

ENVIRONMENTAL: Coverage broadens, exposures grow in soft market - PAGE 4

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**SPECIAL
REPORT**

**RISK
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TRENDS**

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THE CHANGING FACE OF RETAIL

As traditional stores close,
new lines of liability open

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INSIDE

COVER STORY

The retail sector is transforming as brick-and-mortar stores close down and retailers concentrate their efforts on online sales. But as the work environment changes, so do the exposures that risk managers must address. Day-to-day general liability issues, such as slip-and-fall claims, give way to heightened workers compensation risks, cyber risks and supply-chain risks. **PAGE 16**



SPECIAL REPORT: RISK MANAGEMENT TRENDS

Risk managers strive to keep up with new exposures; reputation risk comes to the fore; commercial auto rates rise on accelerating costs; risk management and insurance diversity efforts. **PAGE 22**

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VIEW FROM THE TOP

JIM HENDERSON

The chairman and CEO of AssuredPartners Inc. has led the private-equity owned brokerage's acquisition-fueled growth since its founding in 2011.

Those growth efforts accelerated last month when the broker made its biggest deal to date with the purchase of Keenan & Associates. Mr. Henderson discusses the acquisition, the outlook for M&As and other issues affecting the brokerage sector. **PAGE 14**



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Environmental risks spread in soft market

BY JUDY GREENWALD

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Insurers covering environmental exposures are getting worried about the growing number of mold claims, particularly in the hospitality sector, although the market overall remains competitive, experts say.

Also of concern are environmental risks associated with development and redevelopment and petroleum pipeline-related risks, among others.

In addition, some risks previously insured by American International Group Inc., which withdrew from the site pollution coverage market early last year, are having difficulty finding a new home, experts say.

Meanwhile, any slackening of regulation by the federal government is expected to be taken up by state regulators (see sidebar).

The environmental market overall remains soft, observers say. "Except for a few specific industry sectors, the market pricing is competitive, and the terms broad," said Catherine O'Leary, New York-based managing director with Aon Risk Solutions' environmental practice.

"It's a robust marketplace," said John Wasilchuk, Chicago-based vice president, environmental practice, for Lockton Cos. L.L.C. "There's upwards of 30-plus carriers, with capacity exceeding \$200 million."

"With all that competition, there comes aggressive rates and also broad coverages, he said. "There are carriers that are definitely trying to differentiate themselves by being creative with coverage offerings, because pricing isn't necessarily the way they can do that anymore," Mr. Wasilchuk said.

Mold, however, in general and particularly in the hospitality sector, is a growing issue being driven, perhaps, by a rainy season followed by humidity and heat in much of the country last year, as well as increased renovation activity.

"We're actually seeing more claims on mold than we have seen in a number of years," said Ms. O'Leary. "When it first became an issue in the early 2000s, people were very concerned," but "over time, the terms became very liberal, and for a while it didn't seem like it was a major risk driver," she said.

But, "What we're seeing today, particularly in the hospitality space, is that when property owners do a planned renovation, they're discovering mold," which is leading to unanticipated claims, she added.

"That's the main trend that carriers are reporting right now," said Christopher V. Smy, Atlanta-based global practice leader for Marsh L.L.C.'s environmental practice.

While the hospitality sector continues

KEY FACTORS IN THE ENVIRONMENTAL INSURANCE MARKET

- \$200M+ in capacity
- 30+ carriers offering environmental insurance products
- Competitive marketplace offering broad coverage and aggressive rates for favorable risks
- Insurers differentiating themselves with creative coverage solutions
- Changes to Environmental Protection Agency leadership may yield reduced enforcement — States can adopt more stringent standards and enforcement strategies to fill the federal void

Source: Lockton Cos. L.L.C.



to obtain coverage, "they should perhaps anticipate" tightened terms and conditions and higher retentions, he said.

Environmental insurance coverage for development and redevelopment projects is an issue as well. "We're dealing with a lot of issues in the area of development risk," said Richard M. Sheldon Jr., environmental practice leader with Willis Towers Watson P.L.C. in Radnor, Pennsylvania.

"It could be brownfields, it could be property that never had any significant industry history," such as a shopping center, dry cleaner or gas station, or an old golf course where pesticides and herbicides were used regularly and in large quantities, he said.

Matt O'Malley, Exton, Pennsylvania-based president of XL Group Ltd.'s

North American environmental insurance group, pointed to development or redevelopment on urban landfill. "That is significantly different in terms of development risk relative to a suburban expansion, where someone is building on what used to be farmland," he said.

In addition, there are "older sites that had some contamination that had been cleaned up based on the current regulations at the time that are now being re-looked at" because there may be stricter regulations, said Mark Vuono, president of Great American Insurance Group's environmental division in Exton.

There may also be chemicals not looked at 10 or 20 years ago that must now be investigated, he said.

A related, although possibly separate issue, is vapor intrusion, where chemicals migrate from a subsurface to an overlying building.

This can include cases where a dry cleaner had been on the property and may have polluted the ground with certain contaminants that became volatile and gaseous and then found "their way to the path of least resistance, which can be someone's basement on a nearby property," where it can create bodily injury risks, said Mr. Sheldon. It is a risk underwriters are "keeping an eye on," he said.

There have also been tightened capacity and increasing rates and retentions for midstream energy accounts, most notably around petroleum pipelines, said Mr. O'Malley. With an aging infrastructure, "even a premier carrier can have a significant loss in the tens of millions (of dollars) in a matter of minutes," he said.

Experts say while there have been some new market entrants, some policyholders who were previously insured by AIG have not yet found new homes for their policies.

Although AIG had "pretty much pioneered commercially viable environmental insurance," they "couldn't make a profit," said David Dybdahl, president of American Risk Management Resources Network L.L.C. in Middleton, Wisconsin.

"XL Catlin will put out terms and conditions on many of those accounts, but we also found that there have been some data gaps, where we haven't necessarily been as opportunistic as some other carriers have been," said Mr. O'Malley.

Many of these accounts had been with AIG for a significant period, and some of their engineering reports were written in the early 1990s, so information that may have been used to underwrite the account "may no longer be currently available," he said.

States gear up to fill any EPA vacuum

States, many of which are already active in environmental regulation, are expected to step up their involvement if an expected withdrawal of federal regulation materializes.

The Trump administration, which has vowed to reduce environmental regulation, has proposed a 31% cut to the U.S. Environmental Protection Agency's funding — the largest proposed cut for any federal agency.

Kevin J. Bruno, a partner with Blank Rome L.L.P. in New York, said people who follow the issue think that if there were

a significant decrease in environmental activities and priorities by the federal government, much of it will be taken up by either the state agencies or nongovernmental organizations, which have already become much more active in "getting out in front" of regulation.

Some states such as California have already introduced more stringent regulations at the state level, said Mark J. Plumer, a partner with Pillsbury, Winthrop Shaw Pittman L.L.P. in Washington.

"State regulators may increase their activity if they perceive a vacuum

being created," while third parties "may actually be more likely to resort to legal mechanisms if they see an absence of federal oversight," said Christopher V. Smy, Atlanta-based global practice leader for Marsh L.L.C.'s environmental practice.

"States will continue to play a very significant role in the cleanup of properties that are within their jurisdictions," said Matt O'Malley, Exton, Pennsylvania-based president of XL Group Ltd.'s North American environmental insurance group.

Judy Greenwald

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National flood program needs life preserver

BY GLORIA GONZALEZ

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In a rare case of bipartisan agreement, federal legislators uniformly acknowledge that the National Flood Insurance Program needs to be reauthorized, but regional disagreements and other challenges may trip up a comprehensive overhaul.

The U.S. House of Representatives' subcommittee on housing and insurance has made the NFIP its top priority, holding two hearings in March, while the Senate Committee on Banking, Housing and Urban Affairs conducted its own hearing last month. While there is bipartisan support for the need to reauthorize the program ahead of its September expiration, there is less consensus on specific reforms.

"I think that means that reauthorization will be a lot more modest," said Carolyn Kousky, a fellow at nonpartisan research organization Resources for the Future in Washington. "I think everyone agrees it needs to be authorized ahead of schedule to create certainty. There's not going to be pricing reform. There's very little appetite for just increasing grant programs."

Regional disagreements represent a major obstacle to comprehensive reform.

"Flood insurance is not a partisan issue," said Nat Wienecke, senior vice president of federal government relations with the Property Casualty Insurers Association of America in Washington. "I would say one of the key challenges in getting a flood insurance bill done is that this bill tends to



REUTERS

Photographer Carlos Barria holds a photo he took in 2005 of Michael Rehage squatting on the roof of his car, as he matches it up at the same location 10 years after Hurricane Katrina.

have regional implications as opposed to political implications."

For example, who should pay the costs of elevating homes in flood-prone areas is a question at the center of conflict about how to reform the NFIP. FEMA has worked on convincing homeowners to elevate their homes to reduce flood insurance premiums, but the payback is about 10-20 years and the cost can easily total \$200,000, Aram Terchunian, a Westhampton Beach, New York-based coastal geologist and environmental scientist, testified at a House subcommittee hearing in March.

"It is not reasonable to expect a consumer to invest up to \$200,000 for an annual payback of \$4,000 or \$5,000," he said. "Nor is it reasonable to expect a homeowner to pay \$20,000 to 40,000 annually for flood insurance."

But Rep. Steve Pearce, R-N.M., questioned why his constituents should continue to pay for flood damage or the costs of elevating homes in high-risk areas. "Would it be reasonable, if they subsidize this, that

the taxpayer gets the first \$200,000 when they sell their home?" he asked. "You're basically transferring value from people who live in New Mexico in trailer houses and you want us to subsidize them."

A program overhaul should also address its impacts on small businesses, which need immediate access to funds for repairs and replacement of inventory and equipment as well as mitigation of future losses, according to the Association of State Floodplain Managers, which noted that 50% of small businesses affected by floods will never reopen if they cannot reopen within one month.

Private practice

Some lawmakers see more private-sector involvement in covering flood risks as the solution, with private reinsurers starting to provide some protection to the NFIP from catastrophic losses. FEMA piloted a reinsurance program for 2016 and secured a new placement effective Jan. 1, 2017,

through Jan. 1, 2018, through a consortium of 25 reinsurers arranged through Guy Carpenter & Co. L.L.C.

"With FEMA's purchase of reinsurance, it should reduce taxpayer exposure to the big events," said Tom Santos, vice president of federal affairs for the American Insurance Association in Washington.

But major changes would need to happen for private insurers to write additional primary flood risk cover, according to experts.

Private insurers that partner with the federal government to sell NFIP flood insurance policies and help administer the program must sign an annual agreement prohibiting them from selling products that compete directly with those offered through the NFIP — a noncompete provision that must be removed to encourage more private insurer participation, they say.

"There's no reason to take that capacity out of the marketplace," Evan Hecht, CEO of The Flood Insurance Agency, a Gainesville, Florida-based retail and wholesale insurance agency, testified during a House subcommittee hearing.

Legislation that would clarify that people who buy private flood insurance should receive the same treatment as those who purchase it through the NFIP if they're trying to obtain federally backed mortgages that require flood insurance has strong bipartisan support and should also be adopted, experts say. But there are concerns that any effort to spur additional private-sector participation will encourage private insurers to "cherry pick" the most attractive risks.

"Some might believe the private market would only want to write FEMA's best risks and leave all the poor risks in the NFIP, from our point of view almost exactly the opposite is taking place," Mr. Hecht said. "Nearly all of our 18,500 risks are for FEMA-subsidized policies, the policies FEMA believes are 45% to 50% underpriced."

NFIP UNDER WATER

The National Flood Insurance Program is contending with a massive \$24.6 billion deficit due to major payouts from catastrophic storms:



Hurricanes Katrina, Rita and Wilma hit the United States in 2005, resulting in an annual claims total eight times the size of any prior year in the program's history and forcing the NFIP to borrow \$17.5 billion from the U.S. Treasury Department.

In 2012, Superstorm Sandy hit the East Coast, resulting in more than 144,000 NFIP claims and an initial \$8.4 billion payout to policyholders, forcing the program to borrow \$6.25 billion from the Treasury. The NFIP later paid out an additional \$350 million to policyholders amid allegations of improper handling of claims.

While there was no single "catastrophic" disaster in 2016, multiple flooding events in Louisiana, Texas and other states during Hurricane Matthew resulted in the third largest claims payout year in the program's history, with projected payouts of more than \$4 billion.

IS DEBT FORGIVENESS AN OPTION?

The National Flood Insurance Program is in debt to the tune of \$24.6 billion — a problem that only the U.S. Congress can solve, stakeholders say.

Congress passed the Biggert-Waters Flood Insurance Reform Act of 2012 to strengthen the program's fiscal soundness by addressing discounted premiums and giving the Federal Emergency Management Agency new tools to manage risk exposure. But it also passed the Homeowner Flood Insurance Affordability Act

in March 2014, which repealed certain provisions of the reform legislation.

"To be very plain, given the discounts, the latest subsidies and the grandfathering that are in place today, there's not a practical way for us to repay this debt," Roy Wright, deputy associate administrator of the Federal Insurance and Mitigation Administration within FEMA, testified last month at a hearing of the U.S. House of Representatives' housing and insurance subcommittee.

Any effort to forgive the debt should be combined with a program that builds a tower of coverage in which private reinsurance plays a role, but ultimately the federal government would pay for losses, said Carolyn Kousky, a fellow at nonpartisan research organization Resources for the Future in Washington. There are a lot of good arguments for forgiving the debt, she said: "They're never, ever going to be able to pay it back with premium revenue."

Gloria Gonzalez

Coalition looks to natural disaster barriers

GLORIA GONZALEZ

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A group of strange bedfellows, including insurers and environmental groups, is teaming up to quantify and demonstrate the role that natural infrastructure such as coastal wetlands and mangrove swamps can play in mitigating property losses from hurricanes and flooding events.

The research is still in its early stages, but these groups hope it will spur increased and upfront investments in natural infrastructure to protect coastal communities — a key source and driver of economic activity in the United States.

Coastal zone counties account for 48% of the U.S. GDP and 42% of U.S. employment, according to a 2016 report published by the National Ocean Economics Program based at the Center for the Blue Economy, Middlebury Institute of International Studies at Monterey in California.

“We want to break this disaster cycle the nation is now caught in,” said Shannon Cunniff, director of coastal resilience for the Environmental Defense Fund in Washington. “We’re nickel-and-diming our investment in our infrastructure that protects us from storms or reduces the impact of storms, and as a result we are putting a lot of money into response to disasters. We want to break that cycle and get more money in before disasters, and do it in a very planned way so that we’re not creating a coastline that is unrecognizable and isn’t valuable as a working coast.”

But these experts know there is a need to prove the economic value of investments in natural infrastructure.

“In concept, (natural defenses are) equivalent to engineered defenses” such as levees, said Hosam Ali, director of structures and natural hazard research for Johnston, Rhode Island-based FM Global. “They help in terms of dissipating energy from storms, they reduce the impact of waves on the shorelines and properties. We include them in our maps if we have the data, but I haven’t seen quantification of the impacts to come up with a number that someone can use.”

Much of the data on coastal defenses is not clearly defined, and even when accurate data is found, modelers make assumptions, which leads to substantial variations, he said. “But in concept, if you have the data and you want to show the impact in an area, you can show a flood map that is developed with and without these natural defenses.”

An ongoing effort to study the impact of natural storm defenses drew together an unusual coalition of insurance industry players, risk modeling experts, environmental groups and academics. The University of California, Santa Cruz, The Nature Conservancy and the Wildlife Conservation Society conducted a research project



to quantify the economic benefits of coastal wetlands, in association with Risk Management Solutions Inc. and Guy Carpenter & Co. L.L.C., with funding from the charity Lloyd’s Tercentenary Research Foundation and additional support from the Science for Nature and People Partnership.

“What we want to understand is the relationship between the environment and particularly flooding and hurricanes,” said Dominic Christian, chairman of Lloyd’s Tercentenary Research Foundation, executive chairman of Aon Benfield International and CEO of Aon UK Ltd. “This is a massive risk to our industry. We feel very strongly that the more we can understand this risk, the more we can understand the environmental connection to this risk, the better service we can offer to society and clients.”

Coastal wetlands prevented \$625 million in flood damages to insured private property, plus business interruption losses, during Superstorm Sandy, according to the 2016 report that emerged from this research project.

While “the total savings are not huge in the grand scheme of things” in relation to the economic losses experienced in the

greater New York metropolitan area, the loss reduction demonstrated in certain areas could facilitate conversations about premium reductions and incentives, said Michael Beck, lead marine scientist for The Nature Conservancy and an adjunct professor in ocean sciences at the University of California, Santa Cruz, where he is based.

Overall, the report “really helps make the case” for natural infrastructure spending in disaster recovery initiatives, he said.

“In disaster risk reduction, as much as we would all like to see money spent ahead the storms, the real game is post-storm spending,” Mr. Beck said. “Even though pre-storm spending is more cost effective — there’s plenty of analyses to show that — there’s frankly nothing like a bad event to motivate big spending.”

The next step is to review and identify promising opportunities and geographies for investments in natural infrastructure, said London-based Dickie Whitaker, CEO of Oasis Loss Modelling Framework and chair of the Lloyd’s Tercentenary charity steering group that selected the project. Having tangible outcomes is also important in building toward a future in which specific methodologies can be devel-

oped to guide decision-making, he said.

“I think we need to use this type of research to calculate the impact on building structures, on insurance portfolios and society at large,” Mr. Whitaker said.

The Environmental Defense Fund is actively engaged in conversations with reinsurers such as Munich Reinsurance Co. and with RMS for a pilot project to evaluate a segment of the coastline and the risks and benefits of wetlands restoration, possibly in Louisiana, Ms. Cunniff said.

“From an insurance perspective, we’ve seen the benefit of flood defenses and the positive impact that has, especially around New Orleans and up and down the Mississippi River,” said Carl Hedde, head of risk accumulation for Munich Reinsurance America Inc. in Princeton, New Jersey. “Down the road, I think these will be treated similar to the flood defenses we have, but I think from an insurance perspective it’s a little bit early because a lot of research is still being done. There are some natural defenses in place, and I think it’s going to take some time to quantify the protections that are afforded.”

PRESERVING THE WETLANDS

An ongoing effort that began in 2016 to quantify the impact of natural defenses such as coastal wetlands in preventing or mitigating property damage during Superstorm Sandy found:

- More than **\$625 million** in property damages were prevented by coastal wetlands along the Northeast coast.
- Where wetlands remain, the average damage reduction from Sandy was **greater than 10%**.
- In Maryland, wetlands reduced property damages by **nearly 30%**.
- In New Jersey, wetlands prevented **\$425 million** in property damages.
- In Ocean County, New Jersey, the conservation of salt marshes is predicted to reduce average annual coastal property losses by **more than 20%**.

Source: Coastal Wetlands and Flood Damage Reduction: Using Risk Industry-Based Models to Assess Natural Defenses in the Northeastern USA

GREEN VS. GRAY: A COST-BENEFIT ANALYSIS

Investments in coastal gray infrastructure such as roads and bridges far outstrip the funding for green infrastructure such as wetlands and reefs, but a more balanced investment portfolio could prevent billions of dollars of storm damage, according to a study.

A total of \$14 billion was spent on coastal conservation and green infrastructure while \$198 billion in international aid funds were directed to coastal gray infrastructure

over a 10-year period from 2004-13, according to the analysis “Rethinking Our Global Coastal Investment,” published in the Journal of Coastal and Ocean Economics and publicly released in March.

If 10% of international aid funds spent on building and rebuilding coastal gray infrastructure were instead used to conserve and restore coastal ecosystems, some conservation funds could be strategically reinvested to

restore coral reefs and oyster reefs near high-density areas with a high risk of flooding, according to the analysis conducted by researchers at the University of California, Santa Cruz.

The analysis also examined Munich Reinsurance Co.’s annual reports and determined that total losses during that period exceeded \$514 billion, of which \$214 billion were insured losses.

Gloria Gonzalez

Active workplaces present trade-off between worker health and safety

BY KRISTEN BECKMAN

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With many workers spending the majority of their day sitting at a desk, some employers are encouraging employees to move during the day to improve their health. But safety experts say the trend could increase the risk of injury for workers, offsetting the health benefits.

Employers should be careful to balance the potential wellness and productivity benefits of active workstation products with the potential risks they might introduce, sources said.

A report released in March by health insurer Aetna Inc. called on employers and insurers to immediately implement efforts along with government agencies and other organizations to help tackle a global obesity problem that it said has reached pandemic levels. The report, quoting World Health Organization figures, said 13% of adults worldwide are classified as obese and nearly 40% are overweight.

Chronic health conditions and diseases linked to obesity and sedentary lifestyles

OCCUPATIONS WITH THE MOST TIME SPENT SITTING DURING THE WORKDAY

Across all civilian jobs in 2016, workers spent an average of 61% of the workday standing or walking and 39% of the workday sitting, according to federal data.

Occupation	Amount of day spent sitting
Software developers, applications	90%
Bus drivers	82.4%
Accountants	80.7%
Insurance sales agents	80.3%
Lawyers	75.9%
Human resources managers	75.4%
Mechanical engineers	73.7%
Librarians	53.5%
Emergency medical technicians/paramedics	52.5%

Source: Bureau of Labor Statistics



have spawned the ominous mantra: “Sitting is the new smoking,” experts say.

One way employers are encouraging activity during the day is by allowing employees to use active workstation tools. That includes exercise balls that are said to promote core muscle building, sit-stand desks that encourage a healthy change of position throughout the day and desks that include treadmills or stationary bicycles to give employees the option to burn calories while attending to emails and conference calls.

“Most companies getting in on standing desks and related products are doing so to bolster an internal wellness campaign, but this isn’t to say some aren’t getting them as simply a novelty or employment perk within a company,” said Komal Jain, founder of San Diego-based standing desk company Ergopose.

A 2016 study conducted by Texas A&M University found that employees who used desks that allowed them to transition between seated and standing positions throughout the day were about 46% more productive than those who sat throughout their entire workday. However, a 2015

study of treadmill desk use by overweight and obese office workers conducted by Oregon State University found that while average daily steps increased by more than 1,000, the study participants did not record any significant weight loss or changes in body mass index over a 12-week period.

“Treadmill desks aren’t an effective replacement for regular exercise, and the benefits of the desks may not justify the cost and other challenges that come with implementing them,” wrote John M. Schuna Jr., an assistant professor of exercise and sports science at OSU and one of the report’s authors, in a statement about the study.

In addition to questions about the benefits of active workstations, they also could introduce safety risks. Injuries sustained while using such tools would likely be compensable under workers compensation and could lead to injured workers missing work, said J. Carin Burford, a Birmingham, Alabama-based shareholder with law firm Ogletree, Deakins, Nash, Smoak & Stewart P.C.

Colorado Springs Utilities in Colorado Springs, Colorado, has deployed sit-stand desks for its employees and encourages

them to alternate between sitting and standing throughout the day. Mark Hansen, manager of safety and health for the utility provider, said the company was motivated by statistics that show standing one to two hours per day can improve health.

But moving beyond standing to add aerobic activity at a workstation could lead to performance delays because the brain and body aren’t adept at splitting attention between cognitive and physical tasks, said Mr. Hansen, who is also a past president of the American Society of Safety Engineers.

“As a society, we want to cram as much into a minute as possible,” he said.

To maximize safety and benefits while minimizing risk, employers should consider several possible best practices and guidelines, including requiring employees to wear proper shoes and limiting how fast they can walk on a treadmill while working, said Ms. Burford of Ogletree. A wise first step for employers considering allowing or supplying active workstation tools is to consult with an ergonomist to evaluate the devices and make recommendations about their safe use in an office environment, she said.

Employers may also consider requiring employees to sign a waiver or obtain a doctor’s note before allowing them to use active workstation tools, although a waiver likely would not protect employers from workers comp claims related to active workstation injuries, Ms. Burford said.

Employer-provided active workstation equipment should be properly maintained as injuries resulting from improperly maintained equipment could expose employers to tort claims, Ms. Burford said.

Ms. Jain says focus is crucial for keeping workers safe while being active on the job.

“If someone is engrossed in a task while walking on a treadmill, it wouldn’t be hard to picture them losing track of their tread and misplacing a foot, which could lead to catastrophic injuries,” she said.

WORKSTATION RISKS NOT YET REFLECTED IN COMP PRICING

Workers compensation insurers are taking a wait-and-see approach when it comes to pricing the growing active workstation trend into their policies, said Mark Thompson, head of product for Chicago-based online small-business insurance agency Insureon.

“Since the trend is fairly recent, there just haven’t been very many claims filed due to accidents while working on a treadmill,” Mr. Thompson said. “There is definitely an understanding that many offices that were considered very low risks for workers

compensation could be changing as more folks are working differently, and they are monitoring claim activity.”

Mr. Thompson said health insurers are showing greater enthusiasm for the active workstation trend, although he said the true impact on health insurance costs will be determined over several years. “Stand-up desks and treadmill desks are addressing some of the negative health effects of sitting for long periods of time,” he said.

Standing desks could positively impact workers comp because they are sometimes

offered as a disability accommodation and can prevent future workers comp claims in some cases, especially for back pain and carpal tunnel syndrome, said Komal Jain, an employment and civil business litigation attorney who founded San Diego-based standing desk maker Ergopose.

“Improved posture is a recommended way to prevent carpal tunnel syndrome, and a standing desk can factor into that prevention equation by disrupting detrimental static posture,” Ms. Jain said.

Kristen Beckman





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First impressions matter in comp claims

JOYCE FAMA KINWA

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Workers compensation experts say that trust in the workplace and early positive communication between injured workers and their employers or claims handlers can play a crucial role in reducing the time it takes a claimant to return to work, as well as keeping comp claim costs in check.

“Showing that you care about your employee’s wellbeing, letting the individual know you are sorry that the injury happened, checking in frequently, and showing that you are there for them throughout the process will go a long way towards establishing trust,” said Erica Fichter, Miami-based senior vice president, medical management with third-party administrator Broadspire Services Inc.

Lack of trust in the workplace means that an injured worker may fear being fired or laid off — employees with these fears tend to have worse outcomes, according to research from the Workers Compensation Research Institute.

Cambridge, Massachusetts-based WCRI said in a 2010 report that 22% of workers who feared for their job security had no substantial return to work for at least 30 days post-injury. Workers who fear being fired or laid off also were more likely to hire attorneys, the study found.

Joseph Paduda, Skaneateles, New York-based principal at Health Strategy Associates L.L.C., says there has been a fundamental change in the relationship between workers and employers in the past 20 years that has fueled workers’ fears of losing their jobs.

“In many corporations, workers are no longer seen as a valuable asset, as a key to the success of the organization. They are seen as costs,” he said.

Experts say that positive contact between an injured worker and their supervisors and claims handlers in the immediate aftermath of a work injury can determine the outcome of a workers comp claim by allaying some of those job fears.

“Creating an environment of goodwill and caring can lessen the client’s loss costs, improve medical treatment compliance, decrease disability durations, increase closures and decrease litigation,” Ms. Fichter said.

Claims handlers whose first contacts are positive or seemed supportive had better



SHUTTERSTOCK

Early positive interactions with injured workers can help reduce their fears about the workers compensation process and their job safety, improving comp claim outcomes.

outcomes, according to a study released in 2012 by the Liberty Mutual Research Institute for Safety in Hopkinton, Massachusetts. Average claim costs went down to \$3,913 from \$6,619 for claims that involved positive interactions, while the average duration of the claim went down from 33.5 days to 14.1 days, the report found. Medical costs also went down to \$2,344 from \$3,378 when claims handlers focused on positive initial communication, Liberty Mutual said.

“How their workplace supervisor responded to them when they first came and said ‘I’m hurt’ had a very significant impact on outcomes. The key negative responses that drove outcomes were: being not supportive, blaming them for their injury, being angry at them, not believing that they were injured or telling them not to file a workers comp claim,” said Dr. Glenn Pransky, director of the Center for Disability Research at the Liberty Mutual safety institute. Dr. Pransky presented the findings during a presentation last month at WCRI’s Annual Issues & Research Conference in Boston.

Dr. Pransky added that employers that showed more than one negative response saw injured workers stay out of work twice as long as people who didn’t receive a negative response.

“A lot of this comes down to how people perceive they’re being treated and how

they perceive they are being valued by the organizations,” Mr. Paduda said.

Mr. Paduda said companies such as Issaquah, Washington-based Costco Wholesale Corp. and Mooresville, North Carolina-based home improvement retailer Lowe’s Cos. Inc. have created more positive early interactions by assigning nurses to talk with injured workers about their medical issues, return to work and any other questions.

Meanwhile, claims adjusters focus on other claim-related issues such as investigation, reporting, reserving and legal aspects of the claim. Nurses and claims adjusters share information and collaborate to ensure all parties are working toward the same objectives.

“When you think about it, nurses are trained to care for people. They are trained to ask questions, be supportive, to respect where

people are coming from,” Mr. Paduda said.

Mr. Paduda said nurses would approach communication differently than a claims handler “who first wants to make sure that the claim is appropriate, so they are going to ask questions about: where did the injury occur, who saw it, what were you doing when the injury occurred? A patient who just got hurt may well feel that they are being questioned about whether they got hurt at work, whether they are lying.”

A culture of positive interactions should begin even before a work accident has occurred, said Stephen Peacock, St. Louis, Missouri-based assistant vice president of claims with excess workers compensation insurer Safety National Casualty Corp.

“They know they need to establish a good relationship with their employees, so they feel comfortable and respected enough to not be afraid to report accidents at work,” he said.

Maintaining social interaction “is a very important point that most employers overlook,” said Rob Schiller, Philadelphia-based assistant vice president of claims with AmTrust North America, during the Philly I-Day 2017 conference last month.

Injured employees “miss the camaraderie” with their co-workers when they are out of work, he said.

“A lot of employees feel like they’re not part of the employer anymore,” Mr. Schiller said. “You want to maintain that interaction. You want the supervisor to continue to reach out to the injured workers to see how they’re doing.”

Isolation also is a challenge for injured workers, said Jane Lamb, Philadelphia-based director of risk management for Philadelphia Gas Works, during the Philly I-Day conference.

“It’s hard to come back,” she said.

Gloria Gonzalez contributed to this report.

FEAR OF BEING FIRED

In interviews from 2013-15 with injured workers in 15 states who had not returned to work within 30 days of an injury, many agreed with the statement, “I was concerned that I would be fired or laid off.”

STRONGLY AGREE

22%

SOMEWHAT AGREE

13%

DISAGREE

9%

Source: Workers Compensation Research Institute

EMPATHY, MEASURED APPROACH CAN AID CLAIMS COMMUNICATION

Claims handlers can take several steps to have positive communication with workers compensation claimants, ultimately improving claim outcomes, said Dr. Glenn Pransky, director of the Center for Disability Research at the Liberty Mutual Research Institute for Safety in Hopkinton, Massachusetts.

Dr. Pransky presented findings from a 2006 study from the Toronto-based Institute for Work & Health last month during the Workers Compensation Research Institute Annual Issues & Research Conference in Boston.

The study advised listening to claimants with empathy, giving injured workers a detailed explanation of the workers comp process to reduce their uncertainty and making check-in calls, when appropriate, to see how the injured worker is doing, Dr. Pransky said.

Early discussions about return to work also should be approached carefully and gradually with injured workers to decrease resistance to the idea of going back to their job after an accident, Dr. Pransky said.

Joyce Famakinwa

Suits target safety violations to bypass comp

BY KRISTEN BECKMAN

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Injured workers and their families increasingly are turning away from the “Grand Bargain” of the U.S. workers compensation system and heading to court, particularly targeting employer actions deemed willful violations of workplace safety rules. While lawsuits over workplace injuries are not new, a perception that workers comp benefits are deteriorating has resulted in more legal challenges, experts say.

“If it’s not a concerted effort, it’s a collective effort by the plaintiffs bar,” said Phillip Russell, a Tampa, Florida-based attorney with law firm Ogletree, Deakins, Nash, Smoak & Stewart P.C. “It has been a trend that became obvious over the past two years that more and more cases are being filed across the board trying to get around the exclusivity bar.”

Employers agree to provide compensation to workers injured on the job in exchange for immunity from lawsuits because workers comp is the exclusive remedy available to injured workers, a legal pact known as the Grand Bargain.

“There have been a number of instances in various parts of the country where plaintiffs attorneys have attacked exclusive remedy because there has been this notion, whether it’s true or not, that the workers compensation benefits are no longer adequate to properly compensate injured workers,” said Albert Randall, an attorney with Baltimore-based law firm Franklin & Prokopik P.C. “Because of benefits being artificially low, at least according to plaintiffs attorneys, they’ve tried to use any opportunity they can to pierce the exclusivity aspect and to try to find new ways to sue in court.”

Intentional tort is an exception to workers comp exclusivity and is the primary tool used lawsuits against employers, experts say. In such cases, the plaintiffs must demonstrate the employer acted intentionally or deliberately, or was virtually certain that its actions would result in injury or death.

Last year, in *Braase v. Battelle Energy Alliance L.L.C.*, the U.S. District Court for Idaho in Boise considered a case against Idaho Falls, Idaho-based Battelle Energy Alliance L.L.C. that invoked the intentional tort exception. Plaintiff Steve Braase was a health physicist technician at the Battelle-operated Idaho National Laboratory when he said he was exposed to radioactive dust while repackaging fuel plates, court records



Last year, the 104th anniversary of the Triangle Shirtwaist Factory fire was observed at the factory’s former site. Changes after the tragedy, which killed 146 workers, led to the workers comp system.

show. Mr. Braase brought a lawsuit against Battelle, which the employer sought to have dismissed, citing exclusive remedy under Idaho’s workers compensation act.

Idaho’s statute provides an exception from the workers comp exclusivity rule “where the injury or death is proximately caused by the willful or unprovoked physical aggression of the employer, its officers, agents, servants or employees,” the ruling said. Mr. Braase alleged that the employer’s instructions to continue working with the fuel plates even after he expressed safety concerns was a willful act. The court found Mr. Braase had provided sufficient evidence to overcome the employer’s motion to dismiss the case.

Each state has developed different standards on what triggers an intentional tort. In some states, the standard is “substantial certainty” or “virtual certainty” that an employer knew that an employee was likely to be injured. A willful violation handed out by the U.S. Occupational Safety and Health Administration is often used as evidence of intent.

In *Crippen v. Central Jersey Concrete Pipe Co.*, decided in 2003 by the New Jersey Supreme Court in Trenton, New Jersey, the court explored the idea of whether a previous OSHA citation against the company and the company’s failure to correct the cited hazards demonstrated an intentional tort in the death of one of its employees in a workplace accident. The court found the cita-

tions were one factor in the overall determination, but not a dispositive factor, Mr. Randall said.

“There have been a couple of instances where a violation of OSHA regulations has been deemed sufficient, although it usually is part of a larger context of circumstances and where you have an employer that’s acting with substantial certainty that an employee is going to be injured,” said Steven Siros, an attorney with Chicago-based law firm Jenner & Block L.L.P. “There’s usually some sort of exigent circumstance where courts have relied on OSHA willful violations in the past to conclude, in addition to other facts, that there was an intentional tort committed.”

Willful violations are often justification for lawsuits in the first place.

“An OSHA citation is not admissible for liability, but it is, practically speaking, a substantial motivator for the plaintiff’s lawyers to file a personal injury case,” said Mr. Russell. “The theory is that if the government sees enough there for a willful violation, then a judge or jury may see enough to find virtual certainty, or whatever the standard is for getting around exclusivity in whatever state you are in.”

For employers, said Mr. Russell, this means they must be vigilant about workplace safety and health programs with an eye toward not just complying with OSHA standards but also protecting themselves from expanded liability in the form of personal injury lawsuits.

WILLFUL VIOLATIONS

Fall protection was by far the most frequently cited willful violation by the U.S. Occupational Safety and Health Administration during fiscal year 2015. OSHA defines a willful violation as one “committed with an intentional disregard of or plain indifference to the requirements of the Occupational Safety and Health Act and requirements.”

FALL PROTECTION

161

ASBESTOS

47

EXCAVATIONS

44

SCAFFOLDING

38

LOCKOUT/TAGOUT

37

MACHINE GUARDING

35

PERMIT-REQUIRED CONFINED SPACES

22

SPECIFIC EXCAVATION REQUIREMENTS

12

FALL PROTECTION — STEEL ERECTION

11

TIE: RESPIRATORY PROTECTION, OCCUPATIONAL NOISE EXPOSURE, BLOODBORNE PATHOGENS

10

Source: OSHA

PERSONAL INJURY SUITS COULD RISE IF OSHA’S WINGS ARE CLIPPED

If workplace safety enforcement by the U.S. Occupational Safety and Health Administration decreases under President Donald Trump’s administration, as many industry observers expect, one possible consequence could be an increase in private enforcement via personal injury lawsuits.

While willful violations handed out by OSHA frequently trigger personal injury lawsuits, personal injury attorneys who want to file a



lawsuit on behalf of an injured worker or family of a deceased worker don’t have to wait for an OSHA violation to file a lawsuit against an employer, said Phillip Russell, a Tampa Florida-based attorney with law firm Ogletree, Deakins, Nash, Smoak & Stewart P.C.

Maintaining a safe workplace and avoiding accidents and injuries in the first place is at least as critical in an environment of decreased

enforcement as it is when enforcement is high, Mr. Russell said.

“I’m concerned that all the headlines lately about decreased enforcement might encourage some employers to decrease their emphasis on their own compliance measures,” he said. “I think that would be a mistake. I’m advising my clients to maintain diligence and focus on compliance regardless of government enforcement.”

Kristen Beckman

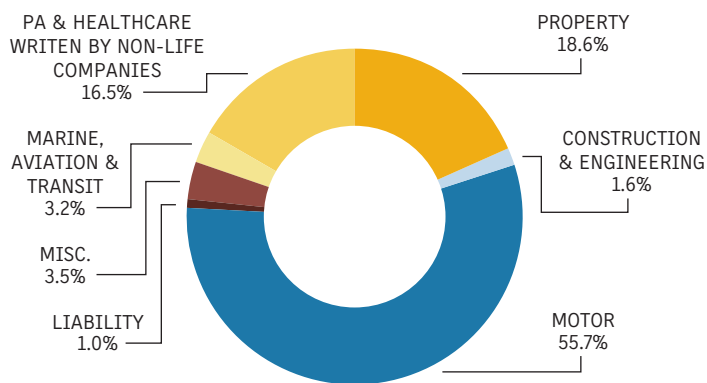
PROFILE: THAILAND

30

GLOBAL
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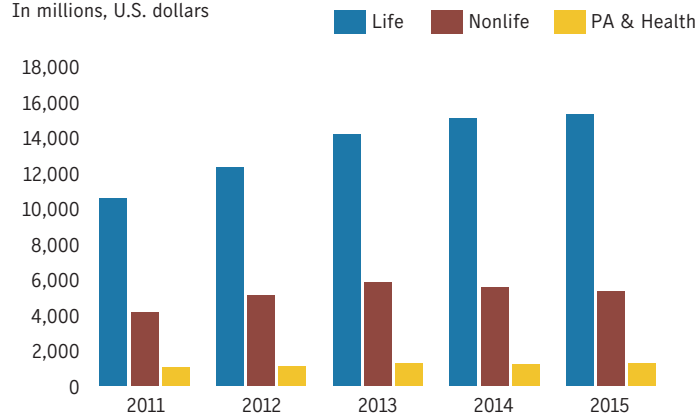
The property/casualty insurance sector in Thailand is overcrowded, with 60 companies operating. Intense competition, aided by the return of reinsurance capacity and the relaxation of conditions imposed by reinsurers after the 2011 floods, has resulted in rates for most classes of business reducing steadily over the past three years. Overall pricing levels are now below those which applied prior to the 2011 floods. While conditions would seem ripe for consolidation, many of the small local insurers are owned by family groups and often write little business outside of their group interests. As a result, they are not considered attractive takeover targets.

MARKET SHARE



MARKET GROWTH

In millions, U.S. dollars



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

COMPULSORY INSURANCE

Several lines of insurance are compulsory, including:

- Auto third-party bodily injury
- Aviation liability
- Personal accident for boat passengers
- Worksite inspectors' liability
- Liability for transportation of hazardous substances
- Insurance for damage to hired-out jet skis

NONADMITTED

Unauthorized insurers may not carry on insurance activity in Thailand, but there is nothing in the law that indicates that insurance must be purchased from locally authorized insurers, other than compulsory auto third-party bodily injury. This is generally interpreted to mean that insurers can issue policies from abroad, provided no local intermediary is involved and the nonadmitted insurer does not solicit the business.

INTERMEDIARIES

Insurance brokers and agents must be authorized to do insurance business in Thailand. Intermediaries in Thailand are not allowed to place business with nonadmitted insurers. Regulators encourage business to be placed in the local market, and there is little nonadmitted business.

MARKET PRACTICE

While insurance buyers are not prevented from placing business directly abroad, few companies are believed to do this because of the difficulties involved in matters such as policy wordings, premium payment, client servicing and use of local loss adjusters. Multinational companies have either local fronting arrangements for their global programs or genuine local insurance arrangements.

MARKET DEVELOPMENTS

Updated December 2016

- The Insurance Development Plan for 2016 to 2020 was published by the Office of the Insurance Commission in May 2016, with the objective of achieving "sustainable growth and public confidence in the Thai insurance system." The plan proposes improving capital and solvency standards, the gradual removal of tariffs and improving the qualifications of industry professionals.
- In line with the OIC plan, a new draft insurance law was introduced in early 2016. Among other things, the law would: relax curbs on foreign ownership of insurers; introduce new rules and reporting requirements regarding significant shareholders; allow more regulatory flexibility regarding capital requirements; and impose additional liabilities on directors and managers of insurers.
- In February 2016, the OIC issued a notification setting out the rules for the approval of foreign shareholdings of up to 49% in local insurers and the criteria to be used for foreign shareholders.
- The exemption giving insurers dispensation from the requirement to include, in the calculation of certain risk capital charges, reserves for losses paid in respect of the 2011 floods ended in March 2014, although extensions were granted and some still continue.
- Ergo Group A.G., the direct insurance arm of Munich Reinsurance Co., entered the market in Thailand with the purchase of just over 40% of Thaisri Insurance Public Co. Ltd. in May 2016.



AREA

198,115

square miles

POPULATION

67.5

million

MARKET CONCENTRATION

43.6%

market share of top 5 insurers

2016 GDP CHANGE (PROJECTED)

3%

Information provided by Axco Insurance Information Services.
www.axcoinfo.com

Brown & Brown noncompete case settles for \$20M

■ Brown & Brown Inc. will receive \$20 million in a settlement of litigation over a rival's hiring several of its employees, the broker said.

Daytona Beach, Florida-based Brown & Brown had charged that eight of its employees were hired by Lake Mary, Florida-based broker AssuredPartners Inc. in violation of their employment agreements. They had left Brown & Brown and joined AssuredPartners in May.

Robert Lloyd, Brown & Brown's executive vice president, secretary and general counsel, said that under terms of the agreement, in addition to paying the \$20 million, AssuredPartners is restricted from hiring anyone in its Daytona Beach and Orlando, Florida, offices for 18 months, and nationally for six months.

Mr. Lloyd said, "It's unfortunate we had to go down this path, but we believe we've wholly and fully resolved this situation for Brown & Brown."

An AssuredPartners spokesman said, "We're pleased to get the litigation behind us."

Policy exclusions shield AIG unit in construction dispute

■ An American International Group Inc. unit is not obligated to provide coverage in a dispute with a construction firm over a San Diego water project, based on exclusions in its policy, a federal appeals court said.

Atlanta-based Archer Western Contractors Ltd. was the general contractor for the San Diego County Water Authority's emergency water storage project, according to a ruling from the 9th U.S. Circuit Court of Appeals in San Francisco in *Archer Western Contractors Ltd. v. National Union Fire Insurance Co. of Pittsburgh, Pa., a Pennsylvania Corporation*.

AWC had agreed to furnish all tools, equipment, labor, materials and transportation for the authority's project, according to court papers. Liberty Mutual Insurance Co., which was not a party in the appeal, was the primary insurer, while National Union, an AIG unit, provided excess coverage.

In 2011, the San Diego Water Authority filed suit against AWC for breach of contract, contractual indemnity, negligence and declaratory relief, charging, among other things, it had failed to perform work in the time required by its contract and in a "workmanlike" manner, according to court papers.

While Liberty Mutual paid \$2 million in

per-occurrence policy limits to the water authority on AWC's behalf under a reservation of rights, National Union refused to pay under its policy, and AWC filed suit.

The U.S. District Court in Los Angeles ruled in National Union's favor in the case, and a three-judge appeals court panel unanimously upheld the ruling, citing policy exclusions for property damage arising out of the contractor's performance of operations and for property damage that must be repaired because the contractor's work was incorrectly performed.



Title VII doesn't bar sexual orientation discrimination

■ Title VII of the Civil Rights Act of 1964 does not protect employees from discrimination based on sexual orientation, the 11th U.S. Circuit Court of Appeals in Atlanta said in a divided ruling.

The court also dismissed a claim of discrimination on the basis of gender nonconformity in *Jameka K. Evans v. Georgia Regional Hospital, Charles Moss, et al.*, but invited the plaintiff in the case, a former hospital security guard who is a lesbian, to revise her complaint.

Ms. Evans had worked at Georgia Regional Hospital in Savannah, Georgia, from Aug. 2, 2012, until Oct. 2, 2013, when she left voluntarily, according to the ruling.

She claimed that she was denied equal pay and work, harassed, and physically assaulted or battered. She said she was discriminated against based on her sex and targeted for termination for failing to carry herself in a "traditional woman(ly) manner," the ruling said.

The ruling said "it was 'evident' that she identified with the male gender" because she presented herself with a male uniform, haircut and shoes.

Ms. Evans filed suit against the hospital, charging she was discriminated against because of her sexual orientation and gender nonconformity. The U.S. District Court in Savannah dismissed the case in October 2015, and Ms. Evans appealed.

On the gender conformity claim, the 11th Circuit ruling stated: "Evans did not

provide enough factual matter to plausibly suggest that her decision to present herself in a masculine manner led to the alleged adverse employment actions." Although it dismissed the claim, the ruling remanded this issue so that Ms. Evans could amend her complaint.

The court's majority opinion upheld, however, dismissal of the charge that she had been discriminated against on the basis of her sexual orientation.

The U.S. Supreme Court's 1989 ruling in *Price Waterhouse v. Hopkins* and its 1998 rule in *Oncale v. Sundowner Offshore Services Inc.*, which held gender nonconformity claims were covered under Title VII, do not support a cause of action for sexual orientation discrimination under that law, the majority opinion said.

Berkshire Hathaway units accused of comp scheme

■ A class-action lawsuit against purported Berkshire Hathaway Inc. units that alleges breach of contract and unjust enrichment in a workers compensation scheme will be allowed to move forward after a federal judge denied parts of a motion to dismiss the lawsuit.

The plaintiffs allege that Continental Insurance, California Insurance and Applied Underwriters Captive Risk Assurance Co., all of which have a principal place of business in Nebraska, are members of companies purportedly operating under Omaha, Nebraska-based Berkshire Hathaway and affiliated with each other.

Plaintiffs alleged that the companies used their corporate structure and affiliation with each other to get around New York insurance laws, according to the ruling by Judge John G. Koeltl of the U.S. District Court for the Southern District of New York in White Plains.

Continental Insurance and California Insurance operated as licensed insurers in New York and sold one-year, guaranteed-cost workers comp policies to small and medium-sized businesses. The policies were conditioned upon the insured companies entering a profit-sharing plan that included a reinsurance participation agreement issued by Applied Underwriters that modified the terms of the comp policy, plaintiffs say. Among other things, the reinsurance participation agreement changed the effective period of the original policy from one to three years, superseded fixed-cost premium rates and imposed failure-to-renew costs, the plaintiffs allege.

When plaintiffs began receiving bills for higher premiums, many refused to pay and their policies were canceled, according to court documents.

Judge Koeltl allowed claims of breach of contract, unjust enrichment and deceptive business practices to proceed.

DOCKET



AWARD AFFIRMED FOR FORMER NFL PLAYER

A professional football player who was injured after his contract expired is entitled to workers compensation benefits, a Pennsylvania Commonwealth Court ruled.

Victor Abiamiri ruptured his right Achilles tendon in 2011 while playing as a defensive end for the Philadelphia Eagles. He later ruptured his left Achilles tendon in 2012 while performing a drill and did not return to professional football.

The Eagles denied Mr. Abiamiri's injuries were work-related, but the appellate court found that he met his burden of proof to support a comp award.

GOLF SWING LANDS WORKER IN LAWSUIT

A country club employee whose testicle was removed after the club's general manager hit him with a golf club is entitled to sue for damages beyond workers compensation, a New York appeals court ruled.

The manager, who was sued by the injured locker-room attendant and his wife, argued that workers comp was the attendant's exclusive remedy. But the New York Supreme Court appellate division ruled in the attendant's favor.

CHUBB NOT LIABLE FOR EMAIL FRAUD LOSS

A Chubb Ltd. unit is not obligated to provide coverage to an accounting firm that transferred more than \$99,000 of its client's money to criminals, the 9th U.S. Circuit Court of Appeals ruled.

In June 2012, an employee of a Los Angeles accounting firm received emails requesting wire transfers of client funds to a Malaysia bank, which she later learned were fraudulent. The accounting firm was unable to recover \$99,434 in transferred funds and sought coverage from Federal Insurance Co. under its "forefront portfolio policy." Federal denied the claim.

The 9th Circuit upheld the denial, finding the policy did not contain coverage for forgery, computer fraud coverage, or funds transfer fraud coverage.



Jim Henderson is chairman and CEO of AssuredPartners Inc. in Lake Mary, Florida. Previously a longtime executive at Brown & Brown Inc., Mr. Henderson has led the private-equity owned brokerage's acquisition-fueled growth since its founding in 2011. Currently ranked as the 13th-largest broker of U.S. business, AssuredPartners last month announced its biggest acquisition to date with the purchase of Torrance, California-based Keenan & Associates. Mr. Henderson recently spoke with *Business Insurance* Editor Gavin Souter about the acquisition and other issues affecting the brokerage sector, including AssuredPartners' future under the ownership of Apax Partners L.L.P., its acquisition strategy and continued disputes over noncompete agreements when brokers move firms. Edited excerpts follow.

Jim Henderson

ASSUREDPARTNERS

Q What does the Keenan purchase do for AssuredPartners?

A It's really a transformative acquisition for AssuredPartners. Keenan allows us to have a meaningful presence in California and to have a quality of agency and people and leadership there to attract others to join us. The senior management team at Keenan has very deep experience, they've been in place for many years and our culture and theirs fit well — they are not looking for someone to fix them and we know that. We can help them with capital to acquire and grow, and they can help us from an operational standpoint and also with certain products, in the case of public entity and health care, that we can take to a national scale.

Q What specialties do they bring to the table?

A Their largest business focus is with public entities. They have a significant share of the K-12 schools in California. They are one of the largest operators of the (Protected Insurance Program for Schools and Community Colleges), where pools are allowed to share insurance or reinsurance buying and also then secure services on workers compensation claims and purchasing property and liability coverages and health care, although health care is typically not in the pools.

Q What had been holding you back from California previously?

A It's finding the right fit with our company culturally. And (with California's employment laws) you have to make sure that you're joining with a company whose employees are pleased to be there and they want to stay there. They should be a destination employer, meaning that employees want to go there and stay there in their career. So I think it's just finding the right company, the right entity where we felt all those pieces came together in a long-term proven culture, and certainly Keenan does that.

Q You've had a pretty aggressive growth strategy over the past several

years. What's the ultimate goal for AssuredPartners?

A We moved (ownership) about a year-and-a-half ago to Apax. We feel that we can deliver great value to Apax. Above revenue size of probably \$1.5 billion to \$2 billion, the most likely route would be going public. And, frankly, we've managed in that environment. Our earnings are such that we feel like we can deliver long-term consistent value. We can also generate cash flow to grow in a public setting. Whether that's five years, or eight



years, or 10 years, that would be hard to nail down, but that likely would be our ultimate outcome down the road.

Q What's the vision for the company? What is AssuredPartners striving to be in the insurance brokerage market?

A We like to be a company where employees join us and they stay, they are successful, they take care of their customers, and so the customers stay with us. We can then add value to our employees' careers — in the case of resources, or markets, or relationships, or knowledge. And then with respect to M&A, (the vision) is to build a company that really is an acquirer of choice on behalf of the agencies joining us, where an agency will know up front if there are any changes and what the changes look like, what is the impact on the equity owner and their employees, and that that story does not change over

time. We don't go in and break glass. We feel that's the reason for our success.

Q Is it tough to turn those acquisitions in to profitable acquisitions, given the multiples that are being paid in the brokerage sector generally?

A If you pick the right people, the task is much easier. The values have escalated, but the rewards of ownership are still there and therefore still attracting capital. The valuations of agencies are at an all-time high, and the number of transactions are at an all-time high. Our viewpoint is that it causes us to spend even more time to look at more agencies so we know that there's a good fit of people and that the understanding about how it can operate is at a level that we can sustain. If it's not, then we need to share that view with the agency to be acquired, and perhaps we're not the choice for them.

Q You and other brokers have been involved in disputes over restrictive covenants. Has there been any change in that kind of issue when you're looking to pick up new people? Is it getting any easier?

A No, I don't think it is. We have employment agreements, others have them as well, and we do honor them. Employees are going to leave and go where they want to work, and no one's going to stop that. Typically when that happens, though, there's some economic settlement for the customers that follow those employees over to their new company — and there should be. We've lost employees and we've got value for it and we've had employees join us and we've paid for value.

Q What's your view of the general property/casualty market?

A Well, the market pricing headwind is a challenge for everyone. Our solution is that we need to invest even more in new producers and new skill sets and training so that we can continue to grow organically. In the last six months, we've had a pleasant rise in our organic growth.

We like to be a company where employees join us and they stay, they are successful, they take care of their customers, and so the customers stay with us. We can then add value to our employees' careers — in the case of resources, or markets, or relationships, or knowledge.



Let's talk about what makes your company—and the risks you face—different.

You deserve a better fit than an off-the-shelf risk management plan. That's why we work hard to understand your business. It's how we can customize a policy that's right for you. We'll get there, together, because when you share, we listen. We hear your needs. And then we deliver by putting more than 110 years of experience and insights into finding your best solution.

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COVER STORY



WEB REVOLUTION CREATES NEW ERA FOR RETAIL RISK MANAGEMENT

As stores close down in shift to online sales, exposures change radically

BY LOUISE ESOLA

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The shift from bricks-and-mortar stores to online shopping websites has the potential to shake up the retail risk management environment like a dozen boxes tumbling off a warehouse shelf.

As more retailers head for the mall exit and enhance their web footprint instead, their insurance and risk management needs will radically change, experts say. General liability risks may fade, as will some workers compensation exposures, but other comp risks will rise and emerging risks that retailers are still learning to grapple with will accelerate.

Tallying the announcements over the past several months, chains including Macy's Inc., J.C. Penney Co., and Sears Holdings Corp., which operates both Kmart and Sears stores, are set to close a total of at least 388 outlets this year. In addition, last month Sears disclosed in its financial statements that it may not be viable in the future. In 2016, Wal-Mart Stores Inc. announced it was closing 154 stores in the United States. And the bleeding doesn't stop with the retail behemoths: Several smaller outlets, combined representing hundreds of stores, have either gone out of business entirely or shifted to an online-only business model.

"What we will continue to see for the foreseeable future is that continued shift," said Jeff Sizemore, Cincinnati-based senior vice president and workforce strategies, retail wholesale, distribution center practice leader for Marsh Risk Consulting, a unit of Marsh L.L.C. "You are going to see the bricks-and-mortar stores continue to shrink and, conversely, electronic fulfillment continues to grow."

General liability

For retail risk managers, an immediate consequence of moving online is a reduction in general liability exposure.

Fewer stores means fewer consumers walking around, viewing merchandise, reaching for boxes on high shelves, trying on clothing and slipping on floors.

"As the (retail) environment shrinks you have less exposure and less traffic," said Mr. Sizemore, highlighting what he and other experts peg as a major benefit of store closures in terms of overall risk management.

"General liability is nonexistent" in a warehouse, said Ernie Aquino, New York-based area senior vice president for Arthur J. Gallagher & Co. "In a big store environment, general liability ... is (high) in terms of number of claims and costs. There is no limit. There are a lot of advantages in insurance costs" for retailers who close stores, said Mr. Aquino.

According to a September 2016 study by Seattle-based actuarial firm Milliman Inc., general liability represents 20% of the total risk costs in retail, with stores experiencing one incident for every 500 people in the United States.

Amy Angell, Boston-based principal

WORKPLACE INJURY RATES

Injury and fatality rates for 2015

RETAIL TRADE

Rate of injury per 100 employees:	3.5
Fatalities in 2015 out of 15.7 million workers:	269

WAREHOUSING AND STORAGE

Rate of injury per 100 employees:	5
Fatalities in 2015 out of 880,000 workers:	11

Source: U.S. Bureau of Labor Statistics

and consulting actuary for Milliman who authored the study, said the effect of store closures is a significant reduction in general liability risk for retailers.

"Conceptually, you eliminate one big risk and that is your customers," she said. "That's the second biggest risk to retailers; they have people in their stores and they have to create an environment that is

See **RETAIL** on page 20

Retail caught flat-footed by e-commerce

At its root, retail industry experts blame the fall in the number of traditional stores on the ease of click-and-buy, unlimited supply, two-day deliveries and free returns.

This change in the retail business model, coupled with overexpansion of stores in the past two decades, led to the current challenges facing the retail-store industry, experts say.

"People are shopping online and (that business is) growing so fast that it is cannibalizing other businesses," said Greg Portell, Chicago-based lead partner in the retail practice of consultancy for A.T. Kearney Inc., a management consulting firm.

"The other big driver is the appeal has vanished for department stores. (Stores) used to be the one place where you could get a lot of brands and items under one roof. The



internet does that better," he said.

Karen Raquet, Philadelphia-based director of retail property management for investment management firm Jones Lang LaSalle Inc., which specializes

in commercial real estate, said store closures are in line with the trend of "right-sizing" after overestimating the demand for store space.

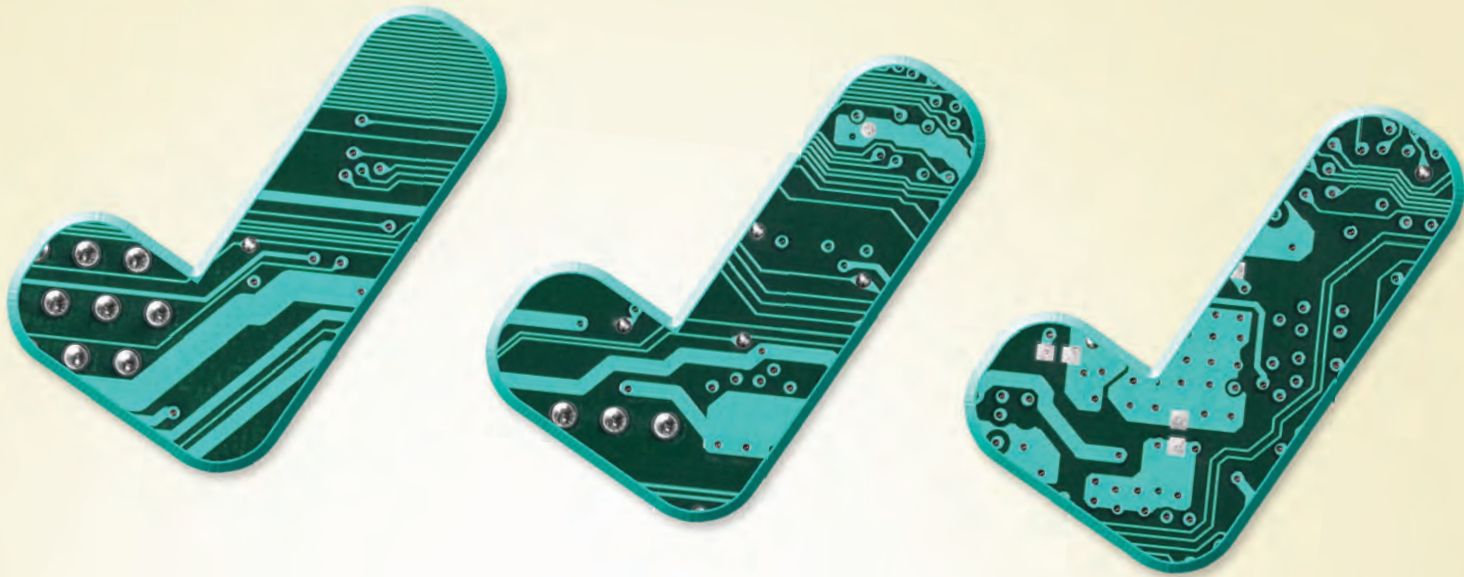
"Retailers are reinventing themselves,"

In an ironic twist, Amazon.com opened its first bricks-and-mortar bookstore, Amazon Books in Seattle's University Village, in November 2015.

she said, adding that she expects the wave of store closures to continue. "They over-expanded in the past ... before e-commerce became possible ... and now they are looking at profitability and right-sizing."

But don't expect all stores to go away, she added. An ironic sign of the ever-changing times: Amazon.com is now opening stores. "It's important for retailers to have both (an online presence and a retail presence)," Ms. Raquet said. "It's critical to their success as a retailer. People need still need to touch and feel ... the strength of e-commerce has to do with store locations."

Louise Esola



3 STEPS FOR BETTER CYBER SECURITY THAT WON'T BREAK THE BANK.

The internet has been a huge boon for business in recent years, helping companies reach unprecedented levels of productivity, profitability and visibility. Yet, along with the internet's many benefits comes the growing threat of cyber attacks. They can put a business's revenue, reputation and customers in peril.

Small and midsize businesses (SMBs) are particularly vulnerable, victim to 60 percent of all cyber attacks in 2014, according to Symantec's 2015 Internet Security Threat Report.¹ That trend is expected to continue.

This may surprise SMBs who believe hackers wouldn't waste their time on a business their size. But cyber criminals can now launch automated attacks on thousands of businesses at once and profit from economies of scale.

SMBs make easy targets because they often lack the robust security that can keep hackers at bay. Putting their assets at risk and providing an electronic gateway into the networks of larger business associates.

The risk can be significant. And SMBs may lack the resources to invest in technologies and internal programs that large businesses can more easily afford. But even with a limited budget, there are three steps SMBs can take as a start.

1. Build a security-aware organization.

Cyber security isn't just about preventive technology. It requires the awareness and participation of everyone. That calls for a top-down approach, beginning with policies and procedures sanctioned by senior management. Ideally, employees will follow their lead in a collective effort to protect the company's assets.

Security-aware organizations have the following key components in place:

- **A written information security plan that:**
 - Identifies security policies, goals and priorities.
 - Sets forth policies for network security; use of company email, social media, instant messaging and the internet in general.
 - Specifies the handling of proprietary company information; and activities that are prohibited on company-owned devices, networks and other resources.
 - Establishes internal policies for employees, but also demonstrates that security is a priority to state regulators and customers if a breach does occur.
- **An inventory of the business's core assets and sensitive data**, where it's stored and which employees have authority to access it. Include personally

identifiable information (PII) for employees and customers (such as Social Security numbers), bank account



data, company intellectual property and any other information that could damage the business if breached.

- **Access control.** Limit access to computers, company networks and confidential data based on an employee's need to know.
- **Employee training programs.** Workplace security depends on a breach-savvy workforce. Training on basic security practices and policies is essential. Phishing awareness exercises can further help employees recognize and avoid email, websites and phone calls designed to infiltrate company systems or steal personal information.



Experienced cyber insurers can help SMBs tighten cyber security with recommended providers. To learn more visit THEHARTFORD.COM/CYBER.

2. Establish security safeguards.

Help safeguard SMBs' sensitive data from unauthorized access and use with these steps:

- **Encryption for laptops, desktops and mobile devices.** Encryption encodes information so that only the person (or computer) with the key can decode it. While not a full security solution, it's highly recommended for all devices, especially those with sensitive information. Most newer model mobile phones and tablets include auto-encryption software. Many privacy and consumer protection agencies provide safe harbors in their statutes to incentivize businesses to adopt encryption controls.
- **Cloud service providers.** Outsourcing security management to cloud-based providers is an increasingly viable alternative to an in-house security program. Cloud providers offer affordable expertise in identity and vulnerability management that the SMB needs but often lacks. SMBs should negotiate with providers for the security and privacy services that best serve their company's protection needs.
- **Password protection and authentication controls.** Passwords are the primary means for controlling access to sensitive data resources. Change default passwords and require complex passwords that must be changed every 90-120 days. Multifactor authentication may be required depending on the type of data being accessed or the source (such as remote users).
- **VPN (virtual private network) for remote access.** For organizations with remote users, VPN provides a secure channel through the internet to the SMB's private network. VPN controls include encryption of all data that's transmitted over the channel, multifactor authentication, strong passwords and automatic timeouts.
- **Vendor security.** SMBs' vendors should make securing sensitive information a priority. Before entrusting data to a third party, SMBs should get their vendors' specific controls in writing. And augment them with additional controls if necessary. Also require the vendor to return or destroy all sensitive information upon termination of the contract.

3. Prepare for the worst.

A security breach is a near certainty for businesses today. For SMBs, preparedness is key to surviving the fallout.

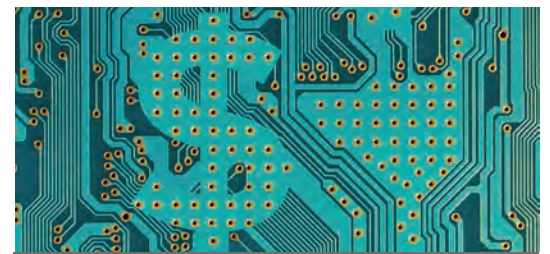
An incident response plan (IRP) prescribes the way a business will respond to and manage the effects of a security attack. Its goal is to limit the damage and reduce recovery time and costs. All SMBs should prepare an IRP that includes:

- **Identification of an incident response team** that includes system-savvy security

staff and a manager authorized to make decisions on behalf of the business.

- **Clear delineation of possible incidents** (such as malicious code) and how to identify and contain them based on the business impact (confidential customer data vs. intellectual property).
- **Procedures for eradicating the root cause** of the attack and all traces of malicious code, restoring data and software, and monitoring systems for any remaining signs of weakness.

SMBs should always work with their insurance carrier to integrate procedural requirements for coverage into their final plan.



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1) 2015 Internet Security Threat Report, Volume 20, http://www.symantec.com/security_response/publications/threatreport.jsp

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SHUTTERSTOCK

Experts predict the shake-up in malls and shopping centers across the country will have a drastic effect on workers compensation, which a Milliman study puts at 40% of retailers' risk-related expenses. Warehousing and storage workforces are more familiar with moving large numbers of bulky items safely, while automation takes over many material-handling tasks.

RETAIL

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safe for the public and people do slip and fall. If someone is sitting at their computer, ordering things online, you eliminate those risks." The largest risk is workers comp, she said.

Terry Grisim, Elmhurst, Illinois-based president of Safety Management Consultants Inc., estimates that half of liability claims in retail result from slips and falls, leading to another area of diminishing risk: workers compensation for retail workers walking those same floors. "If the patrons are falling, the employees are too," he said.

Workers compensation

Experts predict the shakeup in malls and shopping centers across the country will have a drastic effect on workers compensation, which a Milliman study puts at 40% of retailers' risk-related expenses.

Mark Walls, Chicago-based vice president of communications and strategic analysis for Safety National Casualty Corp., said "the net effect is job loss," since more automation reduces workforces and warehouses and distribution centers employ fewer workers than retail stores. As payroll size is an important

component of workers comp pricing, comp exposures will fall.

According to the U.S. Bureau of Labor Statistics for 2017, there are 15.9 million retail workers and 948,600 "warehousing and storage workers" in the United States.

Moreover, ancillary vendors — from workers comp bill reviewers to niche medical services — will likely feel the loss, Mr. Walls added.

"Less premium dollars on the front end and on the back end, fewer claims, and then you will see less medical management," he said. "There's going to be a trickle-down effect."

Claims severity

Muddying the outlook, the types of injuries that occur in a warehouse environment tend to be more severe, said Max Koonce, Memphis, Tennessee-based managing director for retail business unit for third-party administrator Sedgwick Claims Management Services Inc.

According to the most recent figures from the Bureau of Labor Statistics, injuries are more frequent in a warehouse environment: the injury rate in the retail trade was 3.5 incidents per 100 employees in 2015 compared with 5 per 100 for employees in the category of "warehousing and storage."

Yet Mr. Koonce predicts improved numbers in the future for warehouse oper-

ations, as companies with warehouse operations zero in on greater safety measures.

"You are going to see a decrease in accidents," he said. "If you are moving the function to a warehouse environment, then you are talking about moving merchandise with workers who are well-trained to do that in a safe environment."

Mr. Sizemore said that safety training often lags in a retail-store setting, where sales staff have diverse responsibilities — such as unpacking merchandise and arranging displays — and employee turnover is high.

"(In a store) you are going to get training that is at best, weakly effective," he said. "It's a much greater challenge to reach all of the audience in a store environment than a distribution environment, (which is) much more confined and where training is regimented, where the onboarding process is much more structured."

Mr. Aquino, of Gallagher, said more

automation has the potential to further decrease the frequency of claims.

"Although the warehouse has greater exposures, increasingly there are fewer employees you need," he said. "It's more labor-intensive, but some of the advantages are that you can automate a lot of the operation. (In some warehouses) almost everything is done through robotics or mechanical handling."

Mr. Grisim added that automation can eliminate some of the most common warehouse injuries. "The more automation you have, the less material handling you have," he said. "Strains and sprains are a big chunk of what happens in a warehouse space."

Yet Amy Mattle, Chicago-based executive vice president and global client advocate for Willis Towers Watson P.L.C., said the increase in automation could intensify pressure on workers as they rush to fill orders, and lead to more injuries.

"Retailers will still need people assembling and packing," Ms. Mattle said. "Retailers are all trying to get faster. It's the Amazon effect. Everybody expects their order to arrive in a few days, and you could see a workforce rushing. If (retailers) are not careful, they could see more workers comp costs and injuries from that perspective."

Mr. Aquino said some retailers are avoiding the risk altogether by outsourcing, another trend for retailers that are enhancing their mail-order business. "Some are using third-party (for) distribution and warehousing," he said.

Cyber risk

Retailers, no strangers to well-publicized data breaches, will need to enhance their cyber security as more of their business moves online, according to experts.

"I see cyber (breaches) increasing 100%," said Ms. Mattle, adding that retailers are asking for higher limits in network security and cyber security and that the cost for insurance is going up. "(The year) 2016 was big for cyber breaches in retail."

Retail occupancies may pay higher rates for cyber because stores have access to personal information that is desired by cyber thieves, said Gary Love, Johnston, Rhode Island-based manager of operations underwriting for FM Global, highlighting cyber as the issue to watch as retailers change their business model.

"You are going to see a decrease in accidents. If you are moving the function to a warehouse environment, then you are talking about moving merchandise with workers who are well-trained to do that in a safe environment."

Max Koonce, Sedgwick Claims Management Services Inc.

“Moving to less brick-and-mortar stores, in and of itself, is not a material factor unless the move is accompanied by an increased reliance on internet sales, in which case the cyber exposure can be even greater,” he said. “Cyber is new and is really causing a lot of thought and question marks and unanswered questions in the marketplace.”

Erik Rasmussen, Los Angeles-based managing director and North American cyber practice leader for Kroll Inc., said some retailers are lagging when it comes to enhancing their security online but he expects a major shift in 2017.

“We are seeing two to three a week in e-commerce breaches from both smaller and larger retailers,” he said. “People need to constantly upgrade their e-commerce platforms. The migration to e-commerce is forcing retailers to implement more security controls.”

And while data such as credit card information and addresses are stored in fewer places, so are actual products — leading to another increasing area of liability for retailers who move to more online sales: business interruption.



Experts say that instead of hundreds of stores, there are only a few warehouses, leading to concentrated losses if a catastrophe occurs — anything from an accidental fire or arson to an act of nature such as an earthquake or flood.

“This concentration is a big exposure for business interruption when you have all your goods in one to three locations,” said Mr. Aquino.

Mr. Love of FM Global said the increased exposures will cause retailers

to rethink their policies. For example, because retailers rely on “seasonality” of sales of certain items — such as holiday gifts — a catastrophe at a warehouse could cost them a season of sales for items that will not be needed once insurance kicks in.

“(Retailers) will need to make sure their limits are adequate,” he said, adding that seasonality is not considered part of normal business interruption policies. “They will have to rethink ... to pick the right coverages.”

On the business interruption side, retailers may be able to fulfill orders using another warehouse if one warehouse experiences a loss, said Carl Cincotta, New York-based managing principal and retail practice leader for Integro Insurance Brokers, adding that retailers will move in the direction of rethinking their products and their supply chains, and making sure all coverages are adequate.

“I think you will see more customization and more of a forensic analysis of when these losses occur; it’s not as clean cut as in a bricks and mortar facility,” Mr. Cincotta said.

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RISK MANAGEMENT TRENDS

Risk managers adapt to changing times

BY JUDY GREENWALD

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Crisis planning has given risk managers greater input with risks involving reputation. **PAGE 22**

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▶ DIVERSITY IN RISK MANAGEMENT

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Risk managers are striving to tackle the increasingly complex nature of their jobs, which involve addressing new risks as well as effectively using the vast amounts of data now available to them.

Sometimes forced to learn on the fly when a crisis hits, risk managers are developing their skills and becoming more adept at analyzing complex risk just as their profile in the executive suite has become much more prominent, due at least in part to cyber security concerns, experts say.

Meanwhile risk management programs at universities are also adapting to meet the new challenges facing the sector (see related story).

"It's an interesting dynamic," said Bruce Zaccanti, a partner with Ernst & Young

L.L.P. in Chicago. "Years ago, risk managers were primarily focused on technical knowledge of insurance products and then learning the different markets and the execution of those coverages, and it was incumbent on them to have deep technical coverage skills."

Since the 2008 financial crisis, there has "been kind of a pullback, where the risk manager has moved back into the treasury and finance suites," and, with the significantly larger amounts of data now available, he or she is much more financially oriented and sophisticated, he said.

ENTREPRENEURIAL STUDENTS GAIN REAL-WORLD INSURANCE CHOPS

Risk management students at Butler University in Indianapolis are establishing what is believed to be the nation's first student-developed and -run insurance company.

MJ Student-Run Insurance Co. Ltd., a Bermuda captive, is scheduled to begin operations Aug. 1, and will be managed by Aon Captive and Insurance Management, a unit of Aon P.L.C.

It will insure university risks, such as its dog mascot and rare book collection, as well as risks associated with Indianapolis' startup community, which "have products and capital sitting on the sideline because they can't get insurance," said Zach Finn, director of Butler's Davey Risk Management & Insurance Program.

That is just one example of how universities are responding to help students develop skills that will help them in the changing risk management environment.

Keith Yager, manager of insurance risk management at Alcoa Inc. in Pittsburgh, who graduated from the risk management program at Erie, Pennsylvania-based Gannon University six years ago, said it helped him prepare for his current position by offering courses that were "offered with the understanding that business today is conducted more on a global basis than in the past."

The program also offered the opportunity to gain "real-world" experience by working, for instance, with nonprofits or the local Erie Insurance Co., and the opportunity to attend national conferences of the New York-based Risk &



Insurance Management Society Inc., he said.

Ryan Pierrard, manager of property insurance at Bayer Corp. in Pittsburgh, who graduated from the Gannon program about 15 years ago, said the courses he took there "helped me, so I wasn't surprised at what I was getting into," which he said was the case with some others with whom he has worked.

In addition to teaching about insurance, Gannon University's program teaches the engineering aspects of the business, including industrial safety and environmental science, said David Smith, director of the insurance and risk management program at the university's Dahlkemper School of Business.

"Everybody needs a good dose of

finance and a good dose of statistics," which are offered to risk management students at the Wharton School of the University of Pennsylvania in Philadelphia, said Olivia S. Mitchell, professor of insurance/risk management and business economics policy at the program.

The program also conveys to its students that risks "go beyond the math" and that you have to consider an organization's risk culture as well, she said.

In addition, "We talk about the tools of risk management," in insurance, financing and litigation, she said.

"Students need a lot of the same skills they've always needed, including great communication and problem-solving skills," said Kathleen McCullough, professor in risk management and insurance

at Florida State University's college of business in Tallahassee, which also give its students the opportunity to "really engage" with the industry.

And the risk management program at Olivet College in Michigan actively brings risk managers into its classrooms "to talk about some of the things they see on a day-to-day basis," said Tom Humphreys, director of the risk management and insurance center at the school.

Companies are hiring risk management interns, he said.

"More and more large companies say, 'We're really looking to bring in students to learn what risk management is from the corporate perspective, as opposed to the insured side,'" he said.

In the classroom, the rising threat of cyber risk is discussed, Mr. Humphreys said.

"They don't necessarily have to be an expert on technology," but students must understand the risk, what they can do to deal with it and when they must rely on other experts, Mr. Humphreys said.

"The nature of risks is changing, to some extent, as there are a lot of correlated risks that are emerging," including cyber, which is discussed with risk management students at St. John's University in New York, said Mark J. Browne, faculty chair of the university's School of Risk Management.

"We discuss risk pooling in our classes and situations in which risk pooling is difficult because of correlation across risks in risk pools," he said.

Judy Greenwald

"Certainly, enterprise risk management hadn't been introduced a generation ago, and now I think it's becoming the accepted standard for a risk manager to look at risks of all types" that could negatively impact a company, said Michael A. Rodman, principal at Albert Risk Management Consultants in Needham, Massachusetts.

George Haitzsch, chief operating officer of global risk solutions for Willis Towers Watson P.L.C. in Philadelphia, said the risk manager's role is becoming "more and more strategic," and he or she is "well-served to have a broad perspective on both the firm's and the external factors that can impact their business."

"Clearly, the demands on risk management have increased and are changing," driven by the acceleration of new risks, said Brian Elowe, Boston-based U.S. client service leader for Marsh L.L.C.

There are increasing demands from the executive suite, which expects risk managers to be on top of known risks and manage them effectively, as well as to be alert to "what's round the corner," Mr. Elowe said.

Also significant are advancements in data analytics, which continue to create new opportunities, both in terms of risks

inside the organization as well as in taking advantage of optimizing risk financing mechanisms, he said.

Cyber risks are a particular risk management concern, Steven A. Coombs, president of La Grange, Illinois-based consulting firm Risk Resources Inc., said: "There are many different exposures to loss that can arise" from cyber, and "historically, risk managers are not trained in that area, and so it takes more effort, more work and more analysis in collaboration with colleagues to understand exactly what the risks are, and how they impact the organization."

James F. Smith, risk manager at Chicago-based W.E. O'Neil Construction Co., who is investigating buying cyber insurance for the first time, said: "We're kind of going through, do we buy it or not, what does it protect or not, what limits do we want or not, what does it cover."

Also challenging is "you're trying to protect something that you can't quantify," he said. All this "wasn't even on the radar 10 years ago," he said.

"We had a ransomware attack last May, and it had a significant impact. I learned a lot on a very steep learning curve about

ransomware cyber risk," said Janet Stein, director of risk management at the University of Calgary in Alberta.

"We also used this opportunity to share information with our peers about how we handled it and what we did from a risk management perspective," she said, noting the university paid about CA\$20,000 (\$14,982) to receive its encryption key from the hackers.

Keith Yager, manager of insurance risk management at Alcoa Inc. in Pittsburgh, said guidance on dealing with cyber comes from "online interacting with colleagues and the industry that you're in. There's a wealth of resources out there."

Meanwhile, the New York-based Risk & Insurance Management Society Inc. has been active in educating risk managers. Carol A. Fox, RIMS' vice president of strategic initiatives, said efforts include the organization's professional certification program, which requires successful passage of a test, that was introduced at RIMS' annual conference last year.

Passing the test requires expertise in five domains: analyzing the business model, designing organizational risk strategies, implementing the risk process, developing

organizational risk competence and supporting decision-makers, she said.

Organizations must also "continue to push their brokers and markets around process and product innovation," said Steve Keogh, president of Aon Risk Solutions' U.S. retail division in San Francisco.

In addition, they "need to bring great passion to what they do every day, a passion around using data" in innovative ways to solve problems, Mr. Keogh said.

"There are many different exposures to loss that can arise" from cyber risks, and "historically, risk managers are not trained in that area. And so it takes more effort, more work and more analysis in collaboration with colleagues."

Steven A. Coombs,
Risk Resources Inc.

Containing reputational fallout

BY GLORIA GONZALEZ

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Once the responsibility of public relations departments, reputational risk has become a core concern for many risk managers as they become more involved in crisis planning.

Risk managers can play a critical role in addressing reputational risks — which are complicated by the rise of social media — because they often have the broadest view of risk factors across an organization.

“The risk manager role has really transformed in the last 10-plus years,” said Renata Elias, vice president and reputational risk consultant with Marsh Risk Consulting in Dallas. “They’re not only involved in conducting risk assessments to determine what the risks are to the organization, but are also part of the planning process to make sure the training and exercises are done, and also working with insurers to make sure that proper coverages are put in place before a crisis hits. The best practice is that the risk manager is also part of any crisis management team so they’re in the boardroom as part of the decision-making process.”

“From my experience, having risk management at the table can help very early in the process identify where there may be some risks,” said Nancy Wilson, director of quality assurance risk and safety, at food retailer Wawa Inc. in Media, Pennsylvania. “At the end of the day, it’s really about protecting our brand and making sure we keep the trust of our customers.”

Two schools of thought exist around reputational risk, with some observers believing that reputation risk exists and can be directly managed, and others seeing it as encompassing day-to-day business risks that could be harmful if not properly managed — a view that is perhaps more prevalent, said Andrew Bent, speaking as



chair of the Risk & Insurance Management Society Inc.’s Strategic Development Council, and Atlanta-based risk manager for the Americas with software firm The Sage Group P.L.C.

In 2014, RIMS published two reports, *Understanding Reputational Risk* and *Managing Reputational Risk*, outlining a strategic framework for addressing the risk. “This should be a strategic issue for an organization — up above the silos,” said Mr. Bent, who co-authored the *Managing Reputational Risk* report. “If we want to manage these factors that impact our reputation, we need to do it as one organization. If you’re managing within silos and everybody’s doing the right thing, generally speaking you’re probably not going to have too many reputational challenges, but you might not be able to push forward as well as if you have a strong strategic base for doing something new.”

Several risk factors jump to the top of the list when it comes to reputational risk: the conduct of employees or third parties, mergers and acquisitions, and ever-present cyber challenges, said Henry Ristuccia, strategic and reputation risk leader for Deloitte Global in Parsippany, New Jersey.

Social media can aggravate the damage caused by reputational risk, experts say.

“That’s a real game-changer because of its prevalence and its speed,” said Judy Selby, managing director at consultant

BDO USA L.L.P. in Stamford, Connecticut. “Traditionally, a lot of risk managers and corporate boards would look at risks more internally — ‘What are we doing that will affect how we’re perceived in the marketplace?’ — and that’s super important. But the rise of social media in particular has made it imperative for companies to realize that a lot of these threats can originate from the outside and develop a strategy to approach them.”

To mitigate external reputation risk, it is critical for firms to examine their current reputations, determine what they want their reputations to be and what the key threats are to their ideal, she said.

“Get online and see what’s being said about you, what your reputation is in the marketplace, and set up systems to monitor it,” Ms. Selby said.

Social media can “dramatically impact a company’s brand,” which increases the importance of managing reputational risk, Ms. Wilson said at the Philly-I Day 2017 conference in Philadelphia in March. “We’ve got to stay as fast as what’s coming out there from a social media standpoint,” she said. “We do an (enterprise risk man-

agement) program and we go through the process of risk ranking, and we put food safety as our number one risk, as it should be, but it all ends up ultimately supporting our reputation. Our brand is a brand that companies trust and we have to make sure we maintain that.”

Losses experienced due to reputational issues directly correlate to increases in generalized public anger, as demonstrated by angry posts on social media, according to a study conducted by Pittsburgh-based Steel City Re, which offers insurance and risk management solutions for reputational risk.

“Heightened level of anger is very much related to reputation risk because it’s a battle for the hearts and minds of stakeholders,” said CEO Nir Kossovsky. There are

a limited number of insurers that cover the financial loss related to a reputational risk, he said, adding that his firm is advising more than 200 captive insurer owners on reputational risk.

“I think we have to remember reputational risk per se is an extraordinarily challenging risk for the traditional markets to get their heads around,” said Derrick Easton, managing director, alternative risk transfer solutions practice, Willis Towers Watson P.L.C. in New York. “When you look across the markets today, there are various responses depending on the confidence

that we have in the underlying dynamic. That may be risk transfer where there are markets for reputational risk contracts. It may be traditional markets who can offer some reputational or brand coverage and it could be in the alternative markets where we might come at it from a different angle,” he said.

TOP STRATEGIC RISKS

Reputation risk rated as more important than other strategic risks

87%

Loss of revenue and loss of brand value were the biggest impacts for respondents who experienced a reputation risk event

41%

Source: Deloitte October 2014 survey of 300 executives

McDONALD’S SCRAMBLES TO MITIGATE DAMAGE FROM TWITTER HACK

McDonald’s Corp. was not lovin’ the hacking of its Twitter account in March. A tweet sent from the corporate Twitter account of the Oak Brook, Illinois-based chain called President Donald Trump “a disgusting excuse for a president,” said the company would love to have former President Barack Obama back and made fun of the size of the current president’s hands. But the company quickly deleted the tweet, said its account was hacked and apologized.

While the episode is unlikely to cause any long-term reputational damage to the largest fast-food chain in terms of revenue, it serves as a reminder of cyber threats and the speed at which social media can spread damaging information. “The McDonald’s tweet was a major media event, without a doubt,” said Nir Kossovsky,

CEO of Pittsburgh-based Steel City Re. “Was it really a reputational risk event? Notwithstanding the major panic in the PR department of McDonald’s and the corporate scrambling that must have been very colorful,



most stakeholders said, ‘Yeah, they got hacked.’ There isn’t an expectation by stakeholders that companies like McDonald’s be completely impervious to hacking.”

“That outside malicious tampering is such a beast, it really is,” said Chrystina Howard, senior vice president for strategic risk consulting with Willis Towers Watson P.L.C. based in Nashville, Tennessee. “The one thing that has played out well for name-brand companies is that people have a fairly short memory. A single incident ... is very easy for the public to forgive and forget.”

Gloria Gonzalez

A message to Donald Trump appears on the McDonald’s Twitter account timeline — which McDonald’s said was hacked — in a March 16 screen capture.

Auto rates accelerate on rising accidents, costs

BY ROB LENIHAN

rlenihan@businessinsurance.com

While rates in most commercial insurance lines continue to fall, commercial auto pricing keeps heading in the opposite direction and shows no signs of hitting the brakes, experts say.

Big insurers exiting auto lines, increased miles driven, distracted driving, larger court settlements and higher repair costs are all cited as reasons for the increases.

Willis Towers Watson P.L.C. said in its Commercial Lines Insurance Pricing Survey, released March 13, that while most commercial lines were nearly flat in the fourth quarter of 2016, "commercial auto once again experienced meaningful price increases." Willis said the line's cumulative price increase since 2012 is over 25%, compared with roughly 10% for the commercial market as a whole.

In February, the Washington-based Council of Insurance Agents & Brokers reported that commercial auto was the only sector reporting price increases, beginning at 2.7% in the fourth quarter of 2015 and rising to 4.4% by the fourth quarter of 2016.

"I would say the norm on the commercial auto liability line on the primary layers is probably in the mid-to-high single digits," Todd Reiser, vice president transportation at the Lockton Companies in Kansas City, Missouri. "On the excess layers, I would say anywhere upwards from \$3 million and above in limit, that's where we're seeing more drastic rate increases. I would say on a general trend, you're looking at starting point of 10% and up."

In its 2016 fourth quarter casualty report, Marsh L.L.C. said that automobile liability continues to be the most challenging of the three primary lines, noting that "several insurers have stopped writing more challenging transportation risks — mainly, long-haul trucking."

Auto insurance is "an area that is sneaking back up to us all," Paul Horgan, head of commercial insurance, Zurich North America, said at the Philly I-Day 2017 in Philadelphia in March. Zurich exited long-haul trucking and some passenger transport lines last year.

"Auto has really taken the industry by storm. Everybody is struggling with it. There have been a number of announcements with reserve strengthenings on that. We see the industry right now as 20%-25% underpriced in that space. You can't just send out a bill for 25% more. It's going to take innovation on training the underwriter and our customers on driving, on helping to use the technology that's in the cars today better. There are always bread-and-butter challenges that this industry needs to address and auto is certainly one of those."

More recently, David Long, chairman and CEO of Boston-based Liberty Mutual Holding Co. Inc., said in a March 1 analysts call that fourth-quarter operating income was down primarily due to elevated losses in U.S. personal and commercial liability. He noted an increase in highway miles and in distracted driving highway miles leading to more serious accidents, as well as repairs to cars with advanced driver assistance systems.

The U.S. Department of Transportation's website Distraction.gov said that in 2014, 3,179 people were killed and 431,000 were injured in motor vehicle crashes involving distracted drivers.

"Suffice to say both personal and commercial auto markets are in need of additional rate," Mr. Long said.

"I think what you're seeing is a fundamental thing of the



market responding in terms of pricing lagging the frequency and severity of events that are occurring in the marketplace today," said Gerry Glombicki, Chicago-based director with Fitch Ratings Inc. "The hard part with insurance ... is that you don't know your costs of goods sold when you sell the product."

The commercial auto combined ratio has also been climbing, according to the Insurance Information Institute. In 2005, the net combined ratio for commercial auto was 92.1%, the III said, while in 2015 it had risen to 108.8%, the latest year for which figures are available.

"Around 2005-2006, carriers started to cut rates pretty sharply for two or three years," said James Lynch, III's New York-based chief actuary. "As a result, the loss ratios they booked were too low in those years. In the subsequent years, they figured that out and they had to add to their reserves and, of course, that will deteriorate your results. Then right about the time they got through that, they started to have a problem with increasing frequency around 2012-2013. And that continued to this day."

Mr. Lynch also said there was a shortage of truck drivers, leading to the hiring of young, less experienced drivers.

Bob Pitcher, state laws vice president with American Trucking Associations, Arlington, Virginia, agreed that there has been an ongoing shortage of truck drivers due to competition from construction in particular and from the fact that "that trucking is a hard and unusual career."

As insurance prices have increased, Mr. Pitcher said larger trucking companies have been opting to self-insure to an extent, "so that their insurance is more reinsurance."

Another issue affecting pricing is increasing medical costs related to improvements in care, said Dan Aronson, U.S. primary casualty placement leader at Marsh L.L.C. "We have greater medical care, so someone who would've passed away is living a much longer life and there's a lot more care that can be provided and there's more expensive pain drugs and better treatments for burn victims."

Anthony DeFelice, New York-based casualty practice leader with Aon Risk Solutions, also cited growing accident settlements as a factor that's pushing up commercial auto rates.

"We wouldn't necessarily see automobile liability claims in excess of \$10 million dollars," he said, "but in the last couple years, it's very much routine to see in excess of \$10 million and sometimes in the \$40 million to \$50 million range," he said.



DISTRACTED DRIVING UNSAFE AT ANY SPEED

At any given daylight moment in America, about 660,000 drivers are using cellphones or manipulating electronic devices while driving, the U.S. Department of Transportation says.

Insurance professionals point to distracted driving as one of the key factors behind the increase in both commercial and personal auto rates. The DOT's National Highway Traffic Safety Administration said in a September report that the percentage of drivers text-messaging or visibly manipulating handheld devices remained constant at 2.2% in 2015, the latest year for which data is available.

And those drivers thinking that voice-to-text applications will offer them a safety advantage are mistaken, according to a Texas A&M Transportation Institute study that found driver response times were significantly delayed no matter which texting method was used. In each case, the 2013 report said, drivers took about twice as long to react to driving situations as they did when they weren't texting.

"I would say distracted driving is certainly a problem, there are more cars on the road and car sales have been at all time high in the last few years," said Carolyn Snow, past president of the Risk & Insurance Management Society Inc. and director of risk management for Humana Inc. in Louisville, Kentucky. "So you've certainly got a greater exposure."

Ms. Snow said Humana pairs its auto exposure with its workers compensation exposure "because if you have an auto accident, there's a good chance you'll have a workers comp incident."

"I think those two lines of business go together, and ideally and generally you'll have one line that kind of balances out the other," she said. "So maybe you had a bad auto year, your workers comp year has been better. And I think it's really important that — whoever your insurance company is or your third-party administrator is — that they assign one overall claims manager or account manager for both auto and workers comp if you have them tied together."

Rob Lenihan

CLASSIFIED

REQUEST FOR PROPOSAL



The Delaware River Port Authority (DRPA) is requesting a Technical Proposal and a Price Proposal for Loss Control & Safety Services Consultant for the Authority's capital construction projects. Interested parties can find the Request for Proposal documents by going to the DRPA web site www.drpa.org, clicking on the "Working with DRPA" link, and then clicking on "Bids and Contracts."

Diversity in risk management and the insurance industry

BY ANDY TOH
 atoh@businessinsurance.com

Gender pay inequality exists in almost every American industry, but other demographics contribute to that disparity as well. But how do diversity issues affect the risk management sector and the insurance industry in other ways?

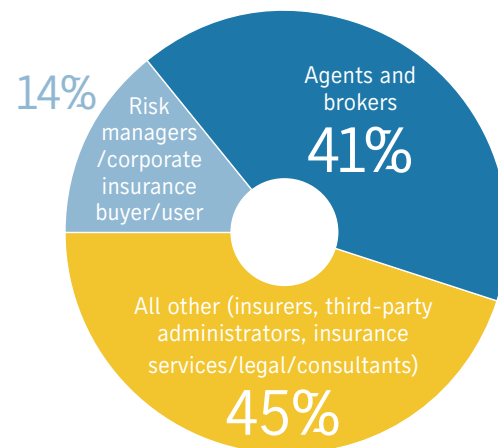
Last year, *Business Insurance* surveyed its Risk Management Insights Panel to get an overview of risk management professionals' attitudes toward their careers. As an extension of that survey, and mindful of the continued effort to bring diversity to the insurance industry, *Business Insurance* commissioned an independent survey, conducted by Signet Research Inc., of our wider audience to get a snapshot of the current state of the industry.

Source: BI Survey



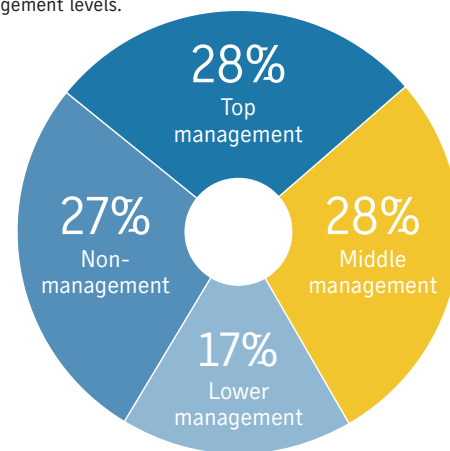
PROFILE OF SURVEY RESPONDENTS

This report is based on 1,023 responses from U.S.-based employees of agents and brokers, risk managers/corporate insurance buyers/users and all others including insurers, insurance services/legal/consultants and third-party administrators.



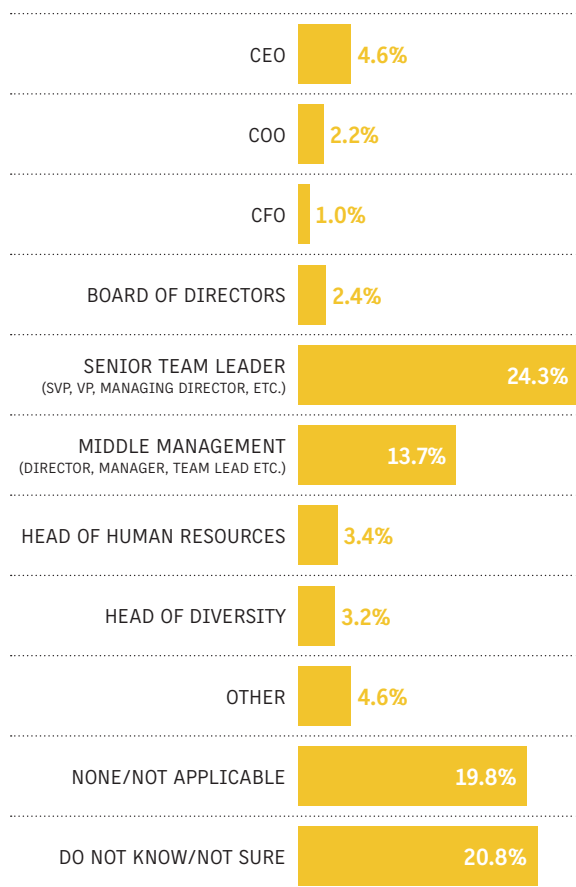
MANAGEMENT LEVEL

Survey respondents were nearly evenly split on management levels.



HIGHEST-RANKING POSITIONS HELD BY A MINORITY

We asked our respondents, as best as they can tell, what is the highest-ranking position held by a person of color or LGBT member in their organization.

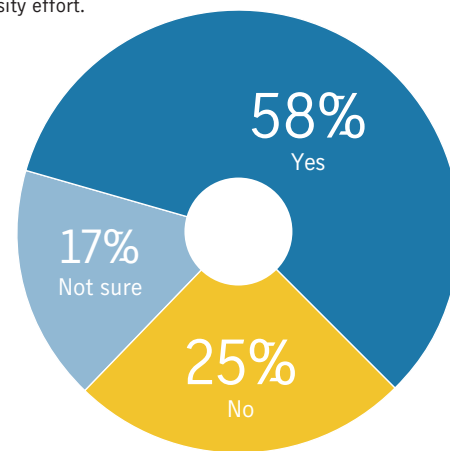


DIVERSITY PROGRAMS OFFERED BY COMPANY

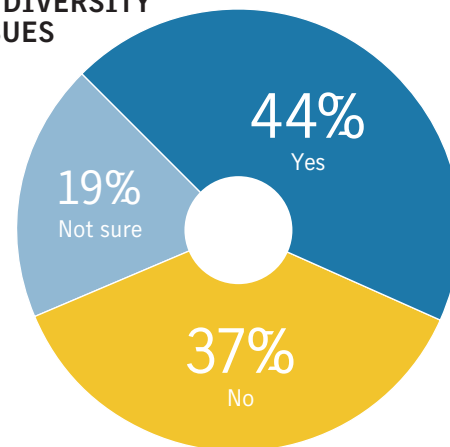
Company engages in community outreach related to diversity	36.0%
Company allows employees to take unpaid leave to observe a religious or cultural holiday not observed by your organization	33.4%
Company employs recruiting strategies designed to help increase diversity within the organization	27.3%
Company provides career development opportunities designed to increase diversity at higher-level positions within the organization	25.0%
Company demonstrates diversity awareness in the form of celebrating different cultural events	24.8%
Company ensures that diversity is a consideration in every business initiative and policy	23.6%
Company collects measurements/metrics on diversity-related practices	23.3%
Company provides career development opportunities specifically tailored to diverse employees	22.2%
Company offers a mentorship program specifically for diverse employees that are new to the organization	20.8%
Company allows employees to "swap" holidays (e.g., work on Christmas to take time off during Passover) to observe an unpaid religious or cultural holiday	18.8%
Company employs retention strategies designed to help retain a diverse workforce	17.7%
Company employs strategies to ensure diversity in the organization's suppliers, contractors, etc	12.6%
Company provides incentive pay for management linked to the achievement of organizational diversity goals	5.9%
Not sure/do not know	16.7%
None of the above	16.8%
Other	3.4%

ORGANIZATIONS WITH DIVERSITY PROGRAMS/PRACTICES

With minorities increasingly becoming a bigger percentage of the U.S. population, companies are stepping up their diversity effort.



PROVIDE TRAINING ON DIVERSITY ISSUES



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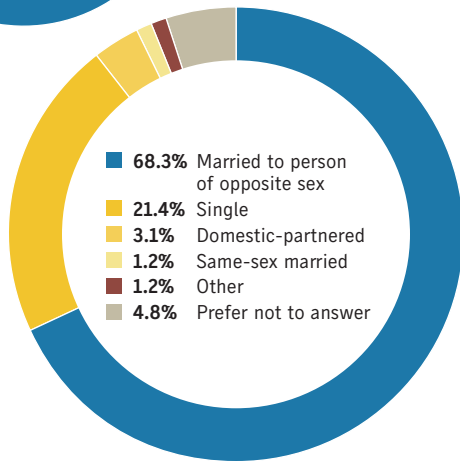
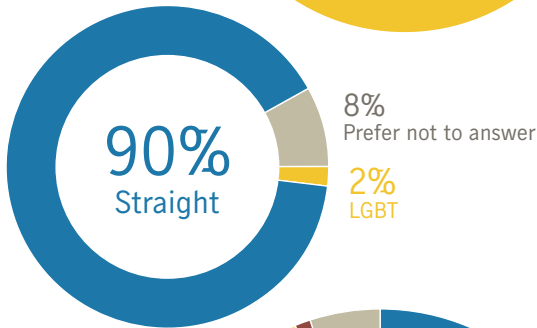
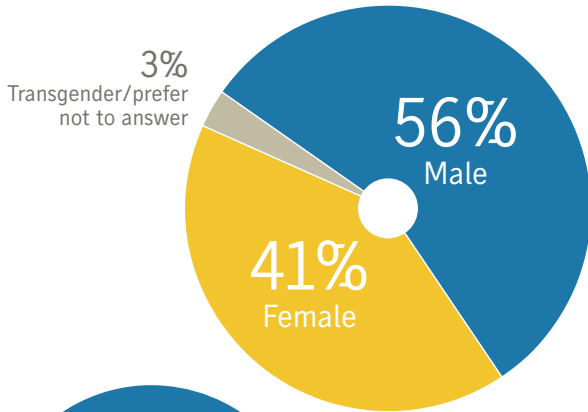
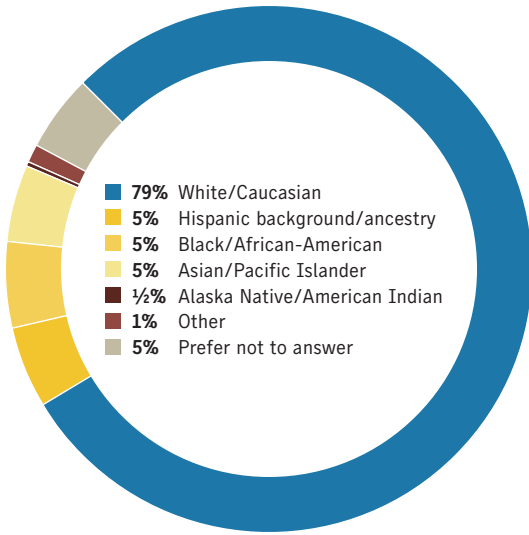
Rated A- Excellent by



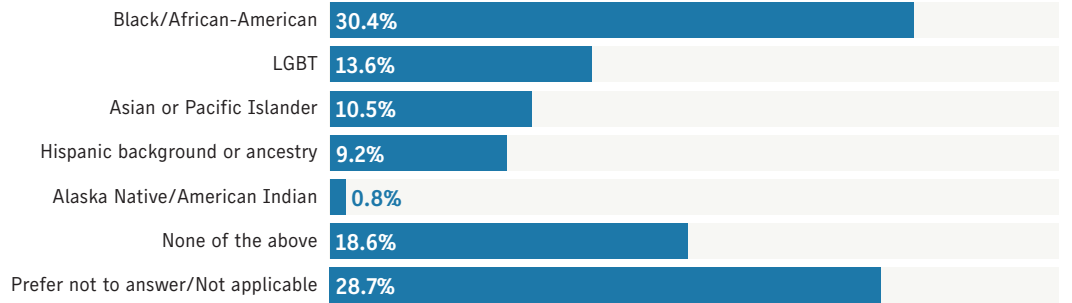
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RACE AND ETHNICITY OF RESPONDENTS



MINORITIES IN MANAGEMENT POSITIONS



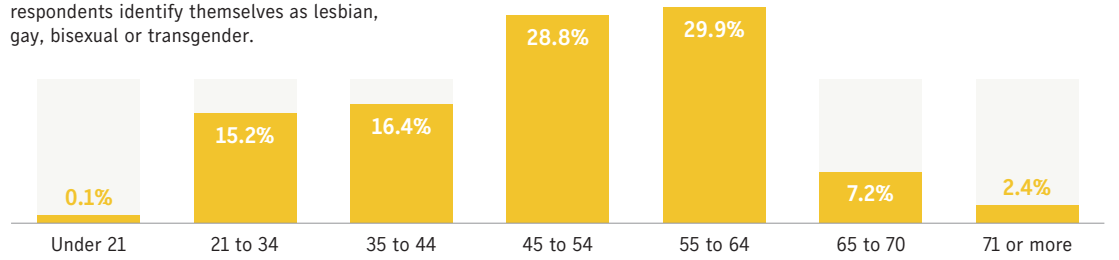
AGE OF RESPONDENTS

The average age of the survey respondents is 49.4, with the majority being white Caucasians and almost all, 96.5% are U.S. citizens. A very small percentage of respondents identify themselves as lesbian, gay, bisexual or transgender.

Average age
49.4 years old

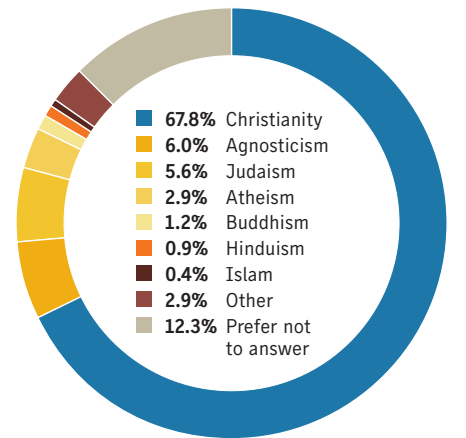
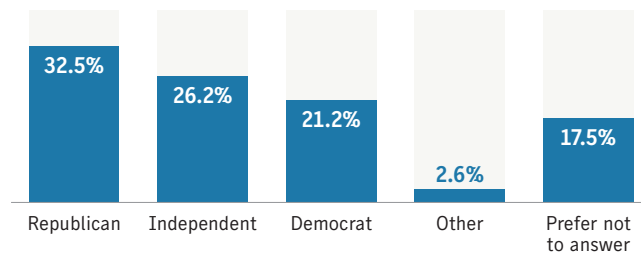
Average professional experience
25.8 years

Average tenure in current company
10.9 years



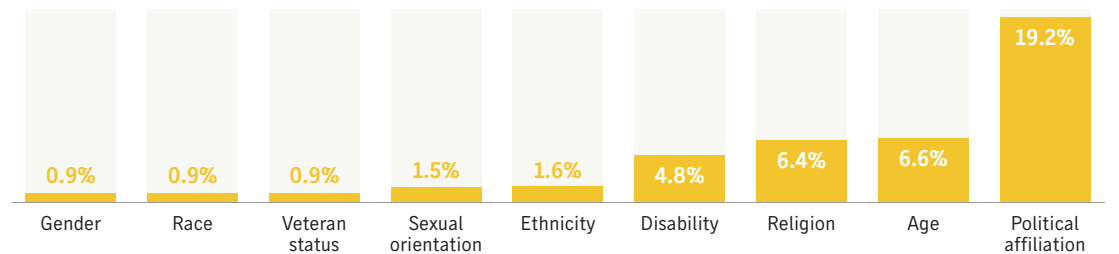
TOP TABOOS

Political affiliation and religious beliefs appear to be bigger taboos than sexual orientation with 17.5% of respondents preferring not to reveal their political affiliation and 12% not revealing their religious affiliation, compared with 7.7% not answering the sexual orientation question.



THINGS THAT EMPLOYEES HIDE ABOUT THEMSELVES AT WORK

In a separate question about things employees hide or "cover" about themselves at work, politics outranked age by a margin of 12.6%. Religion came in third on the cover list with 6.4%. Most cited the reasons for covering due to privacy reasons and that whatever attributes they are hiding from the workplace have no bearings on their work performances.



SCALE MATTERS

Bigger companies are more likely to have programs that address diversity issues than smaller companies.

Like many industries, men tend to get paid more than women in the insurance sector as well. But other attributes also show pay disparities.

	All	Risk managers	Agents & brokers	All others	Male	Female	White	Nonwhite	Republican	Democrat	Independent
Mean working experience (in years)	25.8	27.2	26.3	24.9	26.7	23.9	26.4	21.9	27.2	24.4	24.8
Mean base salary (in thousands)	\$132.4	\$133.7	\$131.3	\$133.0	\$141.7	\$113.6	\$130.2	\$123.4	\$128.3	\$124.2	\$137.2
Up to \$100,000	33.8%	29.7%	38.1%	31.2%	31.2%	42.4%	36.4%	34.9%	34.6%	40.0%	36.4%
\$101,000 to \$200,000	35.0%	44.0%	31.1%	35.5%	35.4%	38.7%	36.4%	40.1%	39.3%	40.5%	34.5%
\$201,000 to \$300,000	8.5%	10.6%	9.9%	6.5%	9.9%	5.2%	8.1%	8.3%	9.6%	5.9%	8.5%
\$300,000+	4.3%	1.4%	5.9%	3.9%	5.8%	1.5%	4.1%	3.1%	3.2%	3.6%	5.1%
Prefer not to answer	18.4%	14.3%	15.0%	22.9%	17.7%	12.2%	15.0%	13.6%	13.3%	10.0%	15.5%

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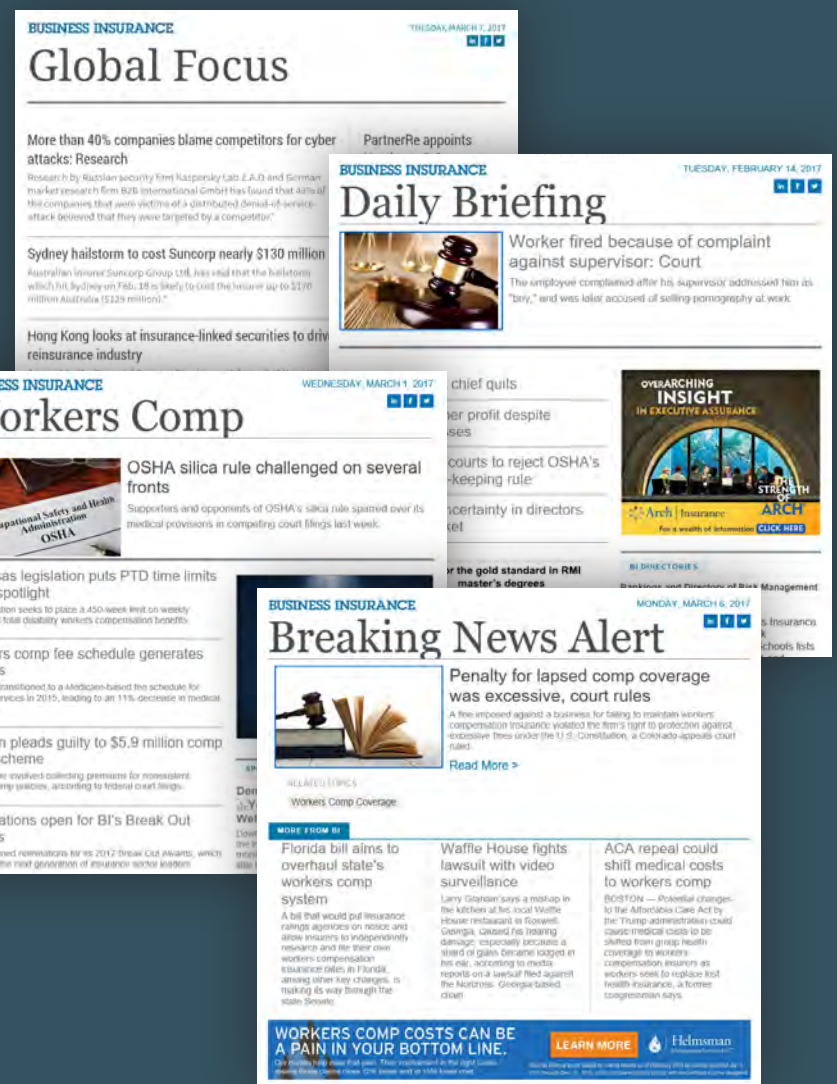
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COMMENTARY

Risk management times are a'changin'

Risk management is an evolving discipline and, as is the nature of the evolutionary process, changes keep on coming.

But, as we report in our cover story on page 16 and in our special report on page 22, the rate of change in the risk management sector is accelerating.

A fundamental change to a business model, such as the move from traditional retail stores to online commerce, brings with it a new risk profile and a need for different risk management skills. Expertise in how to manage slip-and-fall risks for customers, for example, will remain important but maybe not as important as managing workplace safety in the warehouse or workers compensation risks.



Gavin Souter
EDITOR

And as the business evolves even further and automation takes on an even bigger role, cyber risks, engineering risks and business interruption exposures will overshadow all the people risks.

Of course, it's not just retailers that are dealing with changes in business models and processes. One of the biggest and most talked-about changes is the rise in big data and how access to immense amounts of digitized information can open the door to a level of analysis and modeling that was previously unheard of in insurance and risk management.

Having access to the data is one thing, but making sense of it is quite another. In addition, questions are bound to arise on who owns the data. When client data sits in a company's system, does it belong to them or their clients? And who has the right to sell it or use it? These and no doubt numerous other issues will develop as more entities recognize the power of big data and the money that can be made from its manipulation.

The good news for the risk management sector is that risk management schools appear to be recognizing that the game is changing and are striving to ensure their students enter the workplace with a better understanding of holistic risk management.

For those already established in their careers, however, the challenge is how to keep pace as risk management mutates. The creation of best practices by risk management experts and the ability to share learning experiences within the risk management community will take on a new importance, and it's up to everyone in the risk management sector to make sure that such practices survive and thrive.

SCHILLERSTROM



VIEW FROM WASHINGTON

GOP fails legislative debut

Will the self-inflicted death blow to the Republicans' first major legislative effort spell disaster for the rest of their agenda?

The Republican effort to repeal former President Barack Obama's signature health care law imploded last month when the U.S. House of Representatives abandoned Speaker Paul Ryan's proposed legislation due to a shortage of yea votes.

The Republican proponents of the bill did their best to cherry-pick parts of a Congressional Budget Office estimate that worked in their favor, namely that the bill would reduce federal deficits by \$150 billion over the 2017-2026 period. At their worst, they also criticized the hard-working CBO employees for their prediction that 24 million people would be left uninsured under the legislation. But the bill was clearly doomed by a combination of public outcry over the prospect of a huge increase in the number of people uninsured, which spooked some Republican legislators, and conservative Republicans' feeling that the replacement bill did not go far enough in unwinding the Affordable Care Act.

The Republican Party was so deeply divided over whether to demolish the law or reform it in a way that kept some of its most popular provisions that not even threats from their Twitter-happy leader could compel members to get in line to vote for the bill.

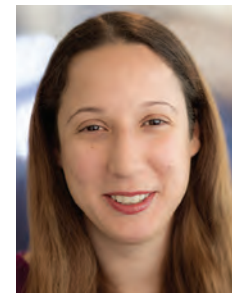
"We had no votes from the Democrats," President Trump said in trying to pass the blame.

No kidding. The Democrats were not going to help the Republicans in any way, shape or form overturn the health care law after they paid such a high political price for that legislative victory in the midterm elections during Mr. Obama's first term. And the Democrats are clearly in no mood to cooperate on much else these days, as demonstrated by their threatened filibuster of the confirmation of Neil Gorsuch to a seat on the U.S. Supreme Court.

"He will have to earn 60 votes for confirmation," Senate Minority Leader Chuck Schumer said. "My vote will be no, and I urge my colleagues to do the same."

So, the Republicans face the prospect of heading into the April recess having failed both to repeal a law they have been railing against for the better part of seven years and to confirm the president's choice for the Supreme Court seat.

What's next? Well, President Trump may be ready to move on to something that he understands



Gloria Gonzalez
DEPUTY EDITOR

from his days as a businessman is quite complicated: reforming the U.S. tax code. His tax plan pledged that "no business of any size, from a Fortune 500 to a mom-and-pop shop," will pay more than 15% of their business income in taxes. Comprehensive tax reform could benefit the bottom line of insurers, and therefore, insurance buyers.

Republicans could also continue their deregulation push. Largely on party-line votes, Congress has quickly adopted several Congressional Review Act resolutions overturning Obama administration midnight rules, including a U.S. Occupational Safety and Health Administration regulation mandating employers keep injury and illness records for five years. I'd expect more tight votes on regulations that continue to divide the parties, including the Federal Communications Commission's internet privacy rules adopted last October.

But the Republicans failed their first major test by not agreeing on how to do away with Obamacare. That does not bode well for the rest of their agenda.

Insurers must take the lead on disaster resilience coverage

Wildfires in California and Alberta, floods in Louisiana, drought and Ebola in Africa and Zika in the Americas and Asia: all reminders of how unprepared we are for the natural catastrophes that accompany climate change and globalization. They are reminders, too, that public and charitable funding for disaster recovery is often inconsistent, inefficient, and insufficient.

But a new group of public-private partnerships has pioneered a different approach to recovery funding — using insurance mechanisms to shift risk from public agencies to international financial markets, and leveraging philanthropic and public-sector funds to develop new innovative risk-sharing programs.

By creating ways to cover occurrences once considered uninsurable, these public-private partnerships have turned disaster recovery into a robust business and investment opportunity — for example, catastrophe bond purchases have grown 10% annually since 2009, with \$26 billion currently in the market. And they have given public agencies a very cost-effective financing tool: Lloyd's Global Underinsurance Report published in October 2012 indicated that a 1% increase in insurance penetration can reduce the cost of disasters to taxpayers by up to 22%. A recent example of making insurance markets work for a greater public good is the \$29 million insurance payout from the Caribbean Catastrophe Risk Insurance Facility to Haiti, St. Lucia, St. Vincent, the Grenadines and Barbados, in the immediate aftermath of Hurricane Matthew. Though modest, the money has been used to help at least 1.4 million affected people to date.

The insurance industry has been a “slow follower” in this important new market, initially questioning whether events such as climate change and disease epidemics were insurable propositions, and whether such products could drive revenues. Yet disaster resilience insurance is indeed proving to be viable, providing an attractive opportunity for the insurance industry — a virtually untapped global market, where big-data and remote sensing technologies ease risk analysis and pricing, and funding from philanthropies and governments reduces initial product research and development costs.

Given the size of this new market — research from Swiss Re Ltd. in 2015 notes that 70% of global economic losses from natural disasters are uninsured, as are 80% to 100% of all economic losses in emerging markets — the disaster insurance business could help relieve the industry's current problems with weak economic forecasts, underutilized capital and mounting competition in their traditional markets.

One of the market's pioneering efforts is the Extreme Climate Facility, or XCF,

being created by African Risk Capacity, a Johannesburg-based agency of the African Union. Designed to help African governments address climate change-driven weather shocks such as extreme heat and droughts, XCF will issue up to a billion dollars' worth of catastrophe bonds in the next three decades — with coupon payments or premiums to global investors, funded in this case by international development organizations and foundations.

Another innovative program in the works is the Pandemic Emergency Financing facility, an insurance solution for curbing pandemic risk launched by the Washington-based World Bank Group. Funded by investor-purchased “pandemic catastrophe bonds” and by insurance and reinsurance contracts with coupon payments funded by development organizations, the PEF seeks to enable fast response to pandemics in low-income countries.

Disaster resilience insurance can become an indispensable product — a major contributor to public-sector recovery funding and a robust new market for insurers whose traditional business lines are constricting.

Building on cornerstones such as CCRIF, ARC and the PEF, the disaster resilience insurance market is poised to grow for decades. And insurers should be entering the market — working closely with governments, development organizations and philanthropies to create customer-tailored products. As they do, they should be mindful of the lessons learned by the market's pioneers and note three imperatives:

Imperative One: Align expectations about what insurance can do.

Too often, public and development-sector organizations, including nongovernmental and intergovernmental organizations and foundations, view insurance as a panacea for disaster response. In reality, it works only for carefully defined, nonfrequent events. It cannot underwrite broad disaster recovery capacities, nor eliminate the need for preparedness funding from public coffers, development loans, and international aid.

Insurers must help development-sector organizations understand what these products are meant to accomplish, generally and specifically. They need to ensure

that payers and policyholders know exactly what their policies will and won't pay for and prompt them to develop a funding plan for essential services or commodities uncovered by insurance.

If companies fail in this “education” imperative, they risk having disappointed public- and development-sector leaders question the effectiveness and value of these products as public finance tools.

Imperative Two: Reduce any complexity and uncertainty that slows down payouts.

A core benefit of disaster resilience insurance is quick access to funds, circumventing delays by bureaucratic, process-heavy public systems and international development agencies. Anything that slows down payouts diminishes their value at the front end of crises. This happened in Mexico last year after Hurricane Patricia. The government had previously issued a \$315 million catastrophe bond, which seemingly transferred the risk of hurricane losses to global capital markets and locked in disaster-relief funding. Unfortunately, the payout was delayed three months by disagreement on whether the event warranted a 100% payout or merely 50%.

To avoid these situations, companies must identify and where necessary develop mechanisms and triggers that leave no room for dispute between themselves, payers, regulators and policyholders.

Imperative Three: Create a safety net to mitigate innovation risk.

The disaster resilience insurance market is still nascent and there will be growing pains. Risk is unavoidable when innovation is so central to the market's development and when the market's context — a world undergoing climate change and issues increasingly crossing national boundaries — is uniquely unsettled. The private sector understands these challenges. It accepts that not all disaster resilience insurance solutions will work as intended right out of the box. It knows that complex products often need recalibration and refinement.

But public- and development-sector leaders do not have the same tolerance for risk or patience for the process, especially when it means that the poor and vulnerable populations affected by catastrophes are left even more exposed to suffering.

African Risk Capacity confronted this risk-tolerance problem when a drought insurance product purchased by the Government of Malawi initially underestimated the number of people affected by drought during the 2015-2016 season. As a result, despite widespread shortage of rain and food on the ground, a payout was not triggered.



Saadia Madsbjerg is a managing director with The Rockefeller Foundation. She can be reached at 212-869-8500 and smadsbjerg@rockfound.org.

The problem was one of data used, not intent or technology; and the situation was ultimately resolved when it was determined through field surveys that the government-provided technical data underpinning the insurance contract, including the variety of maize used for farming, was not in line with the actual farmer practices.

Insurers should anticipate the differential in risk tolerance and address it head-on with their public-, development- and philanthropic-sector partners. Their mutual goal should be creating a “safety net” that permits product innovation and refinement while protecting affected populations. One option is a contingency fund to help communities when an insurance product needs technical recalibration. This kind of joint investment will afford insurers space and time to reinforce the quality and credibility of the disaster resilience insurance model.

Toward both profit and resilience

Disaster resilience insurance can become an indispensable product — a major contributor to public-sector recovery funding and a robust new market for insurers whose traditional business lines are constricting. But for disaster resilience insurance to succeed, insurers must take the lead. They must guide their new collaborators through the complex process of creating and refining products. They must foster the market's growth by promoting wide adoption of their products. They must build confidence that their products will consistently help to protect vulnerable communities around the globe.

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WC Magazine is the premier news resource for the workers compensation sector in today's dynamic market.

Starting with the Spring 2017 issue, *WC Magazine* is now published quarterly by *Business Insurance*. With enhanced reporting and editorial capabilities, *WC Magazine* dives deeper than ever before into news analysis, in-depth features and expert commentary on the key issues affecting the workers comp sector. The refreshed publication has expanded its reach to over 18,000* workers comp professionals, risk managers, c-suite executives, brokers and other targeted industry professionals.

**WC Magazine* internal subscriber figures, March 2017.

SUMMER

THE "LEGAL" ISSUE

Space close - 6/21
Material close - 6/28

FALL

THE "CLAIMS" ISSUE

Space close - 9/20
Material close - 9/27

WINTER

THE "RISK" ISSUE

Space close - 11/22
Material close - 11/29



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Ironshore expands Americas M&A team

■ Ironshore Inc. has expanded its mergers and acquisitions capabilities with a team of new hires in the Americas and broadened office presence in Canada and Latin America.

The Bermuda-based insurer said in a statement that it also has increased its M&A business line capacity to \$150 million from \$96 million to support increased transaction volume throughout the Americas region. Five attorneys also have joined the Ironshore M&A group in New York.

“Ironshore has more than doubled its dedicated team of professionals within the mergers and acquisitions group in the Americas since the division was formed in mid-2016,” Rowan Bamford, global head of mergers and acquisitions and tax insurance, said in the statement. “We have significantly enhanced the Ironshore footprint in the region by appointing experienced specialists in Ironshore offices to meet client demand within the U.S., Canadian and Latin American markets.”

Brit launches US-based cyber insurance team

■ Brit Ltd. has launched a Chicago-based cyber and technology team for Brit Global Specialty USA.

The launch of a U.S.-based cyber team will offer “local expertise and service to meet the growing demand for cyber and technology products in the U.S. (small and medium enterprise) sector,” the London-based specialty insurer and reinsurer said in a statement.

In addition, Chicago-based Michael Carr was named senior vice president, to lead the cyber and technology team. Previously, Mr. Carr was technology practice leader for Argo Group International Holdings Ltd., the statement said.

Willis Towers Watson updates pricing software

■ Willis Towers Watson P.L.C. has launched an updated version of its radar pricing software, Radar 3.0.

The updated version of the software includes new machine learning models and a high-performance mode for 64-bit environments, Willis Towers Watson said in a statement. It also allows users to create hyperlinks that allow dashboards to be created with integrated workflow or guidance.

The software provides enhanced support for cloud-based platforms through Microsoft Azure, Willis Towers Watson said in the statement.

“We are seeing a clear and widespread



Breach policy covers lawyers

■ CNA Financial Corp. has launched a lawyers’ data breach and network security endorsement as part of its lawyers’ professional liability policy.

The policy provides coverage for network damage claims up to the policy limit, as well as coverage up to \$20,000 for costs associated with regulatory investigations from violations of privacy breach notice laws that occurred in the rendering of legal services, Chicago-based CNA said in the statement.

In addition, coverage includes reimbursement of expenses incurred in response to a privacy event, including forensics, notification, privacy breach notice compliance and credit monitoring services costs, according to the statement.

“The Federal Bureau of Investigation has warned law firms that they are a major target of hackers,” Kansas City, Missouri-based Michael Furlong, vice president of underwriting for the CNA lawyers’ professional liability program, said in the statement. “CNA has responded to the increasing pressures of protecting sensitive data by creating this endorsement.”

focus on pricing sophistication and effective customer management. As part of that, insurers in many markets are now actively incorporating machine learning models in their pricing approaches, not only in backroom analytics but also in the live deployed rates. Radar 3.0 supports all of this,” London-based Duncan Anderson, Willis Towers Watson’s global prop-

erty/casualty pricing and product management leader, said in the statement.

Beecher Carlson releases casualty analytics platform

■ Beecher Carlson Insurance Services L.L.C. has released Optimize, its proprietary casualty analytics platform.

Optimize is a casualty suite of support tools and analysis designed to provide a complete evaluation of underlying variables that have an impact on the total cost of risk, the Atlanta-based subsidiary of Brown & Brown Inc. said in a statement.

Optimize provides clients such services as loss projections, retention analysis, collateral analysis and data integrity validation, Beecher Carlson said in the statement. The broker also said it uses Optimize to identify clients’ key cost drivers, manage their claims, mitigate future accidents and determine program structures that will deliver optimal results for their organizations.

Clients do not pay an additional fee for Optimize, Beecher Carlson said in the statement.

XL Catlin quadruples builders risk capacity

■ XL Group Ltd., which does business as XL Catlin, has increased its builders risk insurance capacity to \$1 billion from \$250 million to offer construction firms in North America one-carrier property insurance on high-value commercial real estate projects.

The enhanced capacity is available for both owners and contractors and will allow XL Catlin’s insurance companies to offer life cycle property coverage by providing insurance during both the construction of a project and the operational phase once the construction is complete, XL Catlin said in a statement.

Coverage will be available on the XL Catlin insurance companies’ completed builders risk property form, which provides coverage for the term of the project and includes coverage for owners, general contractors and subcontractors.

In addition to property damage, the policy can be endorsed to provide coverage for the projects’ future earnings by including delay in start-up coverage, XL Catlin said.

“There has been an increased demand for a single carrier builders risk solution for hospital, educational and commercial real estate clients for larger valued projects,” Joe Vierling, senior vice president, XL Catlin North America construction property insurance business, said in a statement.

XL Catlin’s construction property insurance business is part of the North America construction insurance unit.

DEALS & MOVES

AssuredPartners expands with Keenan acquisition

AssuredPartners Inc. is making a significant move into California with the purchase of Keenan & Associates in a deal that will push AssuredPartners’ annual revenue over \$800 million.

The deal is one of the largest mergers of privately held insurance brokers. Terms of the deal were not disclosed.

AssuredPartners, which ranked as the 13th-largest broker of U.S. business in *Business Insurance’s* most recent ranking, has more than \$670 million in annual revenue, according to a statement. Torrance, California-based Keenan ranked 22nd and has about \$170 million in annual revenue.

Keenan will still operate under the Keenan brand and be led by President and CEO Sean Smith.

KKR, pension fund buys USI for \$4.3 billion

Private equity firm Kohlberg Kravis Roberts & Co. L.P. and a Canadian pension fund will buy USI Insurance Services L.L.C. for \$4.3 billion.

The purchase of the Valhalla, New York-based brokerage will shift USI’s private equity ownership once more. The brokerage, which is the ninth-largest brokerage of U.S. business, according to *Business Insurance’s* latest ranking, with about \$1.03 billion in 2015 brokerage revenues, was bought by Onex Corp. for \$2.3 billion in 2012, when it had revenues of about \$660 million. Onex had purchased USI from Goldman Sachs Capital Partners.

A statement said New York-based KKR and Montreal-based Caisse de dépôt et placement du Québec will be “partners with equal ownership” in USI. The transaction, which includes some management ownership, is expected to close by the end of the second quarter.

EPIC buys retail operations of Capacity Group

EPIC Insurance Brokers & Consultants announced that it has bought the retail business of The Capacity Group of Cos.

Terms of the deal were not disclosed. EPIC was ranked 20th in *Business Insurance’s* most recent ranking of the largest brokers of U.S. business, while Mahwah, New Jersey-based Capacity was 39th.

Capacity had brokerage revenue of \$110 million in 2015, the latest year for which figures are available, according to *Business Insurance* research. Capacity Group will retain its wholesale business, an EPIC spokesman said in an email.

EPIC reported brokerage revenues of \$196 million in 2015.

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I am very fortunate to have been surrounded by strong leaders my entire career, and I really hope to emulate their traits. These leaders have been accessible, honest and team players.

UP CLOSE

Angie Strack

NEW JOB TITLE: Chicago-based senior vice president and underwriting manager for XL Group Ltd.'s global risk management division's North Central region.

PREVIOUS POSITION: Chicago-based vice president and underwriting director for XL Group Ltd.

LOOKING FORWARD TO: Since we started writing domestic primary causality out of our Chicago office about six years ago, we have really grown profitably thanks in large part to the support of several key business partners. Looking ahead, I am most looking forward to continuing to grow profitably by strategically expanding the space of partners while we continue to maintain focus on providing great service.

ON LEADERSHIP: I am very fortunate to have been surrounded by strong leaders my entire career, and I really hope to emulate their traits. These leaders have been accessible, honest and team players who are invested in developing their team.

CHALLENGES FACING INDUSTRY: One that is most pertinent to me right now is that we have an entire generation of industry experts that are approaching retirement. The industry has done a great job of recognizing this and is hiring new talent, but a lot of the robust training programs of the past are being offered much less frequently.

FIRST INDUSTRY JOB: Des Moines, Iowa-based intern for regional personal and commercial lines company IMT (Group).

WHAT SURPRISED ME: How close-knit we are as an insurance community.

ADVICE: Find your niche and do it well; along the way, find a strong mentor.

FAVORITE QUOTE: "There may be people who have more talent than you, but there is no excuse for anyone to work harder than you do." — Derek Jeter

OUTSIDE THE INDUSTRY, A DREAM JOB: An education advocate for kids.

HOBBIES: Scuba diving with my family, volleyball, running, reading and baking.

PETS: We have Fiona who is a 4-year-old boxer mix that we adopted two years ago.

THING MOST PEOPLE DON'T KNOW ABOUT ME: I was a gymnast for 10 years.

DON'T LEAVE THE HOUSE WITHOUT: My Kindle.

BIGGEST OBSTACLE FOR WORK-LIFE BALANCE: The constant guilt. Working moms want to be all things to all people, and trying to strike that right balance is a daily juggle.

CORPORATE IMPROVEMENT: We have gotten way too comfortable with email. I'm concerned that our face-to-face communication skills have gotten rusty. I would really like to see less reliance on email and more in-person discussions.

PET PEEVES: All the quirks of commuting on the train every day.

WHEN I RETIRE: I am done with snow.

FAVORITE MEAL: Everything my husband cooks.

CAN'T-MISS TELEVISION SHOW: I have been watching a lot of "My Name is Earl" reruns.

ON A SATURDAY AFTERNOON: I love running with my sons, my dogs and training for 5Ks.

MONDAYS: Throw yourself into your work and time flies.



Peter Hancock will resign as president and CEO of American International Group Inc., but will remain with the insurer until a successor is named, an AIG statement said.

Mr. Hancock was named CEO of AIG in September 2014, having previously run the insurer's property/casualty unit. He will receive an extra \$5 million to stay on at AIG while the insurer finds his replacement, as well as a \$9.5 million severance payment and \$40,000 to pay for COBRA contributions and life insurance, AIG said in a filing with the U.S. Securities and Exchange Commission.



Willis Towers Watson P.L.C. has named Chicago-based **Imran Qureshi** as Midwest region leader for North America.

Mr. Qureshi succeeds Mike Liss, who was named head of corporate risk and broking in North America in January, according to a Willis spokeswoman. Previously, Mr. Qureshi was market leader for Chicago and Wisconsin.



The Captive Insurance Companies Association has named **Dan Towle** as its new president, effective April 24.

Mr. Towle currently serves as director of financial services for the Vermont Agency of Commerce and Community Development, CICA said in a statement. He succeeds Dennis Harwick, who plans to retire June 30.

Mr. Towle, who has been active with Vermont's captive insurance sector since 1999, is based in Montpelier, Vermont.



The Navigators Group Inc. has named London-based **David J. Draper** head of international casualty at Navigators Holdings UK Ltd.

Previously, Mr. Draper was international casualty manager in the overseas general division at Chubb Ltd.

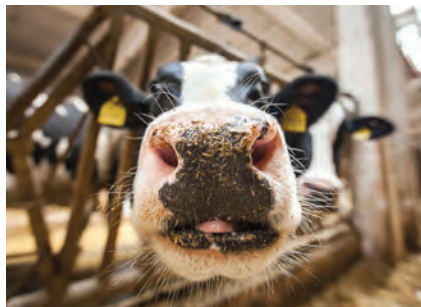


JLT Specialty Insurance Services Inc., which does business as JLT Specialty USA, has named Dallas-based **Robert Moussaid** senior vice president.

Previously, Mr. Moussaid was director of risk and insurance for Energy Future Holdings Corp.

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State moo-ves to limit damages

There will be no silencing of the lambs in Iowa when it comes to expensive public nuisance-related lawsuits against agribusinesses.

An Iowa bill would limit lawsuit damages in cases filed by disgruntled neighbors against livestock producers whose operations tend to be on the noisy, albeit productive side — agribusiness in Iowa generates \$38 billion in revenue annually, according to the Des Moines Register.

Senate File 447 will allow for an affirmative defense to be raised when an animal feeding operation is alleged to be a public or private nuisance or otherwise interfere with a person's enjoyment of life or property, according to the article.

Sen. Dan Zumbach, R-Ryan, a farmer who chairs the Iowa Senate Agriculture Committee, reportedly told the Register that the legislation will help protect the animal agriculture industry, which employs 160,000 in Iowa.

Punctuation dispute gives judge pause in overtime suit



The Oxford comma can help organize longer sentences, eliminate confusion in serial ideas — and apparently help win lawsuits.

As reported in *Boston Magazine*, the lack of an Oxford comma in a state law helped a U.S. Court of Appeals judge in Maine rule in favor of overtime pay for dairy workers in a case that came down to an oft-disputed — among grammar aficionados but rarely in court — preference in punctuation.

The Oxford comma is a comma used before a conjunction like “and” or “or” in a series of three or more items. Contested in writer circles, opponents find it to be to superfluous, while proponents believe it's necessary for better organization, sentence structure and clarity.

A judge in the case against Oakhurst Dairy filed by workers who wanted overtime pay said the state's overtime laws were written ambiguously. “For want of a comma, we have this case,” the judge wrote, according to the magazine.

Per state law, the following activities are not eligible for overtime pay: “The canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distribution of: (1) Agricultural produce; (2) Meat and fish products; and (3) Perishable foods.”

According to the magazine, Oakhurst argued that “distribution of” was separate from “packing for shipment,” which would allow the company to claim exemption from paying its delivery drivers overtime. In trying to prove lawmakers' intent, Oakhurst offered Maine's legislative style guide as evidence, as it advises against using the Oxford comma, according to the magazine.

Odd injuries add up for comp

An obese Australian Bureau of Statistics clerk who claimed he suffered “psychological injury” from bullying and harassment — and as a result needed someone to mow his lawn at home — is among a host of bizarre workers compensation claims that have cost taxpayers

almost \$60 million, according to the Australian Federal Government workers comp insurer Comcare.

In one case, a woman requested \$20,000 for a breast reduction claiming the size of her breasts gave her neck and shoulder pain, according to a media report. Another public servant reportedly tried to fight for workers comp after she was injured while having sex in a motel room during a work trip.

In another case, a worker reportedly claimed she had dietary requirements and needed to find a cafe with organic coffee and soy milk, taking longer than the allotted 15 minutes for her coffee break. Her boss' reaction to her longer break caused her to seek comp for an “adjustment disorder.”



Sprinkler claim washed up

Office worker Sheyla Veronica White allegedly saw an opportunity when a fallen sprinkler head landed on her desk.

She looked left, then right, then grabbed the apparatus and conked herself on the head with it.

Her employer had cameras installed and used the footage as evidence that led to her workers compensation fraud arrest.

Ms. White, whose arrest was featured on the reduceyourworkerscomp.com blog, which also aired the footage, served as a reminder to its readers: “Hitting Yourself Does Not Equal a Workers Comp Claim.”

According to the blog, Ms. White was charged with two counts of workers comp fraud and faces up to five years in prison if convicted.



Insurance covers internet ridicule

Embarrassed by a nasty rumor on social media? Japanese insurer Sampo Holdings Inc. is offering “enjo” — or “flaming” — insurance to cover people and organizations who have suffered online ridicule, according to Rocket News.

As part of the policy, Tokyo-based Sampo will pay for the insured person or company to run media campaigns in their defense and to provide a platform for public apology if need be, according to the news site.

The insurance, launched in early March, would also cover restaurants, fast-food and consumer products scorned by the public for any poorly thought-out marketing schemes or less-than-favorable product launches, the site reported.



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