

The name change will "give a close identification" between the U.S. reinsurance brokerage and its immediate parent, Willis Faber & Dumas Ltd. in London, said Willis Faber North America Chairman and CEO James F. Dowd.

Hodson is the ninth-largest U.S. reinsurance broker, based on 1991 revenues of \$25 million.

HCC raises \$34.8 million

HOUSTON—HCC Insurance Holdings Inc., parent company of a group of property/casualty companies that includes Houston Casualty Co., raised net proceeds of \$34.8 million from a public offering earlier this month.

Proceeds from the offering will be used to expand the company's underwriting. The HCC group, which wrote net premiums of \$20.6 million during the first half of this year, specializes in marine, aviation, offshore energy and property insurance.

A total of 2 million shares were sold in the offering at \$29.50 a share, of which 1.3 million were sold by the company itself and the remainder by other shareholders.

Truck accident jury verdict

SANTA MONICA, Calif.—Industrial Asphalt Co. of Los Angeles is planning to appeal a \$14 million jury verdict to a Culver City, Calif., physician whose husband and mother were killed when a truck carrying hot asphalt slammed into their car on the Santa Monica Freeway in 1990.

An additional \$166,000 was awarded to four people in another vehicle who were injured when the driver of the asphalt truck lost control of his rig.

The Santa Monica Superior Court jury on Sept. 13 assigned 30% of the fault to Gevorg Sarkisyan, owner and operator of the truck, 50% to Industrial Asphalt, which hired Mr. Sarkisyan to deliver the load, and 20% to the driver of the car with the flat.

Paul Stanford, the company's general counsel, could not be reached for comment. However, in news reports he said he expects the insurers of Industrial Asphalt and the other defendants to appeal the verdict.

Briefly noted

Insurers would be prohibited from dropping or denying coverage for pre-existing health problems for individuals or groups in California under legislation awaiting Gov. Pete Wilson's signature. A.B. 1768, sponsored by Assemblyman Burt Margolin, D-Los Angeles, also prevents insurers from selling policies that result in substandard coverage because of a person's pre-existing cancer, diabetes or other serious medical condition. . . . ITT/Hartford Group Inc. is reducing its workers comp rates in Texas effective Oct. 1 by an average of 16.2% below 1991 levels. This is the third rate reduction ITT/Hartford has filed in Texas since August 1992 as a result of the state's workers comp reform legislation. . . . Robert Willis, the District of Columbia's insurance superintendent, has been named the district's first insurance commissioner. . . . Wind, hail and tornadoes caused an estimated \$25 million in insured property damage to portions of Texas on Sept. 13. . . . Industrial Risk Insurers plans not to renew policies on 43 selected oil and petrochemical accounts beginning Dec. 1 because of the accounts' exposure to uncontrolled vapor cloud explosions. . . . The National Weather Service has increased its damage estimate for the Midwest floods by \$5 billion to between \$15 billion and \$20 billion. That makes the flooding the second most-costly U.S. weather-related catastrophe ever, after Hurricane Andrew. Unlike Hurricane Andrew, however, less than \$1 billion of the damage is insured.

Mapping their future

Insurers, HMOs preparing for new roles in market

By **DAVE LENCKUS**

Even before President Clinton officially unveils his health care reform proposal, insurers and health maintenance organizations are mapping out the markets they could continue serving and those they would be forced to abandon because of new economic pressures.

In insurer and HMO headquarters nationwide, executives have set up what one consultant described as "war rooms" to determine where to allocate their resources.

Those decisions are expected to lead to a wrenching consolidation of the approximately 1,575 health insurance companies and HMOs, including companies that only dabble in the market.

Ironically, reform could leave some areas underserved, with some perhaps able to attract only fee-for-service arrangements, say some insurance executives, consultants and analysts.

But others believe the proposal offers great opportunities to some small and regional enterprises as well as national companies, as long as they are efficiently run. And they doubt market shortages would develop.

What's not in doubt is that the Clinton plan would radically alter the health insurance market landscape.

If that proposal is enacted as outlined in a widely circulated draft, health insurers and HMOs would jockey for market share in the regions they think will be the most profitable. Industry experts say such market positioning will be crucial to insurers' and HMOs' survival, because the resources they would have to commit to those markets would be limited by the caps on premium increases that are proposed in the Clinton reform plan.

The proposed caps would equal the projected increase in the Consumer Price Index plus 1.5 points in 1996, 1 point in 1997 and a half-point in 1998. From there on, premiums could rise no faster than the general inflation rate.

A national health board would adjust the inflation factor for each health care purchasing alliance "to reflect unusual changes in the demographic and socio-economic characteristics of the population covered by the alliance," the draft proposal explains.

By comparison, midyear premium hikes were 18% to 22% for traditional indemnity plans, 12% to 18% for preferred provider plans, 10% to 16% for point-of-service plans and 4% to 14% for HMOs (*BI*, June 21).

Overall, for health insurers, "it's not business as usual," said Stephen C. Caulfield, a managing director of William M. Mercer Inc. in Boston.

In offices resembling war rooms, some insurers have set up maps of their major markets and

are trying to formulate "hold and exit strategies," he said.

For example, CIGNA Corp. is "looking at how we deploy our resources," said Art Lifson, vp of health policy-federal affairs in Washington.

Noting that CIGNA offers managed care products in more than 110 markets, he added, "We haven't written anybody off."

But, the insurer announced last week that it will eliminate 1,000 jobs in its 25,000-employee health care division by year-end, only partially through attrition.

The move is part of a five-step cost-cutting effort to maintain and enhance its market position.

CIGNA, which says the effort does not come in response to the Clinton proposal, also is attempting to trim expenses elsewhere by, for example: limiting travel, entertainment and purchases of office supplies; maximizing technology; weeding out organizational redundancies; and improving quality of care.

ITT/Hartford Group Inc. announced last week that it was selling its group medical and dental benefits business for an undisclosed sum to Massachusetts Mutual Life Insurance Co. so Hartford can concentrate on other employee benefits business.

Hartford had been working for a year on selling the business, which represents \$820 million or 38% of its employee benefits business, because it did not want to make the investment needed to be

Continued on next page

CLINTON
POLICY

Insurers

Continued from previous page

John Glaudemans, vp for health care, said to thrive under the Clinton proposal. Investment returns in managed care plans would also be improved if doctors visit chronically ill patients less often, he said, citing studies that conclude the quality of care would not be compromised in such situations. "My guess is that some savings will occur as less care is being given, without jeopardizing the outcome of the case," Karen Iagnagni, president of the Group Health Assn. of America, an HMO industry group in Washington, called concerns that investors would be scared away from HMOs under the Clinton proposal "baloney."

"Health care is about one-seventh of the economy. I just can't believe there wouldn't be a fruitful coming together of plans and capital," she said.

However, she allowed that "if rates are not adequate, there's really a cause for concern" that some plans would be unable "to provide a quality product."

She also said that the premium cap mechanism, as outlined in the draft, would seem to base premiums on plans' historic costs, which "would penalize the most efficient plans."

HMOs also are concerned about the potential for regulatory patchwork since President Clinton is proposing that states be responsible for health plan regulation.

The nation's largest for-profit HMOs have concerns about the Clinton proposal but generally support it.

United HealthCare's Mr. Koppe believes investors will be interested in HMOs that can control costs and deliver good care.

However, if premium increases are indeed limited to the inflation rate in 1999, "it's hard to see how that would be accomplished without a strict limiting of care," he said.

Unless technology advancements slow, a more reasonable cap would be the increase in the CPI—if that is between 3% and 5%—plus one or two more points, said Mr. Koppe, who does not favor price controls.

Large not-for-profit HMOs also generally support the Clinton proposal.

Kaiser Foundation Health Plan Inc., the nation's largest general service HMO, supports many of the plan's features, including making health insurance information more available to the public, said Steve Zarkin, vp-government relations in Oakland, Calif.

Mr. Zarkin also said that premium caps "may be necessary in the short term" to check health care inflation until reform takes root.

Some industry experts believe that an expansion of capital and companies would deprive owners insurance marketplace (BI, May 24).

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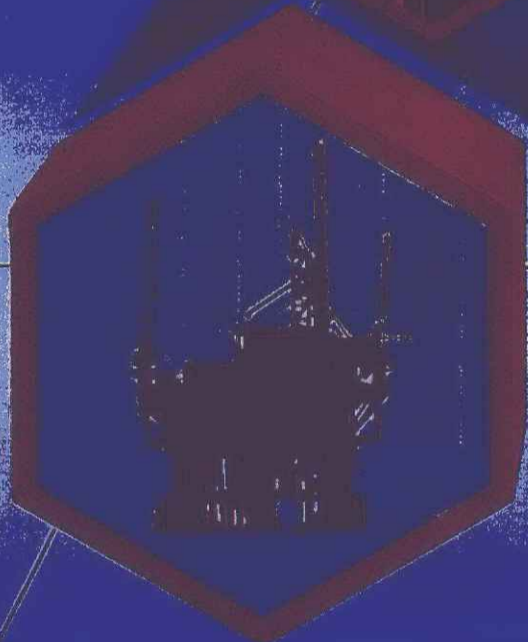
Some industry experts believe that an expansion of capital and companies would deprive owners insurance marketplace (BI, May 24).

BI Industry Stock Report

SEPT. 13, 1993 THROUGH SEPT. 17, 1993

BROKERS									
Symbol	Price	% change	Year to date	High	Low	Vol.	Div.	Yield	P/E
ACordia Inc.	27.00	-1.82	27.00	25.50	27.00	153	0.44	1.62	13.3
Accomplice Insurance Cos.	14.25	1.51	14.25	13.50	14.25	48	0.00	0.00	15.5
AEGON N.V.	48.00	1.31	48.00	46.00	48.00	58	0.00	0.00	15.5
Aetna Life & Casualty	58.88	-1.51	58.88	56.00	58.88	26	1.26	2.14	27.6
Allied Group Inc.	32.75	5.65	32.75	30.00	32.75	54	0.72	2.19	15.1
Alterra Group & Casualty	60.00	1.91	60.00	57.50	60.00	18	1.91	3.18	18.8
Alstate Corp.	32.25	0.39	32.25	31.00	32.25	27	0.72	2.23	14.5
American General	33.75	-3.57	33.75	35.00	33.75	18	0.44	1.30	25.5
American Heritage Life Ins. NY	4.30	10.33	4.30	4.00	4.30	25	0.33	7.62	5.6
American Internat'l/Flt	13.63	4.81	13.63	12.75	13.63	127	0.08	0.59	17.0
American Internat'l (s)	99.13	0.25	99.13	100.25	99.13	28	1.00	1.00	28.1
Alstate Corp.	35.75	1.42	35.75	34.00	35.75	17	0.72	1.91	14.5
Aon Corp.	56.50	-1.74	56.50	54.00	56.50	4	0.00	0.00	17.4
Argonaut Group	34.88	-0.36	34.88	33.50	34.88	14	0.34	0.98	35.0
Avenaco Corp.	18.00	0.00	18.00	17.00	18.00	22	0.99	5.50	18.0
Baldwin & Lyons Inc.	45.00	7.14	45.00	42.00	45.00	23	0.99	2.22	23.9
Berkshire Hathaway Inc.	65.00	-2.77	65.00	63.00	65.00	99	0.40	0.62	16.0
Chandler Insurance	4.19	-9.45	4.19	4.50	4.19	11	0.00	0.00	4.2
Chubb Corp.	68.63	1.19	68.63	66.00	68.63	98	0.96	1.39	22.9
CIGNA Corp.	68.13	0.19	68.13	66.00	68.13	119	0.99	1.43	11.9
CNA Financial Corp.	98.75	0.57	98.75	96.00	98.75	102	0.88	0.89	10.8
Continental Corp.	31.75	1.20	31.75	30.00	31.75	18	0.24	0.74	18.1
EREL Ltd.	47.50	-0.26	47.50	46.00	47.50	5	0.53	1.12	47.5
Frontier Insurance Group	46.25	2.78	46.25	44.00	46.25	6	0.32	0.74	46.2
General RE Corp.	130.50	-0.48	130.50	127.00	130.50	12	0.50	0.38	130.5
Generali National Corp.	22.63	-1.09	22.63	22.00	22.63	14	0.56	2.47	22.6
Hartford Steam Boiler	28.00	-3.45	28.00	29.00	28.00	3	0.00	0.00	28.0
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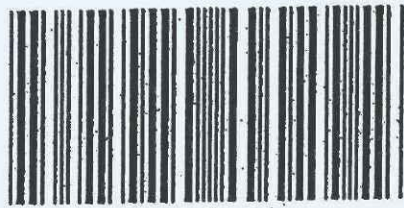
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SEPTEMBER 27, 1993

Update

Federal prosecutors in N.Y. indict 37 for insurance fraud

BROOKLYN, N.Y.—Federal prosecutors last week announced the indictments of 37 people on bribery and fraud charges relating to allegedly bogus commercial property and homeowners insurance claims. Indictments unsealed in U.S. District Court in Brooklyn named policyholders, claims adjusters, salvors and accountants as defendants. Two of the 37 had entered guilty pleas as of late last week. The indictments allege that the defendants defrauded insurers of millions of dollars.

Continued on next page

Now the real work begins

Reform plan to be subjected to array of second opinions

By JERRY GEISEL and CHRISTINE WOOLSEY

This health care system of ours is badly broken, and it is time to fix it.



With those words, delivered Wednesday evening to a joint session of Congress, President Clinton ended the first phase—the development of a reform package—in his drive to revamp the nation's health care system.

Now the second phase, winning support for his package, begins. That effort likely will be tougher than drafting the plan in the first place.

Republicans and Democrats have feuded for decades on whether—and, if so, how—the health care system should be reformed. That partisan bickering has resulted in a stalemate, during which health care costs have soared and millions of Americans have lost their health care coverage.

President Clinton's speech, the kickoff of a huge White House public relations offensive, is not likely to end that bickering.

Republicans charged that President Clinton's plan for universal coverage and lower costs is promising too much with no way to deliver on those promises.

"I commend him for his effort. But how are we going to pay for it all? They are trying to do too much in too short a period of time," said Sen. Pete Domenici, R-N.M.

BOSTON—Captive insurance companies that perform underwriting or claims settlement functions as part of their fronting insurers are a giant step closer to being subject to increased reporting and contractual requirements.

The National Assn. of Insurance Commissioners' Special Issues Committee voted 7-1 to adopt a proposed model fronting law at the NAIC's fall meeting last week.

Regulators from seven jurisdictions—the District of Columbia, Georgia, Iowa, North Carolina, New York, Pennsylvania and Virginia—approved the tougher disclosure, reporting and contractual requirements, calling them needed to protect the solvency of fronting insurers, which regulators claim have been hurt in the past by giving away the "pen" (BI, Dec. 10, 1990).

In the final vote, the only dissent was Vermont Insurance Commissioner Elizabeth R. Costle, who oversees the nation's largest captive domicile. She contends that the current proposal indirectly imposes "onerous" and unnecessary reporting and contractual requirements on sophisticated captive insurers, which have not been responsible for fronting insurer insolvencies.

The full NAIC is expected to vote on the fronting draft at the organization's next meeting, to be held Dec. 5-8 in Honolulu.

It is still uncertain whether the NAIC will decide if states must adopt the model law before they can get NAIC accreditation, said Sandra M. Siegel, assistant deputy New York insurance superintendent, who chaired the Special Issues Committee approval.

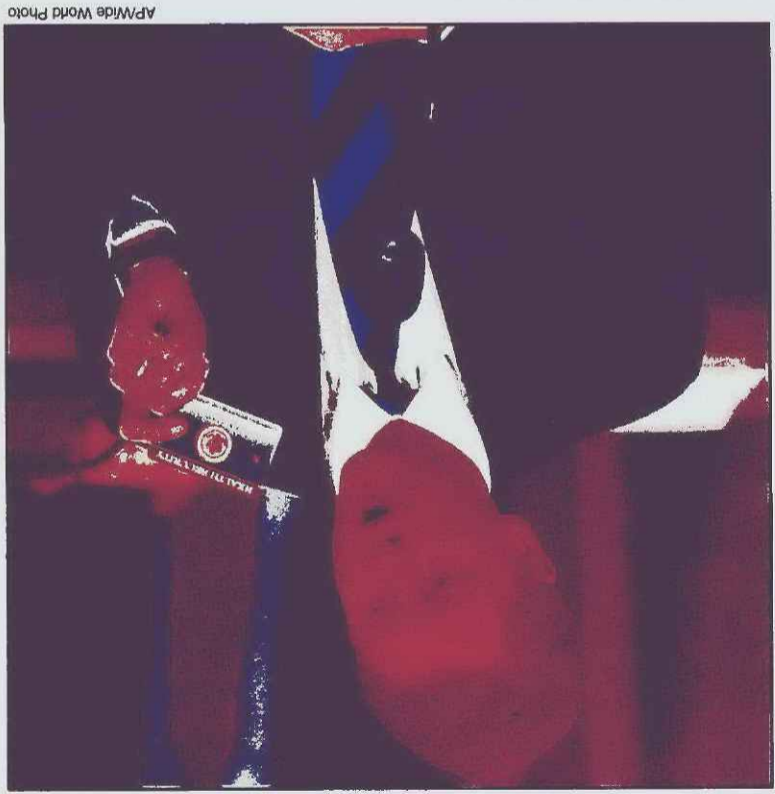
Committee approval of the "Fronting Disclosure and Regulation Act" signals that the end may be near in a nearly three-year struggle by some insurance regulators to more strictly regulate unauthorized insurers that rein-

By MEG FLETCHER

NAIC's fronting bill moves closer to approval

Retiree proposal 'too good' Plan would solve employer problems, but can it succeed?

The president outlined his reform goals at a joint session of Congress.



AP/Wide World Photo

- **CORPORATE ALLIANCES** Businesses say odds stacked against private plans..... Page 45
- **BENEFIT MANAGERS** Majority worry costs will increase..... Page 47
- **HEALTH INSURERS** Report says premiums caps would ultimately hurt patients..... Page 48

By NANCY P. JOHNSON

WASHINGTON—A Clinton administration proposal for the government to form plan from large employers—a group that has been skeptical of the proposals so far. And, they add, it is extremely unlikely that the Clinton administration support for its entire health reform, is a calculated move to entice week by the Clinton administration proposal, announced early last social programs, like Medicare and Social Security, have a poor track record for long-term solvency, observers point out. Also, the proposal would create yet another entitlement program, which the Clinton administration purports to target for reduction under its current program of "reinventing government."

The proposal to subsidize early retiree health benefits was announced last week by Ira Magaziner, a former health care lobbyist and former aide to President Clinton. The proposal would create yet another entitlement program, which the Clinton administration purports to target for reduction under its current program of "reinventing government."

The proposal to subsidize early retiree health benefits was announced last week by Ira Magaziner, a former health care lobbyist and former aide to President Clinton. The proposal would create yet another entitlement program, which the Clinton administration purports to target for reduction under its current program of "reinventing government."

Continued on page 49

B.R.I. facing a 'liquidity crisis'

Broker seeks new capital to maintain operations

By DOUGLAS McLEOD

NEW YORK—Nearly a year after reorganizing itself as a publicly traded company, broker B.R.I. Holding Corp. is struggling with an array of financial problems and uncertainties.

Ranked for years as one of the nation's largest privately held brokers, B.R.I. last year completed a reverse acquisition of Chipewake Resources Corp., a publicly traded oil and gas company. Rechristened Underwriters Financial Group Inc., the company has divested its oil and gas assets and now acts as B.R.I.'s parent.

UFG, however, is now facing a "liquidity crisis" because of debt assumed in the acquisition and needs to raise new capital "if operations are to continue uninterrupted," the company concedes in documents filed with the Securities and Exchange Commission.

And the company's 1992 shareholder equity recently fell to negative \$8.6 million after the SEC required the company to revise its financial statements.

UFG stock traded at \$2.63 per share last week, compared with a 52-week high of \$11.25.

In addition, SEC filings reveal that B.R.I.'s auditor expressed "substantial doubt" about the company's ability to survive in an opinion letter issued in October 1992 for year-end 1991.

As part of the UFG acquisition, B.R.I. contributed \$35 million in guarantees obtained from a Marshall Islands senator and backed by the rights of a group of Marshall Islands landowners to U.S. government payments for use of their South Pacific atoll as a military base.

UFG planned to use the guarantees as collateral to raise capital. However, government officials in the Marshall Islands have questioned the senator's authority to pledge the land use payments. *Business Insurance* has learned.

One of UFG's largest shareholders last year was Anchorage

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Update

Insurance fraud indictments

Continued from previous page

dollars on deliberately incurred or inflated claims. Policyholders and their adjusters also bribed insurer representatives for favorable treatment of the claims, prosecutors charge.

Those indicted include employees of Aetna Life & Casualty Co., Continental Insurance Co., Hanover Insurance Co. and CIGNA Corp. These insurers and others paid claims totaling \$25 million, including one \$19 million claim that American International Group Inc. paid for allegedly water-damaged merchandise owned by a New York sportswear company.

The indictments marked the second phase of a two-year investigation. In the first phase, 49 people pleaded guilty to defrauding two dozen insurers on claims totaling \$43 million. Fourteen others have pleaded guilty to various charges without being indicted.

The indictments described schemes in which defendants: blew powdered concrete into a building to simulate smoke and soot damage; broke pipes to create water damage; hosed down goods and walls with water mixed with tea to create stains; and moved the same damaged merchandise from one location to another to allow various policyholders to claim it as their own.

Managed care firms to merge

AVON, Conn.—The planned merger of two Connecticut health care firms will create the nation's largest provider of managed mental health and substance abuse services.

Avon, Conn.-based Value Health Inc. is seeking to buy Preferred Health Care Ltd. of Wilton, Conn., in a stock-swap arrangement, pending shareholder and regulatory approval.

Preferred Health mainly provides managed mental health care services, while Value Health provides managed prescription drug, mental health and substance abuse benefit plan services.

If combined, the companies would provide services to about 50 of the nation's 250 largest companies and their managed mental health plans would cover more than 12 million people. The companies' combined revenues for year-end 1993 would total about \$165 million from mental health and substance abuse plans.

Under the deal, valued at about \$425 million, each share of Preferred Health's stock would be swapped for 0.88 of a share of Value Health's stock. The merger is expected to be completed by year end.

Value Health's shares lost \$1.75 Thursday to close at \$34 on the New York Stock Exchange, while Preferred Health's shares climbed by \$6.88 to \$27.88 on NASDAQ.

David J. McDonnell, chairman and chief executive officer of Preferred Health, will join Value Health's board of directors when the transaction is complete. Other management changes—including a new company name—are under review, said a Value Health spokeswoman.

Empire padded loss figures

NEW YORK—Empire Blue Cross & Blue Shield filed incorrect information with the New York Insurance Department for four years due to accounting instructions from the insurer's chief financial officer, an inquiry has found.

The filings showed "unacceptable numbers," said Otto G. Obermaier, an attorney at Weil, Gotshal & Manges in New York whom Empire retained in June to study its accounts (*BI*, June 21).

Empire BC/BS overstated its losses by a total of \$63 million between 1989 and 1992, the report said.

The discrepancies were spotted between the internal accounts of the company and those sent to the Insurance Department. "We found unexplained differences in the accounts that were the result of instructions from the CFO," Mr. Obermaier said.

Jerry Weismann, who as Empire's chief financial officer was responsible for the filings, was fired in July.

During the four-year period scrutinized, Empire was granted rate increases by the state, but the increases were not based on the incorrect filings, the report said.

Chartwell share offering

STAMFORD, Conn.—Chartwell Re Corp., parent of Chartwell Reinsurance Co., has filed with the Securities and Exchange Commission for an initial public offering to sell 2.2 million shares of common stock for \$24 to \$26 a share, or a total of up to \$57.2 million.

According to the filing, net proceeds from the offering will be used to increase the reinsurer's statutory surplus to more than \$100 million and, together with available funds, to retire current senior debt.

Chartwell Re underwrites property and casualty treaty reinsurance through brokers. The reinsurer's net premiums written totaled \$33.7 million for the first six months of the year, and its policyholder surplus was \$78.9 million as of June 30.

LUI investigation report

LONDON—The British Department of Trade and Industry is recommending that information about intermediaries and ceding commissions be made mandatory in reinsurance treaties after an investigation into allegations that London United Investments P.L.C. diverted tens of millions of dollars to Liechtenstein accounts.

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Errors & Omissions

• A study by SCOR U.S. Corp. shows that casualty rates are 40% of what the company believes to be break-even levels and equal to the rates charged at the height of the soft market of the early 1980s. These conclusions were incorrectly stated in the Sept. 20 issue.

Merger will strengthen Travelers, analysts say

By JUDY GREENWALD

HARTFORD, Conn.—The merger of Travelers Corp. and Primerica Corp. will create a stronger company that will ultimately benefit corporate insurance buyers, analysts predict.

In particular, the broader financial base that the combination creates means Travelers' troubled real estate holdings will pose less of a strain on the insurer's operations, they say.

Analysts say Primerica's man-

agement will also bring a fresh perspective to the insurer, which they say is sorely needed.

"The risk manager of a large company who looks at the possible transformation of this company can be nothing but heartened by these changes," said Russell R. Miller, chairman of San Francisco-based investment banker Russell Miller Inc.

The two companies last week announced a definitive agreement for Primerica to purchase the approximately 73% of Travelers'

common stock that it does not already own. Primerica, a financial services company whose units include stockbroker Smith Barney Shearson, had acquired about 27% of Travelers last September for an investment of \$722.5 million (*BI*, Sept. 28, 1992).

The transaction has been approved by both companies' boards. The Primerica board also approved the repurchase of up to \$600 million of common stock after the close of the transaction,

Continued on page 4

Amtrak liability in doubt

Barge company's legal responsibilities may be capped

By GAVIN SOUTER

MOBILE, Ala.—Amtrak and CSX Corp., the railroad that owned the bridge from which a passenger train plunged last week, each have at least \$75 million in liability insurance to cover claims resulting from the tragedy.

However, the owner of the tugboat and barges that may have struck the bridge, causing it to weaken and later collapse under

the weight of the passing train, may have their liability limited to the value of the barges under an 1851 law.

The train was carrying 188 passengers and 18 crew. Late last week, 44 people had been reported killed, while seven others had been taken to the hospital. None of the injured had life-threatening injuries, said the Amtrak spokeswoman.

Both Amtrak and CSX purchase

liability coverage from Bermuda-based Transportation & Railroads Assurance Co. Ltd. and Railway Assn. Insurance Ltd., sources say.

TRAC offers coverage limits of \$25 million excess of \$25 million, while RAIL offers limits of \$50 million excess of \$50 million.

Washington-based Amtrak also carries a substantial self-insured retention, a spokeswoman said.

A CSX spokeswoman wouldn't

Continued on page 4

Deal with UAW drives Ford ahead of rivals

Benefit costs may burden GM

By MICHAEL SCHACHNER

DEARBORN, Mich.—So who's the big loser in the tentative contract that requires the United Auto Workers to forego certain wage increases and Ford Motor Co. to improve its pension benefits and continue to provide first-dollar health coverage?

Maybe General Motors Corp.

Health care experts and auto industry analysts agree that GM will

have difficulty absorbing the costs of the Ford contract. Chrysler Corp., which the UAW selected next for patterned bargaining, will have a somewhat easier time, they say.

Last week, the union's 200-member Ford Bargaining Council approved the deal, and Ford's 96,000 UAW employees are expected to follow suit by the first week in October.

Even though Ford achieved none

of the health care concessions it sought in months of negotiations, the company will find the contract beneficial at best and palatable at worst, observers point out.

"It really seems as though Ford negotiated more against GM than the UAW," said Edwin Freedman, managing director with AlexComp Consulting Plus, a Lyndhurst, N.J.-based subsidiary of Alexander & Alexander Services

Continued on page 51

Cat capacity gets a boost

NAMIC plan expected to help U.S. mutuals

By JUDY GREENWALD

CHICAGO—An additional \$500 million in property catastrophe reinsurance capacity will be available to U.S. mutual insurers under a program sponsored by the National Assn. of Mutual Insurance Companies.

About 100 to 200 NAMIC members are expected to participate in the program, said Paul Davies, president of Chicago-based Aon Reinsurance Agency Inc., which helped organize the program on NAMIC's behalf.

The program is scheduled to be officially unveiled this week at NAMIC's annual convention in Chicago by the association's president, Larry Forrester. It is expected to be in full operation by January.

CNA Insurance Cos. will be the

program's lead underwriter. Another six to eight domestic reinsurers are expected to participate, said Mr. Davies, who would not reveal their identities pending their official commitment.

"There will be some retrocessions ceded off to some companies, and probably a couple of the Bermuda companies" participating, he said.

Mr. Davies said there will be a different aggregate limit in each of four basic zones in the United

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Inside

- Fundamental reform of the health care system finally is possible, this week's editorial says. **PAGE 8**
- Underwriters must be aware that Canadian risk managers face different liability exposures than their U.S. counterparts, experts said at the Canadian Risk & Insurance Management Society conference. Conference coverage begins on **PAGE 31**
- Germany may fund its long-term nursing care coverage by reducing holiday pay for workers. **PAGE 41**
- Centre Cat has raised \$300 million in capital. **PAGE 41**

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Vol. 27, No. 40—Business Insurance (ISSN 0007-6864) is published weekly by Crain Communications Inc., 740 N. Rush St., Chicago, Ill. 60611-2590. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to Business Insurance, Circulation Department, 965 E. Jefferson Ave., Detroit, Mich. 48207-3185; 800-678-9595 or 313-446-1611. Copyright 1993 by Crain Communications Inc.

Sea change in marine insurance market

Shipowners, insurers claim U.S. pollution law unclear

By NANCY P. JOHNSON

HOUSTON—On both sides of the Atlantic, The Oil Pollution Act of 1990 continues to raise concerns about liability and availability of coverage for shipowners. European insurers worry that the act—for which the government has recently proposed higher penalties and an expanded scope of covered areas and operators—may influence Europe's less-stringent liability laws.

Meanwhile, American risk managers and marine insurers are increasingly frustrated with the law's stepped-up compliance requirements.

The law, known as OPA 1990, came up frequently during a panel discussion on pollution liability at the Houston Marine Insurance Seminar Sept. 12-14.

Final rules are not yet published under the law, which was written in response to the Exxon Valdez oil spill and other spills in U.S. waters.

The law places high limits of liability on owners and providers of their certificates of financial responsibility for oil discharges or threats of discharges in U.S. waters (B1 Aug. 2).

Problems associated with shipowners' expanded liability under OPA 1990 are complex and, in some cases, unclear, representatives of a shipper and an insurer stepped-up compliance re-



Balancing work, family

Benefits are a key factor in ranking of top firms for women

By SALLY ROBERTS

Despite corporate cost pressures, working parents are finding more and more employers offering benefits to help handle the often-conflicting demands of work and home.

Even traditionally male-dominated industries—like oil and automobile manufacturers—are venturing into the arena of family-friendly benefits, earning recognition for the first time in Working Mother magazine's eighth annual survey of the 100 best companies for mothers.

At the same time, companies that have traditionally been in the forefront of family benefits, namely The Procter & Gamble Co. and Apple Computer Inc., were eliminated from this year's list after a seven-year run.

According to Working Mother magazine, the 100 best companies for mothers excel in pay, opportunity for advancement, child care and family-friendly benefits. The 10 best companies, in alphabetical order, are:

Amoco Corp., lactation center has made it easier for new mothers to return to work more quickly.



Photo by Steve Leonard

Lowering childbirth costs

By DEBORAH SHALOWITZ

CHICAGO—Sometimes it's necessary to spend money to save money, and prenatal health care falls into that category, experts agree.

Childbirth costs can account for up to half of a company's total health care bill, pointed out Miriam Jacobson, director of the prevention leadership forum of the Washington Business Group on Health. Furthermore, childbirth can generate added expenses due to absenteeism, short-term disability and lost productivity due to illness, she added.

At First Chicago Corp. in Chicago, approximately 17% of the company's medical costs are due to maternity, said Dr. Wayne Burton, the bank's medical director. Maternitys make up the

Task force drafting PBGC reform plan

By JERRY GEISEL

WASHINGTON—Business groups say it is time to strengthen pension funding rules, as the Clinton administration is expected to propose. However, employers are less certain whether the premiums funding rules must be tightened to reduce the exposure of the PBGC to big losses, a task force member said.

Despite a 1987 law that was supposed to improve pension plan funding, pension liabilities—and potential losses to the PBGC—continue to rise.

Between 1987 and 1991, the last year for which complete figures are available, pension benefits agency task force now is in the fi-

Proposal may toughen funding standards

Continued on page 44

NEW YORK—A reinsurer must show that it suffered actual tangible economic injury because a ceiling on the follow-the-form clause, reinsurers are not liable for expenses that exceed their policy limits.

The Sept. 9 decision in *Unigard Security Insurance Co. Inc. vs. North River Insurance Co.*, which upheld part of a lower court ruling on claims notification while over-turning its follow-the-forms decision, "is actually a victory for both ceiling companies and reinsurers," observed Frank M. Nicoletti, a reinsurance attorney with Ober, Kaler, Grimes & Shriver in New York who filed an amicus brief in the case.

By establishing the requirements reinsurers must meet to show prejudice—namely that they suffered tangible economic injury—the decision "is a victory for ceiling companies," he said.

"And from the reinsurers' point of view, a key part of the decision is that the terms of the contract controlled, even though the past practice of reinsurers and the custom and practice of the industry indicated that reinsurers expected to pay expenses in addition to limits," Mr. Nicoletti said.

Unigard attorney Eugene Wolman of Mount, Cotton & Wollan in New York, said both sides emerged as partial winners in the case, which is unlikely to be appealed.

"Though reinsurers were disappointed by the New York Court of Appeals' decision, a reinsurance attorney with

Hull underwriters are the most confident. They told of huge rate increases, especially in London; reduced capacity; big hikes in deductibles, narrow terms and reduced availability.

This was the message delivered by the international marine underwriting community last week during the International Union of Marine Insurance's annual conference in Stockholm.

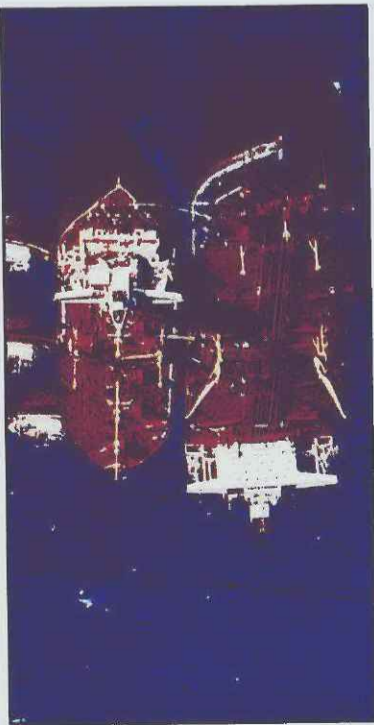
But marine underwriters' generally bullish mood at this year's conference was uneven, depending on the class of business.

STOCKHOLM, Sweden—Buyers of marine insurance are finding most types of coverage more expensive.

They also are facing higher deductibles, narrower terms and reduced availability.

This was the message delivered by the international marine underwriting community last week during the International Union of Marine Insurance's annual conference in Stockholm.

But marine underwriters' generally bullish mood at this year's conference was uneven, depending on the class of business.



Continued on page 20

company's largest single health care cost category, he added.

Before instituting a prenatal health care program in an effort to rein in these costs, a company should first assess the demographics of its employees and dependents and trace previous maternity-related health care costs, Ms. Jacobson recommended.

For example, a company should know how many women covered by its health care plan are of childbearing age, the number and rate of Caesarean sections within the plan, the number of low birth-weight babies (those weighing less than 5.5 pounds) born to its employees or dependents, and the number and cost of high-cost births, noted Ms. Jacobson of the WBGH. This

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Travelers

Continued from page 2
which is expected to be completed by year end.

Sanford I. Weill, Primerica's chairman and chief executive officer, will retain those positions with the new company, which will be called The Travelers.

Edward H. Budd, now chairman and CEO of Travelers, will become chairman of the executive committee of the new company's board of directors, as well as chairman of The Travelers' insurance operations. Among other executive changes, Robert I. Lipp, a Primerica's vice chairman and group chief executive, will be named CEO of Travelers' insurance operations.

Standard & Poor's Corp. put its ratings of Primerica and Travelers on CreditWatch with positive implications, while Moody's Investors Service Inc. also put both companies

under review for possible upgrade.

Analysts generally were enthusiastic about the proposed merger.

"I think it is a much more sound company to do business with than anything risk managers or individual insureds have had at the end of the line of their insurance policy for a long time," said Michael Morrissey, a principal with Firemark Consultants Inc. in Parsippany, N.J.

Primerica has "great balance sheet integrity and great financial skills," and everyone "has got to feel better about what they've got in terms of policyholder security with the new setup," he said.

Mr. Morrissey said although the move by Primerica was expected, it was nevertheless a shock that "a proud, old company, one of the Goliaths that stood atop the industry," will no longer be independent.

"I think Travelers has been a kind of company that was created in the 19th century that is too big and too

unresponsive to actively meet its competition for the 21st century," said Mr. Miller.

"The companies that have an expense structure created in the '40s and '50s and a distribution system created at the same time have found it hard to adopt to the competitive pressures for Fortune 500 company needs as well as the individual policyholder. I think somebody like Sandy Weill and his associates are more in tune with those needs," said Mr. Miller.

"I think it'll be good for Travelers because anything that has the effect of getting the scoundrels out is going to be good for Travelers. Any outside wind that is going to sweep the place relatively clean is certainly not going to hurt and probably will help," said Charles Ronson, an analyst with Balestra Capital in New York.

While there are still challenges ahead, the move will create greater

financial flexibility and strength, while real estate assets "will be a smaller piece of the total pie, so to speak," said Larry Mayewski, senior vp-life/health for A.M. Best Co. in Oldwick, N.J. Best affirmed its A-rating for Travelers' property/casualty and life/health operations.

Travelers reported a \$485 million aftertax charge in 1992 resulting from the addition of \$735 million in mortgage loans and real estate reserves. Sales of mortgage loans and real estate will hit book values of more than \$1 billion by year end.

However, Gordon Luce, assistant manager with Brown Bros. Hariman & Co. in New York, said: "I don't see a terrible amount of synergy between the operations. I think Travelers will probably be pretty much left alone."

Alice Cornish, a partner with Northington Partners in Avon, Conn., also believes Primerica's primary interest is in life insur-

ance, particularly pension-type accounts. As far as property/casualty insurance is concerned, "it appears that the Travelers people will still be running that piece of the entity, and I don't think there will be many changes in that business at all."

Mike Romanowski, vp with Conning & Co. in Hartford, said that scant mention was made of Travelers' managed care operations at an analysts' meeting last week with Mr. Weill and Mr. Budd. "They did not highlight it in the meeting yesterday, preferring to talk a lot about asset management, financial services and the national account business."

He noted Travelers' managed care operations serve about 2 million subscribers. "That's a pretty healthy base" and large operations will be the beneficiaries of health care reform. But Travelers does not really dominate any market, and the "big winners" will be those with large market shares, he said. **BI**

Amtrak

Continued from page 2
comment on the Jacksonville, Fla.-based company's insurance.

The owner of the barges, Warrior & Gulf Navigation Co. of Chickasaw, Ala., has liability coverage with the Steamship Mutual Underwriting Assn. Ltd., a protection and indemnity club in London, confirmed James Stockdale, a manager at the club.

The company has standard unlimited P&I coverage. Steamship Mutual retains the first \$3 million, and claims exceeding the retention up to \$25 million are paid by the International Group of P&I Clubs. Claims up to \$1.01 billion are reinsured in the London market and claims above that are paid by the International Group. However, under the 1851 Limitation of Liability Act, any damages awarded against the company could be limited to the value of the tugboat and six barges that may have hit the bridge.

The law limits the liability of shipowners if they prove an accident occurred without their "privity and knowledge," said John Kimball, a partner at Healy & Baille, a New York law firm.

"If the accident was a result of ordinary negligence, then the liability can be limited," Mr. Kimball said.

An example of ordinary negligence would be a situation where the captain of a vessel made a wrong turn while believing that he was taking a correct course, he said.

Extraordinary negligence would include cases in which a vessel did not post a proper lookout as a normal matter of business, he said.

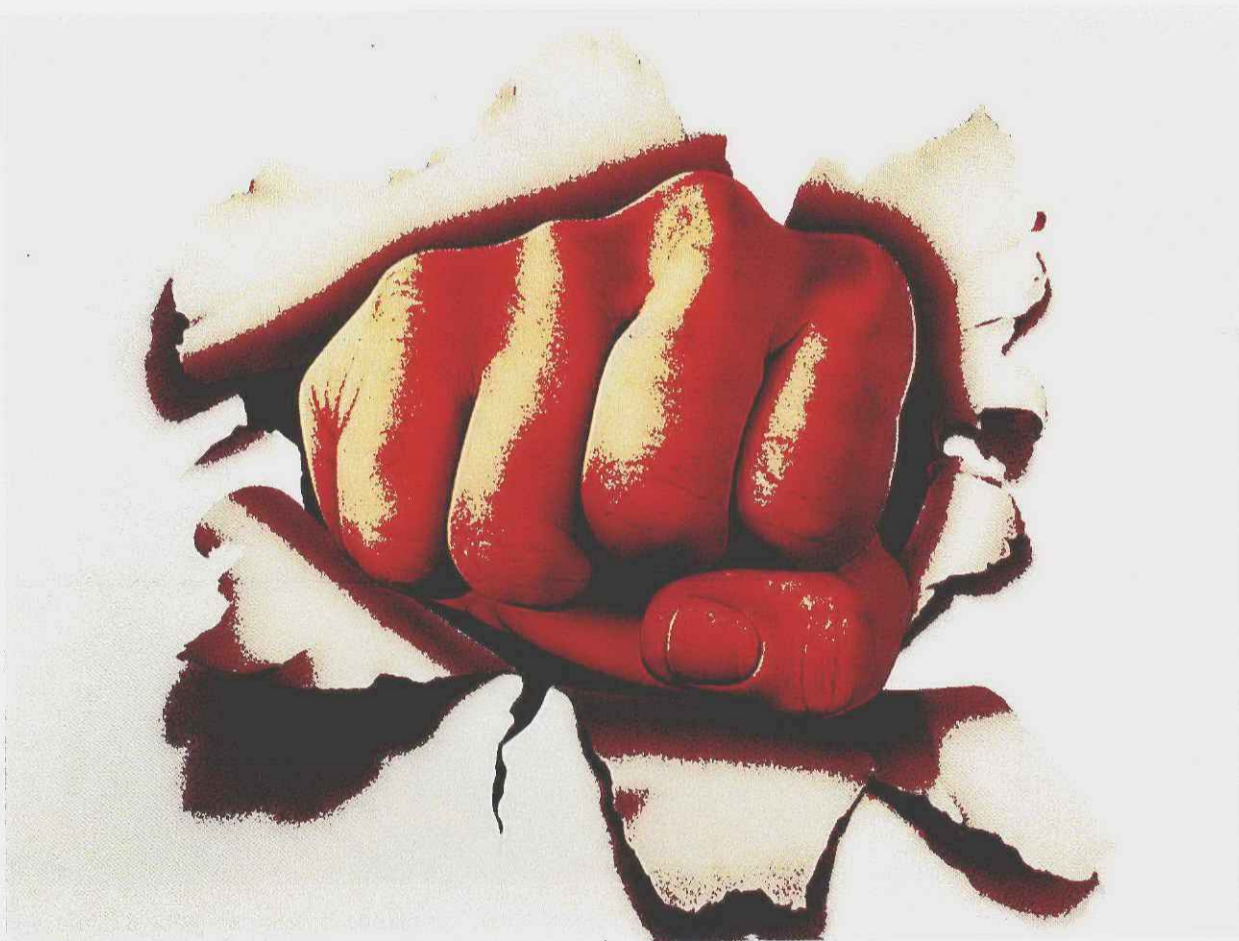
The crash occurred at about 3 a.m. on Sept. 22. The Amtrak Sunset Limited was en route from Los Angeles to Miami when the bridge, about 10 miles east of Mobile, collapsed, causing the \$10 million train to fall into the bayou below.

A spokesman from the National Transportation Safety Board said, "There is compelling evidence that the bridge was struck and there is evidence that the (Warrior & Gulf) barge struck something."

The NTSB is analyzing paint collected from the damaged areas of the bridge and barges, but it is unlikely to release an official report until sometime next year, he said.

Warrior & Gulf confirmed that its tugboat, the MV Mauvilla, was towing six barges near the bridge at the time of the incident. The boat was making its way north through heavy fog on the Mobile River toward Birmingham and Tuscaloosa, Ala. "The vessel found itself not in the river channel but in the Bayou Canot," said Andy Harris, general manager-terminals at Warrior & Gulf. The vessel was returning to the river when the bridge collapsed. **BI**

Ramon Gonzalez Teja/The Image Bank



"Never say never"

Some surplus lines insurance companies use underwriting policy to bog down producers in a bottomless quagmire of paperwork and procedure while underwriters try to figure out what to do with unique risks and specialty programs.

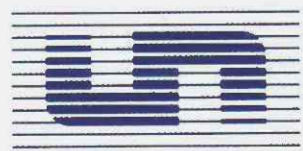
It is no wonder that producers often feel their risks will never get written.

At United National Group—one of the largest surplus lines insurers in America—our underwriters

are trained to tear through the paperwork in order to get risks placed quickly and efficiently. We want to help producers grow and profit.

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United National Insurance Company's policyholders' surplus is \$146,946,000.



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Wausau's 24-Hour Managed Care coordinates on- and off-the-job coverages. It features programs like PPOs, bill reviews and hospital-stay monitoring. For group health and workers compensation. Quality care. Managed costs.

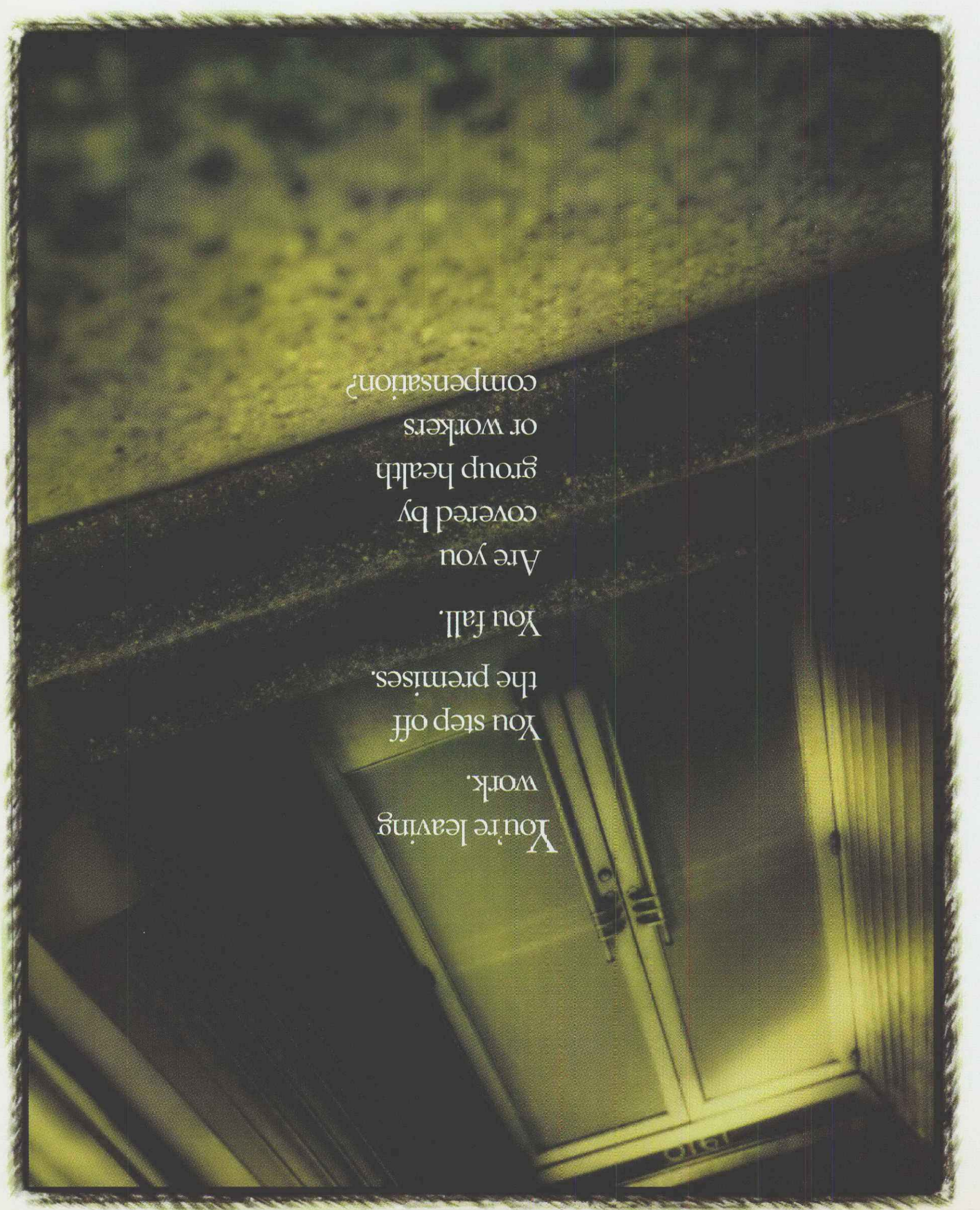
You're leaving
work.

You step off
the premises.

You fall.

Are you

covered by
group health
or workers
compensation?



Marine rates

Continued from page 3

marine cargo insurance, though, are reporting a decrease in the amount of non-marine risks underwritten within marine cargo policies.

An underwriter for a major German reinsurer said that underwriters that continue to expose their cargo accounts to dangerous catastrophe accumulations by writing non-marine coverages should find their reinsurance rates climbing to prohibitively high levels.

Cargo insurers face other problems. One London cargo underwriter said there are still "far too many non-marine underwriters out there who still think they know how to write cargo risks, when they don't."

This means competition still is fierce, with a real hardening of the marine cargo market likely to be some way off.

Rates for offshore energy risks in the marine market are steadily firming, underwriters reported. In particular, the reduction in catastrophe and excess-of-loss reinsurance capacity in London and elsewhere has led underwriters to raise rates for energy programs.

However, at least one underwriter voiced concerns about whether the marine market would be able to sustain rate increases and tighter conditions.

Rate increases in the marine insurance market, particularly in the hull market, primarily have been imposed because of the losses suffered by underwriters and the subsequent loss of capacity in the world markets, especially in London, said Peter N. Christmas, underwriter for Lloyd's of London syndicates managed by Stewart & Hughman Ltd.

This may not bode well, said Mr. Christmas, who is also the chairman

of IUMI's Ocean Hull Committee.

"There are currently two views as to the way it will go," he said of the current marine market hardening. "Some believe that this is such a deep trough that it will take a long time for the market to turn again. Some hope it will be like the period after Hurricane Betsy (in 1965) and we will see a reasonable period of stability, which is also in the clients' interests. No one benefits from volatility.

"But there is also the fear that once we start to make profits again, capacity will flow back into the market and depress the rates again," he said.

For the time being, however, Mr. Christmas and his marine market colleagues are happy to see rates and conditions improving.

"All markets report rising rating levels, increased levels of deductibles, and a tightening of terms and conditions of coverage. Many mar-

kets report reluctance to grant coverage on older vessels. . . While individual examples are not forthcoming, there is no doubt that the high cost of insuring old vessels is prohibiting many of them from further trading," Mr. Christmas told the IUMI conference in his report on the ocean hull market.

Martial de Calbiac, deputy manager of Syndicat France de l'Assurances Maritime & Transports and a member of the IUMI Ocean Hull Committee, reported that rates and deductibles in the French hull market had risen dramatically.

In the first half of 1989, the average deductible on a sample of 3,900 vessels insured in the French hull market was \$32,000; he pointed out. The equivalent figure for the first half of 1993 was \$100,000.

He also said that over the same period, hull rates have also risen dramatically. For the first half of

1989, the average premium per vessel in the 3,900 ship survey was \$72,000. But by the first half of 1993, premiums per vessel had risen to an average of \$180,000, a 150% jump, he said.

Mr. de Calbiac also said that French hull underwriters had refused a record level of non-French hull risks in 1992. Out of a survey of 72,000 vessels not flying the French flag, only 15% of the risks offered had been accepted by French marine underwriters. In monetary terms, this represented about \$300 million in rejected premiums.

The French market was by no means alone in vigorously refusing to underwrite poor risks. The world's major hull markets reporting to IUMI's Ocean Hull Committee claim to have rejected about 20% of all risks in 1992.

But, as Thomas Prendergast, chairman and president of the Marine Office of America Corp. in Cranbury, N.J., asked: Where are all the bad risks going?

"We are deleting more and more business, but if we are all doing this, where the hell is all this business going to? Are we all as keen to clean the house up as we really claim?" he asked.

About half of the national markets that responded to a questionnaire from IUMI's Cargo Committee reported increased premium volume, compared with a year ago.

The U.K. cargo market reported a 15% increase in premiums on average, while U.S. underwriters saw a 4% to 12% increase in volume; the German market reported a 6.3% increase; the French market's volume was up 6%; and the Canadian market reported a 5% hike.

But even among underwriters from countries that reported increased cargo premiums, the mood was still rather gloomy.

"Underwriters in London have had some success in achieving rate increases across the broad spectrum of the cargo account. The rate increases now being achieved are seen as necessary in an attempt to redress the adverse results seen from the cargo account in recent years," stated the Institute of London Underwriters. "The poor performance of the cargo account has led to a number of insurers withdrawing from this class of business, which has resulted in a reduction in overall market capacity. Despite the rate increases achieved, it is generally felt that further increases will be necessary if the account is to return to profitability."

The loss of capacity in London has been a vital factor in the overall hardening of the worldwide hull insurance market because business returning to domestic markets have found it difficult to find the same level of capacity. Local underwriters have also been forced to raise hull rates and deductibles because of the scarcity of reinsurance.

Contraction in the London market also reverberated throughout marine cargo markets.

Respondents to IUMI's questionnaire about offshore energy markets were cautiously optimistic and also underscored the effect of the problems in the London market.

"We estimate that London represents approximately 65% to 75% of available worldwide capacity per risk. Such capacity would normally be sufficient for most structures/complexes, although some of the more recent higher-valued segregated designs of platforms may suffer from insufficient capacity at catastrophic/clash level," stated the ILU.

"The reduction in XL capacity has resulted in renewed confidence that our terms will not continually

Continued on page 12

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Opinions

A starting point for reform

PRESIDENT CLINTON'S health care reform package will revolutionize how nearly \$1 trillion in health care services are delivered and financed.

The package is a fine starting point for what may well become one of the fiercest political debates in U.S. history because repairing the health care system will truly require a revolution, not the small-scale reforms that many opponents of the president's package propose.

Nearly everyone will find something to oppose in the president's plan. That's the beauty of it. Everyone—from employers to insurers to doctors to individuals—will have to give up something in order for reform to succeed.

Many, though, are unwilling to make these compromises and will fight the president's plan tooth and nail. This is short-sighted because the Clinton plan is the only comprehensive reform proposal with a chance of passage by the end of next year. Those who will not give this plan a fair hearing are essentially saying the health care system does not require fundamental reform.

We believe that many of the basic principles in the package are on the mark, including universal health care coverage, a guaranteed basic benefit package, more information about the cost and quality of care, and the formation of health care purchasing alliances.

We absolutely agree with those who say that health care costs never will be brought under control without universal coverage. As long as some Americans remain uninsured, we'll continue the endless round of cost-shifting and delay of essential treatment that leads to much bigger costs later on.

It also isn't too soon to say that an employer mandate—requiring employers to pay 80% of employees' health care premiums—will ignite a fire storm of protest from the small-employer community. Small employers already are charging that an employer mandate will cause firms across the country, at best, to lay off employees and, at worst, to close their doors.

But to these critics, we ask a basic question: What is their alternative? Would they prefer instead a single-payer system as a way to assure universal coverage? We don't think so, given small employers' desire to have a smaller, not larger, role for government.

On the other hand, even though the Clinton health package is only days old, certain problems—big ones—are obvious.

We agree with Sen. Daniel Patrick Moynihan, D-N.Y., who describes the administration's revenue assumptions as "fantasy." Yes, there is a lot of waste in the current health care system and cutting it, along with new "sin" taxes, will raise revenue, lots of it. But it won't be nearly enough to finance universal coverage.

Similarly, the idea that health care alliances will be



able to deliver a comprehensive benefit package for an average of \$1,800 for individual and \$4,200 for family coverage is not realistic.

And much as we might like the idea, we don't think the government has the resources to take on the tens of billions of dollars in retiree health care obligations that employers have promised to workers retiring before they are eligible for Medicare.

As a broad principle, we think health alliances—giant purchasing cooperatives organized by states—are essential, if only to reduce administrative costs. But after a certain point, size is not a virtue. Creating gigantic health care purchasing alliances, as the administration's proposal would surely do, would lead to gigantic bureaucracies and would not spawn competition, which in turn could lead to inefficient delivery of health care. If a group of employers—all under the administration's minimum size of 5,000 employees—wants to form its own purchasing alliance, it should be given that option.

Certainly, we and others will have additional criticisms of the president's plan in the weeks ahead. Any proposal, particularly one as complex as this one, will benefit from thoughtful criticism. Indeed, President Clinton has made a point of saying that the administration is open to suggestions.

No one should expect quick action on the Clinton package, and that suits us fine. The only thing worse than no action is a reform package that irreparably damages the health care system.

But with presidential leadership, an intense debate in Congress and informed comments from employers, we believe that fundamental reform of a broken-down health care system finally is possible.

Letters

Change driving risk managers into new territory

To the editor: I would like to congratulate Barbara Stewart and *Business Insurance* for her excellent and cogent article, "An Uncertain Future," in the Aug. 30 issue. What she makes quite clear is that

change is sweeping through our entire economic/societal structure and, inevitably, the insurance industry. That potent tool, the computer, has helped create this change under which heretofore "uncertainties" have now become "risks" subject, hopefully, to control and management.

It doesn't take any great analytic genius to see these forces at work: Sears Roebuck Co., International Business Machines Corp., General Motors Corp. and Lloyd's of London are all having to rediscover and restructure themselves accordingly. Size, tradition, track record—none of these features seem to be predictors of continued success.

Ms. Stewart draws a parallel between

the risk management profession and the American frontier where settlers knew where they were depending on whether they were being harassed by "Eastern bankers or Indians." Risk management will also be required to change as its frontier is continually pushed forward.

Ms. Stewart states that General Custer found out that venturing into unknown territory could be dangerous. We all seem to be living in "Indian country" these days.

Paul Richard
Manager, Insurance Services
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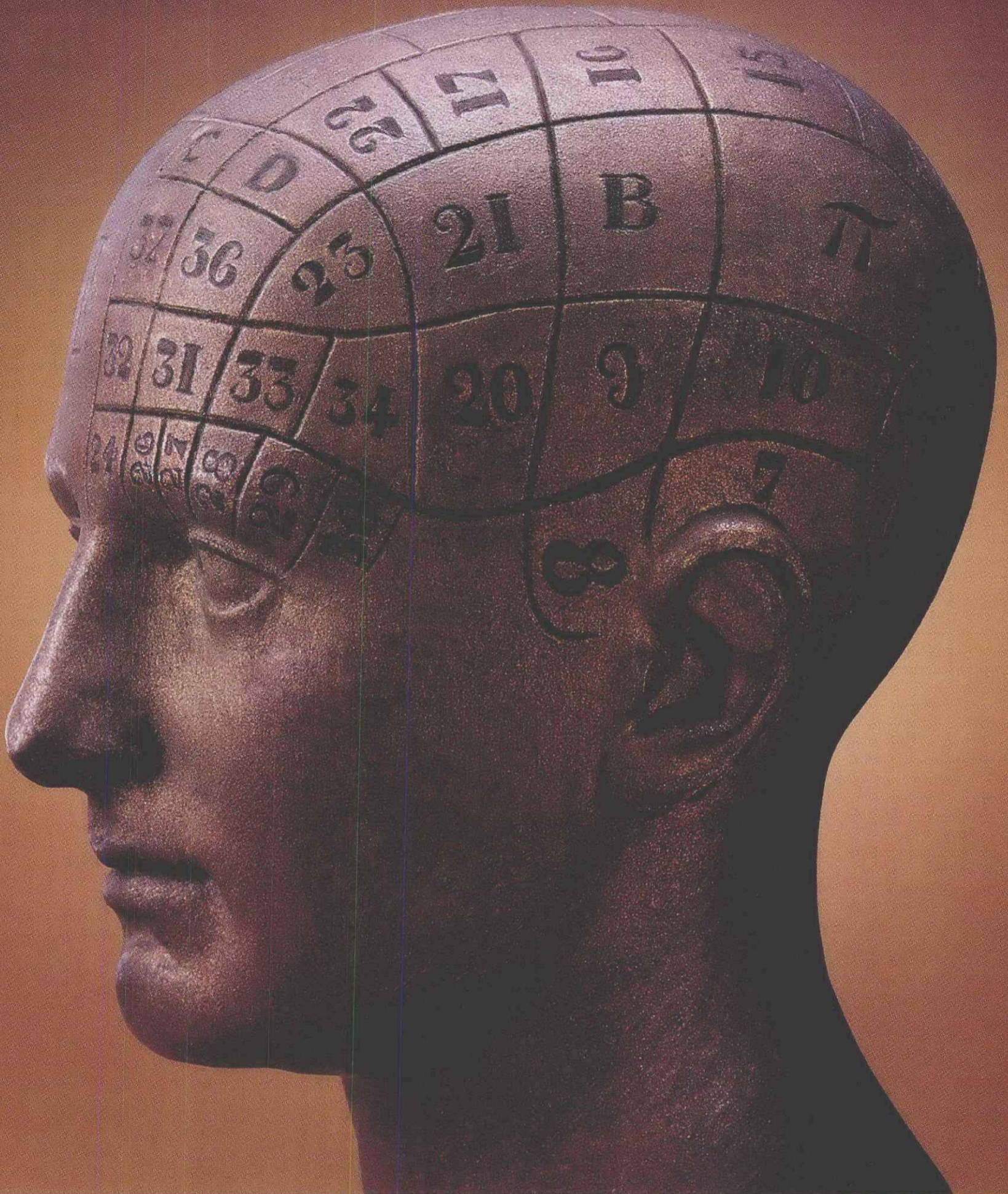
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Published weekly at 740 Rush St., Chicago, Ill. 60611-2590, Telex 6871241, Fax 312/280-3174, Cable CRAINCOM. Offices: 220 E. 42nd St., New York, N.Y. 10017-5806, Fax 212/210-0704, CRAIN COM NYK; 1 Northpark, East Suite 114, 8950 N. Central Expressway, Dallas, Texas, 75231-6415, Fax 214/696-1936; Suite B14, National Press Building, Washington, D.C. 20045-1801, Fax 202/638-3155; 6500 Wilshire Blvd., Suite 2300 Los Angeles, Calif. 90048-4947, Fax 213/655-8157; 540 Latimer Circle, Campbell, Calif. 95008, Fax 408/379-3257; Cowcross Court, 2nd Floor, 75-77 Cowcross St., London EC1M 6BP, England, Fax 71/608/1173. \$2.50 a copy. \$80 a year in U.S. Canada add \$38 for surface mail. First-class mail to U.S., add \$95; to Canada add \$105. All other foreign \$200 per year expedited delivery. SHEILA GORMLEY, circulation manager. Four weeks' notice required for change of address. Send subscription correspondence to Circulation Department, Business Insurance, 965 E. Jefferson Ave., Detroit, Mich., 48207-3185, or phone 800-678-9595 or 313-446-1611, Fax 313/446-1650. Microfilm copies are available from University Microfilms, 300 Zeeb Road, Ann Arbor, Mich. 48103. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Road, Wooster, Ohio 44691. Portions of the editorial content of this issue are available for reprint or reproduction in other media. For information and rates to reproduce in general circulation media, contact: JOSEPH P. HANLEY, Crain News Service, 220 E. 42nd St., New York, N.Y. 10017-5806, 212-254-0890. For reprints or reprint permission contact: KAREN BROWN, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, 312-649-5319, Fax 312/280-3174.



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Marine rates

Continued from page 6
be undermined by foreign competition. Business is gravitating towards those with the best security rather than the best reinsurance programs, and underwriters are placing greater emphasis on spread with peak exposures commanding particular attention," the ILU added.

For the overall marine market, the fall in capacity worldwide—and especially in London—appears to be having a significant impact on pricing. But, as Lloyd's underwriter Mr. Christmas noted, if increased rates are caused only by declining capacity, the potential for a similarly rapid decrease in rates if new capacity enters the market is all too real.

"There is a slight concern that corporate capital at Lloyd's—not to mention Bermuda—may reverse the situation. I certainly hope this does not happen," he said. **BI**

Cargo theft flourishes at L.A. port

By ADRIAN LADBURY

STOCKHOLM, Sweden—A spate of hijackings and armed robberies at the Port of Los Angeles could cost insurers as much as \$100 million in insured cargo losses this year, according to Los Angeles Police Department estimates.

In the first half of 1993, 60 incidents of cargo theft from trucks at the port had already been reported and the police expect the crime wave to continue, said Roderic J. Wildish, chairman of the International Union of Marine Insurance.

The insured value of those losses

has been pegged at \$51.1 million, he told the IUMI annual conference, held last week in Stockholm. In all of 1992, 72 incidents of theft at the Port of Los Angeles cost cargo insurers \$78.9 million, he added.

"They (the hijackings) are increasingly accompanied by violence and (the figures) do not include ordinary theft of trailers and containers, which average about 10 a night," said Mr. Wildish, who is also executive vp of the Marine Office of America Corp.

Mr. Wildish later said he believed that the rapid rise in incidents could probably be related to the recession and similar problems encountered in Italy. During last year's IUMI conference in Bern, Switzerland, Claudio Campana, a director of Assicurazioni d'Italia S.p.A. in Rome,

gave a presentation on hijackings and armed robberies in Italy (BI, Sept. 21, 1992). He said then that between 1983 and 1991 the number of armed robberies of trucks loaded with goods increased to 6,000 from only 150.

As in Italy and elsewhere, the hijackers in Los Angeles concentrate their efforts on easily sold and high-value goods like electronic appliances.

According to Mr. Wildish, the LAPD, which has set up a special unit to deal with the growing problem, believes that much of the growth can be blamed on insiders in the cargo and transport industries.

Arnaldo Solimano, a member of the IUMI executive committee and an executive with Assicurazioni Generali S.p.A., said that Italy's

rash of hijackings has been overshadowed recently by a massive increase in the hijacking of goods bound for the former Soviet republics and other Eastern European nations. Road freight to the region was rapidly becoming an uninsurable risk, he said.

"Russian hijackers concentrate on goods easily sold on the black market such as radios, food and alcoholic drinks," said Mr. Solimano.

Hijacking also is a major concern to cargo underwriters in Poland, according to Andrzej Geisler, an executive with Warta Insurance & Reinsurance Co. Ltd., which controls nearly 75% of Poland's marine cargo insurance market.

"In domestic transports, Polish insurance companies have also encountered cases where the whole truckload of goods and commodities disappeared. These cases are currently under close investigations by the police, but it is now obvious that these losses were attributable to organized crime," he said.

Messrs. Wildish and Solimano said that the key to stemming such thefts is to collect more information about the crimes. At the moment, little is known about the thefts except for a general recognition that they are "recession-related" crimes.

Cargo theft was also highlighted as a major problem in the air cargo industry.

James Zrebiec, a member of the cargo loss prevention committee of the American Institute of Marine Underwriters and chairman of International Marine Underwriters, a division of Commercial Union Insurance Co. in New York, said that according to a recent AIMU survey, 41.5% of the value of insured losses in the air cargo industry over the past five years were blamed on "theft, pilferage, non-delivery and shortage."

Mr. Zrebiec could not offer an explanation why the cost of theft is so high in the air cargo industry. He did suggest, however, that see-through "igloo containers," which are made of acrylic and have become more common over the last five years, are partly to blame.

While these containers have "made it harder for handlers to accidentally leave cargo inside, unfortunately it has also made it easier for a thief to 'window shop' a closed container," he explained.

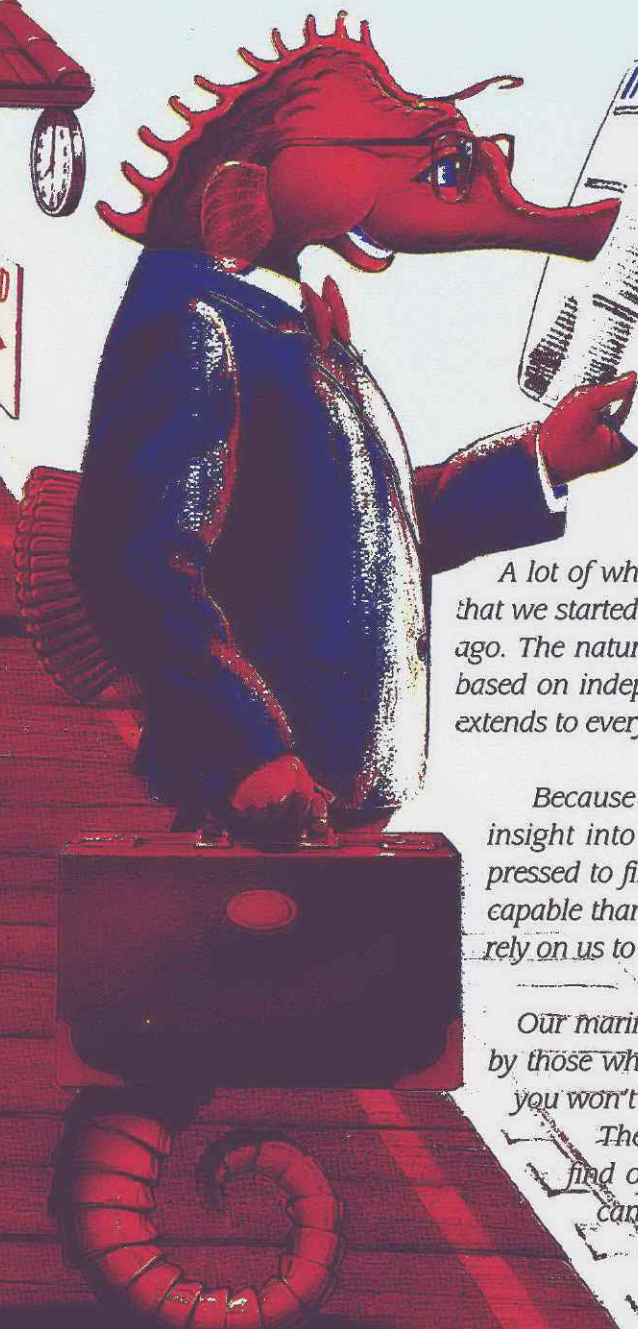
"Theft is still a major problem at some U.S. airports, and little seems to have changed the reputations of New York and Miami as risky airports to use. However the Port Authority of New York did report that 'only' \$3 million in claims were made for stolen goods in 1992 out of a total imports value in excess of \$3 billion," Mr. Zrebiec said.

But Mr. Zrebiec also identified two areas that could help limit future losses due to theft and shortage. "Better shipment tracking is available via hand-held scanners to read bar codes on cargo," he said, adding that records of cargo movement must be kept long enough to trace cargo that is later stolen.

In addition, "electronically coded plastic identification cards have helped keep undesirables off airport grounds by limiting entry to authorized personnel only. Access codes on these are now changed regularly," he said.

The arrival of automated cargo handlers could help the claims records of air cargo underwriters. Delta Air Lines is using robots to handle goods in some facilities. "I am pleased to say that there have been no reported cases of robots involved in any pilfering," Mr. Zrebiec said. **BI**

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Oil Pollution Act

Continued from page 3
surer said.

OPA 1990 creates "two potential economic nightmares" for vessel owners or operators, said Mary Shaddock Jones, general counsel at Hollywood Marine Inc. in Houston.

First, the law allows the U.S. Coast Guard to charge owners and operators unlimited fees for cleanup costs associated with oil spills.

For example, she said, the Coast Guard recently billed a Texas barge and towing company \$16,000 to clean up a five-barrel oil spill. Another responsible party was billed \$13,000 for one Coast Guard helicopter flyover.

In addition, she said, responsible parties are forced to pay for inspections when a spill is only suspected, not confirmed.

Another question arising from OPA 1990 is whether a claimant may recover economic damages without accompanying physical damage, Ms. Jones said. Currently, federal appellate courts are divided on the issue, and the lack of predictability is harming vessel owners and operators, she said.

Pollution liability insurance premiums for shipowners will increase this fall due to the expanded federal regulations under OPA 1990, said Richard H. Hobbie III, president of Water Quality Insurance Syndicate in New York.

"Our intention is to provide guarantees under OPA, but we cannot state categorically that we will. We will have to study the Coast Guard regulations when they are promulgated," Mr. Hobbie said.

Proposed rules under OPA 1990 would expand federal financial responsibility authority from just the outer continental shelf waters to all navigable waters in the United States and its territories, explained Jeffrey P. Zippin, chief of inspection, compliance and training at the U.S. Department of the Interior's Minerals Management Service in Herndon, Va. This could mean coastal waters, rivers and streams, most lakes and wetlands, and reclaimed farmland, he said.

And, the proposed rules would expand the definition of "offshore facilities" to include pipelines, marinas and oil tank farms located near navigable streams, he explained.

Proposed rules would increase operators' oil spill financial responsibility to \$150 million from \$35 million. All operators of "offshore facilities" in all navigable waters would be subject to the \$150 million requirement, said E. Ronald Dixon, senior program analyst at the Minerals Management Service.

And, he said, civil penalties for failure to comply would increase to \$25,000 per incident from \$10,000 per incident per day.

The Minerals Management Service is seeking comment on the methods available to show financial responsibility under OPA 1990 and the economic effects of the financial responsibility requirement on companies, and on oil production and distribution, Mr. Dixon pointed out.

Proposed rules are scheduled to be published in the Federal Register by next spring, and final rules are expected to be published about two years from now, he said.

OPA 1990 also is unclear on the issue of intentional jettisoning of polluting material when the jettison would create less pollution than a spill, said George L. Waddell, a partner at Hancock, Rothert & Bunshoft in San Francisco and

the chairman of the Maritime Law Assn.'s committee on marine insurance.

"It would be most unfortunate if a ship in peril were allowed to break up and release her entire cargo of polluting substances because no one had the courage to lighten the vessel" because of the risk of civil and criminal penalties, he said.

The Maritime Law Assn. has proposed an exemption for purposeful jettisoning to the National Research Council's Commission on Engineering and Technical Systems, he said.

Protection and indemnity clubs view OPA 1990 with trepidation.

"This trend toward recognition of environmental claims is seen at its most extreme in OPA 1990," said Jonathan Hare, a solicitor in the legal department of the Skuld P&I club in Oslo, Norway.

He noted that the 1992 Protocols, a worldwide marine pollution standard that the United States did not sign, acknowledge compensation for environmental impairment but limit this to "costs of reasonable measures of reinstatement actually undertaken or to be undertaken. In clear contrast to OPA 1990, compensation is excluded when reinstatement will not or cannot be carried out," he said.

"If ever there was a need for international uniformity, this is it," he contended. "It is not just the effective loss of the right to limit but the enormous extension of categories of admissible claims," he said.

Indeed, punitive laws like OPA 1990 stem from the marine industry's poor public image, according to a public relations consultant.

"Shipping is virtually ignored by the general news media—except, of course, when there is bad news to report," said Jesse W. Lewis Jr., president of Crisis Consultants Inc. in Stamford, Conn.

"The general press only reports marine casualties and links these incidents with threats to the environment. So when a major marine accident occurs, there is hostile public reaction, legislators express outrage and restrictive laws with criminal penalties, like OPA 1990, are enacted. Similar laws are not passed—or even proposed—following air crashes or other industrial accidents," said Mr. Lewis.

The marine industry should promote a positive public image and when casualties occur, it should make certain that the public gets accurate and timely information, he advised.

"A prudent company will communicate with the public before an accident," he said. **BI**

Legal exemptions threatened

Marine insurers suffer from industry's image problems

By NANCY P. JOHNSON

HOUSTON—Marine insurers have historically enjoyed an exemption from many burdensome insurance laws, but these exemptions will increasingly be challenged on both the state and federal level, according to an attorney.



"To some public-policy makers, you and I and insurance companies in general have become the very symbol of corporate evil," said Kim Yelkin, an attorney with Akin, Gump, Strauss, Hauer & Feld in Austin, Texas.

Speaking at the Houston Marine Insurance Seminar, Ms. Yelkin discussed the anti-insurer mood among state and federal lawmakers.

Those who believe corporate America is a threat have found that the insurance industry is an easy target, she said, and even though the ocean marine insurance industry has enjoyed a relatively low profile, "to the legislators, regulators and the public we are one, monolithic, single-minded, avaricious company, manipulating the public because of corporate greed."

However, she added, "It is incumbent on each of us in the business to educate the decision-makers."

Ms. Yelkin, who lobbies for insurance interests before the Texas Legislature, described several laws that have—or might have had—an effect on marine insurers.

For example, she recalled that H.B. 2, as introduced in 1991 in the Texas Legislature, contained many "punitive, anti-insurer" provisions. Several regulatory requirements in the bill may have directly applied to ocean marine insurers and would have adversely affected ocean marine insurers doing business in Texas, she said.

But, "through our discussion with the legislators, they understood the potential problems H.B. 2 could pose for ocean marine insurers," she said. The bill subsequently was amended to provide a

complete exemption for ocean marine insurers for rate and form-filing provisions, as well as exemptions from the measure's: cancellation and non-renewal provisions; prompt claims-payment provision; a 10-day notice requirement for settlement offers on liability claims; and, most importantly, disclosure requirements of guaranty fund non-participation.

The broad exemptions won for ocean marine insurers in H.B. 2 helped to avoid similar problems under H.B. 1461, Texas' omnibus insurance reform bill passed last May, Ms. Yelkin said.

Ocean marine insurers that operate on a surplus lines basis in Texas should become familiar with H.B. 958—also adopted in the last legislative session—which clarifies the distinction between unauthorized insurance transactions and eligible surplus lines transactions, she said.

"Among other reasons, this distinction is important to the application of the litigation bond requirement which has been imposed on surplus lines insurers by courts in several recent cases," Ms. Yelkin said. "The bill also contains provisions to clarify that premiums on risks or exposures which are properly allocated to federal waters, international waters, or under the jurisdiction of a foreign government are not taxable by the state of Texas."

At the federal level, insurers' antitrust exemption is being challenged in Congress, she pointed out. H.R. 9, introduced by Rep. Jack Brooks, D-Texas, would amend the exemption from the federal antitrust laws provided under the McCarran-Ferguson Act (BI, Aug. 2).

Ms. Yelkin noted that in a July hearing by the House Judiciary Subcommittee on Economic and Commercial Assistant U.S. Attorney General Anne K. Bingaman said she does not endorse H.R. 9 because she has been in her job only a short period and must study the matter further. Ms. Bingaman said that while the Department of Justice generally opposes exemptions to the antitrust laws, she promised to work with the insurance industry to craft "safe har-

bor" language for inclusion in any reform bill.

Should H.R. 9 pass, Ms. Yelkin said, marine insurers could conceivably be subject to the same restrictions under federal antitrust laws as other insurers if their cooperative activities take place outside of syndicates and pools of marine insurers and reinsurers. But, she added, H.R. 9 is unlikely to go anywhere during this legislative session.

The Federal Insurance Solvency Act of 1993, or H.R. 1290, introduced by Rep. John D. Dingell, D. Mich., would establish an independent agency to regulate the financial condition of insurance and insurance companies in the United States, Ms. Yelkin said (BI, March 15). "At this point, it is difficult to speculate on the likelihood of passage, but it is certain that there will be a number of hearings on the proposed legislation," she said.

Ms. Yelkin urged marine insurers to take an active role with state and federal lawmakers. "The measure of our success will be the recognition by lawmakers of the unique distinction between ocean insurance and other lines of insurance." **BI**

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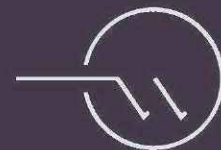
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Annual marine insurance meeting attracts 1,125

HOUSTON—Speakers at the Houston Marine Insurance Seminar take home an unusual honor: They are presented a Texas flag, along with a letter from Gov. Ann Richards making them an admiral in the Texas Navy, which boasts a two-vessel fleet.

Attendance was up for the annual meeting, which was held Sept. 12-14 at the Adam's Mark Hotel in Houston. There were 1,125 registrants, compared with 1,100 last year.

Speakers at the meeting included Stephen Catlin, underwriter of Lloyd's syndicate 1003, who spoke on recent changes at Lloyd's.

Stephen L. Way, chairman and chief executive

officer of Houston Casualty Co., discussed problems facing the U.S. marine insurance market.

Leonard N. Campbell, deputy chairman of the Institute of London Underwriters, presented an update on that facility.

Kim Yelkin, an attorney with Arkin, Gump, Strauss, Hauer & Feld in Austin, Texas, described new laws that have an impact on marine insurers.

Next year's meeting will be held Sept. 18-20 at the Adam's Mark Hotel. For more information, contact Weldon Corbett, Energy Insurance International Inc., 2000 Bering Drive, Suite 900, Houston, Texas 77057, 713-733-6640, fax: 713-783-7241.

U.S. marine market rates must increase: Insurer

HOUSTON—The U.S. marine insurance market is in peril from runaway asbestos claims and faces a crippling lack of capacity, a marine insurer contends.



"Marine underwriters continue to allow non-marine liability risks. This must stop," said Stephen L. Way, chairman,

chief executive officer and president of the Houston Casualty Co. in Houston.

Mr. Way spoke about problems facing the U.S. marine insurance market at the Houston Marine Insurance Seminar Sept. 12-14.

The American market, like the London and Scandinavian markets, has shrunk considerably in recent years, he said. Years ago, the Houston marine market didn't enjoy a very good reputation, he acknowledged. "Volume, not quality, was the order of the day."

Using "incompetent leads and 100% reinsurance," brokers were able to control prices, but thankfully those practices are now all but gone, he said. Now, the marine market enjoys improved rates, especially in the blue-water—or ocean marine—market. The inland marine—or brown-water—market has shown improvement, but premium increases still are necessary, he added.

Even though protection and indemnity clubs' rates and deductibles have increased substantially, it is nearly impossible to make a profit on P&I business, he said.

Insurance buyers will eventually find that risk management and loss control practices will be much cheaper than rising P&I club premiums, he warned.

Offshore energy insurance has finally turned the corner, though big-operator rates are still too low, he said. "Losses easily outdistance the meager premiums."

Marine underwriters are their own worst enemy in certain areas, Mr. Way contended.

Asbestos claims are "destroying marine insurers," he charged. "Onshore exposures must be covered by casualty insurers."

"How can an underwriter charge for a risk he cannot determine?" he asked rhetorically.

"The U.S. government expects insurers to pay for pollution cleanups," Mr. Way said. "This will well exceed the entire capital and surplus of the entire industry."

"We believe punitive damages should be borne by policyholders. This would encourage risk management and loss control."

The marine insurance market also suffers from a cash-flow problem, he said. "We offer free credit through prepayment discounts, which are a complete joke when short-term interest rates are 2½%."

Turning to speculation on market cycles, Mr. Way said, "This is the fifth cycle of my 30-year career. I think this cycle may be different, and that may be to everybody's advantage."

Several factors cause capacity to disappear, he said: insurer insolvencies, companies ceasing to write marine business and ever-bigger losses. "Companies will think twice before entering the market with such big potential losses," he warned.

"We'd like to see a smaller spread of rates over the years," he said. "If you continue to raise rates, this brings competition from inferior competitors who are lured by the potential profit. High prices also encourage self-insurance by policyholders," he said.

Mr. Way urged attendees to keep alert to court cases, especially in the states that border the Gulf of Mexico. Courts in those states "are notoriously biased" against the marine industry and routinely give plaintiffs liberal awards, he said.


—By Nancy P. Johnson

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Underwriter bullish on Lloyd's

By NANCY P. JOHNSON

Market has capacity to excel in energy business: Catlin

HOUSTON—Lloyd's of London's new business plan—together with the market's capacity—will ensure Lloyd's remains the dominant force in the energy insurance market, according to a Lloyd's marine underwriter.

Lloyd's "is in good shape" and "offers, in my opinion, the best insurance capacity in the world," according to Stephen J.O. Catlin, lead underwriter on syndicate 1003, which is managed by S.J.O. Catlin Underwriting Agencies Ltd.

Indicating that he hoped that

Lloyd's new strategies for survival will "end a slide," he said, "In the middle of 1990 I felt like leaving the insurance industry. I hate bad business. But now, I'm proud to be a Lloyd's underwriter."

Mr. Catlin, a leading marine underwriter, delivered the opening speech at the Houston Marine Insurance Seminar, which was held Sept. 12-14.

Mr. Catlin spent most of his allotted time trying to persuade the audience that the embattled Lloyd's would not only survive but thrive in the future.

Lloyd's has \$13.45 billion in capacity, which is larger than the combined capacities of the London Insurance & Reinsurance Market

Assn. and the Institute of London Underwriters, each of which has an estimated capacity of \$5.7 billion, he said.

And, he contended, a reduction in the number of syndicates—to an estimated 150 for the 1994 underwriting year from about 400 in 1990—is an advantage for the insurance buyer because the remaining syndicates will be larger and more efficient.

The changes recommended in Lloyd's business plan will result in growth, a better capital base and a better structure for capital management, Mr. Catlin said.

Those changes include: the introduction of limited-liability corporate capital next year; the segre-

gation of all pre-1986 syndicate accounts that remain open into NewCo., a new market-owned reinsurer; and the creation of members agency pooling arrangements, investment vehicles like mutual funds that will spread out participants' investments among a cross-section of syndicates (BI, Aug. 30).

"Investors need a reason to continue investing in Lloyd's," Mr. Catlin said. "Lloyd's has to become more efficient in order to compete."

Other efficiency-producing changes include reducing the number of decision-makers to two—the leading underwriter and the claims office—and cutting the

number of claims offices to only one: the Lloyd's Claims Office. Previously, the marine, non-marine and aviation markets each had its own claims offices.

Lloyd's solvency surplus remains at more than \$9 billion, with no bad debt, Mr. Catlin pointed out. And, he said, Lloyd's assets have high liquidity, with \$25 million held in cash and top-class securities. "There is no real estate and no junk bonds," he said.

The consolidation of capacity and syndicates will lead to fewer, larger syndicates, and therefore fewer, more professional underwriters, economies of scale, a more stable capital base and greater capacity available for successful underwriters, Mr. Catlin said.

And, Lloyd's will take advantage of its existing as well as new sources of capital: traditional names, corporate names, consortium underwriting with insurance companies and quota-share reinsurance provided by other insurance companies.

After trumpeting Lloyd's stability and security, Mr. Catlin took questions from the audience.

Asked about Stephen Merrett's recent resignation as deputy chairman of Lloyd's (BI, Sept. 13) and whether "Lloyd's names have too much power," Mr. Catlin said, "With the shortage of capacity, members can choose, quite rightfully, who represents them."

Some London market observers say that Mr. Merrett was forced to resign as underwriter of syndicate 418 due to the threatened withdrawal of support for the syndicate by several members agents.

Another attendee asked Mr. Catlin about the chances for success of a group of dissident names led by Claud Gurney, who opposes corporate membership at Lloyd's. "Mr. Gurney did not get much support at the last meeting. . . . He is a force but not a strong force. There will be a meeting Oct. 20 at which members will vote on corporate membership," said Mr. Catlin, adding that "no one knows how much corporate capital may be raised."

Asked if Lloyd's will ever change its three-year accounting system to match that of other insurers, Mr. Catlin replied that it is a possibility, "but we will have to change to an ongoing basis. I'm in favor of it. But, there will be regulatory difficulties."

Another attendee asked him to comment on NewCo., the new reinsurer that will reinsure all of Lloyd's pre-1986 business, which is plagued with heavy long-tail liability losses.

"I support it. I can see advantages for individual names. But, there is a lot of work to be done in the next two years," Mr. Catlin said.

Another question addressed a topic that weighed heavily on attendees' minds: The Oil Pollution Act of 1990, which expands pollution liability and requires responsible parties to show evidence of financial responsibility to the U.S. Coast Guard. Currently, Lloyd's offers to cover such evidences of liability on the outer continental shelf but has not offered a product to cover the new requirements. Asked if Lloyd's will issue the expanded evidences of financial responsibility, Mr. Catlin replied, drawing laughter from the audience, "I don't know. We don't know where the goalposts are. But when we do, we'll let you know."

Finally, more laughter erupted when someone asked, "Do you have an open syndicate and, if not, how did you avoid it?"

Mr. Catlin admitted, regretfully, that he does. **BI**

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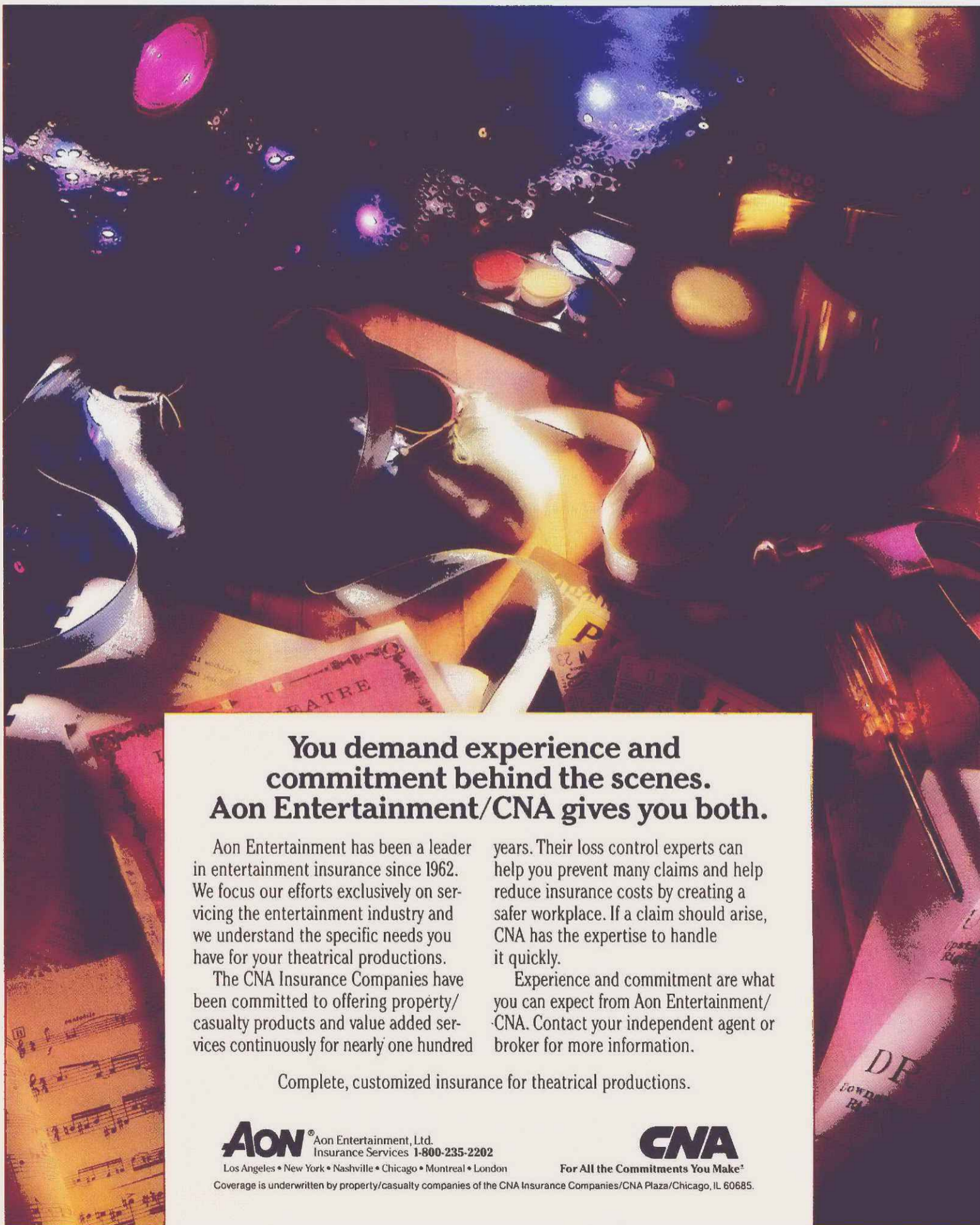
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Family benefits

Continued from page 3

said Milton Moskowitz, a Mill Valley, Calif.—based writer who compiled the list for Working Mother. These companies also tend to offer some similar benefits: alternative work schedules; adoption assistance; and subsidies for low-income parents. In addition, these companies have expanded work and family benefits outside their corporate headquarters, he said.

For example, Johnson & Johnson, which has made the list all eight years and the top 10 three times, not only has an onsite child care center at its corporate headquarters in New Brunswick, N.J., but operates three other onsite centers in Raritan and Titusville, N.J., and Fort Washington, Pa., he said.

Johnson & Johnson launched its "Balancing Work and Family Program" in 1989, a spokesman for the

health care products manufacturer said. Besides the child development centers, the company offers: resources and referrals for child care and elder care; family care leave and absences; flexible work hours; pretax dependent care reimbursements; and adoption benefits, among other things.

Not only are employers attracting and retaining more women with these programs, they are reaping other benefits.

For example, at Household International, turnover was cut to 25% in 1992 from 40% in 1989 due to its family-friendly programs, a spokesman said. Programs like flexible working hours, an onsite child care center, adoption benefits and others placed the Prospect Heights, Ill.—based financial service firm into the ranks of the best companies for working mothers for the first time.

In addition, according to the survey, 93% of new mothers at Helene

Curtis Inc. returned to work after having their babies in 1992 after the company added many family-friendly benefits.

In 1991, the company introduced its "Family to Family" program, said Felice Cota-Robles, supervisor of equal employment opportunities and family programs for the Chicago-based personal care products manufacturer. Beyond adding benefits like child care referrals and leave of absences, the program "demonstrated the overall commitment" from the company. The benefits saved the manufacturer \$360,000 in 1992 because of the lower turnover rate, she said.

These ideas "were good ideas 20 years ago," contends a spokesman for AT&T. The company made the list for the fifth consecutive year and the top 10 for the second time.

In the late 1980s, Berkeley Heights, N.J.-based AT&T asked its top executives to name their biggest

cause of stress, and they said it was their teen-age kids, the spokesman said. "If their kids are pre-occupying the minds of executives, they're not giving their full attention to their job," he said.

Now, "virtually everything working parents need is available to be taken advantage of," the spokesman said, referring to flexible hours, adoption aid up to \$2,500 and scholarships for employees' children. This year AT&T added referral services to help employees with adoption, school selection and dealing with disabled adult relatives, he said.

AT&T also uses money from its "multimillion-dollar" Family Care Development Fund to provide grants and other funding to child and elder care programs across the country, the spokesman said. "Our employees tell us they want better child care in their neighborhood" rather than onsite centers.

According to Working Mother, 51

of the top 100 employers on its list provide onsite centers.

In fact, a new onsite child care facility propelled Toyota Motor Manufacturing U.S.A. Inc. into the rankings for the first time. In the late 1980s, when the automaker's Georgetown, Ky., was under construction, it made a commitment to hire Kentucky residents, said Tom Suter, assistant general manager of human resources. This commitment resulted in many employees having to relocate to Georgetown, causing some child care concerns.

After five years of renting an off-site center, Toyota built an onsite \$7.5 million complex known as the Family Center. The complex consists of a child care center, a fitness center and a team-member facility.

The child care center, which opened in January, operates 24 hours a day and has reached its capacity of 260 kids, Mr. Suter said. "We're currently talking about expansion."

But, Toyota, whose U.S. workforce of 5,000 includes 1,200 women, was not the only traditionally male-dominated workplace to reach the top 100.

Amoco Corp., which has about 9,500 women in its 34,500-employee workforce, implemented several new work/family programs in 1993.

In addition to an onsite child care center in Houston, the Chicago-based oil giant implemented a lactation program for working mothers who breast-feed, said Brian McLintock, an in-house human resource consultant for Amoco in Chicago. Amoco now provides "healthy and private" rooms equipped with breast pumps and 24-hour consulting. About 15 employees are participating in the program.

Because of the program, women return to work sooner after maternity leave and are more productive, Mr. McLintock said.

In addition to the lactation program, flexible hours, and referral and consulting services, Amoco has a unique reimbursement program. In 1993, it recognized that when employees travel on business, they can incur incremental care expenses for children and the elderly, he said. Now, an employee can be reimbursed for up to \$750 a year for added child care and elder care expenses.

While companies like Toyota and Amoco made the list for the first time, seven-year veterans were cut.

For example, at Apple "there is not a feeling among employees that their (work/family) programs are getting lots of support," Mr. Moskowitz said. Recently, amid large corporate downsizing, the Cupertino, Calif.—based computer firm brought in an outside contractor to run its onsite child care center and has made no effort to expand it despite a lengthening waiting list, said Mr. Moskowitz. In addition, the center is "not extremely well-funded."

An Apple spokesman said that even though it is looking to cut costs, Apple has "not lessened its commitment to its family programs." The company is working on expanding its child care center, which currently accommodates 70 children, she added.

Procter & Gamble, which has always been "a progressive employee benefit company," has not been very strong in child care support, said Mr. Moskowitz. The Cincinnati-based manufacturer has failed to extend some of its programs beyond headquarters. In addition, the presence of women in management positions is "pretty wretched," he said.

A Procter & Gamble spokeswoman said there "have been no major changes in the company's policy and benefits from the previous years" when it was on the list. **B1**

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Prenatal benefits

Continued from page 3

information will highlight the company's particular needs and problems, she explained.

And, after a prenatal care program is instituted, these same statistics can be compared to determine the effectiveness of the program.

The basics of any prenatal care program are education, early recognition of women with potentially high-risk pregnancies and case management of those high-risk pregnancies, experts agreed at a conference earlier this month in Chicago sponsored by the Midwest Business Group on Health.

"The single most expensive problem" in obstetrics is preterm labor resulting in premature births, ac-

ording to Dr. John Gianopoulos, a perinatologist and director of the division of maternal-fetal medicine at Loyola University Medical Center in Maywood, Ill. A premature birth generally is considered a birth that occurs before 37 weeks' gestation. Depending on how early in the pregnancy a baby is born, neonatal care for the premature infant can cost between \$20,000 and \$400,000 or more.

Dr. Gianopoulos, who specializes in high-risk obstetrics, noted that 8% to 10% of all pregnancies result in premature deliveries.

The first line of defense against premature deliveries is determining who is at high risk of delivering a premature baby.

Most prenatal care programs recommend having a nurse conduct a telephone interview with a pregnant woman during her first trimester to determine whether she could have a high-risk pregnancy.

This interview typically covers the expectant mother's health history and lifestyle, including whether she smokes or drinks alcohol. Smoking and consuming alcohol can contribute to low birth weight babies.

Chicago-based Sara Lee Corp. offers its employees and dependents a program called "Baby Benefits" that offers free prenatal education and advice.

The program, which is administered by Health Management Corp. in Richmond, Va., begins with a telephone interview with a nurse, said Dr. Donald Hayes, Sara Lee's medical director.

This interview identifies women with a higher-than-normal risk for preterm births, and nurses are assigned to help manage the women's pregnancies. The nurses help the women comply with their doctors' instructions, provide support and encouragement and ensure that the women receive the care they need

to delay or prevent a premature birth.

While Dr. Hayes could not quantify the company's health care cost savings as a result of the Baby Benefits program, he said he does think the prenatal care program and other related wellness programs have resulted in lower health care costs.

The "time gained in utero" by prenatal care programs is essential, Dr. Gianopoulos pointed out. Even an additional one or two weeks' gestation for a baby is crucial, he said.

Since Schaumburg, Ill.-based Motorola Inc. began offering a prenatal care program to its insured women two years ago, an average of two gestational weeks has been added to the births to participating women, noted Charles Cressman, director of the BabyLink prenatal care program, a division of Tokos Medical Corp. in Santa Ana, Calif.

The BabyLink program includes an initial telephone interview, access to a free, 24-hour telephone line for information about prenatal care, three different magazines geared to the three trimesters of pregnancy, case management of high-risk cases, and a resource and referral program for women with special needs such as mothers expecting multiple babies.

Mr. Cressman said the BabyLink program costs Motorola approximately \$200 per participant, excluding the cost of incentives.

In addition to providing prenatal education and case management for high-risk pregnant women, prenatal care programs also seek to reduce the number and rate of C-sections performed on pregnant women.

While in the past there was a generally accepted medical theory that if a woman had one C-section

Continued on next page

Lactation program speeds mothers' return to work

The Los Angeles Department of Water and Power is saving money and improving morale among new mothers with a lactation program.

Double-action breast pumps are provided to department employees at 34 locations to use during breaks and at lunch.

Beverly King, director of human resources for the department, figures the program provides a \$4 to \$5 return for each \$1 it costs. Thanks to the program, babies are healthier and mothers are back at work sooner—usually about a month earlier—than they would be without the program, Ms. King said.

Not only do breast-fed babies become ill less frequently, but when they do get sick they are not as ill as bottle-fed babies, she said.

Like many other work/family programs, Ms. King said, the lactation program promotes employee loyalty, improves productivity, reduces absenteeism, reduces turnover, helps recruitment and improves the company's public image.

The department spends approximately \$500,000 a year on a variety of work/family programs, including a fathering program, parenting classes, on-site Lamaze classes, a beeper program for expectant parents, subsidized child care centers, infant cardiopulmonary resuscitation classes, support groups and a parents' resource center.

About one-third of the utility's 11,500 employees participate in at least one work/family program, Ms. King said. The most popular is the parenting class.

Dr. Betty Lowe, vice chairwoman of the American Academy of Pediatrics in Elk Grove Village, Ill. suggested that companies interested in ensuring proper children's health care consider paying for childhood vaccines.

"You're going to recoup your investment many times" in lower future health care costs for dependents if all children are properly immunized, Dr. Lowe said.

Furthermore, first-dollar coverage for most of the major childhood vaccines for children from birth through 5 years old costs less than \$5 per month per family, she said.

—By Deborah Shalowitz

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Mizel has high hopes for new broker

Markets

SAN FRANCISCO—A newly formed insurance brokerage plans to become one of the world's 20 largest brokers within five years.

The new company, San Francisco-based United States Insurance Services, will acquire medium-sized to large insurance brokerages that serve middle-market commercial and industrial businesses, said USI Chairman Bernard H. Mizel, who formerly was chairman of American Business Insurance Inc. and Jardine Insurance Brokers Inc.

Mr. Mizel's goal is to build a brokerage generating revenues of \$140 million within five years through the acquisition of "fewer than 20 agencies."

To meet that goal, USI is "targeting brokerages with \$5 million to \$25 million in commissions," he said.

"We hope to finalize our first acquisitions by the end of the year or the first quarter of 1994," Mr. Mizel said, noting that agency principals have been discussing the sale of their agencies to USI. "People come to us with deals nearly every day."

The brokerages that are being targeted by USI are niche-oriented firms "that have excelled in providing value to a certain segment of the community," Mr. Mizel explained.

USI's target clients include companies "with 250 to 1,000 employees who need the help of specialists, not generalists," Mr. Mizel said.

While he is not ruling out any specialty, among the niches that USI is investigating are professional liability, environmental liability, surety and association programs.

"We won't rule anything out if it meets the criteria of specialization," Mr. Mizel explained.

"We will not be everything to everybody," he said, adding that he considers USI to "be an alternative to, rather than a competitor of, the alphabet brokerages."

Baby benefits

Continued from previous page
Each subsequent pregnancy would require another C-section, that theory has been dismissed, Dr. Giannopoulos noted.

In approximately 60% to 80% of cases in which a woman had a C-section, a subsequent vaginal birth can be successful, he said.

The cost difference between the two birthing methods is significant: A vaginal birth cost an average of \$4,720 compared with \$7,826 on average for a C-section delivery, according to the Health Insurance Assn. of America in Washington.

To ensure the success of a prenatal care program, several experts recommended that employers offer incentives to encourage women to participate.

For example, Motorola gives each pregnant woman who enrolls in its prenatal care program within the first 16 weeks of pregnancy a \$100 U.S. savings bond in the name of the child, said Mr. Cressman. And, all participants in the program receive a baby blanket with the child's name on it after the birth.

The WBGH's Ms. Jacobson suggested offering free child car seats and diaper bags.

It is also important to continually market and communicate the program as the population of pregnant women changes, Mr. Cressman pointed out. **BI**

Besides offering retail brokerage services, USI also will provide wholesale brokerage services and what Mr. Mizel calls "financial services," which include claims adjusting, benefit consulting, annuity sales, pension plan administration and similar services.

The company will be divided into five geographic zones, each headed by a president who will oversee the agencies acquired by USI in each zone.

The presidents, who will be shareholders in the company and sit on an executive committee, will coordinate operations so that the strengths of agencies in each

zone can be shared by other USI-owned agencies.

The acquired agencies will maintain their separate identities after they are purchased by USI, he said.

In addition, USI plans to form a relationship with a London brokerage and plans to build the capability to service companies with operations in Europe and Asia, Mr. Mizel said.

Following the model he established at ABI, which is currently being acquired by Acordia Inc. (*BI*, Aug. 30), Mr. Mizel foresees USI maintaining only a "small holding company staff to provide corporate services to the agencies. The real power will lie with the zone presidents," he said.

The private equity financing for

USI is being led by Saratoga Partners, an investment fund composed of several partnerships that invest equity in corporate acquisitions. Saratoga is managed by New York-based investment bank Dillon, Read & Co.

Mr. Mizel founded ABI in 1984. Under his stewardship, ABI became the world's 19th largest brokerage with revenues of \$116 million in 1991.

That same year, he left the company because of a difference in philosophy concerning ABI's growth with its ultimate parent, Cincinnati-based American Financial Corp. (*BI*, June 29, 1992). After leaving ABI, Mr. Mizel served as a consultant to Poe & Associates Inc., now Poe & Brown Inc., before forming USI.

HMO America buyout

MINNEAPOLIS—United HealthCare Corp. has completed its acquisition of HMO America.

Each issued and outstanding share of HMO America stock was exchanged for two-thirds of a share of United HealthCare stock. Chicago-based HMO America had approximately 10.2 million shares of common and preferred stock outstanding, plus outstanding options to acquire approximately 1.3 million shares of common stock.

The acquisition gives Minneapolis-based United HealthCare the largest managed health network in the Chicago area, including divisions Chicago HMO Ltd. with 300,000 members and Share Illi-

Continued on next page

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Continued from previous page
nois with 102,000 members.

Arkwright research

WALTHAM, Mass.—Arkwright Mutual Insurance Co. has formed and retained a controlling interest in a scientific research company.

The company, Integrated Diagnostic Measurement Corp., owns technology for evaluating pressure vessels and equipment such as boilers, steam piping and turbines through computerized tomography similar to medical CT scans.

Arkwright also has formed a wholly owned subsidiary, Arkwright Technical Services, to market the technology.

ATS will provide equipment evaluation and analysis to industries that rely on pressure vessels and heavy machinery, like paper mills, electric utilities and chemi-

cal plants.

Agency network

BALTIMORE—Two Baltimore insurance agencies have merged to form the East Coast insurance network of American Phoenix Corp.

American Phoenix is a subsidiary of Phoenix Home Life Insurance Co. of Hartford, Conn.

J.B. Schaftel Co. and Poor, Bowen Bartlett & Kennedy Inc. reported combined 1992 revenues of \$21.1 million.

Peter A.B. Hoblitzell Jr., chairman of Poor, Bowen Bartlett & Kennedy will serve as chairman of the merged firm.

Stuart Schaftel, president of J.B. Schaftel Co., will be vice chairman, and Robert B. Schaftel, Schaftel's executive vp, will serve as president and chief operating officer.

NIS forms two EPOs

TAMPA—National Insurance Services has linked up with the Admar Group Inc. of Santa Ana, Calif., to form and manage exclusive provider networks in Florida.

The EPOs will help Tampa-based NIS organize community health alliances that will provide more affordable health care coverage and increase the company's market penetration.

NIS, a wholly owned subsidiary of Pan-American Life Insurance Co., specializes in coverage for small-employer health care plans. Admar develops, markets and administers managed health care services for insurers and self-insured companies.

PacifiCare acquisition

CYPRESS, Calif.—PacifiCare Health Systems Inc. has signed a

definitive agreement to acquire California Dental Health Plan, a provider of prepaid dental benefits.

Pending approval by the California Department of Corporations, the acquisition will be final on Oct. 1.

PacifiCare also agreed to acquire Dental Plan Administrators, an affiliated company that provides administrative services to CDHP and other companies.

Upon completion of the acquisition, PacifiCare will offer CDHP dental and vision programs to its clients through its managed care company, PacifiCare of California. CDHP will continue to market independently, providing dental and vision benefits to 450,000 members.

Name changes

The Professional Review Orga-

nization for Washington has changed its name to **PRO-West, a Professional Review Organization.**

Seattle-based PRO-West contracts with governmental agencies, private employers, union trusts, third-party administrators and insurers to monitor health care utilization management and quality assurance.

Eastern Aviation & Marine Insurance Co. has changed its name to **U.S. Specialty Insurance Co.** In addition to its core business of aviation and marine, the St. Peter, Mo.-based company will also focus on providing products to financial institutions and short-term health care coverage for travelers.

Westchester, Ill.-based Premier Hospitals Alliance Inc. has changed its name to **Premier Health Alliance Inc.**, because its membership now also includes health systems and networks.

New offices

Maxson Young Associates Inc. has opened a new office in the Atlanta area. The address is 5659 Peachtree Parkway, Norcross, Ga. 30092; 404-242-2640, fax: 404-242-2641.

DAVID Corp. has relocated its Southern sales office to Dallas from West Palm Beach, Fla. The new office address is 2121 San Jacinto St., Suite 2400, Dallas, Texas 75201; 214-978-3690. ■

Washington

IRS approves trusts' use of settlements

By MARK A. HOFMANN

WASHINGTON—The Internal Revenue Service recently approved the use of structured settlements by certain trust funds established to resolve claims in mass tort cases.

The action came in response to a petition from the National Structured Settlements Trade Assn., which last year asked the IRS to clarify whether structured settlements could be used to resolve claims in mass torts and class-action suits that involve physical injury.

The NSSTA wanted to know whether structured settlements—which involve paying damages to an injured party over a specified period rather than as a lump sum—could be used in cases where a trust fund had been created to handle claims from a large group of people who had been injured by a single product or event.

Such trust funds had emerged during the 1980s as a popular way to deal with individual injury claims. Congress in 1986 responded to the growing popularity of these trust funds for individual claimants by enacting Section 468-B of the Internal Revenue Code, which allowed such trust funds to be used to settle class-action and mass tort cases.

IRS guidelines on implementing Section 468-B were finally released in 1992. However, the guidelines did not make clear whether the trust funds created by Section 468-B could enter into a structured settlement arrangement, as was allowed with individual claimants.

NSSTA then asked for clarification.

Continued on next page

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Washington

Continued from previous page
tion of this issue. Attorneys for the association argued that whether a person was hurt in a car accident and filed an individual claim, or was injured by a defective product and joined a mass tort action, should not determine whether that person could accept a structured settlement from a trust fund.

The IRS agreed and last month issued Revenue Procedure 93-34, clarifying that trust funds created under Section 468-B may enter into structured settlements.

OSHA committee report

The Occupational Safety and Health Administration's advisory committee on construction safety and health will meet on Sept. 30 in

Washington to receive a working group report on standards for protecting workers from falls.

The advisory committee recommends standards and policies to OSHA aimed at protecting construction workers from workplace hazards, such as falls. The 15-member committee has employer, employee and government representatives.

The committee's working group will present recommendations on the development of an interim policy for uniform enforcement of fall protection requirements. The meeting, which is open to the public, begins at 9 a.m., in Room S-4215A-B of the Frances Perkins Building at 200 Constitution Ave. N.W.

Product liability reform

The Senate Commerce Committee will approve a product liability reform bill by the end of the year,

predicts Sen. John D. Rockefeller IV, D-W.Va., the bill's chief Democratic sponsor.

Subcommittee hearings on S. 687 were scheduled for Sept. 23. If the full committee approves the measure, the bill will go before the Judiciary Committee and could reach the full Senate next year, Sen. Rockefeller said. "I feel pretty good, but I'm not ready to declare victory." Federal product liability reform bills have been introduced in every Congress since 1980, but all have died.

Sen. Rockefeller said that five senators who voted against ending debate on similar measure last year, thus allowing the bill to die, have told him that they will support this bill. S. 687 currently has 40 sponsors, 33 of them Republicans.

A similar measure in the House has gained momentum since Rep. John D. Dingell, D-Mich., recently signed on as a co-sponsor. **BI**

Comings & Goings: Buyers

Harnischfeger names assistant treasurer

John A. Spies, 36, has been promoted to assistant treasurer of Harnischfeger Industries Inc.

Mr. Spies is responsible for the Milwaukee-based company's worldwide property/casualty risk management program, including insurance placement and claims handling, and for the funding and investment of funds for the savings and pension plans.

He also serves as vp of the materials-handling equipment manufacturer's two captive insurance companies, one in Vermont and

the other in Bermuda.

Mr. Spies reports to Ian Lambert, vp/treasurer. Prior to joining Harnischfeger in 1990 as director of risk management, Mr. Spies was director of corporate services at Nicolet Instrument in Madison, Wis., and corporate risk manager at Minneapolis-based DataCard Corp.

He holds several professional designations: Chartered Property & Casualty Underwriter, Associate in Risk Management, Associate in Loss Control Management, and Certified Safety Professional. Mr. Spies is a director of the Wisconsin chapter of the Risk & Insurance Management Society Inc. and serves on the International Section Committee of the Society of CPCU.

His other professional affiliations include the Manufacturers Alliance for Productivity & Innovation and the American Society of Safety Engineers. He holds a bachelor's degree in natural science from St. John's University in Collegeville, Minn.

Bette J. Brinkerhoff has joined Arthur J. Gallagher & Co. as vp-human resources. In this position, she will direct and continue to develop employee benefits, compensation programs and other human resources programs.

Ms. Brinkerhoff reports to Michael J. Cloherty, vp-finance and a director of the Itasca, Ill.-based broker.

Prior to joining Gallagher, Ms. Brinkerhoff was with underwriter manager Wm. H. McGee & Co Inc. in New York. Prior to that position, she had been vp-human resources for Frank B. Hall & Co. Inc. in Briarcliff Manor, N.Y.

Ms. Brinkerhoff earned a bachelor of arts degree in sociology and psychology from George Washington University in Washington, and a master's degree in human resources management from the New School for Social Research in New York.

Harold C. Strong, 49, has joined Thiokol Corp. as manager of risk management. Mr. Strong is responsible for the Ogden, Utah-based company's primary casualty and marine insurance programs, as well as its many self-insured programs, including: general liability, product liability, workers compensation, aviation and automobile.

Mr. Strong reports to Terry L. Gilbreth, director of risk management.

Prior to joining the aerospace and defense contractor, Mr. Strong was vp-risk management for Cooper/T. Smith Stevedoring Co. in Mobile, Ala. He is a deputy member of RIMS.

Mr. Strong earned a bachelor's degree in business management from the University of South Alabama in Mobile.

Business Insurance would like to report on staff changes in your company's risk management, safety and employee benefits departments. Just drop a note to Rosanne White, Copy Editor, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590, or call 312-649-7785. Please send a photograph, too. **BI**

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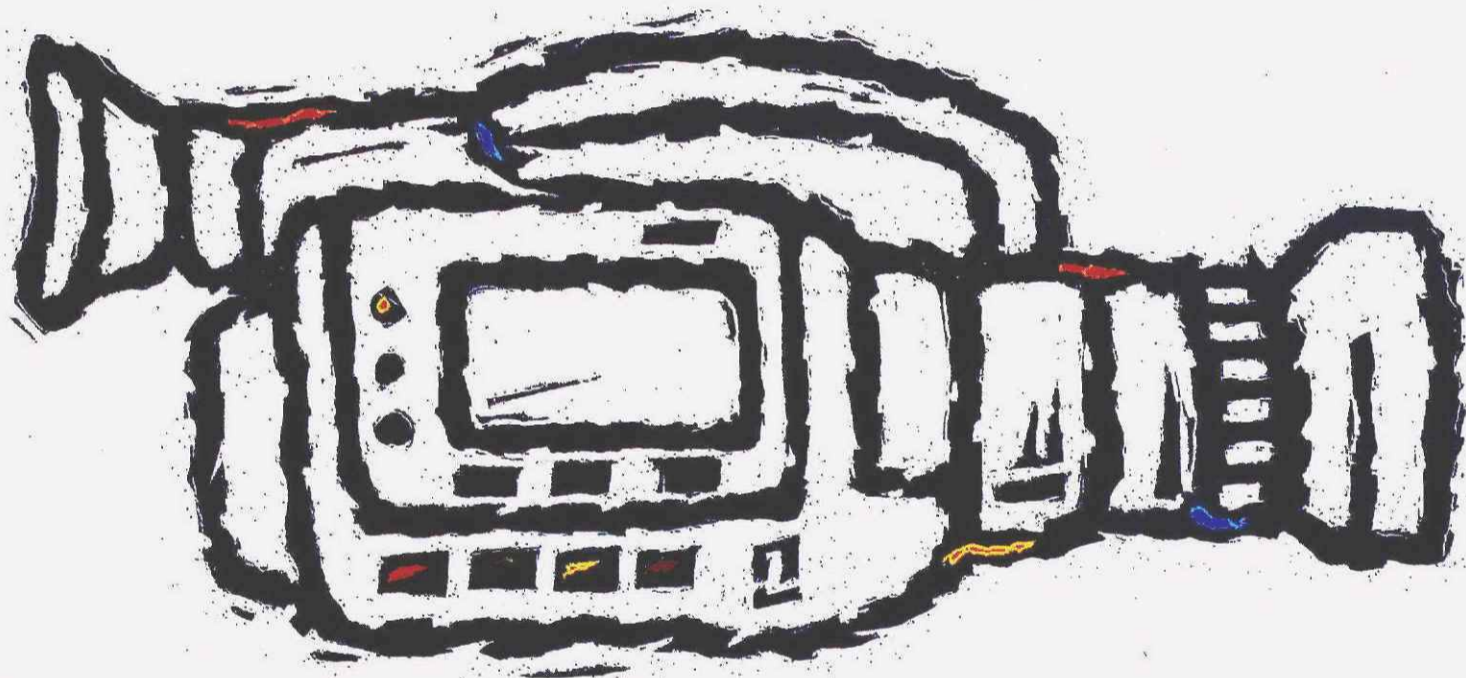
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A video camera turned out to be a useful tool for returning injured fish processing workers

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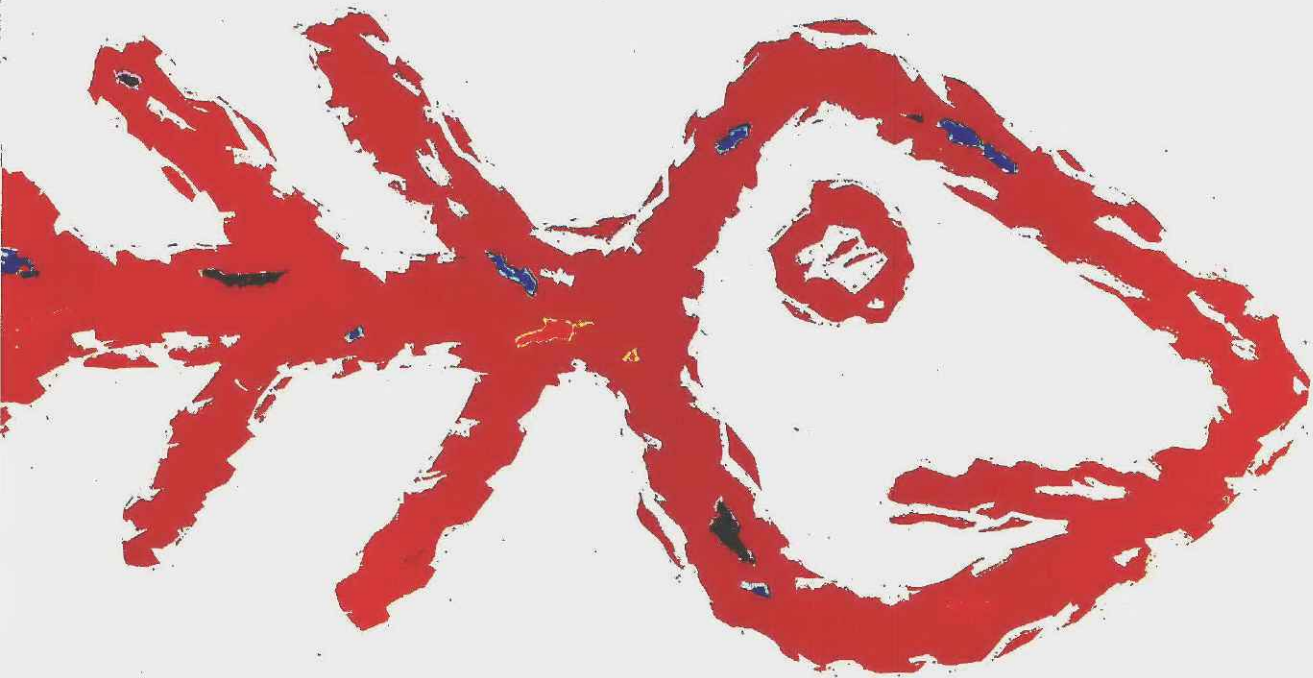
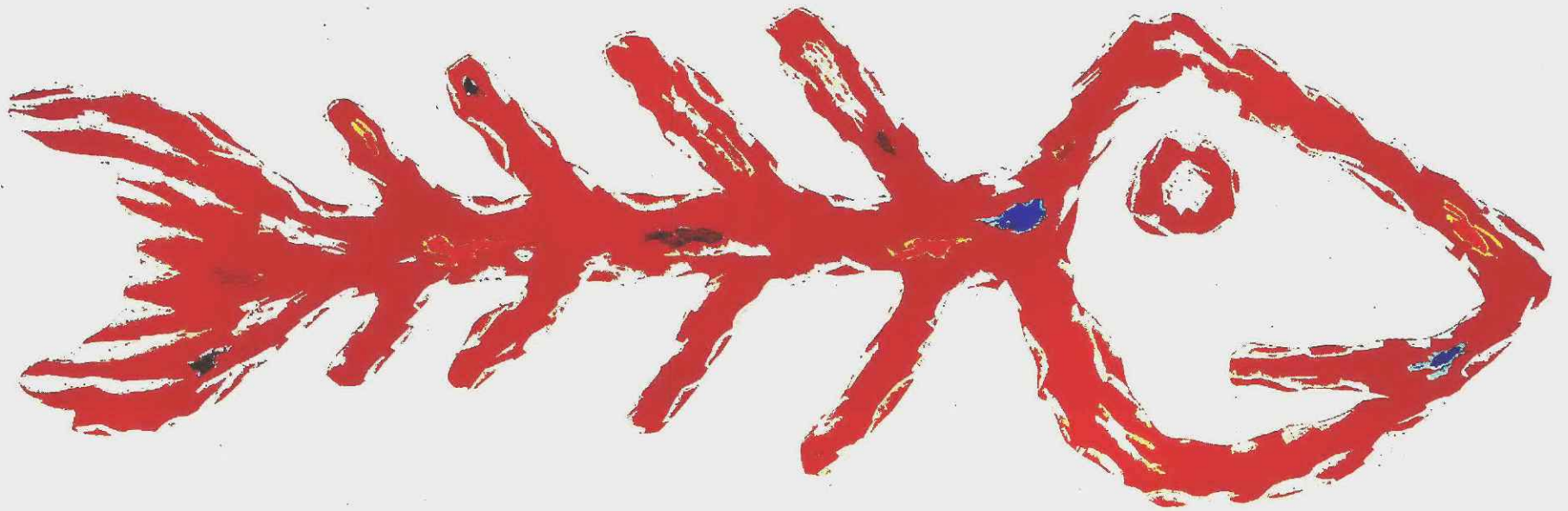
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IN THE MATTER OF
THE COMPANIES ACT 1985 OF GREAT BRITAIN
AND

MUTUAL REINSURANCE COMPANY LIMITED
- and -
IN THE MATTER OF
THE COMPANIES ACT 1981 OF BERMUDA

NOTICE IS HEREBY GIVEN that by Orders dated 30 July 1993 and 4 August 1993 made in the above matters in the High Court of Justice (England) and in the Supreme Court of Bermuda respectively separate meetings are to be summoned of the Scheme Creditors (as defined in the Scheme of Arrangement hereinafter mentioned) for the purpose of considering and, if thought fit, agreeing to a Scheme of Arrangement ("the Scheme") proposed to be made between the above-mentioned companies (together "the Scheme Companies" and each a "Scheme Company") and the Scheme Creditors hereinafter mentioned, namely:

1. the Scheme Creditors other than those who are Protected Policyholders (each as defined in the Scheme of Arrangement); and
2. the Scheme Creditors who are Protected Policyholders (as so defined).

Such meetings will be held at Alexandra Palace, Wood Green, London N22 4AY on 17 November 1993 at the times mentioned below, namely:

1. in the case of the Scheme Creditors other than those who are Protected Policyholders:

- (a) the meeting of Kingscroft Insurance Company Limited at 2.00 p.m.;
- (b) the meeting of Walbrook Insurance Company Limited at 2.05 p.m.;
- (c) the meeting of El Paso Insurance Company Limited at 2.10 p.m.;
- (d) the meeting of Lime Street Insurance Company Limited at 2.15 p.m.;
- (e) the meeting of Mutual Reinsurance Company Limited at 2.20 p.m.; and

2. in the case of the Scheme Creditors who are Protected Policyholders:

- (a) the meeting of Kingscroft Insurance Company Limited at 2.25 p.m.;
- (b) the meeting of Walbrook Insurance Company Limited at 2.30 p.m.;
- (c) the meeting of El Paso Insurance Company Limited at 2.35 p.m.;
- (d) the meeting of Lime Street Insurance Company Limited at 2.40 p.m.;
- (e) the meeting of Mutual Reinsurance Company Limited at 2.45 p.m.;

* or as soon thereafter as the previous meeting shall have concluded or been adjourned

at which place and respective times all the said Scheme Creditors are requested to attend.

Each Scheme Creditor or his proxy will be required to register his attendance at the meetings he is entitled to attend prior to their commencement. Registration will commence at approximately 12.30 p.m.

The chairman of the meetings will address Scheme Creditors generally on the Scheme and on the issues relevant to voting at the commencement of the first meeting.

The Scheme is proposed between each Scheme Company and its Scheme Creditors, being creditors in respect of any claim arising out of a liability to which the Scheme Company is subject at the date of the Scheme or to which it may become subject thereafter by reason of an obligation incurred before that date, except any claim which would have been preferential under applicable statute in a liquidation of that Scheme Company or a claim in respect of the costs or expenses of the Scheme (both of which will be payable in full).

On a liquidation of a Scheme Company, certain creditors would be entitled to protection under the Policyholders Protection Act 1975. The Policyholders Protection Board has agreed to join in the Scheme and to make payments in accordance with its terms to any Scheme Creditor who, being a Protected Policyholder, would be entitled to protection under the Policyholders Protection Act 1975 on a liquidation of a Scheme Company and who, in addition, is eligible for protection under section 16(9) thereof.

Any creditor of one or more of the Scheme Companies who is or believes that he may be entitled to attend the relevant meeting of a Scheme Company against which he has a claim may obtain a copy of the document containing the Scheme and an explanatory statement in compliance with section 426 of the Companies Act 1985 of Great Britain and, in addition, in relation to Mutual Reinsurance Company Limited only, section 100 of the Companies Act 1981 of Bermuda, and the forms of proxy for use at the meetings, from the Provisional Liquidators of the Scheme Companies at Coopers & Lybrand, St Andrew's House, St Andrew Street, London EC4A 3AY or at the office of the below-mentioned Solicitors at the address given below.

Memoranda on the Policyholders Protection Act 1975 and on the Ackman appeal in proceedings in relation to the said Act are contained in Appendices XIV and XV to the explanatory statement. Any person who is in any doubt whether he is a Scheme Creditor of a Scheme Company and, if so, a Scheme Creditor other than a Protected Policyholder, or a Scheme Creditor who is a Protected Policyholder, should consult his own legal adviser without delay.

Scheme Creditors may attend and vote at the relevant meetings in person or by proxy and are, in any event, requested to complete the forms of proxy and return them to the Provisional Liquidators of the Scheme Companies at Coopers & Lybrand, St Andrew's House, St Andrew Street, London EC4A 3AY by 5.00 p.m. on 12 November 1993 (London time), although if not so returned they will be accepted at any time prior to the commencement of the meetings (and may be handed in no earlier than 12.30 p.m. on the day of the meetings at the place fixed for them).

By the said Orders the courts have appointed Christopher John Hughes or, failing him, Ian Douglas Barker Bond or, failing him, Gareth Howard Hughes to act as chairman of the meetings and have directed the chairman to report the results thereof to the respective courts.

The Scheme will be subject to the sanction of the High Court of Justice (England) and the Supreme Court of Bermuda.

Clifford Chance
200 Aldersgate Street
London EC1A 4JJ
Dated 8 September 1993.

Solicitors to
I D B Bond and C J Hughes
Provisional Liquidators
of the Scheme Companies

Did you arrange insurance through the "Weavers Stamp"?

If you arranged insurance for yourself or your clients with the Weavers Stamp between 1972 and 1990, or through the "Drivers Stamp" in the same period, you need to know that five of the insurance companies in the Stamps cannot pay claims in full, and face liquidation. They are:

Kingscroft Insurance Company Limited
Walbrook Insurance Company Limited
El Paso Insurance Company Limited
Lime Street Insurance Company Limited
Mutual Reinsurance Company Limited

Kingscroft was variously known as "Dart", "Dart and Kraft" and "Kraft" Insurance Company Limited; Lime Street was formerly Louisville Insurance Company Limited.

Any holder of a policy or contract of insurance in which any one or more of the companies participated may be a creditor of them, either now or in the future.

An alternative to Liquidation

Ian Bond and Chris Hughes of Coopers & Lybrand have been appointed Provisional Liquidators of all the companies (referred to together as "KWELM") by the High Court of Justice (England) and also, for Mutual Reinsurance, the Supreme Court of Bermuda.

Ian Bond and Chris Hughes have proposed, as an alternative to liquidation, a Scheme of Arrangement under the Companies Acts of England and Bermuda. The purpose of the Scheme is to enable the companies to pay their creditors a percentage of their claims as they are agreed, whilst retaining sufficient cash assets to pay the same percentage to creditors whose claims are agreed later.

The Scheme of Arrangement cannot go ahead unless it is approved by creditors. The Courts have authorised meetings of creditors to consider and, if thought fit, approve the Scheme. These meetings are to be held on 17 November 1993 at Alexandra Palace, Wood Green, London, England. Holders of policies or contracts of insurance in which the companies participated may vote at the meetings or appoint a proxy to do so.

Find out more

A series of presentations has been arranged to brief policyholders and their brokers or other advisers on the Scheme, and to answer their questions. Meetings will be held at 2.00 p.m. (local time) as follows:

Date	Venue
27 September 1993	London Press Centre New Street Square London EC4A 3JB
7 October 1993	Roosevelt on Madison Avenue 45 East 45th Street New York, NY 10017
8 October 1993	The Westin Hotel 909 North Michigan Avenue Chicago, Illinois 60611
12 October 1993	Hyatt at Los Angeles Airport 6225 West Century Boulevard Los Angeles 90045
14 October 1993	Hotel Nikko Atlanta 3300 Peachtree Road NE Buckhead Atlanta, Georgia 30305
15 October 1993	Grapevine Convention Center 1209 South Main Street Grapevine, Texas 76051 (Near Dallas/Fort Worth Airport)

For more information call the Provisional Liquidators on ++44 71 212 8120 (UK 071 212 8120), or write to them at KWELM, St Andrew's House, 20 St Andrew Street, London EC4A 3AY, United Kingdom. Full details of the Scheme are available on request.

Taming disability costs

By Stanley S. Jakubowski

RUNNING A BUSINESS today entails managing a variety of challenges, all of which have the potential to drain the bottom line if not managed well. Long-term disability represents one area that can cost employers thousands of dollars. But until quite recently, long-term disability claims were viewed by many managers as part of the cost of doing business. That's about to change.

No longer can employers and insurers sit back and wait for long-term disability costs to run their course or return to employment status. With pain-related disability costing American businesses and insurers \$160 billion a year, management must develop the same aggressive attitude toward managing long-term disability cases that it has used in its recent battles to gain control over workers compensation costs. Some companies have begun applying firm cost-cutting methods in an effort to bring some control to this area, a harbinger of the new generation of LTD management.

For the better part of its existence, long-term disability has been regarded as an unpleasant, but necessary, cost of being in business. Over the years, many companies have supported disabled workers, sometimes for 30 years or more, wondering if a less costly alternative existed.

Even those employers that were enlightened enough to consider some form of intervention for a disabled worker relied almost exclusively on traditional methods of vocational rehabilitation to prepare the disabled employee for alternative employment.

All that has changed. With a greatly reduced pool of available jobs, the prospect of alternative employment has disappeared for many disabled workers. That combined with dwindling profit margins, means employers can no longer afford to take a passive "wait and see" attitude toward LTD cases.

This new focus on aggressively addressing long-term disability cases has manifested itself in three key trends: a movement toward medical case management, the growing popularity of placing LTD clients in their own businesses, and an increase in consulting.

Until quite recently, the idea of employing medical case management in an LTD case was a foreign concept, and one that was certainly not supported by the disability policy. With today's economic realities, however, few employers or insurers can afford not to explore every tool available to them in controlling costs.

Aggressive medical case review makes especially good sense for cases that languish in the limbo of "not medically stable." For this reason, soft tissue injuries, in particular, are excellent candidates for a medical review. A prolonged prognosis of "unstable" may actually prove to be a case with great potential for rehabilitation, provided a skilled, medically trained case worker is asking the right questions.

In one case, for instance, a physician classified an employee as disabled because a back sprain prevented him from climbing stairs, lifting more than 15 pounds or standing for long periods—all basic requirements in his job as a building foreman. As far as the physician—and even the patient—was concerned, the former building manager was relegated to the status of unemployed and disabled.

Sensing that the case was going nowhere, the insurer took the unusual step of assigning it to a medical case management team. After careful review, the nurse handling the case recommended that the patient undergo four to eight weeks of work hardening in an effort to strengthen the injured back muscles. The physician concurred that the patient would be approved to return to work if he successfully completed the work hardening program. The insurer agreed to pay for the program. In return for its investment of several thousand dollars in a work hardening program, the insurer saved an estimated \$50,000 that would have been required to support the disabled individual.

LTD innovations pay off for firms

Increasingly, insurers are offering to pick up the cost of a medical case review for an LTD case in the hopes that it will bring quicker resolution to the case. Experience suggests that as many as 30% of all LTD cases could see some dramatic savings by applying medical case review techniques.

A review can also prevent needless and expensive testing when early diagnosis can bring quicker resolution to a case. Diagnosing probable multiple sclerosis early in a case, for example, can save significant administrative cost in processing the claim, given the clear-cut outcome of that disease.

As always, the sooner case management is applied, the greater the chances of its success. Studies show that if a worker has not returned to work within two years, there is only a 15% chance that he or she will ever come back. Occasionally, medical case review can bring meaningful benefits even at the short-term disability stage. At this stage, patients are frequently under the care of a family physician who may be inclined to practice very conservative medicine in view of the personal relationship shared with the patient.

The second trend under way in the LTD treatment field is the growing popularity toward establishing disabled workers in their own businesses as an alternative to ongoing wage replacement payments. This option has grown increasingly popular in light of the depressed economy; with the shrinking pool of possible jobs, fewer options for alternative employment exist for many disabled individuals.

In one case, a heavy manual laborer became disabled when a series of back injuries left him unable to perform his job. A case manager quickly uncovered the following information: The individual's wife owned and managed her own hair salon, and his brother-in-law managed gas stations. A history of successful entrepreneurship existed within the family. Furthermore, the former laborer expressed interest in investing in a company, and in fact, had been eying a vacant gas station on a busy corner.

A small business expert was called in and prepared a 40-page report that rated the location a "high potential" business site. Equipment and financing needs were tallied, showing that between \$20,000 and \$30,000 were needed to start the business. Most importantly, it was discovered that the former laborer could manage the gas station without any physical labor, thanks to the support and involvement of his family.

The company closed the case for \$30,000, which set the worker up in his new location, where he and the station have prospered. For a \$30,000 investment, the insurer saved itself an additional \$30,000 that would have gone out in wage replacement payments.

This option does not make sense for all—or even most—LTD cases. But for the ones that lend themselves to this approach, the outcome can be very successful.

For a particular LTD case to qualify as a "new business set-up" case, the following worker characteristics should be present:

- An active interest in another line of work and an identified business he or she would like to invest in. It's important that the individual—not a consultant—be the source of this idea. Forcing someone into an occupation that is not a good match rarely succeeds.
- Some experience in the line of business under consideration. An effective LTD case manager, through probing questions, will discover whether the worker held a job in the past or worked a second business on the side that provided that all necessary experience.
- Genuine motivation to start and support a business. It's not enough to guess at the client's motivation; an assessment by a vocational expert is crucial.

- Access to a network of supporters.

Entrepreneurship is a lonely vocation, and it's important that a candidate have a group of individuals—family, friends or professional mentors—who will provide support along the way.

If a case meets all of the above criteria, the next step is to call in a small business expert who is qualified to examine the business potential of the opportunity. It's critical that only a qualified small business expert perform this step. In particular, the consultant will focus on the following:

- Does a market exist for the product or service?
- Is the geographic location viable?
- What will the business require initially from a funding standpoint?
- What additional expenses (such as advertising and marketing materials) will be involved?
- What income is expected to be generated?

Ideally, a new business set-up will provide at least the same income as the disability payments, and in some cases more. The employer, insurer and disabled worker should all consider up front—and get in writing—the options to be pursued if the business should fail.

With the average long-term disability case now costing an employer \$130,000 or more, many have begun examining what they can do to prevent such cases. Some employers, especially ones that have seen a sudden increase in LTD claims or a trend of many similar types of claims, have begun requesting assistance from LTD consultants.

A qualified consultant will perform an analysis of past and current LTD cases in an effort to identify steps that might reduce the incidence of further cases. The consultant may spend several weeks or more at the company, studying past and current LTD cases, examining various jobs performed, studying personnel policies and the overall environment of the company.

The key to a successful analysis of a company's cases is to combine the expertise of a nurse, who performs medical reviews of cases, with a review by a vocational expert, who studies the situation from a rehabilitative standpoint. The findings can be illuminating. Among the most common causes of LTD cases that might have been prevented are:

- Environment problems. In some instances, simple job modifications can prevent disabilities. One of the most common preventive steps for back strain, for example, is adjusting the level of a worker's desk.
 - Personnel policies. Many companies lack written policies that enforce safety training, one of the most effective means of controlling long-term disability incidents.
 - Procedural problems. One recent review revealed that a company with a spiraling number of claims for lower back disorder has been sending all of its workers to the same doctor, whose conservative, non-intervention approach to treatment had relegated all the workers to LTD status. Once a second medical opinion was obtained, many of the workers were judged able to return to work.
- Long-term disability cases need not be suffered as a cost of being in business. By turning the same aggressive cost containment measures toward LTD that have yielded cost savings in the workers compensation arena, employers and insurers have the potential of saving thousands of dollars. Applying steps such as medical case management, new business set-ups and preventive consulting, managers may come to view long-term disability not as a vacuum that sucks away at profitability, but as an area that holds great potential for cost savings. **BI**



Stanley S. Jakubowski is director of LTD/STD Account Services for General Rehabilitation Services Inc. in Wayne, Pa.

Even the best-laid plans...

By Margarita M. Smith

EVERYBODY SEEMS to be getting a "conceptual" these days. What is that? Is it definite in form? Did the process of inviting conceptual proposals take the place of "going out to the market for bids" or is it a prelude?

In fact, it is a good idea for the risk manager to establish a definition of "conceptual" before inviting anyone to participate. Risk managers typically solicit a conceptual from their current agent or broker and one or two others to determine if a better level of service is available.

Although it is the duty of the risk manager to communicate this information to the agent/broker, there is always a degree of mysticism that accompanies the invitation. Sometimes, even when the right questions are asked, the explanations can be vague, not to mention uninformative.

Don't automatically blame the risk manager, though; maybe he or she is not even sure. The suggestion may have come from the company's financial officer. Often, the suggestion for a conceptual proposal originates not at the risk management level, but rather at the treasurer level. At any rate, a summary of what the risk manager is looking for can be elusive.

It is an easy enough task for the risk manager to arrange a parade of conceptual presentations for the benefit of the department and for top management. But it's not such an easy task for the broker/agent to organize and deliver without a good understanding of what is expected.

Some things to consider include:

- The goal. Before any energy is exerted, an important and highly recommended step is to understand what the desired outcome is, what the final product will do or accomplish.

To maximize the results of this effort—which after all takes a lot of valuable time and often taps the expertise and creativity of the top people in the broker's organization—the goal should be discussed and clearly understood. This discussion should take place between the risk manager and each of the participating agents. This is a good test of communication between parties and, let's face it, when all is written and bound, the communication is

Clarity is clearly a good approach

one facet of the conceptual proposal that is most critical to the maintenance and well-being of whatever program is eventually decided upon. Clear and effective communication during the conceptual process will most likely stay that way during the relationship.

- Purpose. Determine and communicate to the brokers whether you are interested in substantial change from the existing program vs. simply an improvement of coverage. Is the company rebounding from a bad experience with an insurer or broker? Is price the object, or is it service?

- Scope. Is the conceptual to cover several lines, or is it limited to specific lines such as property or casualty? Is this an opportunity to replace one broker or more than one? Who are the other brokers?

- Retention/risk attitude. It is important, too, that the risk manager share the general risk attitude of the company with the agent/broker. Are higher deductibles acceptable or even preferable? Is the company averse to self-insurance programs? Is the company looking for improvements to, or replacement of, the current program? Is the company risk averse, or is the company seeking comfort from unexpected or financially threatening casualties? Is the company seeking cash-flow relief?

- Servicing cost elements. Like all business considerations, the bottom line will be cost. Determine upfront whether fees or commissions are preferred. If fees are preferred, do they vary with degree of service provided? Does the company expect loss-control assistance? If not, will the company accept such assistance? Reluctance on the part of the company to implement recommended changes can interfere with the success of a program.

- Target dates. The presentation date of the conceptual is as important as the effective date of the program. It is here that the pace is set.

Make sure adequate time is allowed for questions and requests for additional information, which are bound to come in once the conceptual specifications are relayed to the brokers. Give the brokers adequate time to make the necessary preparations. You know your company's decision-making style and the

amount of time it normally takes to obtain a consensus on a decision. Be sure there is more realism than optimism when communicating this to the brokers.

- Delivery. While it may be presumed that whatever is promised during the conceptual will in fact be delivered, such will not be the case, particularly if the conceptual did not give authority to contact the marketplace.

Remember that the number of markets is limited, and that dividing the marketplace among the participating brokers is not practical and not in the best interest of you, the insured. Hence, in addition to the presentation and effective dates mentioned above, specify a firm delivery date.

Too often, the agent/broker will initiate a grandiose presentation. They'll bring in their best people, make it professional, spare no expense. The underlying belief from the agent/broker perspective is that it's now or never. Be fair to your own company and staff as well as to the participating agent/brokers.

First, make sure they don't send you a full-fledged band when you are expecting a soloist.

Secondly, make sure the agent/broker introduces its local talent as well as that of the corporate office. After all, you most likely will want the local talent to be involved and aware of all that goes on with the program. A fragmented program under which no one person takes responsibility for seeing to it that all your needs are taken care of is doomed to fall by the wayside.

And lastly, remember that no matter how wonderful a program is on paper, it can only be as effective as the people behind it. **BI**



Margarita M. Smith is risk manager for Fruehauf Trailer Corp. in Southfield, Mich.

Cleanup costs covered by CGL policy

Cleanup expenses incurred because of toxic waste contamination at the site of a company's former manufacturing facility pursuant to a consent decree entered into with the EPA constituted "damages" within the meaning of a comprehensive general liability insurance policy, according to the 9th U.S. Circuit Court of Appeals.

Intel Corp., a manufacturer of semiconductors, had maintained a number of production facilities in Northern California during the early 1980s, including a site at Mountain View, Calif. As part of its manufacturing process, Intel used chemical solvents classified as "hazardous substances" within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

These chemicals were stored in an underground tank. The Mountain View facility was discontinued in 1980. Intel's lease ran until 1984, so before subletting the property, it commissioned soil sampling and testing of the grounds.

The tests revealed the site was

Legal Briefs

contaminated by hazardous waste solvents present in both the soil and in the ground water. Intel began cleanup. It also entered into a consent decree with the EPA for the purpose of decontaminating the site.

From 1976 until 1983, Intel was insured under a series of CGL policies issued by Hartford Accident & Indemnity Co. covering property damage caused by an "occurrence" except for damage arising out of pollution unless the latter was sudden and accidental.

Intel sought reimbursement from Hartford for the cleanup costs. Hartford refused. Intel sued Hartford and won in trial court.

The Court of Appeals concluded that Intel had established that the environmental damage was unexpected and unintended and thus, constituted an "occurrence" within the meaning of the CGL policy.

Furthermore, the court said that expenses Intel incurred pursuant to the consent decree constituted "damages"

within the meaning of the policy. According to the court, the term "legally obligated to pay" in the CGL policy covered injunctive relief and recovery of response costs.

Intel Corp. vs. Hartford Accident & Indemnity Co., 9th U.S. Circuit Court of Appeals, Dec. 24, 1991 (BI/02/S.-copies not available).

Escape clauses overruled

In a case of first impressions interpreting Arkansas law, the 8th U.S. Circuit Court of Appeals held that escape clauses in two fire insurance policies were mutually repugnant and both policies would share pro rata liability.

At the time of a fire that destroyed two poultry houses owned by Kenneth Pike, he held insurance policies on the houses with underwriters at Lloyd's of London and Farmers Mutual Insurance Co. of Gentry.

Each policy contained an escape clause avoiding liability for a loss if other insurance covered the poultry houses. Lloyd's filed suit seeking a declaration on the liability of the

respective insurers. The trial court found Lloyd's liable for the face value of its insurance policy and Farmers not liable.

The appellate court said that the coverage of insurance policies containing equivalent escape clauses was a matter of first impression in Arkansas. Generally, the court pointed out, when each of two policies contain escape clauses, the clauses are mutually repugnant, and the loss will be pro-rated.

A review of Arkansas law convinced the court that the trend of Arkansas cases was to follow this conclusion.

As a result, the court remanded the case instructing the trial court to assign each insurer's pro rata liability to Mr. Pike.

Underwriters at Lloyd's vs. Pike, 8th U.S. Circuit Court of Appeals, Oct. 21, 1992 (BI/03/Aug.-\$10). **BI**

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

Differentiating Canadian risks for insurers

By MICHAEL SCHACHNER

Less litigious society deserves lower rates, broker says

HALIFAX, Nova Scotia—In order to avoid being underwritten like a U.S. risk, Canadian risk managers must make every effort to inform underwriters of the differences between their liability exposures and those of a company south of the



border, a Canadian insurance broker says.

While Canadian companies generally pay far less for their liability insurance than their U.S. counterparts, less-than-aggressive brokering or misperceptions by U.S. underwriters occasionally can leave Canadian risk managers facing higher casualty premiums than they should be paying, he said.

Because much of Canada's commercial insurance is written in the United States, it is incumbent upon Canadian risk managers and brokers to continually pressure U.S. insurers to make amends for Canada's lower loss ratios and less litigious society, he insisted.

Most commercial risks in Canada are insured with U.S. companies because the number of insurers and amount of capacity in Canada is a fraction of that available in the United States.

"On liability, Canadian companies generally are receiving the pricing differentiation they deserve, but only if they do business solely in Canada. But when there's U.S. sales or a U.S.-based facility involved, that's a whole other kettle of fish. The market becomes much more restrictive and pricing resembles that of the 1985-1986 liability crisis," said Eckart Russell, senior vp with Johnson & Higgins in Montreal.

"Here, accidental pollution is insurable as opposed to the U.S., where it's a nightmare. We live in a responsible country with predictable courts. The story is totally different on the other side of the border," Mr. Russell said during a session at the 15th annual Canadian Risk & Insurance Management Society conference, held Sept. 16-18 in Halifax, Nova Scotia.

Mr. Russell asserted that the overall property/casualty loss ratio in Canada since 1987 has been about 70%, compared with more than 80% in the United States.

Driving that loss ratio in the U.S. has been America's "bizarre" civil justice system, he said.

"Americans love to sue; while in Canada—while we're not totally unfriendly to litigation—we look at it as something to avoid," Mr. Russell said.

"Litigation just isn't as much a part of our society here. That's why the uncertainty develops only when a U.S. exposure enters the picture. Insurers are rightfully concerned about high legal costs associated with frivolous lawsuits," he said.

At the heart of the cavernous and costly U.S. legal system are punitive damages, said Mr. Russell. "The whole idea of punitive damages makes no sense. Isn't it irrelevant how the accident occurred?" he asked.

Mr. Russell also assailed the U.S. plaintiffs' right to a jury trial, pain and suffering awards and class-action lawsuits.

"Juries are notorious in the United States for granting the

most outrageous and ludicrous awards. In Canada, there is no constitutional right to request a jury trial in tort cases," he pointed out.

"Pain and suffering (awards are) a concept I don't fully understand. If those types of damages are awarded in Canada, they're capped at \$200,000 Canadian (\$151,300). In the U.S., it accounts for one of the largest portions of many awards.

"And class actions aren't easily put together here because there's no method to prefund the case. In the U.S., lawyers prefund the case knowing there's a huge contingency payoff at the end if they win or extract a settlement. You

take these things and combine them and it's easy to see why the awards get so big in the U.S.," he said.

Lastly, Mr. Russell took a shot at the theory of joint and several liability.

"It's just not logical, but it takes place quite frequently. It's scary to think that a company that's only 50% responsible for an accident or injury could be required to pay 100% of damages," he said.

Canadian companies must protect themselves to the best of their abilities by constantly striving to inform underwriters of the difference between their risk and that of an American firm, he said.

"We need to better inform un-

derwriters. All parties must communicate better. Risk managers need to put information together to present to their underwriter, and this includes reinsurance," he said.

Mr. Russell acknowledged that Canadian risks are a "small fish in a big pond," and that it isn't easy "getting underwriters to pay attention to us."

"We as brokers and risk managers need to do some squeaking to ensure that we get some oil. We have to keep on doing what we're doing, and that's to try to get that loss ratio down toward zero," he said.

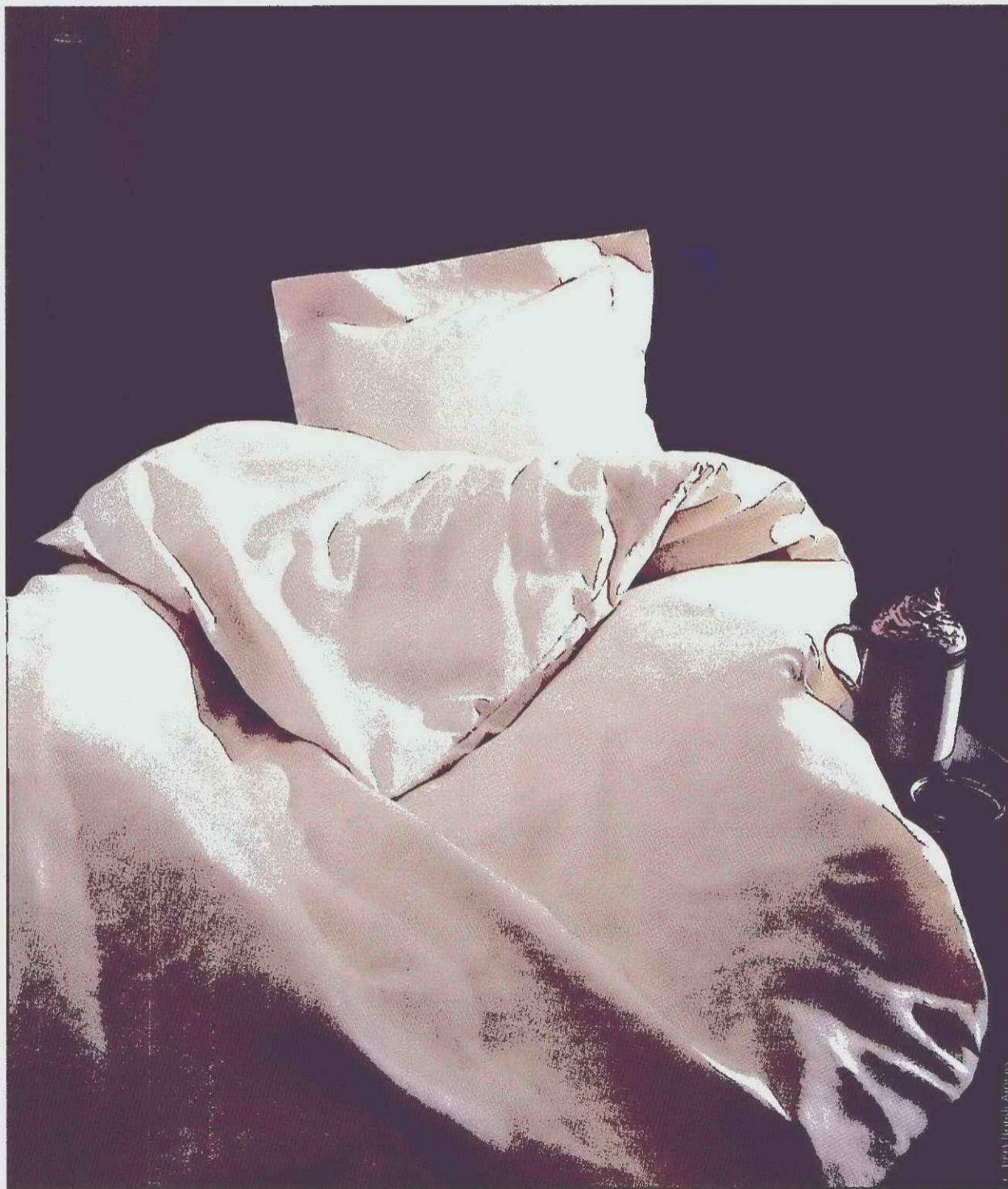
But, Udo Nixdorf, a vp with Chubb Insurance Co. of Canada in

Toronto, said Canadian risk managers are battling from a seriously disadvantaged position. "We need critical mass before a fair pricing system can evolve. We at Chubb don't buy reinsurance for Canadian risks separately. Canada's not even 10% of our book of business," he said.

In addition, Canada never escaped being grouped into the global market when the liability crisis hit full steam in 1985-1986, Mr. Nixdorf said. "In retrospect, that was a mistake that Canada will probably not escape from. But I do think that Canadian companies are generally priced very low."

Marc Darby, risk manager with Bombardier Inc. in Montreal, moderated the program. **B**

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Canada feels crunch of big-market woes

New risk management tools needed

By MICHAEL SCHACHNER

HALIFAX, Nova Scotia—The Canadian property/casualty insurance market, though only a fraction of the size of other major international markets, is being influenced by many of the same factors affecting the larger U.S. and European



markets, according to an official at a large North American property insurer.

An increasing frequency and severity of catastrophes, higher catastrophe reinsurance pricing, a changing business climate and the increased use of technology are changing the way Canadian risk managers coordinate insurance programs for their companies, said Ronald E. Davis, vp with Arkwright Mutual Insurance Co. in North York, Ontario.

"Canada is really just a microcosm of the world. We have very little domestic reinsurance or primary capacity, so the driving forces of the Canadian market are virtually the same as what is driving the U.S., Europe or Japan," he said.

Mr. Davis, speaking at a session during the 15th annual Canadian Risk & Insurance Management Society conference, held Sept. 16-18, said the increased frequency and severity of natural and man-made disasters is causing rates for Canadian property coverage to escalate, even though Canadian risks have not experi-

enced poor loss results relative to American property risks.

"Catastrophe losses (in the U.S.) have been getting worse in every year since 1988, and 1993 is shaping up to be another poor year. The beach-front malls, industrial plants and senior citizen communities that didn't exist 50 years ago are all sitting in the Hurricane Belt. We're being hurt by a combination of more insured property than ever before as well as what appears to be a changing weather pattern," Mr. Davis said.

The most severe change in property pricing is occurring at the catastrophe reinsurance level, he said, where rates have as much as doubled within the past year (BI, Sept. 20).

In addition, the companies writing changed dramatically.

"The mix of cat reinsurers has changed. The market has moved away from London to the U.S. and Bermuda. Overall, there are newer and fewer players in this market, leading to reduced capacity, higher net retentions and higher prices," Mr. Davis commented.

Another factor causing global insurers to raise pricing on Canadian property risks is a changing business climate defined by an ever-growing number of plant closings and layoffs.

"Preventive maintenance at industrial sites is being reduced every day. Experienced employees are being laid off almost every day. There's much less loss control on high-value property, which leads to less than prudent busi-

Continued on next page

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'Every year since 1988 the industry has surpassed its one-in-100-year catastrophic loss projections. Something has to give. Insurers are living largely off the disposal of large amounts of their bond portfolios,' says Richard Cutfield.

Continued from previous page
ness decisions and higher business interruption exposures," he said.

Lastly, Mr. Davis said the job of Canadian risk managers is becoming both easier and more complex by the spread of risk management information technology.

"Information systems are improving management and impacting the cost of doing business. There are fewer offices and redundancies because of electronic communication, single-source data entry and relational data bases. It's all leading to more strategic risk management with dwindling staffs and reduced budgets," he asserted.

The bottom line of these emerging trends is that risk managers must more carefully select their insurers, seek data base support and steadfastly plan for disasters, according to Mr. Davis.

"Disasters are becoming increasingly expensive. Disaster planning is at a premium," he said.

While Mr. Davis primarily chronicled the Canadian property market, John Bryce, vp-casualty with Liberty International Insurance Co. in Toronto, forecast massive and sudden casualty rate increases in the very near future.

"I believe there will be rate increases like there were eight years ago. I make this prediction because we don't ever learn from our past activities. We're still in a record soft market, so don't be surprised by a massive overswing.

"Mind you, I don't welcome this type of change because it ruins our credibility, invites regulatory intervention and causes midterm remarketing of accounts. But I do believe it will happen," Mr. Bryce said.

He also downplayed what he called a growing belief within the industry that the Canadian casualty insurance market will evolve until there are only a few massive primary insurers and equally huge reinsurers.

"I strongly believe small companies will continue to emerge within the casualty market. I just cannot foresee a handful of massive super-insurers. We can't have six or so super-insurers being re-insured by another six super-reinsurers. There will always be gaps to fill," he said.

And on the topic of Lloyd's of London's struggle to revitalize itself, Mr. Bryce said Lloyd's will survive and possibly thrive again.

"Lloyd's is not run by the type of people who would sit around and do nothing. It's a dynamic group and with corporate investors, a new business plan and fuller disclosure, the future of Lloyd's looks good," Mr. Bryce said.

A broker's perspective of the Canadian market was offered by Richard Cutfield, a senior vp with Marsh & McLennan Cos. Inc. in Calgary.

He said pricing on property and casualty risks could escalate when insurers stop enjoying the riches of the mature bonds they recently cashed in and if casualty loss experience turns for the worse.

"Industry surplus grew from \$63.4 billion in 1986 to \$230 billion in 1992, but losses on underwriting have grown to \$35 billion

excess of \$229 billion in premium volume. The combined ratio of the North American market is at about 116%, and every year since 1988 the industry has surpassed its one-in-100-year catastrophic loss projections. Something has to give. Insurers are living largely off the disposal of large amounts of their bond portfolios," Mr. Cutfield said.

Joe Hardy, risk manager with The Oshawa Group Inc. in Etobicoke, Ontario, moderated the session. **BI**

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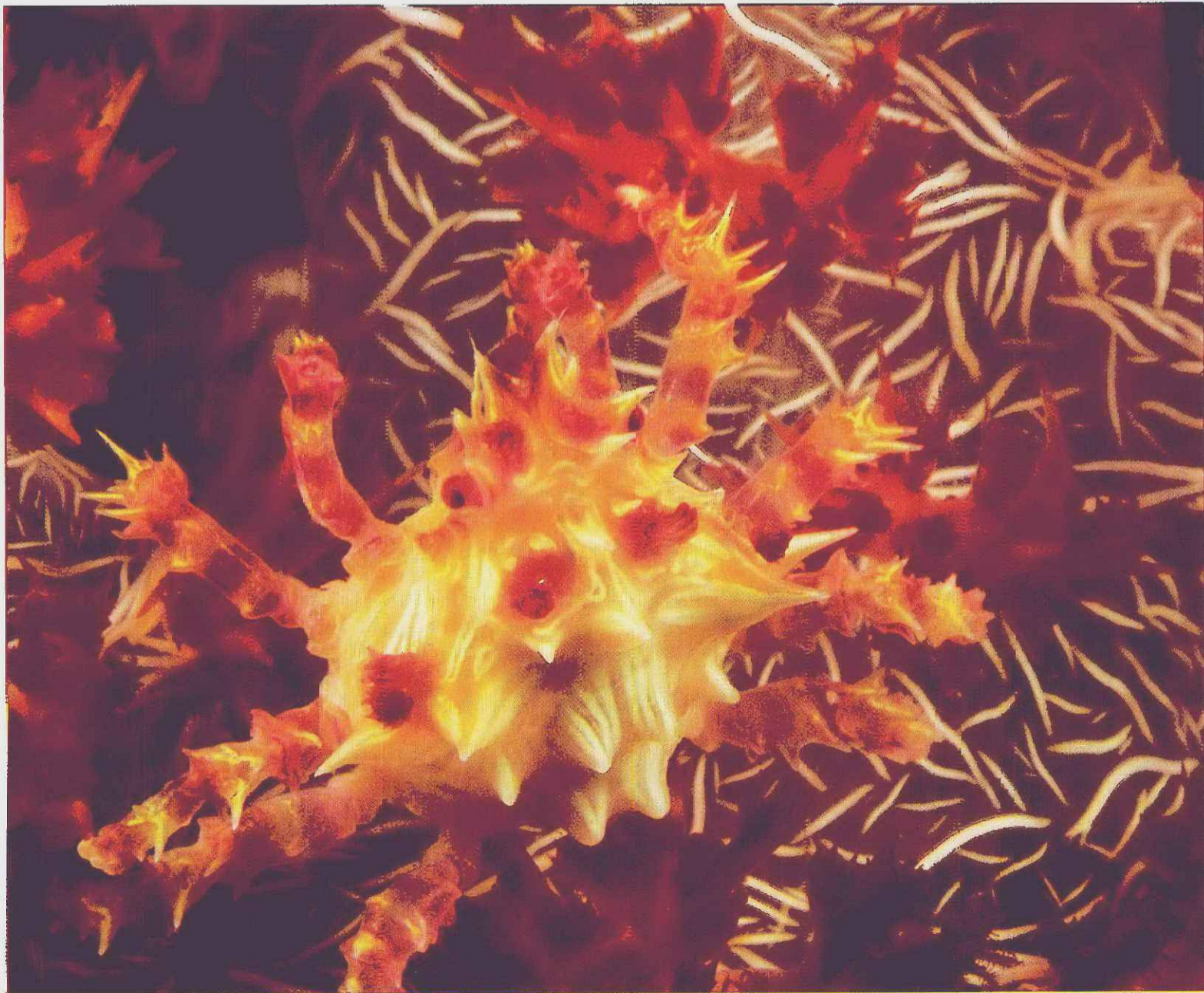
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Captives offer options: Risk manager

By MICHAEL SCHACHNER

HALIFAX, Nova Scotia—In addition to tax advantages, captive insurers provide a formal funding vehicle that allows Canadian risk managers to offer detailed financial figures to top management, says the risk manager of a large Canadian retailer.

"There really is no mystique about captives. They're a very simplistic risk-financing tool open to most risk managers at large companies," said Kenneth Murphy, risk manager at Hudson's Bay Co. in Toronto. "Besides the tax deferral and tax minimization that comes with a captive, they allow risk management to compete with profit centers within a company."

Speaking at the 15th annual Canadian Risk & Insurance Manage-

ment Society conference, held Sept. 16-18 in Halifax, Nova Scotia, Mr. Murphy said captives are a perfect vehicle to insure unusual risks at lower costs.

"Captives allow the risk manager to unbundle and select only the necessary services they need. We have three captives in three different domiciles for that reason," he noted.

Captives also permit risk managers to directly access the reinsurance market without any of the "frictional" costs normally associated with conventional insurance, like administrative fees and broker-related costs.

"Captives provide consistency in coverage, improved risk management control, reduced need for conventional coverage, stability and internal claims administration. They can require very little overhead and, best of all, it allows top management, which usually looks only to profit centers, to see risk management as a vital player in the corporation," he said.

However, captives are not a pure "bowl of cherries," he warned. "Captives have some disadvantages. They require a large capital commitment and they do not allow you to spread risk.

will generate a return on investment for the parent company."

But relative to the option of maintaining the status quo, which is to simply renew conventional insurance policies at quoted

'There really is no mystique about captives. They're a very simplistic risk-financing tool open to most risk managers at large companies,' says Kenneth Murphy, risk manager at Hudson's Bay Co.

There is no variability of financial results. They either work out or they do not."

And once again, Mr. Murphy brought up the fact that captives have to compete with corporate profit centers all the time. "Most businesses have defined profit-driven divisions. Captives have to compete with these divisions without the guarantee that they

prices, captives may be a better option, added William J. Morgan, managing director with Alexander Insurance Managers (Canada) in Vancouver.

"Renewing policies at a guaranteed cost is easy to budget for because you just pay your premium and you're on your way. But this is likely to be your highest-cost choice," Mr. Morgan warned.

Another risk-financing choice open to risk managers is increasing deductibles and taking higher self-insured retentions, he said. Or, risk managers may choose to retrospectively rate their policies, whereby they pay a minimum premium and could pay more at the

end of the year depending on loss experience. "We don't see much of this, however. It's a cheaper method than paying a standard premium but probably costs more than taking a high deductible."

By conducting a risk analysis to gauge expected losses, a risk manager can determine the best strategy he or she should use to insure the risks.

For example, a risk manager may find that the company's risk-financing needs are best met through higher retentions or deductibles, different types of retrospective policies or through a captive.

"What you'll find out here is that you stand to gain the most investment income from a captive," Mr. Morgan said. "By keeping that premium yourself, you get the income on the investment, unlike any standard insurance contract where the insurer is getting that investment income on your premiums."

Once the captive route has been decided upon, the next step for the risk manager is to choose a proper domicile.

Mr. Morgan outlined several criteria to use when picking a domicile:

- Political stability of the domicile

Continued on next page

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Continued from previous page
cile. "You don't want to go to a domicile where it's possible that your assets could be seized. You want it to be around 10 years from now," he said.

• Communication and infrastructure to allow immediate contact with resident captive managers.

• Enabling legislation because "there has to be something there that makes running a captive less burdensome from a regulatory standpoint than other domiciles," Mr. Morgan said.

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"For Canadian firms, the best domiciles are British Columbia because of its very low fees, Bermuda for its one-stop shopping, Barbados for its tax treaty with Canada, and Dublin, Ireland, for its easy access to the E.C.," Mr. Morgan said.

"But what it all comes down to is: Where is there a domicile that allows you to lower your income taxes? You'll pay tax in all domiciles, whether you're doing only Canadian-related business or not, but the ones I mentioned all are tax-friendly, and the Canadian Office of Revenues allows you to deduct premiums paid to captives in all these domiciles," Mr. Morgan said.

Barry Shakespeare, risk manager of Westcoast Energy Inc. in Vancouver, moderated the session. **BI**

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Canadian RIMS held in Halifax

HALIFAX, Nova Scotia—About 500 Canadian risk managers and exhibitors attended the 15th annual Canadian Risk



& Insurance Management Society conference, held Sept. 16-18 in Halifax.

The conference was opened by a Highland

brigade complete with Scottish pipers, and later featured 25 educational sessions on risk and insurance management issues in Canada and throughout the world.

Keynote speakers included Dr. Jane Fulton of the University of Ottawa, who addressed the issue of health insurance in Canada, as well as Knowlton Nash, an anchorman on Canadian television news, and Steven Gerber, director of corporate communications with Gerber Products Co. in Chicago.

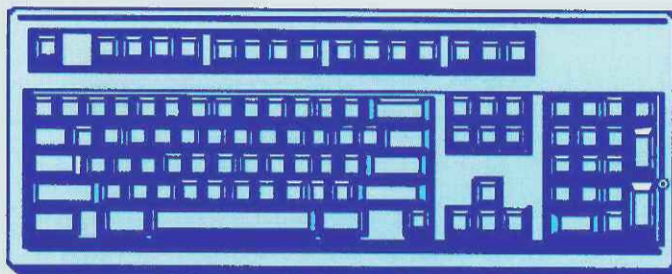
"As risk managers, our ability to impact the corporate bottom line has never been greater," said Tony Bridger, risk manager with the Bank of Montreal in Toronto, during an address at the conference's opening session.

"We're no longer insurance caretakers and we must see well beyond what we currently do to achieve a desired effect for our organizations," said Mr. Bridger, who is president of the Risk & Insurance Management Society Inc.

"This year's conference was a tremendous success that exceeded our expectations," said Robert Patzelt, group corporate counsel and risk manager with Scotia Investments Ltd. in Bedford, Nova Scotia, and chairman of this year's conference.

"Harvest '94—Reap the Benefits" is the theme of next year's Canadian RIMS gathering, which will be held Sept. 11-14 at the Westin Hotel in Winnipeg, Manitoba.

For more information, contact Mary Lynn Moffat at IN-KA Project Development Ltd., at 204-949-1653; fax: 204-956-1700; or Mike McAndless, manager of risk and insurance with United Grain Growers Ltd. in Winnipeg, at 204-944-5442.



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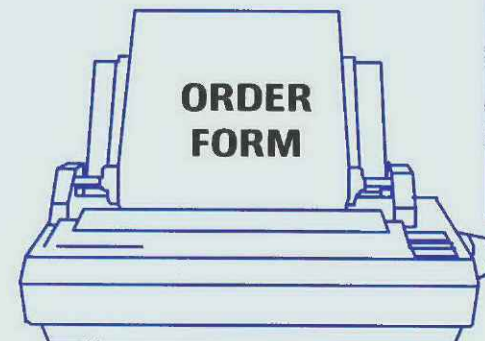
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Risk managers learn from disasters

By MICHAEL SCHACHNER

HALIFAX, Nova Scotia—Ten natural and man-made disasters beginning with Hurricane Hugo in September 1989 and culminating with the Great Midwest Flood in July provide risk managers with valuable lessons about how to protect their companies against uninsured losses.

First and foremost, these disasters underscore the need for a company to have emergency contingency plans. They also exemplify the importance of obtaining insurance policies that are carefully and clearly worded so that insurers cannot deny coverage.

"What these catastrophes showed is that contingency plans are vital. Those companies that had contingency plans in place when these disasters struck fared much better than those without them," said Don A. Wilks, senior manager with Deloitte & Touche's Risk Management Consulting Services Division in Dallas.

Speaking at a session on how to prevent uninsured losses at the 15th annual Canadian Risk & Insurance Management Society conference earlier this month, Mr. Wilks and Larry Moeller, a principal/partner with Deloitte in its Calgary office, emphasized that no risk manager can buy a perfect insurance policy.

Therefore, risk managers must seek carefully worded manuscript policies from their underwriters "because insurers will interpret (standard) policy language to the detriment of policyholders whenever possible," said Mr. Wilks.

The consultants highlighted some of what was learned from each of ten disasters:

- Hurricane Hugo.

"This is where we learned the value of cellular telephones" in case conventional phone lines are damaged, Mr. Wilks said.

The devastating 1989 hurricane also taught the risk management community that a powerful hurricane can cause lengthy service interruptions, thus requiring companies to have specific off-site service interruption insurance and extra-expense coverage with a generous time limit (*BI*, Sept. 25, 1989).

- The Loma Prieta earthquake.

This temblor, which hit the San Francisco Bay area on Oct. 17, 1989, caused \$8 billion to \$10 billion in overall damage (*BI*, Oct. 23, 1989). It demonstrated how important it is for risk managers to set property deductibles at a fixed amount, not as a percentage of a claim or a percentage of property value, said Mr. Wilks.

A set-dollar amount deductible "will almost always amount to less than a percentage deductible in a large-case disaster like this," he said.

- The Phillips Petroleum Co. plant explosion.

This 1989 explosion in Pasadena, Texas, is one of the largest man-made disasters in U.S. history, said Mr. Moeller, noting that it caused \$1.5 billion in overall damage and resulted in about 265 liability claims against Phillips (*BI*, Oct. 30, 1989).

"This showed us not to underestimate the maximum financial loss. This explosion exhausted Phillips' policy limits," Mr. Wilks said.

Also, some companies that relied on Phillips products were insured against lost business resulting from a lack of supplies. But those that weren't lost business, Mr. Moeller pointed out.

The value of having a good public relations and media relations department was underscored during extensive media coverage of the Phillips case, according to Mr. Moeller.

- The Chicago flood.

This 1992 disaster—in which an antiquated tunnel system that ran beneath the city's financial district was flooded by the Chicago River—also emphasized how important off-premises power loss protection is, said Mr. Moeller.

While many buildings in the affected area weren't damaged at all,

the area had no power for days. But without off-premises service interruption coverage, many policyholders without actual physical damage were left without coverage for business interruption (*BI*, April 20, 1992).

- The 1992 Los Angeles riots.

This disaster taught risk managers that there's a difference between coverage for riots and protection against vandalism, Mr. Wilks said (*BI*, May 4, 1992). "A lot of policies excluded acts of civil unrest or acts of war. We now say 'Make sure that property in volatile areas of major cities has no exclusions for this type of occurrence.'"

And, because so much inventory was lost in the looting that accompanied the rioting "we learned that it's important to get a sales price

endorsement as opposed to just a cost of finished product endorsement. Retail is higher than wholesale," Mr. Wilks said.

- Hurricanes Andrew and Iniki.

These devastating 1992 storms taught risk managers never to underestimate the potential for massive losses (*BI*, Sept. 21, 1992; Aug. 31, 1992).

And, risk managers found out that getting full reimbursement in one chunk from insurers facing massive claims is virtually impossible. "Small amounts were paid quickly, but significant advances were slow in coming. So if you can get payment procedures written into your contract, do it," he advised.

- The World Trade Center bombing.

This terrorist attack in February

underscored the importance of high-level security in high-profile facilities as well as avoiding exclusions for acts of war or terrorism (*BI*, March 8).

And, the evacuation that occurred in the aftermath of the bombing showed how important periodic fire drills are.

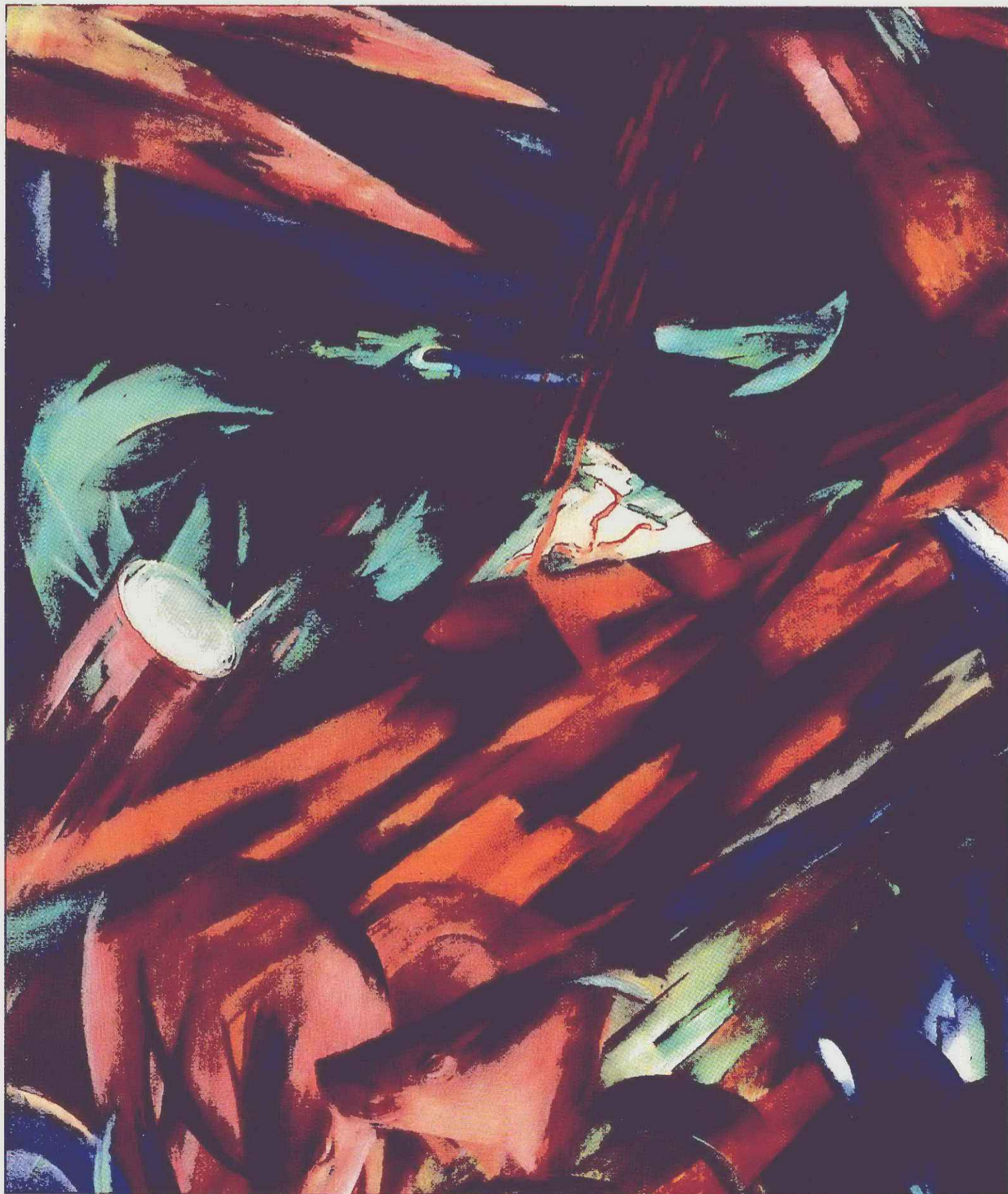
- The Blizzard of '93.

This March snowstorm, which struck the entire Eastern seaboard, underscored the importance of having business interruption that's not triggered by actual physical damage (*BI*, March 22).

- The Midwest Floods.

This summer's Mississippi River flooding showed that flood coverage in standard policies is limited or non-existent and that service interruption can apply to a loss of water, not just electricity, as was shown in Des Moines and St. Joseph, Mo. (*BI*, July 19; July 12).

BI



B.R.I.

Continued from page 1

Fire & Casualty Co., a defunct offshore insurer banned by regulators in several states and now being liquidated in Tennessee. Anchorage obtained the stock in 1991 in exchange for shares of two mutual funds, one of which was later declared a fraud and shut down by the SEC (see story, page 39).

UFG's most recent filings, though, indicate improvement. Net income increased more than six-fold in the first six months of the year—to \$1.3 million from \$205,344 in first-half 1992. And the shareholders equity deficit has narrowed to negative \$6.3 million from negative \$8.6 million, according to its first-half 10-Q filing.

"I don't think anyone who reads our 10-Q today has any question

about our viability," said Howard Miller, UFG's senior vp, adding that the brokerage is resolving its problems with the SEC and the American Stock Exchange.

Cost-cutting measures put in place last year cut first-half expenses about 13% from 1992 levels.

The company had only 89 employees at year-end 1992, down from 207 employed by B.R.I. at the end of 1991. Mr. Miller said staff has been cut mainly from unprofitable operations and that neither cost-cutting nor acquisition-related problems have hurt client service.

"I would say that business is looking better than it has in the last couple of years," he said.

The company's first-half results were "very impressive to AMEX," he said, acknowledging that "there was a problem" with the potential delisting of UFG's stock



'I don't think anyone who reads our 10-Q today has any question about our viability.'

Howard Miller

but "we think we've conquered that."

The company may also drop its plans to use the Marshall Islands guarantees to raise money and is pursuing plans for a private placement of UFG stock, he added.

Nevertheless, UFG still has hurdles to clear with the SEC: The agency last month raised several new questions about the company's amended 10-K filing.

SEC analysts found, among other things, that UFG may have significantly overvalued its investment in common stock of a formerly affiliated oil and gas company. The stock represented more than a third of UFG's reported \$31.5 million in year-end 1992 assets.

UFG is expected to file a second amended 10-K report soon, but won't be able to go ahead with its private placement until the filing

is complete, Mr. Miller said.

Founded in 1974, B.R.I. was privately held for nearly two decades by its chairman, Donald P. Ferrarini, and a group of its executives.

The New York-based firm has offered a variety of brokerage, consulting and management services through its subsidiaries. In addition to the retail brokerage business of B.R.I. Coverage Corp., the firm's operations include:

- B.R.I. International Agency Inc., a reinsurance broker.

- White House Agency Inc., a life insurance and employee benefits unit.

- B.R.I. Management Services (Cayman) Ltd., a Cayman Islands captive management arm that operates International General Insurance Co. Ltd., a Cayman-based B.R.I. underwriting unit.

B.R.I. Management clients also included ReCo Ltd. and Association Insurance Co. Ltd., two now-defunct Cayman insurers operated by Florida businessman Anthony J. Damoulis (BI, Sept. 20).

For several years, B.R.I. ranked as one of the largest U.S. insurance brokers based on revenue figures the company supplied to *Business Insurance*.

Those figures, however, were far higher than those the company is now giving the SEC. For example, while B.R.I. publicly reported 1990 revenues of \$35.2 million—making it the country's 20th-largest broker—an audited financial statement filed last month with the amended 10-K reports 1990 revenues of only \$18.7 million.

For 1989, B.R.I. had reported revenues of \$32.9 million, while audited financial statements report revenues of only \$19.7 million.

Mr. Miller said the figures supplied to *Business Insurance* included income from affiliates that are not actually B.R.I. Holding Corp. subsidiaries and thus are not included in the audited statements. He declined to name the affiliates.

The same financial statements show that B.R.I. had financial problems before it took over Chippewa last October.

In 1991, the brokerage reported a net loss of \$1.5 million on revenues of \$16.2 million, and finished the year with shareholders equity of negative \$3.9 million, according to a statement audited by Buchbinder Tunick & Co. in New York.

The accounting firm's opinion letter—issued Oct. 21, 1992, the date of the Chippewa acquisition—notes that B.R.I. "has suffered recurring losses from operations and has a net capital deficiency that raise substantial doubt about its ability to continue as a going concern."

The company switched to Chippewa's auditor after the acquisition. And SEC filings show that the new accounting firm, Louis Weiss & Associates Inc. of Denver, included no such qualifications in an opinion letter it issued earlier this year on UFG's 1992 results.

B.R.I. began negotiating its takeover of Chippewa in the summer of 1992.

Incorporated in 1985, Chippewa did not actually begin operating until 1990, when it was capitalized with oil and gas assets and began trading on the American exchange.

B.R.I. planned as a public company to use stock to expand its business through acquisitions, Mr. Miller says.

The firm is "in an acquisition

Continued on next page

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Pension funding

Continued from page 3
promised but not funded by employers jumped to \$38 billion from \$27 billion. The PBGC is expected to disclose soon that pension underfunding grew substantially in 1992.

Pension funding rules remain too flexible, administration officials say. In fact, the rules are so liberal that annual pension contributions by about half of the employers with the 50 largest underfunded pension plans don't even cover the interest on the liabilities, an administration official said.

While the administration won't yet disclose the details of the funding proposal, officials say rules will be tightened considerably for employers with underfunded plans. Those rules would be phased in to cushion the finan-

cial impact on employers.

Under the 1987 law, employers with underfunded plans had 18 years to amortize pre-1988 liabilities and between five and 12 years to fund post-1988 liabilities. Previously, employers with underfunded plans generally had 30 years to fund liabilities.

In addition, under a draft proposal now being considered by the administration, employers in bankruptcy could not increase pension benefits while they are in Chapter 11.

Benefit lobbyists agree that current pension funding rules for employers with underfunded plans need to be beefed up.

"Funding rules are too loose. There is too much time to fund liabilities," said Lynn Dudley, director of retirement policy at the Assn. of Private Pension & Welfare Plans in Washington.

Other business groups, like the

National Assn. of Manufacturers, say they could support faster funding rules, but first they would have to be convinced that the 1987 funding changes have not been effective.

The administration also is expected to revamp the PBGC's premium structure, under which a special cap now limits premiums paid by employers with severely underfunded plans.

Under that structure, all employers with defined benefit plans pay a basic annual premium of \$19 per plan participant. On top of that, employers with underfunded plans also pay a so-called variable-rate premium. That premium is \$9 per participant for each \$1,000 of unfunded liabilities. However, the variable rate premium is capped at \$53 per participant, meaning the maximum annual premium for an employer—even if its pension plan is un-

derfunded by hundreds of millions of dollars—is \$72 per participant.

The administration is expected to propose that the dollar cap on the variable rate premium be removed. By removing the cap, premiums paid by underfunded plans would be brought in line with the risks they pose to the PBGC, an administration official said.

Currently, about 10% of PBGC's premium revenue is generated by employers subject to the \$72 cap, though their pension plans are responsible for about 80% of unfunded liabilities, a PBGC spokeswoman said.

The APPWP's Ms. Dudley says removing the cap on the variable-rate premium would give employers with underfunded plans an additional financial incentive to improve funding of their pension programs.

But Mark Ugoretz, president of

the ERISA Industry Committee, a benefit lobbying group representing large employers, worries that higher premiums would leave companies with less money to improve plan funding.

Other administration proposals are expected to require employers to give employees more information—in an easy-to-understand format—about the financial condition of their pension plans and the limits of PBGC benefit guarantees if their employer's pension plan collapses.

The PBGC, for example, does not immediately guarantee recent benefit increases and will only guarantee an annual benefit of up to about \$29,000. Some retirees covered by pension plans taken over by the PBGC were stunned to discover that their benefits would only be a fraction of what they had expected.

Ms. Dudley said more disclosure is appropriate so long as the administrative burden on employers is not too great.

The administration, though, will not propose, as the Bush administration had earlier recommended, eliminating PBGC guarantees for new benefit increases for employers with underfunded plans. Under the Bush proposal, new liabilities only would have been insured once the employer's pension plan was fully funded.

A Clinton administration official criticized that proposal as unfair to plan participants who have no control over how much their employers contribute to their pension programs.

But one provision in the draft proposal, aimed at raising revenue, would have the effect of lowering benefits to highly compensated employees.

A new indexing formula would be applied to the so-called 415 limits, which limit employer contributions to defined contribution plans and cap the benefit that can be funded through a defined benefit plan.

Currently, the defined benefit limit, which is now \$115,641, increases with the annual rise in the Consumer Price Index. The \$30,000 per participant contribution limit for defined contribution plans has been frozen for several years. But it will rise in tandem with the CPI once the 415 limit for defined benefit plans hits \$120,000, which is expected next year.

Under the draft legislation, though, the 415 limits would be increased in \$5,000 increments, with rounding down to the nearest \$5,000 increment.

For example, if the cost of living increase produced a \$12,000 increase in the 415 limit before rounding, the actual permitted increase would be \$10,000.

In the case of 401(k) plans, increases would be rounded down to the nearest \$500 increment.

Administration officials say it is too soon to say how their proposal will fare in Congress.

But some say congressional interest in PBGC reforms has increased because of growing awareness of the agency's problems.

"I think the environment for change is more ripe now," said Chris Bowlin, senior associate director of employee benefits at the National Assn. of Manufacturers in Washington.

But Ms. Dudley of the APPWP says there is not yet widespread congressional interest in a reform package.

"Fundamentally, we are very supportive of reforms, but we don't see it happening soon," she said. **BI**

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INTERNATIONAL

Centre Cat raises \$300 million in capital

BERMUDA

HAMILTON, Bermuda—Centre Cat Ltd., a new property catastrophe reinsurer, is being capitalized with \$300 million from a number of institutional investors, according to Centre Reinsurance Holdings Ltd. and Morgan Stanley Group Inc.

Morgan Stanley and affiliated investment partnerships will contribute \$135 million; General Motors Corp. pension trusts \$50 million; Zurich Reinsurance Centre Holdings Inc., Centre Re Holdings, an AT&T pension fund, Chubb Corp. and Chemical Venture Partners \$25 million each; and Plymouth Rock Assurance Corp. \$2 million.

Centre Re Holdings incorporated Centre Cat in Bermuda earlier this year, and industry sources confirmed its expected initial capitalization last month (*BI*, Aug. 30).

Paul T. Hasse, a former official of management consultant McKinsey & Co., has been named chief executive officer of Centre Cat. Charles L. Kline, former managing director

with reinsurance broker Guy Carpenter & Co., is Centre Cat's president.

Centre Cat plans to write global multiyear catastrophe programs for a small number of ceding insurers, the company announced.

Centre Cat will write limits totaling a maximum of \$50 million to \$75 million per geographic zone. The company intends to be a lead underwriter on traditional cat programs and to write customized contracts covering property risks outside ceding insurers' traditional programs, Mr. Hasse said.

—By Douglas McLeod

\$10 billion market

HAMILTON, Bermuda—New estimates of the Bermuda insurance and reinsurance industry's financial

base indicate that the non-captive commercial market's capitalization has increased to at least \$10 billion.

More than \$4 billion of new capital is believed to have flooded into the market this year alone, and the figure is still rising.

This trend was detailed by Richard Meyer, executive vp of Johnson & Higgins in New York, during a speech at a meeting sponsored by the Bermuda Insurance Institute. He charted the Bermuda market's meteoric growth since the mid-'70s.

Mr. Meyer said that in 1985, when the liability insurance capacity crisis unfolded and ACE Insurance Co. Ltd. was founded, \$733 million was added to shareholders equity in the island's commercial insurance market. The following year, when X.L. Insurance Co. Ltd. and Corporate Officers & Directors Assurance Co. Ltd. began operations, and ACE and Oil Insurance Ltd. increased capacity, the shareholders equity figure rose to \$2.2 billion.

By 1991, the amount of capital available to support commercial insurance and reinsurance underwriting on the island had nearly doubled to more than \$4 billion.

"And now we are in a property crisis," Mr. Meyer observed. "Once again, Bermuda has responded with property facilities, and we estimate current shareholders equity to be over \$9 billion and soaring."

A J&H spokesman later clarified that these figures represent only those companies with which the broker does business. Adding other commercial underwriters on the island would bring the total to more than \$10 billion, he said.

Local industry observers point out, though, that key differences exist between the latest growth spurt and that which was stimulated by the so-called "innocent capital" of captive insurers 20 years ago.

Brian Hall, chairman of the Industry Advisory Committee, a government advisory body, described

the new capital as "committed."

Unlike the growth in the '70s, when the market expanded because captives were writing more non-related business, "this is growth in the convention commercial market to meet specific needs," said Mr. Hall, head of J&H's Bermuda operations.

Bob Burns, head of the Bermuda Independent Underwriters Assn., observed that "the new players now coming in clearly do not represent innocent capital."

J&H's Mr. Meyer attributed the island's success in attracting this capital to a range of features, which included its people, their entrepreneurial spirit, their marketing efforts, and aggressive and dynamic business style and an unequalled infrastructure.

Yet he urged the Bermuda market to "preserve the regulatory environment you have today. . . . It would be inane and insane to fall into an adversarial relationship between the regulators and the regulated." **BI**

Small investors to have access to Lloyd's

By ADRIAN LADBURY

LONDON

LONDON—A London-based investment company is forming a 50 million pound (\$76.6 million) investment trust that will enable the "little man" to invest in Lloyd's of London.

But, managers of the new trust are not promising to stick with the market if Lloyd's performance takes a turn for the worse. In fact, they promise to pull out as soon as rates appear to fall.

Some Lloyd's insiders have feared this sort of attitude would accompany limited liability corporate capital, saying it could exacerbate the violent swings of the insurance cycle in London rather than dampen them.

Most of the proposed corporate investment vehicles, which Lloyd's hopes can provide up to 1 billion pounds (\$1.53 billion) of new capital for 1994, have the backing of major international investment banks or venture capitalists and will raise funds on the international money markets. As

such, they are not open to the small investor.

Johnson Fry P.L.C., a London financial services company, has set up the Johnson Fry Corporate Insurance Recovery Trust, which it hopes will raise up to 50 million pounds from small, private investors. The company plans to start raising the funds next month and hopes to be fully subscribed in time to invest in Lloyd's in 1994.

CIRT will invest in corporate capital trusts that in turn will invest in Lloyd's syndicates via members agents or the new licensed Lloyd's advisers (*BI*, Sept. 20).

Johnson Fry says the wider range of risks and syndicates that its investors will have through CIRT will more than compensate for the extra management cost they incur by not investing directly in syndicates.

The timing is vital, according to

Charles Fry, the company's chairman, because he believes demand for participation in the new corporate trusts will far exceed supply and thus give the trust investors at the front of the line the opportunity to later trade their initial investments in the corporate trusts at a premium. CIRT, which will be quoted on the London stock exchange, will only invest in quoted investment trusts that plan to invest in Lloyd's; most of those that have stated their intention to set up will be quoted.

"This is a one-off opportunity to get into a market which looks as though it will be highly profitable over the next few years. Those corporate investors who do not get into the market now are likely to find that there is no capacity on the better Lloyd's syndicates available to them. It is for this reason (and because we believe investor appetite for this type of investment will be very high) that we are encouraging investors to get in on the ground floor," said Mr. Fry.

Like most of the bigger trusts, CIRT also predicts possible returns of more than 20% for its investors. Since corporate investors are only required to have 1.5 million pounds (\$2.3 million) on deposit with Lloyd's, CIRT can increase its return by simultaneously investing some funds in standard U.K. equities.

CIRT also says that if the insurance market turns, it will pull its investors' money out of the market and into the relatively safe haven of equities.

"Since the insurance market is highly cyclical, CIRT intends to be invested in this market when insurance rates are high and profitability looks good but to withdraw from the market by selling the shares in (Lloyd's corporate investment trusts) when the market looks overheated and insurance rates begin to fall. The money received from such sales will be invested in a broad spread of U.K. equities until such time as the directors and managers of CIRT believe the time is right to

move back into LCCITs," the company's announcement said.

P&I club claims down

One of the world's biggest protection and indemnity clubs reported a big slowdown in the rate of increase of claims from March 1992 to March 1993.

The club predicts that the trend will continue as long shipowners are pressured to raise the standards of ships and crews.

Claims paid during 1992-1993 by the United Kingdom Mutual Steam Ship Assurance Assn. (Bermuda) Ltd., totaled \$229.2 million net of reinsurance recoveries, only 3.8% above the \$220.8 million paid in 199-1992.

Cash calls and premiums collected by the club from March 1992 to March 1993 totaled \$530.7 million, 40.4% more than the \$378 million collected in the previous 12-month period.

Personal injury and cargo claims again accounted for more

Continued on next page

Pay cut may fund German nursing care plan

GLOBAL BRIEFS

BONN, Germany—Holiday pay for German employees would be cut by 20% under the government's latest proposal for financing national long-term nursing-care insurance.

Earlier this year, coalition government parties agreed to expand health insurance coverage to include the costs of long-term care for the chronically ill (*BI*, July 26).

To help pay for compulsory nursing-care insurance, the government plans to cut the amount of pay employees receive for 10 national holidays and eliminate two vacation days for civil servants.

German coalition government parties approved the plan Sept. 21 after massive protest from industry and unions (*BI*, Sept. 20).

Initially the government had planned to lessen the financial burden that the expanded coverage would place on companies by allowing employers to cut employee sick pay by one day. With

little to no support for that plan, the government was forced to renegotiate.

The new proposal would give employees a choice between taking a 20% cut in holiday pay cut or two fewer vacation days a year. The 12 billion deutsche mark (\$7.3 billion) savings to employers from these cutbacks would compensate for their added contributions to the national nursing-care insurance, according to the government.

Unions and industry have voiced doubt that the proposal could ever be implemented. Legal advisers argue that financing the coverage by cutting a day of pay for national holidays is unconstitutional, because it would infringe on unions' rights to settle wage negotiations. Unions say they will take the issue to court.

As it stands, Germany's government is under enormous pressure to complete this legislation by Jan. 1, 1994, as planned. With support waning, the ambitious plan to include nursing care in the German health care system could collapse.

—By Don Lewis Kirk

New D&O facility

PARIS—L'Union de Assurance de Paris and Executive Re Inc. have formed a company to write directors and officers liability insurance in Europe.

The joint venture company, UAP Executive Partners, will be based in France's insurance center, La Defense, on the outskirts of Paris.

The two companies expect a big increase in demand for D&O coverage from European risk managers because the insurers believe that "economic and legal factors" will combine to increase the expo-

sure of executives.

"The European D&O market is expected to grow steadily and substantially within the next 10 to 15 years," said Jean-Paul Rignault, president of the new company.

UAP and Executive Re list a number of reasons why demand for D&O coverage will mushroom in Europe.

- European companies increasingly use international markets to raise capital, which heightens exposures to unfamiliar regulations and will create new risks.

- More European companies are listed on U.S. stock exchanges, and Securities and Exchange Commission rules are generally stricter than European equivalents.

- Shareholder activism is on the rise in Europe and minority shareholder associations are springing up across the continent.

- The courts are expanding D&O liability, especially in bank-

ruptcy cases. European courts also are increasingly holding board members liable for the difference between the assets and the liabilities of insolvent companies if plaintiffs can prove that the insolvency is attributable to mismanagement or wrongful trading.

- Harmonization of European law is creating more restrictive law. The European Community's fifth directive on company law provides for expanded D&O liability and reverses the burden of proof away from the plaintiff and onto the director.

- European stock exchanges are tightening their rules, especially in relation to public disclosure of information.

Executive Re, in association with Aetna Casualty & Surety Co., has an annual premium volume in excess of \$160 million for D&O coverage. The partners hope that Executive Re's expertise and UAP's Europe-wide distribution

Continued on page 43

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LONDON

Continued from previous page
 than half the total claims, but cargo claims fell dramatically in the 12 months beginning March 1992 compared with the previous year.

In 1992, personal injury constituted 27.12% of the total, while cargo claims comprised 29.09%. In the March 1991-March 1992 period, personal injury accounted for 24.4%, while cargo accounted for a massive 41.7% of total claims paid.

The U.K. Club estimates that funds on hand exceed future liabilities for the first time in 10 years: Funds on hand totaled \$862 million, compared with future claims reserves of \$781 million.

The funds do not include a supplementary call of \$95 million for

1992, but the equivalent liability is included, thus giving the club a healthy surplus of almost \$177 million. Last year it reported a \$145 million deficit, explained Peter Donnellan, director of the club's managing agency, Thomas Miller (P&I).

Results for the 1991 policy year were not as bad as originally thought, so the supplementary call on members for 1991 has been cut to 70% from 100% of premium. The 40% call for the 1992 policy year remains unchanged.

The directors of the P&I club point out, however, that while claims are not increasing as fast as in previous years, claims costs still are rising. To combat this, the U.K. Club claims to be constantly upgrading the standards it imposes on its members. The higher standards are perhaps reflected in the "exclusion" of four members at the latest renewal.

Mr. Donnellan's report also stressed the current concern over not just ships, but also the people who run them. "The economic climate in shipping continues to be difficult and the claims environment continues to be hostile to owners throughout the world. As owners, we face continuing pressures on standards and the importance of finding competent seafarers to whom we can entrust our ships remains crucial."

While the increase in claims is slowing, the U.K. Club still wants the International Group of P&I Clubs to limit the coverage provided to members. P&I clubs now write unlimited coverage.

"The potential for a claim that would substantially exceed the excess reinsurance contract upper limit—currently \$1.05 billion—is increasing, and the possibility of a claim of several billion dollars is not inconceivable. The board decided that it was now timely to seek to discontinue this open-ended commitment—which operates on a pool basis to protect members of all the group clubs—and together with the other clubs place a finite limit on the cover provided to members," stated the report. The arrival of a cap, however, is still far from imminent, according to Mr. Donnellan.

"The clubs are talking to each other to seek a compromise to preserve the benefits of pooling, which is still a very valuable thing, especially when (marine capacity at) Lloyd's is disappearing, but there is no hard news on this," he said, predicting an agreement is not likely for at least another two years.

Marine business split

French insurer Compagnie D'Assurances Maritimes Aeriennes & Terrestres and Switzerland's Zurich Reinsurance Co. have decided to split their London market marine business effective Oct. 1

CAMAT's London market marine account has operated under Zurich Re's tutelage for the past two years since the Swiss insurer bought Sovereign Insurance (U.K.) Ltd., a London marine and aviation insurer, from broker Willis Faber & Dumas Ltd. Sovereign previously was CAMAT's London market underwriter.

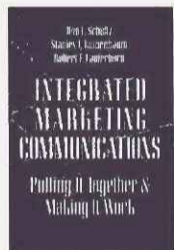
Ken Dare, chief executive officer of Zurich Re (U.K.) Ltd., explained that the acquisition agreement never included maintaining the CAMAT underwriting team permanently.

Roger Cusdin, underwriter of the CAMAT London account and marine underwriting manager at Zurich Re, will follow the business and set up a new underwriting room at the Institute of London Underwriters.

Mr. Dare said the split does not signify a strategic move away from marine business by Zurich Re. **BI**

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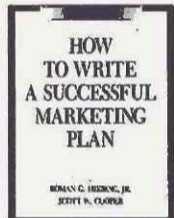
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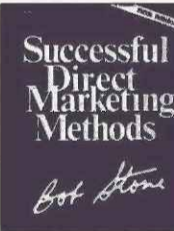
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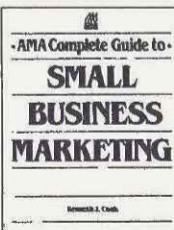
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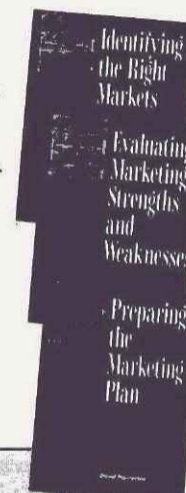
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Datebook

OCTOBER

OCT. 4-5. Information Systems/Information Technology/Advanced Technology for Property & Casualty Claims conference in Philadelphia, sponsored by the Institute for International Research; \$1,195. **Also Oct. 14-15** in Santa Monica, Calif. Conference Administrator, Institute for International Research, 708 Third Ave., Fourth Floor, New York, N.Y. 10017-4103.

OCT. 4-5. Litigating Insurance Coverage Cases seminar in San Francisco, sponsored by Federal Publications Inc.; \$800. **Also Nov. 4-5** in Washington. Insurance Litigation Course, Federal Publications Inc., 1120 20th St. N.W., Washington, D.C. 20036; 202-337-7000.

OCT. 4-8. Basic Property Conservation seminar in Long Grove, Ill., sponsored by Kemper Risk Management Services; \$850. Kemper Risk Management Services 1 Kemper Drive, K-4, Long Grove, Ill. 60049-0075; 708-540-4901.

OCT. 5-6. Reform: Health Care and Retirement Planning conference in Washington, sponsored by the National Employee Benefits Institute; \$95 for NEBI members, \$295 for non-members. National Employee Benefits Institute, 2445 M St. N.W., Suite 400, Washington, D.C. 20037; 800-558-7258.

OCT. 6. Fundamentals of Ergonomics seminar in Long Grove, Ill., sponsored by Kemper Risk Management Services;

\$300. Kemper Risk Management Services, 1 Kemper Drive, K-4, Long Grove, Ill. 60049-0075; 708-540-4901.

OCT. 6-8. The 47th annual Council on Employee Benefits Fall conference in Arlington, Va., \$475 for CEB members, \$575 for non-members. Carl S. Lazaro, 1144 E. Market St., Akron, Ohio 44316; 216-796-4008.

OCT. 6-9. American Society of Chartered Life Underwriters & Chartered Financial Consultants 1993 National Conference in Kansas City, Mo.; \$395 for Society members, \$495 for non-Society members. American Society of CLU & ChFC, 270 S. Bryn Mawr Ave., Bryn Mawr, Pa. 19010-2195; 800-392-6900.

OCT. 7. Options for Long-Term Care Insurance conference in Bethpage, N.Y., sponsored by the New York Business Group on Health; \$25. Stuart Lerner, New York Business Group on Health Inc., 622 Third Ave., 34th Floor, New York, N.Y. 10017-6752; 212-308-0550, ext. 12.

OCT. 7. Spotlight on the Financial Sector for Risk Management and Financial Institutions in London, sponsored by the Assn. of Insurance & Risk Managers in Industry & Commerce and Willis Corroon Ltd.; 100 pounds (\$154) for AIRMIC members, 130 pounds (\$200) for non-members. AIRMIC Secretariat, 6 Lloyd's Ave., London EC3N 3AX; 071-480-7609.

OCT. 7-8. Medicaid Managed Care conference in Washington, sponsored by the Healthcare and Insurance Institute

division of the Institute for International Research; \$1,095. Institute for International Research, 437 Madison Ave., 23rd Floor, New York, N.Y. 10022.

OCT. 10-12. Charting Healthcare's Future conference in Reston, Va., sponsored by the American Managed Care Pharmacy Assn.; \$495, for AMCPA members only. Molly Barlow, Conference Coordinator, AMCPA, 2300 Ninth St. S.; Suite 210, Arlington, Va. 22204; 703-920-8480.

OCT. 14-15. Emerging Issues in Insurance Litigation conference in New York, sponsored by Andrews Continuing Education Institute; \$585 for subscribers to Andrews' Insurance Indus-

try Litigation Reporter, \$650 for non-subscribers. Andrews Continuing Education Institute Seminar Registration Department, 1646 West Chester Pike, P.O. Box 1000, Westtown, Pa. 19395; 800-345-1101.

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Continued from previous page system will enable it to tap the growing demand for D&O coverage in Europe.

"By establishing a European underwriting capability, UPEX can tailor a D&O policy for each country, incorporating both the laws of each country and the liability exposures of its directors and officers," said Stephen J. Sills, executive vp of Executive Re and a UAP Executive Partners director.

—By Adrian Ladbury

Generali U.K. arm

ST. PETER PORT, Guernsey—Italian insurer Assicurazioni Generali S.p.A. is expanding its international employee benefits operations with the injection of almost 120 million pounds (\$184.8 million) into its Guernsey-based subsidiary.

The company, Generali Worldwide Insurance Co. Ltd., will now serve as Generali's primary pensions and employee benefits operation.

Generali's other global benefits offices are in New York, Hong Kong and Brussels.

—By Adrian Ladbury

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In re

Petition of Christopher John Hughes and Ian Douglas Barker Bond, as Joint Provisional Liquidators of Kingscroft Insurance Company, Ltd., et al.,

In Petition Under Section 304 Case Nos. 92-B-41974 (PBA) through 92-B-41977 (PBA) and 92-B-44623 (PBA) Jointly Administered

Debtor in Foreign Proceedings

PRELIMINARY INJUNCTION ORDER

This matter has come before the Court on Petitioners' request for a Preliminary Injunction Order pursuant to Bankruptcy Rule 7065 and Federal Rule of Civil Procedure 65(b). The Court has considered and reviewed the Petitions filed in these cases, the Affidavits of Ronald DeKoven, one of the attorneys for the Petitioners, duly sworn on the 7th day of April, 1992 and the 16th day of August, 1992, the Declarations of Gabriel Moss, duly verified on the 8th day of April, 1992 and the 14th day of August, 1992, the Declaration of Christopher John Hughes, one of the Petitioners herein, duly verified on the 8th day of April, 1992 and the Declaration of Ian Douglas Barker Bond, one of the Petitioners herein, duly verified on the 14th day of August, 1992, and the Memoranda of Law in support of the application, and the responses filed thereto, and having held hearings and heard arguments by counsel on April 10, 1992, May 12, 1992, August 19, 1992, September 25, 1992, November 17, 1992, February 23, 1993, June 9, 1993 and September 14, 1993, and based on the foregoing the Court finds and concludes as follows:

1. Petitioners have demonstrated a substantial likelihood of success or have raised serious questions on the merits of their contentions that Kingscroft Insurance Company Ltd. ("Kingscroft"), El Paso Insurance Company Ltd. ("El Paso"), Lime Street Insurance Company Ltd. ("Lime Street"), Mutual Reinsurance Company Ltd. ("Mutual") (collectively, "KELM") and Walbrook Insurance Company Ltd. ("Walbrook," and collectively with KELM, "KWELM") are subject to foreign proceedings, that Petitioners are the foreign representatives of the debtors, that the commencement or continuation of any judicial, administrative or regulatory action or proceeding against KWELM, or any of their property in the United States, should be enjoined pursuant to 11 U.S.C. § 304(b) to permit the orderly resolution of claims in the pending proceedings brought under foreign law, and that the relief requested will not cause hardships to parties which are not outweighed by the benefits;

2. Unless an injunction is issued, it appears to this Court that one or more parties in interest will relinquish or dispose of property of KWELM in the United States, or will commence or continue the prosecution of judicial, administrative or regulatory actions against KWELM and/or seek to retain assets of KWELM, thereby interfering with, and causing harm to, the Petitioners' efforts to administer the estates of KWELM pursuant to the foreign proceedings, and that as a result the Petitioners will suffer immediate and irreparable injury for which they will have no adequate remedy at law;

3. The interest of the public will be served by restraining such disposition of KWELM property and the commencement or continuation of such judicial, administrative or regulatory actions or proceedings;

4. Venue is proper in this district pursuant to 28 U.S.C. § 1410;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

ORDERED, that all persons (except as provided in the Orders of Conservation) are hereby preliminarily enjoined and restrained from:

(1) relinquishing or disposing of any property of KWELM in the United States, or the proceeds of such property, to third parties;

(2) commencing or continuing any judicial, administrative or regulatory action or proceeding against KWELM or any of its property in the United States;

(3) enforcing any judicial, administrative or regulatory judgment, assessment or order and commencing or continuing any act or any judicial, administrative or regulatory proceeding to create, perfect or enforce any lien, set-off or other claim against KWELM or any of its property in the United States; and it is further

ORDERED, that nothing in this order shall in any respect prevent the continuance or commencement of proceedings against or involving other London Market insurers or any other insurance company defendant; and it is further

ORDERED, that pursuant to Bankruptcy Rule 7065, the security provisions of Fed. R. Civ. P. 65(c) be, and the same hereby are, waived; and it is further

ORDERED, that this Preliminary Injunction shall be served (A) by hand delivery, facsimile or United States mail, first class postage prepaid, on or before September 21, 1993 upon the parties in interest appearing in these cases, at the time of such service; and (B) by publication of a summary of this Preliminary Injunction Order in *Business Insurance Magazine* on or before October 11, 1993; and that service pursuant to this paragraph shall be deemed good and sufficient service and adequate notice; and it is further

ORDERED, that this injunction shall remain in effect pending further order of the Court, after a hearing scheduled to be held in Room 617 of the Alexander Hamilton House, One Bowling Green, New York, New York on December 14, 1993 at 10:00 a.m.; and it is further

ORDERED, that all papers submitted for the purpose of opposing a continuation of the relief provided for in this Preliminary Injunction shall be filed with the Court with a copy to the Chambers and delivered personally or by overnight mail or so as to be received by Shearman & Sterling, 599 Lexington Avenue, New York, New York 10022 (attention: Ronald DeKoven), Attorneys for Petitioners, on or before December 3, 1993.

Dated: New York, New York
September 14, 1993
3:45 p.m.

/S/PRUDENCE BEATTY ABRAM

U.S.B.J.

*Petitioners' request for relief, and the terms of this Order, are subject to the provisions of the Orders of Conservation obtained by the New York Superintendent of Insurance in the New York Supreme Court for New York County (the "Orders of Conservation").

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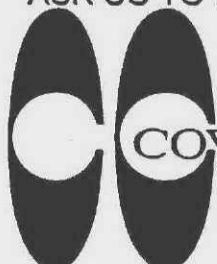
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Reinsurance

Continued from page 3

Appeal's decision that they must show prejudice, I think they were somewhat mollified by the 2nd Circuit decision" that provided "a clearer view of what it takes to show prejudice," Mr. Wollan said, referring to an earlier decision by the New York court.

In fact, Mr. Wollan thinks the three-judge panel of the 2nd Circuit "went out of their way to give guidance to the reinsurance industry. Their purpose was educational."

The decision stemmed from a dispute between Unigard and North River over more than \$15 million in coverage for amounts settled by the now-defunct Asbestos Claims Facility created by the Wellington Agreement.

Unigard provided \$10 million in facultative reinsurance limits to North River from July 9, 1974, to Oct. 22, 1975. North River had written \$30 million in excess liability coverage for Owens-Corning Fiberglas Corp., which manufactured asbestos-containing products.

Owens-Corning and North River were members of the Asbestos Claims Facility, through which asbestos manufacturers and their insurers agreed to settle their coverage disputes and share in the costs of defending and settling asbestos bodily injury claims.

In April 1987, North River became aware that its excess policy was being penetrated by asbestos injury claims settled by the facility and that there was a likelihood that the Unigard reinsurance would be triggered.

However, North River did not send notice to Unigard until August 1987; Unigard did not actually receive the notice until the following month.

In its claim, North River sought \$10 million in coverage plus approximately \$5 million in defense costs, North River argued the defense costs were covered under the facultative reinsurance contract because the insurer was forced by an earlier arbitration decision to pay defense costs outside policy limits.

But Unigard denied the claim based on late notice, prompting North River to sue in federal court.

The U.S. District Court for the Southern District of New York ruled in July that North River violated its contractual obligation to give timely notice, but that Unigard must prove it was prejudiced by the late notice before it could deny coverage.

Unigard then appealed to the 2nd Circuit, which decided in October 1991 that no New York law existed concerning the issue of whether reinsurers in New York must show prejudice to deny a claim based on late notice. The 2nd Circuit then certified that portion of the case to the New York Court of Appeals.

In a 5-0 decision in May 1992, the New York Court of Appeals ruled that reinsurers must show prejudice (*BI*, May 18, 1992). That court then returned the case to the 2nd Circuit for a determination of the remaining issues, including whether Unigard was prejudiced and how to interpret the follow the fortunes clause in the reinsurance contract.

On the issue of late notice, the 2nd Circuit did find that the delay of five months was untimely. However, the court did not find that Unigard had been prejudiced by this delay, upholding the district court's decision.

"Because the reinsurer's and ceding insurer's interests are essentially the same as to liability, good-faith coverage decisions generally do not constitute prejudice," the 2nd Circuit reasoned.

"Unigard thus bears the burden of showing that it suffered tangible economic injury because North River failed to give timely notice of the signing of the Wellington Agreement. Because its only claim of injury is based solely on the claim that the loss of contractual rights is prejudicial in and of itself, it has not met that standard," the court said.

In overturning the district court's decision holding Unigard liable for expenses in excess of its policy limits, the 2nd Circuit seemed to chastise the trial court for ignoring the 2nd Circuit's 1990 follow-the-fortunes decision in *Bellefonte Reinsurance Co. vs. Aetna Casualty & Surety Co.*

The appellate court ruled in that decision that the follow-the-fortunes clause does not override the limits of the contract (*BI*, May 28, 1990).

"The court seemed a little

giving different meanings to identical standard contract provisions depending upon the idiosyncratic factors in particular lawsuits.

"The meanings of such (follow-the-fortunes or follow-the-form)

Circuit reaffirmed its earlier decision.

"We felt that the Bellefonte decision brought clarity and we wanted to make sure that clarity continued on this issue," he said.

Mr. Wollan agreed. "They have impressed on the reinsurance industry that there is stability in the interpretation of that particular language—the follow-the-fortunes clause—which is very common in these certificates," he said.

The North River attorney who originally argued the case, Dennis G. Jacobs, is now a judge in the 2nd Circuit. Other attorneys at Mr. Jacob's former firm, Simpson, Thatcher & Bartlett in New York, could not be reached for comment.

Unigard Security Insurance Co. Inc. vs. North River Insurance Co. 2nd U.S. Circuit Court of Appeals No. 91-7534. Sept. 9, 1993.

'They have impressed on the reinsurance industry that there is stability in the interpretation of that particular language—the follow-the-fortunes clause—which is very common in these certificates,' says Unigard attorney Eugene Wollan.

irked" that the district court rejected its Bellefonte decision, Mr. Wollan observed.

Indeed, the 2nd Circuit said: "Bellefonte's gloss upon the written agreement is conclusive. The efficiency of the reinsurance industry would not be enhanced by

provisions is not an issue of fact to be litigated anew each time a dispute goes to court," the appellate court concluded.

Mr. Nicoletti, who filed an amicus brief in the case on behalf of Bellefonte and the reinsurance industry, was pleased that the 2nd

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C O N F E R E N C E A G E N D A

SUNDAY, OCTOBER 17

6:00 – EARLY REGISTRATION & WELCOME RECEPTION
7:30 p.m. Hosted by *Commonwealth Risk Services, Inc.*
and *General Rehabilitation Services, Inc.*

MONDAY, OCTOBER 18

7:45 a.m. Registration & Continental Breakfast
9:00 a.m. OPENING REMARKS FROM THE CHAIR
Kathryn J. McIntyre
Vice President, Publisher & Editorial Director
Business Insurance
9:15 a.m. SHOULD THE WORKERS COMPENSATION AND
GROUP HEALTH CARE SYSTEMS BE COMBINED?
Panel Moderator:
James M. Burcke, Editor
Business Insurance
Keith T. Bateman, Vice President
Policy & Development
Workers Compensation
& Commercial Lines Division
Alliance of American Insurers
Harry Neer, President & Chief Operating Officer
USA Health Network Company, Inc.
Thomas E. Rankin, Director of Research
California Labor Federation, AFL-CIO

10:15 a.m. Mid-Morning Refreshments
& Table-Top Exhibits

10:45 a.m. ESTABLISHING AND IMPLEMENTING A
SUCCESSFUL ERGONOMICS PROGRAM

Michelle Robertson, Ph.D.
Assistant Professor of Human Factors
Institute of Safety and Systems Management
University of Southern California

Marie Robinson, M.S.
Corporate Ergonomist, Safety Staff
Pacific Bell

Neal Taslitz, JD, President
The Backcare Corporation

Steven C. Turner, Safety Consultant
Marsh & McLennan, Inc.

12:15 p.m. LUNCHEON FOR SPEAKERS AND ATTENDEES
Hosted by *William M. Mercer, Inc.*
and *Marsh & McLennan, Inc.*

1:15 p.m. KEYNOTE LUNCHEON SPEAKER

Brent A. Winans, Vice President, Risk Management
Concord Services, Inc.

Regional health alliances assailed

By MARK A. HOFMANN

Plan would discourage firms from self-insuring: Expert

WASHINGTON—The Clinton administration's plan to let large corporations maintain their own self-insured health care alliances while requiring smaller businesses and individuals to join regional purchasing alliances is not realistic because it will ultimately force the corporate alliances out of business, a health care law expert warns.

"How do you preserve an employer-based system?" asked Larry Atkins, director-health legislative affairs for the Washington law firm

Winthrop, Stimson, Putnam & Roberts. Mr. Atkins made clear that he doesn't think the proposed corporate health alliances are going to meet that goal.

He offered his assessment of the alliance structure during a discussion titled "The Clinton Health Care Plan: Its Impact on Employers' Health Benefits and Workers Compensation Programs," sponsored by the National Assn. of Manufacturers in Washington last week before the president officially unveiled his plan.

The proposed corporate alliances do have some positive aspects, Mr. Atkins said. For example, under the proposal, employers would be able to monitor their own plans and can

self-fund, he said. Employer alliances would also still be able to avoid state mandates through their pre-emption under the Employee Retirement Income Security Act of 1974, but not to the extent that they can currently, he said.

But, the corporate alliance concept as it now stands is fraught with problems, he said.

For example, the proposal would allow corporate alliances to be established only by employers with 5,000 or more active employees, he said. This restriction, which administration officials say isn't necessarily final, would severely limit the number of businesses eligible to form their own alliances.

In addition, businesses that join

the regional alliances will have their premiums capped at 7.9% percent of payroll, with employees responsible for paying an additional 20% of the cost, which would amount collectively to slightly less than 10% of payroll.

The true cost of coverage, however, would probably amount to about 12% of payroll, Mr. Atkins estimated. That would make it tempting even for employers large enough to stay outside the regional alliance to junk their own plans and join the regional alliances, he said.

Employers that form their own alliances would also be required to pay an undetermined surcharge in the vicinity of 1% of payroll to re-

tain their independence, said Mr. Atkins. This, of course, will add to their costs, he said.

A few hours later, Ira Magaziner, President Clinton's senior domestic policy adviser on health care issues, sought to reassure those attending the NAM gathering that the surcharge wouldn't be as onerous as they might fear.

"Let me be clear about this. We're looking at something that's somewhat less than 1%, but it is something that has a common feature to it within the regional premium, alliance premium as well as the corporate premium," Mr. Magaziner said.

"What we're concerned about here is there are certain areas of health infrastructure that benefit everybody who's in the health system—for example, academic health centers," he said. So-called teaching hospitals have higher costs than community hospitals and, if thrown into direct competition with lower-cost hospitals, wouldn't be able to compete, said Mr. Magaziner.

The surcharge would be built into the regional alliance premium as well, Mr. Magaziner said. "It's not something where we're looking to punish people for forming a corporate alliance."

Mr. Magaziner also told his audience that the surcharge—however large it might be—would be an annual, rather than one-time, levy.

Mr. Atkins also noted that once a corporation joins a regional alliance, it's in for good. "It's a one-way door," he said, adding that if a corporation decides it wants to enroll its employees in one area of the country in a regional alliance, it would have to enroll its employees in similar regional alliances in all parts of the country. A business wouldn't be able to maintain a corporate alliance if it participated in a regional alliance.

The possibility that some states would form single-payer systems further muddies the situation, Mr. Atkins said. "I would guess there are a large number of states" that would choose a single-payer approach, he predicted.

Mr. Atkins noted that this is the one area in which employers' ERISA pre-emption will vanish: If a state chooses to go the single-payer route, everybody in that state is part of the single-payer system regardless of whether there are companies large enough to form their own corporate alliances. Multistate corporations with corporate alliances suffer another blow because the employees enrolled in the single-payer plan don't count toward the 5,000-employee threshold, he said.

Mr. Magaziner attempted to quell ERISA concerns when fielding questions from the audience but left the corporate alliance's role in a single-payer system vague, saying that under such a system, a corporate alliance might be absorbed by the state plan.

Although Mr. Magaziner did not go into detail about why the Clinton administration had set such a high threshold on the formation of a corporate alliance, another speaker defended the approach.

Rick Curtis, president of the Institute for Health Policy Solutions and a member of the presidential task force that drafted the reform plan, said that allowing smaller employers to form their own alliances would cast the federal government in the role of insurance regulator.

Allowing the proliferation of small-employer alliances would make the regional alliances little more than dumping grounds for low-income people and defeat the purpose of community rating, he said.

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1:45 p.m. *Break*

2:15 p.m. HOW TO INTEGRATE CASE MANAGEMENT INTO A WORKERS COMPENSATION PROGRAM

Peter C. Madeja, Vice President
General Rehabilitation Services, Inc.

3:30 p.m. *Mid-Afternoon Refreshments & Table-Top Exhibits*

4:00 p.m. MINIMIZING FRAUD AND ABUSE IN THE WORKERS COMPENSATION SYSTEM

Panel Moderator:
Joanne Wojcik, Los Angeles Bureau Chief
Business Insurance

Gregory L. Johnson, Principal
William M. Mercer, Inc.

Hank Krizl, Vice President - Claims
Fremont Compensation Insurance Group

J. William Strickland
Manager - Special Investigations Unit
Liberty Mutual Insurance Group

5:15 p.m. **COCKTAIL RECEPTION**
Hosted by USA Workers' Insurance Network

TUESDAY, OCTOBER 19

7:45 a.m. *Continental Breakfast & Table-Top Exhibits*

9:00 a.m. **OPENING REMARKS FROM THE CHAIR**

9:15 a.m. **INNOVATIVE STRATEGIES TO CUT WORKERS COMPENSATION COSTS**

Case Study #1 **BECHTEL CORPORATION**

Lucy Gallagher, Risk Management Representative
for Bechtel Corporation
Alexander & Alexander

Thomas W. Manley, Labor Relations Supervisor
Bechtel Corporation

Case Study #2 **WALT DISNEY COMPANY**

Stephen M. Wilder, Assistant Treasurer
Risk Management
Walt Disney Company

Case Study #3 **MERVYN'S**

Michelle Patton, Director - Risk Management
MERVYN'S

10:30 a.m. *Mid-Morning Refreshments & Table-Top Exhibits*

MID-MORNING CONCURRENT SESSIONS

11:00 a.m. *Concurrent Session A:*
HOW TO EVALUATE AND SELECT A THIRD-PARTY ADMINISTRATOR

Carl Shogren, ARM
Vice President, Risk Management Services
Crawford & Company

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

11:00 a.m. *Concurrent Session B:*
HOW TO SELF-ADMINISTER YOUR CLAIMS

Arnold Davenport, Vice President, Risk
Management
Marriott Corporation

12:00 p.m. **LUNCHEON FOR SPEAKERS AND ATTENDEES**
Hosted by Liberty Mutual Insurance Group

1:00 p.m. **KEYNOTE LUNCHEON SPEAKER**

Bill Kizorek, President
InPhoto Surveillance

1:30 p.m. *Break*

2:00 p.m. **FINANCING ALTERNATIVES FOR WORKERS COMPENSATION**

Panel Moderator:
Kathryn J. McIntyre, Vice President, Publisher
& Editorial Director
Business Insurance

Arnold Davenport, Vice President
Risk Management
Marriott Corporation

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

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3:30 p.m. **CONFERENCE ADJOURNS**

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Fronting proposal

Continued from page 1

sure fronting companies. Risk managers and representatives of the captive insurance industry have battled the proposal every step of the way.

The final version of the proposed model law, which was drafted in June, exempts only a narrow range of captives that underwrite coverage or settle claims (BI, June 28). The new disclosure, reporting and contractual requirements would apply to an overwhelming majority of those captives—including all single-parent captives domiciled outside NAIC-accredited states and all group captives regardless of domicile.

So far, Colorado and Illinois are the only two U.S. captive domiciles accredited by the NAIC. Vermont's quest for accreditation is stalled by a disagreement with the NAIC over regulating risk retention groups (see related story).

Captives that participate in captive reinsurance pools could also be subject to the rules unless they complied with strict guidelines. For example, the parent companies of the captives pooling their risks would have to be in the same industry and "all the risks placed in the pool must be similar and the

kinds of insurance covered are the same." Also, each captive in the pool would have to retain more than 50% of its risks net of all other reinsurance cessions.

At the meeting last week, several proponents of captives tried unsuccessfully to amend the draft model law.

In a memo to regulators, Vermont's Ms. Costle asked them to clarify that captives owned by diversified corporations could be exempt if they pooled specific lines of coverage.

She also advocated dropping the 50% retention requirement—which she contends is "at odds with the insurance principle of risk spreading"—and instead require a captive to not reinsure more risks from the pool than it has ceded to it.

Ms. Costle also wanted to expand the fronting proposal's limited exemption to include group captives.

Kathryn A. Westover, executive vp with captive manager American Risk Management Corp. of Vermont, stressed the value of pooling, despite a loosely imposed five-minute limit on verbal comments from individuals.

Andrew Carr, speaking for the National Assn. of Insurance Brokers, also urged broadening the

captive exemption to include group captives as well as captives in non-U.S. domiciles.

"I've had 15 years of experience working with captives and have not known a problem yet," said Mr. Carr, a managing director with Marsh & McLennan Cos. Inc.

Finally, Malcolm Butterfield, Bermuda's registrar of companies, reminded U.S. regulators that Bermuda authorities were seriously exploring the feasibility of sharing Bermuda insurers' financial information with U.S. regulators, and questioned what impact that might have on relaxing the fronting proposal.

"What's important is the extent to which we can review and verify

it ourselves," responded Virginia Insurance Commissioner Steven Foster.

During the discussions, Mr. Foster and other regulators voiced their frustrations about trying to develop appropriate fronting controls for captives, which become more like commercial insurers the more diverse they become.

Committee members added that their support for the model proposal was bolstered by a captive consultant's newsletter saying few captives would be affected by the model, a questionable fronting company's advertisement and the relatively few letters received on the subject since the June meeting.

New York's Ms. Siegel also said

she would be "nervous" if any fronting arrangement did not already include the proposal's disclosure and reporting requirements, which she perceives as simply good business practices.

"I think they are burdensome," said Richard C. Heydinger, director of risk management services for Hallmark Cards Inc. in Kansas City, Mo., after the committee meeting.

"It (the proposal) will increase costs for captives. What is the purpose?" added Mr. Heydinger, who is co-chairman of the Coalition of Alternative Risk Funding Mechanisms in Montpelier, Vt., a group representing pro-captive interests.

Vermont accreditation delayed

BOSTON—Vermont's quest to be accredited by the National Assn. of Insurance Commissioners

is stalled because of a disagreement with the association over how strictly risk retention groups should be regulated.

Vermont is home to about 30 risk retention groups, about half of the total established in the nation under the federal Liability

Risk Retention Act of 1986 or grandfathered under an earlier 1981 law.

"Our accreditation review was recessed," Vermont Insurance Commissioner Elizabeth R. Costle said last week during the NAIC's meeting in Boston.

Among other issues, Vermont regulates risk retention groups more liberally than required by the NAIC's accreditation standards. For example, Vermont al-

lows the groups to use generally accepted accounting principles, rather than using the more conservative statutory approach.

Risk retention groups are established under federal law, so state overseers like the NAIC "cannot directly or indirectly regulate these groups through the accreditation process," Ms. Costle contends.

"I think it is clearly a case of the

Continued on next page

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Continued from previous page
 law not supporting what the NAIC is trying to do," said Jeffrey Johnson, a former Vermont commissioner who is now an attorney with Primmer & Piper in Montpelier, Vt.

Mr. Johnson, who represents The Coalition of Alternative Risk Funding Mechanisms, said the group is considering whether to file a lawsuit.

"We (Vermont regulators) haven't gotten down that road yet," Ms. Costle said of the possibility of litigation. "We are trying to work within the NAIC processes."

The issue of Vermont's accreditation was discussed in at least one closed-door meeting last week during the NAIC meeting in Boston.

"It's under study" by a working group, confirmed Nebraska Insurance Director William McCartney, who is chairman of the NAIC's Committee on Financial Regulation and Accreditation Standards.

A decision will be announced by the end of the year, said Mr. McCartney.

The NAIC has accredited 22 states thus far, including Arizona and Maine, whose accreditations were announced at the recent meeting. A majority of states will likely be accredited by year end, said NAIC President Steven Foster of Virginia.

Sanctions against non-accredited states begin Jan. 1, 1994, when states accredited by the NAIC will not be allowed to accept zone examination reports for insurers domiciled in unaccredited states, except in limited circumstances.

—By Meg Fletcher

Alliances win few corporate allies

By DEBORAH SHALOWITZ

Employee benefit managers resoundingly reject the concept of regional health purchasing alliances proposed by President Clinton's health care reform plan, a new survey shows.

Furthermore, more than two-thirds of the benefit managers surveyed by Hewitt Associates said they think the president's plan would increase their health care costs.

Under President Clinton's health care reform package, companies with more than 5,000 employees would be allowed to establish their own health care purchasing alliances rather than join regional alliances with smaller employers if their health care plans met the basic standards set forth by the Clinton proposal (BI, Sept. 20).

The benefit managers overwhelmingly said they would prefer to maintain control over their own health plans rather than join a regional alliance. Ninety-five percent said that if given a choice, they likely would maintain their own health plan instead of joining a regional alliance.

Benefit managers cited numerous factors behind their desire to remain independent of regional purchasing alliances. Nearly all cited as influential factors potential cost savings, the extent of

control over their plan and administrative ease.

Other commonly mentioned factors included state-by-state differences in the system, employee relations, involvement with providers, and involvement in employee health and well-being.

Furthermore, 31% of the benefit managers said the reform plan would increase health care costs at their companies "significantly," while 37% said it would increase health care costs "somewhat."

Only 15% of the 370 benefit managers polled this month by Lincolnshire, Ill.-based Hewitt said the Clinton reform plan would decrease their health care costs, either significantly or somewhat.

Seventeen percent anticipated no change in their health care costs as a result of the Clinton proposal.

Under the reform plan, an employer generally would have to pay 80% of the "weighted" average of premiums offered through an alliance.

This essentially would be the average of the premiums charged by the different health plans offered through an alliance.

Of the companies represented in the survey, which included companies of all sizes, 52% pay more than 80% of the premium for health care coverage for employees, while another 30% pay between 71% and 80% of the premium cost.

Thirty-six percent of the employers pay more than 80% of the

premium for dependent coverage and 32% pay between 71% and 80% of the cost.

Adding credence to the theory that the reform package's proposed 7.9% maximum payroll cap would not be sufficient to fund all of the promised health benefits, the survey found that at 61% of the companies health care costs for active employees exceed 7.9% of payroll.

Health care costs for retirees typically are much lower: For 87% of the employers surveyed, retiree costs are less than 5% of payroll.

Despite their anticipation of higher health care costs, employers remain committed to providing good health care benefits to their workers.

Twenty-one percent of employers said they were "very likely" and 53% said they were "somewhat likely" to offer employees a supplemental medical care plan if the standard package offered by an alliance provided lower benefits than their current program. Only 26% said they were "not at all likely" to offer supplemental medical benefits.

Employers would be less likely to offer supplemental dental coverage in the event that the Clinton package was substandard to the company's current dental plan: Only 13% said they were very likely and 46% said they were "somewhat likely" to offer supplemental dental benefits.

More than one-third of the surveyed benefit managers—35%—said they were "not at all likely"

to offer supplemental dental benefits. Six percent of respondents do not now offer dental benefits.

Requiring employers to offer health care coverage on a pro-rated basis for part-time workers would not change hiring practices, two-thirds of the survey's respondents said. However, 28% said the requirement would reduce part-time positions, and 6% said it would eliminate part-time positions.

The benefit managers were nearly evenly divided about whether a proposal in the Clinton plan requiring employees to accept health care coverage from their own employer rather than a spouse's would increase their health care costs.

Thirty-two percent said the requirement would increase health care costs, and 39% said it would decrease costs. The remaining 29% said the provision would not affect health care costs.

One of the most telling outcomes of this study is that nearly two-thirds of respondents think that health reform will increase costs, said Craig Dolezal, a consultant with Hewitt in Lincolnshire. The benefits community is waiting to see how much of the bill they will have to foot, he said.

Benefit managers are viewing reform proposals as, "if we can't save money, we want to keep control," said Mr. Dolezal. Employers, he added, "want to keep the status quo as much as possible."

The Hewitt survey is not yet available to the public.



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In the matter of

National Employers' Mutual General Insurance Association Limited (In Liquidation) (NEMGIA)

NOTICE IS HEREBY GIVEN that the liquidators of NEMGIA intend to declare a first interim dividend to the creditors of the company within four months of 30 September 1993. Creditors who have not submitted claims to the liquidators of NEMGIA, PO Box 270, 20 Farringdon Street, London EC4A 4PP, England by 30 September 1993 will be excluded from this dividend. Forms of proof of debt may be obtained from the liquidators or from policy holders' brokers.

As regards NEMGIA's former branches in Australia, Canada, Cyprus and Malta, creditors should contact the local liquidator (or similar appointed person) to establish their claims. Only to the extent that UK dividends exceed local percentage distributions will creditors be entitled to participate in distributions from UK funds.

AJ McMahon, joint liquidator

8 September 1993

Report raps health premium caps

MARK A. HOFMANN

WASHINGTON—Patients would ultimately suffer if increases in private health insurance premiums were capped as a stand-alone way to control health costs, the Congressional Budget Office contends.



Caps would reduce insurer reve-

nues and "could put strong pressure on insurers to bring down the costs of care," the CBO concluded in a report released five days before President Clinton unveiled his health plan, which would limit premium increases.

The report, which also examines what legislators could do to mitigate some of the "potential adverse effects" of a stand-alone cap on premium increases, was requested by the House Ways and Means Health Subcommittee. Subcommittee Chairman Fortney "Pete"

Stark, D-Calif., is a co-sponsor of H.R. 1200, which would set up a Canadian-style single-payer system (BI, Sept. 13).

The CBO report did not examine any of the specific proposals that legislators and the president have made in recent weeks.

There are two chief arguments for controlling the growth of private health insurance premiums to hold down health care costs, the CBO study points out. First, such controls "would have the potential to limit growth in the price and volume of medical services simultaneously."

Secondly, limiting premium growth allows the government to take a "macromanagement approach": It simply specifies a permitted rate of increase and leaves the details to insurers, providers and consumers, the study said.

But insurers probably would respond to such caps in ways that could hurt consumers. "In response to this pressure, insurers would probably take a variety of actions—increasing utilization review, avoiding potentially high-cost enrollees, reducing benefits, and cutting payments to providers are the most likely," the report explains.

"Although such actions would probably result in lower spending on private health insurance, they would also have undesirable consequences. Private health insurance benefits would be lower, out-of-pocket spending for health care would rise, high-risk individuals would find it harder to obtain coverage and technological progress in health care would probably occur more slowly," the report says.

The report questions whether controlling the growth of private health insurance premiums would actually have a significant impact on health care costs in general. It points out that spending by commercial insurers, self-insured firms and HMOs accounts for less than a third of national health expenditures.

Mitigating the impact of premium controls on private health insurance "would entail significant restructuring of the health insurance industry" by the government, the study says.

Among the ways to ease the blow to consumers are: setting up a standardized benefit package; mandating guaranteed policy renewal or universal coverage; reducing risk selection by modifying insurers' enrollment practices; making actuarial adjustments when determining allowable increases in private health insurance premiums; and limiting "balance billing" by providers.

Yet problems would still remain, the CBO said.

"In particular, some consumers would gain from these measures, but others would be made worse off. To the extent that cost containment on the part of insurers led to reducing unnecessary or inappropriate care, consumers generally would be better off as resources formerly devoted to health care would be freed for other purposes. But efforts to reduce unnecessary care would almost certainly have the effect of eliminating some useful services; thus, some individuals might be worse off even if consumers as a whole were made better off," the report says.

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IRI's Outreach '93: Register Now to Get the Seminar You Want

HARTFORD, CT—In response to customer requests, Industrial Risk Insurers has created Outreach '93, a two-day program of four seminars, which will be introduced in Phoenix, Arizona, preceding the November 14-17, 1993 NFPA (National Fire Protection Association) Fall Meeting.

IRI's two-day traveling program, scheduled for November 12 and 13, has been designed to address the needs of risk and insurance managers, plant managers, plant engineers, managers of safety and security, plant fire chiefs and others responsible for implementing

or overseeing industrial fire protection.

Registrants may select from three one-day seminars or choose the two-day seminar. Registration is free for IRI insureds with a materials fee per seminar of \$75. Others will be charged \$150, which includes the materials.

The two-day "Industrial Fire Control Concepts" seminar, held on November 12 and 13, will explore all aspects of the industrial fire problem with special emphasis on how to manage it.

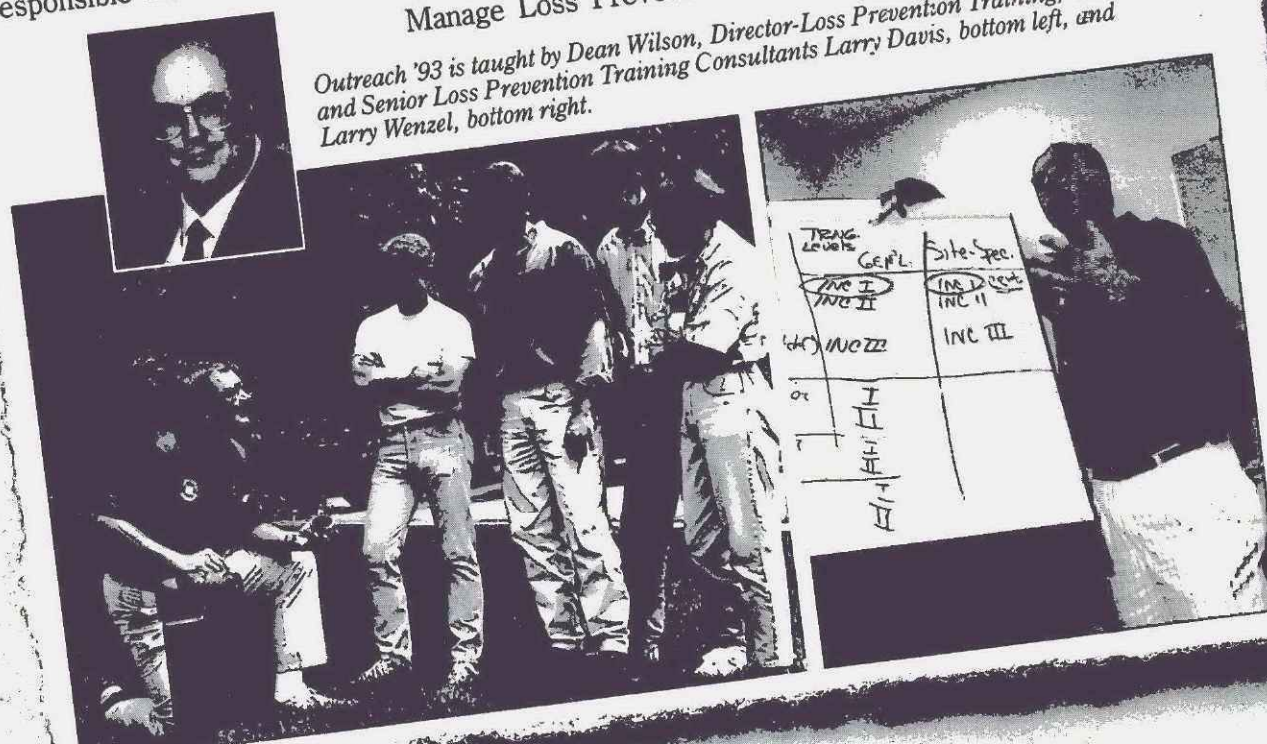
On Friday, November 12, other registrants will examine "OVERVIEW: A Strategy to Manage Loss Prevention and

Control". This seminar will help IRI customers apply modern management techniques to the protection of property, production and profits.

The two other sessions on Saturday, November 13 will include a seminar on "Developing Fire Brigade Training Programs" and one on the "Industrial Application of NFPA 72-1993, National Fire Alarm Code®." The fire brigade session offers proven methods that form the framework for a successful training program. The other seminar helps registrants develop a property protection surveillance plan.

Registration deadline for all seminars is October 29, 1993.

Outreach '93 is taught by Dean Wilson, Director-Loss Prevention Training, at left, and Senior Loss Prevention Training Consultants Larry Davis, bottom left, and Larry Wenzel, bottom right.



To register, telephone (203) 520-6027. For a brochure concerning Outreach '93, contact your servicing IRI office or call (203) 520-6027.

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Single copies of "Controlling the Rate of Growth of Private Health Insurance Premiums" are available free of charge by calling the Congressional Budget Office's Publications Office at 202-226-2809.

Clinton plan

Continued from page 1

Other Republicans went even further, suggesting that the reforms offered by President Clinton would do much more harm than good.

"Do we need health care? Yes, but the cure must not be worse than the disease," said South Carolina Gov. Carroll A. Campbell, who delivered the official Republican response.

Some Democrats were just as tough on the President.

Before President Clinton's address, Senate Finance Committee Chairman Daniel Moynihan, D-N.Y., labeled as "fantasy" the administration's assertion that universal coverage could be financed through cuts in projected increases in Medicare and Medicaid spending as well as through higher federal taxes on cigarettes.

But amid all the bickering, a consensus on health care reform—a goal that has eluded every president since Harry Truman—may be emerging, politicians and benefit observers say.

"We have a pretty solid base of agreement," said Sen. David Durbin, R-Minn.

"There is an agreement on some general points," said Edward J. Davey, a principal with A. Foster Higgins & Co. Inc. in New York.

The joining together of Republicans and Democrats is being driven, Mr. Davey and others say, by a hard political reality: Neither party wants to go into the 1994 congressional elections without passing some type of health care reform legislation.

"Politicians feel they will have to deliver something," he said.

"There will be a bill passed next year. The public will demand it," said Bill Gradison, president of the Health Insurance Assn. of America in Washington.

Others, though, are less certain. They envision, at best, only the bare bones of a health reform bill remaining by the 1994 elections because of fierce lobbying by interest groups like doctors and hospitals, insurers and small businesses.

"It will probably become a skeleton that all special interest groups hang their laundry on," said Dr. Robert Hertenstein, medical director of group insurance at Caterpillar Corp. in Peoria, Ill.

While many roadblocks remain, there may be some common ground among Democrats and Republicans on the elements of a compromise reform bill.

Those elements include:

- The creation of large purchasing pools to give smaller employers and individuals more buying clout.

- Overhauling insurance industry underwriting practices and provisions in self-insured health care plans that bar or severely limit pre-existing medical condition exclusions and waiting periods for coverage.

- Reducing administrative waste and overhead by, for example, creating a single medical claims form.

- More federal financial assistance to help subsidize the cost of health insurance for low-wage individuals.

- A commitment for establishing universal coverage.

While the president's plan may well be watered down in the coming months, all eyes now are focused on his proposal.

While Mr. Clinton did not offer any new details during his 53-minute address Wednesday evening, the administration provided a wealth of details about its re-

form package in a 239-page document that was earlier leaked by Capitol Hill staffers (*BI*, Sept. 20; Sept. 13).

Within the next two or three weeks, the package is expected to be finalized, and a bill that could total 1,200 pages will be sent to Congress.

While certain details may change, the core of the reform package that President Clinton will send to Congress is expected to remain intact. That core includes:

- Assuring that all Americans have comprehensive health care coverage by 1997. Eventually, benefits would be comparable to those offered by a typical Fortune 500 company. The administration estimates the cost of the basic plan would average \$1,800 for individual coverage and \$4,200 for family coverage.

- Giving states the authority to establish regional health care alliances that would purchase coverage on behalf of employers and in-

"The cure must not be worse than the disease," says South Carolina Gov. Carroll A. Campbell.

dividuals from insurers, health maintenance organizations and other health care providers.

Employers with fewer than 5,000 employees would have to obtain coverage from regional alliances, while larger organizations could form their own corporate alliances. Corporate alliances would have to offer the same benefit packages as regional alliances, including a fee-for-service plan, plus an HMO and a preferred provider option.

- Establishing, through a complex mechanism, a fixed amount of money that alliances could use to purchase coverage. In addition, the amount by which health insurance premiums could rise each year would be capped.

- Mandating that employers pay at least 80% of employees' health insurance premiums. However, employers buying coverage through regional alliances would have their premiums capped so as not to exceed 7.9% of payroll. Small, low-wage employers would be entitled to special subsidies and could pay as little as 3.5% of payroll on premiums.

- Giving states the option of establishing single-payer health care programs.

- Forming a new, yet-to-be-defined national subsidy pool that would pay 80% of health insurance costs for retired workers not yet eligible for Medicare, but covered under employer-sponsored retiree health care programs. Employers, in a huge windfall, only would be responsible for paying 20% of costs (see story, page 1).

Already, benefit experts say, the winners and losers under the Clinton plan are obvious.

The biggest winners would be old-line manufacturers with high health care costs, aging workforces and many retirees.

At a single stroke, billions of dollars in retiree health care liabilities, for example, would be transferred to the federal government or the so-called national subsidy pool.

"Rust Belt employers will be jumping for joy. Some employers can hardly believe it," said Linda Berghold, a principal with William M. Mercer Inc. in Washing-

ton.

Some observers say the promise by the administration to pay the bulk of early retirees' health care costs is a payoff by the administration to organized labor as well as a bid to win more support from big business.

"Organized labor is the group that is being paid off here," said Sean Sullivan, president of the Washington-based National Business Coalition on Health.

Similarly, employers whose health care costs now exceed 7.9% of payroll would reap enormous savings under the Clinton package. Employers' health care costs now average roughly 10% to 11% of payroll, says Mr. Davey of Foster Higgins.

For many employers, losing control over their health care plans and letting regional alliances purchase coverage would be an acceptable price to pay if their health care costs were capped at 7.9% of payroll.

"Large employers paying 15% to 20% of payroll for health care are more than happy to wash their hands of the problem in exchange for the loss of control" over managing their health plans, said Dr. Wayne Burton, vp and medical director of First Chicago Corp. and chairman of the Midwest Business Group on Health.

On the other hand, employers with low health care costs because of aggressive cost management could see their costs rise because, as part of regional alliances, they would pay community rates.

For example, health care costs at Atlanta-based MetroVision Inc., average \$1,900 per employee, well under the national average of about \$4,000 per employee.

Kathy Dupree, MetroVision's director of employee benefits, says the company's costs are low because of an effective cost control program and because the company has a young workforce.

"How will we be better off" if we are community-rated? Ms. Dupree asked. With fewer than 1,000 employees, MetroVision would not be allowed under the Clinton plan to establish a corporate health alliance.

However, many point out that the cost of subsidizing employers' health care expenses by capping their expenditures at 7.9% of payroll is impossible and that cap will be raised.

"The history of the Social Security program should teach us that caps don't stand the test of time," said Frank McArdle, a consultant with Hewitt Associates in Washington.

Initially, the FICA payroll tax was set at 1% of employees' wages with a maximum annual tax of \$30 per worker. Today, the payroll tax is a maximum 7.65%, including a tax of 6.2% on the first \$57,600 of wages and 1.45% on the first \$135,000 of wages.

Indeed, some charge that the 7.9% payroll cap is, as Mr. Sullivan describes it, a "sucker punch" intended to make large employers think they would pay less under the administration package.

Others go so far as to say there is a strong element of fantasy in the administration's package. Some, for example, question how regional purchasing alliances can be up and running by the 1997 deadline for universal coverage.

"This is no small job for alliances—collecting billions of dollars in premiums, negotiating with insurers, getting administration in place—it isn't going to happen" under the time allotted under the administration's plan, said Bernard Tresnowski, president of the Blue Cross & Blue Shield Assn.

Benefit experts also question if the Clinton plan will really reduce administrative overhead in the health care delivery system.

"I've been looking through the draft document at all the new advisory boards, councils and current state agencies that will have some input under the Clinton plan and my list is running at about 30," said Pamela Mitroff, director of health care and workers compensation policy for the Illinois Chamber of Commerce in Chicago. "I think the 200,000 or so employees the government is getting rid of by reinventing government will be employed by these new bureaucracies."

"The unrealistic assumption is that administrative costs will be reduced. Much more likely is that new bureaucracies will take the place of old ones," said Hewitt's Mr. McArdle.

Employers operating in many different cities, for example, would have to deal with what could be dozens of regional health alliances.

Even a company with one office in midtown Manhattan likely would have to deal with several regional alliances in New York state, plus alliances in Connecticut and New Jersey to cover workers whose homes are scattered around the New York metropolitan area.

"This package is fraught with bureaucracies," said Joseph W. Duva, president and chief executive officer of Preferred Solutions Inc. in New York.

Large employers—those with more than 5,000 employees—would appear not to have this problem. They could, under the administration package, set up

Early retirees

Continued from page 1

ziner, the White House senior domestic policy adviser, in a speech before the National Assn. of Manufacturers.

Mr. Magaziner said the government proposes "to pick up, (using) the national subsidy pool that's being created, 80%" of early retirees' health costs for people who have worked more than 10 years and who are between the ages of 55 and 65.

To prevent a run on Social Security trust funds, and considering employers' potentially huge savings from the program, the government may make "some type of one-year assessment" on employers, but he did not offer details on the assessment.

The program would cost the government \$4.5 billion to \$5 billion per year, he estimated.

The announcement brought mixed reactions.

Automakers—which have a large early retiree population—were wary of commenting on the announcement, especially because President Clinton did not address the proposal two days later during his speech before Congress.

"While it is still unclear what will be in the final health care plan, we think it would be appropriate for the plan to have a new mechanism to help finance health care for pre-Medicare retirees," said a spokesman for Detroit-based General Motors Corp. "All major trading partners spread costs for people not in the active workforce throughout the entire economy."

The proposal "is very appropriate," said Walter B. Maher, director-federal relations for Chrysler Corp. in Washington. "It addresses a void of health care for people who are out of the workforce before age 65."

their own health alliances.

But with so much of the market concentrated in regional alliances, even very large employers may not have enough clout to negotiate favorable purchasing arrangements with insurers, hospitals and other health care providers.

"If 99% of the market is concentrated with a regional alliance, how much leverage is an employer going to have?" asks Rick Smith, director of health care policy at the Assn. of Private Pension & Welfare Plans in Washington.

Others say that even if a large employer wants to form a corporate alliance, certain provisions in the Clinton package would bar it from doing so.

Take a company, for instance, with 8,000 employees, including 4,000 workers in one state and 4,000 in a second state. If one of those states establishes a single-payer system and forces all employers to participate in the program, the company would fall under the 5,000-employee minimum.

Perhaps the biggest question being raised is the accuracy of the administration's assumption that it can finance universal coverage, shift the bulk of early retiree health care costs to the government from employers, and subsidize certain large and small employers' health care expenditures without a general tax increase.

"Someone has been smoking something. I can't believe (White House Senior Policy Adviser) Ira Magaziner can say these are realistic assumptions with a straight face," said Mr. Sullivan.

"How is it going to be paid for? That has not been explained to the American people," said Sen. Durbin.

If the proposal were enacted, it would mean a clear windfall for employers, especially those with large early retiree populations, consultants say.

"It is a win-win situation" for employers, said George Wagoner, a principal at William M. Mercer Inc. in Richmond, Va.

Under health reform as a whole, employers with a typical early retiree health plan might see a 30% to 50% reduction in their accumulated post-retirement benefit obligations, he estimated. Those figures include projected savings from a new Medicare prescription drug program, which also is proposed under the Clinton health plan.

Under Financial Accounting Standard 106, employers are required to accrue as an expense against earnings non-pension retiree benefit liabilities (*BI*, April 1, 1991).

Most employers would amortize the liability over a number of years, thus making the liability millions of dollars less per year for some employers than it would be otherwise, said Mr. Wagoner. And, if health reform holds down medical inflation, even more health plan savings will be realized, he added.

But others are skeptical that the government can pay for such a generous benefit.

"It sounds incredible, but it remains to be seen" whether the proposal will survive, said Sharon Canner, assistant vp-industrial relations for the National Assn. of Manufacturers in Washington. "Perhaps we can develop legislative solutions that are more modest and workable."

The entire health reform plan seems to have something positive for every interest group, and "that

Continued on next page

Retiree health care

Continued from previous page
raises a red flag for me," said Richard Sinni, national director-health management practice for Buck Consultants in New York. "Everything in it looks like it will cost more. I have no idea how they will pay for it."

The proposal may create a windfall for employers but, overall, employers will be hit hard elsewhere under health reform, said William J. Miner, an actuary at The Wyatt Co. in Chicago. "I think employers will end up paying more for these plans than their current plans."

One benefit manager sees two potential problems.

Large employers that opt out of state-established regional health alliances and set up their own corporate alliance would be assessed a surcharge, possibly 1% of payroll, which may wipe out any savings garnered from the early retiree reimbursement proposal,

said Dr. Robert Hertenstein, medical director-group insurance for Peoria, Ill.-based Caterpillar Inc.

And, employers wonder if labor unions will demand that companies supplement the government plan to equal the benefits offered under their old employer-provided plan, he added.

Given these conditions, it is difficult for employers to calculate if the proposal would deliver true savings or not, he said.

"I have big concerns about financial projections used in the Sept. 7 proposal. Long-term care, prescription drugs and retiree medical benefits—how will they be paid for?" asked Mercer's Mr. Wagoner.

Savings from Medicare and Medicaid may not be as great as the projected, and realizing those savings will be a very tough political issue, said Buck's Mr. Sinni.

Some observers are concerned about the early retiree plan's viability in terms of long-term funding.

The government's funding projections are for less than seven years, pointed out Thomas Kuhlman, vp at Towers Perrin in Chicago. What will happen 10 to 20 years from now, when the baby boomers—a huge chunk of the U.S. population—enter the retiree group? he asked.

And, health plan costs could rise because retirees may resist being pushed from indemnity programs into managed care programs, Mr. Kuhlman added. Many retirees have a mobile lifestyle and have entrenched relationships with their doctors, he explained.

Moreover, it may become more difficult to keep health costs under control as the retiree group brings increased utilization to the plan, he added.

If the proposal does find its way into the final health reform act, employers will directly or indirectly be stuck with the tab, some observers say. "Employers will pay for it, one way or another," Mr. Sinni remarked. ■

For the Record

Oregon department folded into new agency

SALEM, Ore.—Gov. Barbara Roberts has signed into law a bill that creates the Oregon Department of Consumer and Business Services, which encompasses a restructured Department of Insurance and Finance, as well as other state agencies.

The new department merges the programs of the former DIF, Building Codes Agency, Appraiser Certification and Licensure Board, Oregon Medical Insurance Pool and the Office of Minority, Women and Emerging Small Business.

Insurance Commissioner Gary Weeks is head of the new department, which was created to improve state government's accountability and effectiveness, according to Gov. Roberts.

"When consumers, workers or businesses have a problem related to a wide variety of construction, safety or financial industries, they can get an answer from one agency. The various programs will coordinate more inspections—meaning fewer visits to businesses—and less interruption of work by government," Gov. Roberts explained.

UNUM reviving stock repurchase plan

PORTLAND, Maine—UNUM Corp. plans to resume a stock repurchasing program.

The company already has authority from a 1991 board of directors resolution to purchase up to 5.2 million shares, said a spokeswoman for the insurer.

In addition, UNUM has filed a shelf registration statement with the Securities and Exchange Commission relating to the issuance of \$500 million of securities, which could include debt securities, preferred stock, common stock or other securities. The latest shelf registration statement encompasses an earlier statement that still has \$175 million remaining.

The board of directors has authorized that up to \$300 million of the shelf registration can be offered as medium-term notes.

The UNUM spokeswoman said "Our financial management strategy is one of prepared opportunism, and the stock repurchase as

well as having the shelf registration are both parts of that overall strategy."

UNUM stock, which is traded on the New York Stock Exchange, was trading at \$53.75 per share last Thursday.

Illinois law creates 'innocent landowners'

SPRINGFIELD, Ill.—Gov. Jim Edgar recently signed into law new environmental assessment standards that clarify protections for lenders and other businesses that hold contaminated property as "innocent landowners."

Under the measure, S.B. 41, any land purchaser who receives an assessment that meets the new standards establishes a rebuttable presumption against the state—and a conclusive presumption against third-party claimants—that the purchaser has taken all necessary steps to obtain protection as an innocent landowner under state law.

The measure, which was supported by major business groups, is the first of its kind nationwide, according to Robert W. Wienke, an attorney with Ross & Hardies in Chicago who represents the Illinois Bankers Assn.

Court to review landlord/tenant case

SAN FRANCISCO—The California Supreme Court will decide whether a landlord or tenant in a commercial lease is obligated to remove asbestos-laden fireproofing and replace it with a safer material.

In the case under review, *Brown vs. Green*, the 4th District Court of Appeal in Los Angeles followed the 1969 decision in *Glenn R. Sewell Sheet Metal Inc. vs. Loverde*, which held that an operator of a trailer park—not the land owner—had to pay for connecting trailers to public sewer lines. Although the lease at issue in *Brown vs. Green* did not mention asbestos, the Sewell rule applied, the court said.

Attorneys for the tenants told the Supreme Court in their petition for review that it is time to reassess Sewell in light of new developments in removing hazardous substances from property.

An emerging body of law is holding landlords responsible for

asbestos removal, and cases interpreting the Comprehensive Environmental Response, Compensation and Liability Act—better known as the Superfund Act—generally hold the landlord responsible for removal of hazardous substances unless the tenant agrees to do the work, according to the tenants' attorneys, N. Mark Lam of Pasadena and Lawrence A. Agran of Irvine.

Washington regulator to hold hearings

TACOMA, Wash.—Insurance Commissioner Deborah Senn is holding public hearings through Oct. 5 under the state's new Health Services Act, a law that requires employers to provide a "certified health plan" with a uniform package of benefits to employees and their dependents.

The mandate will be phased in for employers with more than 500 employees beginning in July 1995 (*BI*, April 12).

Employers may offer their own self-insured plan if it meets the requirements of the mandated minimum benefit package. But they must also offer employees a choice of at least two other certified plans, including the lowest-cost certified plan in their region, and pay at least 50% of the cost of that plan.

The law gives the insurance commissioner immediate new authority over health plans and providers, directing her to rewrite the state's insurance rules dealing with pre-existing conditions, portability and renewability.

The rules must be written before Jan. 1, 1994 and adopted by July 1994.

Although President Clinton assured state officials they would have flexibility in implementing the state's plan under national health insurance reform, additional legislation might be required to adjust the state's plan to reforms on the federal level, said Ms. Senn.

Separately, a National Assn. of Insurance Commissioners team will make its final audit of the Washington Insurance Department Oct. 18 in preparation for what the state hopes is accreditation in November.

NAIC accreditation was mandated in a bill related to insurer solvency that was signed into law in July by Gov. Mike Lowrys. ■

Update

LUI investigation report

Continued from page 2

A 316-page report based on an examination into the affairs of LUI—the parent company of H.S. Weavers (Underwriting) Agencies Ltd.—and its subsidiary C.R. Driver & Co. Ltd., states that between 1970 and 1989 more than \$50 million was diverted from the Driver and Weaver companies to Swiss and Liechtenstein entities controlled by Graham Smith.

The report, published Sept. 23, concludes that the Smith companies "were not genuine insurance or reinsurance brokers and the deductions from premiums made by them diverted sums properly due to Weavers and its stamp companies."

A separate investigation into suspected fraud at LUI was instigated by police and the Serious Fraud Office in April 1992. Serious Fraud Office inquiries are continuing, said an SFO spokeswoman. Requests for assistance from authorities in Liechtenstein are currently being appealed, which is slowing progress, she noted. The spokeswoman would not comment on whether criminal proceedings were likely to be initiated in the near future.

Earlier this month, liquidators for the KWELM companies, five insurers that were members of a line slip managed by H.S. Weavers and were subsidiaries of LUI, sent creditors and policyholders a proposed scheme of arrangement (*BI*, Sept. 13).

NAI suing over Texas rules

AUSTIN, Texas—The National Assn. of Independent Insurers plans to file suit today in a Texas state court in Austin in an attempt to block enforcement of several rules approved last month in the waning hours of the Texas Board of Insurance's rulemaking authority.

The rules being challenged include four that allow consumers to sue insurers under the state's Deceptive Trade Practices Act, said Bob Zeman, assistant general counsel-legislative affairs for the Schaumburg, Ill.-based group.

Those rules are a so-called anti-redlining rule and an anti-blacklisting rule, in addition to two that apply to personal auto insurance policies (*BI*, Sept. 6).

Insurer groups contend that only the state Legislature—and not the state Board of Insurance—has the authority to create a cause of action under the deceptive practices laws.

Anti-redlining bills compete

WASHINGTON—The House Banking Committee's approval of a federal anti-redlining bill has set the stage for a confrontation between two powerful congressmen over who has jurisdiction over the business of insurance.

The Banking Committee last week approved H.R. 1257 on a party-line vote. The measure, sponsored by Rep. Joseph P. Kennedy II, D-Mass., would require insurers to provide detailed information about their underwriting practices in urban areas to federal authorities. The measure also would require that foreign insurers and reinsurers doing business in the United States receive U.S. Treasury Department certification.

The bill, however, does not deal with banking, which is the Banking Committee's area of authority.

The committee's action follows a vote by the House Energy and Commerce Committee to approve its own less sweeping, anti-redlining bill, H.R. 1188. Among other differences, H.R. 1188 does not contain the provision on foreign insurers and reinsurers.

Energy and Commerce Chairman John D. Dingell, D-Mich., has long asserted that he, rather than Banking Chairman Henry B. Gonzalez, D-Texas, has jurisdiction over insurance. The competing bills are expected to go to the House Rules Committee as a first step in resolving their differences.

Briefly noted

B. Michael Schlenke has been named president and a member of the board of directors of New York-based American Home Assurance Co., an American International Group Inc. unit. Previously, he was chairman of AIG Aviation Inc. in Atlanta. He succeeds Stephen Satler, who resigned. . . . **Capital Guaranty Insurance Co.** is planning an initial public offering. The financial guarantee insurer plans to use the offering's proceeds for working capital and other general corporate purposes. . . . An Equal Employment Opportunity Commission suit filed recently in federal court in Manhattan alleges that **American International Group Inc.** fired the host and hostess of its corporate golf resort because they were too old. . . . Poor operating results at CIGNA Corp. have led to another rating agency downgrade for the insurer. Duff & Phelps Credit Rating Co. in Chicago has downgraded the senior debt rating of CIGNA to A from A+. Last month, Standard & Poor's Corp. lowered its rating of CIGNA (*BI*, Aug. 23). . . . **The National Council on Compensation Insurance** has advised the Alaska Division of Insurance that a rate filing for workers comp policies renewing Jan. 1, 1994, may result in an overall increase of about 5%. A hearing on the proposed rates is scheduled for Oct. 14. . . . **Bermuda's** ruling United Bermuda Party will run against candidates from the Progressive Labour Party and the National Liberal Party in a general election Oct. 5, in which 89 candidates will compete for 40 seats in Parliament. The UBP, which has governed since 1968, has pledged that it will continue working with the insurance sector to secure new international business. . . . E.I. du Pont de Nemours & Co. will appeal a Florida circuit court jury's Sept. 23 award of \$3.04 million to an orchid grower who claimed the company's **Benlate DF fungicide** ruined 70,000 of his flowers (*BI*, June 21). . . . Legislation, S.B. 210, was introduced last week in Ohio that would **cap pain and suffering awards** at \$250,000, and would impose a 10-year statute of limitations on suits over unsafe products and professionals' practices.

UAW contract

Continued from page 2

Inc. "Reducing health care costs is not as important to Ford as it is to GM because Ford's per-worker cost of producing a car is far below that of GM's. And, Ford secured pretty low wage increases for all the companies."

The contract calls for a 3% base wage increase in the first year, followed by 3% lump-sum payments in the second and third years, as well as \$600 Christmas bonuses in all three years.

Ford stands to benefit from the contract in more subtle ways as well. As the only Big Three automaker with a fully funded pension plan, Ford will be more able to replace older workers with younger ones who will be more productive and require less health care, said Maryann Keller, an auto industry analyst with Furman, Selz, Mager, Dietz & Birney in New York.

"By paying lower wages to new hires and enriching pension benefits, Ford is encouraging older workers to leave the company and then will be able to replace that group with a line of 20-year-olds who won't get sick and will work harder at lower wages," Ms. Keller said.

According to a UAW outline, the tentative contract would:

- Maintain all current health plans with no copayments or deductibles paid by UAW members. Unlike the previous pact, the new contract will require Ford employees to make modest premium contributions. However, Ford had wanted to shift significant costs to employees.

"Certainly, health care was a hot button. It was an issue that went down to the final day. All I can say is that we sought more cost-sharing but didn't achieve it," a Ford spokesman said.

Health care, though, may have been more of a bargaining chip than a real bone of contention. "Health care wasn't as big an issue as Ford might want you to believe," said Furman Selz's Ms. Keller. "It would have been nice for Ford to have implemented copays or secured modifications for salaried employees, but the reality was that nothing was going to happen here until the Clinton plan was introduced."

And, as Mr. Freedman of A&A pointed out: "If the competition is the real enemy, Ford was probably quite willing to pay a little more for health care in exchange for lower starting wages and high job security benefits it knows it won't have to pay."

- Guarantee laid-off workers up to 95% of their pay and benefits for up to three years.

"This is the provision that really helps Ford because, unlike GM, Ford and Chrysler have no surplus of workers. GM has been laying people off and will continue to do so. Ford can promise anything it wants here because it won't have to spend anything," said Ms. Keller.

Under the expired contract, Ford had agreed to layoff benefits totaling \$1.6 billion but paid out only \$581 million. Meanwhile, GM said it expects to use all of the \$3.35 billion layoff funds it set aside in 1990.

- Lower newly hired workers' pay to 70% of the base wage rate for their job classification. Newly hired workers would then receive 5% pay increases every six months to reach 100% after three years.

"This benefits Ford more than the others because Ford has the thinnest workforce, but even Ford won't be doing much hiring over the next few years," surmised John Casesa, an auto industry analyst with Wortheim Schroeder Inc. in New York.

"Concessions were made here by the union," the Ford spokesman acknowledged, noting that new hires started out at 85% of base pay

and worked their way up to full earnings after only 18 months under the expired contract.

- Increase by 13% the monthly multiplier portion of the union's defined benefit pension plan to \$34.70 per month per year of credited service from \$30.70.

The contract also raises by 12.8% the union's monthly pension benefit for workers who retire with 30 years of service but before age 62. The monthly benefit increased to \$2,030 per month from \$1,800.

"These pension increases are basically in line with cost-of-living increases, but Ford has a funded pension plan whereas the other two companies don't," said Bob Eicher, a principal with A. Foster Higgins & Co. in New York. "I think this deal really emphasizes how health care and pension bargaining is reflecting the economics of the time. Layoffs and companies losing money have become a reality, and unions are trying to help."

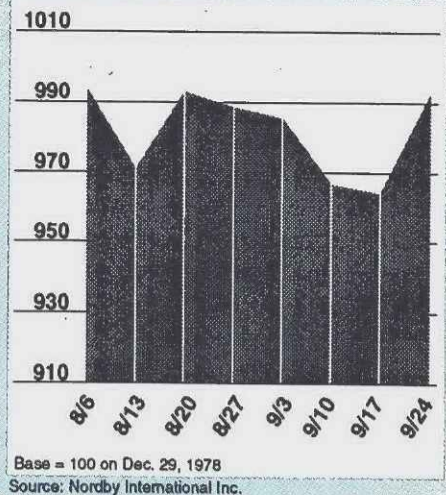
But not necessarily in the auto industry, said Wortheim Schroeder's Mr. Casesa, who insisted the UAW still carries clout with the automakers and isn't in a position yet where it has to give back what it won in previous contracts.

"While this may be the first defensive contract the UAW has ever signed, it's still strong enough to maintain what has been won over decades. One can't expect them to give back wages, health care or job security. This contract amounts to an extension of the previous contract," he said.

Meanwhile, the Canadian Auto Workers cemented a deal with Chrysler Canada Ltd. on Sept. 15 that featured enhanced supplemental health care coverages, like improved vision and dental benefits, better pension benefits more paid holidays and guarantees against Chrysler farming out labor to suppliers.

The CWA will start negotiations with GM with a strike deadline set for Sept. 29.

BI Insurance Index



Insurance industry stocks rebounded last week, as the Business Insurance Index gained 26.0 points to 990.4 Sept. 24 from 964.4 on Sept. 17. Advancing issues for the week were led by: U.S. Healthcare, up 25.7%; United Healthcare Corp., up 19.6%; and Navigators Group, up 14.5%. Declining issues for the week followed: Seibels Bruce Group, down 20.0%; Liberty Corp., down 8.0%; and Hilb, Rogal & Hamilton, down 7.0%. The most active issue was U.S. Healthcare, 11.1 million shares traded. The BI Index rose 2.7%; the Dow Jones 30 Industrials lost 1.9%; the NYSE Composite fell 0.2%; and the Standard & Poor's 500 dropped 0.3%.

British Issues

1 week		Price	P/E	Div. pence	Yield %	High—Low
Sept. 9 Companies						
Comml Union	600	N/M	32.5	5.4	606—600	
Genl Accident	686	N/M	35.7	5.2	686—685	
Gdn Royal Exch	215	N/M	9.3	4.3	215—212	
Royal	306	N/M	6.7	2.2	310—305	
Sun Alliance	381	N/M	19.0	5.0	381—373	
Brokers						
Bradstock	136	16.0	6.8	5.0	136—135	
C.E. Heath	399	19.2	20.5	5.1	400—398	
Hogg Group	213	18.8	10.9	5.1	215—213	
JIB Group	168	16.6	10.0	6.0	169—168	
Lloyd Thompson	301	24.3	7.5	2.5	303—301	
Lowndes Lmbtr	418	15.3	18.8	4.5	418—418	
PWS Holdings	66	9.9	5.3	8.0	66—66	
Sedgwick Grp	186	22.4	8.0	4.3	187—186	
Steel Brit Jones	153	N/M	11.3*	7.4	155—153	
Willis Corroon	225	21.0	8.8	3.9	229—225	

Source: Philip Olsen, London. Estimated

Home Holdings Inc. announces plans for stock, bond offerings

NEW YORK—Home Holdings Inc., parent of The Home Insurance Co., has filed a registration statement with the Securities and Exchange Commission to offer up to \$335 million in common stock.

In addition, Home Holdings said that before year end it will offer about \$100 million in 10-year notes at a significantly lower yield than its current outstanding debt, much of which carries a 14% interest rate.

Home Insurance also will strengthen its

loss reserves by \$290 million before the end of the year, a spokeswoman for the company said.

The reserve addition will be partially offset by an estimated \$140 million in capital gains.

Standard & Poor's Corp. placed Home Insurance on CreditWatch with positive implications.

"All these moves are positive. The sum of it all will be boosted capital, a reduction in leverage and interest responsibilities, and

increased reserves," said Peter Wade, an S&P analyst in New York.

"The stock offering will be a blatant benefit to capital because there is a market for this type of stock. The bond offering replaces their outstanding debt, which carries ridiculously high rates, and the reserve strengthening is necessary because Home's reserves have been short, especially in the area of environmental and toxic exposures," he said.

—By Michael Schachner

BI Industry Stock Report

SEPT. 20, 1993 THROUGH SEPT. 24, 1993

BROKERS	Price	Weekly		Year to date	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value	Price	Weekly		Year to date	Annual		Vol.(000)	\$ Div.	% Yield	P/E	Book value	Mkt./Bk. value	
		% change	% change		High	Low								% change	% change		High	Low							
Accordia Inc.	NYS	26.00	-3.70	20.93	27.63	15.13	46	0.44	1.69	15	9.57	2.72	Mutual Risk Mgmt. Ltd.	NYS	42.50	12.58	4.94	46.00	30.50	111	0.40	0.94	22	11.39	3.73
Alexander & Alexander	NYS	22.13	-6.35	-16.51	28.88	22.13	415	1.00	4.52	24	5.02	4.41	NAC Re Corp.	OTC	44.75	-0.69	-11.11	44.75	32.00	215	0.16	0.44	46	17.23	2.09
E.W. Blanch Holdings Inc.	NYS	22.00	2.92	N.A.	23.38	16.50	29	0.00	0.00	28	1.09	20.18	National Re Corp.	NYS	33.00	-6.71	11.39	39.63	23.00	86	0.12	0.36	10	14.18	2.33
Gallagher Arthur J. & Co.	NYS	30.88	-3.14	9.29	37.38	24.25	147	0.72	2.33	17	6.26	4.93	Navigators Group	OTC	35.50	14.52	9.23	35.50	28.50	22	0.00	0.00	25	16.99	2.09
Hilb, Rogal & Hamilton	NYS	13.38	-6.96	-14.40	16.88	11.63	146	0.44	3.29	19	2.73	4.90	Nobel Insurance LTD.	OTC	7.13	3.64	21.28	8.25	2.29	59	0.00	0.00	3	6.84	1.04
Marsh & McLennan	NYS	88.25	-2.08	-3.42	97.63	84.50	562	2.68	3.04	20	15.03	5.87	NWNL Companies	NYS	37.63	1.35	47.91	37.63	18.13	325	0.80	2.13	15	21.65	1.74
Poe & Brown	OTC	18.50	-5.13	10.45	21.25	12.50	8	0.40	2.16	33	2.60	7.12	Ohio Casualty Corp.	OTC	69.63	-2.45	10.30	72.00	59.25	114	2.84	4.08	12	45.85	1.52
BROKERS AVERAGE		-3.5	1.1				2.4	22					Old Republic Int'l	NYS	26.63	-1.39	7.04	27.63	21.50	239	0.44	1.65	9	21.06	1.26
													Orion Capital Corp.	NYS	43.00	-3.10	21.55	46.88	29.81	86	0.88	2.05	9	24.32	1.77
													Phoenix RE Corp.	OTC	34.50	1.47	119.05	38.25	11.50	449	0.20	0.58	-	11.88	2.90
													Provident Life	NYS	28.25	-1.31	-0.88	31.50	24.75	168	1.04	3.68	11	30.72	0.92
													Re Capital Corp.	OTC	14.13	0.00	-14.39	16.63	12.75	36	0.28	1.98	21	14.76	0.96
													Reliance Group Holdings	NYS	7.88	-1.56	28.57	8.50	4.75	1482	0.32	4.06	3	2.99	2.63
													RLI Corp.	NYS	24.25	-1.52	-2.02	28.63	19.88	49	0.56	2.31	11	18.62	1.30
													St. Paul Companies	NYS	91.88	-0.41	19.32	94.00	67.88	283	2.80	3.05	-13	52.24	1.76
													SAFECO Corp.	OTC	62.38	-1.19	9.91	66.75	51.13	869	1.80	2.89	11	38.95	1.60
													SCOR U.S. Corp.	NYS	16.38	4.80	-6.43	20.75	14.88	173	0.32	1.95	-	14.69	1.11
													Seibels Bruce Group	OTC	0.50-20.00		-73.33	2.88	0.31	527	0.00	0.00	0	1.90	0.26
													Selective Ins. Group	OTC	29.25	6.36	32.95	29.25	19.50	232	1.12	3.83	22	22.92	1.28
													Statesman Group Inc.	OTC	13.63	0.00	13.54	16.50	6.88	707	0.20	1.47	6	8.65	1.58
													TIG Holdings	NYS	25.25	-3.35	N.A.	26.88	22.88	589	0.20	0.79	-8	17.14	1.47
													Tokio Marine & Fire	OTC	67.00	-2.26	23.96	67.00	43.25	9	0.00	0.00	-	57.72	1.03
													Torchmark Corp.	NYS	56.88	-4.21	0.22	64.75	49.38	251	1.12	1.97	16	15.15	3.75
													Transatlantic Holdings	NYS	58.25	-1.06	3.79	61.50	42.13	33	0.28	0.48	18	24.57	2.37
													Travelers Corp.	NYS	38.00	4.83	39.45	38.00	21.50	9391	1.60	4.21	-5	31.77	1.20
													Trenwick Group Inc.	OTC	45.25	2.84	11.04	49.75	34.00	183	0.88	1.94	16	26.00	1.74
													United Fire & Casualty	OTC	37.50	3.45	-9.64	43.00	34.75	10	1.00	2.67	-	28.96	1.29
													Unitrin	OTC	43.50	1.75	1.75	46.75	36.00	296	1.40	3.22	13	37.69	1.15
													UNUM Corp.	NYS	54.13	-3.56	2.12	60.13	39.88	1461	0.80	1.48	14	21.25	2.55
													US Facilities Corp.	OTC	11.50	-2.13	15.00	13.00	6.50	234	0.00	0.00	13	10.48	1.10
													USF&G Corp.	NYS	17.13	-2.84	38.38	19.63	9.88	1279	0.20	1.17	-	9.63	1.78
													USLICO Corp.	NYS	18.00	0.70	0.00	20.00	15.00	21	0.24	1.33	-5	23.61	0.76
													USLIFE Corp.	NYS	40.75	-4.68	12.41	43.88	29.34	146	1.20	2.94	12	39.48	1.03
													Washington National	NYS	23.25	-1.06	1.09	28.00	2						

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