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After faking her own death multiple times for millions, a woman Down Under gets her due. **PAGE 44**



COVER STORY

Marijuana is on the cusp of becoming big business for the insurance industry as all aspects of the business, from growers to transporters to dispensers, seek coverage as states continue to legalize medical and recreational use of cannabis. There's just one catch: Pot is still illegal at the federal level. Insurers are understandably wary. **PAGE 20**

Captives under regulatory scrutiny

BY GLORIA GONZALEZ

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U.S. owners of captive insurers covering international risks must examine their captives closely to ensure they don't run afoul of a global effort to stop tax avoidance schemes.

But the preparations that captive owners engaged in ahead of Solvency II, the European Union's risk-based capital rules for insurers and reinsurers that came into force in January 2016, should help smooth the compliance pathway for this initiative, according to experts.

The Base Erosion and Profit Shifting, or BEPS, initiative jointly led by the Organization for Economic Co-operation and Development and the G-20 refers to tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low- or no-tax locations, with an action plan published in 2013 that identified 15 specific actions to give governments tools to prevent corporations from paying little or no taxes. Fifty-four countries, including Australia and the United Kingdom, have implemented the framework, while seven countries have draft bills to do so and 15 have announced their intentions to implement the framework, according to a Sept. 8 summary by KPMG L.L.P.

"We see it impacting Europe more than the U.S.," said Peter Mullen, CEO of Aon Captive and Insurance Management in Pembroke, Bermuda. "In the U.S., you have quite a few captives where the risk written in the captive is in the U.S., so the premiums paid into the captive stay there so there's no shifting. It's been more



of a concern in Europe (because) the location of the risk and the domicile are generally different and, proportionately, there's more multinational business in European captives than in U.S. captives so there's more shifting of premium from one country to another."

The initiative isn't specifically focused on captives, but the action plan cited captives as an area of concern, meaning captives will be particularly susceptible to BEPS scrutiny as regulators work to ensure they are not used as vehicles to facilitate profit-sharing and general tax avoidance, according to Willis Towers Watson P.L.C.

The implications of BEPS scrutiny range from double taxation or inadmissibility of tax deductions from premiums, increased time and costs from audit and negotiations with tax auditors, and reputational risk — risks that could threaten the viability of the captives.

"Originally as BEPS was being articulated, there was a notion in the

U.S. that this was yet another European issue like Solvency II — it isn't going to really affect us," said Sean Rider, Willis Towers Watson's executive vice president and managing director based in New York. "No, it's not going to affect U.S. very much, but it is going to affect every U.S. captive owner who uses a captive as part of a global insurance program. It's the international nature of the insurance programs across tax regimes that triggers a need for awareness around BEPS. I think the risk management and captive community in the U.S., who can be very North America-centric, is getting a greater degree of sophistication and awareness of the need to manage the compliance."

BEPS compliance will not be a concern for the vast majority of captives that do not have an international footprint, but "for the larger accounts who use their captives for direct issue programs, who use global fronting arrangements ... BEPS compliance is a must," Mr. Rider said.

"I think it's been slightly underesti-

mated in the U.S.," Mr. Mullen said.

U.S. captive owners should examine whether the amount of premium being charged to particular countries aligns with the risks covered in the captive, said Michael Serricchio, managing director with Marsh Captive Solutions based in Norwalk, Connecticut. For example, a manufacturer that uses the captive to cover risks such as product liability and workers comp should ensure "there are no coverages that don't make sense and no egregious premiums coming out of any one country."

"You want to make sure the captive looks and feels appropriate from a business perspective," he said.

But Solvency II was helpful for captives needing to demonstrate BEPS compliance, Mr. Serricchio said. Solvency II's three pillars focused on capital adequacy, governance and risk management of insurers and effective supervision, and disclosure and transparency requirements.

"That's a lot of what BEPS is trying to capture in its net," he said. "It's a good thing that Solvency II came first."

Given the preparatory work done for Solvency II, experts believe there is no major cause for alarm about the BEPS initiative, although they are urging captive owners who may be affected to pay attention and soon examine their captives for any potential areas of noncompliance.

"There's a need for some concern," Mr. Serricchio said. "There's a need for some review. But I don't think it's a big, scary thing that is going to have captives start closing down. I think that it's just another form of prudent regulation that's going to end up helping captives versus hurting them."

CAPTIVES BY THE NUMBERS

The Federation of European Risk Management Associations published a report in June that for the first time presented compiled data on premiums, profitability and taxation levels from a sample of 462 captives owned by European resident multinational companies. More than half of the captives, or 53%, were domiciled in European countries, 8% were based in U.S. domiciles, and the remaining 39% were in domiciles such as Bermuda, Guernsey and Singapore.

GROSS
PREMIUM
WRITTEN

\$12 BILLION

NET
PREMIUMS

\$9.9 BILLION

NET
CLAIMS

\$7.1 BILLION

LOSS
RATIO

72%

FERMA THROWS SUPPORT BEHIND A CONSISTENT FRAMEWORK

The Federation of European Risk Management Associations is encouraging national jurisdictions to adopt a consistent framework to implement the Organization for Economic Co-operation and Development's recommendations on base erosion and profit shifting in evaluating captive owners' decision-making processes and motivations.

In June, FERMA released a set of guidelines covering three key areas: commercial rationale, substance and governance, and the transfer pricing/premium-setting process. For example, documentation to justify the commercial rationale for the captive could include the

total cost of risk analysis showing how the captive reduces the total cost of risk for its parent, and a total premium statement showing how the captive can save costs for its parent group by reducing total premiums paid outside the group, avoiding numerous local policies and potential duplications and accessing reinsurance or specialty capacity more directly, according to the guidelines.

On the substance and governance side, the documentation should demonstrate elements like the captive board of directors meeting in person and within the captive jurisdiction at least twice a year, and the board comprising least three people, including a resident of the captive domicile.

These first two prongs should not be difficult to comply with, as many of these steps are obvious to captive owners and experts, but the third prong, the transfer pricing/premium-setting process, may be a bit more challenging, said Gilbert Canaméras, FERMA's secretary general. Documentation that would justify the appropriateness of the pricing for a captive acting as an insurer includes a documented and transparent premium-setting process, market quotes from third-party insurers or reinsurers, or a benchmarking analysis and a model-based technical premium using standard actuarial methodologies based on loss history, exposure measures or cost

of capital, according to the guidelines. For a captive acting as a reinsurer, the documentation to support the captive decisions further includes evidence that reinsurance pricing follows the fronting insurer's pricing.

"We can explain very clearly the premium-setting process," he said. "After that, it's the fiscal regulator's decision."

European captives are already dealing with Solvency II requirements and will likely be sufficiently compliant, Mr. Canaméras said. "The sole problem could be captives that are not able to explain the premium transfer," he said.

Gloria Gonzalez

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Privacy rules may boost cyber purchases

BY SARAH VEYSEY

Companies that hold data on EU citizens, including those based in the United States, must ready themselves for upcoming legislation that will harmonize the rules on data breach reporting in Europe and introduce hefty penalties for companies found to fall foul.

The European Union's wide-ranging rules on data security, the General Data Protection Regulation, will come into force in May 2018, and many companies already are well-prepared for the changes the rules will bring, experts say.

And the GDPR likely will lead to increased interest and takeup of cyber insurance coverage in Europe, they say.

The GDPR will apply to companies that are "processors" or "controllers" of data on citizens of the European Union — including the United Kingdom which, though slated to leave the EU, will still be part of the GDPR's scope when it comes into force.

The scope of the new rules is broad and, among other things, requires data controllers to notify their state's data protection authority of a breach with 72 hours.

Fines for breaches may be substantial — up to 4% of annual revenue for the most serious breaches. The GDPR also will require many companies to have data protection officers in place.

Companies based outside of the EU, but which may hold the data of EU cit-



REUTERS

European Commission Vice President Andrus Ansip, left, Commissioner Julian King and Commissioner Mariya Gabriel hold a joint news conference on cyber security in Brussels in September.

izens, need to ready themselves for the new rules, experts say.

The GDPR represents a "sea change" in data protection legislation in the EU, said Matt McCabe, a senior vice president in the cyber risk practice at Marsh USA Inc. in New York.

The changes may not be felt overnight, but those companies that already have a "level of maturity" in their cyber risk management likely will be better equipped to cope with the new rules, he said.

For example, companies that have well-established breach response plans, which they rehearse regularly, will be in a

better position, Mr. McCabe noted.

Multinational companies are aware of the potential impact of the GDPR and should be undergoing privacy impact assessments to understand what data on EU citizens they have and how they are protecting it, he said.

There will be an effect on the cyber insurance market, which is at the end of the "risk appreciation cycle," Mr. McCabe noted. Companies with mature cyber risk management practices are aware that they will not always be able to spend their way out of a breach crisis and put effort into risk mitigation and then use insurance as

a risk transfer tool for the risk that remains, he said.

In a report, Oldwick, New Jersey-based rating agency A.M. Best Co. Inc. said the GDPR would likely have several effects on the European cyber insurance market, where takeup has lagged that of the United States.

"From an underwriting standpoint, the most significant consequence of the implementation of the GDPR is likely to be a marked growth in cyber insurance revenues, with some carriers suggesting it will represent a 'shot in the arm' for the non-U.S. cyber market," said Alvise Argenton, a Best financial analyst in London.

In its report, Best noted that in the short term, an expected sharp rise in reported breaches will increase risk awareness and likely spur demand for cyber coverage. In the medium term, as more reliable data about breaches

emerges, there should be benefits for pricing models, enabling the supply of relevant insurance products to increase.

Sarah Stephens, head of cyber, content and new technology risks at broker Jardine Lloyd Thompson Group P.L.C. in London, said there already has been an uptick in demand for cyber insurance from European buyers.

"Previously, buyers of cyber insurance would often test the water with limits starting at £10 million to £20 million, but we have recently observed new buyers starting out with programs as large as £275 million," she said.



GDPR FINES

The General Data Protection Regulation will introduce a two-tier sanction regime:

- The most serious violations will result in fines of up to €20 million (\$23.9 million) or 4% of a company's global annual revenue, whichever is the greater.
- Lesser violations will result in fines of up to €10 million or 2% of global turnover revenue, whichever is the greater.

Under the GDPR, the £400,000 fine imposed on telecommunications firm TalkTalk Telecom Group P.L.C. in 2016 for breaches that allowed hackers access to customer data would have reached as much as £59 million (\$80.2 million).

According to management consultant Oliver Wyman Group, if the GDPR had been in place for the past five years, FTSE100 firms, the largest 100 publicly listed companies in the U.K., could have been fined up to £25 billion.

RISK MANAGERS MUST LEAD DATA PROTECTION EFFORTS

The European Union's General Data Protection Regulation, the bloc's comprehensive data protection rule, has been on the radar of risk managers for some time, and several associations have been urging their members to take an enterprise risk management approach to the requirements of the upcoming rules.

The Federation of European Risk Management Associations and the European Confederation of Institutes of Internal Auditing jointly published a report in July that urges companies to create dedicated internal cyber risk governance groups, chaired by the risk manager, to operate across all functions in the company to determine the potential costs of cyber risk and propose mitigation measures.

"As recent attacks show, cyber risk is an enterprise issue that affects strategic aspects of the board's mandate including valuation, reputation and trust," said Jo

Willaert, Antwerp, Belgium-based president of the FERMA board, in a statement. "The management of cyber risk has, therefore, become a corporate issue that should be reflected in the governance of the company," he added.

London-based Airmic Ltd., the U.K. risk managers association, and London-based law firm Berryman's Lace Mawer L.L.P., meanwhile, published a report in January that said compliance with the GDPR is not simply an IT issue but is an organizationwide risk that risk managers must address and control.

"Risk managers and the staff in their businesses need, in my view, to start thinking about data protection law and using it in the same way they think about the Highway Code (the U.K.'s rules for road and vehicle safety): It is something to be learned and internalized rather than the subject matter of a voluntary biannual

lecture," said Nick Gibbons, a partner at the law firm.

The GDPR also will introduce a requirement for some companies to have a designated data protection officer.

If companies' core activities require regular and systematic monitoring of data subjects on a large scale, or where a company's core activities involve large-scale processing of special categories of personal data, or where the data processing of a company is carried out by a public authority, companies will be required to appoint a data protection officer, according to the GDPR.

According to an estimate by the Portsmouth, New Hampshire-based International Association of Privacy Professionals, at least 28,000 data protection officers will be needed in Europe alone.

Sarah Veysey

A family of three—a man, a woman, and a young girl—are sitting on the tiled roof of a house that is partially submerged in floodwater. The man is holding the girl, who is holding a stuffed animal. The woman is sitting next to them, looking off to the side. The background shows a cloudy sky and the water reflecting the roof tiles. Three overlapping circles are on the left side of the image: a light blue circle at the top, an orange circle in the middle, and a green circle at the bottom. The text 'Your resolve' is in the blue circle, 'Our resources' is in the orange circle, and 'They can rebuild their lives' is in the green circle. A plus sign is between the blue and orange circles, and an equals sign is between the orange and green circles.

Your
resolve

+

Our
resources

=

They
can rebuild their lives



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Insider trading ruling expands liability

BY JUDY GREENWALD

jgreenwald@businessinsurance.com

Gray areas may remain over the issue of when federal prosecutors can successfully file insider trading charges, despite a major federal appeals court ruling on the issue.

But many believe the Aug. 23 ruling by the 2nd U.S. Circuit Court of Appeals in New York in *United States of America v. Mathew Martoma* will make it easier for federal prosecutors to pursue these cases, should they so desire.

The ruling concerns Mr. Martoma's conviction for one count of conspiracy to commit securities fraud and two counts of securities fraud in connection with an insider trading scheme.

The case involved a consultant who had provided Mr. Martoma, a hedge fund manager for New York-based S.A.C. Capital Advisors L.L.C., with confidential information about a clinical trial for an Alzheimer's medication before it became public, information that Mr. Martoma's firm used to make \$80.3 million in gains and avert \$194.6 million in losses, according to the ruling.

Although the consultant had received payments from S.A.C. in the past, he was not directly paid for this information.

The ruling is the latest in a series dealing with the relationship between tipsters and their recipients. In 1983, the U.S. Supreme Court held in *SEC v. Dirks* that the test of whether there has been a breach of fiduciary duty is whether the tipper will benefit, directly or indirectly, from his disclosure to the "tippee."

In its 2014 ruling in *United States v. Newman*, the 2nd Circuit said that in cases when there was not an explicit "quid pro quo," the tipper had to have a "meaningfully close personal relationship" with the "tippee" for the information "gift" to



REUTERS

Former S.A.C. Capital Advisors portfolio manager Mathew Martoma, foreground, leaves a courthouse in Manhattan with his wife following his Sept. 8 sentencing for insider trading.

be considered insider trading.

Then, in its 2016 ruling in *Salman v. United States*, the U.S. Supreme Court said a tipper receives intangible personal benefits with the gift of confidential information to a trading relative or friend in insider trading cases.

The *Martoma* ruling disagrees with the court's own ruling in the *Newman* case and broadens the boundaries of liability, say experts. It states an insider or tipper may be liable if the tipper discloses information with the expectation the recipient would use it for trading or other personal gain, regardless of whether there was a meaningfully close personal relationship.

"The evidence was sufficient to support Martoma's conviction," said the majority opinion, in affirming the lower court ruling in the case.

ing in the case.

The dissenting opinion states the majority's ruling "strips the long-standing personal benefit rule of its limiting power. What counts as a 'gift' is vague and subjective. Juries and, more dangerously, prosecutors, can now seize on this vagueness and subjectivity. The result will be liability in many cases where it could not previously lie."

Jonathan E. Richman, a partner with Proskauer Rose L.L.P. in New York, said whereas before this ruling a gift of information might need to have been given to a friend or relative to be considered insider trading, "The 2nd Circuit says essentially, it doesn't matter whom you're giving it to" — it could be a doorman, he said.

"The 2nd Circuit has made the government's job easier in prosecuting tipping cases," said David I. Miller, a partner with Morgan, Lewis & Bockius L.L.P. in New York.

After the *Newman* decision, prosecutors may have had doubts about filing insider trading cases. But with this ruling, "we may see an uptick even beyond what we've already seen in insider trading investigations and enforcement actions," he said.

"It's a very important decision," said Ira M. Feinberg, a partner with Hogan Lovells US L.L.P. in New York. "It makes it easier for the government to establish the personal benefit requirement of insider trading law, and to that extent in some cases, perhaps many cases, it will make it easier for the government to obtain a conviction."

"It's a welcome ruling," said Robert C. Hockett, a professor at the Cornell Law School in Ithaca, New York. In a sense, he said, it restores the law that had been in effect for many decades.

However, further clarification may be called for.

"The hardest part of this is, it's going to make some of the lines more blurry, particularly when there's no money changing hands," said Carolyn G. Nussbaum, a partner with Nixon Peabody L.L.P. in New York.

"The dissent indicates that this is an area where the law is unsettled," said Mr. Feinberg. "I wouldn't be surprised if the issue eventually gets back to the Supreme Court."

Harry Sandick, a partner with Patterson Belknap Webb & Tyler L.L.P. in New York, said the government "will still need to show the relationship between the tipper and tippee to explain why this was meant to be like a gift out of kindness, as opposed to information provided for another reason, and what could that reason be."

NEXT STEP FOR APPEAL UNCLEAR

It's unclear whether the 2nd U.S. Circuit Court of Appeals in New York will rehear en banc its August ruling in *United States of America v. Mathew Martoma*, and experts disagree about its chances.

"The odds are always against it, especially in the 2nd Circuit, which hardly ever goes en banc, maybe once a year, so it's an uphill battle," said Jonathan E. Richman, a partner with Proskauer Rose L.L.P. in New York, adding that if he had to bet on the question, the answer would be no.

This may well be the one it takes, though, said Elizabeth Yingling, a partner with Baker McKenzie L.L.P. in Dallas. One reason is the "very well-reasoned and detailed and lengthy dissent," she said.

Another is that it overrules a prior 2nd Circuit ruling. As a result, "I think there is a higher likelihood than normal that this could be heard by an en banc panel," Ms. Yingling said.

While the odds of the appeals court rehearing the

case en banc are better than average, "the trickier question is whether they'll get Supreme Court review," said Carolyn G. Nussbaum, a partner with Nixon Peabody L.L.P. in New York.

Ms. Nussbaum said she does not believe this will be the case "because the Supreme Court generally lets new issues kind of germinate a little bit to see whether a circuit split develops," and the court only looked at this issue last year.

Judy Greenwald





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Tired workers increase safety risks

BY LOUISE ESOLA

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How much sleep are employees getting at night? Workplace safety experts are calling this one of the most frequently overlooked but critical questions to answer in employer safety programs due to rising fatigue risks.

The Park Ridge, Illinois-based American Society of Safety Engineers is funding an ongoing study on fatigue through the University at Buffalo in Buffalo, New York. The study, which began in August 2015, is surveying what workers think about fatigue and whether they can recognize the signs in their everyday work life, according to researcher Lora Cavuoto, an assistant professor in the university's Department of Industrial and System Engineering.

Fatigue is often overlooked in safety programs because "it's hard to pinpoint the instant it happens," Ms. Cavuoto said.

"If we think about fall risk, a dominating injury, you can see those points; you can see you have a worker at height and know the mechanism for solving that. It's fall protection," she said. "Fatigue is a little more subtle and in the background. Workers might not be aware they are feeling the consequences (of fatigue)."

Michael Trufant, an Asheville, North Carolina-based fatigue awareness program manager for AeroFlow Healthcare Inc., which sells sleep apnea tests, called fatigue an "epidemic."

"You can wear your eye protection, but (fatigue) is where it is," he said.

"A person who sleeps only four to five hours a day is the same as a (person with a) 0.08 blood alcohol level," said Mr. Trufant, touting research that's been echoed over the years by many safety organizations — from



the U.S. Occupational Safety and Health Administration to the American College of Occupational and Environmental Medicine.

The Itasca, Illinois-based National Safety Council put the issue on the forefront of its agenda recently. In 2016, the nonprofit tackling workplace safety issues launched a fatigue initiative, providing statistics on how prevalent the issue is becoming in a report issued in July. And this fall, it is launching a fatigue calculator for employers to gauge how tired their employees are and what risks are created as a result of fatigue.

"The tired employees are increasing safety risk," said Emily Whitcomb, an Itasca-based senior program manager with the fatigue initiative. "Employers are becoming more interested in this issue (because) of the major consequences it leads to."

The statistics are alarming, she said, listing some of what she called the most eye-opening in the council's national survey of 2,000 employees across several industries: 43% of

those surveyed reported not getting enough sleep every day; 16% reported falling asleep while driving; and 27% reported falling asleep on the job in the past month.

"That's scary if you are doing a safety-critical job," she added.

The council also narrowed down a list of nine risk factors that contribute to the likelihood of an accident occurring at work — a list that includes long shifts, demanding jobs and long commutes. "Nearly everyone (at 97%) reported at least one risk factor, and 80% reported at least two. With that, your risk factor increases," Ms. Whitcomb said.

Experts have long pointed to such high-profile incidences as the Chernobyl nuclear disaster in Russia, the Three Mile Island nuclear accident in Pennsylvania, the Exxon Valdez oil spill off Alaska and even the most recent string of collisions at sea involving U.S. naval vessels.

"When we look at the largest incidents in the world, all of them are fatigue-related," said Mike Harnett,

Calgary, Alberta-based vice president of human factors for Six Safety Systems Inc., which delivers solutions in the United States and Canada to reduce worker fit-for-duty risks associated with drugs, alcohol and fatigue in the workplace.

"We constantly blamed the operator, but it's the flaws in the system we have to look for," said Ms. Harnett. "That's not human error; they fell asleep because they were not getting enough sleep."

The council's research found that 16% of workers surveyed reported at least one near miss or safety incident because of fatigue.

Ms. Whitcomb said much of the problem exists in current employment culture, which is shifting slowly.

"The hard thing with fatigue is we always see that pushing ourselves, putting sleep to the side, is seen as a badge of honor," she said. "If you lose sleep and put in your overtime, people think it will pay off in the end."

Ms. Harnett said corporate policymakers and executives are often behind the curve, as many have "gone through" fatigue to find success. "The harder and the longer they worked, the better it was for promotions," she said. "We have to convince management they have a problem."

The latest interventions can be as simple as a questionnaire for workers on sleep habits, both before or after an incident, Ms. Harnett said. Another solution is to train employees on the importance of sleep and to limit longer shifts, she added.

Experts say a burgeoning area is in research and testing for sleep apnea and other conditions that can cause a person to be tired during a workday.

"What we are trying to do is get employers to push sleep health programs and sleep screening," said Ms. Whitcomb. "We found that 90% of sleep disorders are untreated."

NINE FATIGUE RISK FACTORS

SHIFT WORK OR WORKING ON NON-DAY SHIFTS

17% INCREASE IN RISK

HIGH-RISK HOURS OR OCCASIONAL SHIFT WORKERS

41% INCREASE IN RISK

DEMANDING JOBS

81% INCREASE IN RISK

LONG SHIFTS COMPOSED OF WORKING 10 HOURS OR MORE

21% INCREASE IN RISK

LONG WEEKS AT MORE THAN 50 HOURS A WEEK

22% INCREASE IN RISK

SLEEP LOSS OR NOT GETTING 7 TO 9 HOURS A NIGHT

43% INCREASE IN RISK

NO REST BREAKS

10% INCREASE IN RISK

QUICK-SHIFT RETURNS OR LESS THAN 12 HOURS BETWEEN SHIFTS

14% INCREASE IN RISK

LONG COMMUTES

31% INCREASE IN RISK

Source: National Safety Council

GETTING TO THE BOTTOM OF FATIGUE ISSUES WITH SLEEP APNEA TESTS

It starts with a simple question: Are you tired during the day?

Workplace fatigue experts say a person who answers "yes" could be a candidate for a test for obstructive sleep apnea, a medical condition that results in nighttime disordered and stalled breathing that can cause a person to have a disruptive night that often results in daytime sleepiness.

Michael Trufant, an Asheville, North

Carolina-based fatigue awareness program manager for AeroFlow Healthcare Inc., said a sufferer can experience between five and 30 episodes of sleep interruption a night because of the disorder.

A video provided by AeroFlow Healthcare helps illustrate what sleep apnea can do. A man is asleep with a slight snore and visibly stops breathing as his chest becomes stiff. Instantly, he jerks awake with a loud snore,

but he won't recall the waking episode in the morning — the telltale sign of sleep apnea.

AeroFlow Healthcare is among the firms marketing at-home sleep apnea screening tests that can help employers discover whether an employee has the disorder. Mr. Trufant said many of his clients come from the trucking industry, but that the trend is spreading to other industries.

The testing and treatment — a continuous

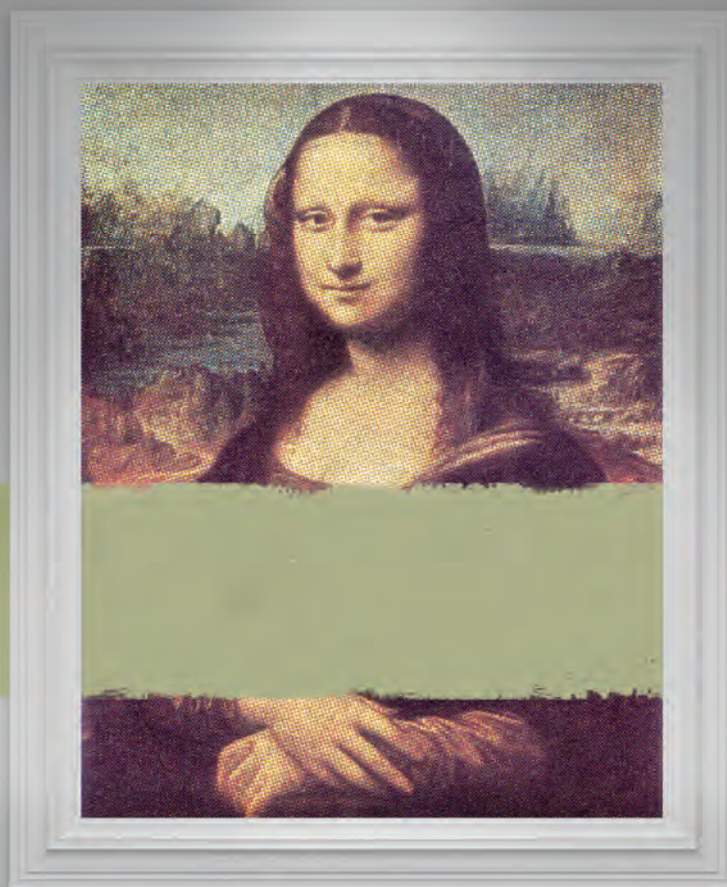
positive airway pressure, or CPAP, device — falls under workplace benefits, but is fast becoming part of the risk-avoidance program, according to the National Safety Council's Emily Whitcomb, who helps run the Itasca, Illinois-based nonprofit's fatigue initiative.

"Thirteen percent of workplace accidents are caused by a sleep disorder," she said. "This is something worth promoting."

Louise Esola

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RULE #16**

**Don't ask your house painter
to retouch the Mona Lisa.**



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OUTCOMES

Contract worker safety conundrum

JOYCE FAMAKINWA

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The rise in the use of contract and temporary workers raises questions about who is responsible for their safety in the workplace.

But employers who use these workers at their work sites would be unwise to assume that they can offload their responsibility to protect them from injury and illness simply because they are not directly employed by their companies, experts say.

"I think that it's attractive for a lot of companies to have outsourced labor, mainly because it creates a lot of savings for the company," said Brian A. Richardson, Richmond, Virginia-based director of the litigation practice group at McCandlish Holton P.C. "If you don't have to account for payroll expenses and other employment considerations, there's a lot of savings in having those issues outsourced. From a comp perspective, you are also shifting some liability toward other entities that are then covering the workers comp for those employees."

Using contractors, temporary workers and other nonpermanent employee situations can have workplace safety and workers compensation implications, according to experts.

"The implications can be significant. Using these workers increases the potential for serious injuries and fatalities due to the workers' lack of familiarity with the work site, the hazards, etc.," said Paul Vescio, Pittsburgh-based senior risk consultant at Aon Global Risk Consulting. "For the staffing agency, (there are) higher workers compensation claims rates, turnover and related costs. There is also the potential for (U.S. Occupational Safety and Health Administration) fines for not providing adequate training or not protecting workers from hazards."

The responsibility for contractors' safety on a work site falls on both the employer and the staffing company, experts say.

"The industry is slowly coming around to the fact that both the staffing companies



and their client employers share responsibilities for safety," said Mr. Vescio. "Staffing companies have a responsibility to provide very basic general safety training, and their host employers are expected to provide more in-depth, job-specific safety training."

The question of who is responsible for the workers comp costs when one of these workers are injured on site is trickier. Generally, the staffing agency would be responsible for an injured temporary or contract worker, but there are times when responsibility could fall on the host employer, say experts.

"The issue really comes up in those situations where you think you are outsourcing things and the person you have outsourced it to may not have insurance coverage," said Mr. Richardson.

In Virginia, statutory employers are deemed to be the employer for the purposes of workers comp when the actual employer does not have coverage, he said. "You can go down a lot of different scenarios where an employer thinks he or she is shielding themselves from liability, yet ends up having to be saddled with liability if coverage is not found from the actual employer," he said.

In cases where the contractor or temporary worker creates a hazard that causes an injury to an in-house employee, responsibility for

workers comp lies with the employer of the injured worker regardless of how the injury occurred. "There may be opportunities to recover some of the costs if a third party is negligent, but this would be case by case," said Mr. Vescio.

Safety hazards that result from outsourced labor often happen due to lack of safety training for these workers, experts say.

"As a host employer, you have to be able to recognize injuries, have good reporting systems, encourage reporting, really specify the training. A lot of times what you see is, 'OK, I've got somebody here on site, they are here for maybe two days, I want to get them to work as soon as possible.' So, you may not give them as full of a training that you would your own employees that will be there longer term," said Amy K. Harper, Seattle-based Journey to Safety Excellence and workplace strategy director at the Itasca, Illinois-based National Safety Council.

Employers can protect themselves and create a safe work environment by having a contractor management program for safety.

"Have a program in place that has a policy that says that all employees are to be treated as our own from a safety and training standpoint," said Ms. Harper.

"The Occupational Safety and Health Administration regulates all workplace safety and they impose those obligations without regard to what anyone may say in a contract," said Ben Huggett, Philadelphia-based shareholder and co-chair of the national workplace health and safety practice at Littler Mendelson P.C. "Where OSHA has a problem is ... there have been a lot of unfortunate circumstances where the host employer isn't addressing any safety and health for those folks because they are not their direct employees," said Mr. Huggett.

An OSHA representative could not be reached for comment.

Kristen Beckman contributed to this story.

OSHA GUIDANCE FOR TEMPS

In 2013, the U.S. Occupational Safety and Health Administration launched the Temporary Worker Initiative to address the risk of work-related injury and illness and protect temporary workers from workplace safety hazards.

The initiative recommends that both host employers and staffing companies detail their respective responsibilities for compliance with OSHA standards in a contract. OSHA holds both staffing companies and host employers jointly responsible for maintaining a safe work environment for temporary workers.

Because the Trump administration has not nominated a new assistant secretary of Labor for OSHA, the agency has been operating with its long-term staff employees, who have not had the authority to change programs, said Ben Huggett, Philadelphia-based shareholder and co-chair of the national workplace health and safety practice at Littler Mendelson P.C.

"They have continued most Obama administration initiatives unchanged," Mr. Huggett said. "The Temporary Worker Initiative is one which has continued without official change."

RECORD KEEPING

Injury and illness record-keeping responsibility is based on supervision. If an employer supervises a temporary worker daily, the employer is responsible for record keeping.

PROTECTIVE EQUIPMENT

The responsibility for providing temporary workers with protective equipment, which can include gloves, safety glasses, shoes, earplugs, hard hats, respirators and full-body suits, usually lies with the host employer due to its familiarity with the hazards workers could face.

SAFETY TRAINING

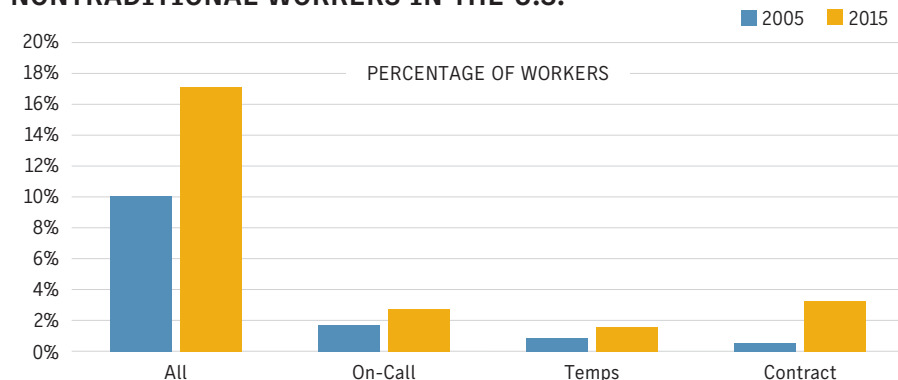
The staffing company and host employer share the responsibility for training temporary workers, but employers may decide to divide these responsibilities. Both employers should be clear about which aspects of training they will take on and inform the other when training has been completed.

HAZARD COMMUNICATION

Even though providing information and training to their employees about the hazardous chemicals they will encounter on the job and informing them whenever a new hazard is introduced into their work area is a joint responsibility, the host employer holds the primary responsibility.

Joyce Famakinwa

NONTRADITIONAL WORKERS IN THE U.S.



Source: Katz and Krueger, 2015

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Tackling lower back pain with words

BY LOUISE ESOLA

lesola@businessinsurance.com

What is said to a worker grappling with lower back pain has the potential to lead to a better outcome, according to experts who say the workers compensation industry is moving away from immediate medical imaging and surgery toward conservative care that starts with words.

Don't call it "your injury," said Dr. Jennifer Christian, president and chief medical officer at Wayland, Massachusetts-based Webility Corp. at the California Workers Compensation and Risk Conference in Dana Point, California, in September.

Instead, she said, call it "your recovery process." Don't say "getting you back to work." Say, "getting your life back to normal." Don't ask about pain; ask about progress. The list goes on.

"(There are) people who have relatively moderate conditions who end up creeping toward catastrophe," Dr. Christian said. "A lot of it has to do with words."

Lower back injuries comprise roughly one-third of all workers comp claims, according to Mary O'Donoghue, Boston-based chief clinical and product officer, MedRisk Inc., who called both chronic, cumulative back injuries and more acute incidents the "leading cause of workplace disability."

An overlooked element of the injury is what is going on in a suffering worker's head, she said in an interview. "The medical is easier; it's more black and white. But getting inside the psychosocial is very gray, yet that's not a reason to shy away from it."

"Any perceived injustice can impact recovery," Ms. O'Donoghue added. "We typically focus so much on the medical and that leads to our over-aggressiveness in treatments and got us to where we are with opioids."

While an MRI scan is often the first line of treatment, experts are leaning toward interventions such as cognitive behavioral

THE POWER OF WORDS

SAY THIS:

- Your recovery process.
- Getting life back to normal.
- What progress have you made? What can you do now that you couldn't do the last time we talked?
- Call it "a backache" or "shoulder trouble"
- Many people your age — who don't have symptoms at all — have abnormal MRIs.
- Stay active; movement has been proven to be good. Walking will reduce your pain and improve your mood.
- Try not to let this get in the way of your life; you can probably find a way to do the things you care about.

NOT THIS:

- Your injury.
- Getting you back to work.
- How's your pain, from 1 to 10?
- Call it a "back injury" or "shoulder pain."
- The findings of an MRI: Bulging disc. Disc Protrusion. Loss of cartilage. Bone on bone.
- Avoid activity; get plenty of rest.
- You must follow your doctor's restrictions.

Source: Dr. Jennifer Christian, president and chief medical officer at Webility Corp.

therapy as a go-to for treating a back injury.

"MRIs trigger illness and increase likelihood of catastrophization," Michael Rosenthal, an assistant professor in the Doctor of Physical Therapy Program with San Diego State University, told conference attendees. "They go from having a mild problem ... then they get the results and they rate their pain at a higher level even though there has been little change."

"(Their) perception of pain is not accurate ... when patients start having pain outside of the proportion than what we expect," he added. "Some patients may need a little more than reassurance and simple education ... others may need more advanced psychological informed

rehabilitation. You may send them to the best physical therapy clinic in California. ... That patient may not respond very well without that multidisciplinary approach."

Dr. Christian said claims handlers and employers can be on the front lines by helping to answer questions a worker suffering a back injury may have, instead of leaving it up to the doctor.

"They are wondering, how long am I going to be laid up? How long do I have to take it easy? When am I going to be back to normal, if ever?" she said. "As I realized, in medical school we are not trained to answer any of those questions. ... The patient is left alone to figure this out."

"What we say (and) how we say it ...

words can reassure or frighten," continued Dr. Christian. "(Words) can build trust or confidence. ... They can empower or undermine. Your words are either going to establish yourself as someone helpful or create distance."

Ms. O'Donoghue said the focus should be on developing what she called a "therapeutic" relationship between the claimant and the claims handler — she doesn't even like the phrase "injured worker."

"In terms of words, you have to start at the very beginning of the claim," she said. "These sound like simple things but in the work comp world, it's an 'injured worker' instead of someone who needs assistance. I think we could do a better job."

IMAGING STUDIES CAN EXACERBATE INJURY PERCEPTION

The traditional way of dealing with back pain was to send workers to an MRI scan, which often led to a doctor delivering bad news that surgery might be necessary, said Dr. Matthew Walsworth, a radiologist with West Los Angeles VA Medical Center and faculty member at the University of California, Los Angeles.

Instead, the issues that pop up on an MRI screen can be likened to the "gray hair and wrinkles in the spine," he said.

Dr. Walsworth participated in a session on back pain at the California Workers' Compensation and Risk Conference in Dana Point in September. In his presentation, he referred to several case studies, including that of a 62-year-old man with back pain and an imperfect spine.

He said that some doctors would look at such an image and order surgery, which might exacerbate the overall injury and delay recovery.

"This is not a pristine spine, but it (shows) normal changes; if you want to grasp something to operate on, you could," he said.

Instead, treating physicians can delay an MRI and work toward a recovery solution that could include physical therapy and cognitive behavioral therapy, Dr. Walsworth added.

Louise Esola





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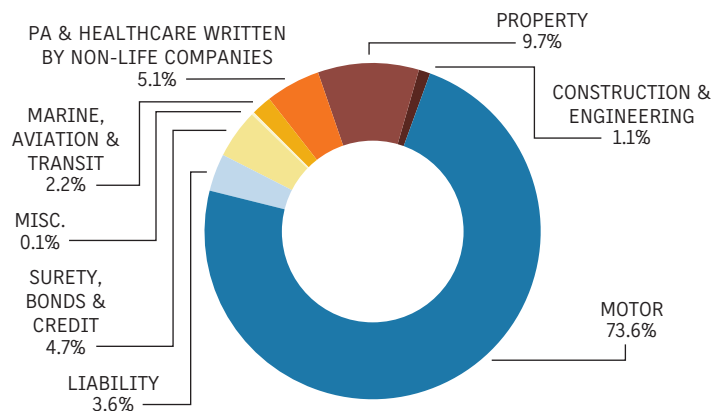
PROFILE: CHINA

2

GLOBAL
P/C MARKET
RANKING

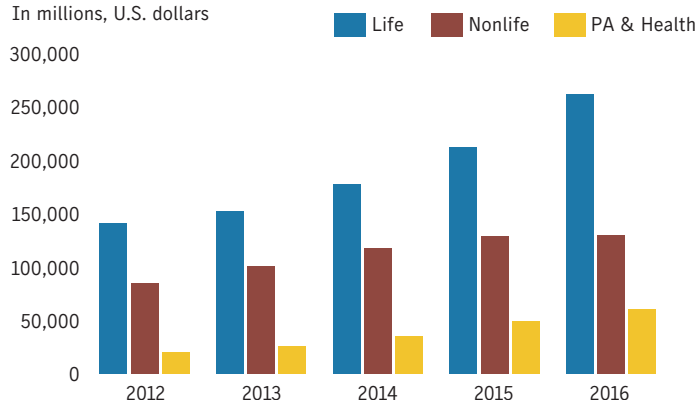
The People's Republic of China is the fourth largest country in the world after Russia, Canada and the U.S. It has been a one-party state ruled by the Communist Party since 1949. Its property/casualty market comprises 60 domestic insurers and 22 foreign subsidiaries, which have only a 1.9% market share, and is dominated by state insurer People's Insurance Co. of China. Observers believe traditional insurance lines such as auto, commercial/industrial property and marine are past their peak in terms of size and growth, chronically underpriced and unprofitable because of intense competition. There is widespread conviction among insurers, reinsurers and brokers that the future of the industry lies in innovative policy types, personal lines and the distributive power of the internet.

MARKET SHARE



MARKET GROWTH

In millions, U.S. dollars



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

COMPULSORY INSURANCE*

- Auto third-party liability
- Nuclear liability
- Inter-city carriers' liability

*These are the only compulsory insurance coverages that are consistently enforced on a nationwide basis. Most other compulsory classes — for example, workers compensation, food safety liability and environment liability — apply only on a municipal or provincial basis. Many of these are still at the trial stage and will spread more widely across the country once their effectiveness has been proved.

NONADMITTED

Nonadmitted insurance is not allowed because the law provides that insurance must be purchased from companies licensed to operate in mainland China, excluding Hong Kong, Macao and Taiwan. The only partial exception to this rule is international marine cargo (excluding cost insurance and freight exports).

INTERMEDIARIES

Insurance brokers and agents are not allowed to do business in mainland China without being authorized by the China Insurance Regulatory Commission. This prohibition also applies to intermediaries licensed in Taiwan, Hong Kong or Macao, which are not allowed to do business in mainland China without local authorization.

MARKET PRACTICE

There are widely differing approaches to insuring foreign multinational risks in China, which range from 100% local cover to 100% nonadmitted insurance. Because of increasing compliance awareness, however, particularly as regards premium taxes, the current trend is away from nonadmitted and toward local coverage, sometimes with a nonadmitted difference in conditions/difference in limits policy on top. Many local policies are written on a fronting basis, though the amount of premium ceded to the global program insurer is usually less than 80%.

MARKET DEVELOPMENTS

Updated July 2017

- On March 13, the China Insurance Regulatory Commission, or CIRC, published regulations outlining the types of collateral for which ceding credit may be taken. The C-ROSS solvency margin formula includes a substantial reduction in the counterparty credit risk capital charge for offshore reinsurance recoverables if such recoverables are collateralized.
- CIRC Chairman Xiang Junbo was formally dismissed from his post on May 5 following accusations of "serious disciplinary violations" by the Communist Party's Central Commission for Discipline Inspection.
- The CIRC has instituted a new evaluation system known as Solvency Aligned Risk Management Requirement and Assessment, or SARMRA. This aims to align insurers' solvency requirements with their risk management standards, so that insurers with superior risk management capabilities will receive a capital reduction, while those with deficient capabilities will take on a loading.
- Two new domestic reinsurers, PICC Re and Qianhai Re, have been licensed by the CIRC. Taiping Re has increased its market presence by upgrading its branch to a subsidiary.
- The Shanghai Insurance Exchange officially opened on 12 June 2016. The exchange is developing four trading platforms for direct business exchange, reinsurance business exchange, insurance asset management, and tenders and bids.



AREA

3,700,593

square miles

POPULATION

1.38

billion

MARKET CONCENTRATION

73.7%

market share of top five insurers

2017 GDP CHANGE (PROJECTED)

6.5%

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

Ex-AIG chief Greenberg can pursue Spitzer suit

■ Maurice R. Greenberg, former chief executive of American International Group Inc., may pursue large parts of his defamation lawsuit against former New York Attorney General Eliot Spitzer, a New York state appeals court ruled.

The decision by the Appellate Division in Brooklyn, New York, came seven months after Mr. Greenberg, 92, reached a \$9 million settlement with Eric Schneiderman, the current state attorney general, of civil accounting fraud charges first brought by Mr. Spitzer in 2005.

The complaint “adequately stated that Spitzer acted with actual malice” in criticizing Mr. Greenberg, with a goal of damaging Mr. Greenberg’s reputation and career while bolstering his own, Justice Cheryl Chambers wrote for a four-judge panel.

Messrs. Greenberg and Spitzer had been appealing a June 2014 lower court ruling letting Mr. Greenberg pursue part of his case against Mr. Spitzer, his longtime nemesis. The appeals court restored some claims that had been dismissed.

Mr. Greenberg objected to statements Mr. Spitzer made in television interviews in 2012 and a book, “Protecting Capitalism Case By Case,” in 2013. He said the statements falsely implicated him in fraud at AIG and suggested he was “removed” or “thrown out” by the insurer’s board because of his role, among other allegations.

The appeals court said Mr. Spitzer’s background as attorney general could have left listeners “less skeptical” and “more willing” to believe him, including when he told then-CNBC anchor Maria Bartiromo that “Hank Greenberg at AIG committed fraud. The record on that is indisputable.”

It said the lower court judge erred in dismissing claims over Mr. Spitzer’s statements tying Mr. Greenberg’s 2005 exit from AIG to fraud there, citing a lack of evidence of such a link.

Reuters

Yoga instructor’s gender bias suit reinstated

■ A New York state appeals court has reinstated a gender discrimination case of a yoga instructor who was allegedly fired from her job for being “too cute.”

Dilek Edwards was hired as a yoga and message therapist by Charles B. Nicolai, co-owner of Wall Street Chiropractic and Wellness in New York in 2012, according to court records. Mr. Nicolai warned Ms. Edwards that his wife might become jealous because she was “too cute,” although Ms. Edwards contended she and Mr.

Nicolai had a “strictly professional relationship,” according to court papers.

On Oct. 29, 2013, Ms. Edwards received a text from Mr. Nicolai’s wife warning her to stay away from her husband and family. Mr. Nicolai fired her the next day.

Ms. Edwards filed suit charging gender discrimination in violation of the New York State Human Rights law and defamation in violation of the New York City Human Rights Laws. The court upheld the defamation charge, but dismissed the gender discrimination charge. On appeal, the New York State Supreme Court’s appellate division reinstated the gender discrimination charge in its 4-0 ruling.



Chubb wins Lakers coverage dispute over texting claim

■ A Chubb Ltd. unit has prevailed in litigation with the Los Angeles Lakers Inc. in a Telephone Consumer Protection Act case, with a federal appeals court holding a TCPA claim is “inherently” a privacy claim, which is excluded under the team’s policy.

But the ruling is unusual in that the three-judge panel of the 9th U.S. Circuit Court of Appeals in San Francisco issued three separate rulings in the case — a majority, concurring and dissenting opinion.

In 2012, David M. Emanuel attended a basketball game at the home arena of the Los Angeles Lakers and responded to a scoreboard invitation asking attendees to send a text message to a specific number, according to the ruling by the 9th Circuit. Mr. Emanuel sent a text message to that number, hoping the Lakers would display it on the scoreboard, and received an automated reply.

The following month, he filed a putative class action suit, charging the Lakers sent the response using an “automatic telephone dialing system,” which was in violation of the TCPA, and asserting several times the Lakers message was an invasion of privacy.

The Lakers asked their insurer, Federal Insurance, a unit of Warren Township, New Jersey-based Chubb, to defend them against the suit under their ForeFront Portfolio insurance policy. Federal denied

the claim on the basis the underlying lawsuit was an invasion of privacy suit, which was excluded under the policy.

The Lakers filed suit against the insurer, charging breach of contract and of implied covenant of good faith. The U.S. District Court in Pasadena, California, dismissed the case.

On appeal, the 9th Circuit issued three rulings in the case:

- The majority opinion held “a TCPA claim is inherently an invasion of privacy claim” and therefore “fell under the policy’s broad exclusionary clause.”

- The concurring opinion said the ruling should have been decided on narrower grounds and that the majority opinion “need not hold more broadly that a TCPA claim is inherently an invasion of privacy claim.”

- The dissenting opinion said that because the underlying action sought recovery based on an alleged TCPA violation and “did not seek recovery based on invasion of privacy, he would have reversed the district court’s order dismissing the Lakers’ claims.”

Half-baked Subway class action tossed by appeals court

■ Using harsh language, a federal appeals court has dismissed a class-action settlement over the length of Subway’s “foot-long” sandwiches as “utterly worthless” and benefiting only plaintiff attorneys.

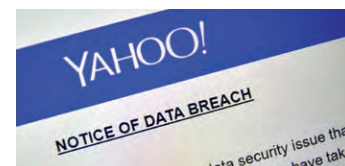
In January 2013, an Australian teenager measured a “footlong” sandwich sold by a franchisee of Milford, Connecticut-based Subway IP Inc. and discovered it was only 11 inches long, according to the ruling by the 7th U.S. District Court of Appeals in Chicago. A class-action lawsuit against Subway followed seeking damages and injunctive relief under state consumer protection laws and seeking class certification under the Federal Rules of Civil Procedures.

“In their haste to file suit, however, the lawyers neglected to consider whether the claims had any merit,” said the appeals court ruling. “They did not. Early discovery established that Subway’s unbaked bread sticks are uniform, and the baked rolls rarely fall short of 12 inches.”

With no compensable injury, the plaintiffs’ lawyers shifted their focus from damage claims under the Rules of Civil Procedure to a claim for injunctive relief, the ruling said. After four years, a settlement was reached and parties agreed to cap class counsel fees. The district court approved the settlement.

“The injunctive relief approved by the district judge is utterly worthless. The settlement enriches only class counsel and, to a lesser degree, the class representatives,” the decision said. The District Court ruling was reversed and the case remanded for further proceedings.

DOCKET



YAHOO MUST FACE LITIGATION BY DATA BREACH VICTIMS

A U.S. judge said Yahoo Inc. must face nationwide litigation brought on behalf of over 1 billion users who said their personal information was compromised in three massive data breaches.

The decision from U.S. District Judge Lucy Koh in San Jose, California, was a setback for efforts by Verizon Communications Inc., which paid \$4.76 billion for Yahoo’s internet business in June, to limit potential liability. The cyber attacks occurred between 2013 and 2016.

Reuters

A TRAILER IS NOT A WAREHOUSE, SAYS COURT

A trailer is not a warehouse covered by insurance, says a federal appeals court in upholding a ruling in favor of Starr Indemnity & Liability Co. in a coverage dispute with a computer wholesaler over a theft.

In 2013, a storage trailer filled with equipment owned by LaptopPlaza Inc. was stolen, causing a loss of more than \$700,000. The company sued in U.S. District Court in New York after Starr denied its claim, saying the insurer breached its policy. The three-judge appeals court panel unanimously upheld a lower court’s 2016 ruling in favor of Starr.

CHUBB MUST FACE CHEMICAL FIRM’S COVERAGE LITIGATION

A federal district court refused to dismiss coverage litigation filed by a chemical company against a Chubb Ltd. unit over its refusal to pay environmental and personal injury claims under its excess policy.

Velsicol Chemical L.L.C. sued Westchester Fire Insurance Co., a unit of Chubb, for breach of contract, seeking defense and indemnity coverage, according to the ruling by the U.S. District Court in Chicago. Westchester argued the claims were untimely, that a pollution exclusion applied and that it was not obligated to provide coverage because the primary policies had not been exhausted.



Christopher Schaper is CEO of the Schinnerer Group, Marsh & McLennan Cos. Inc.'s underwriting management group that comprises its global managing general agent and managing general underwriter business, including Victor O. Schinnerer & Co. Based in Bermuda, he joined Schinnerer from Montpelier Re Ltd. in September last year, having previously served in management and executive positions at a variety of insurers and reinsurers. Over the past several months, Schinnerer has made several significant moves, including the launch of an alternative capital vehicle, Alternus, which provides property insurance buyers with access to alternative capital, and the purchase of International Catastrophe Insurance Managers L.L.C., an MGA providing property catastrophe coverage. Mr. Schaper recently spoke with *Business Insurance* Editor Gavin Souter about those moves and Schinnerer's global strategy. Edited excerpts follow.

Christopher Schaper

THE SCHINNERER GROUP

Q What was the thinking behind the launch of Alternus?

A It was all about the client. What we were seeking to do with Alternus is to bring the benefits of alternative capital to the insurance buyer. Previously, it really wasn't reaching the actual buyer of insurance, so when we set out it was all geared around trying to figure out how to provide the benefits of alternative capital to the actual buyer.

Q How does it change what you're offering to clients?

A Schinnerer had primarily been more of a liability-oriented market, but Schinnerer is now incorporating both liability and property lines of business, and that allowed us to expand into this area. It also advanced the offerings of Schinnerer to also include the capabilities of providing alternative capital to the market itself. So both of those component parts were areas that created change for Schinnerer relative to the products that it offers to the market, and as we continue to move down the path, we'll be thinking through both of those areas — how can we better offer property protection to the market, and how can we better offer different sources of capital to the market?

Q Obviously, you're launching it at a time when there's plentiful traditional capital in the market. Is there a need for alternative capital?

A For the buyers, I think it's important. You need to think about some of the benefits that it brings to the table. Alternus basically picks up 10% of the program that is generally placed in the market, so it's not picking up 100%. But what it is doing, in terms of providing benefits to the buyer, is enhancing their security. It's diversifying their panel for the capital that's protecting them. It is focusing on key areas of protection that they need, providing very specific protection toward property catastrophe exposures. So that's very important. Also, from a capital efficiency point of view, the capital that's being applied has been more efficient versus balance sheet capital. The money that tends to come into the alternative capital side has a different return threshold than balance sheet cap-

ital. The balance sheet capital will tend to have higher return requirements, and alternative capital will tend to have lower return requirements. So you're able to pass on the benefit of that pricing difference.

Q You recently bought International Catastrophe Insurance Managers; what was the thinking behind that deal?

A ICAT itself has been around since 1998, and it provides protection, in essence, to small or medium-sized accounts that are heavily exposed to catastrophic risk, whether it's wind-oriented risk or earthquake-oriented risk. When we looked at ICAT, we thought that this was a very interesting enterprise, and not just for the lines of business that they offer but also how they offer it. They have a very technologically oriented approach that we thought was intriguing.



And between the line of business that they offer, the SME-oriented businesses that they offer to, and how they go about actually utilizing technology in the mechanics of their business, we felt collectively it was a very intriguing combination for us to think about. Given the fact that we're venturing into the property space, we just felt that it makes sense for us to consider that as part of what we could offer. We also liked the specialization piece. The Schinnerer Group has not and will not seek to be all things to all people; it has always been a specialist enterprise and will continue to do that. We felt that ICAT also offers a specialist platform for property, and as a result of that, we just felt that it was a good enterprise to consider. We felt strongly about their management team and their personnel.

Q You're looking to become a global enterprise, but how are you going to do that?

A Schinnerer's been around for a long time in the United States, and we also have a sister company in Canada called Encon. In addition to that, we also have an entity called BlueFin in the U.K. and Mees & Zoonen in the EU. We are in Bermuda as well, and then added to that is the ICAT acquisition that we just made. So we actually have five entities that have people, have systems, have product and have premium being written through them on a global basis. The U.K. and the EU components of the Schinnerer Group are in their earlier stages of development, and so we're in the process of enhancing what we're doing there. But they already do have a name and a reputation in their respective markets. So we already have a global footprint, and what we're doing is we're enhancing our capabilities through those enterprises, and that's where the company is moving toward.

Q Are you looking to expand in any other markets?

A Over time we will, but right now our focus is on those markets. We're a global insurance enterprise with over 700 people generating over \$1 billion in premium on an annualized basis and seeking to grow.

Q What's your vision for the future? What other things do you have planned?

A We actually think of ourselves more as an insurance enterprise, more as an insurer of the future. We are not encumbered with a lot of the issues that many other insurers have — an overt amount of head count, static capital that can destabilize a firm when they feel they have to deploy it, legacy systems — we don't have any of that. But we do have a very nimble and knowledgeable base to drive off of, and so when we think of ourselves, we actually think of ourselves really as a global insurance enterprise, really kind of an insurance enterprise of the future, whereby we're able to access the different core pieces of the insurance industry to develop our business.

The Schinnerer Group has not and will not seek to be all things to all people; it has always been a specialist enterprise and will continue to do that.

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INSURERS LEERY OF A GROWTH MARKET

Many await federal decriminalization
of marijuana before offering coverage

BY JUDY GREENWALD
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Marijuana is on the verge of becoming a big business for insurers.

As more states legalize it for medical and recreational uses, there is a growing need for insurance coverage that will protect marijuana-related businesses from the time seeds are first planted, to the quality-control labs that test the plants, down the distribution channels to when they are sold in medical or recreationally oriented dispensaries.

But there is one major roadblock to its distribution by the admitted market: It is still listed by the federal government as an illegal drug.

While a growing number of excess and surplus lines insurers are beginning to offer coverage, there is general agreement it will not be widely written by the admitted market until — or if — the federal government changes its policy.

Some observers point to its decriminalization by 29 states and the District of Columbia, including the potentially massive California market that opens up in January. They say this trend's sheer momentum makes it inevitable that the federal government will eventually change its policy.

And when that happens, the admitted insurance industry will quickly follow, say experts.

Observers say Hannover Re S.E. may be the most active standard line insurer or reinsurer that offers coverage, although others are “nibbling” around the edges, writing it on a highly selective basis. Lloyd's of London withdrew from the market in 2015 because of concerns about its illegality at the federal level.

Meanwhile, there are reports of policyholders so desperate for coverage they are obtaining policies, sometimes with the help of naïve brokers, that actually exclude coverage for marijuana.

To date, eight states — Alaska, Cali-

fornia, Colorado, Maine, Massachusetts, Nevada, Oregon and Washington, plus the District of Columbia — have decriminalized marijuana for both medical and recreational purposes, while the remaining states have approved its use only for medicinal purposes.

It remains classified, however, as a Schedule 1 drug by the U.S. Food and Drug Administration, which means it is considered to have a high potential for

abuse with no currently accepted medical use. And in April, Attorney General Jeff Sessions said subcommittees of the U.S. Department of Justice's Task Force on Crime Reduction and Public Safety would “undertake a review of existing policies in the area of charging, sentencing, and marijuana to ensure consistency with the Department's overall strategy on reducing violent crime and with the Administration's goals and priorities.”

“Everyone is walking a tightrope with regard as to how this is going to progress forward,” with the federal policy an “overriding concern,” said Tim Pietrucha, a Crystal Lake, Illinois-based producer with Arthur J. Gallagher & Co.

With matters heading toward the point where every state will have at least some type of program, even if a small one, the “decision is going to kind of be made for (the federal government) going forward,”

he added, although “they're pretty stubborn about not wanting to make that decision now.”

In the meantime, the momentum toward legalization can be slowed down, but “it's certainly not going to stop,” Mr. Pietrucha said.

Some experts, who point to the federal government's retreat from Prohibition in the 1920s as a parallel situation, say the lure of additional tax revenues the business generates may ultimately prove irresistible and lead it to change its policy.

The federal government may also permit its legalization in states on a de facto basis, without making any official change in policy. Should either development occur, at that point admitted markets will move from the sidelines and begin to trickle into the business, experts say.

Meanwhile, complicating the issue is that state regulations vary as to what, if anything, in the way of insurance or surety bonds is required, experts say.

“The regulators and legislators that I've spoken with are concerned about requiring coverage because they don't know if anybody can actually get it,” said Brenda Wells, director of the risk management and insurance program at East Carolina University in Greenville, North Carolina.

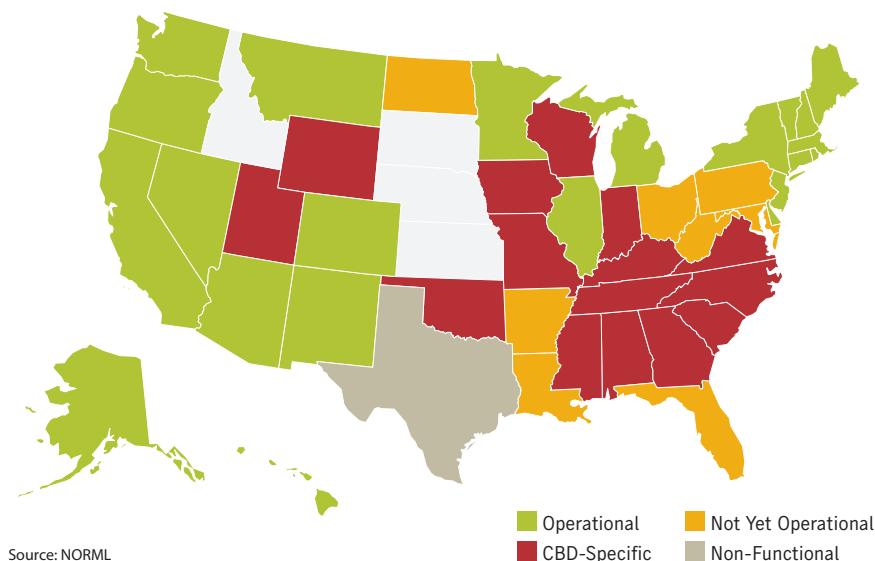
The need of coverage is there, though. “You are talking about extreme concentrations of value,” said Ms. Wells. A commercial entity “could easily have a million dollars of inventory.”

“The demand is not going to decrease, notwithstanding the uncertainty in the regulatory system, so the opportunity for insurers is only going to grow,” said Seth A. Goldberg, a partner with law firm Duane Morris L.L.P. in Philadelphia.

“The question is really one of risk tolerance,” Mr. Goldberg said. But at the same

STATUS OF STATE MEDICAL MARIJUANA LAWS

States are in various stages of decriminalizing medical marijuana. Some have operational laws, while others are not yet operational and some have laws that only address cannabis extracts.



See **MARIJUANA** next page

CALIFORNIA ENCOURAGES ADMITTED INSURERS TO WRITE MARIJUANA COVERAGE

California Insurance Commissioner Dave Jones is working to get admitted insurers to write coverage for marijuana providers and distributors within the state.

A proposed regulation, which has since been withdrawn, stipulated that only admitted insurers could write the coverage, said Mr. Jones. But as the insurance department pointed out, the net effect “would have been to preclude the cannabis industry from getting the very insurance it is being asked to get,” he said.

He said there are about 25 surplus lines players now writing marijuana business in the state, but no admitted insurers.

“I believe we will see admitted carriers” writing the business, he said. “Carriers are very good at assessing and mitigating risk. This industry is going



A variety of medicinal marijuana buds are dispensed in states that have legalized marijuana for medical use. Eight states have also decriminalized recreational usage.

to be heavily regulated by the state of California, and part of what we're doing is trying to make sure the commercial carriers understand the full scope of those regulations and the degree to which it will be regulated, so they have greater understanding of what their risks actually are.”

“I have not taken a formal position on required coverage,” Mr. Jones said. He said he plans a public meeting on the issue of marijuana coverage later this year.

Hank Haldeman, president of Anaheim, California-based excess and surplus lines broker G.J. Sullivan Co., said, “I don't think you're going to see a rush of admitted market participants insuring the marijuana industry in the near future. The one possible exception to that might be insurers that are domiciled here.”

Judy Greenwald

MARIJUANA

Continued from previous page

time, “this is an emerging market that is growing very fast and has a real need for insurance in all aspects of the business.”

Hannover Re is the admitted company most actively involved in the business in the United States, observers say.

“The operations that are covered encompass almost the entire value chain from growers, to laboratories and dispensaries,” Frank Rueckert, Hannover, Germany-based general manager for Canadian and specialty business for Hannover Re, said in an emailed statement.

“The standard market carriers are sniffing around this issue. They’re all afraid to get involved,” said Ms. Wells, pointing to Lloyd’s 2015 decision to leave the market. “They don’t want to deal with it as long as it is illegal at the federal level.”

“We have seen (admitted) carriers that are very specific about” what they will write, said Patrick McManamon, managing director of Westlake, Ohio-based wholesale broker Cannasure Insurance Services L.L.C. They may only write dispensary business, or only be willing to write general liability for certain states or certain business sectors, such as cultivators, he said.

Meanwhile, more excess and surplus lines writers are stepping in to write various coverages. In California, for instance, there are 25 surplus lines players in the state that write marijuana-related businesses, said California Insurance Commissioner Dave Jones (see story, page 21). But product li-



REUTERS

Grower Anthony Nguyen sells marijuana at the medical marijuana farmers market at the California Heritage Market in Los Angeles, California.

bility lines are particularly challenging to underwrite (see story below).

Because of the federal issue, “in general, there’s probably fewer players in this market, but it’s still competitive. There’s still market choices,” said John G. Clarke, senior vice president of marketing for excess lines insurer James River Insurance Co., which offers coverage.

But the cost of the insurance “still remains pretty high on the surplus lines side,” said Ian A. Stewart, a partner with Wilson Elser Moskowitz Edelman & Dicker L.L.P. in Los Angeles.

There is relatively little program busi-

ness, say experts.

“Right now, there are very few options” for package policies, said Ronnie Cabral, cannabis group practice leader at San Francisco-based wholesaler Crouse & Associates Insurance Services.

One such package program is offered by San Diego-based managing general underwriter Next Wave Insurance Services L.L.C. “We have exclusive contracts with our carriers,” said Mike Aberle, vice president of sales and marketing, who would not identify the insurers.

One or two more programs may come online within the next six to 12 months,

said Cannasure’s Mr. McManamon.

Meanwhile, in some cases, businesses desperate to obtain insurance have received policies through unknowledgeable brokers that explicitly or implicitly exclude marijuana from coverage, say observers.

Some insurers “are including endorsements in their policies that creates wiggle room for them,” said Rafael Haciski, a producer with Philadelphia-based broker The Graham Co. These policies will say “something along the lines” that they exclude from coverage anything that is in violation of federal law.

“It’s critical for businesses to thoroughly review their policies,” said Shawn Hauser, a senior associate with law firm Vicente Sederberg L.L.C. in Denver. “There are some brokers who are not sophisticated and not adequately advising their clients of the exclusions.”

Observers say the business has attracted an odd mix of venture capitalists and former hippies.

“There’s a lot of money coming in,” from venture capitalists who need the “stoner guys” knowledge to “understand how the business works,” said Mr. Cabral.

But at its most basic, marijuana is much like any other business that needs insurance protection from losses, say observers.

“There’s really not a huge difference between the underwriting risk” associated with the cannabis industry and the “very ordinary commercial risks that insurance companies have been insuring for centuries,” said Marshall Gilinsky, a shareholder with law firm Anderson Kill P.C. in New York.

MARIJUANA-RELATED PRODUCTS RAISE LIABILITY CONCERNS

Marijuana-infused gummy bears anyone?

That is one of the so-called “edibles” in the marijuana industry that makes insuring its product liability risks particularly challenging, experts say. The “high” that marijuana products produce in various forms could lead to mishaps that create liability issues for its manufacturers and retailers, they say.

Cannabis is like alcohol, where “you’ve got many dozens” of psychoactive ingredients, “many of them being marketed to a whole new crowd of people,” said Ian A. Stewart, a partner with Wilson Elser Moskowitz Edelman & Dicker L.L.P. in Los Angeles.

Possible claims could include mislabeling and misrepresentations about its psychological effect, he said.

“The onsite consumption risks are huge,” he said. In the “edibles” market, where marijuana is presented to be consumed like food, the effect is more intense than smoking, while also “most



REUTERS

Marijuana-infused sour gummy bear candies (L) are shown next to regular ones at right. The so-called “edibles” market for marijuana, where it is consumed like food, may add to product liability exposures.

likely to be consumed by newbies, people without a history of smoking,” who are drawn to these products, he said.

Let’s say you have half a gummy bear and “nothing’s happening,” so you take some more, said John G. Clarke,

senior vice president of marketing for Richmond, Virginia-based James River Insurance Co.

Two-and-a-half hours later, “you’re really, really high. The good news is that for most people, tomorrow morning you’re going to feel just fine,” which is not a problem — unless you are driving, he said.

There is also the issue of pesticides in marijuana’s growing phase, he said. In addition, “there’s manufacturing issues, just like any other product being manufactured that’s ingested.”

Product liability is the “scariest type” of marijuana claim because not only is it an issue of public safety, but if a claim is disputed it can lead to up to two years of litigation, and is most likely to put a company out of business, said Ronnie Cabral, cannabis group practice leader at San Francisco-based wholesale broker Crouse & Associates Insurance Services.

Judy Greenwald

"Always do the right thing because it is the right thing to do."

Pat Ryan

Aon congratulates **Pat Ryan** for his lifelong contributions to the field of risk management and celebrates his ongoing commitment to making the world a better place.

REINSURANCE

Reinsurers may see cat-fueled rate surge

BY GAVIN SOUTER

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INSIDE

▶ DISASTERS TEST CAT BOND MARKET

2017 has been a record year for catastrophe bond placements, but also for market stresses. **PAGE 25**

▶ NO INVESTOR FLIGHT FORESEEN

Despite a sudden surge in natural catastrophes, ILS investors are expected to hold firm. **PAGE 26**

▶ REINSURANCE DATA PAGE

World's largest reinsurers and reinsurance brokers, premium trends and more. **PAGE 27**

Reinsurance rates are likely headed higher at year-end renewals as the market digests a string of catastrophe losses.

Hurricanes Harvey, Irma and Maria will all hit reinsurers, in addition to two separate earthquakes in Mexico and storms earlier this year, observers say.

While loss estimates are still being calculated, the most recent catastrophe losses will be substantial and likely will top \$50 billion in total — and could be significantly higher, according to modeling firm estimates.

While reinsurers have had relatively low catastrophe losses since Superstorm Sandy hit New York and New Jersey in 2012 and while there is plentiful capacity in the market, the 2017 losses will hit traditional and nontraditional reinsurance

programs and will likely drive up prices for some accounts, observers say. However, renewal discussions have just started, and it's unclear how widespread any increases will be if reinsurers succeed in pushing them through, they say.

Hurricane Irma, which is likely to be the largest loss so far this year, hit while reinsurance executives were gathered in Monte Carlo, Monaco, at the Rendez-Vous de Septembre reinsurance meeting. The event traditionally marks

the beginning of year-end renewal discussions as executives from reinsurers and reinsurance brokers hold numerous small meetings around the cafes and hotel lobbies of Monte Carlo to get a feel for market trends.

This year, the meeting started on a Saturday, Sept. 9, when Hurricane Irma was still threatening Miami and reinsurers were potentially looking at a \$100 billion loss. By the following Tuesday, the storm had made landfall along Florida's west coast, and it was clear that the loss would not be as devastating as feared.

At the time, it was unclear whether Harvey, Irma and other losses would affect reinsurance renewal rates. However, in the days and weeks that followed the Rendez-Vous, and after Hurricane Maria carved through parts of the Caribbean and a powerful earthquake struck central Mexico, reinsurers and reinsurance brokers became more convinced that rates would increase.

In addition, several insurers and reinsurers warned that their quarterly earnings would be hit by the catastrophes.

The combination of catastrophe losses will likely lead to increased reinsurance rates for North American property risks at year-end renewals, said Albert A. Benchimol, president and CEO of Axis Capital Holdings Ltd. in New York.

"Whatever the losses turn out to be, it will be a meaningful amount. And given the many years of intensive price competition on property and catastrophe rates, at least on a regional basis, we would expect to see some increases," he said.

Even though there is plentiful capacity in the market, rates should still increase, Mr. Benchimol said.

"There's capital in the market, but the capital needs to be appropriately compensated ... pricing needs to reflect loss costs," he said.

It remains unclear whether increases will extend to non-U.S. accounts and other lines of coverage, but insurers that experience reinsurance rate hikes likely will try to pass the costs on to policyholders, Mr. Benchimol said.

The storms, including Cyclone Debbie in Australia and tornadoes in the United

"Whatever the losses turn out to be, it will be a meaningful amount. And given the many years of intensive price competition on property and catastrophe rates, at least on a regional basis, we would expect to see some increases."

Albert A. Benchimol,
Axis Capital Holdings Ltd.

States earlier this year, already have triggered market activity, with some insurers and reinsurers with single-event and aggregate coverage looking for backup coverage, said Mike Krefta, Hamilton, Bermuda-based CEO of Hiscox Re, a unit of Hiscox Ltd.

At year-end, "from a reinsurance point of view, I would be shocked if we don't

see material increases in pricing," he said.

Even though Hurricane Irma was not as calamitous as feared before landfall, the cumulative losses during the year will likely push rates higher, Mr. Krefta said.

"When you tot up the end-of-year bill, the focus will be on aggregate losses," he said.

It's still unclear how much prices will increase, but reinsurers are pressing for rate increases at year-end, with some underwriters saying 10% to 20% increases will be needed for North American risks, said Steve Hearn, CEO of Ed Broking Group Ltd. in London.

"We are starting to see some rate coming through on the aggregation of Harvey, Irma and the Mexican earthquake," he said.

Paddy Jago, global chairman of Willis Re in London, said it's still too early to predict the level of losses, particularly as Hurricane Maria followed a similar path to Irma in the Caribbean.

"That will make claims from an insurance and reinsurance viewpoint challenging," he said.

Hurricanes, earthquakes test mettle of burgeoning alternative capital market

BY MATTHEW LERNER

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The catastrophe bond market set a record for new issuance in 2017 with months still left to go, but the insurance and reinsurance markets are facing their first major test in years in the combined form of hurricanes Harvey and Irma.

Catastrophe bond issuance in the 12 months ending June 30 reached a record \$11.3 billion, breaking by \$1.9 billion the previous record of \$9.4 billion set in 2014, Aon Securities Inc. said in its latest annual review of the cat bond market.

The second quarter of 2017 drove the record, with \$6.38 billion of limit placed, a new quarterly record and \$1.89 billion more than the prior largest quarter, second quarter 2014's \$4.47 billion, according to "Insurance-Linked Securities: Alternative Capital Breaks New Boundaries."

The record levels show a market growing steadily and building a greater presence.

"Catastrophe bonds are now part of the competition, along with other forms of alternative capital, to traditional reinsurance," said Gary Martucci, director of financial services ratings with S&P Global Ratings Inc. "It's an important step in increasing their share of the market."

"I think it's important to keep in mind that this was a market traditionally dominated by reinsurers, and the catastrophe bond and alternative capital investor has



REUTERS

The catastrophe bond market likely will be tested by a spate of late-summer natural disasters. Hurricane Irma collapsed this coastal Florida home in September.

come in and made huge inroads," said Mr. Martucci.

Catastrophe bonds give policyholders choice and flexibility, according to one issuer.

"Traditional reinsurance represents about half of our placements and the bond market the other half," said John Polak, general manager for the Texas Windstorm Insurance Organization in Austin, Texas.

The association's Alamo Re Ltd. Series

2017-1 Class A secured \$400 million of coverage for Texas hurricane and severe thunderstorm and represents a return to market for the insurer.

"We issued the \$400 million largely because the first tranche of bonds that we issued in 2014 had expired, so essentially what we did was we reloaded those by reissuing them," Mr. Polak said.

The association gets several benefits from the bond market, he said.

"We found that it did give us multiyear capability, which was much more available at that time in the catastrophe bond market than it was in the traditional market," Mr. Polak said. "It gave us a lot more stability, because at any given time we have a three-year program in place, which doesn't have to be renegotiated at the end of every year."

Choice for the buyer leads to healthy market competition, he said.

"I think the fact that there is a vibrant insurance-linked securities market basically serves to heighten competition, and keeps down the prices of traditional reinsurance as well," Mr. Polak said. "It helps on both sides. Not only do catastrophe bonds have to compete with the traditional reinsurance market, the traditional reinsurance market realizes they have to compete with the capital from the catastrophe bond market."

The bonds also constitute an important part of the market for investors.

"There's a demand for the bonds themselves as an investment," said Bill Dubinsky, head of ILS at Willis Towers Watson P.L.C.'s securities division in New York. "At year-end 2016, there was \$75 billion of nonlife alternative capital, and within that \$75 billion there is a certain demand for a liquid product, for the bond form. And in the past last year the demand for that type of product has increased."

See **ALTERNATIVE** page 26

ALTERNATIVE

Continued from page 25

The market is expected to keep its momentum and continue growing.

“Our view is that alternative capital is expected to grow and reach \$90 billion by the end of this year,” Philipp Kusche, New York-based global head of ILS and capital solutions at TigerRisk Partners L.L.C., said in an email. “Ongoing catastrophe bond market issuance confirms the depth of the market and continued interest from investors in the insurance-linked securities space.”

As the market grows, it appeals to a wider range of investors.

“I think the space continues to grow each year,” said Brad Adderley, a Hamilton, Bermuda-based corporate partner at offshore law firm Appleby. “There are more and more people out there who never did catastrophe bonds doing them,” such as corporate entities and nonprofits such as the World Bank.

“There’s definitely been a couple of corporates out there, whereas before they didn’t do them at all,” Mr. Adderley said, pointing to the New York Metropolitan Transit Authority’s MetroCat bond as one example.

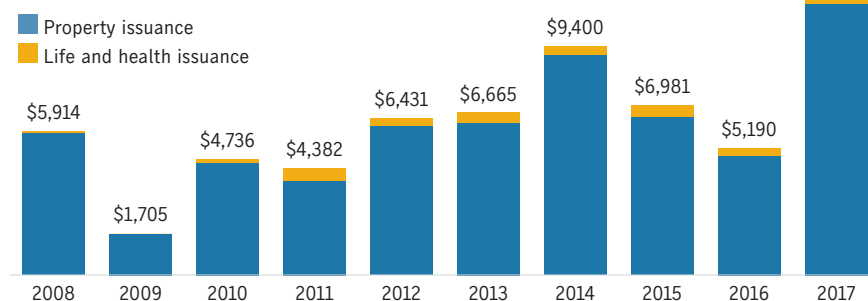
In addition to new players, the market could potentially expand into new perils, observers say.

“I think there is a desire to move into new perils, that’s where I think the growth will come from,” Mr. Martucci said. “If residential and commercial property owners had to purchase some amount of insurance, U.S. quake could be a huge area,” he said, adding that major catastrophe modelers now have U.S. flood models and have models for other parts of the world, including India, the Philippines and China.

“Flood has the most obvious potential for growth due to the fact that you have a lot of flood modeling and a lot of loss

CATASTROPHE BOND ISSUANCE BY YEAR

2008 to 2017 (years ending June 30), in millions of dollars



Source: Aon Securities Inc.

experience to augment the modeling,” Mr. Dubinsky said.

“As modeling firms continue to develop and refine tools for new risks such as cyber or flood, we expect more interest and transparency in such risks,” Mr. Kusche said in his email.

Money is not expected to flee the sector despite the potential for losses in recent catastrophes, including hurricanes Irma and Harvey as well as the recent earthquake in Mexico, although they may seek better terms.

“Based on current reports, it is likely that the 8.1 earthquake off Mexico will result in a 100% loss to investors,” Mr. Martucci said. “This, in conjunction with the potential losses from Irma, could

cause investors to reconsider the market based on current pricing. While losses are not unexpected, two major events resulting in significant losses so close to each other could make investors think current yields are too low and cannot offset losses given defaults. While we expect most investors to stay in the market, we would think an increase in yields likely.”

Mexico also suffered a 7.1-magnitude quake on Sept. 19 that left hundreds dead and injured and reduced portions of Mexico City to rubble. Early estimates put the upper band for insured losses at about \$2 billion.

The first quake likely affected the FONDEN 2017 catastrophe bond, which provides the Mexican government with

\$360 million of earthquake and named storm disaster insurance protection, with the \$150 million Capital-At-Risk Series 113 tranche of Class A notes issued in the FONDEN 2017 cat bond deal exposed to earthquakes striking Mexico, according to media service Artemis, which serves the alternative capital sector.

The second quake, however, at magnitude 7.1, “is likely not high enough on the Richter scale to trouble the cat bond, which is still going through a calculation process right now, despite the fact this earthquake looks to have been much more severe in terms of damage and impact to lives,” according to Artemis.

If money did leave the space, however, it would likely be replaced by new capital, said Mr. Adderley.

“I think there’s so much capital out there that if some of it left, new people would come into the space, and at the end of the day it would be the same size or bigger,” Mr. Adderley said.

Protection gaps demonstrated by the storms could also lead to the introduction of new products, he added.

Further, if the storms have the effect of raising rates and premiums, “there’s people on the sidelines with fresh capital who have not been hit who will be jumping in for a year or two to take advantage,” Mr. Adderley said.

No forecasts of investor flight from insurance-linked securities

There has been some speculation among observers within the insurance and reinsurance sectors that the insurance-linked securities market and wider alternative capital markets might suffer a test of confidence in the wake of catastrophe losses and see capital flee, but sources indicate otherwise.

Will investors flee if the catastrophe bond market takes a hit? “I don’t think that’s the case,” said Brad Adderley, a Hamilton, Bermuda-based corporate partner at offshore law firm Appleby.

One of the leading ratings agencies agrees.

“There is a significant supply of alternative capital available, and we foresee no significant reduction, even in the event of a very large natural catastrophe,” Moody’s Investors Services Inc. said when it changed its outlook for the global reinsurance sector to stable from negative on Sept. 6.

In fact, others say it would take a more basic shift in thinking and confidence in modeled losses to shake investor confidence and change market trajectory.



“I think what could curtail growth in the market is questioning the data, questioning the models, if actual losses start increasing significantly and the models don’t seem to be capturing the risk,” said Gary Martucci, director of financial services ratings with S&P

Global Ratings Inc.

“To reverse the market would take a fundamental rethink of the models,” said Bill Dubinsky, head of ILS at Willis Towers Watson P.L.C.’s securities division in New York.

Matthew Lerner

CLASSIFIED

INVITATION TO NEGOTIATE STATE BOARD OF ADMINISTRATION OF FLORIDA

The State Board of Administration of Florida (SBA) is soliciting competitive responses from parties interested in offering administrative services and actuarial consulting services to the Florida Hurricane Catastrophe Fund. The Invitation to Negotiate (ITN) will be available on October 27, 2017, and may be obtained from the FHCF website at www.sbafla.com/fhcf under “Announcements.” The deadline for submitting responses is 2:00 p.m. ET on November 21, 2017. The SBA reserves the right to reject any or all competitive responses and to cancel any ITNs.

WORLD’S LARGEST REINSURERS*

Ranked by 2016 gross reinsurance premiums written

Rank	Company	2016 gross reinsurance premiums written	2015 gross reinsurance premiums written	% increase (decrease)	2016 Combined ratio	2016 reinsurance staff	Officers
1	Swiss Re Ltd. ¹	\$30,950,000,000	\$28,041,000,000	10.4%	93.5%	14,053 ²	Walter B. Kielholz, chairman; Christian Mumenthaler, group CEO; Moses Ojeisekhoba, CEO-reinsurance
2	Munich Reinsurance Co. ^{1,3}	\$29,363,050,400	\$30,639,754,400	(3.2%)	95.7%	12,138	Joachim Wenning, chairman-board of management; Torsten Jeworrek, chairman-reinsurance committee
3	Hannover Re S.E. ³	\$17,256,740,800	\$18,535,227,100	(6.9%)	93.7%	2,893	Ulrich Wallin, chairman
4	Scor S.E. ³	\$14,589,195,200	\$14,573,863,900	0.1%	93.1%	2,653	Denis Kessler, chairman/CEO
5	Lloyd's of London ^{1,4}	\$11,606,649,600	\$12,671,237,800	(8.4%)	86.7%	10,622	John Nelson, chairman; Inga Beale, CEO
6	Berkshire Hathaway Reinsurance Group ⁵	\$8,288,000,000	\$7,493,000,000	10.6%	91.0%	N/A	Ajit Jain, president
7	Korean Reinsurance Co. ¹	\$5,690,800,000	\$5,580,200,000	2.0%	98.8%	320	Jong-Gyu Won, president/CEO
8	General Reinsurance Corp. ⁵	\$5,629,000,000	\$5,889,000,000	(4.4%)	96.6%	2,180	Kara Raiguel, president/CEO
9	PartnerRe Ltd. ¹	\$5,357,000,000	\$5,548,000,000	(3.4%)	85.6%	957	John Elkann, chairman; Emmanuel Clarke, president/CEO
10	Everest Re Group Ltd. ¹	\$4,246,900,000	\$4,359,400,000	(2.6%)	87.0%	1,121	Joseph V. Taranto, chairman; Dominic J. Addesso, president/CEO

* 100% life reinsurers are not included. N/A = Not available; ¹ From annual report; ² Based on group's total employees; ³ Euro 2016 = \$1.0552; 2015 = \$1.0859; ⁴ British pound 2016 = \$1.2337; 2015 = \$1.4746; ⁵ Based on net reinsurance premiums written
Source: *B/I* survey

WORLD’S LARGEST REINSURANCE BROKERS

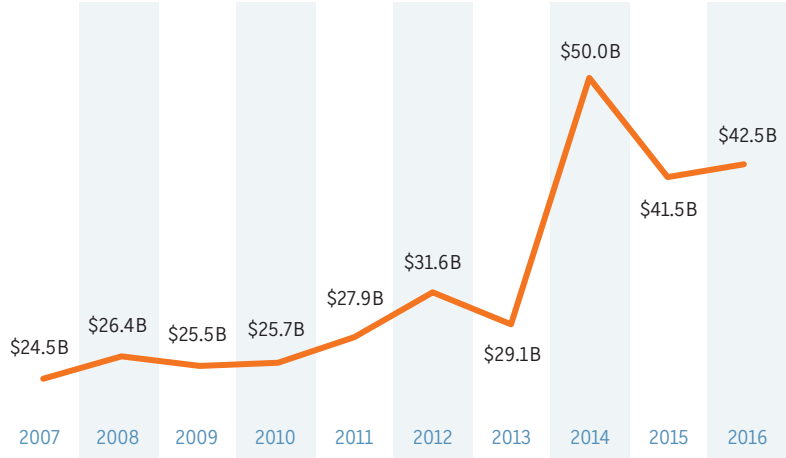
Ranked by 2016 gross revenue from reinsurance brokerage and related services*

Rank	Company	2016 gross revenue	2015 gross revenue	% increase (decrease)	2016 employees	Officers
1	Aon Benfield Group Ltd.	\$1,356,000,000	\$1,361,000,000	(0.4%)	3,000	Eric Andersen, CEO
2	Guy Carpenter & Co. L.L.C.	\$1,141,224,000	\$1,121,114,000	1.8%	2,303	Peter Hearn, president/CEO
3	Willis Re	\$787,470,000	\$804,500,000 ¹	(2.1%)	1,808	John Cavanagh, CEO
4	JLT Reinsurance ²	\$321,815,369	\$366,150,196	(12.1%)	N/A	Michael Reynolds, global CEO-JLT Re
5	UIB Holdings (UK) Ltd. ²	\$54,144,125	\$57,856,906	(6.4%)	442	Bassem Kabban, chairman/group CEO

* Includes all reinsurance revenue reported through holding and/or subsidiary companies; ¹ Restated; ² British pound 2016 = \$1.2337, 2015 = \$1.4746
N/A = Not available
Source: *B/I* survey

10-YEAR TREND OF U.S. REINSURANCE

The net premiums written for U.S. reinsurers peaked in 2014 at \$50.0 billion. Net premiums written for major U.S. property/casualty reinsurers, 2007-2016, in billions of dollars



Source: Reinsurance Association of America

CRAIN LIFETIME ACHIEVEMENT AWARD

Patrick G. Ryan

BY GAVIN SOUTER

gsouter@businessinsurance.com

Seven years ago, when supposed retiree Patrick G. Ryan launched what is now the third-largest wholesaler in the United States, no one should have been surprised.

Taking bold decisions and executing on them has been a hallmark of Mr. Ryan's career.

Whether it be establishing his own specialty agency only four years out of college, cutting the deal for Combined Insurance that provided him with the capital to absorb bigger rivals, the rapid expansion of what became Aon P.L.C. into a global brokerage or his latest venture in the world of specialty and surplus lines insurance, Ryan Specialty Group L.L.C., Mr. Ryan has always been about risk-taking in the world of risk management.

In recognition of his achievements as a brokerage leader and entrepreneur, Mr. Ryan, founder, chairman and CEO of Ryan Specialty and previously the longtime builder and leader of Aon, is the recipient of the first Crain Lifetime Achievement Award, which recognizes an outstanding businessman or -woman in the insurance sector and was established this year by *Business Insurance*.

Known for his ability to spot industry trends and act on them before the competition, Mr. Ryan has a straightforward approach to capitalizing on those trends.

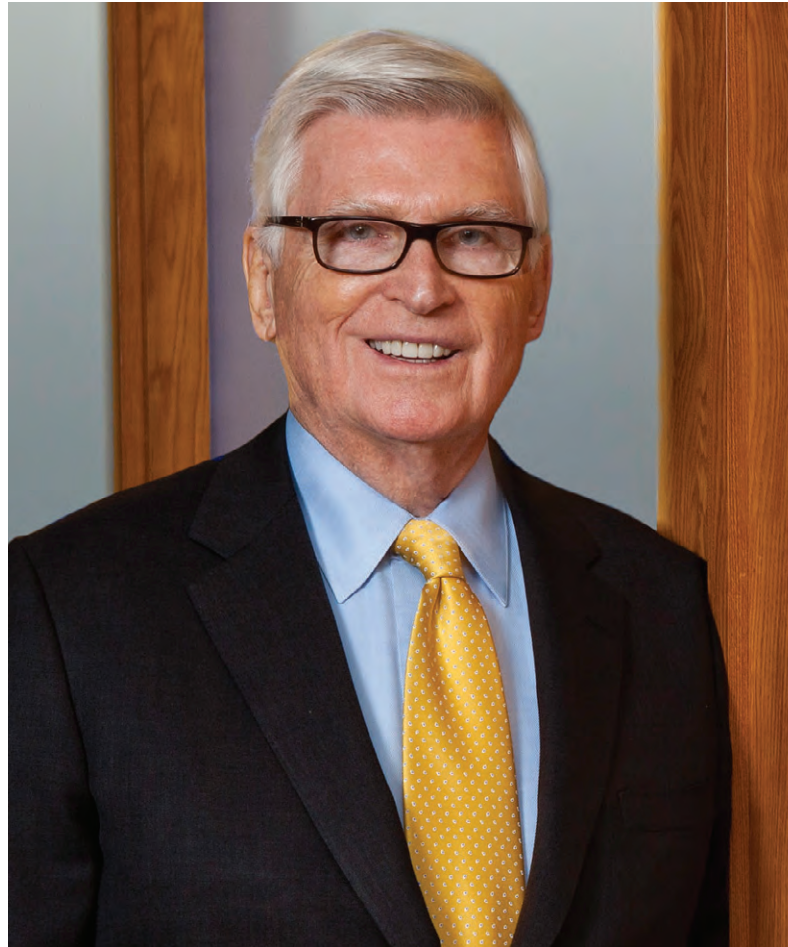
"When people ask me what's the best time to start a company, I always say right now, because if you try to wait for the right market conditions you are likely to miss a lot of opportunities," Mr. Ryan said.

That clearheadedness and a combination of his qualities as a "visionary entrepreneur, calculated risk-taker and world-class leader" have been a big part of his success, said Greg Case, president and CEO of Aon.

"But more than that, it's his willingness to make a bet — many times on himself, but also on his team. Pat is always there believing that his team is more capable and is able to bring them along and help them do more than they even thought was possible," he said.

Mr. Ryan's willingness to take risks, his people skills, sales skills and execution skills produce a powerful combination, said Michael O'Halleran, brought in by Mr. Ryan in 1987 to run Aon's reinsurance operations and now a senior adviser to the firm.

"He synthesizes something very quickly, brings people around it — he's a total team player — and then he executes the



Patrick G. Ryan

ABOUT THE AWARD

The Crain Lifetime Achievement Award was introduced this year to recognize an individual whose outstanding contributions have had a lasting impact on the insurance and risk management sector. The inaugural honoree for *Business Insurance*'s most prestigious award is Patrick G. Ryan, longtime insurance industry leader and founder of Aon P.L.C. and Ryan Specialty Group L.L.C. The award is named in honor of the Crain family, who founded *Business Insurance* in 1967.

plan and takes it over the finish line," Mr. O'Halleran said.

Empowering his team has been important for Mr. Ryan, especially as he has rapidly grown Ryan Specialty, said Diane Aigotti, chief financial officer and managing director of Ryan Specialty Group.

"His leadership style is very empowering and very collaborative, and it's very easy to feel like you have open access and that you can be frank," she said.

And his willingness to get involved in every aspect of his businesses has also been key, said Tim Turner, chairman and CEO

of R-T Specialty L.L.C., Ryan Specialty's wholesale brokerage operation.

"The leaders of most big businesses tend to stay at 30,000 feet, but he's the opposite. He's very detail-oriented and likes to get into the weeds, so follow-up and executing are key attributes that have contributed to his success," Mr. Turner said.

Focusing on the details and looking for the right opportunity is where Mr. Ryan started.

Born in Milwaukee, he grew up in suburban Wauwatosa, Wisconsin, and graduated from Northwestern University in 1959. After graduation, he became a life insurance agent for Penn Mutual Life Insurance Co.

"I'd known some people in the industry who had done quite well, and as independent agents they were in effect entrepreneurs with their own business. I didn't have any capital, and it was clear to me that you could start in the insurance business and build a business selling," Mr. Ryan said.

Four years later, he started his own business, Pat Ryan & Associates, which was a managing general underwriter for

Continental Casualty Co. selling credit insurance and auto liability to buyers of automobiles. He had learned from his father, who was a Ford dealer, that this business was being done poorly. "Prior to when I started, auto dealers didn't have trained people selling insurance in their dealerships," Mr. Ryan said. "We set up a professional approach, recruiting talented young people to become licensed professional insurance agents."

The business started in Chicago but quickly spread nationally. Within five years it was doing about \$10 million in revenue, and by 1976 it had grown to \$30 million in revenue.

Seeking to diversify, in 1976 the company, which was now called Ryan Insurance Group, bought the financial services subsidiary of Chicago-based Esmark Inc., which had an MGU offering bankers blanket bond and directors and officers liability coverage for medium-size and small banks. The deal also included a commercial insurance broker that did large-account and midmarket business in Chicago.

More acquisitions followed, which helped shape the business. "We had to build a culture that attracted people who wanted to be part of building a business," Mr. Ryan said.

To build the culture, he set values, Mr. Ryan said. They included integrity, entrepreneurialism, the client is everything, teamwork, a meritocracy, empowerment and inclusion, Mr. Ryan said.

The deal that enabled Mr. Ryan to move to another level came in 1982. Combined Insurance, which was in the supplemental accident and health business, approached Mr. Ryan and asked him to succeed W. Clement Stone, the company's founder. After at first turning them down, "it dawned on me that really the opportunity wasn't just to go into the supplemental A&H business, but that they had a balance sheet and cash flow that was very large and very attractive."

They eventually worked out a deal where Ryan Insurance would merge with Combined and Mr. Ryan would be the largest shareholder and CEO. Combined had \$500 million in shareholder equity and \$100 million in free cash flow, and Mr. Ryan quickly used those resources. About a month after closing the deal, in October 1982, he had agreed to buy Rollins Burdick Hunter Co., which was then the seventh-largest broker in the world.

After several more deals, the name Aon was introduced in 1987, and Mr. Ryan saw the opportunity to create a truly global insurance brokerage.

"We wanted to export the culture and blend it around the world," he said. In 1987, Aon expanded into the London market with the purchase of Nicholson Chamberlain Colls Ltd. Then in 1991, it bought Dutch broker Hudig-Langeveldt Groep B.V., which provided a platform for greater international expansion, all the way keeping and recruiting local nationals to lead the business units.

Many of the purchases also include reinsurance brokerages, which were teamed with Aon's existing reinsurance operations, and Aon eventually became the world's largest reinsurance broker.

The biggest financial purchase was Alexander & Alexander Services Inc., then the world's second-largest brokerage, which Aon agreed to buy in 1996. Many of the companies Aon bought were "gems," but some, including A&A, had problems. "They were troubled at the parent level, but they were gems inside and had very good basic businesses. We cleared out the problems and then they became really well-functioning members of the team," Mr. Ryan said.

Looking at potential acquisition targets now and then, Mr. Ryan said he first considers whether the companies will fit with the existing operations.

"We'd start with strategic fit, and if there wasn't a strategic fit we wouldn't do it, because nobody has enough capital to just do opportunistic deals. Secondly, it had to be a cultural fit and they would have to function as good team members. The third was financial, but that was a distant third to the first two," he said.

The rapid acquisitions in the late 1990s led to headwinds in the early 2000s as Aon dealt with the difficulties of integrating the acquisitions from a technology perspective.

Then in 2001, the brokerage was rocked by the Sept. 11 terrorist attacks on the World Trade Center in New York. Aon had a sizeable operation in the WTC. Needing to lead the company's 50,000 staff, Mr. Ryan switched into crisis mode and set up a communications center for families of the 500 missing Aon employees. Many survived, but 176 Aon employees were killed in the attacks. Aon quickly established a memorial fund to help pay college fees of the lost employees' children, among other initiatives.

"We lost some incredible people, and I was side-by-side with him as he led us as a company through that tragedy and saw the compassion that he showed for our people and our clients. We would have gotten through it, but it wouldn't have

been the same without Pat Ryan," Mr. O'Halloran said.

The insurance brokerage industry faced significant challenges in 2004 when former New York Attorney General Eliot Spitzer sued Marsh & McLennan Cos. Inc., alleging abuse of contingent commissions and other practices. The accusations spread and all the large brokers were drawn in.

"What Spitzer didn't like was the very fact of contingent commissions," Mr. Ryan said.

All the big brokers settled with Mr. Spitzer in the months that followed.

"The good thing that came out of it was that we also agreed to be transparent, which is to tell our clients exactly what we make," Mr. Ryan said.

The large brokerages also sold their wholesale units over conflict-of-interest concerns, which would trigger another idea for Mr. Ryan.

At age 68, Mr. Ryan decided that Aon should look for a successor, and the firm brought on Mr. Case from McKinsey & Co. in 2005, while Mr. Ryan stayed on as executive chairman.

"He's done a terrific job and was what we needed because, with his background at McKinsey, he was very skilled at integration and did a very effective job of taking

costs out and has been a very strong leader," Mr. Ryan said.

After nearly three years as executive chairman, Mr. Ryan retired from Aon in 2008, but retirement didn't last long. In 2010, he launched Ryan Specialty as a wholesale broker and MGU.

"I'm an entrepreneur at heart, and I like building and like creating ... I knew that my next entrepreneurial activity would be to build a specialty lines broker and MGU — a repeat of the culture, a repeat of the strategy," he said.

With retail brokers dealing with hundreds of wholesalers, he felt consolidation in the sector was inevitable and that there was an opportunity to build a significant wholesaler with the talent that was available. That quickly proved to be the case, and Ryan Specialty now has 19 MGUs and recorded \$5.5 billion in premium last year.

Again, attracting and training talented people has been the key to the firm's success, said Mr. Ryan, who is now 80.

"We bring people in and we train them just like we did in the early days in the mid-1960s ... Specialty lines will be ever more important in the industry. The industry itself has been growing at a very modest rate, but there are lots of opportunities," he said.

Registration is open for London & New York events!

Women to Watch Awards & Leadership Conference EMEA 2017

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12th Annual Women to Watch Awards & Leadership Conference 2017

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Come to network, learn and be inspired at these events that celebrate women in the commercial insurance industry and other related fields who are successfully driving the industry forward.

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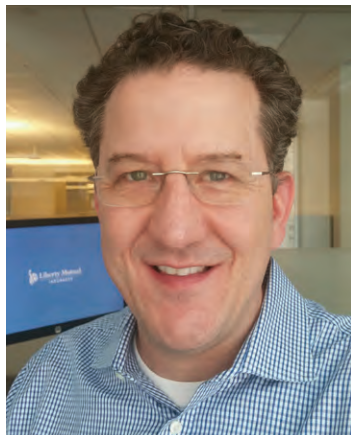
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BUSINESS INSURANCE + CLM

WOMEN TO WATCH

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THE WINNERS

American International Group Inc.
AIG Travel Assistance App
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Chubb Ltd.
Cyber Services for Loss Mitigation:
Online Cyber Security Education
PAGE 32

Chubb Ltd.
Global Cyber Facility and Property
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Emerge Diagnostics Inc.
Telemedicine program
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FM Global
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Liberty Mutual Insurance Co.
Liberty Mutual SmartVideo
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Liberty Mutual Insurance Co.
LM Expedite
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Marsh Ltd.
Bridge
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Salus Systems L.L.C.
ZERO
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Triax Technologies Inc.
spot-r
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BUSINESS INSURANCE®

INNOVATION AWARDS

Business Insurance's Innovation Awards recognize the latest developments in risk management.

In the following pages, you will read about technological innovations and creative solutions for a wide variety of issues facing risk managers, from helping keep employees safe when they travel, to finding coverage for cyber exposures, mapping flood exposures, negotiating coverage gaps after Brexit and more.

Now in its eighth year, the Innovation Awards program previously focused only on products and services offered to risk managers. While we continue to recognize those innovations, for 2017 we have added a category to recognize risk management innovations created by a team of people and firms. The Risk Management Team award can include contributions from risk managers, their insurers, brokers and other service providers and recognizes the collaborative effort that is needed to build innovative risk

management solutions.

Read about our first Risk Management Program winning entry on page 37.

All of the nominations were reviewed by an independent panel of judges composed of professional risk managers.

The 2017 judges were: Julie Bean, director of risk management at the Chamberlain Group Inc.; Delany Haj, senior manager-global risk assessments and financing at Accenture P.L.C.; Amy Templeton, vice president of risk management at Penn National Gaming Inc.; and Carlos Sintés, claims manager at Fortune Brands Home & Security Inc.

The awards will be presented at the Innovation Summit & Awards 2017 in New York on Oct. 5.

For more information about the Innovation Awards and other awards programs sponsored by *Business Insurance*, visit www.businessinsurance.com or email Editor Gavin Souter at gsouter@businessinsurance.com.

Gavin Souter, editor



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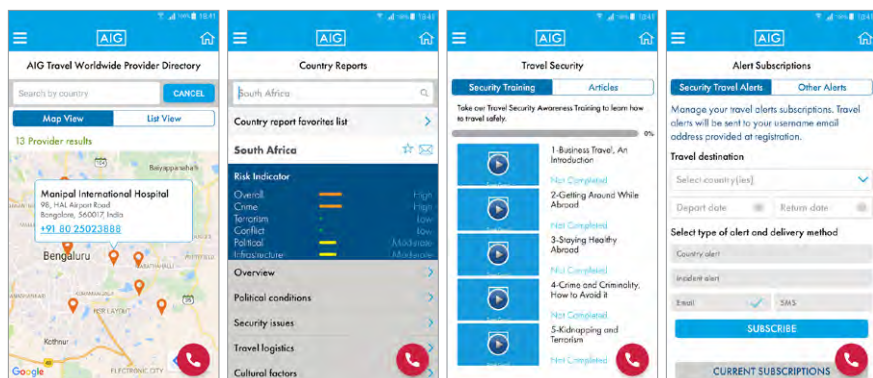
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American International Group

AIG TRAVEL ASSISTANCE APP

travelguardworldwide.com/assistance



Keeping travelers safe and informed is a key issue for risk managers, and American International Group Inc. has an app for that.

AIG Travel Assistance App, a 2017 *Business Insurance* Innovation Awards winner, provides risk managers and policyholders' employees with access to travel, security and health information.

The mobile application was designed for effective travel risk management and has many features, including a one-touch "help" button to connect travelers directly to emergency travel assistance, which is

the most popular feature of the app, said Rhonda Sloan, Houston-based global head of travel communications at AIG.

"The world today has become a much riskier place, especially for travelers. There are a lot of current issues people should deal with, whether it's health issues — the latest Zika virus, Ebola — if it's travel security, if a destination has become less safe," said Ms. Sloan. The app is "a way to make sure that travelers have the information they need," she added.

The original app was launched in 2014 as an extension of AIG's secure desktop

travel assistance website for access to travel security and health information.

"The app was just another way to put information in travelers' hands, recognizing that many times travelers can't just jump on their laptops if they are out on business travel to check on information that they might need if they are going to another destination," Ms. Sloan said.

The progression from the website to the app was natural due to how often people use their mobile devices, she said.

The app includes travel training with modules that detail how to handle different risk scenarios. It also addresses risks specific to women, and AIG has plans to launch a version that addresses the different risks that members of the LGBTQ community face.

"The AIG Travel Assistance App is an

"The world today has become a much riskier place, especially for travelers. There are a lot of current issues people should deal with, whether it's health issues ... if it's travel security, if a destination has become less safe."

Rhonda Sloan, American International Group Inc.



Rhonda Sloan

excellent example of an innovation that evolved to meet the changing needs of our clients, and equips those organizations with a tool that assists toward their 'duty-of-care' obligations to traveling employees," said Gaurav D. Garg, New York-based CEO for personal insurance at AIG.

Joyce Famakinwa

Chubb

CYBER SERVICES FOR LOSS MITIGATION: ONLINE CYBER SECURITY EDUCATION

learn cyber.com/chubboffer



Many data network outages occur because employees "don't know how to respond when something happens," when knowing how to do so "will help reduce the exposure to a loss when an incident occurs," said Russ Cohen, Chubb Ltd.'s Philadelphia-based vice president for cyber services.

Chubb's Cyber Services for Loss Mitigation: Online Cyber Security Education program, a 2017 *Business Insurance* Innovation Awards winner, is intended to help employees avoid the errors that can have a

significant impact when data is lost, stolen or becomes unavailable, Mr. Cohen says.

There are two courses in the program, which is available to Chubb cyber insurance policyholders. The first, which can be viewed in 20 to 30 minutes, educates on the "bare-bones basics" needed to identify potential threats, including protecting sensitive information and "how to escalate issues to the right individuals within the organization when necessary," said Mr. Cohen.

The second course, which runs 30 to 40

minutes, is intended for individuals within the organization with "access to higher amounts of sensitive information."

It "provides additional, more technical guidance and education," including information on laws and regulations and the "more advanced cyber threats out there," Mr. Cohen said.

"The courses have been designed so they're quick to take. We didn't want to do something that's intrusive," said Mr. Cohen. In addition, Chubb "made it easy to set up and deploy," with less than a couple of minutes needed to reach the site, register and gain access to the courses, he said.

Chubb also wanted to make this a good experience for risk managers, Mr. Cohen said.

"They also can go to the portal and generate reports on who has taken and not taken the course, and can use it to improve their own internal security programs, or track people who have taken the course," he said.

The program was introduced in December 2016. "So far, the response in the marketplace has been really good," Mr. Cohen said.

He said some policyholders have liked



Russ Cohen

the course so much they have used it to supplement their existing cyber awareness programs.

The program will evolve, said Mr. Cohen. Over time, it will be revised to add information on new cyber threats, including one being planned on ransomware, he said.

Judy Greenwald

Chubb

GLOBAL CYBER FACILITY AND PROPERTY AND CASUALTY ENDORSEMENTS

chubb.com/us-en/business-insurance/global-cyber-facility-suite-of-multiline-peril-endorsements.aspx



Chubb Ltd.'s Global Cyber Facility and Property and Casualty Endorsements, a 2017 *Business Insurance* Innovation Awards winner, enables risk managers to close gaps in their firms' insurance portfolios to provide certainty of cyber coverage for financial, casualty and property losses.

The offering is also intended to encourage risk managers to ask questions on the cyber issues within their insurance portfolios and evaluate cyber-triggered events, including where potential losses exist.

Michael Tanenbaum, New York-based executive vice president at Chubb, said that

while cyber insurance "was hitting on some solutions" to address cyber risk, "risk managers could not provide contract certainty in terms of cyber," including with respect to financial loss protection and perhaps some elements of business interruption.

There are questions, for instance, as to what happens if a cyber incident leads to damage covered by traditional property policies, Mr. Tanenbaum said. While some markets will cover it, others say it is excluded, and yet others offer sublimits. "We don't want uncertainty for our clients," he said.

The "same holds true" with casualty cov-

erages if a bodily injury results from a cyber attack, he said. The concept is applicable to construction and environmental risks as well, he said.

"We don't want our clients to worry about how much coverage they have," he said. "We want to make sure there's certainty surrounding it."

What was needed, said Mr. Tanenbaum, was a "holistic solution" for cyber exposure.

It is a matter of "taking traditional policy triggers and making sure the cyber peril gets picked up," he said.

Chubb's suite of endorsements for the Global Cyber Facility, which was introduced in February:

- Enables policyholders to customize their existing insurance portfolio to close gaps related to their cyber exposures.
- Has a casualty endorsement that provides difference-in-conditions insurance to the scheduled casualty lead umbrella for cyber events, including provisional protection in the event of coverage disputes.
- Has a property endorsement that provides both difference-in-conditions and difference-in-limits insurance to the scheduled property policy for loss or dam-



Michael Tanenbaum

age related to cyber events.

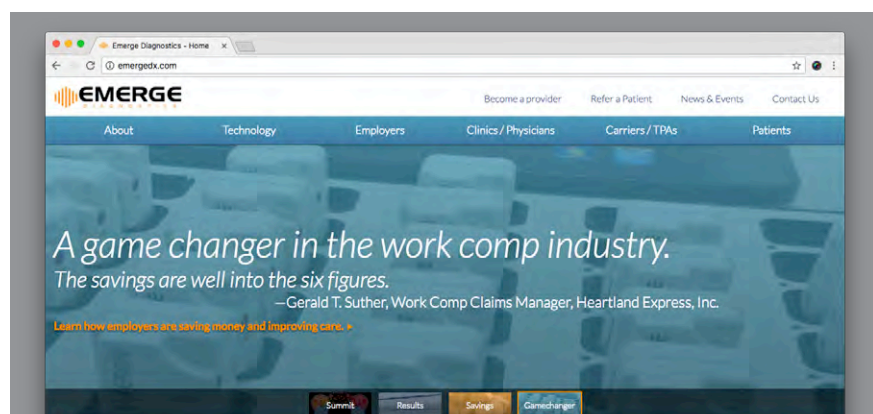
- Includes experienced claims management, with the ability to access Chubb's Cyber Incident Response team if preferred.
- Offers risk managers a single point of contact to help manage cyber-related exposure across multiple lines of insurance.

Judy Greenwald

Emerge Diagnostics

TELEMEDICINE PROGRAM

emergedx.com



Anyone in the medical field will say a major disadvantage of telemedicine is that a doctor cannot touch a patient to accurately gauge pain or measure discomfort.

Emerge Diagnostics Inc., a 2017 *Business Insurance* Innovation Awards winner, began to bridge that gap earlier this year with a telemedicine service that attaches sensors that go from the patient to a computer manned by a technician, through the internet and onward to a doctor who can check for muscle spasms via readings

in the same way an electrocardiogram detects a heart rate.

The Carlsbad, California-based company created the program to help the workers compensation industry deal with two hurdles: measuring soft-tissue muscle pain objectively and getting injured workers to the best providers as quickly as possible, according to founder and Chief Scientific Officer MaryRose Reaston.

"We go right to them with this telemedicine visit so that they get the best care on day one," Ms. Reaston said, add-

ing that an early, more accurate diagnosis on the day of the injury can lead to a better recovery.

The program tests for soft-tissue injuries by using electrodes to monitor nerve reactions to movement and other stimuli, creating a computerized reading of whether a muscle is in spasm, or whether the nerves are reacting abnormally.

Business Insurance took an up-close look at the telemedicine program at a conference hosted by Emmerge Diagnostics in January, just after the company launched its service. At the time, developers told the audience that the program transcends traditional subjective tests for pain, such as when a doctor asks a patient about their range of motion or how much pain they are in on a scale of 1 to 10.

Ms. Reaston said the program is



MaryRose Reaston

"exploding" within the trucking industry, where workers can be injured remotely as they trek across the country.

"We can deliver better care anywhere," she said. "Better directed care from day one leads to better care; it's really been a game changer."

Louise Esola

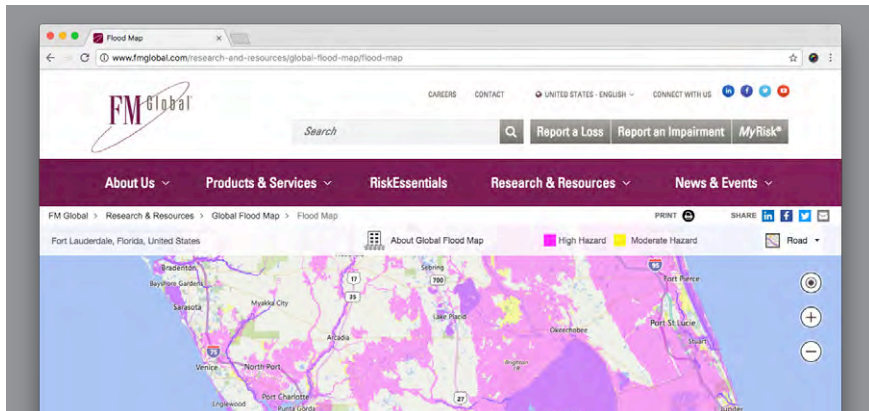
"We go right to them with this telemedicine visit so that they get the best care on day one ... Better directed care from day one leads to better care; it's really been a game changer."

MaryRose Reaston, Emmerge Diagnostics Inc.

FM Global

GLOBAL FLOOD MAP

www.fmglobal.com/research-and-resources/global-flood-map



Hurricane Harvey, which caused devastating floods in Texas in August, provided a sobering reminder of the importance of understanding and mitigating flood risks.

FM Global's Global Flood Map, a 2017 *Business Insurance* Innovation Awards winner, was created to give risk managers and other stakeholders a free tool to assess flood exposures and enhance their loss-prevention and site-location decisions.

The interactive map, whose development was propelled by Superstorm Sandy,

provides a global view of high- and moderate-risk flood zones, allowing risk managers and others to determine if their properties are at risk. Users can determine whether their business locations reside in a flood zone by typing in physical addresses. The map identifies high hazards, highlighted in pink if a location is in a 100-year flood zone, meaning it has a 1% chance per year of experiencing a flood; and moderate hazards, highlighted in yellow if a location is in a 500-year flood zone, meaning it has a 0.2% chance

per year of experiencing flooding.

Nearly 10,000 people worldwide have registered to use the map since its March 31 public launch, including risk managers, brokers, insurers, reinsurers and government officials.

"It seems to have hit a sweet spot for a need with people around the world," said Brion Callori, senior vice president and manager of engineering and research at the Johnston, Rhode Island-based insurer. "A lot of them are using it when they are looking at new facilities."

A long-time FM Global client operating in the data recovery sector recently dealt with a situation in which a major client of its own expressed concern about the FM Global client's European facility being in a flood zone, which the FM Global client disproved using the flood map, he said.

"We actually helped our client keep their client," Mr. Callori said.

"It seems to have hit a sweet spot for a need with people around the world. A lot of them are using it when they are looking at new facilities."

Brion Callori, FM Global



Brion Callori

Companies can identify the base flood risk for all their facilities at a resolution of just 90 meters by 90 meters (roughly 300 feet by 300 feet), which will be improved to 30 meters (roughly 100 feet) next year to improve its accuracy, with storm surge also incorporated into the map, he said.

"For properties that are coastal, it will be a critical addition to the tool," he said.

Gloria Gonzalez

Liberty Mutual Insurance

LIBERTY MUTUAL SMARTVIDEO

business.libertymutualgroup.com/business-insurance/claims-process/workers-compensation-claims-smartvideo-communications



Managing workers compensation claims in a way that is effective and produces better outcomes for injured workers is a key goal, and Liberty Mutual Insurance Co. has developed a product to serve those who are not familiar with the claims process.

Liberty Mutual SmartVideo, a 2017 *Business Insurance* Innovation Awards winner, achieves that objective by deliv-

ering personalized online videos to workers comp claimants that summarize key information specific to each claim and provide links to tools and resources.

"One of the things we wanted to do was focus on improving outcomes. We saw an opportunity to provide more clarity and a little bit of personalized information around the claim," said Donald Sierra, Boston-based manager of claims strategic

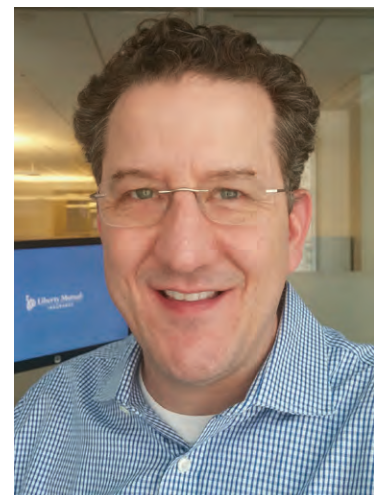
development in Liberty Mutual's commercial insurance unit. "It's really a tool to help explain the resources available to an injured employee."

The claims process often can be complicated, and providing information in a visual way helps injured workers retain information, Mr. Sierra said.

"A couple of years ago, as part of our new claims innovation program, we were thinking about ways that we could introduce new technology to help improve outcomes in claims and to extend our capabilities," Mr. Sierra said. "One of the things we saw in the workers compensation space was an opportunity to provide more information on what to expect and to communicate clearly regarding the workers compensations claims process. We also knew at the same time video was a developing channel for customer communication."

Liberty Mutual launched SmartVideo in 2016 for its workers compensation policyholders, then launched a Spanish-language version the same year.

More than 18,500 videos have been sent to claimants, and according to those



Donald Sierra

who have been surveyed by Liberty Mutual, 89% say the video has improved their understanding of the claims process, according to a spokesman for the insurer.

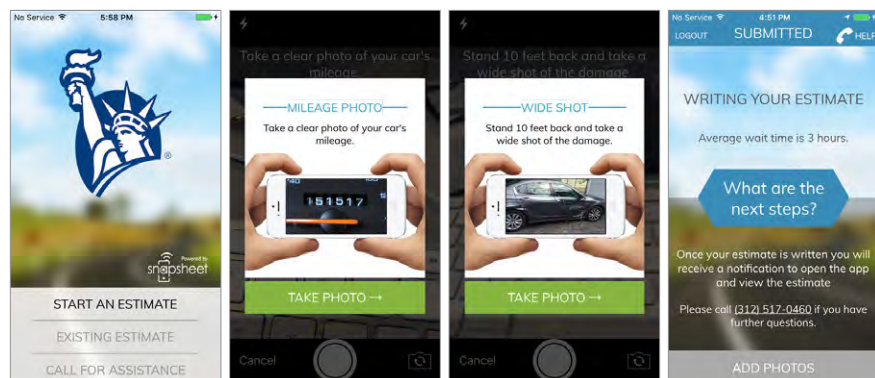
"For the claims adjuster or claims specialist, this complements all of their efforts and the expertise that they provide," Mr. Sierra said. "To be able to provide this additional information to the worker to really supplement their knowledge, it just makes things easier. Just the introduction of a new communication channel bringing that into the workers compensation claims process, I think, is the innovative point of this."

Joyce Famakinwa

Liberty Mutual Insurance

LM EXPEDITE

business.libertymutualgroup.com/business-insurance/coverages/commercial-auto-insurance-policy



Road accidents may be inevitable, but Liberty Mutual Insurance Co.'s LM Expedite app is looking to make them less time-consuming for commercial auto customers.

The mobile application, which is a 2017 *Business Insurance* Innovation Awards winner, allows drivers to take photos of auto damage and instantly request an estimate from one of Liberty Mutual's claims experts from their phones.

"We worked on this for over a year," said Tomisi Kikama, Boston-based claims director with Liberty Mutual.

"We determined the tool could speed claims for a significant number of commercial auto policyholders, particularly those with moderate- and low-severity claims."

Mr. Kikama said Liberty Mutual started a pilot program for the app on the West Coast early last year and then deployed it across the country. LM Expedite was widely introduced in January 2017 with the goal of making the claims process smoother and faster, while maintaining quality.

"The customer forwards a picture to an

appraiser, who has two to three hours to complete the estimate, so a lot of times we're able to do these in the same day. So if a customer's ready and we're able — what may take a few days otherwise now gets done in the same day sometimes," Mr. Kikama said.

LM Expedite can help get customers back on the road more quickly and save them money because they're not losing any time waiting for the appraisal, Mr. Kikama said.

This is important for commercial customers who are losing money when their vehicles are out of commission, he said.

"We created this tool to allow them to move quicker through the process and to get an estimate and start the repairs as soon as possible," he said.

LM Expedite has become popular, with over 800 customers using it each month, Mr. Kikama said.

"One metric I look at is completion rates, and nearly 90% of the customers who started the process completed it with the mobile app, so that goes to speak to its usability and its ease of use," he said.



Tomisi Kikama

"If you're able to use a smartphone, this process is very intuitive to you," Mr. Kikama added.

Mr. Kikama said LM Expedite will continue to be modified.

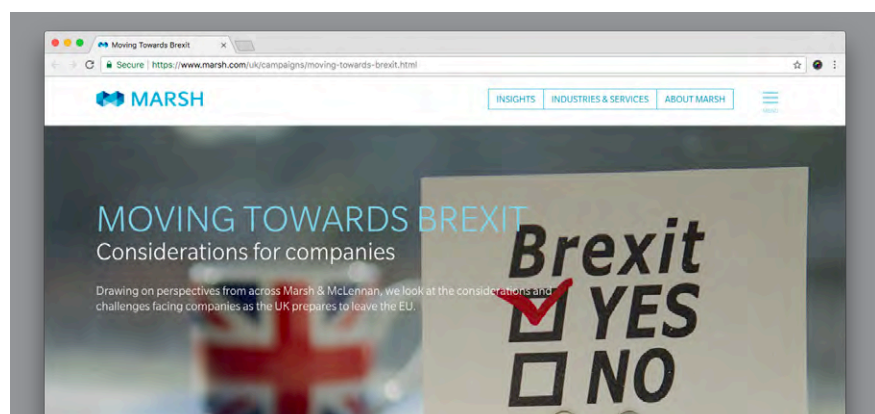
"We're looking at other uses that make sense," he said.

Rob Lenihan

Marsh

BRIDGE

www.marsh.com/uk/campaigns/moving-towards-brexit.html



The United Kingdom's planned exit from the European Union is leading to significant uncertainty, not the least of which exists in the insurance industry. Marsh Ltd.'s Bridge product, a 2017 *Business Insurance* Innovation Awards winner, is stepping in to address coverage gaps that may emerge due to the so-called Brexit.

Daniel Hearsurn, head of placement, and Leslie Kurshan, leader of innovative client solutions for the U.K. specialty practice for Marsh UK, both based in London, were tasked with developing a

solution to address insurance issues arising from the Brexit referendum in June 2016.

"As soon as it happened, we knew there would be dislocation in the market" and much uncertainty, Mr. Hearsurn said. "We had to work out what is the fundamental problem: the loss of passporting rights should the U.K. leave the European Union. Passporting rights in Europe have been probably one of the most important parts of the European Union over the last 30 years. They've enabled insurers to insure across borders. It's meant we hav-

en't had licensing problems across Europe for many years."

While some insurers had serendipitously established domiciles in other parts of Europe previously, the majority do not have a solution to resolve passporting rights post-Brexit, he said.

"We felt market choice would be significantly hindered," Mr. Hearsurn said, adding that the broker wanted to ensure it could maintain options for its clients. "If you maintain choice, you maintain competition and that's really what our role as a broker is."

Marsh UK adapted a solution that has been used in Latin America and other regions where similar issues have required use of local fronting companies to deal with the uniqueness of the Brexit situation and ensure it would work from a legal and regulatory perspective.

But Mr. Hearsurn said he anticipates



Daniel Hearsurn

the solution will need to continue to adapt as the Brexit negotiations proceed over the next 18 months and clients begin addressing any coverage gaps as they renew policies ahead of the March 30, 2019, withdrawal deadline.

"It's not a stable product — it is something that will continue to evolve, which I think is very important," he said.

Gloria Gonzalez

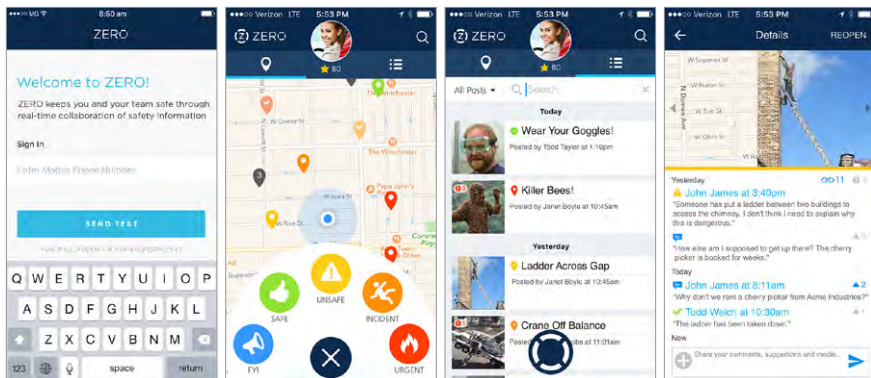
"Passporting rights in Europe have been probably one of the most important parts of the European Union over the last 30 years."

Daniel Hearsurn, Marsh Ltd.

Salus Systems

ZERO

teamzero.com



It's like Facebook for workplace safety: instant notices on workplace dangers and incidents, photos of unsafe conditions — all pinpointed on a map with the ability to tag a supervisor and other workers who might come across it.

ZERO does all that with a user-friendly mobile application downloadable to any smartphone.

A 2017 *Business Insurance* Innovation Awards winner, the app was created by workplace safety and technology firm Salus Systems L.L.C. of Easton, Pennsylvania. Co-founder and longtime insur-

ance broker Glen Welch provided *Business Insurance* a virtual tour of the application, which gives users a profile alongside their photograph, as other social media sites do.

"This application allows employees in leadership to share information both ways to get that data out immediately to make adjustments and to keep people aware," said Mr. Welch. "That's the value, getting it in their hands immediately so no one else gets hurt doing the same thing."

At its core, the app allows workers to post notices and photographs under the categories "FYI," "Safe," "Unsafe," "Incident"

and "Urgent," with color coding that gives co-workers and supervisors a swift way to triage situations on the job and alert others to hazards. The app also allows for anytime access to seminars, meetings and brochures.

Like social media, specific users — or employees — can "tag" others in their posts, providing a second layer of notification for workers. In some ways, it puts risk management in the pockets of workers and rather than in a separate department, Mr. Welch said.

"Employee engagement is the holy grail of risk management," added Mr. Welch, who worked alongside his brother, broker Todd Welch, to bring the app to market. "We realized you can't hire enough safety engineers and inspectors to watch everything."

One benefit is the availability of instant reports for company leaders and stakeholders with a vested interest in safety, he said: "How is the information getting to the leadership? Typically, information shows up five months later after an exhaustive report."

Salus' target market is "heavier industries where safety is already a priority for the company," Mr. Welch said.



Glen Welch

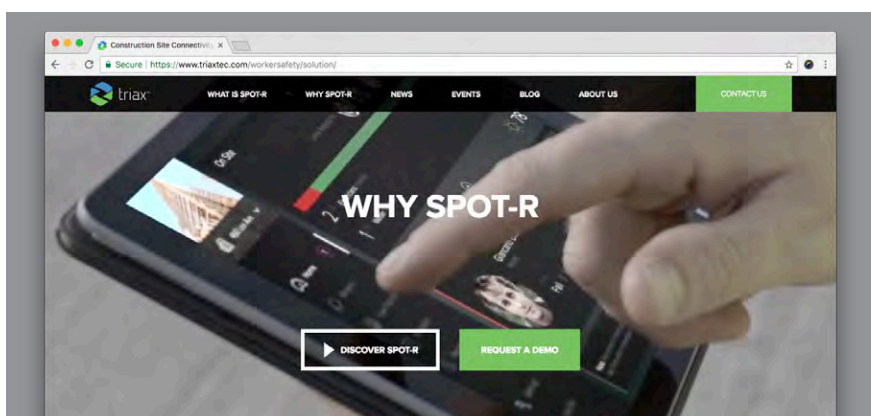
The service, a joint venture between Charter Partners Community L.L.C. and Everest Reinsurance Holdings Inc., launched in the second quarter of 2017. Mr. Welch said the app is undergoing a modification that will better help with insurance claims reporting.

Louise Esola

Triax Technologies

SPOT-R

triaxtec.com/workersafety



Keeping track of workers is critical on construction sites, and spot-r is making that task much easier.

The wearable system, developed by Triax Technologies Inc. in Norwalk, Connecticut, is a 2017 *Business Insurance* Innovation Awards winner.

Chad Hollingsworth, CEO and co-founder of Triax, said that despite being one of the largest industries in the world, the construction business is still lacking on the tech side.

"They don't have a lot of modern technol-

ogy to help with safety," he said, "and it's a very dangerous work environment. So we saw that as an opportunity to come up with a solution for this market to help make the workers safer and help insurance companies have data that they haven't had before."

In addition to locating workers on a job site, the spot-r devices are designed to identify and measure slips, trips and falls, and to alert site supervisors to incidents as they happen.

Mr. Hollingsworth said that spot-r consists of three components: a sensor worn

by workers at a site, a network set up at the site location and cloud software that allows operators to view and interact with the data.

"If you're trying to find a specific worker or if there is some kind of accident, you know who's there and who's around when it's going on," he said.

Mr. Hollingsworth said Triax has been building spot-r for over two years and has been making wearable sensors for five.

Pete Schermerhorn, Triax's president and chief operating officer, said the spot-r technology is also helpful in workers compensation cases.

"With a system like this," he said, "when there's a claimed fall or slip or trip on the site, you now have a robust system backing up that claim or data to dispute it because, when there is a fall event on site, we record how high the individual fell, roughly where they were on the site when they fell and who was around them."

Bernard Ruf, director of operations for Lettice Construction Corp. in New York, said the company has been using spot-r technology for about seven months.

"It's a good compliance tool," he said. "The individuals get the device and they're



Chad Hollingsworth Pete Schermerhorn

clocked in right there. They return it at the end of the day. You know what time they're on the job site, what time they're off the job site."

He said spot-r technology is particularly important in case of an evacuation, as the wearable device has an audible alarm telling workers to go to the muster point. Instead of relying on a head count, site managers will be able to see if all the workers are accounted for by checking their laptops.

"It's a really cool device," Mr. Ruf said. "I've got 35 years in the construction business, and I've never seen anything like this."

Rob Lenihan

RISK MANAGEMENT TEAM

American International Group

AIG EUROPCAR SMOOTH DRIVING CONTEST

Telematics product for commercial fleets



If drivers could be made aware of their driving habits and behaviors, could they or would they make changes to become safer drivers?

To find out, American International Group Inc. launched the AIG Europcar Smooth Driving Contest, which ultimately won the 2017 *Business Insurance* Innovation Award for a risk management team.

"If we were able to tell a specific driver about their behavior, would it improve their driving? That's what we were trying to test," said Hilary Browne, head of U.K. liabilities for AIG in London. "That's how the pilot program was born."

Collaborating with London-based telematics provider The Floop Ltd. and the Ireland operations of longtime client Europcar Group S.A., a car rental company based in Voisins-le-Bretonneux, France, AIG devised a technology solution to record and analyze driver behavior and then inform the drivers through a score that could be compared with other drivers' scores.

AIG's consumer division in Ireland had done "a number of things around telematics," Ms. Browne said.

"We told (Europcar) about the results we had seen from these consumer products highlighting the potential benefits. They decided to put in place telematics within their fleet of 5,000 vehicles," Ms. Browne said. Over the next 18 to 24 months, Europcar installed the onboard telematics devices in their vehicles at their own cost, she said.

Telematics had always been useful in compiling claims data for defensibility and other purposes, but "we wanted to see

what else we could do with commercial fleet" to potentially improve driver behavior, Ms. Browne said.

Using a telematics system from The Floop, which has worked with AIG for about four years, and technology from AIG, the insurer would inform Europcar rental drivers about their driving behavior on a daily basis, providing each driver with a score based on actions such as speeding, hard acceleration, harsh braking and cornering, Ms. Browne said.

While The Floop's business is primarily focused on the personal lines insurance industry, "We also provide solutions for fleet management organizations and the auto industry," said David James, chief operating officer for The Floop.

The platform was built in roughly four months, and it was decided to turn the test program into a competition in which drivers would see how their daily scores ranked relative to others. Weekly winners would receive an Apple watch, with 36,000 rental

drivers participating in the contest that ran from Jan. 23, 2016, to May 23, 2016. Data collection continued after that point.

The data collected from the vehicle was analyzed by The Floop and turned into a driver score, which took into account driver behavior, including variables such as time of day, speed and duration of trip, according to Mr. James.

The project proved fruitful, as a substantial reduction in claims activity was observed.

"What the individual (driver) pilot itself showed us was that there was a reduction in the claims experience for Europcar Ireland during that period of 23%," Ms. Browne said. "So it did, it absolutely changed driver behavior."

The additional data collected to date shows similar results.

"Now we have almost 18 months of data, and what we can see is a 15% reduction in claims during that period," Ms. Browne said.

The results speak loudly to the initial challenge of changing driver behavior, according to the pilot participants.

"What we're proving is that when a driver does know how they're driving and what their behavior is, they do improve how they drive," Ms. Browne said.

"We believe that this has taken a proactive approach to informing our customers how they are driving, which has driven down the number of accidents they have ... This trial has now moved into a long-term initiative for the company."

Colm Brady,
Europcar Ireland

"We believe that this has taken a proactive approach to informing our customers how they are driving, which has driven down the number of accidents they have," Colm Brady, director of business development for Europcar Ireland, said in an email, adding that Europcar Ireland "has seen significant improvements in operational efficiencies."

"Europcar Ireland was delighted to take part in what was a very successful project in the introduction of telematics in 100% of our fleet. This trial has now moved into a long-term initiative for the company where we will continue to invest in the hardware and software," Mr. Brady said.

Possible future applications of the technology include fleet implications, Ms. Browne said.

"Potentially we would be able to aggregate the driver data and provide that data to a fleet manager," she said. "That's what we aspire to be able to do, to be able to provide the fleet manager with data in a dashboard."

Improved driver behavior and reduced claims activity not only have the potential to lower costs but ultimately add up to safer fleet management.

"That's absolutely our goal, to be able to work with clients and to be able to give them that information and make their fleet and customers safer," Ms. Browne said.

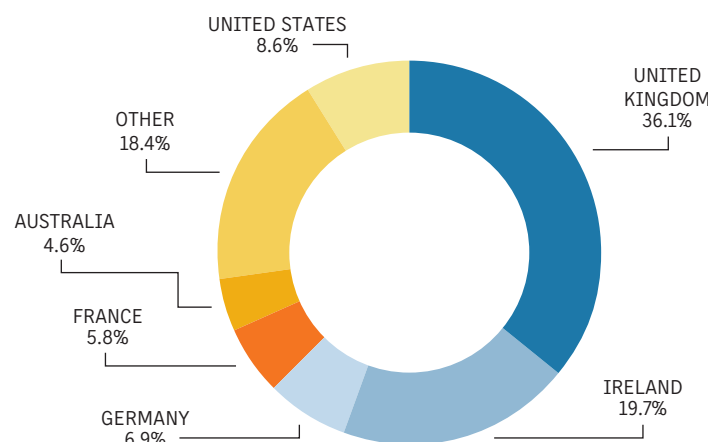
In addition to the whole data collection system, mobile technology played a further role as drivers used devices to see their scores.

"We saw the vast majority of dashboards accessed through the mobile application, rather than going into a hard drive," Ms. Browne said.

Matthew Lerner

SMOOTH DRIVING CONTEST: STATS AND INSIGHTS

Drivers who participated in the AIG Europcar Smooth Driver Competition, broken out by country, below, improved their driving behaviors when they were made aware of their habits behind the wheel.



Source: American International Group Inc.

EXPANDING CAPABILITIES WITH ONBOARD TELEMATICS

While American International Group Inc. has worked with The Floop Ltd. previously, the Smooth Driver Contest included a new element: an onboard telematics device.

"The other work we do with direct lines uses smartphones to collect the data as people drive," according to David James, chief operating officer, The Floop. "As an organization, this was the first time we ever used a device."

While The Floop's telematics schemes are generally built on a smartphone application used by consumers, the systems are "device neutral," according

to Mr. James, in that driver behavior can be captured from a number of sources, ranging from a traditional "black box" to sensors and, increasingly, smartphones.

The new arrangement, however, did necessitate further development work, Mr. James said.

"For AIG, we developed a solution that worked on a device that is installed in the vehicle. Europcar installed that device into their vehicles," he said, adding this required additional development work with the device-maker "to make sure we were getting data of the integrity we require to do the scoring for our partners."

An onboard telematics device has advantages, according to Hilary Browne, head of U.K. liabilities for AIG in London.

"The analytics were supplied through Floop using an onboard device which is "one of a number of telematics offerings we know from experience," Ms. Browne said.

It is installable, she said, "because we know devices like applications and dongles have connectivity issues."

The devices were installed by Europcar into its fleet of 5,000 vehicles at the rental company's own cost, Ms. Browne said.

Matthew Lerner

Nothing special about being different at Qatar Re

Gunther Saacke | CEO, Qatar Re

Business as usual has become an unrewarding proposition for global reinsurers, in particular as there are structural, rather than cyclical headwinds. Just think of the ever-growing efficiency and fungibility of capital or the erosion of tangible bricks-and-mortar assets in today's digital economies.

It would be presumptuous to claim that the establishment of today's Qatar Re back in 2013 was predicated on a clear anticipation of the protracted nature and continuous malaise of the reinsurance market, let alone the pace of unfolding technological and other macro developments. Starting up in what was and ever since continued to be a soft market meant nothing less than engaging in a bet against reality. Being radically different, while not sufficient, undoubtedly was the necessary starting assumption — whatever the strategy mix of the company was going to be.

The strategic choices we made at the outset have become instrumental in building a company that profitably grew from just about \$100 million in gross premiums written in 2012 to more than \$1.2 billion in 2016.

Key elements of “being different” at Qatar Re

Even though the breadth and depth of our underwriting skills stand up to any peer comparison, we always refused to join the predominant game of simply tracking the market. Instead, we opted to place significant bets on a limited number of promising ventures in insurance entrepreneurship where we see the potential for innovation in product design, risk management, distribution or financing. These insurance entrepreneurs are greatly empowered by digital technology and advances in analytics which they usually adopt much faster than incumbents across all relevant segments of the insurance value chain. Combining their in-depth insurance expertise with talent from the tech space is expected to develop into a very powerful business proposition, for example in risk selection and pricing where the ubiquity of real-time data starts to reshape the status quo. New predictive models, location-based data with greater levels of precision and behavioural data create differentiating opportunities for the “open minded” fraction of the incumbent market just as for innovative start-ups that are unencumbered by legacy issues.

These carefully selected and vetted ventures benefit from Qatar Re's private equity-style support and our willingness and capacity to ‘follow their fortunes’. We enjoy joining forces with insurance entrepreneurs in complex and bespoke transactions, deploying our proven capabilities in the advanced capturing and integration of data as well as the development of knowledge intense products and services. The bottom-line in terms of differentiation in competition is that typically our clients mean more to us than they would to (market tracking) competitors as we take a disproportionately big share in their fortunes.

Second, we believe that the empowered expertise of our underwriting and

support staff sets us apart.

As many of them combine multiple skills in one person Qatar Re does not take decisions by committee. Our organisation is “easy to read” for clients and we do not suffer from the paralysis typically associated with complex matrix structures. We spare our talent the frustrations and frictional cost of rigid matrix-type or committee-driven environments that management consultants so successfully established as an undisputable norm for our industry.

And third, we have established a broad based global franchise serving and servicing our clients and brokers out of all major hubs around the globe within their office hours offering a full range of products and services supported by the long-standing personal relationships of our underwriters, actuaries, accountants and finance professionals.

With all of this said unquestionable financial security and substantial capital support will remain the bedrock for what we do. Offering “A”-rated security Qatar Re is regulated by the Bermuda Monetary Authority. The company's surplus position reflects a solvency ratio in excess of 400%.

Well positioned to deliver

The bottom line is that Qatar Re is well positioned to assist innovative insurance entrepreneurs in playing their increasingly important role. Clients can expect us to deploy the full scale of our capabilities, products and services in support of their promising insurance ventures. Based on our organisational set-up and management culture, we believe to have ‘natural’ advantages in terms of agility, speed and accessibility.

This clearly is a mutually beneficial proposition, based on an efficient ‘division of labour’: It enables the insurance entrepreneur to focus on its ‘comparative’ advantages, e.g. in product development and distribution whereas Qatar Re ensures an adequate degree of capital efficiency, shields the insurer's balance sheet from catastrophe risk and thereby affords their founders a certain ‘peace of mind’. By funding more attractive products and methods of distribution Qatar Re hopes to contribute to what the pundits expect to become a fundamentally different future paradigm of insurance.



For more information, please visit www.qatarreinsurance.com.

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COMMENTARY

Opportunity in the wake of disaster

After several years of relatively low losses, insurers and reinsurers are seeing significant claims coming in as a result of the recent string of natural catastrophes, which provides the industry with an opportunity.

Not to capitalize on a surge in pricing, though that's a possible outcome, but to improve its image in the eyes of its customers, both personal and commercial.

It's a truism that the insurance industry has a poor reputation with the public, and it's no surprise that's the case. Premiums are paid and never seen again by many policyholders, so there appears to be little tangible benefit in buying coverage. When claims are made, deductibles and exclusions often limit claims

payments, which causes more resentment, even though they may be clearly defined in the policy.

On top of that, of course, it's not unheard of for insurers to be overzealous in seeking to deny coverage in the wake of disasters.

Given that background, it was refreshing to hear industry executives going out of their way to express their concern for the people affected by the recent hurricanes at last month's reinsurance meeting in Monte Carlo, Monaco. Time and again, senior reinsurance executives spoke about the

need to think about the human toll before the financial toll, and that the industry would fulfill its obligations. "It's what we are all about — helping manage the impact of a major event," said one leading executive. They were likely also calculating the possible financial upside of the storms if premiums rise as a result, but their compassion was no doubt genuine.

The disasters also come at a time when the insurance industry is looking to expand its reach. In particular, various multinational efforts to expand insurance in developing nations are picking up steam as the industry seeks to offer risk management solutions to parts of world that desperately need them. The industry would also benefit from securing a bigger market for its products, of course, but that's a legitimate goal, too.

For such efforts to succeed, however, insurers and reinsurers need to work with governments of developing nations and overcome perceptions that they are trying to just boost their profits at the expense of nations that have few resources to spare.

That's why it's important for the industry that insurers respond with understanding to the human misery wreaked by hurricanes Harvey, Irma and Maria, as well as other disasters. Most people don't expect insurers to pay for losses they don't cover, but it's within the gray areas where the industry's reputation withers or prospers. Denying borderline claims for businesses and people in desperate situations would just fuel more resentment to a sector that, for the most part, doesn't deserve it.

Many property insurers and reinsurers are in a good financial position at the moment, after years of relatively few claims. Now's the time to shine.



Gavin Souter
EDITOR

SCHILLERSTROM



VIEW FROM WASHINGTON

Full docket for high court

The U.S. Supreme Court's next session begins Oct. 2, and it promises to be a doozy.

The 2016-2017 term was a pretty sleepy one, with the court short-handed and avoiding taking on potentially divisive cases until the confirmation of Neil Gorsuch. But the court will have hot-button issues to contend with right off the bat this term. It will hear arguments on President Donald Trump's travel ban in the consolidated cases *Trump, President of U.S., v. International Refugee Assistance* and *Trump, President of U.S., v. Hawaii*. The court also agreed to decide in *Masterpiece Cakeshop Ltd. v. Colorado Civil Rights Commission* whether applying Colorado's public accommodations law to require a baker who designed and created custom wedding cakes to do so for a same-sex couple despite his religious beliefs violates the free speech or free exercise clauses of the First Amendment.

But to get things started on Oct. 2, the court will hear arguments in three consolidated cases: *National Labor Relations Board v. Murphy Oil USA*, *Epic Systems Corp. v. Lewis*, and *Ernst & Young v. Morris*. The outcome may be critical for employers, because the issue at the heart of these cases is whether arbitration agreements with individual employees bar them from pursuing work-related claims on a collective or class basis, or whether such agreements limit employee rights under the National Labor Relations Act to engage in concerted activities. The issue caused a split in the lower courts, making it ripe for Supreme Court review.

The National Labor Relations Board has come down on the side of employees — a stance dating back to the Obama administration — and will represent itself in the oral arguments, while the Trump administration filed a brief in June urging the court to rule in favor of employers by arguing that class

action waivers in arbitration agreements should be enforced, creating a split between federal agencies that echoes the division in the lower courts.

Where the battle lines are drawn among stakeholders is predictable. The U.S. Chamber of Commerce seeks an end to the "Obama board's years-long war on class action waivers," through President Trump's NLRB appointees and legislation to prevent the board from trying to bar arbitration agreements. Many employers utilize arbitration agreements that limit costly class actions,

as the chamber notes. But workers' rights groups object to forced arbitration agreements that deprive employees access to the court system.

I can see both sides of the argument. Employers must carefully manage both their litigation risks and their bottom lines, and such agreements can be a valuable tool to do so. But in the hands of



Gloria Gonzalez
DEPUTY EDITOR

employers who refuse to take responsibility for their adverse employment actions or hostile work environments, these agreements can leave workers vulnerable to all types of abuses from sexual harassment to unjust terminations. Just ask the women of Fox News, who silently suffered until Gretchen Carlson had the guts to stand up for herself and shine a light on the bad behavior at the media giant.

Not an easy question for the justices to answer, but I hope they can reach some type of resolution — because employers hate uncertainty.

Connecticut offers more options for insurers exiting lines of business



William D. Goddard is a partner at Day Pitney L.L.P. in Hartford and New York where he concentrates on insurance, reinsurance and insurance insolvency matters. He can be reached at 860-275-0117 and wgoddard@daypitney.com.

Insurers in the United States have long faced structural challenges in changing business mix or shedding lines of business or legacy books. When insurers try to streamline their corporate structures, they often grapple with diverse books of business written across diverse corporate entities, or runoff legacy books trapped within active companies. Insurers often must divest lines of business through complex reinsurance transactions.

The United Kingdom and other common law jurisdictions have embraced a system of corporate transactions and business transfers to help, but it is generally unknown if these structures would be honored by U.S. courts. Rhode Island has enacted a series of statutes and regulations to attract new insurers to the state by allowing them to enter into U.K.-style transactions.

The problem is simple: How does an insurer exit a line of business and know, for sure, that it won't be sued if the transferee company goes bust? Connecticut has recently enacted a new approach. Effective Oct. 1, Connecticut is allowing domestic insurers to divide into two or more insurers. Public Act 17-2, An Act Authorizing Domestic Insurers to Divide, was signed by the governor on May 16. The law establishes an entirely new procedure, effectively a demerger, which creates multiple distinct legal successors to the originating insurer.

To divide, an insurer must first create a plan of division and submit that plan for approval to the Connecticut insurance commissioner. The plan must designate, among other information, how liabilities — including insurance policies — will be divided between the resulting insurers; how the dividing insurer's assets, including real property, will be distributed; and how each of the new insurers will be governed. The plan must also provide for the manner of distributing ownership interests in the dividing insurer and the resulting insurers. Holders of ownership interests in the original insurer may lose their interest following the division, subject to appraisal rights, if applicable. The sponsor may amend or abandon the plan until it is effective. All documents submitted to the commissioner, apart from the plan of division and incorporating documents, must be kept confidential.

The dividing insurer must approve the plan of division in accordance with its governance documents. If the insurer has specified a certain procedure for mergers, that process must also be followed for a division. Creditors that have lent money to the dividing insurer prior to Oct. 1,

2017, and have the right to approve a merger, must approve the division.

The commissioner must approve a plan unless the commissioner finds the division will not protect policyholders and interest holders or if it constitutes a fraudulent transfer. Once the plan is approved by the commissioner, a certificate of division describing the effect of the transaction is filed with the Connecticut Secretary of State.

Following the division, each of the resulting insurers is individually liable only for the policies and liabilities that are allocated to that insurer, but the resulting insurers are jointly and severally liable for every policy and liability not allocated by the plan of division. This provision encourages well-planned divisions.

The act is modeled after similar statutes in Pennsylvania and Arizona. However, statutes in the other states apply to general corporate matters, whereas the new Connecticut law is dedicated to insurance.

To divide, an insurer must first create a plan of division and submit that plan for approval to the Connecticut insurance commissioner. The plan must designate, among other information, how liabilities — including insurance policies — will be divided between the resulting insurers; how the dividing insurer's assets, including real property, will be distributed; and how each of the new insurers will be governed.

There are somewhat similar laws in the U.S. and overseas that allow insurers to restructure. For example, Part VII of the United Kingdom's Financial Services and Markets Act 2000 enables a U.K. insurer, after regulator and court approval, to isolate a portion of its policies and transfer them to another insurer. There is very little precedent to indicate if the release of the transferring insurer would be honored by U.S. courts.

Rhode Island Insurance Regulation 68 permits "insurance business transfers," which are very similar to Part VII transfers. Regulation 68 specifically applies to insurance companies and requires an elaborate plan to transfer assets and

liabilities plus calls for both regulator and court approval. No transfers have been completed to date in Rhode Island, but at least two companies competing to purchase runoff insurance liabilities have set up vehicles in Rhode Island to receive liabilities through insurance business transfers.

So what is different about Connecticut's new mechanism? There are three primary differences:

- First, under the Connecticut system, one insurer either (i) divides into two insurers or (ii) forms two completely new insurers, all within the same corporate family. After a division, one of the new entities could be sold, but that is not part of the new statute. Part VII and Rhode Island both allow transfers to unrelated entities.
- Second, Part VII and Regulation 68 both require regulatory and court approval, while the Connecticut division structure is solely a regulatory process. Until a plan is challenged in another state, we will not know if courts in other states would give less deference to a regulator than to another court.
- Third, Connecticut's division process is a change in the corporate form, not, on its face, a transfer. The U.S. Supreme Court has long told us that "(c)orporations are creatures of state law," for example in *Cort v. Ash* in 1975. If a state can dictate how an insurer may merge, why can't the state tell the insurer how to demerge?

Still, by definition, divisions must leave each resulting insurer with a smaller pool of surplus than the combined entity had, without the insured's consent. Policyholders may object on the grounds that they are afforded less security than they had before and have lost their ability to sue the other corporate sibling if the entity that assumes the policyholder's policy becomes insolvent. Is that a taking or an impairment of a private contract, both of which are barred by the U.S. Constitution? If it is an impairment of contract, is there a compelling legitimate public purpose that would allow it to pass constitutional muster? All of those concerns seem to fade if a Connecticut division is simply a change in corporate form of a Connecticut corporation, over which the state reigns supreme. When a transaction is proposed, if there are objectors, the courts will need to decide, but for now, a powerful new tool for corporate efficiency may be added to the insurance tool kit.

Professional liability cover for aerospace sector

■ Global Aerospace Inc. offers aviation professional services liability insurance for the U.S. aerospace industry.

Coverage is available to aerospace contractors, aircraft maintenance providers, auditors and engineers, among others, London-based Global Aerospace said in a statement.

The policy provides coverage for financial loss and defense costs arising from acts, errors or omissions in performing aviation professional services.

A key feature of the policy is that defense costs are paid in addition to the limits of liability, Global Aerospace said on its website.

Limits depend on the type of risk, but can go as high as \$10 million, Chris Proudlove, Global Aerospace's Parsippany, New Jersey-based senior vice president and manager of the Northeast regional office and unmanned aircraft systems risks, said in an email. The product is offered in 42 states with the balance to be launched soon, he said.

Markel offers cover for hard-to-insure law firms

■ Markel Corp. is offering expanded coverage for hard-to-insure law firms that can no longer secure coverage in the admitted markets.

The claims-made coverage includes disciplinary proceedings coverage of up to \$50,000; policy limits of \$5 million per claim/aggregate; coverage for breach of network and information security systems; and new optional coverage enhancements, including choice of counsel, subpoena coverage and expanded consent to settle provision.

Target risks are law firms with three to 50 attorneys, the Glen Allen, Virginia-based insurer said in a statement. Services include a risk management hotline and claims adjusted by in-house Markel professionals.

The product is available through regional underwriting teams in Richmond, Virginia; Chicago; Plano, Texas; Red Bank, New Jersey; New York; Alpharetta, Georgia; Scottsdale, Arizona; Woodland Hills, California and San Francisco.

Travelers D&O policy covers internal probes

■ Travelers Cos. Inc. introduced D&O liability coverage that offers additional support to directors and officers who are asked to appear at meetings or produce documents for internal corporate investigations.



Platform allows real-time hurricane loss tracking

■ Karen Clark & Co. has released a modeling platform that lets insurers and reinsurers track hurricane claims and losses in real time.

The platform, RiskInsight-lite, also offers estimates for exceedance probability curves, the Boston-based catastrophe modeling firm said in a statement.

"We created RiskInsight-lite to provide only the capabilities of the other cat models plus RiskInsight's unique real-time event tracking capabilities," CEO Karen Clark said in the statement.

While most D&O policies for publicly traded companies provide coverage for defense expenses incurred when executives respond to interview requests from regulatory bodies, Travelers' enhanced request coverage reimburses costs incurred when companies conduct their own investigations before any government involvement, the insurer said in a statement.

Travelers said the coverage addresses evolving exposures created by regulations that require corporations to help investigate and identify individuals responsible

for misconduct.

The coverage, which can be triggered when a company self-reports potential corporate wrongdoing, brings a layer of protection to public business and individuals at an earlier time in the investigation process, Travelers said.

The coverage is available as an endorsement to Travelers' public company D&O policyholders, with full limits available, said Shanda Davis, Chicago-based D&O product manager for bond and specialty insurance at Travelers.

Shariah-compliant MENA M&A policy from AIG

■ American International Group Inc. is offering a Shariah-compliant insurance solution for merger and acquisitions activity in the Middle East and North Africa region.

AIG is offering the policy through its partnership with Shariah-compliant managing general agent Cobalt Underwriting, based in London. The new warranty and indemnity insurance product helps protect MENA buyers and sellers from financial losses if misrepresentations or inaccuracies in representations or warranties occur, the insurer said in the statement.

"Our M&A policies adhere to key principles of Islamic insurance, including risk-sharing by pooling of risk and not insuring assets or businesses that are involved in prohibited activities, such as gambling or selling arms," AIG said in the statement. "Islamic insurance requires oversight by a Shariah supervisory board to ensure credibility and integrity."

Distracted driving app keeps eyes on the road

■ The Cincinnati Insurance Cos. and mobile software company LifeSaver offer an app to the insurer's commercial policyholders to combat cellphone-related distracted driving.

Policyholders can enforce their cellphone driving policies by using San Francisco-based LifeSaver's app to measure and reduce distracted driving by their employees, Fairfield, Ohio-based Cincinnati Insurance said in a statement.

Using the phone's location services and other technologies in the background, LifeSaver discourages phone use while driving, according to the statement. If the driver tries to unlock the phone while driving, LifeSaver said on its website, the app presents a visual block or reminder to avoid using the phone, logs drivers' attempts to access the phone while driving, and scores drivers based on their level of distracted driving behavior.

DEALS & MOVES

Arizona comp insurer secures California foothold

Phoenix-based CopperPoint Mutual Insurance Co. has acquired West Lake Village, California-based Pacific Compensation Insurance Co. from Alleghany Insurance Holdings L.L.C. for \$150 million in cash.

The combined book of underwriting business will represent approximately \$400 million in premium and a combined asset base of nearly \$4.1 billion, CopperPoint said in a statement. The deal is expected to close at year-end.

Gallagher expands with Swedish acquisition

Arthur J. Gallagher & Co. has acquired Nordic Försäkring & Riskhantering A.B., based in Gothenburg, Sweden. Terms of the deal were not disclosed.

Nordic develops insurance programs for the life sciences, transportation, engineering and other industrial sectors.

CEO Jonas Bergfeldt, Deputy CEO Andreas Bergfeldt and their associates will remain with Nordic in their Gothenburg, Vaxjo and Gislaved, Sweden, locations, Gallagher said in a statement.

London insurance services firm acquires California TPA

Charles Taylor P.L.C. has acquired Metro Risk Management L.L.C., a Long Beach, California-based third-party claims administrator, for a maximum of \$1.8 million.

The London-based insurance services firm said in a statement that it is paying \$1.3 million in cash to acquire 100% of the equity of Metro from Nautilus International Holding Corp., and will pay up to \$500,000 more as deferred consideration based on performance targets being met in the first three years of ownership.

Metro provides state and federal workers compensation claims administration services.

Sompo to sell Lloyd's specialty business

Japan-based Sompo Holdings Inc. has agreed to sell Sompo Canopus A.G. to a consortium led by New York-based private equity firm Centerbridge Partners L.P. for \$952 million.

Canopus is a specialist insurer and reinsurer in the Lloyd's of London market.

The deal is expected to close in the first quarter of 2018, Sompo said in a statement.



When I was in college, I knew that I would go into the industry, but I didn't realize that there were so many different components to the insurance industry, and I'm still surprised every day by different things.

UP CLOSE

Kelly Killimett

NEW JOB TITLE: Atlanta-based vice president and head of environmental at Colony Specialty, a member of Argo Group International Holdings Ltd.

PREVIOUS POSITION: Alpharetta, Georgia-based vice president of environmental underwriting at Colony Specialty, a member of Argo Group International Holdings Ltd.

LOOKING FORWARD TO: The thing I'm excited most about is watching my team develop and grow as I move into a new role. It's going to provide more opportunity from an underwriting and a leadership perspective. I have always said whenever there is change, there is opportunity.

GOALS FOR NEW POSITION: The first thing I'm doing is trying to put the right people in the right positions. I got to hire a few people and make sure that everyone is where they need to be so that we can have continued profitable growth for our shareholders.

ON LEADERSHIP: First is integrity ... Second is caring, you have to be relatable to people. I think that this facilitates people wanting to work for you and do a good job for you.

CRYSTAL BALL: What we are doing at Colony is really focusing on innovation and digital platforms, constantly working on new digital programs that can get us ahead of the competition.

WHAT SURPRISED ME: There are so many moving different parts. When I was in college, I knew that I would go into the industry, but I didn't realize that there were so many different components to the insurance industry, and I'm still surprised every day by different things.

ADVICE: You need to ask questions and be engaged and curious. In the industry, the sky is the limit, and your career is what you make of it.

FAVORITE QUOTE: "Hurry but don't rush." We move very quickly, so we have to hurry but can't rush through things.

OUTSIDE THE INDUSTRY, A DREAM JOB: Meteorologist

HOBBIES: Spending time with my family and, when I'm not doing that, playing tennis.

THING MOST PEOPLE DON'T KNOW ABOUT ME: When I was younger I was a tomboy and played any sport I could get my hands on.

DON'T LEAVE THE HOUSE WITHOUT: Water bottle

BIGGEST OBSTACLE FOR WORK-LIFE BALANCE: Mine is my cellphone. It can be the best thing because you can work from anywhere and the worst thing because you can't get away from it.

PET PEEVES: I don't like it when people don't answer the phone or when you leave them a message and they respond via email.

WHEN I RETIRE: I want to travel, because I really haven't had a lot of time to do that. I would like to see more of the world.

FAVORITE MEAL: Mexican food

ON MUSIC: "Your Song" by Elton John

CAN'T-MISS TELEVISION SHOW: "Chopped"

BEST CITY: Chicago

ON THE MOVE



Mike Foley will retire as CEO of Zurich North America at the end of the year and will be succeeded by **Kathleen Savio**, president of its alternative markets unit. The change will be effective Jan. 1, 2018, Zurich Insurance Group Ltd. said in a statement. Ms. Savio will become North America CEO-designate and join Zurich's executive committee on Oct. 1. She is based in Schaumburg, Illinois.



Marsh L.L.C. unveiled a new global management structure that includes appointments to its executive management team, effective immediately. New York-based **John Drzik**, previously president of global risk and specialties, is president of the new division, Marsh said in a statement. **Dean Klisura**, formerly Marsh's global industry specialties and placement leader, has been appointed president of global placement and specialties. He is based in New



York. **Flavio Piccolomini**, previously CEO of Marsh Continental Europe, has been appointed president of Marsh International. He will relocate to London.



Hub International Ltd. has named its president, **Marc Cohen**, to succeed Martin Hughes as CEO effective Jan. 1, 2018. Mr. Cohen will also become a member of

the board of directors, the Chicago-based brokerage said in a statement. Based in New York, he will continue to report to Mr. Hughes, 68, who will continue to serve as Hub's executive chairman.



American International Group Inc. on Wednesday said **Bill Rabl** has been named CEO of American International Group Inc.'s risk management division, effective

immediately. He steps into the newly created position from Chubb Ltd., where he was most recently executive vice president of global casualty, AIG said in a statement. He is based in New York.

SEE MORE ONLINE

Visit www.businessinsurance.com/ComingsandGoings for a full list of this month's personnel moves and promotions. Check our website daily for additional postings and sign up for the weekly email. *Business Insurance* would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired, or appointed senior-level executives to editorial@businessinsurance.com.



Patties stacked in burger battle

Double take: In-N-Out Burger is suing its rival Smashburger over its “triple double burger,” which it says customers could confuse with In-N-Out’s signature “double double.”

The Irvine, California-based burger chain filed its trademark infringement lawsuit in September, citing brand confusion among the reasons, KABC in Los Angeles reported.

Denver-based Smashburger was founded in 2007 and launched its stacked-burger creation in July as part of its ten-year anniversary. Meanwhile, the double double has been a staple at In-N-Out since 1963, the station reported. In-N-Out also sells a triple triple; on the menu since 1966.



Bikini-clad baristas sue to bare arms

A group of baristas filed a lawsuit against the city of Everett, Washington, claiming that two recently passed ordinances are hurting their business model: women who serve cappuccinos and lattes in bikinis, according to the Seattle Times.

The ordinances ban bikinis and bare skin — including bare shoulders, bare midriffs and bare buttocks — on restaurant employees. The women allege this violates their constitutional rights to free expression and the right to privacy, the newspaper reported last month.

The suit was filed in U.S. District Court for the Western District of Washington and targets new regulations that the city council unanimously passed in August, the newspaper reported.

“This is not about the bikini,” attorney Schuyler Lifschultz told the Seattle Times. “It’s about women’s rights and the U.S. Constitution. The City of Everett violated these women’s rights across the board.” The suit is asking for the ordinances’ removal.

WOMAN FAKES DEATH AGAIN AND AGAIN IN INSURANCE SCAM



Claiming she was “addicted to money,” a New Zealand woman faked her death three times to collect nearly \$3 million in insurance money, New Zealand’s news website Stuff reported in August.

Mary-Rose Ponce Calderon was sentenced in the Auckland District Court in April to three years and two months in prison for the elaborate fraud. She collected \$800,000 before she was caught, according to the news site.

Her scheme began two years earlier in April 2015, when she took out an \$800,000 life insurance policy online with the company Asteron Life, using her maiden name and listing a fake beneficiary with the same address and cellphone number as herself.

One month later, Ms. Calderon contacted the insurer as the fictitious beneficiary, claiming the insured had died after a hockey ball hit her on the head, the site reported. She then went about forging and altering the necessary documents to support the fabricated death.

The woman continued the same scheme with two other insurers, with \$1 million and \$950,000 policies, varying beneficiaries and different causes of death. Fabricated documents on her second and third claims were flagged and investigated, leading to her arrest in 2016, the site reported.

Mailman zapped by zip line photos

A New Jersey mailman has zip lined himself into workers compensation fraud.

A U.S. Postal Service employee in Cape May County has been charged with stealing more than \$75,000 in federal workers comp benefits after vacation photos he posted on Facebook allegedly show him zip lining and rock rappelling while purportedly out of work with a wrist injury, Fox 29 reported. Robert McGeehan, 59, was charged with second-degree theft by deception and third-degree insurance fraud in a Trenton grand jury indictment, the report said.

From July 2015 to June 2017, Mr. McGeehan collected more than \$75,000 from the Office of Workers’ Compensation Programs and the USPS by falsely claiming an on-the-job fall in 2008 rendered him medically unfit to perform his duties as a letter carrier, according to the indictment, Fox said.



Pug’s lavish lifestyle reveals owner fraud

The owner of a well-dressed bug-eyed pug pleaded guilty in Garland County, Arkansas, to stealing public money to buy her dog a tuxedo, pet insurance, jewelry and more, Fox News reported last month.

Kristi Goss, a 44-year-old former administrative assistant to a county judge in Hot Springs, was caught charging \$200,000 on a government credit card, according to the network. Other purchases included car payments, tickets to Arkansas Razorbacks sporting events, and sequined throw pillows, the network reported.

“I hope for swift justice in this situation,” Garland County Judge Rick Davis wrote in a released statement concerning the conduct of his employee.

Ms. Goss is set to be sentenced Nov. 22.



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