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Update

California governor expected to sign workers comp reforms

SACRAMENTO, Calif.—California Gov. George Deukmejian is expected to sign a workers compensation reform package unanimously passed last week by the Legislature that would, among other things, increase the maximum weekly benefit for injured workers and establish a process for helping workers obtain vocational rehabilitation services.

"It's a good first step," said John Lewis, an attorney in Coconut Grove,

Continued on next page

Hugo's wrath hits insurers

Storm could be most costly on record

Hurricane Hugo, which slammed into the coast of South Carolina late last week after cutting a path of death and destruction through the Caribbean, could cause billions of dollars in damage and rank as one of the most expensive storms ever.

Damage from the storm, which packed winds of more than 135 mph early Friday morning when it walloped the coast of South Carolina, also could spell the beginning of the end of the soft commercial property/casualty insurance market, some observers say.

However, others maintain that, despite the devastation, the losses spawned by Hugo will not in themselves cause insurance and reinsurance rates to rise.

Hugo already had caused as much as $1 billion in insured damages in the Caribbean islands from Montserrat to Puerto Rico before it reached the U.S. mainland, some observers estimated, though others said it was too early to assess the damage in the Caribbean, much less the devastation in the Southeast.

The bulk of the insured damages in the Caribbean were personal lines losses, sources reported.

The Property Claims Services division of the New York-based American Insurance Services Group expects to have a preliminary damage estimate this week.

Early reports from Charleston, S.C., on Friday said the storm caused extensive damage. One unconfirmed report said that at least 22 major buildings in downtown Charleston suffered heavy damage. The heaviest damage was thought to be on the barrier islands off Charleston, though communication with the islands was virtually impossible Friday.

"It could be at least 60% of the 'Big One,' " said a senior Lloyd's reinsurance brokerage executive, referring to the scenario of a hurricane whipping up the East Coast and hitting New York. Industry officials have estimated that a hurricane hitting New York could cause between $6 billion and $15 billion in damage (*BI*, Sept. 18).

If damages from Hugo constitute the "worst-possible" scenario and exceed $4 billion, "I don't see how it doesn't tighten the market," said Myron M. Picoult, senior vp and senior insurance analyst with Oppenheimer & Co. in New York. "It will clean a lot of cash clocks," he said on Friday.

"If that doesn't tighten the market, there is something really wrong with the people running the industry," Mr. Picoult said.

However, if damage from Hugo totals only about $2 billion, "we are close to the point of maybe yes or maybe no," he said, referring to a turn in the market.

However, no matter how much damage Hugo causes, "it going to squeeze the cash flows, which is a positive sign," he said.

"It's premature to judge" what impact Hugo will have, said Herbert E. Goodfriend, securities analyst with Prudential/Bache Securi-

Continued on page 38

Plaintiffs vow to appeal antitrust suit dismissal

By JUDY GREENWALD

SAN FRANCISCO—State attorneys general say they will take their antitrust case against 31 insurance industry defendants to the U.S. Supreme Court, if necessary.

The attorneys general lost the first round in their 18-month-old antitrust battle with the insurance industry defendants on Thursday when U.S. District Court Judge William Schwarzer dismissed the states' suit, as expected.

Judge Schwarzer had indicated at a Sept. 15 hearing that he was unlikely to waver from his proposed order to dismiss the case, which he issued in July (*BI*, Sept. 18).

In his final decision, Judge Schwarzer essentially reaffirmed his proposed order by dismissing the case on several grounds, including that the states failed to establish that the insurance industry defendants violated the McCarran-Ferguson Act by engaging in a boycott (*BI*, Aug. 7; July 31).

The limited antitrust immunity granted to insurers under McCarran-Ferguson does not extend to boycotts or coercion.

Despite the ruling, the attorneys general say they will press on with the case.

"It's potentially going all the way. That's certainly possible," said California Deputy Attorney General Thomas A. Greene, who said he plans to appeal the decision.

"I think the states would have an interest in pursuing it as far as it could go," agreed Lisa Tiegel, special assistant attorney general for Minnesota.

In their appeal, which would first be made to the 9th U.S. Circuit Court of Appeals in San Francisco, the states likely would argue that Judge Schwarzer incorrectly interpreted relevant case law he used in reaching his decision and that he has broadened the limited antitrust immunity provided by the McCarran-Ferguson Act, say attorneys representing the 19 plaintiff states in the litigation.

"It will be up to the 9th Circuit to conclude what McCarran-Ferguson means," agreed attorney Robert N. Schiff of Fisher & Hurst in San Francisco, which represents reinsurance intermediary Thomas A. Greene & Co. Inc. in the litigation.

Mr. Greene, the deputy California attorney general, expects oral arguments before a three-judge panel of the appellate court by next spring or early summer of next year.

In his final ruling, Judge Schwarzer also:

- Granted the defendants' motion to dismiss the case on the "state action" doctrine, which provides

Continued on page 37

Insurers told to discuss CGL history

By STACY ADLER

MORRISTOWN, N.J.—New developments in a major pollution coverage dispute will prove that insurers once intended to cover all types of unexpected pollution losses, attorneys for policyholders say.

The insurers litigating with Allied-Signal Inc. have been ordered to submit sworn statements—signed by the companies' chief executive officers or general counsels—revealing any statements or positions the insurers took concerning coverage for pollution claims that are inconsistent with the positions they are taking in the Allied-Signal case.

Specifically, the insurers' statements must discuss the drafting history of the comprehensive general liability policy form. In addition, insurers must disclose any settlements exceeding $500,000 involving pollution claims.

Some policyholder attorneys have contended for years that the drafting history of the pollution exclusion in the CGL form shows that the insurance industry had intended to cover all types of unexpected pollution, whether or not the pollution was sudden or gradual (*BI*, July 3; March 20).

Furthermore, since the insurers' statements regarding drafting

Continued on page 32

Latest aviation disasters won't cause rates to rise
Page 2

Judge caps reinsurer liability in Dalkon shield settlement
Page 2

Labor pacts help phone firms limit retiree health costs
Page 3

Update

California passes comp reform

Continued from previous page

Fla., a nationally known work comp expert who has analyzed several states' systems. Both employers and workers will benefit from the changes, he said.

The Workers Compensation Reform Act, which would apply to injuries occurring on or after Jan. 1, 1990, would:

- Increase the maximum benefit level for total and permanent total disability to $266 per week initially and to $336 per week beginning Jan. 1, 1991, from the current $244 per week. But, the minimum benefit level would be reduced over two years to the lesser of $126 per month or the employee's actual earnings.

The bill also would establish a separate maximum benefit for temporary disability for workers receiving vocational rehabilitation after their injuries are diagnosed as permanent. The benefit would equal two-thirds of the employee's average weekly earnings, up to a maximum of $246 per week.

- Increase the maximum weekly benefit for workers with permanent partial disability—a 25% or greater disability—to $148 from $140 beginning Jan. 1, 1991.
- Require timely payment of benefits.
- Encourage early identification of candidates for vocational rehabilitation services and prompt referral of workers medically eligible for these services.
- Create an Industrial Medical Council composed of 14 physicians appointed by the Legislature and governor to appoint qualified medical evaluators to assess workers' injuries. If a worker who is not represented by an attorney disagrees with a QME's evaluation, the worker may select one QME for each type of injury. When workers represented by counsel and the employer cannot agree on a medical evaluator, each party can select one QME per specialty.
- Require the injured employee to file a workers comp claim with the employer before filing an application for adjudication.
- Require employees filing stress claims to demonstrate that actual events of employment were responsible for at least 10% of the cause of the injury. Currently, compensability for stress are determined on a case-by-case basis.

Kasten eyes Section 89 repeal

WASHINGTON—Some members of Congress and business groups say they will press for total repeal of Section 89 because legislation approved this month by the House Ways and Means Committee to replace the law with a new set of simplified welfare plan non-discrimination rules does not go far enough.

Sen. Robert Kasten, R-Wis., described the Ways and Means proposal, now attached to a budget bill, as "reform disguised as repeal."

Under the committee's proposal, professional service organizations, such as law and accounting firms, face tougher non-discrimination rules than other employers (*BI*, Sept. 18). But, Sen. Kasten said committee legislation gives the secretary of treasury blanket authority to define professional service organizations.

"This is the kind of murky language and blank check approach that got us into this regulatory mess in the first place," he said. He added that he may offer an amendment on the Senate floor for "full and unequivocal repeal" of Section 89.

The Washington, D.C.-based National Assn. of Manufacturers last week also called for "absolute repeal" of Section 89, calling the committee proposal "vague and inadequate."

Central National in supervision

OMAHA, Neb.—The Nebraska Department of Insurance placed Central National Insurance Co. under supervision after an examination revealed the insurer was in perilous financial condition.

"Based on preliminary findings of the examination of Central National, it appears that Central National is in such a condition as to render continuance of its business hazardous to the public," said Insurance Commissioner William H. McCartney in his supervision order. However, the department does not know the extent of the impairment.

Much of the problem at Central National involves uncollectible reinsurance, including $19.7 million from Bermuda-based Mentor Insurance Co. Ltd. and $13.4 million from Schaumburg, Ill.-based Pine Top Insurance Co., both of which are in liquidation.

Under the supervision order, Central National cannot write or renew any business without prior approval from the Insurance Department. Much of the company's direct insurance business already has been either transferred or canceled, Mr. McCartney said.

Central National wrote $158 million in direct and reinsurance premiums and $114.1 million in net premiums in 1988. Policyholder surplus at year-end 1988 totaled $49 million.

The department also is conducting a financial examination of sister company Protective National Insurance Co., which was placed into supervision in early 1986 (*BI*, Jan. 27, 1986).

Reinsurers' results slide

WASHINGTON—U.S. reinsurers posted a 104% combined ratio for the first six months of 1989, compared with the 102% combined ratio posted by a comparable group of reinsurers for the same period a year ago, according to the Reinsurance Assn. of America.

For the first time, the RAA survey includes only "professional reinsurance companies" and excludes the results of primary insurers' reinsurance departments and reinsurance pools.

The association has decided to release only data that is publicly available because of antitrust concerns, a spokeswoman explained. The RAA delayed release of the results until it could analyze the draft of proposed insurance antitrust guidelines by the California attorney general (*BI*, Aug. 28; July 31).

The 67 reinsurers surveyed posted a 73.8% loss ratio and a 30.1% expense ratio, the RAA said. Premiums written fell 3.8% to $5.1 billion from $5.3 billion.

The reinsurers reported $11.1 billion in policyholder surplus.

Continued on page 37

Reinsurance ruling

Judge caps reinsurers' liability

By STACY ADLER

NEW YORK—The "follow the fortunes" clause contained in nearly all reinsurance contracts does not obligate a reinsurer to pay claims that exceed the limits of the contract when the ceding insurer pays claims that exceed those limits, a federal judge has ruled.

The ruling marks the first time a judge has explicitly stated that the clause, which states a reinsurer must follow the fortunes of its ceding insurer, does not automatically extend policy limits, attorneys say.

The decision also is significant because there are few court rulings pertaining to reinsurance on the books, attorneys note. Therefore, each reinsurance decision has a significant impact on litigated and arbitrated reinsurance disputes, they say.

"This is the first court to clearly hold that the follow the fortunes clause does not extend the reinsurance policy limits," said Frank M. Nicoletti, an attorney with Ober, Kaler, Grimes & Shriver in New York, who represented the reinsurers in the litigation.

"This decision limits reinsurers to their policy limits," Mr. Nicoletti said. "The court held that when a reinsurer follows the fortunes of a ceding company, under no circumstances will the terms and conditions of the reinsurance contract be extended."

U.S. District Judge John F. Keenan ruled Sept. 5 that six reinsurers of Aetna Casualty & Surety Co. do not have to contribute to a settlement between Aetna and A.H. Robins Co. Inc. beyond the limits of the reinsurance contracts.

Aetna wrote primary general liability insurance for Robins from 1968 to 1978. However, the litigation involved policy years 1970 to 1977.

Aetna wrote $1 million in primary limits in 1970 and $5 million in primary limits for the successive years.

Aetna also wrote excess coverage for Robins, including: $34 million of liability insurance excess of $1 million in 1970; and $30 million of liability insurance excess of $5 million in 1971 and 1972.

In succeeding years, the excess policies provided $50 million in limits excess of $5 million.

All of the Aetna-underwritten excess coverage was fully reinsured.

In the early 1970s, Robins was deluged with bodily injury claims from women who claimed they were injured by the Dalkon Shield intrauterine device manufactured by Robins.

Richmond, Va.-based Robins, which later filed for Chapter 11 reorganization because of the massive amount of claims it faced, claimed that Aetna should

Continued on page 4

Latest airline disasters won't firm aviation rates

By STACY SHAPIRO

LONDON—Two aviation disasters last week and the destruction of light aircraft by Hurricane Hugo in the Caribbean are not expected to reverse plunging airline hull and liability insurance rates.

Last week's disasters "probably won't affect" the soft aviation insurance market, said a Lloyd's of London aviation insurance broker. "It just highlights how crazy the market is."

The big effect will be in the aviation reinsurance market, where underwriters are only just beginning to pay the $345 million loss for the 1985 crash of a Japan Air Lines 747 jetliner that killed killed 520 people, he said (*BI*, Aug. 19, 1985).

Robin Eliot, chairman of Lloyd's Aviation Underwriters Assn., said it is impossible to predict how the latest aviation disasters will affect the soft aviation market.

"Rates are extremely low," and it's impossible to say when rates will increase, he said.

So far this year, a total of 21 jetliners with hull values totaling $380 million have been lost, and 715 passengers and crew have been killed, according to Air Claims Ltd., which had no estimate for the aircraft damage caused by Hurricane Hugo (see story, page 1).

Last Tuesday, a Paris-bound Union des Transports Aeriens DC-10, insured for $40 million, exploded in midair over the Sahara desert on a flight from Brazzaville, Congo, just after stopping in N'Djamena in Chad. All 156 passengers and 15 crew were killed.

The Paris-based airline's hull insurance and its 4 billion French francs ($608 million) of liability insurance was renewed March 17 for an 18-month period. The coverage was placed with the Paris-based underwriting agency Malatier S.A., which writes for insurers in the

Continued on page 37

Buyers' directory available

The seventh edition of the *Business Insurance Directory of Corporate Buyers of Insurance, Benefit Plans and Risk Management Services* will be available in early October.

The 1989-1990 edition has been updated to provide information on 2,115 U.S. corporations.

The directory is arranged alphabetically, including each company's address, telephone number, 1988 sales or assets, number of employees and type of business. Listings include names and titles of the chief financial officer and of executives in charge of risk management, employee benefits, personnel and pension/retirement plans.

Most companies also list additional personnel with related responsibilities, such as health care plans, property insurance, casualty insurance, workers compensation, benefit communication and international risk management and employee benefits.

As a new feature this year, *BI* also asked companies to report names and titles of their general counsel, medical director and treasurer.

Indices ranking companies by number of employees and 1988 sales or assets are provided, as is a geographic index arranged by state.

The 1989-1990 edition of the *BI* directory costs $85.

To order, contact Dorothy Wood, *Business Insurance* Directory, Single Copy Sales, 965 E. Jefferson Ave., Detroit, Mich., 48207; 313-446-1623 or 800-992-9970.

The directory is also available on computer tape. For information, call Denise Mathews, 313-446-1625.

Inside

- Regulators would have a tighter rein on managing general agents under a new model act adopted by the National Assn. of Insurance Commissioners. **PAGE 10**
- In RMIS Commentary, David Tweedy predicts that risk management information systems and employee benefit information systems will be merged. **PAGE 23.**
- State health care benefit mandates have created administrative headaches and high health care bills, says Michael Conley of Northwestern National Life Insurance Co. in Perspectives. **PAGE 24**
- The liquidators of Mentor Insurance Co. Ltd. have filed suit in Bermuda against more than 2,500 partners of the accounting firm that audited Mentor. **PAGE 30**
- The Colorado Division of Insurance is implementing most of the 62 changes recommended in an exhaustive performance audit. **PAGE 33**

Departments

Advertiser index	32
At issue	10
Benefit beat	6
Bermuda briefs	30
Classifieds	34
Comings & goings: industry	34
Datebook	36
Insurance services guide	38
Opinions	8
Perspectives	23
RMIS commentary	23
Ticker	39

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Carolyn Aldred

Flags from many nations adorn the city hall in Antwerp, the site of the International Union of Marine Insurance conference.

Marine insurers seek to increase shipping safety

By CAROLYN ALDRED

ANTWERP, Belgium—Shipowners that flout safety standards and ship survey requirements soon could risk losing their insurance coverage, marine underwriters from two major markets warn.

Marine underwriters from both the influential London and Norwegian marine insurance markets are advancing plans to automatically terminate policyholders' coverage if they do not complete and comply with ship safety surveys as required.

The proposals were discussed by delegates at the International Union of Marine Insurance conference, held Sept. 11-14 in Antwerp, Belgium.

London marine underwriters first announced plans at last year's IUMI conference in Sydney to introduce new warranties into hull insurance policies to ensure stricter compliance with safety standards (*BI*, Oct. 3, 1988).

The warranties are designed to boost standards among the world's classification societies—the organizations that survey the seaworthiness of ships—and among shipowners.

After the Sydney conference, however, reluctance among ship-

Continued on page 26

Phone firms to plug retiree health costs

By DONNA DiBLASE

Recent labor agreements will enable American Telephone & Telegraph Corp. and several regional telephone companies to take an important first step toward limiting their health care liabilities for future retirees.

Under contracts with the Communication Workers of America and the International Brotherhood of Electrical Workers, AT&T and the "Baby Bells" will begin to limit post-retirement health care costs for employees retiring after 1990 through the use of what is known as a defined dollar benefit.

The companies will cap the annual company health care contribution per retiree, with retirees then being responsible for paying any excess premium above the cap. Active employees and retirees of the telephone companies currently make no contribution toward the cost of their health care coverage.

These caps, which vary among the companies, apply to the "premium" or annual cost of providing coverage to each retiree under self-insured indemnity plans. The caps will not, however, be applied to the companies' claims expenditures under the plans, thus leaving an open-ended liability for claims costs.

"The use of the cap is an important first step" toward recognizing and controlling future retiree health care liabilities, observed Donald G. McKinnon, a managing director in the Stamford, Conn., office of William M. Mercer Meidinger Hansen Inc.

However, Mr. McKinnon added that he thinks "all the parties involved in these agreements realize that the cap alone doesn't really solve the underlying problem of the true long-term liability for retiree health care costs."

The caps on annual company contributions toward the cost of health care for future retirees will help to reduce by hundreds of millions of dollars the retiree health care liabilities the companies will be required to list on their financial statements beginning in 1992 under proposed rules promulgated by the Financial Accounting Standards Board (*BI*, Feb. 20).

While the caps were included in the language of the AT&T contract, which was ratified in June, company and union officials never announced that the caps existed (*BI*, Aug. 21; June 5).

The introduction of the retiree health care cost caps in the AT&T contracts opened the door for the regional telephone companies to include similar provisions in their contracts with the CWA and IBEW, which have been negotiated in the past six weeks, company and union officials said.

"AT&T's introduction of the defined dollar benefits for future retirees helped all of us (the regional companies) tremendously. Once the union accepted the

Continued on page 25

Risk managers' conference

Pollution called top worry

By MICHAEL BRADFORD

CALGARY, Alberta—Environmental issues loom as the biggest problem risk managers will face during the 1990s and well into the 21st century, according to a panel of risk management experts.

Repairing damage to the environment and keeping it clean will provide risk managers with their greatest challenge in the coming years, the experts predicted.

In addition, the risk manager of the future will spend more time on loss control and risk evaluation and less time on risk financing, agreed members of a panel who offered their thoughts about risk management in the future at the annual meeting of the the Risk Management in Motion Canadian Conference sponsored by the Canadian Assn. of Risk Managers Sept. 10-13 in Calgary, Alberta. The conference was hosted by the Southern Alberta chapter of the Risk & Insurance Management Society Inc.

"Environmental impairment will likely continue into the early years of the 21st century as the leading social, political and economic issue" facing risk managers, said Felix Kloman, principal and vp in the Stamford, Conn., office of the Tillinghast division of Towers, Perrin, Forster & Crosby Inc.

The world has "let conservation as an ethic almost completely die" during the last 35 years, Mr. Kloman asserted.

"We've got to get back to a more rational approach to the use of natural resources and the use of the air, the ground and the water," Mr. Kloman said.

But, currently, "we're just beginning to realize what we've done to our environment," and the polluters are being held responsible for cleaning up the environment, he said.

In the United States, the responsible party "happens to be a corporation in most cases," Mr. Kloman observed. "Well, the corporation turns around and says, 'We were insured or we think we were,' and it's a merry-go-round of trying to pass the buck."

He said the environmental problem is "far and away the most serious we have to deal with, and it's going to promote a lot of serious economic situations for the insurance industry and for our individual corporations in the next decade."

"We have some futurists saying that maybe there will be biotechnology that will be able to assist us in cleaning up the environment," noted John Wolff, an executive vp at Marsh & McLennan Cos. Inc. in Toronto. "Whether this will happen in 10 years or 20 years, I don't

Continued on page 14

Agency to review pension loan rules

By JERRY GEISEL

WASHINGTON—The Labor Department is reviewing a controversial regulation that requires employers to extend their pension plan loan programs to all participants with active account balances.

Among other things, employers and benefit consultants contend—contrary to the Labor Department's interpretation—that the Employee Retirement Income Security Act of 1974 does not require loan programs to be extended to all participants, like former employees, with active account balances.

The department will consider during its review the objections that employers and benefit consultants have raised, said Ivan Strasfeld, director of the Labor Department's Office of Exemption Determinations in Washington, D.C.

However, Mr. Strasfeld gave no indication whether a reversal or alteration of the regulation is likely.

"We are considering the issue," he said.

In any case, Mr. Strasfeld pledged, the department should reach a decision within the next few weeks, presumably before the regulations go into effect on Oct. 18.

Aside from requiring employers to extend pension plan loan programs to anyone with an active account balance, including retirees and other vested plan participants who have left an employer, the Labor Department regulations also require pension plans to charge interest rates commensurate with those charged by commercial lenders for similar loans.

Benefit experts say this requirement will force employers to check rates being charged by several commercial lenders to come up with a rate that can be charged on pension plan loans.

In addition, the final rules bar pension plan participants from using more than half of their account balances as collateral or security for a loan from the plan.

But, requiring employers to extend their

Continued on page 22

House reauthorizes crime cover program

By ADRIENNE C. LOCKE

WASHINGTON—The debt-ridden Federal Crime Insurance Program for small business in high crime areas is facing reauthorization by Congress amid a debate over the necessity of the 19-year-old program.

The House last week voted to reapprove the FCIP for two more years, and the Senate is expected to vote on continuing the program by Friday, when its current authorization expires.

But, the FCIP's detractors, including the Bush administration and insurers, contend the program is no longer necessary because the major reason the program was created—urban rioting—is no longer a prevalent problem.

The FCIP's critics argue that affordable crime coverage is available to most businesses in high crime areas through the commercial property insurance market.

Indeed, the demand for the coverage through the federal program has shrunk dramatically, they point out.

And, in those areas where affordable crime coverage is not available through commercial insurers, individual states—rather than the federal government—should offer such a program through Fair Access to Insurance Requirements plans, critics of the FCIP contend.

However, some small businesses argue that the FCIP provides the only truly affordable crime coverage available to small businesses in high crime areas.

And, the program would be more successful if the federal government promoted it more, supporters say.

Supporters also balk at suggestions that states offer the coverage through FAIR plans. They assert that while FAIR plans may be able to offer crime coverage more cheaply than the commercial market, crime coverage through FAIR plans would still be far more expensive than through

Continued on page 35

Aetna ruling

Continued from page 2

pay all of the company's defense costs. However, Aetna maintained that defense costs were included within policy limits.

Robins sued Aetna in 1978 in U.S. District Court in Richmond, Va., seeking a declaration that defense costs do not deplete its policy limits for the years 1970-1977.

But rather than litigate with Robins, Aetna settled the dispute and agreed to pay Robins $72 million above its primary and excess policy limits toward the defense and indemnification of the Dalkon Shield claims.

Aetna sought support from its reinsurers during the settlement negotiations. Many of the reinsurers, including Lloyd's of London syndicates, agreed to participate in the settlement.

However, seven reinsurers said they would not contribute to any settlement beyond the contract limits.

The reinsurers were Bellefonte Reinsurance Co., which was later merged with Universal Reinsurance Corp.; Mission Insurance Co., which now is in liquidation; The Insurance Co. of the State of Pennsylvania, an American International Group Inc. unit; North American Co. for Property & Casualty Insurance, now NAC Re Corp.; Constitution Reinsurance Corp., a Crum & Forster Inc. unit; Gerling Global Reinsurance Corp.; and The Home Insurance Co., now a unit of AmBase Corp.

Six of the reinsurers sued Aetna in federal court in New York seeking a court declaration that they were not obligated to contribute to the settlement beyond the limits of their facultative reinsurance contracts. The Home filed a similar suit in federal court in Pennsylvania. The two lawsuits subsequently were consolidated in the New York court.

During the litigation with the reinsurers, Aetna raised two arguments:

- Defense costs do not deplete the limits of the reinsurance contracts.
- Regardless of whether the reinsurance contracts include defense costs within limits, the "follow the fortunes" clause in the contracts obligates the reinsurers to contribute to a settlement that exceeds the limits of the reinsurance contracts.

The court, however, disagreed with both arguments.

Based on the language of the reinsurance contracts, "expenses paid by the reinsurer are to be included within policy limitations," Judge Keenan ruled.

"The court can find no indication in the policies at issue that expenses are to be excluded from the policy limitations," he said. "Indeed, the limitation is a 'policy' limitation, rather than a 'loss' limitation, indicating that the limitation is to be a cap on all payments by the reinsurer under the policy."

The court also said the follow the fortunes provision in the contracts does not extend coverage limits.

The reinsurance contracts all stated: "The liability of the reinsurers under this certificate shall follow that of the company (Aetna), except as otherwise specifically provided herein, (and) shall be subject in all respects to all the terms and conditions of the company's contract."

The court said: "It has been held that such a clause will permit liability of the reinsurer, but not beyond the scope of the reinsurance policy, unless there is a genuine ambiguity over whether a certain sum is covered by the policy."

But Judge Keenan found that the reinsurance contracts were not ambiguous and clearly included defense costs within policy limits. Therefore, he ruled, the follow the fortunes clause does not extend the reinsurer's liability beyond the policy limits.

"The court can find no indication that the (follow the fortunes) provision was intended to override the policy limitation and if, in fact, it was as broad as defendants argue, the policy limitation and other conditions would serve no purpose if the reinsurer was merely obliged to reimburse the insurer for any and all funds paid," Judge Keenan said.

"For these reasons, the court concludes that the 'follow the fortunes' provision does not warrant a finding that the (reinsurers) must pay expenses which would exceed the policy limitation," he said.

Judge Keenan's decision marks the first time a court has explicitly stated that the follow the fortunes clause does not extend reinsurance contract limits when the contract terms are clear, according to attorneys.

Attorney Jonathan Bank of Buchalter, Nemer, Fields & Younger in Los Angeles said Judge Keenan's decision was a correct interpretation of the follow the fortunes clause.

"It would be a tortured construction of the follow the fortunes clause to hold a reinsurer liable for a risk not covered by the reinsurance agreements," Mr. Bank said, paraphrasing an earlier reinsurance decision.

Attorney Stuart Cotton of Mound, Cotton & Wollan in New York agreed: "The reinsurer doesn't say it will reinsure all liabilities—only liabilities up to the stated policy limits."

Mr. Nicoletti, who represented the Aetna reinsurers, predicted that Judge Keenan's decision will cause ceding companies to be more cautious when making settlements.

"Ceding companies will be less apt to just go off and settle a case without the authority of their reinsurers," he said. "This decision will cause ceding companies to work closer with their reinsurers when making settlements."

Court decisions involving reinsurance disputes are important because there are so few of them, Mr. Bank explained. Most reinsurance contracts mandate that disputes be arbitrated.

Mr. Cotton agreed, saying this decision will certainly "have an impact on all reinsurance disputes that are litigated" in the future.

The decision also could have a "significant impact" on reinsurance arbitrations, he said. "This decision ought to discourage people from arbitrating issues contrary to this holding."

Robins, which filed in 1985 for reorganization under Chapter 11 of the Federal Bankruptcy Act, is hoping to emerge from bankruptcy by establishing a trust fund to pay claims from women injured by the Dalkon Shield. Aetna is contributing to the trust fund (*BI,* July 3).

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Bellefonte Reinsurance Co. et al. vs. The Aetna Casualty & Surety Co., U.S. District Court for the Southern District of New York, No. 85 Civ. 2706.

Harty joins *BI* in Chicago

Sara Harty has joined *Business Insurance* as an editorial assistant in the Chicago office, Associate Publisher and Editor Kathryn J. McIntyre announced.

In her new position, Ms. Harty will assist in producing the annual *BI* directory of buyers, the annual directory issue of HMOs and PPOs and the directories published within weekly issues of *Business Insurance.*

Ms. Harty

Prior to joining *Business Insurance,* Ms. Harty worked as a claims representative for The Travelers Insurance Co.

Ms. Harty graduated in 1988 from The University of Notre Dame in Notre Dame, Ind., with a bachelor's degree in English.

Ms. Harty can be reached at 312-280-3195. ■

EVEN IF YOUR EMPLOYEES ARE ANGELS,

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UAL takeover largest funded by ESOP

By MICHAEL SCHACHNER

The employee buyout offer approved by UAL Corp.'s board of directors earlier this month would mark the largest-ever corporate takeover funded by an employee stock ownership plan, observers say.

UAL employees' offer of between $6 billion and $6.5 billion—or about $276-$300 per share for 21.7 million outstanding shares—would give employees 75% ownership in the company, said Jim Hanson, a captain with Rosemont, Ill.-based United Air Lines Inc., speaking on behalf of the United branch of the Airline Pilots Assn.

"This is by far the largest ESOP buyout by employees. It's quite a significant jump from the next two largest ones," said Martin Staubus, associate director of the ESOP Assn. in Washington, D.C., referring to 1987 ESOP takeovers of Avis Inc. and Health Trust Co., both of which were valued at $1.7 million.

Benefit beat

"We are really excited about this," Mr. Staubus said. "It's a wonderful development, and we're hoping for its greatest success. All in all it appears to be a very good deal."

The employee bid comes on the heels of a recent $275 per share takeover offer by Marvin Davis, a well-known entrepreneur and corporate takeover specialist. The board rejected Mr. Davis' offer.

UAL stock last week was selling for nearly $284 per share on the New York Stock Exchange.

Under the plan—which was submitted by United pilots, senior managers and British Airways P.L.C., which has a marketing agreement with United—the airline would be owned by 7,000 United pilots, 25,000 non-union employees—including top managers—and British Airways. UAL pilots and non-union employees would own 75% of the airline, top-level management would assume 10% ownership in the company, and British Airways would own 15% of UAL, Mr. Hanson said.

Those groups also have invited approximately 13,000 members of the United branch of the Flight Attendants Assn. union and 25,000 members of the International Assn. of Machinists and Aerospace Workers to participate in the plan.

However, the flight attendants' and the machinists' unions still are determining whether they will participate, according to Mr. Hanson.

Still, support from the pilots and non-union employees is widespread, and the deal will go through with or without the other unions, Mr. Hanson said.

"But if they choose to participate it will make the deal all the better," he added.

According to Mr. Hanson, the ESOP will be financed with:

- About $250 million from wage reductions and increased productivity.

Pilots will take a 10% pay cut and assume four additional hours per month of flight time. As a result, pilots' flight time will increase to 85 hours from 81 hours per month. And, pilots no longer will be paid overtime when trips extend into their vacation time.

- At least $200 million from a new voluntary investment option under the pilots' defined contribution pension plan, under which the pilots would pay $200 million for a new issue of preferred stock. The New York investment firm of Salomon Brothers Inc. would finance the purchase of the stock.

The pilots' defined benefit pension plan would not be affected under the plan.

- Approximately $1 billion in equity from past wage and benefit concessions.
- The assumption of about $1.8 billion in UAL debt by the pilots and employees.
- Between $2.75 billion and $3.25 billion in financing from Citibank, Chase Manhattan Bank Corp. and Salomon Bros.

The employee buyout proposal is similar to the 1987 proposal initiated by United pilots in an effort to thwart UAL's diversification into hotels and other business interests, which pilots claimed were ruining the airline's profitability (*BI,* April 20, 1987). At the time, companies under the UAL umbrella included United Air Lines, Hilton Hotels Corp., Westin Hotel Co. and Hertz Corp.

However, since the pilots' original offer, UAL has sold off its hotel and rental car subsidiaries.

"We want to control the destiny of this company," said Hank Krakowski, another United pilot speaking for the union.

"Since deregulation, the previous management of the airline made some decisions that have permanently hurt the airline. We want to make sure decisions like that are never made again."

Employee ownership of 75% of UAL, as well as employee representation on the UAL board of directors, bodes well for the company's future, Mr. Staubus said.

He also predicted that the UAL buyout would likely pave the way for similar employee takeovers funded by ESOPs.

"Far more ESOP buyouts will follow, but probably with a time lag. I don't think you'll see a wholesale rush of ESOP buyouts," Mr. Staubus said.

Chubb ESOP

The Chubb Corp. has launched a new employee stock ownership plan that will purchase approximately 2 million shares of Chubb common stock, giving the ESOP 5% ownership in the company.

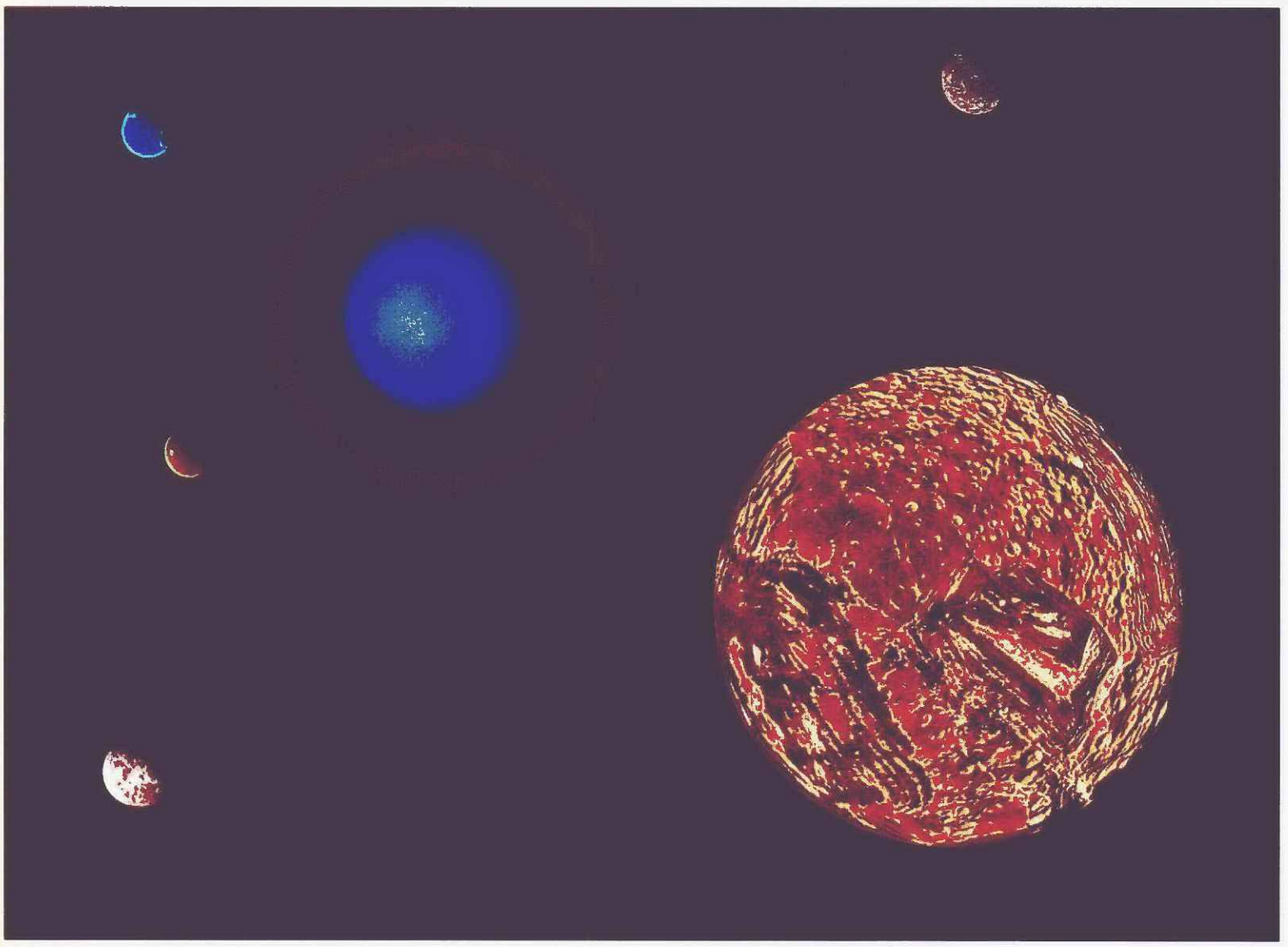
The leveraged ESOP will borrow $150 million from Chubb over 15 years to finance the stock purchase, according to a Chubb spokeswoman.

All 9,000 employees of the Warren, N.J.-based insurer and its subsidiaries are eligible to receive stock through the ESOP.

Shares held by the ESOP will be allocated twice a year—when loan repayments are scheduled to be made—to individual employees based on their total compensation at Chubb, the spokeswoman said.

The ESOP was established because "we concluded that we must increasingly stress provision of financial security for our long-term employees, and the Chubb ESOP has the added merit of closely aligning employee reward with the interests of our stockholders," said Chubb Chairman and Chief Executive Officer Dean O'Hare.

Chubb stock was trading for $78.50 per share on the New York Stock Exchange. ■



CELESTIAL VISIONS

What an awe-inspiring view of Uranus and five of its moons shot by Voyager II in 1986. What breathtaking scientific progress, considering that Uranus was only discovered in 1781. Who accomplished this remarkable feat? It was a son of Hannover, Friecrich Wilhelm Herschel, who detected the 7th planet. Mankind's unquenchable thirst for knowledge propels us on. We endeavour to recapture his spirit of determination, ingenuity and professionalism in our worldly universe of Reinsurance. May your Reinsurance protection always be under a lucky star.

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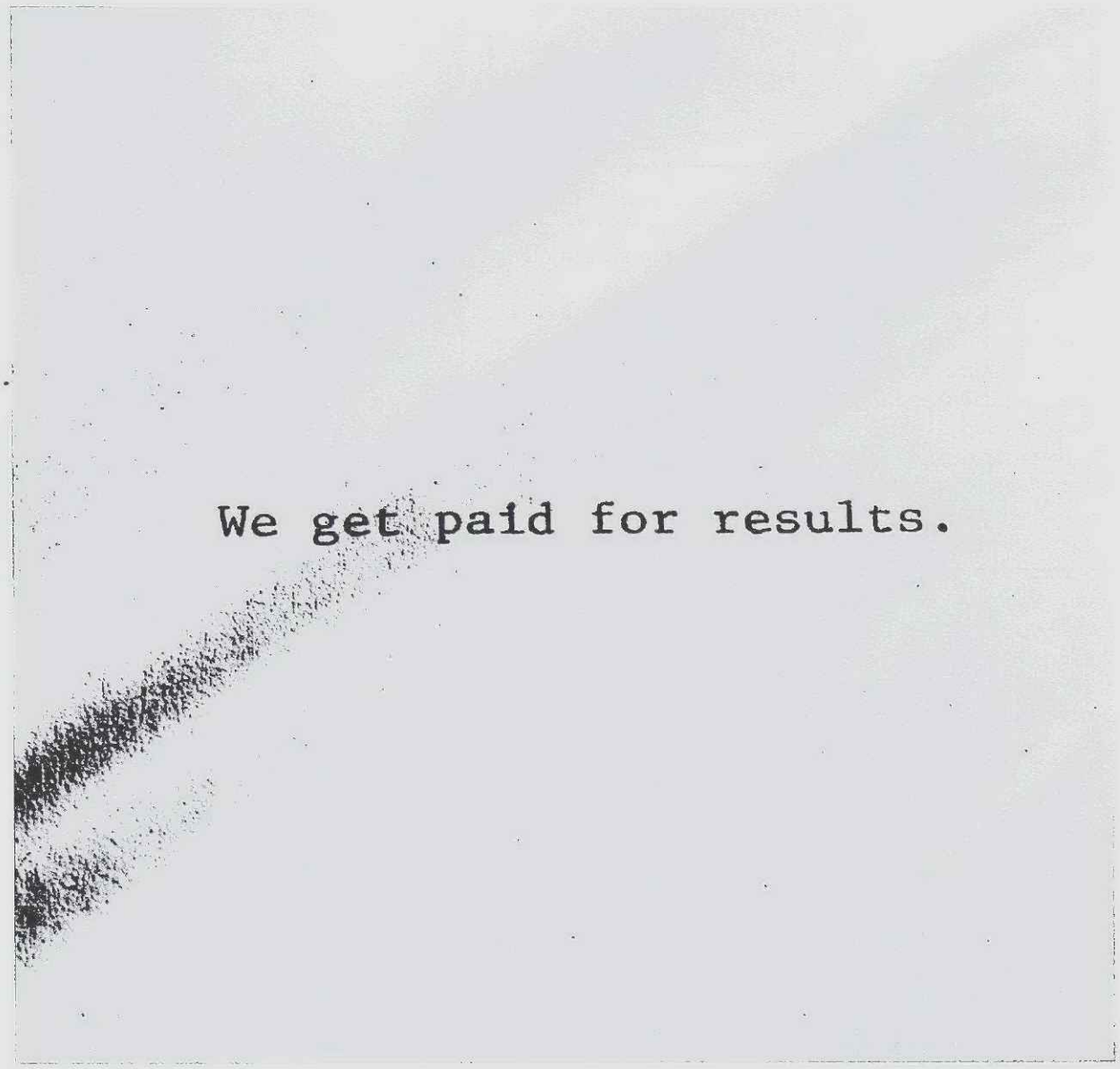

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Because, if you're not paying for results, what are you paying for?

CIGNA

Opinions

Revisionist history

YOU CAN'T HAVE it both ways.

That's what we hope insurers finally learn from their ongoing disputes with policyholders over coverage for pollution claims.

Faced with an onslaught of claims for environmental damage, insurers are arguing that the so-called pollution exclusion in comprehensive general liability insurance policies—which states there is no coverage for pollution incidents unless the incident is "sudden and accidental"—precludes all coverage for pollution that occurs gradually.

Policyholders, on the other hand, have maintained that the exclusion bars coverage only in those instances in which the policyholder is aware of the pollution as it is taking place. They argue that the word "sudden" in the pollution exclusion is akin to "unexpected."

To support their position, policyholder attorneys point to the drafting history of the pollution exclusion. They contend that documents written by insurer representatives in 1970, when the "exclusion" was added to the CGL policy, state that the clause was meant to be a "clarification" of existing coverage, not a reduction of coverage.

Insurers, while not denying the authenticity of these documents, maintain that the documents are irrelevant. What matters, they say, is what the policy says, not what the insurers meant it to say when it was drafted.

We cannot buy that argument.

If the documents reveal that insurers actually intended the pollution exclusion clause to only clarify that intentional acts were barred from coverage, there is no way that insurers should be allowed to change their tune and now argue that the clause means something more.

To date, several courts—including the Georgia Supreme Court and the Illinois 1st District Court of Appeals—agree. These courts have sided with policyholders and ruled that the pollution exclusion does not bar coverage based on the drafting history of the clause.

And, in the latest victory for policyholders, New Jersey Superior Judge Reginald Stanton is ordering insurers litigating with Allied-Signal Inc. to submit sworn statements revealing any positions they may have taken regarding coverage for pollution claims that are inconsistent with the positions they have adopted in the Allied-Signal case (see story, page 1).

While the pretrial order does not mean that Allied-Signal will win its coverage dispute, it sends an important message to insurers: You cannot argue out of both sides of your mouth.

We agree. Insurers should not be allowed to reinterpret the scope of the coverage they sell to policyholders years—even decades—after the policyholder pays the premium.

We will be most interested in reading the insurer statements filed with Judge Stanton's court to see how insurers justify their current positions toward the pollution exclusion in light of their statements 20 years ago.

Even insurers admit that conflicting arguments sometimes cannot be reconciled.

For example, a unit of Hartford Insurance Group successfully argued in the Michigan Supreme Court earlier this year that the pollution exclusion does not bar coverage for gradual pollution incidents. In that case, the Hartford unit, which wrote property coverage for the policyholder in question, sought from the policyholder's liability insurers reimbursement for pollution claims it paid.

However, three months later, Hartford is arguing that its position in the Michigan case should be forgotten. The reason: Another Hartford unit wants to argue in a California court that the pollution exclusion indeed bars coverage for gradual pollution.

While a Hartford attorney admits that the pro-policyholder argument in the Michigan case is an "embarrassment," we think it reinforces what policyholders long have been arguing: You can't have it both ways.

Repeal loan regulations

WE STRONGLY URGE the Labor Department to withdraw a portion of new regulations that will require employers with pension plan loan provisions to extend those programs to all participants.

If the regulations are allowed to stand, employers with loan programs will have to make those programs available to any participant, like former employees, with an active account balance (*BI*, Sept. 18; Aug. 7).

There is no good reason why employers should have to extend loan programs to all participants, and we are encouraged that the Labor Department is considering the objections to its regulation raised by employers and benefit consultants (see story, page 3). We hope the Labor Department reverses itself and proposes a new rule that will allow employers to continue to limit their pension plan loan programs to employees.

The rationale behind such loan programs, often offered as part of 401(k) salary reduction plans, is to give employees access to contributed funds. Without this access, employees would be much less likely to participate in the plans.

But for former employees, access to funds is not an issue. Typically, in 401(k) and other defined contribution plans, employees can take accumulated contributions with them when they leave a company. As a result, there is little compelling need to open up pension loan programs to former employees.

At the same time, several benefit consultants say that it appears highly questionable whether the Employee Retirement Income Security Act of 1974 requires pension plan loan programs to be extended to former employees, as the Labor Department maintains.

If the regulation is allowed to stand, undoubtedly some employers will terminate their loan programs or not establish new programs rather than put up with the administrative hassle of offering loans to those no longer working for the company.

That surely is not in the national interest, as the Labor Department should realize. The availability of loan programs encourages employees to contribute to their pension plans. And, increased employee retirement savings means workers will not have to rely as heavily on Social Security when they retire.

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At issue

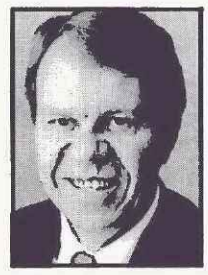
What is your property loss control priority?

Tony Burlando
Vp-risk management
The Hillman Co.,
Pittsburgh

My top priority is meeting management's expectations and their feeling that insurance will cover all financial losses. They expect all associated expenses to be covered no matter what the peril. My biggest property challenge is dealing with the hidden costs that are not covered.

Richard T. Shillinger
Risk manager
Aluminum Co. of America,
Pittsburgh

The top priority is identifying all major property loss exposures and developing methods to mitigate accidental loss, as well as maintain existing protection that will effectively reduce the severity of losses. Also, I try to maintain a trained fire brigade organization that will safely and effectively respond to emergencies.



Dave Brown
Risk manager
NICOR Inc.,
Naperville, Ill.

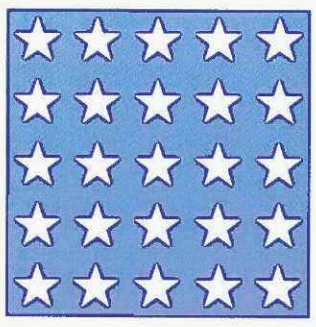
We're in the marine business in the Caribbean and the hurricanes there may have caused us some losses. However, the top priority in total is putting together property inspection and safety programs to keep control of all our property losses.

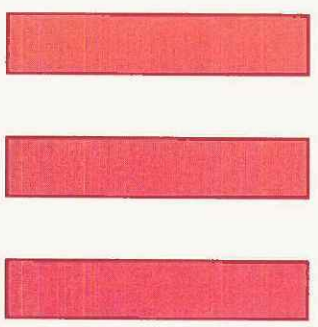
John Garzonie
Director-risk management
Lennox International Inc.,
Dallas

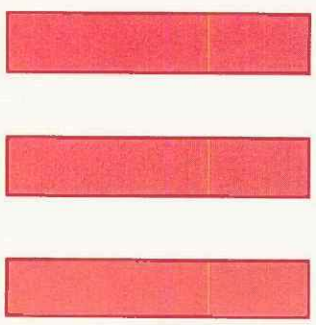
Risk identification of potential loss-producing exposures should be the top priority. The evaluation must include not only the property damage exposure but also the effect of an interruption of operations, which is potentially far more serious. Failing to identify all exposures means the risk manager will not be able to deal with the unknown exposures effectively.

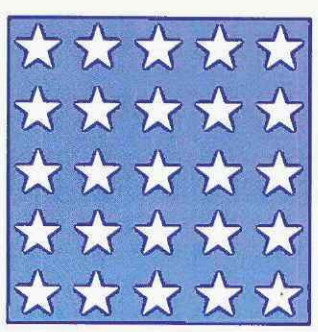
Compiled by Christine Woolsey

Fliers and fielders, doughboys and drillers, the interned, the intemperate. And those two great national resources– the salesman and the national park.









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NAIC OKs model act on MGA oversight

By MEG FLETCHER

WILMINGTON, Del.—Regulators and insurers would have a tighter rein on managing general agents under a new model act adopted by the National Assn. of Insurance Commissioners.

The Managing General Agents Act, approved at the NAIC's Northeast Zone meeting held Sept. 10-13 in Wilmington, Del., also establishes operational guidelines for MGAs and the insurers that use them.

If individual states enact the model law, it will give regulators "the chance to be alerted when they need to be alerted," said John Washburn, the former Illinois insurance director who chaired the NAIC working group that drafted the measure (*BI,* March 13).

"States will now have the regulatory power to prevent the types of abuses that led to the long list of insurance company insolvencies in the past decade," concurred David Grubb, special deputy commissioner with the New Jersey Insurance Department who spearheaded the drafting of the seven-page model law.

While MGA representatives agree with the intent of the model law, some complain it may force them to obtain producer licenses in more states, which could, in turn, force them to purchase additional errors and omissions insurance or bonds to meet those states' financial responsibility requirements.

NAIC

One of the most controversial elements of the model act is its definition of a managing general agent. While regulators wanted a broad definition that would categorize more producers as MGAs, insurers and producer spokesmen lobbied for a more limited definition.

As a result, only a few independent agents writing for small insurers will be included in the final MGA definition, while earlier versions of the definition would have brought almost all agents and brokers under the act, said Patricia Borowski, vp-government and industry affairs of the National Assn. of Professional Insurance Agents.

For example, the model act excludes from the MGA definition: an employee of an insurer; a United States manager of the U.S. branch of an alien insurer; and an underwriting manager that by contract "manages all of the insurance operations of the insurer, is under common control with the insurer, subject to the holding company regulatory act, and whose compensation is not based on the volume of premiums written."

According to the final version of the act, an MGA is defined as any person, firm, association or corporation—regardless of title—that manages all or part of the insurance business of any type of licensed insurer, including management of a separate division, department or underwriting office.

Also under the definition, an MGA must act as an insurer's agent and—with or without its authority and either separately or together with affiliates—produces, directly or indirectly, and underwrites gross direct written pre-

Continued on page 12

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MGA model act

Continued from page 10

mium totaling at least 5% of the policyholder surplus reported in the insurer's last annual statement.

In addition, according to the definition in the model act, an MGA must either adjust or pay claims in excess of an amount determined by the state insurance commissioner or negotiate reinsurance on behalf of the insurer.

Besides defining an MGA, the model law requires an insurer and MGA to enter into a written contract that establishes certain minimum operational requirements.

For example, the contract should contain a provision permitting an insurer to terminate its contract for cause or to suspend the MGA's underwriting authority while there is any dispute over the cause for termination.

In addition, the contract must require an insurer to keep separate records on an individual MGA's business and allow insurance commissioners access to that data.

The model act also requires the contract to contain provisions limiting the amount of insurer funds an MGA retains and controlling the MGA's claims settlement activity.

In addition to dictating contract provisions that limit MGA activities, the model act also prohibits an MGA from several activities, including binding reinsurance or retrocessions on behalf of the insurer, except for some types of facultative reinsurance agreements.

It also prohibits an MGA from appointing a sub-MGA; from jointly employing an individual who is employed by the insurer with which the MGA has contracted; or from permitting its subproducer to serve on the MGA's board of directors.

MGAs have 'a big problem' with the licensing mandates, says NAPSLO's Richard Bouhan.

In addition, the model allows state insurance regulators to examine an MGA as if it were the insurer for whom it holds the pen.

In an effort to prevent mismanagement by an MGA that could affect the solvency of an insurer, the model spells out proper management procedures and appropriate underwriting guidelines for insurers that use MGAs.

For example, an insurer must:

- Keep on file an independent financial examination of the MGA.
- Have an actuary review the adequacy of loss reserves established by an MGA.
- Conduct at least semiannually an on-site review of the MGA's underwriting and claims processing operation.

In addition, "an insurer is prohibited from appointing to its board of directors an officer, director, employee or controlling shareholder of its MGA." However, this requirement can be superseded by provisions of other NAIC model acts relating to holding companies or producer-controlled insurers, according to a last-minute amendment to the model.

The MGA model act allows an insurance commissioner, after conducting a hearing, to assess a penalty or revoke or suspend a producer's license if an MGA is found to have violated the model.

In addition, the act gives a commissioner authority to require an MGA "to reimburse the insurer, the rehabilitator or liquidator of the insurer for any losses incurred" by the insurer as a result of an MGA's violation of the act.

In related action, the NAIC also repealed an existing model MGA regulation, changed the annual statements that insurance companies must file to allow for reporting of MGA-related data and changed its handbook for insurer examiners to reflect provisions in the act, should a state enact the new model.

While most MGA spokesmen agree with the intent of the model act, some feel it may be too onerous.

For example, while the PIA's Ms. Borowski said she is "generally pleased" with the final version of the model act, she is concerned the bonds and E&O insurance that the new model law may require MGAs to buy will not be available or will be expensive.

And, Richard Bouhan, executive director of the National Assn. of Professional Surplus Lines Offices Ltd. in Kansas City, Mo., said his organization's members, which include MGAs, still have "a big problem" with the model's licensing requirements.

Although the model law does not create a new MGA license as originally contemplated, it does require that an MGA be a licensed producer in the state where the insurer for whom he holds a pen is domiciled. Currently, most MGAs have producer licenses only in the states where they write business.

In addition, the new model law also may require MGAs to be licensed in the insurer's domiciliary state, even if the MGA does not write any business there, he pointed out.

That measure, and the possible bond and insurance requirements that may go with it, are duplicative and may increase an MGA's operational costs, Mr. Bouhan said.

NAPSLO also is philosophically opposed to the portion of the measure that allows the state in which an MGA's insurer is domiciled to "export" its regulation to an MGA writing for that insurer elsewhere, he said.

While the American Assn. of Managing General Agents differs philosophically with some aspects of the model act, it is "a very equitable act. . .that the industry can work with," Louis A. Williams, president of the Kansas City-based AAMGA, said in a written statement last week. He did not elaborate on those philosophical differences.

"It gives regulators the tools to monitor and control that small percentage of MGAs which have the kinds of authority that could impair a carrier, if poorly managed, while not being burdensome to the vast majority of general agents who are professional, ethical and financially strong operations doing business under traditional General Agency contracts with carriers that maintain strict supervision of those contracts," said Mr. Williams, who also is president of Louis A. Williams & Associates Inc., an MGA in Marshall, Texas. ■

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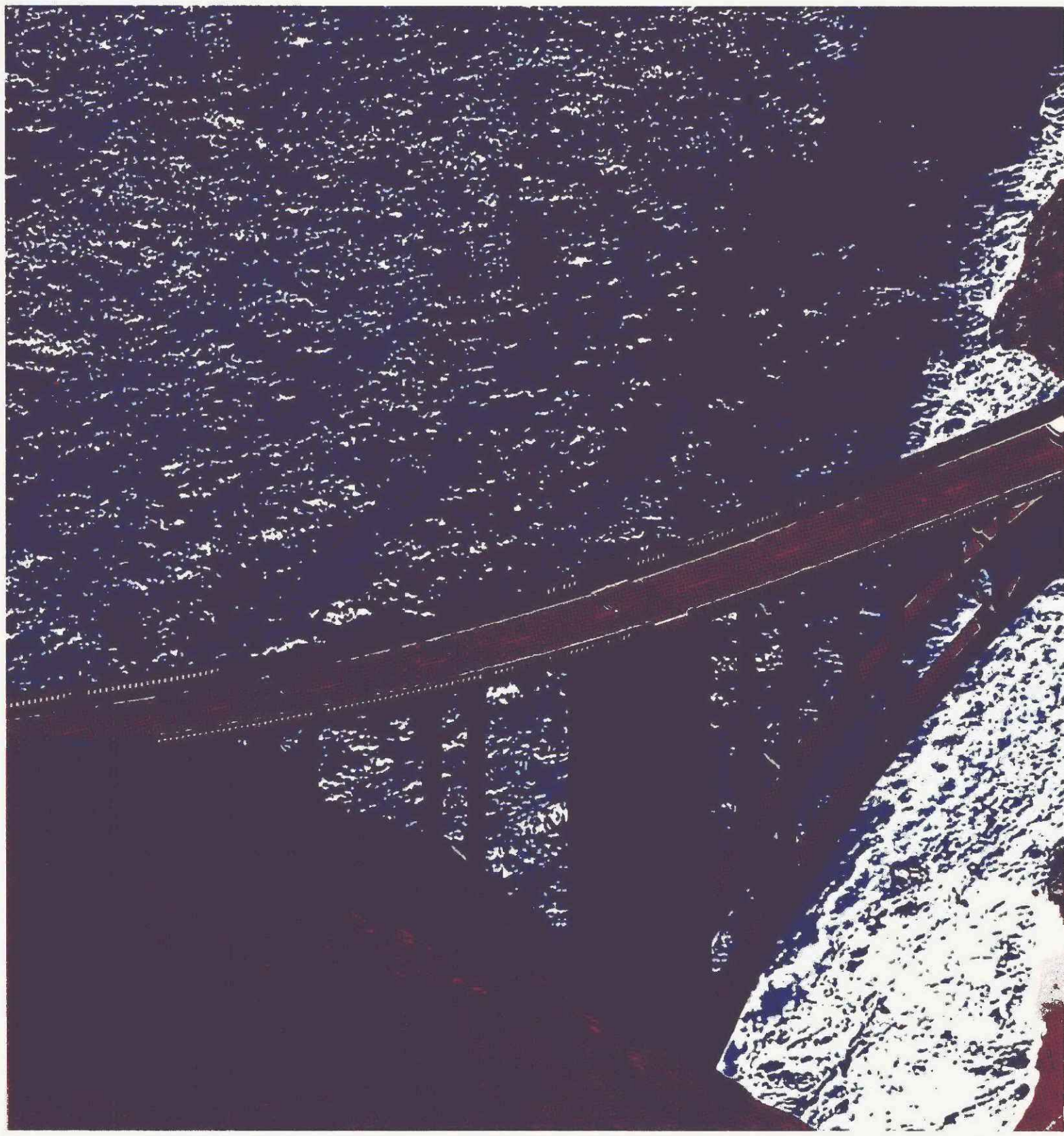

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NAIC adopts reinsurance credit changes

By MEG FLETCHER

WILMINGTON, Del.—The National Assn. of Insurance Commissioners formally adopted amendments to a model law that will tighten and clarify standards reinsurers must meet before a ceding company can receive credit for reinsurance.

If states enact the Model Law on Credit for Reinsurance, then most reinsurers can become accredited either by being licensed in the state or by meeting standards such as:

- Submitting to the state's jurisdiction.
- Filing copies of its annual financial statements and demonstrating a willingness to have its books and records examined.
- Being licensed to transact business in at least one other state.
- Maintaining a policyholder surplus of $20 million. However, the reinsurer could maintain less than $20 million of policyholder surplus if approved by a state insurance commissioner.

However, exceptions were made in the model law for individual unincorporated underwriters like Lloyd's of London underwriters. In addition, a group of incorporated individual companies, like the Institute of London Underwriters, can become accredited if the group

NAIC

meets certain criteria, including having an aggregate policyholders surplus of at least $10 billion and submitting to the examination authority of the state.

However, for the reinsurance from both Lloyd's underwriters and ILU companies to be credited, they must maintain a trust account representing the groups' liabilities attributable to U.S. business and an additional $100 million trust for which the members are jointly and severally liable.

The study group that drafted the measure originally excluded ILU-type companies. But these types of companies were added when a last-minute recommendation from a New York Insurance Department regulator was approved 8-7 by the NAIC's Reinsurance and Anti-fraud Task Force and, later, by the NAIC as a whole.

Supporters of the measure, which include former Illinois Insurance Director John Washburn and New York Insurance Superintendent James Corcoran, emphasize that the ILU companies can provide important reinsurance capacity, which will be safeguarded by the trust funds.

In addition, including them will help foster a more open international insurance marketplace, which can also benefit U.S.-domiciled companies that wish to write business in other countries, Mr. Corcoran said.

Critics of the measure include U.S.-based reinsurers that complained about the unfair competitive advantage ILU companies—which include some U.S.-based insurers—will have because they do not have to pay some U.S. taxes.

In addition, they doubt regulators' ability to control the ILU companies.

In other action at the NAIC meeting, regulators:

- Announced that the NAIC is launching a $300,000, three-part study to examine the dynamics of the underwriting cycle of the property/liability insurance industry and its regulatory implications.

The study, which the NAIC will finance with the help of a $100,000 McArthur Foundation grant, will be conducted by outside consultants.

The project is designed to "extend the existing analysis of the underwriting cycle, making use of more recent experience and identifying what additional actions, if any, regulators can take to deal with the cycle," said NAIC President David Gates.

Portions of the study will be conducted by Richard and Barbara Stewart of Stewart Economics Inc. Mr. Stewart is a former New York insurance superintendent.

In addition, professors and researchers associated with the University of Pennsylvania and the University of South Carolina will assist in the study.

- Formally adopted amendments to its Consolidated Casualty, Surety, Fire and Inland Marine Insurance Rate Regulatory Bill.

This measure establishes a framework for advisory organizations to file loss cost data rather than fully developed rates that include profit and expense components. ■

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Nomination deadline is approaching

The deadline for nominees for the 1990 *Business Insurance* Risk Manager of the Year Award is approaching.

The award and the *Business Insurance* Risk Management Honor Roll recognize outstanding achievements in the field of risk management. Anyone responsible for the risk management function for any corporation, government entity, financial or non-profit institution, or self-insurance fund is eligible to be nominated. Nominations must be received by Nov. 28.

Candidates will by graded by a panel of independent judges who are risk management and commercial property/casualty insurance experts.

The 1990 Risk Manager of the Year and the Risk Management Honor Roll will be announced in the April 30, 1990, issue of *Business Insurance*.

To request a nominating form, write Karen Brown, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611-2590.

Ecological risks

Continued from page 3

know. But there are opportunities."

Mr. Wolff stressed the need for science to continue its research. "We have to clean it up. We have to look at it on a more scientific basis and on the basis that if we don't do something about it," environmental disasters will become more common.

Panelists also suggested that the risk manager of the future will have to rely on loss control techniques more than on purchasing insurance.

"The role of the risk manager will be completely redefined," Mr. Kloman predicted. "The risk manager of the future will be much less involved in financing and more involved in risk assessment and risk control."

Francois Constantin, vp of technical risks at Societe Commerciale de Reassurance in Paris, agreed that arranging risk financing mechanisms will take a back seat to loss control duties as part of a risk manager's job in the next century.

Those risk managers who today are just "buyers of insurance" will find themselves in jobs requiring mostly "risk analysis" in the next century, Mr Constantin said.

Indeed, whole risk management departments will expand in terms of function and visibility with the corporation, according to Susan Meltzer, associate director of risk and insurance at Bell Canada in Toronto.

"The risk manager entering the 21st century will be changing focus," she said.

"Mega-mergers will be in part responsible for this as increased demands on time and resources of the risk manager are imposed.

"As a result, risk management as a function will increase in professionalism as it becomes more high-profile within the organization," Ms. Meltzer said.

And risk management departments will become larger and will include lawyers, adjusters and engineers, she predicted.

"The focus in the year 2000 will not be on buying insurance," Ms. Meltzer remarked "That will be the 'by the way, we also do that.' "

Although the panelists represented different interests in the risk management and insurance professions, "all agree on this one central issue that the risk manager's job is going to be to manage the risk, not to buy insurance to take himself out of it," pointed out Nick Colton, director of R.H.M. Outhwaite (Underwriting Agencies) Ltd. in London.

The risk manager's primary duty will be to determine the proper level of risk to retain and "how to properly retain it," Mr. Colton noted.

Another factor shaping the risk manager's future is the growing amount of business that is leaving the traditional property/casualty insurance market and that is now insured through alternative risk financing mechanisms, the panel pointed out.

Mr. Kloman of Tillinghast predicted that the traditional insurance market will "continue to be increasingly volatile, chaotic and undependable. There is a real chance of a total breakdown in the commercial insurance marketplace."

As a result of such instability, alternative risk financing mechanisms, like captive insurers, will "grow dramatically, especially within the next five to seven years and after the next hard market, to a point at which it will command more than 50% of the commercial market," he said.

And, captives and other self-insurance mechanisms "will finally receive the favorable tax treatment that they deserve," Mr. Kloman predicted.

Robert Cooney, senior vp of underwriting at Bermuda-based Exel Ltd., the parent of offshore excess liability underwriter X.L. Insurance Co. Ltd., agreed that policyholder-owned facilities like X.L. will continue to capture a greater share of the commercial risk financing market.

"We predict that the concept will gain greater appeal in Canada and internationally, certainly as the hard market begins to approach," he said.

In addition, some risk managers in coming years will determine that they have been over-insured in the past, Mr. Kloman said.

Risk managers should "look very seriously" at how much insurance they "really need," he urged.

"Most corporations and organizations buy too much insurance," he asserted. And, "most insurance companies buy too much reinsurance," he said.

As risk managers begin to retain more risk, they may find there is no need for "conventional insurance the way it's set up now," Mr. Kloman said. "It's part of a psychological re-thinking of how we approach the whole problem of risk financing."

In addition, as risk managers and insurers head into the next century, the process of paying claims will have to change, according to Michael Harvey, chief executive of the Elmslie Group, a London-based claims adjuster.

"The 21st century must see an improvement in the climate of claims settlements," he asserted. "At present, claims procedures tend to be unnecessarily adversarial."

Mr. Harvey said insurers "must realize that their primary function is to pay valid claims promptly. Insureds must cooperate by submitting realistic claims."

And, adjusters must deal fairly with policyholders "and ensure that claims are adjusted in accordance with the policy conditions so that the (policyholder) recovers all that he is entitled to," Mr. Harvey said.

Policy conditions need to be simplified "to avoid disputes and reduce delays in the adjustment of the claim," he said.

"In the 21st century, there must be more cooperation, good will and trust," to avoid having the courts settle claims, he said.

Bill McGannon, corporate risk manager for NOVA Corp. of Alberta in Calgary, moderated the session. ■

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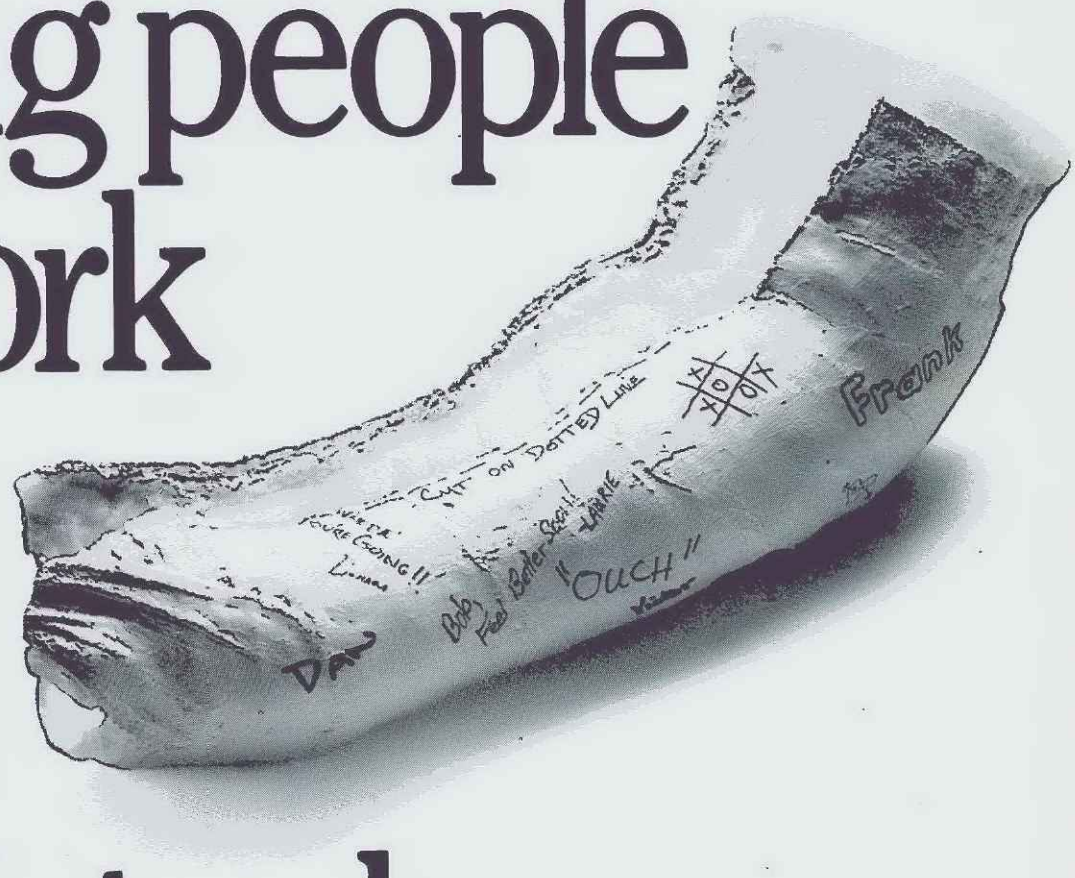

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Have plan prior to waste disposal: Engineer

By MICHAEL BRADFORD

CALGARY, Alberta—Companies that must dispose of hazardous waste can save a lot of money and grief by developing loss prevention programs rather than dumping the waste and hoping they are not caught, according to an environmental engineering expert.

Companies that dump hazardous waste and ignore it face an expensive cleanup bill later, explained Steve Hrudey, professor of environmental engineering at the University of Alberta in Edmonton.

And not only are such remediation efforts "not very effective, it's really dinosaur technology," he said during the Risk Management in Motion Canadian Conference sponsored by the Canadian Assn. of Risk Managers earlier this month in Calgary, Alberta. The conference was hosted by the Southern Alberta chapter of the Risk & Insurance Management Society Inc.

"There is very little sophisticated (technology) that is available to us for cleaning up these contaminated sites after they happen. So prevention, in my opinion, is always better than the cure," he said.

In addition, Mr. Hrudey pointed out that preventing hazardous waste problems is better than cleaning up the wastes later because:

- Companies can recoup the cost of loss control measures more easily than they can make up the cost of a hazardous waste cleanup. "You get hit 10 years down the road with some mammoth cost for something you've done in the past, it's sort of tough to pass that on to your customers in one fell swoop," Mr. Hrudey said.
- Cleanup standards for hazardous waste sites in the United States and Canada are becoming more stringent, so the longer a cleanup is delayed, the tougher it will be to meet the regulations.
- The number of third parties claiming injuries or damages because of pollution are likely to increase the longer the public is exposed to the waste.

As part of a loss prevention plan, corporations should perform a "waste audit" to identify the sources and quantities of hazardous waste, Mr. Hrudey suggested.

The company then should consider recycling them for use in other processes, if possible, he said.

In addition, companies can look for alternative materials that do not generate hazardous wastes during manufacturing processes, he said.

Employees also should be educated about the value of minimizing waste, he added.

But, many companies have created their own regulatory and liability problems because they took the "ostrich approach" rather than planning ways to prevent hazardous waste contamination, Mr. Hrudey said.

Shelley N. Phillips, an attorney with the law firm of Howard Mackie in Calgary, agreed.

"There has been a lot of wait and see" before companies decide on hazardous waste loss prevention techniques, she pointed out.

Ms. Phillips said some corporations just say: "Let's see if the problem goes away; let's see if the politics disappear; let's see if the media stops covering it, and maybe some of the legislation will filter out and the government will decide they are not going to enforce it."

It is a business decision within every corporation facing the issue of hazardous waste disposal and loss prevention, Ms. Phillips said. But, sooner or later, "companies will probably have to remediate," she said.

"Ignorance is not bliss. It won't make your problems go away. All it's going to do is raise the ante when ultimately things happen," Mr. Hrudey stressed.

And, if a contamination problem is discovered, risk managers should "spend a lot of money up-front to find out what the problem is," or "you'll be spending enormous amounts of money later on trying to fix it," Mr. Hrudey said.

However, risk managers have to resist "the intense pressure" to look for a quick fix if a pollution problem arises, Mr. Hrudey said.

"That doesn't mean stonewall or pretend it didn't happen. You've got to try and reassure people that you're going to be responsible, but you just don't have all the facts yet," he explained.

Mr. Hrudey said risk managers faced with an evnironmental contamination problem should first "maximize in-house knowledge" before spending a lot of money on "external consultants."

Consultants will have to be called in eventually, "but you want to put in those systems where you can gather as much information as possible from your own employees," he said. "That information is often more valuable than all kinds of high-tech analyses and everything else."

Concern about the environment is at an all-time high worldwide, noted Jaswant Singh, senior vp at Clayton Environmental Consultants Inc. in Cypress, Calif., a subsidiary of Marsh & McLennan Cos. Inc.

As a result, new environmental regulations are being instituted worldwide, Mr. Singh pointed out.

"It's very clear that never before has there been such an onslaught of environmental regulations," Mr. Singh said. "I think the environmental movement, the flurry of environmental regulatory activity, is just unprecedented on a worldwide basis."

And, Mr. Singh observed, "I don't think there is any business today that is immune to environmental liability."

No longer do only chemical companies and power plants have to worry about pollution, he said. "You face environmental liabilities even if you don't manufacture a thing. You can incur environmental liabilities as the result of real estate transfers, mergers or acquisitions, through repossession if you're a lender, or even through inheritance," Mr. Singh observed.

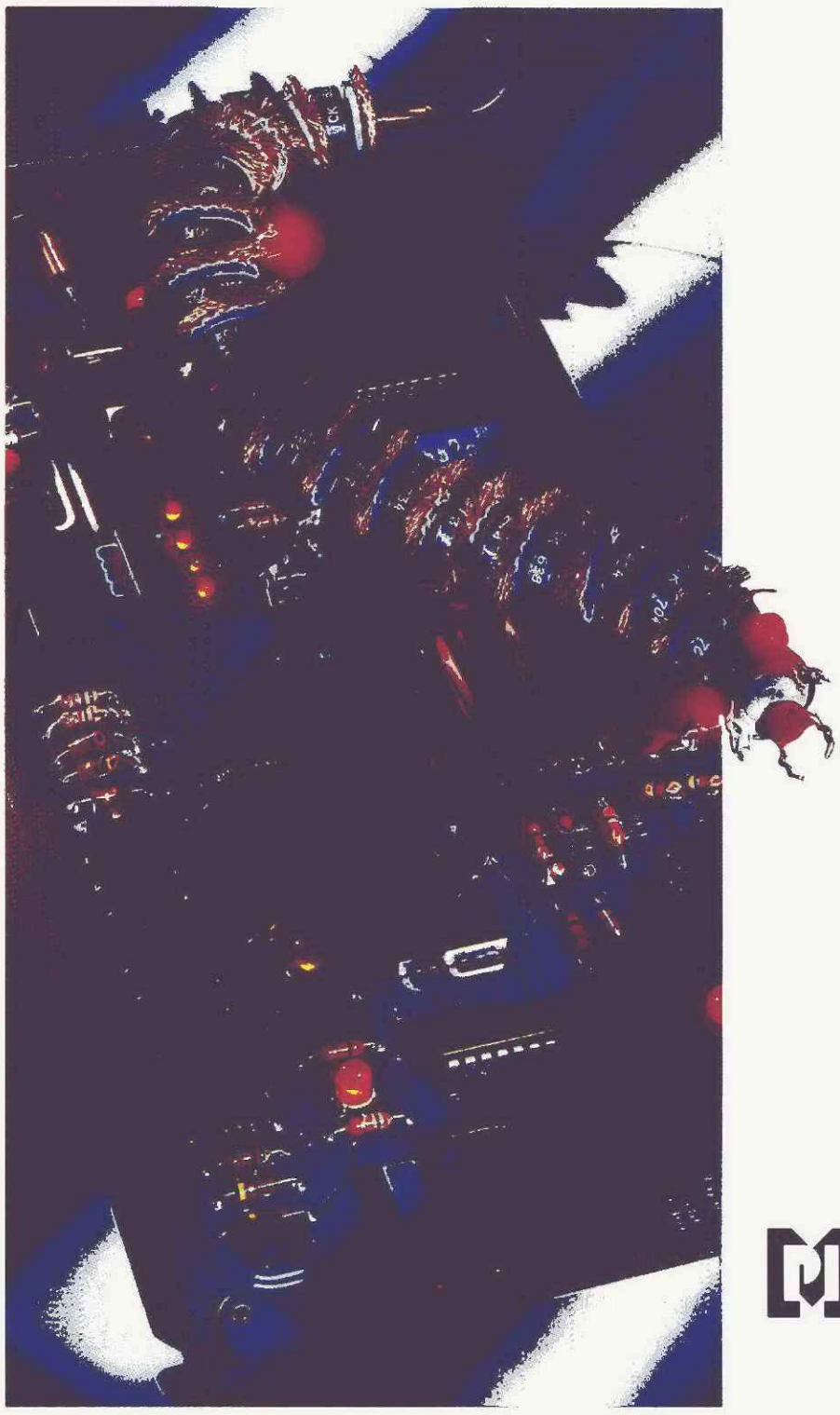
Mr. Hrudey urged risk managers to rely on patience and understanding when dealing with Canadian environmental regulators.

"You've got to realize what makes them tick," he said. "They're not really stupid people or people who are there to give you grief. They've got their particular job to do, which I don't envy."

He pointed out that regulators "may have the technical knowledge to understand what you're dealing with, but their boss is a politician. And we all know what motivates politicians. So when push comes to shove, they are going to do things to you that are uncomfortable, and you've got to try and provide them with as much assistance to get to a rational solution as you possibly can.

"You play games with them, and let me tell you, the games they play with you are much worse," he said. ■

When a programming bug becomes a legal monster.



Today's computer technology was yesterday's dream. But with the continuing advancement in systems, software and computer applications, comes the further evolution of the computer "bug"—that well-disguised pest, buried in a program or system, waiting to prove that there is no such thing as a "perfect" system.

As dependence on the use of computers in business and personal activities has grown, the effects of the computer "bug" have become a legal monster. A rising number of costly lawsuits against programmers, systems designers and computer suppliers has developed a need for imaginative errors and omissions coverage to respond to exposures created by the ever-present "bug."

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D&O loss control no easy task: Expert

By MICHAEL BRADFORD

CALGARY, Alberta—Risk managers should tread carefully when approaching directors and officers with loss prevention ideas to avoid ruffling some large egos, a D&O liability expert advises.

Directors are not accustomed to being told how to do their jobs, said attorney Dan A. Bailey of Arter & Hadden in Columbus, Ohio.

As a result, very few risk managers "have addressed loss control in the D&O concept," Mr. Bailey noted during the Risk Management in Motion Canadian Conference sponsored by the Canadian Assn. of Risk Managers earlier this month in Calgary, Alberta. The conference was hosted by the Southern Alberta Chapter of the Risk & Insurance Management Society Inc.

"It's a difficult area because directors and officers have large egos. They're successful businessmen and, at least in my experience, they don't like to be told what to do in their jobs, or how to do their jobs, or that they ought to change what they're doing or how they're doing it to help insulate them from liability," Mr. Bailey explained.

A direct loss control approach with directors and officers "just usually doesn't sell too well," Mr. Bailey warned.

Risk managers considering broaching the subject of loss control with corporate directors and officers need to consider, "politically, how is this best going to sell?" he advised.

For example, is it wise to make a presentation to the full board of directors? Mr. Bailey asked. Or, would a better approach be to explain why loss control is important to a few officers or directors and let them spread the word?

"There's a lot of different ways you can do it, and the right way for your specific organization is something you're going to have to think out," Mr. Bailey said.

"If you don't think that through, the whole thing can blow up on you. And I think that you will do more harm than good by walking into a board room and demanding that here's the way things ought to be done. That isn't going to go over very well. You can really step on some toes."

Directors can best protect themselves by ensuring that when a seat on the board is open, the board fills it with a qualified person, Mr. Bailey advised.

Often, an empty board seat is filled by a prominent community member or someone's golfing buddy, he noted.

"What ought to happen is that each seat on the board ought to be viewed as a valuable asset of that corporation," Mr. Bailey said.

"And when a seat is vacant, and when a decision is made as to who ought to fill that seat, the attempt ought to be to try to maximize the value of that asset," he said.

"Try to get a person who is going to bring the most to the board and the most to the corporation. Look at the other people who are serving on the board. Look at their backgrounds and see what kinds of things they are bringing to the board. Try to identify what other areas it might be helpful to have to complement the other members of the board," he advised.

A director should not expect to serve on a board because it is prestigious but escape liability, he warned.

Risk managers also must educate directors and officers about the company and keep them updated about changes, Mr. Bailey said.

"How many times do directors and officers get elected and put in a position and everyone just assumes they will figure out over time what is going on?" he asked.

"You better get the new directors and officers up to speed as quickly as possible," because they can be found liable in lawsuits regardless of how long they have served, Mr. Bailey said.

"Have some kind of formal orientation program" that will familiarize the new director or officer with the corporation and the industry in which it operates, he suggested.

And, "there should be an ongoing commitment to continuing education of directors and officers," Mr. Bailey asserted.

For example, a corporation's legal counsel may consider giving directors and officers a yearly update on such topics as their liability under case law and other legal developments within the corporation and industry, he suggested.

'It's a difficult area because directors and officers have large egos,' says Dan A. Bailey.

"We never operate in a vacuum. Things are always changing and, therefore, directors always need to be updated on what's going on," Mr. Bailey said.

"It's crazy to think directors and officers are going to fulfill their legal responsibilities if they don't know what those responsibilities are," he added.

Thomas G. Briggin, a risk management consultant with The Wyatt Co. in San Francisco, said directors and officers do not hold enviable positions as the corporate environment becomes more complex in an age of mergers, acquisitions and restructuring.

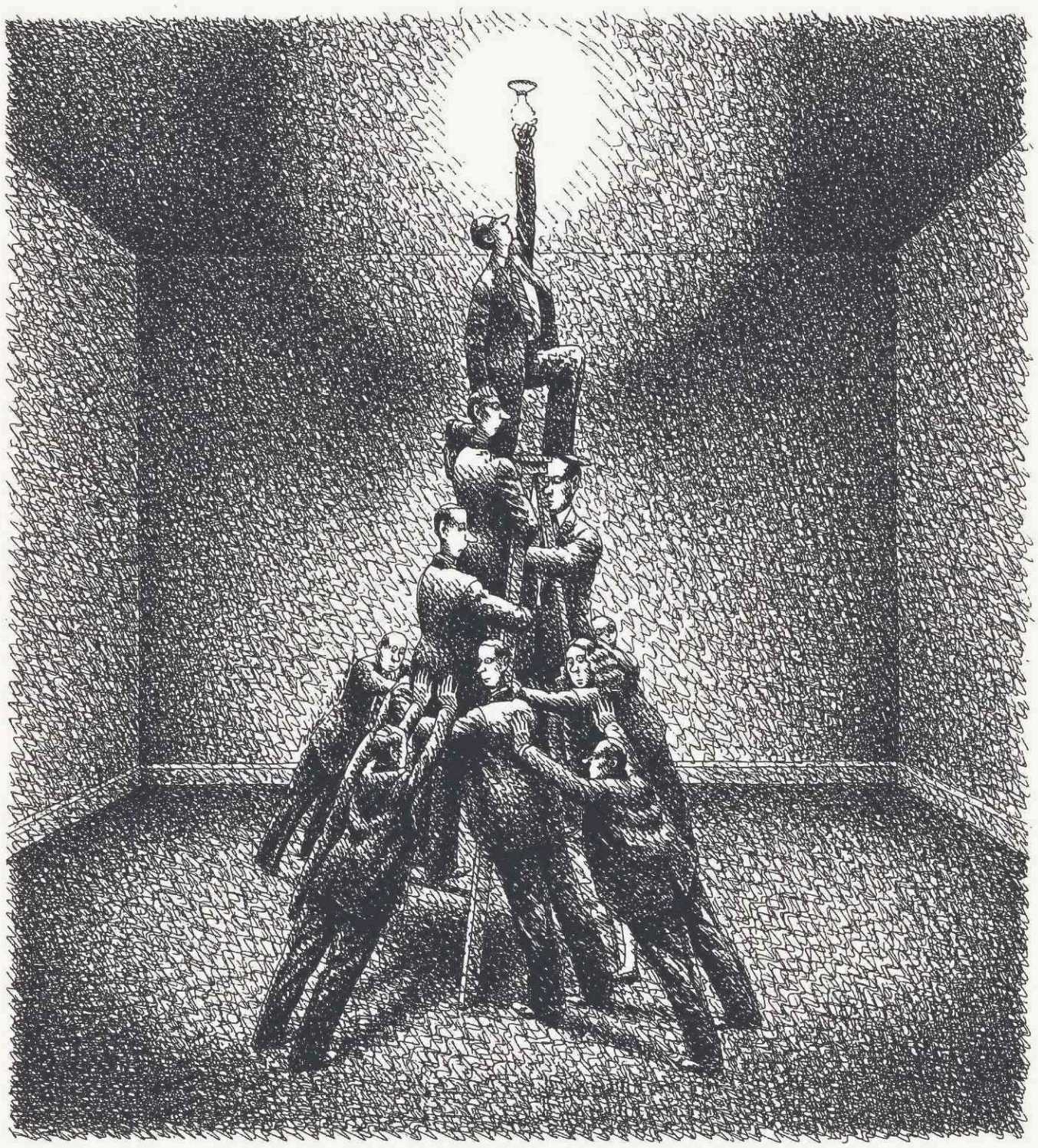
"Directors are in the spotlight," he said. "They've got a very hot light that's on them today."

And, there is little chance that merger activities, leveraged buyouts and other complicated corporate dealings will slow down, which means that directors will have to continue making major decisions that can lead to potential D&O lawsuits, Mr. Briggin predicted.

Meanwhile, corporations face a shrinking supply of people who are "qualified, educated, trained and sensitized to their responsibility to serving on the board of a corporation," Mr. Briggin said.

And, those that do serve want "higher compensation and increased benefits," he said.

"No longer will they accept the few hundred dollars per board meeting, out-of-pocket expenses and free lunch. It takes a lot more to satisfy them, to offset some of their potential liabilities. And they want to see some of that offset in increased compensation," Mr. Briggin said. ■



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Crisis plan can avert tampering threat

By MICHAEL BRADFORD

CALGARY, Alberta—A crisis management plan can stop a product contamination threat from deteriorating into a disaster, according to a risk management expert on product extortion.

It is essential that any food or pharmaceutical business have a crisis management plan because those industries have historically been the favorite targets for product extortion, said David A. Little, director of operations at Control Risks Ltd., a loss control consultant in Bethesda, Md.

"You need a crisis management plan" even if the company has product recall insurance, he added at the Risk Management in Motion Canadian Conference sponsored by the Canadian Assn. of Risk Managers earlier this month in Calgary, Alberta.

The conference was hosted by the Southern Alberta chapter of the Risk & Insurance Management Society Inc.

The major objectives of a crisis management plan should be to:

- Protect the life and health of consumers by, for example, marketing products in tamper-proof packages.

"It is absolutely inexcusable for people to be killed or hurt by your product," Mr. Little said.

Planning also includes teaching telephone operators and mail clerks how to handle threats.

"Is your switchboard clued in?" he asked.

And, "if you receive a letter, does it go straight up to the board room? In some instances, a letter has lain on a desk for two weeks while that person was on vacation."

- Cooperate with authorities responsible for apprehending those who have made the the contamination threats or have contaminated products.

For example, a company must consider whether it will pay a ransom in an effort to trap the person responsible for threats of contamination, Mr. Little said.

But, rewards have done little to curb product tampering "for reasons I just can't understand," Mr. Little said.

"People must know about it," he said, referring to cases of tampering or threats.

"It (reward money) just doesn't seem to work."

- Structure a public response to the threat of product contamination.
- Ensure the financial survival of the company and its employees.

'You need a crisis management plan' even if the company has product recall insurance, says loss control consultant David A. Little. 'It is absolutely inexcusable for people to be killed or hurt by your product.'

Mr. Little pointed out that the level of product tampering varies from country to country.

For example, product tampering is a far more significant problem in the United States than it is in Canada, he said.

"The United Kingdom has a problem at the moment," he said. And "Germany has a big problem."

Until 1987, product contamination threats in West Germany were rare, Mr. Little explained. However, there were three cases in late 1986 and after one of those cases was highly publicized, 50 product tampering threats were received in West Germany in 1987.

Statistics compiled by the U.S. Food and Drug Administration support the notion that many product contamination threats are "copycat" offenses, Mr. Little observed.

For example, in 1985, the FDA recorded 129 cases of product contamination threats. But after a woman died from ingesting contaminated Tylenol purchased from a store in Bronxville, N.Y. (*BI*, Feb. 17, 1986), the number of threats zoomed in 1986 to 1,692.

There were 765 product contamination cases reported in 1987 and 279 listed last year, according to FDA figures, Mr. Little said. ■

Conference to benefit university

CALGARY, Alberta—The University of Calgary will benefit from the recent Risk Management in Motion Canadian Conference, which was sponsored by the Canadian Assn. of Risk Managers and hosted by the Southern Alberta Chapter of the Risk & Insurance Management Society.

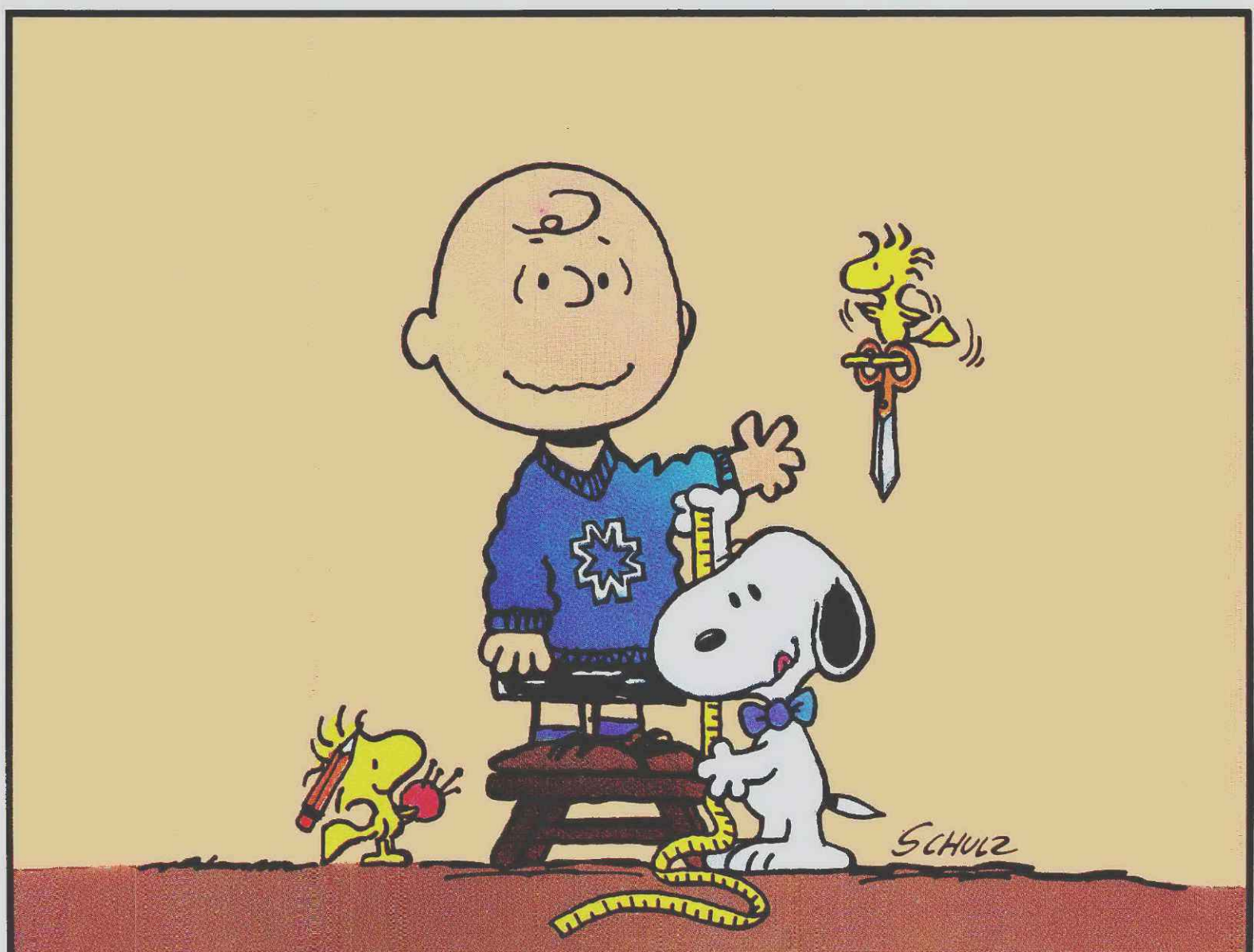
The university will receive more than 50% of the profits generated by the conference to help establish an insurance chair at the school.

The Canadian risk managers association last week was still tallying receipts from the gathering, which was held Sept. 10-13 at the Palliser Hotel in Calgary, Alberta.

The conference drew 325 registrants, who attended sessions on topics ranging from managing environmental waste to reducing the liability exposure of directors and officers and handling product contamination threats.

For more information about the Canadian Assn. of Risk Managers, contact Bill McGannon, conference chairman and corporate risk manager for NOVA Corp., 801-7 Ave. S.W., Calgary, Alberta T2P 2N6; 403-290-6433.

Information also can be obtained from Gordon Wainwright, insurance manager of PWA Corp., 2800 700-2 St. S.W., Calgary, Alberta T2P 2W2; 403-294-2022.



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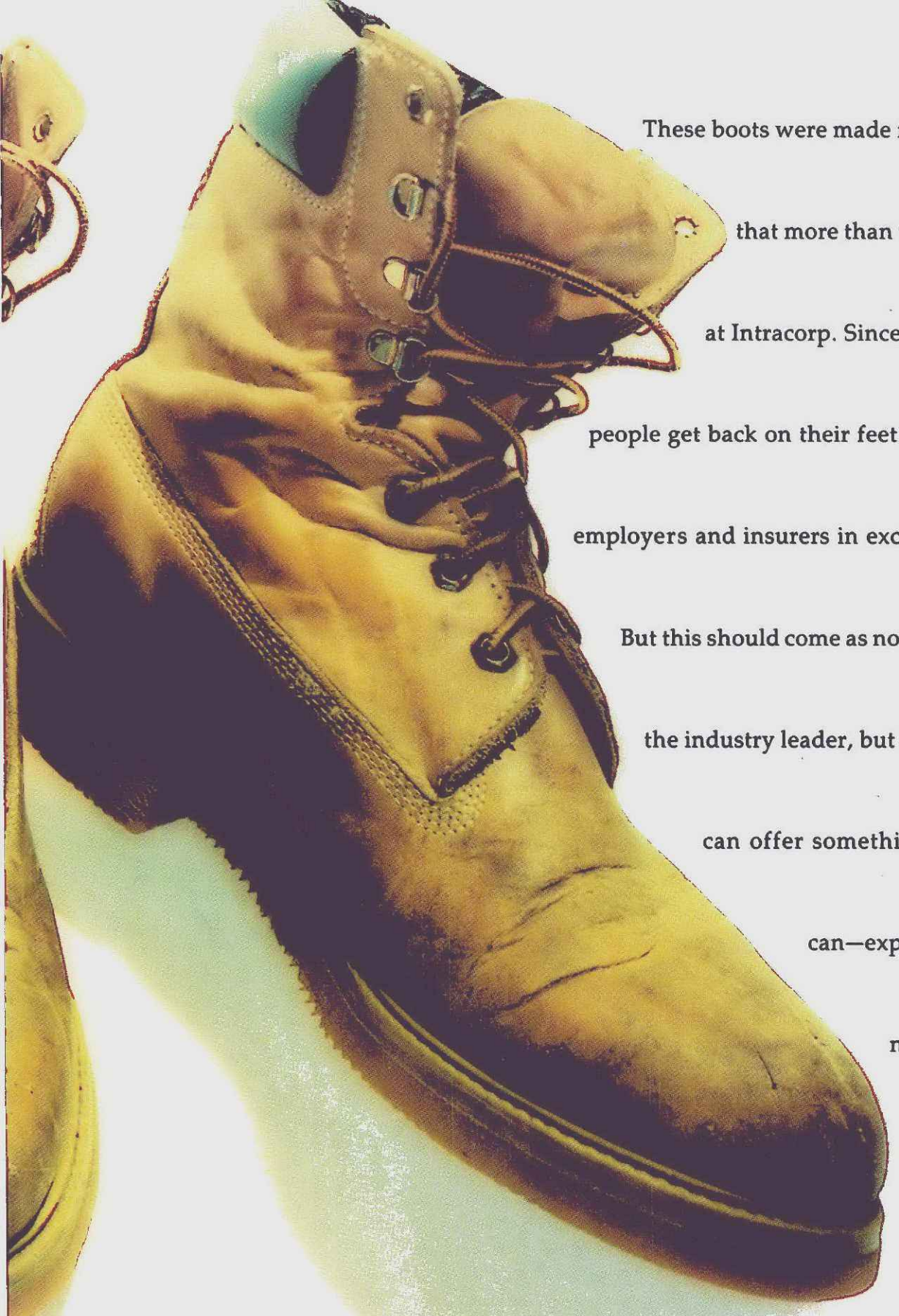

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Pension loans

Continued from page 3

pension plan loan programs, which typically are offered as part of 401(k) salary reduction plans, to non-active participants will have the greatest impact on the programs, according to a telephone survey of 56 employers conducted this month by Kwasha Lipton, a Fort Lee, N.J.-based employee benefit consulting firm.

Almost 40% of the surveyed employers said that making loan programs available to non-active participants will have a "great impact" on their programs.

By contrast, just 16% of the respondents, most of whom are Kwasha Lipton clients, reported that barring participants from using more than 50% of their account balances as collateral will have a great impact.

And, only 9% said that charging interest rates on loans commensurate with similar commercial rates would have a great impact.

Harry Gross, a partner at Kwasha Lipton who helped conduct the survey, is not surprised that so many employers believe extending loan programs to non-active participants will greatly affect their programs.

'When a loan program is available just to employees, loans can be paid back through simple payroll deduction. Obviously, that isn't possible with former employees. It gets employers into a brand new area,' says Harry Gross.

"The hard fact is that the extension will have a tremendous impact," Mr. Gross said.

"When a loan program is available just to employees, loans can be paid back through simple payroll deduction. Obviously, that isn't possible with former employees. It gets employers into a brand new area of banking," Mr. Gross explained.

Among the remaining respondents, 10.7% said the requirement to make loans available to non-active participants would have a sizable impact on their plans, 32.2% predicted either some or a moderate impact, and 8.9% said there would be no impact.

Other employers either were undecided or did not respond to the question.

The overwhelming majority of respondents—87.4%—do not currently make their pension plan loan programs available to non-active plan participants, while just 5.4% of employers offer loan programs to participants no longer actively employed. Other employers either did not respond or now are in the process of establishing a new loan program.

While extending loan programs to non-active participants will impose a big administrative burden on employers, most companies appear resigned to complying with the requirement.

For example, 73.2% said they will make loans available to participants no longer actively employed, while 7.1% said they would not make loans available to non-active participants and the remainder did not respond and 14.3% were undecided.

Presumably, unless the Labor Department reverses itself, those companies that decline to extend their loan programs to non-active participants will have to terminate the programs.

The fact, though, that such a high percentage of employers will broaden rather than terminate their loan programs despite the administrative hassle "tells us how important these programs are to both employers and participants," Mr. Gross said.

A majority of employers—58.9%—said they will not impose a higher interest rate on loans taken out by non-active participants than on loans made to employees.

However, a substantial percentage of employers—35.7%—are undecided, and 5.4% said they will charge non-active participants a higher rate.

Most employers intend to tie the plan's interest rate on loans to the prime rate charged by commercial lenders.

For example, 28.5% of the survey respondents said their plans will charge the prime rate, and 26.8% said they will charge the prime rate plus 1%. However, 23.2% of employers said still they were undecided.

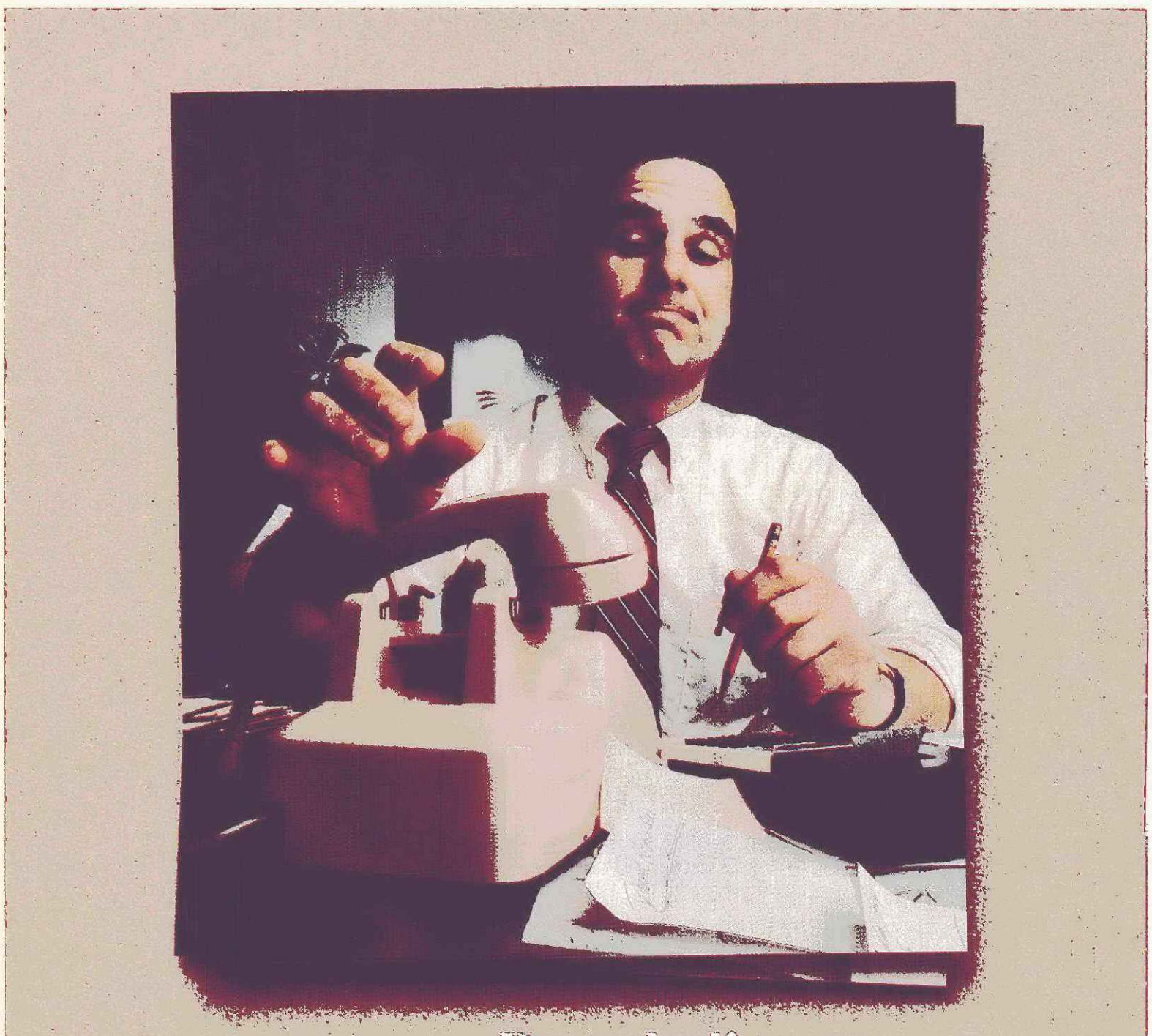
Some 39.2% of employers said their pension plan's loan rate will be subject to change monthly, while 23.2% said the interest rate would be subject to change quarterly and 7.1% said the rate would be subject to change daily.

In addition, 7.2% said the rate would be subject to change either annually or semiannually, while 23.2% were undecided.

Most respondents to the survey said their plans do not intend to charge borrowers loan application fees.

•

Free single copies of "Survey of Employer Responses to Department of Labor Pension Plan Loan Regulations" are available from R.T. Whitman, Kwasha Lipton, P.O. Box 140, 2100 N. Central Road, Fort Lee, N.J. 07024; 201-592-1300.



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Combining forces

Money-saving features of EBIS-RMIS combo will lure buyers

"ERIS IS AN acronym that I have coined to describe the merger of employee benefit information systems and risk management information systems. I believe their merger is imminent.

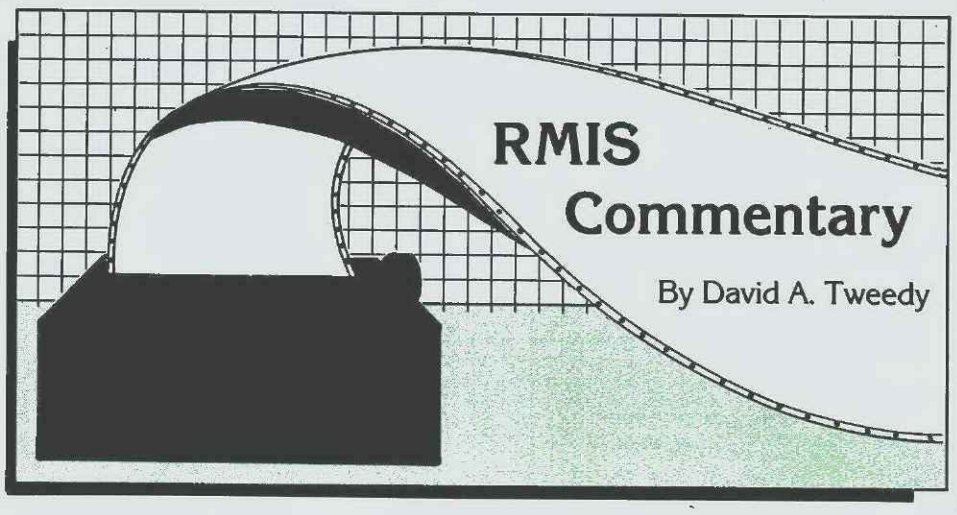
I know what you'll say: "We have heard that one for years. It didn't work then, and it won't work now." But this time is different. Now, senior management is interested and, therefore, so are the vendors.

From a broad perspective, an EBIS-RMIS merger is really symptomatic of the one item that has senior management concerned: cost containment. Regardless of the industry, senior management is focusing not only on ways to increase revenues, but also on cutting costs. One of the primary areas of cost containment is in group health care and workers compensation, the common link being soaring medical costs.

It is from this common ground that ERIS—employee benefit and risk management information systems—have and will continue to develop. Several vendors from both sides of the industry—employee benefits and risk management systems—already have taken steps to provide modules in the other environment.

In this, the first of a two-part article on ERIS, I will discuss this trend from several vantage points: historical, technical and managerial.

In the short histories of both the RMIS and the EBIS industries, there have been attempts by vendors on both sides to introduce modules from "the other side." Shortly thereafter, the vendor exited the venture. At the time there were a number of reasons given, but the bottom line was, "There was no marketing success."



The primary reason was organizational. Typically, risk management was part of the corporate finance department, while employee benefits was part of human resources or personnel department. So, despite the similarities between workers compensation claims and group health insurance claims—both medically driven, both using the same medical providers in many cases and both having the same or similar data bases—the fact that there were two separate departments involved required a joint marketing effort.

It is always more difficult to sell something to two different departments, especially when there may be pre-existing relationships with vendors involved in either department.

Another reason is the plain and simple fact that the property/casualty insurance industry and the life/health insurance industry operate quite independently, even within a single, multiline insurer.

When we get into the technical issues, we will see how some of the systems from both the employee benefits side and the risk management side differ in their approach to claims handling and decision-support analyses.

However, considering that the two industries operate mostly in an autonomous fashion, aiming at two different target markets with the same client company—finance/risk management and human resources/employee benefits—it is not surprising that there was not more of a concerted effort to jointly approach a client, even when an insurer had expertise in both risk management and employee benefits systems.

Today, however, things are changing fast. Spurred by increased client demand for better service, better information, and assistance on cost containment of workers compensation and group health insurance programs, vendors are not only reconsidering their past strategy, but actually also are providing dual system products. In some instances, insurers are consolidating these functions.

In fact, it is senior management's mandate to cut costs and expense on the high-priced-ticket items, like

Continued on next page

A new look at 'safety' is needed

By Dennis C. Doherty

THE WORD "SAFETY," when used as an adjective or common noun, has neither precise nor accurate connotation or denotation. I will concede its acceptability as a proper noun as in "Life Safety Code." But because of the absence of meaning, I have spent many years on a local soapbox pleading for its elimination from our daily communication.

The time has come to bring this subject to a national, if not international, forum for debate on its merits.

The purpose of this open debate is to identify some acceptable terminology for the profession that has readily identifiable and acceptable understanding to those outside the profession. Most of us can determine from a common experiential base the context in which the word is being used, but let us remember that our primary mission is not intra-professional communication, but extra-professional.

A very non-scientific study over the past 18 years has led me to realize that most people have a (at least subconsciously) negative reaction to the word in most of its normal uses. One classic example is the misnomer "safety belts" when used to define automobile passenger restraints. If "safety" really did connote motherhood and apple pie, everyone would willingly buckle up every time they got in their vehicles.

Since we know that only a small fraction of the population does so voluntarily, it must mean that people really don't believe that restraints have anything to do with "safety." "Seat belts" is OK, but I much prefer the term "survival belts" as that is their main purpose.

In another context, how many of us have conducted "safety" meetings that were considered an intrusion on production rather than an integral part of that activity? If "safety" were an asset instead of a liability in the eyes of management, would it have been necessary to create OSHA? Would we need criminal and civil penalties to enforce what, if properly defined and managed, is one of the surest and quickest ways to improve profitability?

My proposal is simple in concept, but will be difficult to achieve:

- Every professional and other practitioner in the field must erase the word "safety" from his or her vocabulary and learn the words that his or her target audience understand and that define the audience's interests, not those of the practitioner.
- All "safety" rules have to be scrapped and their contents rewritten into the individual standard procedures under which every job is undertaken. Two simple examples are:
  - ✔ Whenever a file drawer is opened, it must be closed before opening another or walking away from the cabinet.
  - ✔ No machine may be operated unless all of the guards are in place.
- The individual with budget responsibility for any operation must be charged with all losses for that operation on the profit and loss statement. Indirect costs can be estimated and charged as well since they directly affect the bottom line.
- The individual responsible for completion of a task and his or her line superiors are the only persons with authority to shut down a task.
- Avoid the use of the word "accident" whenever possible because of the nearly universal belief that "accidents" happen rather than being the result of one or more errors in correct procedures. Personally, I have never investigated a significant loss that did not involve at least four significant operational errors. The recognition and elimination of any one of them could have prevented the losses.
- Occupational health concerns must get the recognition that they are probably the No. 1 priority now and in the future. This is true not only in the historically sensitive chemical and medical environments, but in all workplaces including offices and stores.

In conclusion, I challenge each of you to seriously consider whether reliance on the tools and terminology of the past have contributed to the decrease in occupational and non-occupational injuries, or is the decrease primarily a result of a national decrease in high-risk manufacturing since the dawn of OSHA combined with the increased survivability in collisions of smaller, modern unibody automobiles.

Keep in mind that OSHA does not have any specific regulations dealing with the largest single cause of occupational fatalities and injuries: driving on public roads.

Dennis C. Doherty, a Certified Safety Professional, is risk manager for Hennepin County, Minn.

EBIS-RMIS combo

Continued from previous page
workers compensation and group health insurance costs, that will force the merger creating an ERIS. Recent major consulting engagements are focusing on ways to curb skyrocketing workers compensation and group health care claims costs.

Senior management is forcing the issue with both human resources and financial department to "find the solution" to these spiralling costs.

Of course, the attention is first focused in property claims management, case management, utilization review, wellness programs and other loss management procedures. Yet, as I have said constantly over the years, proper control of this data and the ability to effectively communicate the status of affairs or to point out problem claims areas—in workers compensation, general liability, auto or group health claims handling—can be effectively done by a well-designed information system.

RMIS and EBIS are effective tools to assist in the cost containment strategies employed by risk management and employee benefit professionals in response to the mandate by senior executives.

Hence, there is a significant opportunity for RMIS and EBIS vendors. With the traditional obstacles cut away by senior management concern, how will vendors take advantage of this window of opportunity?

The obvious answer is by focusing attention on the one significant area of intersection between EBIS and RMIS. Workers compensation claims and group health insurance claims have many similarities. The employee data base is common. The medical providers—doctors, clinics, hospitals, health maintenance organizations and preferred provider organizations—are common. Both types of claims are governed by the medical event itself. Both tend to produce large volumes of claims that require careful management by a well-designed system.

There also are important differences. According to Ken Martino, manager of risk management information services at Travelers Corp. in Hartford, Conn., workers compensation is a mandate, whereas health insurance is a benefit and, therefore, subject to more control by the employer. However, Mr. Martino firmly believes that an ERIS is a necessary tool for the 1990s, especially with direction from senior management.

George Cannon, vp of Insurance Software Packages of Tampa, Fla., agrees. Although workers compensation is an entitlement program, it is totally medically driven, as is group health insurance, Mr. Cannon says. By merging the two claims data bases, the risk manager and the benefit manager can evaluate the frequency of double dipping, duplicative billing and repetitive causes of injury for a particular employee.

Mr. Cannon also said that the property/casualty insurance companies, claims administrators and RMIS vendors can learn and are learning a significant amount from their benefit counterparts. Utilization review, case management and hospital bill audits are all cost containment tolls that have emanated from the employee benefits side of the industry.

Jerry Buckley, president of California Interactive Computing Inc. in North Hollywood, Calif., predicts a minimum of 10% savings on the group medical component of a company's workers compensation costs simply by applying the scrutiny now used for group health care claims to work comp medical bills.

I agree. Workers compensation claims administrators, insurers and RMIS vendors now are recognizing the crucial role that these cost containment strategies can play in reducing the total workers compensation expense dollar.

For now, however, what does all this mean? Are there any vendors taking advantage of this opportunity? Are there any ERIS systems now on the market?

I would point readers to the *Business Insurance* Spotlight Reports on EBIS and RMIS (*BI*, May 22 and July 24, respectively). You will see various modules from vendors suggesting compatibility on both sides. For example, Travelers, Insurance Software Packages, California Interactive Computing and Corporate Systems are among some of the RMIS vendors offering employee benefits capabilities, specifically group health claims monitoring. And, some EBIS vendors are doing the same thing through workers compensation modules.

I predict more joint marketing agreements will start taking place between RMIS and EBIS vendors. Further, insurance companies increasingly will begin to merge their group health and property/casualty systems to provide ERIS capabilities.

Just how large this marketing effort—and resulting product line—will be remains to be seen. One thing is sure: As long as cost containment strategies are important to senior management, there will be increased activity by vendors.

Unfortunately, the specter of continued, rising, medical costs is a reality for the 1990s. Therefore, it behooves the risk manager and the benefit manager to seek ways to contain these costs, looking to each other and to their respective vendors for solutions.

Next month, we will talk about designing the ERIS and get more perspective from both EBIS and RMIS vendors as to their plans for the coming decade.

David A. Tweedy is a senior consultant for D.A. Betterley Risk Consultants Inc. in Worcester, Mass. He is the editor of Betterley Risk Management Commentary and the author of RMIS Update, a yearly publication analyzing major risk management information systems and vendors. His column on risk management information systems normally appears the third Monday of the month.

State benefit mandates costly to all

By Michael Conley

STATE-MANDATED health care benefits, although well-meaning, have contributed to a health insurance system full of administrative headaches and high health care bills for employers and employees.

The National Center for Policy Analysis estimates that as many as 25% of the nation's 37 million uninsured people have no health insurance partially because of the effects of state benefit mandates.

A solution to this growing problem is for state legislators to shed their role as insurance policy writers and return to their original role of public policymakers. The first policy should require a thorough analysis of the social and financial impact caused by proposed mandated benefits.

As recently as 1970, state governments had enacted only 30 health insurance benefit mandates. The number of mandated benefits grew to 423 in 1980; 686 mandates were on the law books by the end of 1988. Already this year, legislators in 45 states have introduced 314 more mandates, according to the Health Insurance Assn. of America.

Pressure on state legislators to require certain health care benefits comes from many sources. Recently, legislators have felt the growing political pressure of lobbying campaigns by special interest health care providers and patients, who also happen to be voters.

For example, these lobbying groups have encouraged legislators in 37 states to specifically require health care coverage for persons seeking services from psychologists and chiropractors. Three states require coverage for those practicing Oriental medicine and acupuncture. Residents of Connecticut or Arkansas can receive coverage for treatment by naturopaths, who are practitioners who prescribe herbs for treatment.

It appears that the number of state health care benefit mandates will continue to escalate. And yet there are very clear and measurable consequences to adding more mandated benefits.

Employers bear much of the cost burden for benefit mandates. For example, a Rhode Island mandate that requires coverage for pediatric preventive care led to an increase of more than $5 per month for dependent health insurance premiums for Northwestern National Life Insurance Co.'s clients. Mandating mental illness coverage in Maryland caused family coverage for NWNL's policyholders to increase by $6 per month.

State-mandated systems are unfair because mandates only affect a subset of the insured population. State health care benefit mandates do not affect federal employees, retirees covered by Medicare, some state employees, Medicaid patients and employees covered under a self-insured health care plan.

Because most small businesses do not self-insure their health plans, these employers are most affected by state benefit mandates. Small businesses generally offer private health insurance plans so they don't carry as much risk for high claims. Nonetheless, even large employers are feeling the effects of mandates. Thirty percent of employers with 1,000 or more employees do not self-insure their health plans. And with these plans come the regulation—and cost—required by state mandated benefits.

Mandates have an ironic result: As states mandate more specific health care benefits, small employers are less likely to insure their workers.

So, as state legislatures impose more health insurance mandates, they also are having to create government social programs to provide health care for the uninsured. The cause and effect between more health care benefit mandates and the growing ranks of the uninsured is a relationship we can no longer ignore.

At first glance, it may be tempting to call for a solution from the federal government. But policing at the federal level could open the door for other drastic measures, like national health insurance. A recent NWNL survey of 400 corporate executives showed that 49% believe national health insurance would be likely by the year 2000, but 81% believe it would be ineffective at controlling benefit costs.

Solving the problem of too many state benefit mandates should fall back in the hands of legislators who created the problem.

The Minnesota Legislature created a Commission on Health Plan Regulatory Reform to address the problem of state regulation for the delivery or financing of health care. The commission recommended that the Legislature mandate an evaluation process—a proposal that next year's state Legislature will hear and one that should serve as an example to other states of joint government and public action.

States simply must require a more rigorous and thorough cost-benefit analysis of any new and current mandated benefit proposal. Only seven states have passed legislation requiring that proposed mandates undergo an evaluation process, or an "impact study," before they can become law. More states should require these analyses or should require the proponent of a mandate to address specific guidelines set by the Legislature.

An impact study evaluates the social and financial impact of proposed health benefit mandates, identifying issues such as the legislation's impact on job creation and on the cost of doing business in the state; its impact on insurance companies and health services overall; and its impact on consumers.

Lawmakers in all states would make a valuable contribution by working with employers, insurers, health care providers and employee groups to evaluate principles of good health policy. Then when state capitals debate benefit coverages, they'll do so from a policymaking role.

Michael Conley is senior vp of the group division of Northwestern National Life Insurance Co. in Minneapolis.

Bell retirees

Continued from page 3

idea philosophically, it was easier for the regional companies to negotiate," explained Ellen Friedman, a manager of benefit planning for Chicago-based Ameritech.

Indeed, the CWA and IBEW had a significant interest in working with the telephone companies on trying to limit retiree health care liabilities in light of the FASB accounting requirements, the unions and benefit consultants say.

"We do have very generous benefits that have been negotiated over the years. We wanted to help the companies to deal with their FASB liabilities," said Louise Novotny, an economist with the CWA in Washington.

"I think the unions are not ignorant of the issues here. Their orientation is, 'What can we do to preclude benefit reductions?' They understand that the liability here is significant and that this will increase the pressure on companies to reduce benefits," said Mercer's Mr. McKinnon.

"With these agreements, the unions and the companies have carved out the issue of retiree health care liabilities and will negotiate these issues in the future. This is an important issue that has to be dealt with," said Thomas Kuhlman, a vp with the TPF&C, the benefit consulting division of Towers, Perrin, Forster & Crosby Inc. in Minneapolis.

Even though "the Bell companies have placed limits on their contributions, they are not constraining (coverage) limits for the retirees. They are generous, plus they will be bargained in future talks," noted Lance Tane, chairman of the group health and flexible benefits practice of The Wyatt Co. in New York.

AT&T will cap the company's annual contribution toward retiree health care benefits for CWA- and IBEW-represented employees who retire on or after March 1, 1990, said Kathleen Holness, district manager of benefits planning and analysis for AT&T in Newark, N.J. Current retirees and non-union retirees will not be affected.

However, retirees will not be required to make any premium contributions until July 1, 1995. And, the defined dollar amounts will be subject to renegotiation in future contract talks, she explained.

The current contract expires in August 1992, with talks scheduled to begin in May of that year.

For the future retirees subject to the caps, the company will contribute a maximum of $2,650 annually toward individual coverage for retirees under age 65 and a maximum of $5,650 annually for family coverage for retirees under age 65.

AT&T will contribute a maximum of $500 annually for individual coverage for retirees over age 65, and thus eligible for Medicare benefits, and a maximum of $1,800 annually for family coverage for retirees over age 65, Ms. Holness said.

All AT&T retirees are covered under the same benefit plan as active employees. The plan requires individuals to pay a $150 per person annual deductible for hospital and major medical expenses, but employees pay no copayments. The company also plans to introduce preferred provider organizations in the near future, in accordance with the recently ratified contract with the CWA and IBEW.

AT&T currently has a total of 100,000 union and non-union retirees, with an average of 7,000 employees retiring each year, Ms. Holness said. AT&T has about 175,000 CWA and IBEW-represented employees.

The company has not estimated the amount by which the new caps will reduce the liabilities it will be required by FASB to list on its balance sheet, she said.

Several of the "Baby Bell" regional telephone companies also included similar retiree health care cost caps in their new contracts with the CWA and the IBEW.

For example, Ameritech will limit its annual per-retiree health care contribution beginning with CWA- and IBEW-represented employees retiring on or after Jan. 1, 1992, Ms. Friedman said. However, retirees will not have to make contributions until August 1992.

Ameritech will contribute an annual maximum of $2,340 toward health care costs per retiree and dependent for retirees under age 65. It will contribute an annual maximum of $1,140 per retiree and dependent per year for retirees aged 65 and over.

Ameritech has about 52,000 CWA- and IBEW-represented employees.

Englewood, Colo.-based U.S. West Inc. will limit its annual per-retiree health care contribution beginning with employees who retire on or after Jan. 1, 1991. However, these retirees will not be required to contribute to the cost of their health care coverage until January 1993.

For retirees under age 65, the company will contribute a maximum of $2,530 annually toward the cost of individual coverage and a maximum of $5,313 annually toward family coverage, said a company spokesman.

For retirees over age 65, U.S. West will contribute a maximum of $1,156 for individual coverage and $2,311 for family coverage, he said.

Similar to the AT&T agreement, the defined dollar amounts set by U.S. West also are subject to negotiation in future contract talks. The company's current contract expires in August 1992.

St. Louis-based Southwestern Bell Corp. also will limit its contributions beginning with employees retiring on or after Sept. 1, 1992, though retirees will not make contributions until Jan. 1, 1993.

The company will contribute a maximum of $4,050 per retiree and dependent per year, no matter how old the retiree is, said Milt King, a company district manager.

Southwestern Bell has 40,600 CWA-represented employees, but no IBEW-represented employees.

In addition, Atlanta-based BellSouth Corp. will implement caps on its annual health care contributions for employees retiring on or after Jan. 1, 1992. However, the company has not yet determined the amounts of the caps, said a spokesman.

In any case, retirees will not be required to make any contributions until Jan. 1, 1993.

BellSouth has 64,000 CWA-represented employees and no IBEW-represented employees.

Pacific Telesis Group of San Francisco also has included retiree health care cost caps in its tentative contract, which was expected to be ratified late last week. The company would not release details of the caps until the contract is ratified, a spokeswoman said.

The company has 42,400 CWA-represented employees. ■

'With these agreements, the unions and the companies have carved out the issue of retiree health care liabilities and will negotiate these issues in the future. This is an important issue that has to be dealt with,' says Mr. Kuhlman.

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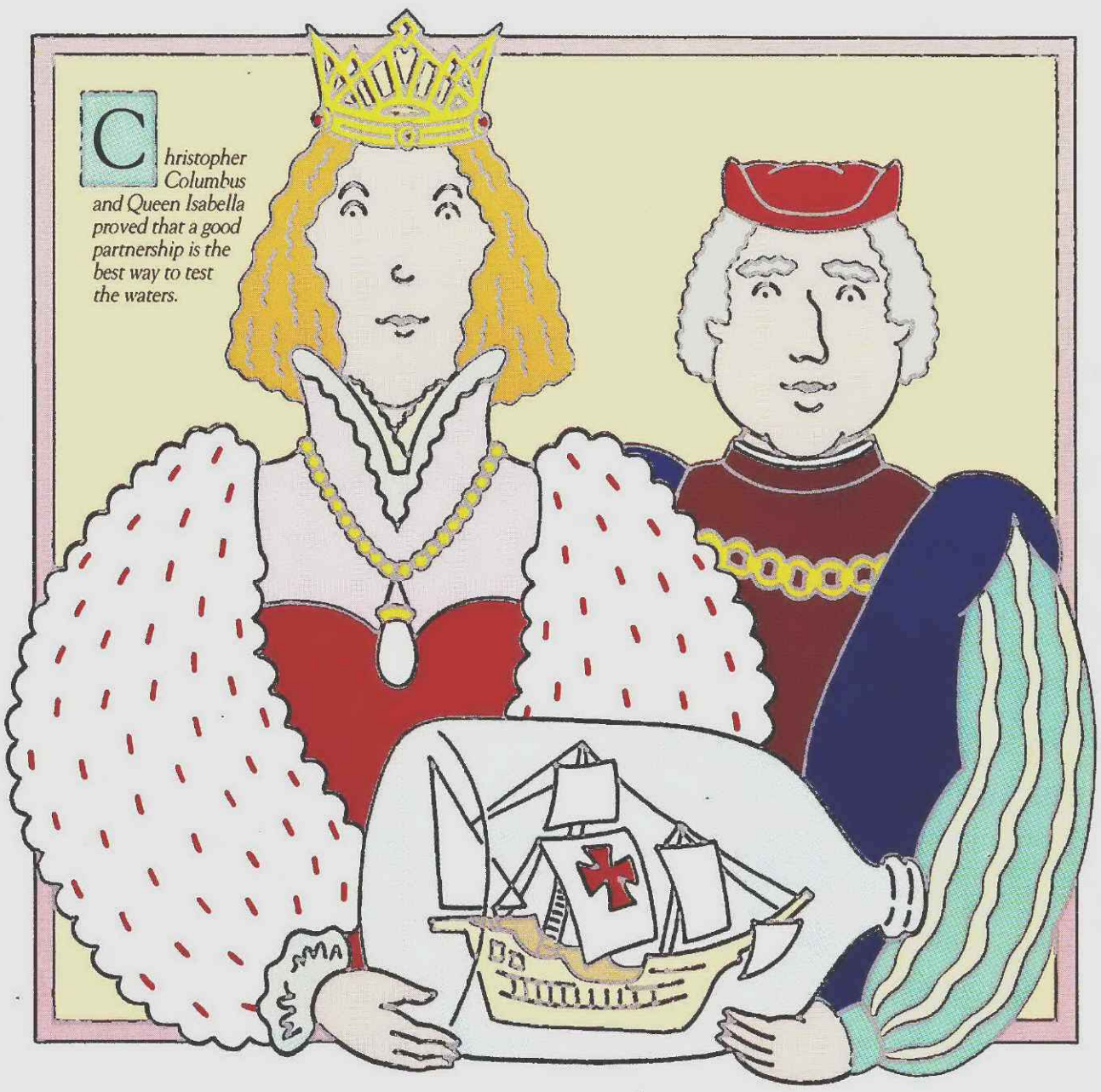

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Ship standards

Continued from page 3

Owners to accept the proposed warranties and a weak marine insurance market prevented London underwriters from including the warranties in most policies, several London underwriters admitted.

Now, further discussions with shipowners and classification societies have led to a redrafted version of the warranties—unveiled at this year's IUMI conference—that London underwriters hope will be included in an increasing number of hull insurance policies worldwide.

The insurance warranties proposed by London underwriters provide that:

- "Any recommendations, requirements or restrictions imposed by (a vessel's) classification society and relating to the seaworthiness of the vessel shall be complied with by the dates required by that society."
- If a vessel has changed its classification society within 12 months of the insurance policy's inception, "all outstanding recommendations, requirements or restrictions specified by the immediate past classification society and relating to the seaworthiness of the vessel" must be reported to underwriters.
- "All statutory or regulatory requirements, whether arising before or during the (policy) period. . .shall be complied with insofar as they relate to the seaworthiness of the vessel."
- The vessel's "owners, managers and superintendents shall comply with all requirements of the classification society regarding the reporting to the society of accidents to and defects in the vessel."

The proposed clauses also allow underwriters to "terminate automatically" the insurance coverage when the classification society's survey of the vessel "becomes overdue" and allows underwriters "to approach the classification society directly for information."

Events at this month's IUMI conference show that support for the warranties is growing among shipowners and underwriters.

For example, Norwegian insurance market representatives announced to conference delegates that they hope to include a clause in Norwegian policies beginning in January 1990 that will "introduce automatic termination of" a vessel's insurance if "periodical surveys are not performed within the period specified by the classification society's rules."

Many of the other provisions in the London warranties already are included in Norwegian hull insurance, said Svein-Erik Svendsen, executive vp of Storebrand International Insurance, based in Oslo, Norway.

French conference delegates, although content with classification clauses already included in French policies, will be "supporting efforts of the London market and are prepared to urge French underwriters to introduce the clauses when writing international business," said Jean-Claude Mace of Compagnie d'assurances Maritimes Aeriennes & Terrestres.

Meanwhile, the American Institute of Marine Underwriters, which represents U.S. marine insurers, noted in a written report that "while we support the objective of the new classification wording, which is to improve ship safety, short-term (commercial) considerations are overriding."

Delegates also were provided with a letter at the start of the conference from Ward L. Mauck, president of the American Institute of Marine Underwriters, reminding them that U.S. antitrust laws "prohibit U.S. underwriters from entering into any agreements or understandings expressed or implied, while at home or abroad on matters affecting rates or conditions of insurance."

The U.S. delegation to the IUMI conference has issued such a declaimer for many years.

The London proposals did receive strong support from a major U.S. shipowner and a leading ship financier speaking at the conference.

"I must admit I am astonished at the controversy these clauses have caused," said Paul Slater, chairman and chief executive officer of First International Financial Corp. of Naples, Fla.

"Underwriters are attempting, understandably, to have possession of all relevant data—call it full disclosure—before insuring a particular ship. Such data. . .has a

Continued on next page

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Continued from previous page
fundamental bearing on the risks associated with insuring sea-going assets," Mr. Slater told delegates during a debate on substandard shipping.

"Why doesn't the underwriting community simply impose the new clauses? Imposing the clauses will undoubtedly reap benefits: Substandard owners and their ships will be weeded out; there will be a disincentive for owners to continue trading old ships and prolonging their lives; and, in the long run, insurance losses will fall resulting in lower premiums and safer sea transport for everyone," he said.

Thomas S. Wyman, manager of the government and public affairs division of Chevron Shipping Co. in Los Angeles, also supported underwriters' attempts to introduce the clauses into marine policies.

"We endorse the new hull classification clauses, and they deserve the full support of all vessel owners," he said.

The proliferation of classification societies is very worrying and is undermining the quality of even the best and biggest societies, said Mr. Wyman.

"Can underwriters afford to support classification societies that are unable to meet standards? Inspection and certification by societies remain the most important check" to the safety of shipping, he added.

Trevor Scutts, an underwriter for The English & American Insurance Co. Ltd. in London, admitted that an initial lack of discussion between the London marine underwriters and policyholders about the proposed clauses had led to "battle lines drawn in the early stages," but he added that London had undergone a "steep learning curve in the last 12 months."

Lloyd's of London underwriter Derek Wills, who explained the new clauses to delegates, pointed out that efforts to modify the clauses during the last year had demonstrated that London was prepared to listen to shipowners and classification societies.

And now, while a soft marine insurance market has made it a difficult time "to start imposing critical standards," underwriters must try to introduce the warranties, urged Mr. Scutts.

"Too often underwriters sit back and leave safety and standards to the classification societies and flag states. It's been suggested that classification societies have to sort out this problem" of declining safety at sea. "But we all have to sort it out," he told underwriters from more than 40 countries attending the conference.

"Underwriters in London have made a historic move. We have a moral obligation to do something," said Mr. Scutts.

The "general perception of the clauses by some shipowners is that it is an attempt by underwriters to avoid paying claims," said Mr. Wills. However, the clauses simply are designed to improve safety and improve shipping standards, he explained.

Insurers' moral obligations to help improve shipping safety also was noted by banker Mr. Slater.

"I believe that all sectors of the shipping industry have a vital role to play (including) the insurance community and classification societies that set the standards on which we rely for the ships' physical condition and operational safety," he said.

"We now have to struggle with the increasing financial risks of the carriage of large quantities of environmentally dangerous cargoes in outdated ships," he explained.

The age and condition of the world's fleet continues to deteriorate while cargoes increasingly "exceed the values of the ships themselves," and third-party liabilities arising from maritime accidents "can run into billions of dollars," Mr. Slater pointed out.

"Roughly half of the world's oil is today transported in ships which are approaching the end of their lives," Mr. Slater estimated.

"Should we merely stand by and watch an environmental timebomb in the making, or is the shipping industry and those of us that serve it capable of anticipating some of the problems that lie ahead and dealing with them?" he asked delegates.

"The insurance community should, I believe, do more to weed out unacceptable practices amongst classification societies and second-rate ship registries," Mr. Slater said.

"Simply refusing to insure ships whose class records are suspicious or which are registered in flags of convenience whose standards of inspection and certification are unacceptably low would send the strongest signal to the shipowning community.

"Without valid insurance, a ship cannot obtain finance, perform a charter or enter most ports in the world," Mr. Slater reminded delegates. ■

The age and condition of the world's fleet continues to deteriorate while cargoes increasingly 'exceed the values of the ships themselves,' and third-party liabilities 'can run into billions of dollars,' says Paul Slater.

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Boost hull rates: Underwriter

By CAROLYN ALDRED

ANTWERP, Belgium—Marine underwriters must not capitulate to another round of rate reductions at upcoming renewals, a leading London marine underwriter argues.

In an impassioned speech at the International Union of Marine Insurance conference held Sept. 11-14 in Antwerp, Belgium, Tony Nunn, chairman of IUMI's Ocean Hull Committee, urged conference delegates to return home and increase rates.

"Do the leading hull markets at this conference really feel that another renewal period of indiscriminate reductions is inevitable?" asked Mr. Nunn, who also is general manager of The Scottish Lion Insurance Co. Ltd. in London.

Mr. Nunn urged marine insurers to return home from the conference resolved to seek hull rate increases of at least 10%, effective with Oct. 1 renewals.

"The hull account, together with the large portfolio of energy business, has always been the main platform for the marine underwriter and it is now totally uneconomical. I cannot believe that we are solemnly going to leave Antwerp and meekly confess there is little we can do," Mr. Nunn said.

"Let us be confident in ourselves and in each other, for someone has to make the first move, and this is up to the person who has the courage to do so," he added.

However, several delegates noted that the severe competition in the marine insurance market is unlikely to be stifled during the upcoming renewal season.

"The unsensible behavior of certain markets will only change by bitter experience," said Hans-Joachim Enge of Lampe & Schierenbeck of Bremen, West Germany.

"Only deep red figures will bring them to their senses," he asserted.

Competition also is being aggravated because underwriters are being forced to seek premium volume to generate cash flow from which to pay some major losses, other delegates argued.

"We're seeing incredibly reduced rate levels in a period of cash-flow underwriting," said IUMI President Maurice Jaques.

"After Piper Alpha, underwriters are scrambling for cash in order to make payments. Sooner or later the bubble will burst," said Mr. Jaques, referring to the explosion of the Piper Alpha drilling platform in the North in July 1988, which will cost underwriters about $1.4 billion in claims (see story, page 29).

Overcapacity also is fueling competition, according to responses to an IUMI questionnaire on hull insurance.

Of the 42-nation delegation that replied to the questionnaire, 22 countries reported overcapacity in their markets, Mr. Nunn pointed out.

And, few countries reported any sign of change in the situation.

For example, British marine underwriters' associations reported in their response to the questionnaire "an increase in capacity in both the" London company and Lloyd's of London markets and "at the moment there are no signs that this situation is about to change."

Rates "are at uneconomic levels in all classes (and) it is only a matter of time before these inadequate rates produce adverse underwriting results," the British report continues.

Even for aging vessels "rates have been reduced and cover widened. . . .This is indicative of less discerning leadership and underwriting—symptoms of overcapacity," the report continues.

"Overcapacity and a reluctance to lose business to foreign markets

'Only deep red figures will bring (insurers) to their senses,' says Hans-Joachim Enge.

are forcing rates down. Inexperienced London and overseas competition is also having a detrimental effect on both rates and conditions," according to the British report.

Other major markets reported similar conditions.

For example, "overcapacity has a negative impact in the French hull business. This is experienced in all developed countries. No sign of change in this situation has been noted," reported the Syndicat des Societes Francaises d'assurances Maritimes et de Transports.

"The Norwegian market is suffering from considerable overcapacity in overseas markets. This overcapacity seems to increase rather than decline," according to the Norwegian Central Union of Marine Underwriters.

Meanwhile, the "pressure toward lower premiums is continuing" for older vessels as well as new ships, the Norwegian Central Union reports.

"For many of the older vessels, the technical standards have deteriorated as a consequence of the maintenance having been brought down to a minimum. . . .Furthermore, it is probable that the claims frequency and/or magnitude will go up with the increasing age of the world fleet," the Norwegian report continues.

"We do have overcapacity in several segments of our market and there is no indication that this will soon change," noted the American Institute of Marine Underwriters in its report to the IUMI convention.

"The German market has experienced severe competition from other international markets (that are) not taking into account previous underwriting results. We are concerned that the lasting overcapacity will result in continuing irresponsible competition," noted the West German Marine Insurance Assn.

Marine cargo insurance rates also remain under severe pressure, reported Samuel Byron Jr., chairman of IUMI's cargo committee.

"Country after country has reported to us time and time again that their market continues to suffer from great pressures, both from within and without, to drive rates even lower than they are today, and to do so on ever broadening forms," said Mr. Byron, who also is president of Marine Office of America Corp. in New York.

"Last year, I suggested that ocean cargo underwriting is still returning a profit to underwriters. However, we must all wonder how long this will last. I suspect that in 1989, while the margins will be thinner on a worldwide basis, ocean cargo underwriting will once again generate a profit for underwriters, but a small one," he noted.

And "as long as this is so, with international competition as great as it is, coupled with freedom of insurance among the world's largest traders, competition will continue, and the profits will disappear," he added.

Meanwhile, as the overall marine insurance market continues to soften, the condition of marine risks continues to deteriorate, many of the delegates noted.

"The average age of international tonnage is advancing inexorably. Ships are transferred to flags of convenience at a rapid pace. Shipowners are reducing manning scales as quickly as they can. They are also hiring their seafarers in non-traditional countries. Major losses are on the rise," noted Harry Keefe, vp of GRE of America Corp. of New York, in his report on the U.S. market. Mr. Keefe also is chairman of the American Institute of Marine Underwriters' Hull Committee.

"Faced with such bleak conditions, what do you suppose the hull underwriters of the world are doing? Cutting rates, naturally," he added cynically.

Svein-Erik Svendsen of Storebrand International Insurance of Oslo, Norway, made the same point during a debate on quality and standards in the marine market.

"What have hull underwriters been doing since the Sydney meeting in 1988?" Mr. Svendsen asked, referring to last year's IUMI conference in Sydney, Australia. "We have insured a world fleet which is deteriorating in standard, nearly one year older, (and) manned by less experienced crew. And this we do at rates which are considerably reduced, up to 30% for some fleets," he said.

"I am personally concerned about the increased loss ratio for the last two to three years. I am scared stiff because of the nature of many claims, and I believe that further extension of the operational life of aging vessels will be an expensive experience for underwriters," he warned.

According to Mr. Svendsen, the average age of vessels larger than 100 gross tonnage had increased to 16.1 years by March 1989 from 13.1 years in 1975.

Mr. Svendsen also noted that many of these vessels have not been well-maintained. ■

IUMI to open attendance at meetings

ANTWERP, Belgium—The 1989 International Union of Marine Insurance conference earlier this month likely will be the last closed gathering held by the organization, said General Secretary Emanuel Burckhardt.

The conference held in Antwerp, Belgium, from Sept. 11-14, was open only to IUMI committee members and to representatives from marine insurance associations in the 46 member countries of the IUMI.

However, in forthcoming years —as in most previous years— IUMI conferences will be open to all marine underwriters in member nations, not just representatives from marine insurance associations.

Despite the limitation on registrants, about 220 delegates attended workshops and committee sessions in the modern Provinciehuis building on the outskirts of Antwerp, one of Europe's oldest and busiest ports.

Attendance exceeded 330, including spouses, said Mr. Burckhardt.

The Assn. of Belgian Marine Insurers acted as hosts, and social functions included a reception by Antwerp's mayor in the ancient Butchers' Hall in the center of the old town and a dinner and boat trip in the port.

Next year's conference will be held Sept. 16-20, 1990, at the Queen Elizabeth II Conference Centre in London. Conference organizers are expecting more than 700 delegates to attend because of the open registration policy.

For more information, contact Emanuel Burckhardt at Baloise Insurance Co. Ltd., P.O. Box 4002, Basel, Switzerland.

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Energy losses can't be ignored: Insurers

By CAROLYN ALDRED

ANTWERP, Belgium—A series of massive energy-related losses last year has failed to shake marine underwriters to their senses, two underwriters told delegates at this month's International Union of Marine Insurance conference in Antwerp, Belgium.

During 1988, energy-related losses exceeded $2.5 billion—more than three times the annual premium revenues of about $700 million for such business—estimated Lloyd's of London underwriter Peter Wingett and French underwriter Jean Claude Mace.

"And what has been the market response to this massive erosion of funds?" asked Mr. Wingett. "Inadequate or even pathetic would be my description."

Referring to last July's loss of the Piper Alpha oil platform in the North Sea (*BI,* July 11, 1988), Mr. Mace noted that "a major loss of a platform over $1 billion may absorb more than the premium of the year, but it has no dramatic effects, so far, on the offshore and marine insurance market."

The marine insurance market "does not appear (to have) reacted in any way," said Mr. Mace of the Compagnie d'Assurances Maritimes Aeriennes & Terrestres.

Meanwhile, at least eight other losses exceeding $50 million will boost total energy losses to at least $2.5 billion, "thus making the loss ratio of the 1988 underwriting year over 300% without taking into consideration the normal and average claims of the year," said Mr. Mace (see story below).

"We are, certainly, very concerned to have to face a 300% loss ratio on a category of risks of our book. But what is the most upsetting fact is to see that there is no action taken by markets, leaders or underwriters in order to balance the energy book to a sounder ratio," he added.

"I do not feel that the international market has responded to the challenge of the dreadful 1988 losses in a disciplined and rational manner. Must it be necessary for crippling losses—and even bankruptcies—(to happen) before we regain our professionalism and decline to accept inadequately structured risks?" asked Mr. Wingett.

"It only needs a little more resolve from all of us to make sure that the future has a rosy glow and does not degenerate into a marine energy insurance hell on earth," he added.

Marine underwriters that insure or reinsure offshore and energy-related exposures face a multitude of problems, said Mr. Wingett.

For example, "how many of you here today have even a rough idea of your total involvement at any given time in, say, the North Sea," he asked delegates from more than 40 countries.

"If you freely accept reinsurances of a general nature, the answer must be in the negative. The days when leaders restricted losses to an aggregate if closely located or linked (oil or gas) platforms were involved in one event seem to be a relic of the past, removing one safeguard to heavy and localized accumulation," he noted.

Meanwhile, underwriters must consider that in addition to physical damage, they face exposures such as cost of controlling the well; removal of debris; redrilling expenses; business interruption; pollution; and other liabilities.

Marine insurers are starting to 'creep out of the sea to the mainland,' says Peter Wingett.

And, more and more non-marine liability exposures are being insured by marine underwriters as part of energy-related package policies, pointed out both Messrs. Wingett and Mace.

"During the last past years, my underwriting experience shows me that there is a trend to increase the non-marine exposure in the marine energy packages," he said, adding that more marine underwriters are starting to "creep out of the sea to the mainland" to write coverage.

"There are many facets of liabilities associated with our business and, in general, underwriters have digested the asbestosis lesson and acted accordingly," said Mr. Wingett.

"However, in spite of standard forms offering very comprehensive cover, there is always the problem of tinkering with wordings with the possibility of giving wider cover than intended," he said, adding that "we should not stand behind employers who gamble with the safety and lives of their employees by exposing them to industrial diseases through sheer incompetence or deliberate cost cutting."

In addition, "it is also worth reminding ourselves that we are marine underwriters and should not be competing with the specialist non-marine market," noted Mr. Wingett. ■

Underwriters tally energy disasters

ANTWERP, Belgium—Marine underwriters in the past two years have suffered "the most destructive marine offshore energy account period in history," according to Lloyd's of London underwriter Peter Wingett.

Between November 1987 and March 1989, the market suffered nine losses that each exceeded $50 million, he noted. And, these nine losses alone will cost underwriters more than $2.4 billion, or more than three times the annual worldwide offshore energy premium volume, Mr. Wingett explained at the International Union of Marine Insurance conference, held Sept. 11-14 in Antwerp, Belgium.

The nine major losses are:

- The Nov. 3, 1987, underground blowout of a well on the Shell Oil Co.'s Bourbon Field production platform off Mississippi in the Gulf of Mexico.

Loss of production claims, physical damage claims, cost of control and redrilling expenses already total $200 million, said Mr. Wingett.

- A Dec. 20, 1987, gas blowout followed by a fire on the Steelhead production platform operated by Marathon Oil Co. in Cook Inlet, Alaska. Claims for physical damage, cost of control and other coverages total about $125 million.
- An April 24, 1988, blowout and subsequent fire on the Enchova Central Platform 1. Insurance claims stemming from the disaster have totaled about $325 million, said Mr. Wingett (*BI,* Sept. 26, 1988).
- The July 6, 1988, explosion of the Piper Alpha oil platform in the North Sea. The disaster likely will cost insurers more than $1.4 billion (*BI,* July 11, 1988).
- The Sept. 22, 1988, blowout on the semi-submersible drilling unit Ocean Odyssey in the North Sea. The unit was so heavily damaged it was declared a total loss at $47.5 million, with the cost of well control insurance claims estimated at $25 million.
- The Dec. 15, 1988, sinking of the Rowan Gorilla 1 jack-up unit while being towed from Halifax, Nova Scotia, to the North Sea. The unit was valued at $90 million and is the largest claim for the loss of a mobile drilling unit, "another undistinguished record for 1988," said Mr. Wingett.
- The Dec. 24, 1988, loss of the Fulmar Field Floating Storage Unit. The unit, an attached single anchor leg mooring and seabed base broke adrift in gale force winds and was towed to Norway.

The unit was the "focal point for the loading of oil from three fields totaling about 10% of North Sea output," said Mr. Wingett, adding that the incident cost insurers $54 million.

- A Jan. 20, 1989, incident involving the drilling of a well off Norway in the North Sea. The drilling unit was forced to move off the well when attempts to seal the well were unsuccessful.

The well was subsequently reentered and a relief well drilled, but a loss of more than $100 million has been reported.

- The March 19, 1989, fires on two platforms (dubbed Baker and Echo) in the Gulf of Mexico. Physical damage claims alone total $52 million, and there also will be a substantial business interruption loss, predicts Mr. Wingett.

—By Carolyn Aldred

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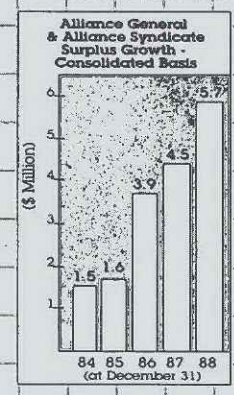

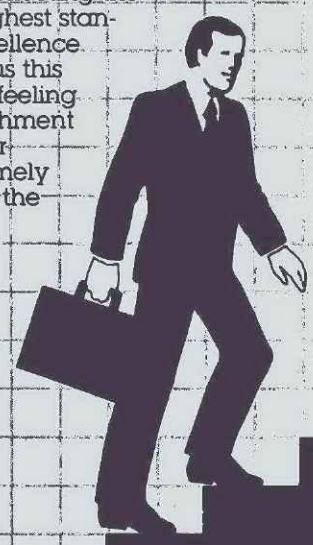

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Japanese stress oil facility loss control

By CAROLYN ALDRED

ANTWERP, Belgium—Japanese officials have "spared no effort or expense" in ensuring the safety of a massive Japanese offshore oil storage facility, which is insured for up to $1 billion, a Japanese insurance executive says.

The Japanese claim the Kamigoto Project, which began operation this year, is the first of its kind in the world.

The storage facility, located off the coast of western Japan, is the first of 10 oil storage facilities being constructed by the Japanese government to reserve up to 150 days worth of Japanese crude oil consumption, said H. Nagai of the Taisho Marine & Fire Insurance Co. Ltd.

Mr. Nagai delivered a presentation on the Kamigoto Project to delegates at the International Union of Marine Insurance conference, held Sept. 11-14 in Antwerp, Belgium.

He also outlined the insurance coverage for the project in a paper presented to delegates.

The "Kamigoto Project is the first attempt to store crude oil in colossal tanks moored offshore. The Kamigoto Oil Storage Base was constructed in Aokata Cove, off Kamigoto-cho, in Nagasaki Province," explained Mr. Nagai.

"I believe the project is unique in that no other similar such storage facility has been built elsewhere in the world," he said.

Up to 4.4 million kiloliters of crude oil can be stored in the five vessels moored in the cove that make up the project. Each storage vessel is 390 meters long, 97 meters wide and 27.6 meters deep.

Construction of the facility, which began in October 1984, took almost four years to complete. Oil intake started last October, and the vessels were filled to capacity in January, Mr. Nagai said.

The Japanese insurance market, supported by the London marine reinsurance and other markets, provide up to 80.2 billion yen ($550.7 million) in port risk coverage for the storage vessels, which are managed by Kamigoto Oil Storage Co. Ltd., according to Mr. Nagai

The insurance and reinsurance markets also provide up to 89 billion yen ($611.1 million) in coverage for about 3.4 million kiloliters of the crude oil stored in the tanks.

Both policies exclude earthquake risks, said Mr. Nagai.

"We, the Japanese marine insurance industry, consider that every precaution has been taken to protect the numerous risks that are clearly evident with such a project," said Mr. Nagai.

For example, "many precautions have been taken to prevent damage to the storage vessels, such as breakwaters built to withstand heavy seas and provide calm water within the base, and a double floating oil fence to eradicate oil leakage," he explained.

Also, "security for entry to and from the site is strictly controlled. There is a 24-hour watch. Furthermore, there is a radar system with a range of some 24 miles, and three all-weather television cameras are installed on the summit and eastern slopes of Orisima near the site," he noted.

The storage facilities "are protected against floating objects by floating anti-collision fences, and the storage vessels themselves are of a double hull design. (The outer skin layers) are filled with seawater to maintain higher static pressure than the tanks themselves so as to prevent oil leakage," he added.

Meanwhile, empty areas in the tanks themselves are filled with inert gas "to eliminate the risk of fire. . . .Should a fire, however, break out, there is an automatic air-foam extinguishing system inside the tanks and on the upper deck (of the tanks). And, in addition, there is a water sprinkler system on deck to prevent (a) fire (from) spreading," Mr. Nagai continued.

A central control room is equipped with TV surveillance and monitors, as well as two separate computer systems for operation control and disaster control. Disaster prevention drills are periodically conducted, Mr. Nagai told IUMI delegates.

"This project is a national project of Japan. From a geological point of view, the most suitable location has been selected and no effort or expense has been spared to ensure complete safety," he concluded.

And, to maintain the facility's insurance program, Mr. Nagai said he hoped for "continuous support by the world marine market." ■

Mentor's auditors face suit in Bermuda

By ROGER SCOTTON

Bermuda

HAMILTON, Bermuda—The liquidators of Mentor Insurance Co. Ltd. have filed suit in Bermuda against more than 2,500 partners of KPMG Peat Marwick, the international accounting firm that audited Mentor before its 1985 collapse.

The precise number and names of partners being sued are listed in a confidential filing with Bermuda's Supreme Court. However, the sweeping action is believed to name all Peat Marwick partners in the United States and Bermuda.

Mentor's London-based liquidator, Michael Arnold, was reluctant to discuss details of the latest complaint. But, he said: "I think it's fair to say that the basic complaint involved is one that reflects our perception that Mentor's auditors did not do a proper job of auditing the company."

Mr. Arnold, an accounting partner with the firm of Ernst & Young, said he did not relish suing fellow accountants. However, "there's an argument that says I could be accused of being professionally negligent if I didn't."

Legal counsel advised the liquidators to file suit against all of Peat Marwick's U.S. and Bermuda partners. Mr. Arnold said. Peat, Marwick Mitchell & Co. of Bermuda and Peat, Marwick Mitchell & Co. of New York, now known as KPMG Peat Marwick, were Mentor's accountants from 1982 to 1984.

The action was brought in Bermuda's Supreme Court after the liquidators failed in their earlier attempt to sue Peat Marwick in New York State Supreme Court.

The liquidators filed suit in January 1988 alleging that Peat's Bermuda office failed to uncover a fraudulent scheme at Mentor, specifically reinsurance contracts the liquidators say were intended to conceal the true financial condition of Mentor and allow it to continue in business (*BI*, May 16, 1988).

The New York suit, which also named Peat's New York practice, also alleged that Peat Marwick breached its duty to Mentor to render services in accordance with the prevailing standard of care that is applicable to auditors and accountants.

However, the New York court dismissed the action earlier this year (*BI*, March 20).

That court followed the precedent set by a New Orleans federal court that dismissed the liquidator's suit against Mentor's parent, Ocean Drilling & Exploration Co., and 10 other defendants. The federal court judge ruling that Bermuda was the proper forum for the trial.

In a related action, a dissident group of Mentor creditors formally has nominated a new liquidator.

The main body of creditors is expected to vote on the appointment at the creditors' annual meeting Nov. 1 in Bermuda.

The resolution, filed with liquidators Charles Kempe and Mr. Arnold, officially nominates Coopers & Lybrand Bermuda-based partner David Lines to replace Mr. Kempe (*BI*, Aug. 21).

Mr. Lines, the liquidator of Cambridge Reinsurance Ltd., says he would accept the position if the resolution is approved at the meeting.

Mr. Lines said it is "not uncommon" for liquidators from different accounting firms to hold joint appointments on a liquidation.

"It may not have happened in Bermuda before, but I can assure you it happens elsewhere," Mr. Lines added.

New A.C.E. chief

The new head of A.C.E. Ltd. has no immediate plans to alter operations of its Bermuda-based subsidiary A.C.E. Insurance Co. Ltd.

"On the basis of if it's not broke, don't fix it, no changes are planned," said Walter A. Scott, who was appointed president and chief executive officer of the companies earlier this month during an A.C.E. Ltd. board of directors meeting in Toronto, Canada.

Looking further down the road, however, the excess casualty and directors and officers liability insurer may begin developing new products, he said.

A.C.E. Ltd.'s founding CEO John R. Cox, who is retiring this year at the age of 57, will continue as board chairman.

Mr. Scott, 53, is the former executive vp of Greenwich, Conn.-based Primamerica Corp. and chief executive officer of New York-based Associated Madison Cos. Inc. Associated Madison is the holding company of all Primamerica financial services subsidiaries except Smith Barney, Harris Upham & Co. Inc. of New York.

In those positions, Mr. Scott was responsible for the companies' life insurance, specialty accident and health insurance, and credit life insurance divisions.

Like his predecessor, the new A.C.E. president will commute to the island for business during the week. However, Mr. Scott plans to move to Bermuda within a year. ■

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9	SEP 26*	INTERNAT'L: BENEFITS & RISK MGMT NACSA/NACSE REPORT Directory: International Insurers & Benefit Networks Distribution: RIMS/AEAI; SIIA AIM Studied Issue	
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Marine insurers mull nuclear exclusion

By CAROLYN ALDRED

ANTWERP, Belgium—The International Union of Marine Insurance is formally examining the possibility of excluding nuclear contamination risks from marine insurance policies.

A study group, which will include representatives from five or six of the leading marine insurance markets worldwide, will present its findings at the 1990 IUMI conference in London, IUMI President Maurice Jaques announced on the final day of the 1989 IUMI conference, held Sept. 11-14 in Antwerp, Belgium.

The move follows three years of debate at IUMI conferences over the need to exclude radioactive contamination and cleanup exposures resulting from nuclear accidents.

The possibility of excluding nuclear contamination risks was raised by marine underwriters after the 1986 disaster at the Chernobyl nuclear power plant in the Soviet Union.

At last year's IUMI conference in Sydney, Australia, individual nation's marine insurance markets were urged to consider "very carefully" whether to exclude nuclear contamination risks from all marine insurance policies, including hull, cargo, and offshore oil and gas coverage (*BI*, Oct. 3, 1988).

A year of reflection has produced very different responses concerning the exclusion from the major marine markets, delegates at this year's conference learned.

The French insurance market distributed at the IUMI conference a 110-page technical report on "Nuclear Decontamination of Ships" prepared by the Syndicat des Societes Francaises d'assurances Maritimes et de Transports.

However, the French market has not decided whether to exclude nuclear contamination coverage from hull policies based on completion of the report. And, it now is preparing a second technical report on the contamination of cargo.

The report issued at the conference does not draw any conclusions about whether underwriters should continue to include nuclear contamination coverage in standard marine policies. Rather, it outlines the risks that nuclear contamination poses to underwriters, said Jean Claude Mase, general manager of Compagnie d'Assurances Maritimes Aeriennes & Terrestres in Paris.

According to the French report, the probability of nuclear contamination leading to total loss of a ship—because cleanup would exceed the value of the ship—is "very low (with) one major accident every million years."

The "most realistic scenario" would result in cleanup costs that "can be supported by maritime insurance companies," it says.

If a nuclear cloud passed over the English Channel—the shipping lane with the highest traffic density in the world—the total hull loss could reach $5.2 billion if all exposed vessels were declared a total loss, the report estimates.

This figure "may be compared to the insured value of large offshore installations for which the probability of a major accident is significant as recent events have shown," the report says.

For example, underwriters are expected to pay $1.4 billion in losses in connection with the July 1988 explosion aboard the Piper Alpha drilling platform in the North Sea (see story, page 29).

Meanwhile, the likely loss to shipping in the English Channel would be smaller, because contamination probably would not be significant enough to render all vessels exposed to radiation a total loss and because vessels would be able to take evasive actions to reduce the level of contamination, the report states.

Also, most European Community states provide coverage for damages resulting from a nuclear accident, the report notes.

Other nation's marine insurance markets, however, take a more conservative view of nuclear risks and are taking action to exclude nuclear contamination.

For example, Norwegian marine underwriters are introducing nuclear contamination exclusions in cargo policies beginning in January, a Norwegian delegate announced at the IUMI conference.

Although the decision by Norway's Central Union of Marine Underwriters relates primarily to goods carried in Norway's domestic waters, the Norwegian market will support international action to exclude nuclear contamination risks, said a Norwegian market spokesman.

London underwriters also urged international action to exclude nuclear contamination coverage.

Cargo underwriters are particularly concerned, said Lloyd's of London underwriter Tim Jonas.

"There is no agreed level of safe radiation of food stuffs, so any contamination is likely to be a total loss to underwriters," said Mr. Jonas.

Cargo underwriters are particularly concerned, says Lloyd's of London underwriter Tim Jonas. 'There is no agreed level of safe radiation of food stuffs, so any contamination is likely to be a total loss to underwriters,' he says.

"From an underwriting point of view we don't need any further information," he said.

"It would be like having a committee to decide whether it is safe to swim on top of the Niagara Falls. The size of the problem is obvious. The more support delegates give, the sooner there will be an agreement accepted internationally," Mr. Jonas said.

"Another nuclear incident is as certain as night follows day. The only question is where and when," Mr. Jonas added.

All technical committees in the London market "have examined the problem in considerable detail" since the IUMI made its recommendation to adopt a blanket exclusion last year, according to John Parton, chairman of the Institute of London Underwriters.

The ILU represents non-Lloyd's marine underwriters in London.

However, "we are convinced that discussions should be brought to definitive conclusion in the near future because it takes time for any changes in cover to be drawn up," he warned.

"The earliest realistic date for introducing any exclusion now must be 1991," Mr. Parton said.

As a result, "we would encourage IUMI to strongly progress this matter in the next few months," he said. ■

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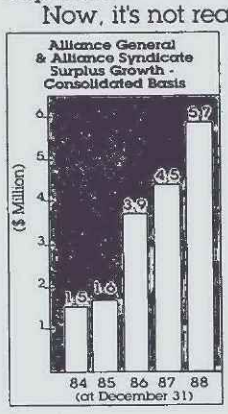

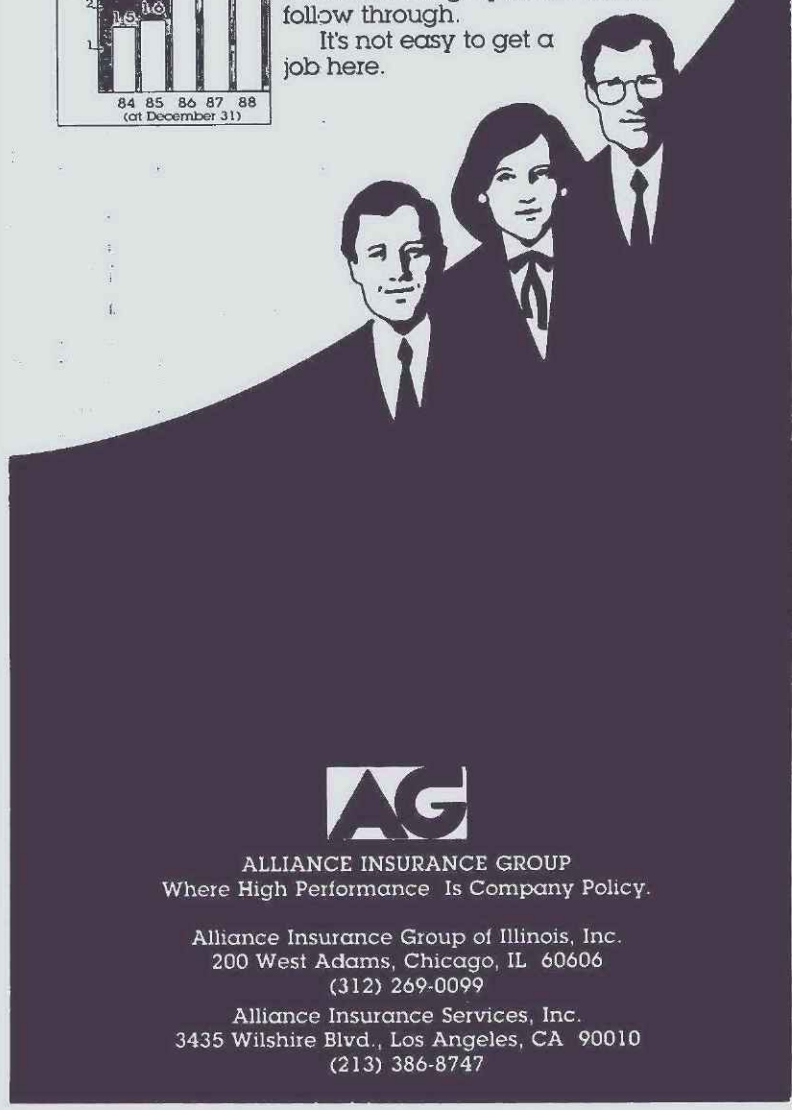

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Pollution dispute

Continued from page 1

history documents could become public record, policyholders nationwide may be able to use these documents in their own battles with insurers over coverage for pollution claims, attorneys explain.

"This will create a wealth of information and concrete positions that other policyholders can use," said Allied-Signal attorney Robert Johnson of Anderson Kill Olick & Oshinsky in New York.

"Insurers have often been able to intimidate policyholders from not seeking coverage for pollution incidents because of the high cost" of uncovering these documents, Mr. Johnson explained. "This will balance the scales."

"This will give any policyholder starting" to litigate with an insurer over pollution claims "a certain base level of information to start with," agreed policyholder attorney Tom Freeman of Brobeck, Phleger & Harrison in San Francisco.

However, insurer attorney David Ichel, of Simpson, Thatcher & Bartlett in New York, played down the significance of the Sept. 6 bench ruling by New Jersey Superior Judge Reginald Stanton.

"Judge Stanton is very much an activist judge who is trying to get his arms around the issues," said Mr. Ichel, who represents Travelers Indemnity Co. Travelers wrote primary CGL coverage for Allied-Signal from 1950 to the present.

Mr. Ichel also pointed out that Allied-Signal also is forced to produce documentation under Judge Stanton's order.

Judge Stanton ordered Allied-Signal to submit a great deal of documents discussing its knowledge of chemicals produced and discharged at two New Jersey manufacturing plants. But, the judge will apply his ruling in the dispute to other Allied-Signal sites around the nation.

"In essence, we must discuss everything that went in and everything that went out," explained Mr. Johnson, Allied-Signal's attorney.

In addition, Allied-Signal must disclose all corporate-level documents acknowledging the hazards of chemicals used at the two plants. And, the company must disclose details of its environmental impairment liability insurance and any pollution claims filed with its Bermuda captive, Alchem Assurance Co.

Judge Stanton's bench ruling is part of ongoing litigation between Morristown, N.J.-based Allied-Signal and 177 of its liability insurers over the cost to clean up 400 hazardous waste sites nationwide.

In this initial stage of the litigation, called discovery, Allied-Signal and the insurers have been requesting massive amounts of documents from each other.

To pare down the discovery process, Judge Stanton ordered each side to produce statements summarizing many of the documents being requested.

A party to a lawsuit normally is ordered to produce documents in discovery but is seldom ordered to analyze the documents.

Judge Stanton's order represents the first time insurers have been forced to reconcile drafting history documents with their current coverage positions, attorneys point out.

"This is a novel approach to attempt to limit broad discovery," said insurer attorney Stephen H. Cohen of McElroy, Deutsche & Mulvaney in Morristown, N.J.

Attorneys say other judges may be influenced by Judge Stanton's order and adopt similar procedures in their court.

"This may be something that might appeal to other judges trying to take a fresh approach to this type of litigation," Mr. Freeman said.

In his ruling, Judge Stanton described in detail the type of information he wanted included in the sworn statements submitted by the insurers. Travelers must submit a sworn statement, while other insurers in the litigation can then either adopt the Travelers statement or differentiate from it.

Judge Stanton first requested Travelers provide a detailed discussion of the meaning of key terms in the comprehensive general liability policies it wrote for Allied-Signal and a history of how these terms came to be included in the policy form. Travelers also must explain why these terms bar coverage for Allied-Signal's pollution claims.

"I am looking for a careful analytical statement by Travelers indicating the history of the evolution of its policy (and) what the policy presently means in terms of coverage," Judge Stanton explained.

The judge also ordered Travelers to discuss any internal documents, like claims manuals, that reveal the meaning of its policies. The insurer must reconcile the statements made in these manuals with the legal positions it is now arguing.

The judge explained that when interpreting insurance contracts, courts generally confine themselves to looking at what the insurer manifestly told the policyholder would be covered.

'This is a novel approach to attempt to limit broad discovery,' says Stephen H. Cohen.

However, he said, "It seems to me that knowing what the internal understanding was might inferentially have some bearing on what the external manifestation was likely to have been—not necessarily, but it may have a connection."

In addition, Judge Stanton ordered Travelers and the other insurers in the litigation to disclose any settlements exceeding $500,000 relating to pollution claims.

"I'm trying to see if we can flesh out whether there's been any truly significant inconsistency between what Travelers is doing now and derivatively what the other companies are doing now in this case and what any substantial claims practice has been," he said.

"If Travelers or any of the other companies has consistently—or in a large number of cases involving significant amounts of money—settled these kinds of claims, after a while that could arguably lead to the conclusion that they have treated this kind of coverage as available under the policies," Judge Stanton explained.

Insurer attorney Mr. Cohen said this portion of Judge Stanton's order could have a chilling effect on insurers' settlement practices.

As a result of the judge's order, insurers may avoid settling claims similar to those at issue in cases in which they are contesting coverage, he said.

A crucial portion of Judge Stanton's order is his demand that insurers reconcile their current coverage positions with statements made to regulatory officials.

"The certification should state, if it truthfully can, that Travelers has never taken a position with respect to the meaning of these terms and with respect to the kind of coverage they provide which is inconsistent with the one being taken in the certification in any communications made to any state regulatory agency," Judge Stanton said.

"And, if an inconsistent position has been taken, then that should be disclosed, and there should be an explanation of how that is to be reconciled to Travelers' current position in this litigation with respect to coverage," he said.

Specifically, Judge Stanton is asking Travelers to address statements made in 1970 to state insurance commissioners when the pollution exclusion in the comprehensive general liability policy form was first adopted.

The pollution exclusion bars coverage for all types of pollution that are not "sudden and accidental."

Insurers nationwide argue that the exclusion bars coverage for gradual, as opposed to instantaneous, pollution incidents.

Policyholders counter that the exclusion is merely a restatement of the definition of "occurrence" in the policy, which states there is no coverage for expected or intended events.

In support of their argument, policyholders have noted that insurers told insurance commissioners in 1970 that the pollution exclusion was not a reduction in coverage, but merely a clarification of coverage.

For example, in a letter dated June 10, 1970, the Insurance Rating Board —the predecessor to today's Insurance Services Office—told the Georgia Insurance Department: "The impact of the proposals on the vast majority of risks would be no change. It is rather a situation of clarification."

Policyholder attorney Peter Kalis, with Kirkpatrick & Lockhart in Pittsburgh, observed: "From what we know of the drafting history, it is clear that the insurance industry intended their policies to cover pollution damages that were neither expected nor intended from the standpoint of the insured."

Policyholder attorney Dave Steuber, with Paul, Hastings, Janofsky & Walker in Los Angeles, agreed: "The drafting history shows that what the insurance industry is saying today is not what they intended 20 years ago."

He described the insurers' current contentions as "revisionist history."

"Insurers will be hard put to explain away the inconsistencies" between their current positions toward pollution coverage and the statements they made in 1970, said Allied-Signal attorney Mr. Johnson.

"The best they can say is that they lied to the insurance commissioners and policyholders in 1970 when they said the pollution exclusion was not a reduction in coverage," he said.

But Travelers attorney Mr. Ichel downplays the judge's order.

"I don't believe it will be a problem," he said.

"Policyholders have raised these same arguments over and over again, and thus far insurers have done an effective job of demonstrating the fact that their positions in denying coverage are legally and factually sound," Mr. Ichel explained.

"In our view, nothing new will be raised in the certifications," he said.

In addition to discussing the meaning of the policy, Judge Stanton ordered Travelers in its sworn statements to identify three people "knowledgeable about the policy, its meaning and how it came to be in existence between Allied and Travelers." The insurer must also identify all personnel that handled the Allied-Signal account.

The other insurers each must name only one person familiar with the policies written for Allied-Signal.

Similarly, Allied-Signal must identify all people familiar with the handling of chemicals at the polluted sites. ■

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Advertiser Index

Issue of September 25

Advertiser	Page #
Aetna Life and Casualty	10
Alliance Insurance	29, 31, 33
American International Group	18
American Re-Insurance	11
Brownyard Brothers	33
CIGNA	7, 9
CRC	36
Employers Reinsurance	25
Equicor Health Plans	4
Erisco	28, 29, 30, 31
First State	22
Generali US Branch	17
Hall Kimbrell Environmental	36
Hannover Reinsurance	6
Intra Corp. Management	20-21
Fred S. James & Co. of NY	12-13
Liberty Mutual	15
Media/Professional Ins.	16
Mesirow	32
Metropolitan Life Ins. Co.	19
Mutual of Omaha	27
NAPSI	27
Nat'l Risk Retention Assoc.	22
North American Reinsurance	40
Northwestern National Life	5
RLI Corp.	14
U.S. Risk Insurance Agency	26

Business Insurance

Colorado revamps practices

Audit calls for regulatory changes

By MEG FLETCHER

DENVER—The Colorado Division of Insurance currently is implementing most of the 62 changes recommended in an exhaustive performance audit released last month.

The changes are designed to improve the quality and effectiveness of regulatory practices observed between September 1988 and June 1989 and analyzed in a 132-page report that was completed in June.

The report was not made public until last month when the state's joint Legislative Audit Committee formally accepted it.

"During the course of this audit, we were impressed with the general commitment and concern of the commissioner and the Division of Insurance employees," state Auditor Timothy M. O'Brien wrote in a report summary. "They work hard in a difficult regulatory and political environment."

However, "we conclude that insurance regulation needs strengthening in many areas to better protect consumers," Mr. O'Brien said.

Specifically, state auditors found the Division of Insurance:

- "Needs to improve" its monitoring and enforcement activities pertaining to existing insurance entities, including traditional insurers.
- "Has not worked effectively" with non-traditional insurance entities that are being developed in response to the changing insurance market, including public entity self-insurance pools.

For example, five of 13 such pools were certified by the division only temporarily because of problems that prevented the pools from being fully certified by the state, said Bruce Smith, the new deputy commissioner of the Insurance Division who is now serving as acting commissioner.

Two of the pools had financial difficulties that would have resulted in their being placed in conservatorships if they had been insurance companies, according to the audit report.

The other three faced other problems, like unacceptable claims handling practices, said Mr. Smith, who declined to identify the pools.

Currently, all the pools have corrected their deficiencies or developed plans to do so, though it may take some pools until next year to fully implement the changes, Mr. Smith said.

At this time no policyholders are exposed to risk due to the financial condition of any pool, he added.

- "Relies too often on intervention rather than regulation to supervise the business of insurance."
- Does not summarize direct consumer complaints to improve insurance services, though the division spends a great deal of staff time responding to direct consumer complaints.

In addition, the report criticized the state as a whole—due to the inactivity of its Legislature—for failing to create a guaranty fund to protect life and health insurance consumers as well as failing to create a separate office to represent insurance consumers in hearings before the commissioner.

"Obviously, we wished the audit says we were doing a terrific job," said Greg Romberg, director of the Office of Regulatory Reform in the Colorado Department of Regulatory Agencies, which supervises the Division of Insurance.

Instead, the report contains more than five dozen recommendations to better regulate insurance companies and other risk financing alternatives; protect consumers; collect taxes; improve management of the division; and develop needed regulations.

"I had mixed reactions to the report," said former Insurance Commissioner John Kezer, who resigned this summer after five years in the post to pursue other interests in Denver.

He recently became a partner in the law firm of Alexander & Kezer P.C. and senior vp of Hugh Alexander & Associates Ltd., a consulting firm.

"There are many recommendations that will improve the delivery of services to the public by the division. On the other hand, there are portions of the report that present suggestions that may or may not be economically feasible or—in the long run—helpful or necessary," Mr. Kezer said.

The division works 'in a difficult regulatory' environment, writes Timothy O'Brien.

However, Mr. Kezer said he is glad that funding for the division and enforcement support will be increased this year in light of the auditor's report that the Colorado Insurance Division "ranks slightly low on total staff and low on budget."

The Legislature increased the division's budget for the fiscal year beginning July 1 to $3.5 million from $2.5 million the previous year and authorized the hiring of 12 additional staff persons, including eight who will only be responsible for consumer affairs, Mr. Smith said.

"We look at the report as a whole as an opportunity for meaningful improvement," Mr. Romberg said. "It's a terrific tool."

The Division of Insurance responded quickly to the 62 recommendations in the audit. Some changes were made as the problems were pointed out during the audit process, including expanding the role of deputy commissioner to include full administrative authority overall staff.

By mid-August, 28 of the recommendations were implemented, Mr. Smith said. These included suggestions to:

- Establish and use formal rather than informal procedures to control the issuance of certificates of authority for insurance entities.
- Assign outside consultants rather than division staff members to monitor troubled insurance companies.
- Develop an annual operating plan for examinations of insurance entities and take steps to ensure Colorado collects its share of insurer premium taxes.
- Prioritize enforcement matters and delegate routine hearings to an administrative law judge.
- Establish written guidelines for the issuance of final agency orders within 90 days of a hearing and discontinue use of interpretive guidelines as binding rules.
- Request statutory authority to place self-insurance pools in conservatorship.
- Establish a separate complaint and inquiry unit.
- Modify the division's tax-related procedures by separating financial examiners from premium tax processing duties and crediting insurers' tax overpayments to subsequent taxes rather than refunding overcharges.
- Require the division to be accountable for addressing all recommendations in reviews, studies and evaluations, which had not been done previously.
- Improve timeliness of employee performance evaluations, including clarification about ethics guidelines.
- Improve cash management to ensure timely deposits of funds and the consistent billing of all regulated entities.

In addition, Mr. Smith said 24 other changes should be implemented by year-end, including recommendations to:

- Develop a system to prioritize the examination of insurance companies based on risk to the public.
- Schedule on-site examinations of self-insurance pools annually or develop an acceptable system for reviewing them on a regular basis.
- Ensure that insurers domiciled in other states are monitored through zone examinations.
- Improve the timeliness with which examination reports are issued.
- Implement a formal process for working with financially troubled companies.
- Develop a systematic process to understand non-traditional insurance entities and clarify the function of temporary certificates of authority.
- Improve the complaint system through uniform methods of retaining and tracking files as well as procedures to regularly review and follow-up closed files.
- Prepare and distribute general information on insurance-related topics to the public.
- Implement a formal tax collection system or consider transferring collection duties to the Department of Revenue.
- Use outside experts to address low employee morale and budget for and develop an employee training program.
- Establish a process to implement management study recommendations, including clarifying the regulatory structure of the division.

The final 10 recommendations are slated for adoption in the future.

Included are measures that require Legislative approval, like considering establishment of a life and health guaranty fund and an insurance consumer advocate's office.

Other measures include reorganizing existing regulations, guidelines and bulletins into a systematic format. ■

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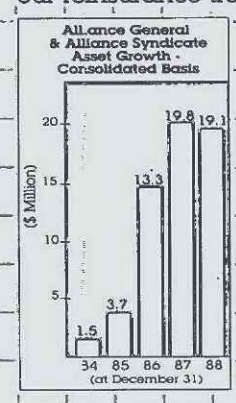

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Thiele to assume Continental presidency

William E. Thiele will become president and chief operating officer of Continental Corp. at the end of this year when current President **John H. Bretherick Jr.** retires.

Mr. Thiele currently is senior executive vp in charge of insurance operations at Continental.

Mr. Bretherick has been at Continental for nearly 40 years, holding the post of president since 1984.

Mr. Thiele

In other insurer changes:

John F. O'Brien elected chairman of Hanover Insurance Co. in Worcester, Mass. Mr. O'Brien also was named chairman of Massachusetts Bay Insurance Co., a Hanover subsidiary, and chairman of the executive committee of both companies. Mr. O'Brien also is president and chief executive officer of State Mutual Life Assurance Co. of America, which owns 51.3% of Hanover.

Comings & goings: industry

W. Randall Stoddard elected resident vp of SAFECO Insurance Cos.' Southwest region in Denver.

Michael J. Schell named vp-ceded reinsurance of St. Paul Fire & Marine Insurance Co. of St. Paul, Minn.

Mr. O'Brien

Haluk Ariturk promoted to senior vp-operations and chief actuary of The Acacia Group in Pittsburgh.

Robert Anders named resident vp-entertainment of Transamerica Insurance Co. of Los Angeles.

Stephen B. Center promoted to executive vp-employee benefits of UNUM Life Insurance Co. of Portland, Maine.

Paul J. Fleming joined The Home Insurance Co. as vp in charge of fidelity and surety bonds. He had been zone manager for the surety department at Chubb Corp.

Agents/brokers

R. Alan Kershaw appointed vp and treasurer of Alexander & Alexander Services Inc. of New York. Mr. Kershaw, who is based in Baltimore, replaces James B. Lockhart III, who President Bush appointed executive director of the Pension Benefit Guaranty Corp.

Houston L. Knox named vp and manager of Collier Cobb & Associates' West Coast office in Pleasanton, Calif.

Clifton C. Wistner named chief operating officer and treasurer of The Daniel & Henry Co. in St. Louis. He previously was executive vp of Wisenberg Insurance & Risk Management, a Houston-based brokerage.

Natalie Wasserman joined the National Public Entity Division of Alexander & Alexander Inc. as vp. Ms. Wasserman, who will be based in Washington, D.C., was previously executive director of the Public Risk Management Assn.

E. Randall Clouser appointed senior vp and director-business development for Alexander & Alexander of Missouri in St. Louis. Also, **Clint C. Tilton** joined A&A of Missouri as vp-national accounts. Mr. Tilton was previously with Marsh & McLennan Inc.

Ellen Perle joined Minet International Professional Indemnity as vp in the risk consulting division. In her prior position, Ms. Perle was a litigation associate with Gold Farrell & Marks.

Joseph F. Dillon Jr. joined Corroon & Black Corp. in San Francisco as senior vp-surety. Previously, Mr. Dillon was vp-branch manager for Fireman's Fund Insurance Co.

Reinsurance

Ake Brandin to become chairman and chief executive officer at StellaRe Management Corp. in Tarrytown, N.Y., effective Jan. 1. At the same time, he will become vice chairman and CEO of Hansa Reinsurance Co. of America, which is managed by StellaRe. He is currently president and CEO of the two companies.

In addition, **Kenneth J. Bolen** to become president of StellaRe and Hansa Re. He currently is senior vp of both companies. And, **E. Gunter Dahling** will be promoted to executive vp of the two companies from senior vp. He will retain his positions as secretary and treasurer.

Drew Beauchamp joined Greig Fester (North America) Inc. in New York as vp-domestic treaty operations. Mr. Beauchamp previously was with Richard Wiley Inc.

Other suppliers

William L. Granahan joined Betterley Risk Consultants Inc. of Worcester, Mass., as a consultant. Most recently, Mr. Granahan was an account executive with New England General Life Insurance Co. ■

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Vice-Presidents, General Managers and Other Administrative Personnel	4,006
Financial:	
Chief Financial Officers and Vice-presidents of Finance	2,795
Secretaries, Treasurers, controllers and other Financial Personnel	3,842
Risk/Employee Benefits:	
Vice-presidents, directors, managers, and other related department personnel of: insurance, risk, employee benefits, personnel, compensation, pension, safety, security, industrial relations, human resources and employee/labor relations	10,719
Sub-total	**24,021**
Associations	554
Government, Unions and Educational Institutions	1,417
Commercial Consumers	
Sub-total	**25,992**
Insurance Agents and Brokers	10,515
Insurance Companies	7,673
Actuaries, Consultants, Attorneys, Adjusters, Appraisers and Third Party Administrators	3,800
Others Allied to the Field	2,771
TOTAL	**50,751**

* Source Business/Occupational breakdown of qualified circulation, May 29, 1989 issue, as submitted to BPA for June1989 BPA Publisher's Statement.

Crime insurance

Continued from page 3

the FCIP, and unaffordable for many small businesses.

The FCIP was enacted in 1970 as part of the Housing and Urban Development Act in the aftermath of riots during the late 1960s in many of the nation's urban areas, where many businesses were unable to obtain crime insurance.

The FCIP, which is now administered by the Federal Insurance Administration through the Federal Emergency Management Agency, is authorized to offer burglary or robbery insurance or both to commercial and residential subscribers located in high crime areas in eligible states (see related story).

Commercial policyholders can purchase up to $15,000 of coverage limits and residential policyholders can obtain $10,000 in limits. Policyholders can obtain either burglary or robbery coverage or both, but separate limits for each type of coverage are not available.

Premiums for commercial policyholders are determined by the type of business and its annual gross receipts.

All premiums are placed into the National Insurance Development Fund, from which all claims are paid.

Since the program was enacted, it has had to borrow $125 million of the $250 million it is authorized to borrow from the U.S. Treasury to pay claims.

The FCIP has turned into a "social program" instead of an insurance alternative, said Sally Clary, the Washington, D.C., representative of the Alliance of American Insurers, a Schaumburg, Ill.-based property/casualty insurance trade organization.

The reason the program was created—rioting and civil unrest in urban centers—no longer exists.

The Alliance argues that a federal insurance program should be a last resort when insurance is completely unavailable, but commercial insurers are writing crime insurance, according to Ms. Clary.

The administrator of the Federal Insurance Administration concurs.

While some crime insurance availability problems remain, "for the most part, the private sector has been able to provide coverage at affordable rates—coverage that is often superior to that offered through the federal government's program," according to FIA Administrator Harold T. Duryee in testimony in late June before the House Policy Research and Insurance Subcommittee.

Mr. Duryee recommended that the FCIP be discontinued.

"The FCIP no longer addresses a need of national proportions," Mr. Duryee testified.

But, Gary Kesner, commissioner of the New York City Office of Business Development, disagreed in testimony before the House committee.

"There is evidence that these businesses often have no access whatsoever to the voluntary insurance market," Mr. Kesner testified.

In fact, in one section of Brooklyn, a local insurance broker told us that a private insurer turned down prospective clients immediately upon hearing their addresses," Mr. Kesner testified.

That same broker could not obtain private crime insurance for even his property, Mr. Kesner continued.

"The policies that FCIP writes are for businesses that private insurers would never cover," Mr. Kesner later said in an interview.

David Gallagher, program director of Interface, a New York-based public policy think tank, likened the need for a federal crime insurance program to the need for the federal flood insurance program.

"The country's major cities are so greatly affected by crime that it can be designated as a national problem," Mr. Gallagher said.

However, opponents of the FCIP argue that there are many differences between the flood insurance program and the crime insurance program.

"Flood insurance is not available anywhere in the United States, but crime insurance is," the Alliance's Ms. Clary said.

Another difference between the flood insurance program and the FCIP is that the flood program has written more than 2 million policies and is now self-supporting, Mr. Duryee testified.

The number of FCIP policies written has declined from a high of 83,163 in 26 states and jurisdictions in 1980 to 26,125 policies in 16 states and jurisdictions as of this year.

Of this number, only 6,784 are commercial policies, and most of those, 5,109, are written in New York state.

Of the remaining commercial policies, 659 are written for businesses in Florida and 520 are written in California.

The FCIP has cut its combined ratio to 107% for the 12 months ended June 30 from a high of 300% for calendar year 1980, but the FCIP continues to operate at a deficit of $1 million a month.

Some of the debt was the result of lax coverage limitations on policies and poor administrative procedures in the past, according to James Rose Jr., executive assistant to the federal insurance administrator.

For example, Mr. Rose noted the program's residential policy previously provided up to $10,000 in coverage for unlisted jewelry, which triggered many questionable claims for stolen jewelry.

Such huge loopholes have been narrowed or eliminated. For instance, coverage for unlisted jewelry has been reduced to $250.

FCIP supporters also argue that the FIA has not promoted the availability of the crime insurance program as it has promoted the flood insurance program.

"The program would be bigger if marketing was encouraged by the FIA," Interface's Mr. Gallagher said.

For example, in New York City, where there are 4,000 FCIP policyholders, "I run into people who still don't know about the program and find policyholders who don't know that there is an 800 number they can call for information," he pointed out.

The FIA's Mr. Rose disagrees with Mr. Gallagher's contention. He said that despite the FIA's grand efforts to promote the FCIP, the expected demand for the coverage never materialized.

"We were very disappointed with the results of our publicity campaign," Mr. Rose said.

He recalled the program was promoted on flyers, billboards, mass transit buses, and television and radio talk shows. Yet, demand quickly waned after initial public interest, he said.

New York state is one of the few states that actively followed through with a massive campaign to spread the word about FCIP, he pointed out. "The New York State Commerce Department did a lot of work, though local sources carried the ball to the greater extent," he said.

The FIA believes that states, rather than the federal government, should offer crime insurance programs through FAIR plans if such programs are necessary. "At the state level, they should know more about their residents' needs," Mr. Rose said.

But states have no motivation to offer their own programs because of the existence of the federal program, he observed.

For example, he noted that California established a crime insurance program under then-Gov. Ronald Reagan. However, Gov. Jerry Brown later abolished the program because it duplicated the FCIP, Mr. Rose said.

Proof that states can run crime insurance programs can be seen in Michigan, according to Mr. Rose.

In 1971, then-Michigan Insurance Commissioner Russell Van Hooser, who also was president of the National Assn. of Insurance Commissioners, initiated a state crime insurance program to prove that it could be done without federal intervention, Mr. Rose said.

The Michigan FAIR Plan created the Michigan Basic Property Insurance Assn. to offer a crime insurance program that is very similar to the FCIP. The maximum coverage limit is $10,000, and premiums vary according to the type of business and its gross receipts.

However, the Michigan program, which wrote approximately 150 commercial policies as well as 182 residential policies in 1988, is in debt by an undetermined amount, according to Ron Ansley, underwriting manager for the program.

Theodie C. Peterson, assistant counsel to the Pennsylvania insurance commissioner, says that individual states would find it difficult to establish a comparable crime insurance program.

"Premiums would be larger if it were done on the state level. The subsidies that the federal government provides for the FCIP are the key factor in making the program affordable. Bringing the program to the state level could possibly reduce or eliminate those (levels of) subsidies and thereby increase the premium," he said.

He also noted that the Fair Access to Insurance Requirement plans available in many states currently are not authorized to provide crime insurance. And, "even if the plans were amended to include that coverage, the high premiums would be out of the range of the people the plan was supposed to be helping," he said.

"A FAIR plan approach would make the cost of the program and the cost of delivery much higher," agreed Richard C. Hsia, deputy superintendent of the New York Insurance Department.

On a smaller scale, a crime insurance program would be more expensive to administer, thereby increasing the cost policyholders would pay for their premiums, he said.

And because the goal of the crime insurance program is to provide affordable insurance coverage that otherwise would be too expensive through the commercial market, additional cost increases would gravely affect the crime insurance buyers the program is intended to reach, he said.

And, the New York City Office of Business Development contends that it is better to work with a program that already is in place.

"The current program is effective in meeting the needs of the policyholder, so why initiate difficulties for the businesses, have delays in service or cope with policy transfers to a new program?" Mr. Kesner asked. ■

Several criteria restrict crime cover eligibility

WASHINGTON—A state must certify that crime insurance is unaffordable before the Federal Insurance Administration will offer the Federal Crime Insurance Program in that state.

In addition, businesses must meet several underwriting requirements before they can obtain coverage through the FCIP.

The FCIP offers $15,000 of robbery and/or burglary insurance limits to small businesses and $10,000 of coverage to residences in high crime areas in eligible states.

For a state to qualify for participation in the program, the Federal Insurance Administration, which administers the program, must find—and each state must certify—that crime insurance in unavailable at what the state determines to be affordable rates.

Eligible jurisdictions are Alabama, California, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Kansas, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Tennessee and the Virgin Islands.

To obtain coverage, businesses must show that:

- All doors, doorways, storefront windows and accessible openings are adequately protected during non-business hours by grillwork and locking devices like deadbolts, padlocks or steel shackles and steel bars.
- Alarm systems—central station, silent or an on-premises alarm—specified by the FCIP for that type of business are installed and operational.
- Other protective items, like safe alarms, are installed.

However, FCIP officials have the option of waiving some of the protective device requirements—follow recommendation from the FCIP servicing contractor, National Con-Serve of Rockville, Md. This waivers may be granted compliance is impractical or would cost the business more than the limits of coverage available through the FCIP. And, the waivers can be canceled.

And, businesses can obtain premium credits for installing more than the required protective devices.

Premiums for commercial policyholders are determined by the degree of risk a business poses and a company's annual gross receipts.

Premiums will not increase if a business files many claims, as long as its gross receipts remain unchanged.

The coverage can be purchased through National Con-Serv or through a licensed insurance agent.

All policies carry a deductible that is based on either the policyholder's gross receipts or 5% of the loss, whichever in greater.

The gross receipt deductible is:

- $250 for businesses with annual receipts of $299,999 or less.
- $350 for businesses with annual receipts of $300,000 to $499,999.
- $500 for business with annual receipts of more than $500,000.

Non-profit organizations are subject to a deductible of either $250 or 5% of the gross amount of the loss, whichever is greater.

If a claim is made, inspections will be made as part of the adjustment process to confirm that the business was in compliance with the FCIP requirements.

National Con-Serv and the local police department must be notified when the policyholder suffers a loss. Losses that are not filed within 60 days will not be paid.

Reporting the loss to a broker or agent does not constitute a report to the FCIP, even though the broker or agent must inform the FCIP of any losses reported to them.

More information on the FCIP is available by writing the FCIP at P.O. Box 6301; Rockville, Md. 20850.

Information also is available by calling 800-638-8780 for those outside of Maryland and Washington, D.C.; 301-251-1660 in the Maryland area; and 202-251-1660 in the Washington, D.C., area.

—By Adrienne C. Locke

Texas provides malpractice cover for indigent care

AUSTIN, Texas—Texas doctors who treat indigent patients have a new source of revenue to help pay malpractice awards.

A law that went into effect earlier this month establishes a $13.5 million fund to pay up to the first $100,000 of judgments in emergency care and obstetrics cases against doctors who spend at least 10% of their time providing charity health care.

The fund will pay up to $25,000 of all other judgments against the doctors.

To be eligible for payments from the indemnity fund, a physician must carry malpractice insurance of at least $100,000 per occurrence with a $300,000 aggregate.

The state is not liable for claims that are awarded because of intentional acts or gross negligence on the physician's part.

One aim of the new law is to bring stability to rising malpractice insurance premiums in the state, according to a spokesman for the Texas Medical Assn.

"The point is to reduce the liability and therefore reduce the malpractice premiums," he explained.

Rising malpractice insurance premiums "have been a major problem," the spokesman said. "They've just skyrocketed."

No estimates are available on what impact the law will have on malpractice insurance costs in Texas.

The indemnity fund was established in H.B. 18, an omnibus health care package sponsored by Rep. Mike McKinney, D-Centerville.

A spokeswoman for Rep. McKinney said the law also aims to encourage doctors to remain in rural areas, where charity care caseloads are heaviest.

"It's kind of a payback," she explained, pointing out that doctors providing care to indigent patients only receive about one-third of their normal fees from government programs like Medicare.

—By Michael Bradford

Datebook

OCT. 2-5. 18th Annual Managed Care Conference and Exhibition in San Antonio, Texas, sponsored by the American Medical Care & Review Assn.; $475 for AMCRA members; $600 for non-members. AMCRA, 5410 Grosvenor Lane, Suite 210, Bethesda, Md. 20814.

OCT. 2-5. Insurer Solvency Assessment conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 630 pounds ($999.18). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 2-6. Fundamentals of Employee Benefits Management course in Brookfield, Wis., sponsored by the International Foundation of Employee Benefit Plans; $1,000 for the five-day Fundamentals Course, $600 for the three-day Intermediate Course. Registration Department, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

OCT. 3. 10th Annual Compensation Conference in Washington, D.C., sponsored by The Hay Group; $375; $275 for each additional attendee from the same organization. **Also Oct. 4** in Greenwich, Conn.; **Oct. 5** in Atlanta and Boston; **Oct. 6** in Dallas; **Oct. 11** in Minneapolis; **Oct. 12** in Kansas City, Mo.; and **Oct. 13** in Pittsburgh. The Hay Seminar Center, 215-875-2338.

OCT. 3. Claims—The Critical Service conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 240 pounds ($380.64). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 3-5. National Risk Retention Assn.'s Second Annual Conference in Washington, D.C.; $350 for NRRA members; $450 for non-members. Nick Garnett, National Risk Retention Assn., P.O. Box 32257, Washington, D.C. 20007; 800-999-4505.

OCT. 4-5. Understanding Property/Casualty Loss Reserving course in Boston, sponsored by Executive Enterprises Inc.; $990. **Also Nov. 9-10** in Chicago. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 5. Employers Council on Flexible Compensation Conference in Newton, Mass.; $185 for ECFC members; $195 for non-members. **Also Oct. 10** in Washington, D.C.; **Oct. 12** in Los Angeles; **Oct. 24** in Seattle; **Nov. 1** in Houston; and **Nov. 7** in Whippany, N.J. ECFC, 927 15th St. N.W., Suite 1000, Washington, D.C. 20005; 202-659-4300.

OCT. 4-5. The Employee Benefits Course in Newark, N.J., sponsored by Personnel Research Associates; $375. Personnel Research Associates, 49 Oakridge Road, Verona, N.J. 07044; 201-239-6154.

OCT. 5. Private Health Insurance—Where Do We Go From Here? conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 230 pounds ($364.78). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 9-13. Reinsurance Practice conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 775 pounds ($1,229). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 10-13. Ninth Annual National Educational Conference and Expo in San Diego, sponsored by the Self-Insurance Institute of America Inc.; $595 for members; $795 for non-members; $100 extra for on-site registration. Conference Registrar SIIA P.O. Box 15466, Santa Ana, Calif. 92705; 714-261-2553.

OCT. 11. Inland Marine Underwriters Assn.'s Annual Fall Meeting in New York City; $40. **Also Oct. 18** in Worcester, Mass. Tracey O'Donnell, IMUA, 14 Wall St., New York N.Y. 10005; 212-233-7958.

OCT. 11. Insurance Claims Dispute Resolution seminar in St. Paul, Minn., sponsored by the American Arbitration Assn.; $150 for AAA members; $180 for non-members. **Also Oct. 30** in Cleveland; and **Nov. 16** in Long Island, N.Y. Allen Silberman, Director of Education and Training, AAA, 140 W. 51st St., New York, N.Y. 10020; 212-484-3233.

OCT. 11-12. Managing Risk Communications seminar in San Francisco, sponsored by E.I. du Pont de Nemours & Co.; $925; $795 for two or more attendees from the same organization at the same session. **Also Nov. 8-9** in Dallas. Du Pont, Suite A, Attn. CAK, 1300 First State Blvd., Wilmington, Del. 19804; 800-248-7020.

OCT. 11-13. 18th Annual AMA Compensation and Benefits Update: Issues in Employee Benefits conference in Chicago, sponsored by the American Management Assn.; $725 for AMA members; $835 for non-members. AMA, P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

OCT. 11-13. Managing Health Care Costs seminar in New York City, sponsored by the American Management Assn. $795 for AMA members, $915 for non-members; $675 each for three or more members from the same organization; $780 each for non-member groups. **Also Dec. 11-13** in San Francisco. AMA, P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

OCT. 11-13. 43rd Annual Council on Employee Benefits Fall Conference in St. Louis; $325 for each registrant from CEB member company; $375 for non-member company registrants. C.S. Lazaroff, Secretary-Treasurer, c/o Goodyear Relief Assn., 1144 E. Market St., Akron, Ohio 44316; 216-796-4008.

OCT. 12. Third Professional Indemnity Conference—The Expanding Market in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 240 pounds ($380.64). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 12-13. How to Audit Your Insurance Program: Getting Your Money's Worth course in Chicago, sponsored by the American Management Assn.; $750 for AMA members; $850 for non-members. **Also Oct. 16-17** in East Hanover, N.J., **Oct. 23-24** in Boston and **Oct. 30-31** in Atlanta. AMA, P.O. Box 319, Saranac Lake, N.Y. 12983; 518-891-0065.

OCT. 14-22. American Assn. of Managing General Agents Foreign Seminar in Vancouver, British Columbia, and Banff, Alberta; seminar fee: $175 for AAMGA members, $125 for spouses and guests; tour fee (includes accommodations, air fare from Vancouver to Calgary, guided tours): $969 double occupancy, $1,319 single occupancy. American Assn. of Managing General Agents, 9140 Ward Parkway, Kansas City, Mo. 64114.

OCT. 15. The Society of Chartered Property & Casualty Underwriters 1989 Annual Meeting and Seminars: Managing Now for the '90s in Anaheim, Calif.; $295 for Society of CPCU members; $395 fee after Sept. 15. Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355-0709; 215-251-2728.

OCT. 15-17. Assn. of Lloyd's Members North American Conference in Chicago; $275 for ALM members; $350 for non-members; $125 for spouses/guests. Assn. of Lloyd's Members, 1510 11th St., Santa Monica, Calif. 90401; 800-321-6607 213-458-3225 within California.

OCT. 15-18. 1989 Risk Management Forum in Monte Carlo, co-sponsored by the European Risk Management Assn. and the Risk & Insurance Management Society Inc.; 4,900 French francs ($745 at current exchange rate) for risk managers; 2,500 French francs ($380) for academicians and students; 6,900 French francs ($1,049) for all others. Payment must be in French francs Sally Greene, RIMS/Monte Carlo Conference, 205 E. 42nd St., New York, N.Y. 10017; 212-286-9292.

OCT. 15-18. Annual Society of Chartered Property & Casualty Underwriters Seminar: Developing the Agent'Broker Niche in Soft Markets in Anaheim, Calif.; $395. The Society of CPCU, Kahler Hall, 720 Providence Road, CB#9, Malvern, Pa. 19355-0709; 215-251-2728.

OCT. 16-17. Environmental Insurance Law Institute in Chicago, sponsored by Executive Enterprises Inc.; $990. **Also Nov. 9-10** in New York City and **Dec. 11-12** in San Francisco. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 16-17. The Fundamentals of Statutory Insurance Accounting course in Chicago, sponsored by Executive Enterprises Inc.; $990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 16-18. 1989 Benefit Communication Institute in Boston, sponsored by the International Foundation of Employee Benefit Plans; $570 for IFEBP members; $645 for non-members. Registration Deptartment, IFEBP, P.O. Box 69, Brookfield, Wis. 53008-0069; 414-786-6700.

OCT. 17. Mergers and Acquisitions of Insurance Organizations in Europe conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 240 pounds ($380.64). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 17-19. 1989 Risk Sciences Group Users' Conference in Oakland, Calif., $475; $425 for each additional attendee from the same organization. Conference Coordinator, Risk Sciences Group, 5620 Glenridge Drive, Atlanta, Ga. 30342; 404-347-4512.

OCT. 18-19. Quantitative Techniques for Risk Management seminar in Philadelphia, sponsored by the Tillinghast division of Towers, Perrin, Forster & Crosby Inc.; $750. Eileen B. Callahan, Conference Director, Tillinghast, 695 E. Main St., Suite 600, Stamford, Conn. 06901; 203-326-5400.

OCT. 18-19. Understanding Property and Casualty Reinsurance conference in New York City, sponsored by Executive Enterprises Inc.; $990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

OCT. 18-20. Property/Casualty Statutory Financial Statements course in Chicago, sponsored by Executive Enterprises Inc.; $895 plus $95 non-refundable registration fee per organization. **Also Nov. 13-15** in New York City, **Nov. 29-Dec. 1** in Los Angeles and **Dec. 11-13** in Orlando, Fla. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 212-645-8639; 800-331-8333.

OCT. 19-20. Employee Welfare Benefit seminar in San Francisco, sponsored by the Practising Law Institute; $475. Ann Tracy, PLI, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700, Ext. 232.

OCT. 22-25. Annual Society of Actuaries Meeting and Exhibit in New York City; $325 for TSA members; $350 for members of other actuarial associations; $400 for non-members. The Society of Actuaries, 312-706-3500.

OCT. 23-24. Understanding Life Insurance Statutory Financial Statements conference in New York City, sponsored by Executive Enterprises Inc.; $990. **Also Nov. 8-9** in Boston. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-331-8333; 212-645-7880.

OCT. 23-24. Handling Occupational Injury and Illness: OSHA Recordkeeping and Workers' Compensation Claims Management workshop in Atlanta, sponsored by the Georgia Institute of Technology; $125 per day; $200 both days. Education Extension-R, Georgia Institute of Technology, Atlanta, Ga. 31332-0385; 404-894-2400; 800-325-5007.

OCT. 23-24. Third Annual National Disability Management Conference and Trade Show in Miami, co-sponsored by the Washington Business Group on Health-Institute For Rehabilitation and Disability Management and Thomas L. Jacobs & Associates; $300 for WBGH members; $375 for non-members. Sheri Farris, WBGH, 229 Pennsylvania Ave. S.E., Washington, D.C. 20003; 202-547-6644.

OCT. 23-27. Advanced Reinsurance Practice conference in London, sponsored by the Insurance & Reinsurance Research Group Ltd.; 775 pounds ($1,229). Insurance & Reinsurance Research Group Ltd., Bridge House, 181 Queen Victoria St., London, England EC4V 4DD; phone: 01-236-2175; fax: 01-489-1487.

OCT. 24-25. Reinsurance Systems course in Chicago, sponsored by The College of Insurance; $595 for College sponsors; $695 for non-sponsors. Professional Programs, The College of Insurance, 101 Murray St., New York, N.Y. 10007-2132; 212-962-4111, ext. 201.

OCT. 24-25. Crisis Communication Management seminar in Washington, D.C., sponsored by E.I. du Pont de Nemours & Co. Management Services; $1,045 including seminar materials, luncheon and refreshments. **Also Nov. 14-15** in Atlanta. Du Pont, Attn. CAK, 1300 First State Blvd., Suite A, Wilmington, Del. 19804; 800-248-7020.

OCT. 25. Superfund Amendments and Reauthorization Act Title III Workshop in Atlanta, sponsored by the Georgia Institute of Technology; $125. Education Extension-R, Georgia Institute of Technology, Atlanta, Ga. 31332-0385; 404-894-2400; 800-325-5007.

OCT. 26-27. Quality Assurance in the '90s conference in Winston-Salem, N.C., co-sponsored by the National Assn. of Employers on Health Care Action and the American College of Physician Executives; $395 for NAEHCA and ACPE members; $345 for additional members from the same organization; $495 for non-members; $445 for additional non-members from the same organization. NAEHCA, 304 Key Executive Building, 104 Crandon Blvd., Key Biscayne, Fla. 33149.

OCT. 26-27. Public Agency Risk Pooling Seminar in San Antonio, Texas, sponsored by the Public Risk Management Assn.; $225 for PRIMA members; $350 for non-members. Lynne Armstrong, PRIMA, 1117 N. 19th St., Suite 900, Arlington, Va. 22209; 703-528-7701.

OCT. 26-27. Toxic Tort Seminar in New Orleans, sponsored by the Law & Science Institute; $550 before Sept. 22. Haskell Shelton, Law and Science Institute, 215 E. Buttles, Midland, Mich. 48640, 517-835-6196.

OCT. 29-31. Medical Professional Liability Captives in the 1990s seminar in Lake Buena Vista, Fla., sponsored by the Tillinghast division of Towers, Perrin, Forster & Crosby Inc.; $550. Conference Director, Tillinghast, 695 E. Main St., Stamford, Conn. 06901-2138; 203-326-5400.

OCT. 30-31. Annual Statistical/Data Quality Conference in New York City, sponsored by the Insurance Services Office Inc.; $400 for attendees from ISO-affiliated companies; $550 for attendees from non-affiliated companies. Maureen Karon, Assistant Manager-Meetings, ISO, 160 Water St., 12th Floor, New York, N.Y. 10038; 212-487-4722.

OCT. 30-31. Emerging Opportunities in Reinsurance Commutations conference in New York City, sponsored by Executive Enterprises Inc.; $990. Executive Enterprises Inc., 22 W. 21st St., New York, N.Y. 10010-6904; 800-831-8333; 212-645-7880.

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The Datebook is compiled from notices sent to Business Insurance. Notices should be sent at least eight weeks in advance to Datebook, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611-2590. Please include the price, if any, of the meeting and information on registration for interested readers. Business Insurance reserves the right to select meetings of most interest to its readers and cannot guarantee that notices will be printed.

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Antitrust suit

Continued from page 1

immunity from antitrust laws if the anticompetitive restraint of trade reflects a state policy and if the state actively services any private anticompetitive conduct.

- Dismissed the attorneys general's global conspiracy charge, which alleged that U.S. insurers and certain insurance trade groups conspired with foreign reinsurers to restrict coverage available under general liability insurance policies.

All of the defendants had joined in a motion to dismiss the global conspiracy charge at the Sept. 15 hearing.

- Dismissed foreign defendants from the case on the basis of comity —a reciprocal respect for foreign law —on several grounds, including the difficulty of exercising jurisdiction over the foreign defendants.

However, Judge Schwarzer reiterated in his final decision that the attorneys general do have standing to bring the action.

Craig A. Barrington, general counsel to the American Insurance Assn., which was not a party to the suit, praised the decision, calling it "welcome vindication for the insurance industry."

"For the past 18 months, the industry has been subjected to spurious and politically motivated charges about boycotts and other violations of federal antitrust law. Today's decision puts the lie to those allegations," he said.

"I think his opinion was well-researched and well-supported, and will prevail on appeal," said attorney Bartlett H. McGuire of Washington, D.C.-based Davis Polk & Wardell, who represented the Insurance Services Office Inc., which was named as a defendant.

"From the very inception, this whole case was an example of extreme overreaching on the part of the attorneys general," said Paul R. Haerle, an attorney with Thelen, Marrin, Johnson & Bridges in San Francisco, who represents defendant Terra Nova Insurance Co. Ltd. in the litigation.

Attorneys from both sides who attended the Sept. 15 conference had predicted, in light of Judge Schwarzer's comments, the final decision would reflect few changes from the proposed order.

For example, Robert C. Ward Jr., assistant attorney general for Michigan, characterized the plaintiffs' arguments at the hearing as outstanding, but observed: "I think you could see just sitting there the judge's mind was made up."

However, the attorneys general contend there are elements of the case that will enhance their chances at the appellate level.

For example, attorneys say the plaintiffs may be lucky and draw a three-judge panel that would be more amenable to their viewpoints.

California's Mr. Greene said a factor that will work in the plaintiffs' favor is that an appellate court is more likely than a trial court judge to tackle the legal policy issues involved in the case and grapple with the "underlying rationale" of the law rather than with the "black letter rules" of what the law says "on its face."

For instance, the attorneys general again are expected to cite a 1978 U.S. Supreme Court decision in *St. Paul Fire & Marine Insurance Co. vs. Barry* that concluded that insurers had engaged in a boycott involving medical malpractice insurance and violated McCarran-Ferguson.

Plaintiffs in the antitrust suit have said the St. Paul case is comparable and should be used as a precedent.

But, in Judge Schwarzer's decision, he said the cases were not comparable because defendants in the case before him were charged with "no more than an agreement to restrict coverage," while the St. Paul case involved "concerted refusals to deal that denied consumers access to the markets for the desired coverages."

An appellate court also may decide that it was not appropriate to dismiss the case at this point without any discovery, observed New Jersey Deputy Attorney General Laurel Price.

But, defense attorneys point out that Judge Schwarzer, a former antitrust attorney, is highly respected for his antitrust expertise.

"I think the court would be reluctant to in any way change his opinion if it can be justified on any ground," said a defense attorney.

The attorney also observed that there is no clear record of how the 9th Circuit stands on antitrust issues.

Although Judge Schwarzer wavered little in his final decision from his proposed order, there were some differences.

For instance, one topic of discussion at the hearing was ISO's withdrawal of support for the 1973 comprehensive general liability policy forms after new commercial general liability forms had been approved.

At the hearing, Connecticut Assistant Attorney General William Rubenstein said the purpose of ISO's withdrawal of support for the earlier CGL form was "to prevent insurers willing to write those coverages from doing so."

Judge Schwarzer later pointedly questioned ISO attorney Mr. McGuire on this issue, asking him whether he thought it was coercive on ISO's part to withdraw support for the 1973 form since there was an alternative form available.

Mr. McGuire replied that "it simply doesn't accord with McCarran-Ferguson to say that either the insurers must continue to provide the old form or that ISO must continue to support the old form."

Jesse Markham, assistant attorney general for New York, commented after the hearing that Judge Schwarzer seemed concerned about this point, adding he believes it is the one issue that is "a little bit up for grabs."

But, a defense attorney, who asked not to be identified, said after the hearing but before Judge Schwarzer issued his final decision that she believes the judge was looking for Mr. McGuire's help in dealing with the issue so that it could be adequately explained in the final decision and "won't be a weakness, a vulnerability within his opinion" that could bolster an appeal.

Using language similar to Mr. McGuire's testimony, Judge Schwarzer said in a footnote to the final decision that "it makes little sense then to impose antitrust liability on defendants, who are permitted by the McCarran Act to agree to provide the support, for agreeing to discontinue it as a policy form no longer in use."

Another issue that came under discussion at the hearing was the question of the court exercising jurisdiction over foreign defendants.

Judge Schwarzer did not alter his original conclusion that the preponderance of factors overall dictated against exercising jurisdiction over the foreign defendants.

Observers say Judge Schwarzer left little doubt at the hearing that he found plaintiffs' arguments essentially unconvincing.

For instance, Laddie Montague, an attorney with Berger & Montague in Philadelphia who represented private plaintiffs, argued at the hearing that St. Paul and the current case were comparable.

However, Judge Schwarzer responded: "I have read that case pretty thoroughly. I don't want to cut you off, but obviously we don't agree on the interpretation. But if I have read it once, I have read it 25 times."

At another point, Judge Schwarzer said to Mr. Rubenstein, who was trying to convince the judge that the judge was wrong on the issue of whether insurers had engaged in a boycott: "I think we have argued that point, and your briefs have argued it at great length. You don't persuade me. Move on."

The judge also reiterated his position that the plaintiffs failed to establish that there was a global conspiracy. "You allege inconsistent facts, after two years in which you say you yourself accumulated facts, which, to the extent they are alleged here, are certainly inconsistent with a single global conspiracy," Judge Schwarzer told Mr. Rubenstein.

The judge also reiterated at the hearing the conclusion of his tentative decision that it was inappropriate for the court to exercise jurisdiction over foreign defendants.

"I think it would be totally wrong for an American court to tell the London reinsurance market how to run their business. That's the bottom line," he said. ■

Aviation disasters

Continued from page 2

French aviation insurance market, including La Reunion Aerienne S.A.

More than 40% of the coverage is reinsured in London through brokers C.T. Bowring & Co. Ltd.

Hull and liability all-risks reinsurance—which includes war risks coverage—is led in London by Lloyd's aviation underwriter Barry Coleman. Hull war risk reinsurance is led in London by Lloyd's syndicates managed by Janson Green Management Ltd.

Investigators last week still were determining the cause of the crash. However, a an Islamic extremist group said last week that it had blown up the plane.

The crash marks the first time any UTA passengers or crew have died in a crash, according to aviation market sources. However, three planes have been destroyed on the ground since 1953, including a DC-8 in March 1984 that was demolished by a bomb on the ground in Chad. That jet also was en route to Paris from Brazzaville.

A day after the UTA disaster, two of the 61 passengers and crew aboard a $35 million USAir Group Boeing 737-400 were killed when the jet broke into three pieces in New York's East River after the pilot aborted a takeoff from New York's La Guardia Airport during rainy and foggy weather.

The cause of the accident is still being investigated by authorities.

USAir renewed its hull and liability insurance coverage on Aug. 1 for 18 months with rates virtually slashed in half, London sources say. The $10 billion USAir fleet's hull insurance—which will increase to $16 billion by renewal in 1990—and the $1 billion of liability insurance are led in the United States by New York-based United States Aircraft Insurance Group and in London by Lloyd's Ariel syndicate.

USAir's New York broker is Frank B. Hall & Co. Inc., and its London broker is Leslie & Godwin Ltd.

Flight 5050 is the second Boeing 737-400 crash this year. British Midland Airways 'Ltd.'s Flight 092—en route to Belfast, Northern Ireland, from London—crashed in January (*BI*, Jan. 16).

Families of 124 people who died in the British Midland disaster are suing the manufacturers of the jet's engines in a Louisiana state court, confirmed plaintiffs' attorney Geraldine McCool, a partner for Pannone Napier in Manchester, England, and Stephen B. Murray, senior partner for Murray Law Firm in New Orleans. Also representing the families in the United States is New York-based law firm Speiser Krause & Madole.

The suits against Boeing, General Electric Co. and CFM International Inc. ask for unspecified damages because "the crash resulted from the failure of the engines, engine control systems and warning and indications systems." ■

Update

Company insured for bus crash

ALTON, Texas—The Dr Pepper Bottling Co. has at least $500,000 of commercial auto liability insurance to respond to any claims arising from a collision between one of its trucks and a school bus in which 19 students were killed and 62 were injured.

The accident knocked a Mission Consolidated School District bus down a 30-foot embankment into a water-filled pit at a quarry in south Texas last Thursday.

A Texas Railroad Commission spokesman identified the the bottling company's auto liability insurers as: Assn. Casualty Insurance Co. in Austin, Texas; Boston-based Liberty Mutual Insurance Co.; and National Standard Insurance Co. in Houston.

However, he was uncertain which insurer wrote the coverage for the truck involved in the accident.

Distiller sues for defense costs

NEW YORK—Jim Beam Brands Co. is suing Travelers Indemnity Co. to recover the costs of defending a product liability lawsuit the distiller won earlier this year.

A federal jury in Seattle cleared Jim Beam in May of charges that it was negligent in failing to warn pregnant women that its alcoholic beverages could cause birth defects.

Jim Beam, a unit of American Brands Inc., was sued in federal court in Seattle by Harold and Candance Thorp, who charged that Jim Beam was responsible for causing the fetal alcohol syndrome suffered by their son, Michael (*BI*, March 28, 1988).

In a suit filed Sept. 14 in U.S. District Court in New York, Jim Beam charges that Travelers—its general liability insurer in 1984, when Michael Thorp was born—has failed to reimburse it for some of the legal expenses it incurred in defending the case.

The two law firms hired by Jim Beam—Chadbourne & Parke in New York and Stafford, Frey, Cooper & Steward in Seattle—worked on the case with Travelers' knowledge or approval, the complaint says.

Travelers has paid some expenses submitted directly by the Seattle law firm but has failed to reimburse Jim Beam for other expenses of both law firms, says the suit, which does not specify the amount sought.

Jim Beam's complaint charges Travelers with breach of the insurance contract and unjust enrichment.

Travelers officials could not be reached for comment.

Commercial General insolvent

CASPER, Wyo.—A Wyoming state judge has given Commercial General Insurance Co. until Oct. 2 to propose a rehabilitation plan or face liquidation.

Wyoming Insurance Department examiners found Casper-based Commercial General—which insured purchasing groups formed under the federal Risk Retention Act—insolvent by $8.7 million as of June 30.

Among other things, examiners disallowed the insurer's largest asset, $9.5 million of securities guaranteed by the Government National Mortgage Assn., after Commercial General officials were unable to show that the insurer actually held title to the certificates.

Natrona County District Court Judge Dan Spangler signed an injunction order Sept. 14 placing Commercial General under Insurance Department control. The department filed a liquidation petition against the insurer, which has consented to liquidation if it does not obtain court approval of a rehabilitation plan by Oct. 2.

The Wyoming department also has asked for court approval of a plan to shift Commercial General's Wyoming business to Laramie Insurance Co., a Wyoming-domiciled unit of Kansas City, Mo.-based Kensu Holdings Inc., a department spokesman said.

Government priority weakened

LOS ANGELES—The McCarran-Ferguson Act, which gives states primary jurisdiction over the insurance industry, takes precedence over federal statutes in insurer liquidation cases, a California Superior Court judge ruled.

In a case that stems from the liquidation of TMIC Insurance Co., the Federal Home Loan Mortgage Corp. had asked for priority in obtaining TMIC's assets, citing a federal statute that gives the government priority, said attorney Lawrence E. Trent of Los Angeles-based Buchalter, Nemer, Fields & Younger, which represents another policyholder.

But Judge Miriam A. Vogel on Sept. 14 ruled: "There is substantial authority for the proposition that state laws controlling the liquidation of an insurer are covered by the McCarran-Ferguson Act." Judge Vogel also ruled that Freddie Mac, which is not controlled or operated by the government, would not be able to claim priority in any case, Mr. Trent explained.

A Freddie Mac spokesman could not be reached for comment.

TMIC, a unit of Los Angeles-based Ticor Mortgage Insurance Co., was declared insolvent last year after the California Insurance Department found it faced an estimated future deficit of $350 million (*BI*, April 11, 1988, Feb. 29, 1988).

Briefly noted

The Senate Finance Committee this week will resume consideration of options to cut taxes and benefits set by last year's **expansion of the federal Medicare program.** Meanwhile, Bush administration officials said they would support reducing Medicare benefits that were expanded under a 1988 law to avert repeal of the law. . . .The California Insurance Department has ordered **Rubell Helm Insurance Services Inc.** and subsidiaries Assn. Benefit Services Inc. and Assn. Benefits Trust Health & Welfare Plan to stop marketing life and health coverage to California employers and residents. The department earlier this year charged the agency with, among other things, collecting premiums and failing to place stop-loss insurance for self-funded group health and life insurance plans and operating as an unlicensed insurer (*BI*, March 20). . . .The New Jersey Supreme Court has ruled that consumer group Citizens Auto Revolt cannot put a **Proposition 103-type referendum** on the Nov. 7 ballot (*BI*, Sept. 11). The move strikes the advisory referendum from 21 county ballots.

Hurricane Hugo

Continued from page 1.

ties Inc. in New York.

He noted Friday morning that communications were down in South Carolina, adjusters had not reached the area and that much of the resort property belongs to absentee owners who may not know the extent of damage for some time.

Mr. Goodfriend noted, however, that by passing over Charleston, Hugo had affected an area with high property values and that insured damage will be extensive."I wouldn't doubt it's a big number," he said.

"Based on initial estimates of loss we're hearing, Hugo has been more destructive than most people expected," said Thomas G. Rosencrants, senior vp and director of research for Interstate/Johnson Lane in Atlanta. Mr. Rosencrants said preliminary reports show damage of at least $1 billion in the Charleston area alone.

But, said Mr. Rosencrants, he did not think that the loss from Hugo was the "Big One" that would cause the property/casualty insurance market to harden.

"A hurricane or storm has never turned the market in the 20 years I've been in the business," he said.

Michael A. Lewis, first vp and senior insurance analyst with Dean Witter Reynolds Inc. in New York, said there would "have to be $3 billion to $4 billion in insured damage" at a minimum to have an appreciable impact on the market. He said he doubted that Hugo's damages would be that great.

One West German reinsurance executive said earlier in the week, "even if it hits Charleston, it won't have much impact" on the soft reinsurance market.

"People will be relieved that it's not hit Florida," said one London market excess-of-loss reinsurance broker on Friday. "People here think that the loss will have an effect on the (reinsurance) market, but it won't be a rip-snorter.

"At this stage, people aren't panicking," he added. "It will be one of those annoying things, but it won't be the 'Big Loss.' However, the situation will change hourly, and we'll have to wait and see."

"I don't think it's going to have a huge effect" because most insurers are "fairly well-protected" from catastrophes through reinsurance, Udayan Ghose, an analyst with Shearson Lehman Hutton in New York, said Thursday before Hugo hit the U.S. mainland.

As a result, "No matter how bad the storm is, it's not something that's going to be really bad for them," he said, adding that the reinsurance "gets split between literally hundreds of companies around the world."

"It could potentially help rates harden, but I doubt it will turn the market," added a wholesale insurance brokerage executive. "The soft market is too entrenched."

Hugo "could be very expensive," added Robin Jackson, director of Lloyd's of London underwriting agency group Merrett Holdings P.L.C. "However, no one is likely to have a good estimate of the loss until the middle of next week."

Mr. Jackson said Friday that Hugo would not be as devastating as Hurricane Betsy, which hit Louisiana in 1965 and cost insurers $1.4 billion in 1965 dollars.

The most costly storms in history, according to Munich Reinsurance Co., were Hurricane David in 1979, which hit the Caribbean, Dominican Republic and the United States and caused $4 billion of damage, and the 1987 windstorm that hit northwest France and southeast England, causing $3.4 billion of damage.

While insurers on Friday could not give damage estimates in the Charleston area, they conceded that losses could be drastically high.

"We are most concerned about damage from wind and flooding," said Tony Borges, manager of district loss prevention for Industrial Risk Insurers in Orlando, Fla. He said IRI policyholders in the hurricane's path include breweries, power plants and warehouses.

Before striking the U.S. mainland, Hugo stormed through the Caribbean last week, hitting the islands of Dominica, Guadeloupe, Antigua, Montserrat, St. Croix, St. Thomas and Puerto Rico before hitting the U.S. mainland.

Reports of insured losses in the Caribbean were still patchy late last week as telephone and other forms of communication were cut.

However, insurance claims stemming just from Hurricane Hugo's destructive path through the eastern Caribbean could reach $1 billion, predicts at least one Lloyd's property reinsurance underwriter.

The underwriter calculated that losses to the Virgin Islands, Guadaloupe and Montserrat are likely to reach 30% of the total insured exposures on the islands, whereas losses in Puerto Rico likely will cost insurers between 2% and 5% of their total aggregate exposures.

Also, some underwriters last week predicted that insured losses in the Caribbean from Hugo would be more than the accumulated $600 million to $1 billion in claims stemming from Hurricane Gilbert, which devastated Jamaica and Mexico's Yucatan Peninsula a year ago (*BI*, Nov. 14, 1988; Sept. 26, 1988).

The losses from Gilbert, which occurred almost exactly one year ago, still are being assessed, insurance market sources note.

"Hugo could be a larger loss than Gilbert, but we don't know yet," said a property reinsurance underwriter for a major London-based insurer, referring only to the damage by Hugo in the Caribbean.

Property owners, adjusters and others surveying the damage left by Hurricane Hugo agree that personal lines will make up the bulk of insured losses.

While final damage estimates were not available late last week, many of those involved in assessing the destruction in the Caribbean said hotels and large commercial operations fared much better than private homes and pleasure craft in Puerto Rico and the string of islands to the south.

Ruben Cintron, manager of the San Juan office of Atlanta-based adjuster Crawford & Co., said last week that anyone quoting figures on the dollar-amount of damage was merely "blowing smoke. Nobody has got any way in the world to determine that. This place is just too disorganized."

The Atlanta office of Crawford & Co. flew 30 staffers to San Juan last Tuesday to bolster its staff in Puerto Rico.

"The biggest insured-type losses we see are boats. There are a couple of marinas here that are not navigable," and the waters near some parts of the island are littered with sunken boats, he added.

Gary Martin, an economist with the Puerto Rico Federal Affairs Administration in Washington, D.C., pointed out that "there is very little commercial fishing in Puerto Rico. It's more of a hobby for the people who do it, or for sustenance."

U.S. insurance companies sent claims teams to the Caribbean last week, but most said they had no estimate of damages yet.

"It looks pretty bad," said a spokesman for Continental Insurance Cos. in New York, whose San Juan-based subsidiary, Puerto Rican-American Insurance Co., is one of the largest insurers on the island.

"We are expecting pretty bad losses because PRAICO is the leading insurer on the island," he said.

Continental sent six claims officials to Puerto Rico last Wednesday, but had no estimate of its losses late last week, he said.

Spokesmen for American International Group Inc. and CIGNA Corp. also said they have sent claims teams but had no estimate of their losses.

In addition to being a significant insurer in the Caribbean market, AIG is also a significant property owner: New York-based AIG acquired the Dupont Plaza Hotel in San Juan as part of an insurance settlement that followed the 1986 fire that killed 97 people (*BI*, May 15).

An AIG spokeswoman said she had no word on whether the Dupont Plaza had been damaged.

Chicago-based CNA Insurance Cos. has apparently escaped significant Hugo-related losses in the Caribbean: While the insurer had owned CNA Casualty of Puerto Rico —one of the largest insurers on the island—CNA completed the sale of the unit earlier this year to Victor J. Salgado & Associates Inc., a CNA spokeswoman said.

Meanwhile, Universal Insurance Co. of Caparra Heights, Puerto Rico —another of the island's largest insurers—will probably exhaust its retentions on property, auto and ocean marine claims, said a statement from its parent company, Kirby Exploration Co. of Houston.

About 60% of Universal's business consists of auto-related coverages, while the remaining 40% consists of property and ocean marine business, said Brian Harrington, Kirby's chief financial officer.

Hurricane losses are expected to exhaust Universal's $1 million retention on property risks and auto risks, as well as its $150,000 retention on ocean marine risks, he said.

The insurer maintains reinsurance coverage excess of its retention with limits of up to $35 million on property business, $15 million on auto and $6 million on ocean marine.

Some high-rise condominiums took "bad hits," said Crawford's Mr. Cintron, but he said hotels along San Juan's Condado Beach survived the storm in good shape.

"The Condado Plaza and El San Juan took a lot of garbage that was blown in," he reported. "There was some aluminum in the pool of the Condado. All of the hotels got some damage, but they are all fairly sound."

Overall, the hotels endured the high winds and came out "smelling like a rose," he said.

In fact, the Hyatt Regency Cerromar Beach was expected to reopen last Friday and the Hyatt Regency Dorado Beach is scheduled to open by the middle of this week, said a spokeswoman for Chicago-based Hyatt Corp.

However, another observer—Emilio Villaverde, vp at Marsh & McLennan of Puerto Rico Inc. in Hato Rey —said some hotels, particularly those on the ocean, sustained heavy losses, with windows blown out, swimming pools damaged by falling trees and power lost. He said contingent business interruption losses at those hotels could be significant.

Mr. Cintron said he saw two fast food outlets that were "blown apart" by the storm.

James Harrington, director of risk management at Kentucky Fried Chicken Corp. in Louisville, Ky., said

Continued on next page

Adjusters rush to storm zones

Insurers and independent loss adjusters sprang into action last week to assess the damage caused by Hurricane Hugo.

Philadelphia-based CIGNA Corp. put together a team of general adjusters last week in Columbia, S.C., to await Hugo's landfall. The general adjusters, who the spokesman described as being "very, very experienced people," were assigned to enter the stricken area as soon as possible to assess personnel needs.

Catastrophe teams drawn from Western and Central locations would be sent in to deal with claims, he added. East Coast catastrophe teams would remain at the home bases in case the storm turned north and damaged cities in the Northeast, he said.

In addition, CIGNA dispatched five general adjusters to Puerto Rico Wednesday and were planning to send another five later in the week.

CIGNA officials in the United States were communicating with personnel on Puerto Rico by shortwave radio because telephone lines were still out.

As of Thursday afternoon, the insurer had been unable to get any personnel into looting-ravaged St. Croix, he said.

Hartford, Conn.-based Hartford Insurance Group had put about 30 "storm troopers" from claims offices across the country on standby Wednesday afternoon to enter the hurricane-stricken area in the Southeast "when and if we need them," said Bob Mathieu, assistant vp-claims.

In addition, Hartford had arranged for rental cars and emergency office space at several locations in the Southeast, he said. "We're getting prepared," he said.

"Part of the dilemma is knowing where it will make landfall. Obviously, until we know exactly where it hits, it's hard to make plane reservations," said Thomas C. Parnell, director of property claims for Travelers Insurance Co. in Hartford.

By Wednesday morning, Travelers had already put 40 to 50 claims adjusters on standby for transport to the affected area, said Mr. Parnell. He said most of the response team would be drawn from the insurer's Atlantic region, which includes the Southeast and some Mid-Atlantic states.

Mr. Parnell said Thursday that Travelers has a heavy commercial book of business and a lighter residential book of business in the area worst hit by Hugo.

However, he said before the storm hit that Travelers' potential losses in the region should fall within the company's retention.

A spokesman for Novato, Calif.-based Fireman's Fund Insurance Cos. said the insurer has about 90,000 commercial and residential policies ranging from Florida to the mid-Atlantic states, including a "significant commercial exposure" in South Carolina.

"We have 14 of our most experienced adjusters with their bags packed and ready to go when necessary," he said Thursday.

London-based adjuster Graham Miller & Co. Inc. rushed more than 30 people to the Caribbean to estimate damage.

Each team carries "hurricane boxes" containing claims and report forms to file losses and assess damage, said Richard Youens, group executive director of Graham Miller.

All the information is input into Graham Miller's computer in its office in Barbados, said Mr. Youens.

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Continued from previous page

the restaurant chain was still trying to determine damage to its outlets in Puerto Rico late last week. The company operates about 50 stores on the island, he said.

A Phillips Petroleum Co. facility in Guyama, Puerto Rico, sustained only minor damage, according to a spokesman for the Bartlesville, Okla.-based company.

"Operationally, it didn't cause any problems," the spokesman said last week. "If power can be restored, it will be back up to full operation early next week. . . .It will not be a major setback as long as we can get back up to speed in the next two or three days."

The spokesman said the storm tore away some insulation from the facility and slightly damaged cooling towers at the refinery.

He said Phillips retains a $1 million property insurance deductible. Losses above that amount are insured by the oil company's Vermont-based captive, Sooner Insurance Co.

"The damage was so minor, it won't be sufficient to meet the deductible," he said.

Several U.S. pharmaceutical companies have plants in Puerto Rico, though most have reported relatively slight damage.

The Puerto Rican unit of Merck & Co. Inc. of Rahway, N.J., which has manufacturing, warehouse and office facilities in San Juan and two other Puerto Rican cities, suffered some damage to its warehouse and offices but "no significant damage" to its manufacturing plant, a spokesman said.

A Squibb Corp. plant in Humacao, southeast of San Juan, suffered "minimal damage," said a Squibb spokeswoman. The plant had been shut down last week, with a start-up date dependent on restoration of electric power, said the spokeswoman, who said she did not know if the shutdown would result in a business interruption loss.

Eli Lilly & Co. of Indianapolis suffered "little or no damage" at two manufacturing facilities in Puerto Rico, a spokesman said. One of the Lilly plants was back to full operation the day after the storm, while another resumed production on a limited basis last week, he said.

The Hato Rey business district near San Juan was a "desert" the day after Hugo hit, with several office towers damaged, power and water lost and most roads rendered impassible by fallen trees, said Paolo Carega, president of M&M of Puerto Rico.

Mr. Carega, who is based in Coral Gables, Fla., heads M&M's Latin America and Caribbean operations.

Hugo's winds blew out windows in several of the Hato Rey towers, sweeping out papers and exposing offices to water damage, reported M&M's Mr. Villaverde.

Public power and water authorities suffered some of the heaviest property damage, according to Mr. Carega and Mr. Villaverde.

The public utilities maintain relatively small self-insured retentions and are heavily reinsured by London, European and U.S. reinsurers, Mr. Carega said.

Businesses dependent on refrigeration systems—including supermarkets, ice cream manufacturers and milk producers—are also suffering heavy losses because of the power loss, Mr. Villaverde said.

One M&M client in Puerto Rico in the ice cream business is hoping to salvage some of its product simply by keeping refrigerator doors closed until power is restored, he added.

Hugo caused heavy damage at San Juan's Luis Munoz Marin International Airport, destroying about 40 private planes and damaging commercial airline terminals, Mr. Villaverde reported.

Although the airport reopened briefly to commercial traffic last week, it was closed again to commercial flights on Thursday to keep the one cleared runway for emergency use, he said.

Airlines serving San Juan were tallying their damages at the airport last week.

A spokesman for Dallas-based American Airlines called damage to the airline's terminal facility "pretty extensive. There were only three windows that weren't broken."

He said American kept its jet aircraft "out of the vicinity altogether" and moved smaller commuter aircraft based in San Juan to Aruba. The spokesman could not offer estimates on the amount of damage or losses from flight cancellations to the area.

A Delta Air Lines Inc. spokeswoman said Delta also moved its jets from San Juan, but she had no estimates with regard to damage to the airline's facilities in Puerto Rico.

Mr. Martin of the Puerto Rico Foreign Affairs Administration said it was unclear how much damage Puerto Rico's farmers will suffer as a result of the hurricane.

The crop hardest hit by Hugo likely will be plantains, he said, a banana-like fruit that is mostly consumed locally. The plantain crop is valued at around $32 million, Mr. Martin said.

"I'm just guessing, but I would say that was probably the hardest hit," Mr. Martin observed, because much of the crop is grown in the area raked by the hurricane.

"The main coffee crop is in an area that was not nearly as badly hit as the northeast quadrant," said Mr. Martin. "It's a little premature to expect real bad damage."

He said the island's coffee crop is valued at around $50 million.

Sugar cane, which is grown around the island's periphery and is valued at around $24 million, was probably flattened by the high wind in some areas, but much of the damaged crop can still be harvested, said Mr. Martin.

He was unable to estimate whether the crops were covered by insurance.

A spokeswoman for New York-based Club Mediteranee said the company's resort in Guadaloupe suffered severe damage.

Insurance experts employed by the international resort company had not yet determined the extent of the damage, and the spokesman refused to comment further until damages had been assessed.

Cathy Dorset, a secretary at Johnson & Higgins (USVI) Ltd. on St. Thomas in the U.S. Virgin Islands, said damage along the waterfront at Charlotte Amalie and to homes on the island was "quite extensive."

The J&H office was spared, she said, but a Burger King restaurant and several shops on the waterfront were heavily damaged.

While the island of neighboring St. Croix was the scene of heavy looting that prompted President Bush to dispatch troops yo restore order, there were only a few problems with looters on St. Thomas, said Ms. Dorset.

She added that private homes were the hardest hit by the storm, while hotels survived the hurricane with slight damage.

As the damage was being tallied, insurers and reinsurers were checking their catastrophe protections.

"I should think everybody is in a panic and roaring around trying to find what their exposures are (in area of the Hugo's path) and whether they have enough protection," said a London wholesale insurance brokerage executive. "If it's a catastrophic loss, it's going to bring all the excess covers into play and quite a lot of (the loss) will come back into London," he said.

Many ceding insurers maintain, above substantial retentions, property catastrophe reinsurance protection, which includes a "72-hour clause" that defines a catastophe as an event that occurs over not more than a 72-hour period. A hurricane, therefore, can be considered more than one, single event if it lasts longer than 72 hours.

"If ceding companies have two retentions, then there could be an impact" on rates next year, said a London-based reinsurer.

However, the 72-hour clause only applies to exposures outside the United States, said Jason Frangoulis, a general manager for the General Accident Group, which is the largest British-based insurer in Puerto Rico.

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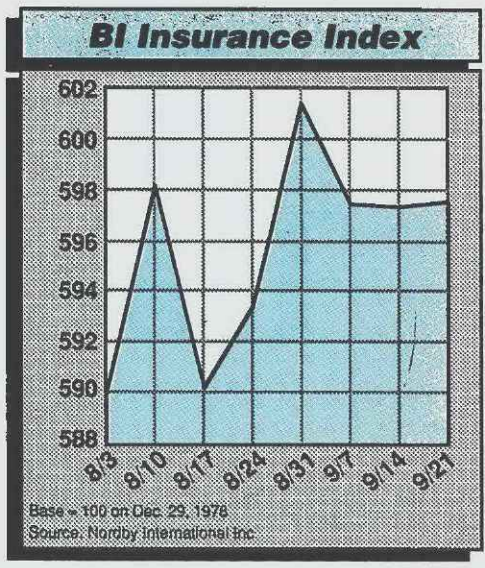
This story is based on reports from Stacy Shapiro and Carolyn Aldred in London; Michael Bradford in Dallas; Douglas McLeod, Michael Schachner and Judy Greenwald in New York; and Mark A. Hofmann in Chicago. It was written by Managing Editor James M. Burcke.



Insurance industry stocks halted their downward slide last week, as the *Business Insurance Index* rose 0.2 points to 597.6 on Sept. 21 from 597.4 on Sept. 14. Advancing issues were led by CNA Financial Corp., up 8.1%; United Healthcare Corp. and Pacifcare Health System each up 5.6%. Declining issues were led by Frank B. Hall & Co. Inc., down 11.2%; Sierra Health Services, down 10.9%; and American Indemnity Financial Corp., down 7.0%. The most active issue was Sears, Roebuck & Co. (Allstate), with 3.2 million shares traded. The *BI Index* gained a slight 0.03% for the period; the Standard & Poor's 500 rose 0.7%; while the Dow Jones 30 Industrials and the New York Stock Exchange Composite each advanced 0.6%.

British Issues

Sept. 21 Companies	Price pence	P/E	Div. pence	Yield %	1 Week High-Low pence	1 Week High-Low pence
Comml Union	457	19.2	29.3	6.4	461-457	
Genl Accident	1091	10.8	68.0	6.3	1098-1083	
Gdn Royal Exch	230	14.7	15.7	6.8	234-227	
Royal	470	14.5	34.0	7.2	470-465	
Sun Alliance	320	9.4	17.0	5.3	321-318	
Brokers						
Bradstock	202	13.8	10.0	5.0	202-194	
CE Heath	469	13.4	34.5	7.4	460-465	
Hogg Robinson	144	12.1	9.3	6.4	145-144	
Lloyd Thompson	227	16.8	8.0	3.5	227-227	
PWS Holdings	53	13.2	3.3	6.3	53-53	
Sedgwick Grp	256	18.0	16.7	6.5	259-256	
Steel Birn Jones	237	15.1	15.3	6.5	237-237	
Willis Faber	236	16.6	15.3	6.5	236-229	

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

BI Industry Stock Report

SEPT. 21, 1989 **9/15/89 THROUGH 9/21/89**

BROKERS		Price	Weekly % change	Year to Date % change	Annual High	Annual Low	Vol.(000)	$ Div.	% Yield	P/E	Book value	Mkt/Bk. value
Alexander & Alexander	NYS	27.75	-1.35	19.35	29.75	22.63	173	1.00	3.60	17	2.90	9.57
Corroon & Black	NYS	35.63	-0.34	12.22	37.38	29.13	100	1.24	3.48	15	7.62	4.68
Gallagher Arthur J. & Co.	NYS	22.00	0.55	29.41	24.75	15.88	9	0.52	2.36	15	5.33	4.13
Frank B. Hall	NYS	3.00	-11.24	0.00	4.63	2.50	108	0.00	0.00	-1	N/A	N/A
Hilb, Rogal & Hamilton	OTC	20.25	0.00	46.08	21.00	10.25	37	0.20	0.99	18	4.60	4.40
Marsh & McLennan	NYS	68.75	1.28	23.87	72.13	55.00	464	2.50	3.64	17	6.48	10.61
Poe & Associates	OTC	8.25	0.00	-5.71	9.75	8.00	5	0.40	4.85	10	1.43	5.77
BROKERS	AVERAGE		-1.6	17.9					2.7	13		
CONGLOMERATES & HOLDING COMPANIES												
Berkley W.R. Corp.	OTC	39.00	-1.59	31.65	40.75	27.38	119	0.40	1.03	8	21.28	1.83
Berkshire Hathaway Inc.	NYS	8490.00	-1.57	82.58	8725.00	4550.00	1	0.00	0.00	8	2468.63	3.44
ITT (Hartford Group)	NYS	59.75	-1.04	19.20	64.50	47.75	1760	1.48	2.48	10	56.33	1.06
Sears (Allstate)	NYS	43.25	-2.55	7.12	48.13	36.88	3169	2.00	4.62	15	36.09	1.20
CONGLOMERATES	AVERAGE	-1.7	35.1					2.0	10			
INSURERS/REINSURERS												
Aetna Life & Casualty	NYS	56.50	0.21	20.53	60.13	46.00	1059	2.76	4.88	8	58.11	0.97
Ambase Corp.	NYS	15.63	-0.76	40.49	16.38	10.50	1002	0.20	1.28	6	18.66	0.84
American General	NYS	35.88	2.87	19.60	38.50	29.50	1067	1.50	4.18	9	28.04	1.28
American Heritage	NYS	27.25	-0.91	6.86	28.50	25.00	1	1.20	4.40	10	22.47	1.21
American Indemnity/Fin'l	OTC	10.00	-6.98	-4.76	13.00	9.50	3	0.56	5.60	-12	17.38	0.58
American International	NYS	94.38	1.62	41.66	97.00	61.75	1150	0.48	0.51	12	33.55	2.81
Aon Corp.	NYS	35.50	3.65	28.51	38.00	26.00	473	1.40	3.94	12	16.67	2.13
Argonaut Group	OTC	65.25	0.38	50.00	66.75	40.75	91	1.00	1.53	9	36.83	1.77
AVEMCO Corp.	NYS	25.75	-3.74	0.49	27.50	22.63	9	0.40	1.55	14	9.20	2.80
Baldwin & Lyons Inc.	OTC	20.13	-0.59	38.83	20.50	14.38	20	0.20	0.99	7	17.57	1.15
Belvedere Corp.	ASE	4.50	-5.26	0.00	6.50	4.25	4	0.04	0.89	7	8.43	0.53
Chandler Insurance	OTC	11.63	-1.02	55.07	12.25	5.75	50	0.00	0.00	7	9.53	1.22
Chubb Corp.	NYS	78.13	-1.10	35.29	79.38	53.75	604	2.32	2.97	9	53.50	1.46
CIGNA Corp.	NYS	60.75	-3.00	31.35	63.88	45.75	619	2.96	4.87	11	53.08	1.14
CNA Financial Corp.	NYS	8.38	8.13	6.41	9.50	6.63	85	1.30	15.51	46	54.52	0.15
Continental Corp.	NYS	35.25	-3.11	10.16	45.00	31.50	428	2.60	7.38	-75	42.10	0.84
Durham Corp.	OTC	31.75	-3.79	-0.78	36.75	30.00	3	0.92	2.90	28	26.32	1.21
Fireman's Fund	NYS	38.38	-0.95	31.78	39.25	28.38	256	0.60	1.56	10	32.74	1.17
Fremont General Corp.	OTC	16.13	0.81	29.04	18.25	10.63	42	0.80	4.96	230	17.61	0.92
Frontier Insurance Group	NYS	19.88	-0.60	78.54	21.75	9.50	15	0.00	0.00	10	7.53	2.64
General RE Corp.	NYS	77.00	1.32	40.00	79.50	53.13	605	1.36	1.77	13	29.04	2.65
Hanover Insurance Co.	OTC	29.13	0.00	9.92	30.25	25.50	404	0.44	1.51	6	31.47	0.93
Harleysville Group	OTC	23.00	-2.13	29.58	24.13	14.88	29	0.60	2.61	8	18.94	1.21
Hartford Steam Boiler	OTC	52.75	5.50	42.57	55.75	30.00	162	1.60	3.03	14	13.04	4.05
Kansas City Life Ins.	OTC	35.50	-0.70	3.65	41.00	29.25	15	1.04	2.93	12	39.22	0.91
Kemper Corp.	NYS	45.75	5.17	94.68	47.25	22.75	169	0.84	1.84	8	28.91	1.58
Lawrence Insurance Group	ASE	7.50	-3.23	-6.25	11.25	6.63	5	0.24	3.20	16	3.19	2.35
Liberty Corp.	NYS	37.13	1.03	2.08	40.50	32.50	16	0.80	2.15	21	21.17	1.75
Lincoln National	NYS	55.38	1.61	28.05	56.88	42.75	145	2.48	4.48	14	39.21	1.41
NAC Re Corp.	OTC	32.75	0.37	58.48	35.75	19.50	88	0.20	0.61	15	22.81	1.44
Navigators Group	OTC	27.75	2.78	35.37	27.75	17.25	2	0.00	0.00	10	15.22	1.82
Nobel Insurance LTD.	OTC	2.25	0.00	-51.35	6.50	1.50	36	0.37	16.44	-2	7.76	0.29
NWNL Companies	OTC	36.63	-2.01	19.12	40.63	26.88	188	1.20	3.28	12	37.50	0.98
Ohio Casualty Corp.	OTC	47.50	-3.06	32.87	50.75	33.25	149	2.08	4.38	7	33.30	1.43
Old Republic nt'l	OTC	27.13	-2.69	19.33	28.50	22.63	139	0.74	2.73	13	26.60	1.02
Orion Capital Corp.	NYS	27.50	-0.47	71.88	28.25	13.88	242	0.84	3.05	7	12.93	2.13
Phoenix RE Corp.	OTC	10.38	3.80	6.46	11.00	8.75	70	0.00	0.00	6	12.99	0.80
Protective Life Corp.	OTC	15.13	-0.79	14.19	16.25	12.88	17	0.70	4.63	37	14.54	1.04
Provident Life	OTC	26.75	-4.91	38.06	28.75	17.75	320	0.68	2.54	9	12.60	2.12
Re Capital Corp.	ASE	11.88	2.15	28.43	12.88	7.88	14	0.00	0.00	11	10.71	1.11
RLI Corp.	NYS	8.50	0.00	11.48	9.38	7.13	31	0.40	4.71	8	23.24	0.37
St. Paul Companies	OTC	58.75	-0.42	36.63	60.25	40.50	842	2.20	3.74	8	32.00	1.84
SAFECO Corp	OTC	33.38	0.39	42.80	34.75	23.13	604	1.20	3.59	8	24.88	1.34
SCOR U.S. Corp.	NYS	11.75	4.44	36.23	12.13	6.88	111	0.20	1.70	9	10.35	1.14
Seibels Bruce Group	OTC	10.88	-4.39	-3.29	13.63	10.25	60	0.80	7.35	12	13.42	0.81
Selective Ins. Group	OTC	18.38	-0.65	-20.09	18.75	14.50	178	0.96	5.22	6	22.33	0.82
Statesman Group Inc.	OTC	2.88	0.00	0.17	4.00	2.38	42	0.05	1.74	29	3.48	0.83
Tokio Marine & Fire	OTC	70.00	0.36	-23.71	98.00	65.88	19	0.23	0.33	42	N/A	N/A
Torchmark Corp.	NYS	44.13	0.30	44.69	49.00	29.38	241	1.40	3.17	13	12.24	3.61
Transamerica	NYS	45.38	3.14	35.97	45.75	30.38	861	1.88	4.14	10	30.70	1.48
Trenwick Group Inc.	OTC	17.75	-4.05	24.56	19.50	13.13	38	0.36	2.03	9	16.91	1.05
United Fire & Casualty	OTC	33.75	3.05	10.66	33.75	26.25	19	1.20	3.56	7	22.56	1.50
USF&G Corp.	NYS	30.75	-2.01	6.03	34.00	28.50	1635	2.80	9.11	16	22.57	1.36
UNUM Corp.	NYS	40.38	0.62	50.95	40.75	24.38	554	0.60	1.49	12	30.64	1.32
USLIFE Corp.	NYS	46.00	-0.54	33.82	48.13	32.88	176	1.40	3.04	11	54.27	0.85
Washington National	NYS	26.00	-3.27	-2.35	29.13	24.00	102	1.08	4.15	-25	32.33	0.80
Zenith National Ins.	NYS	19.13	-1.90	8.54	21.50	15.00	28	0.84	4.39	9	13.61	1.41
INSURERS/REINSURERS	AVERAGE		-0.3	23.3					3.4	14		
HEALTH MAINTENANCE ORGANIZATIONS												
FHP International	OTC	43.50	-1.14	270.21	44.75	10.88	278	0.00	0.00	22	3.54	12.29
HMO America Inc.	OTC	8.88	1.49	846.70	10.63	0.81	363	0.00	0.00	-16	1.12	7.93
Pacificare Health Sys.	OTC	23.75	5.56	90.00	26.25	5.63	49	0.00	0.00	28	6.35	3.74
Safeguard Health Enter.	OTC	10.88	-1.09	102.42	11.13	4.00	60	0.00	0.00	17	2.99	3.64
Sierra Health Services	ASE	6.13	-10.90	277.23	8.25	1.25	94	0.00	0.00	-6	1.59	3.86
United Healthcare Corp.	OTC	11.75	5.57	176.47	12.63	3.88	2559	0.00	0.00	-5	0.31	37.90
United Medical Corp.	ASE	6.75	-1.89	25.58	6.88	4.13	18	0.00	0.00	2	4.11	1.64
U.S. Healthcare	OTC	12.25	-6.70	117.78	13.88	4.88	474	0.23	1.88	61	2.87	4.27
Western Health Plans	ASE	0.13	-3.85	-90.00	1.50	0.13	22	0.00	0.00		0.82	0.15
HMOs	AVERAGE		-1.4	202.9					0.2	11		
ALL COMPANIES	AVERAGE		-0.4	44.4					2.9	13		

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