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JOE TATUM

Joe Tatum is the CEO of Relation Insurance Inc., recently acquired by private equity investor Aquiline Capital Partners LLC. In this issue, he discusses Relation's ambitions for growth, along with its business strategy and the market environment for brokerages in general. **PAGE 16**



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Broker prices keep rising in hot M&A market

BY MATTHEW LERNER
AND CLAIRE WILKINSON

Recent private equity-backed deals in the U.S. brokerage and agency sector point to a sustained level of deals and ever-higher valuations for the remainder of this year and into 2020, experts say.

The outlook on valuations remains strong, buoyed by low interest rates, a stable economy and an improving property/casualty rate environment, but transaction prices may be harder to justify going forward, some experts say.

The Hilb Group LLC, based in Richmond, Virginia, could well fetch a \$1 billion price if reports of an impending sale by Boston-based private equity firm Abry Partners LLC pan out, sources said.

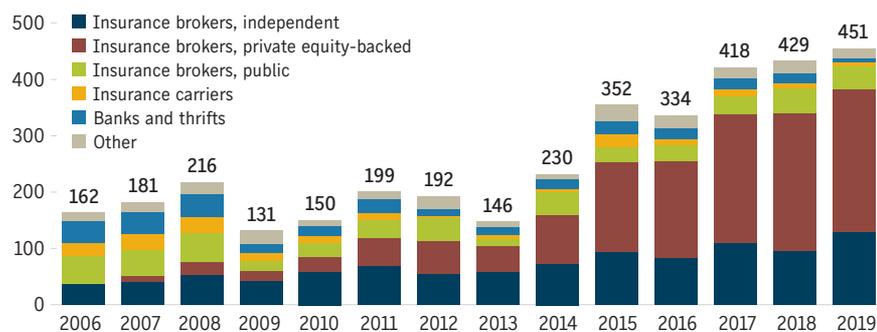
Hilb Group is 28th in *Business Insurance's* latest ranking of brokers of U.S. business, with about \$142 million in 2018 brokerage revenue.

The \$1 billion figure is a “realistic number,” said Timothy J. Cunningham, managing director of Optis Partners LLC, a mergers and acquisitions advisory firm and consultancy in Chicago, adding that the buyer will likely be another private equity firm.

While a likely buyer could be a firm already experienced owning a broker, “given the interest level of the private equity world in insurance distribution, it could well be a new buyer,” Mr. Cunningham said.

ANNOUNCED U.S. TRANSACTIONS BY BUYER TYPE

Nine-month figures for each year



Such players are drawn to the sector because “they see the valuations,” Mr. Cunningham said.

Although Abry, which bought into Hilb in June 2015, is turning the broker “a little bit quicker” than is typical, according to Mr. Cunningham, it is “highly likely” the firm hit its target return on investment and is thus exiting.

Elsewhere, the October purchase of Prime Risk Partners Inc. by Edgewood Partners Insurance Center Inc., which does business as EPIC Insurance Brokers & Consultants, is the San Francisco-based broker’s second big deal of the year after digesting New York-based Integro Holdings Inc., which encompasses substantially

all the U.S. operations of Integro Group Holdings LP, in February, Mr. Cunningham noted.

Alpharetta, Georgia-based Prime Risk Partners is the 34th largest broker of U.S. business with about \$115 million in 2018 brokerage revenue.

“By doing these larger transactions, it’s a way to really accelerate their growth,” Mr. Cunningham said.

Valuations have gone up consistently since 2010, said John Wepler, chairman and CEO of Marsh, Berry & Co. Inc., an analyst advisory firm based in Woodmere, Ohio, during a panel discussion at S&P Global Inc.’s 10th Annual Insurance M&A Symposium in New York in October.

Deal values saw another increase through the third quarter of 2019, and the average transaction price continues to climb with a total potential deal value of 11.56 times earnings before interest, tax, depreciation and amortization, MarshBerry said in its recent quarterly report.

This was a 6.5% increase on the year-end 2018 average transaction total potential deal value of 10.85 times EBITDA, MarshBerry said.

“The valuations have continued to go up, interest rates are at the lowest level they’ve ever been, economic growth is stable, leverage ratios are high, the political landscape

has been fairly predictable, and the property/casualty rate environment is improving,” said Mr. Wepler.

“All these things have created the perfect storm of valuation,” he said.

“When we see a transaction where we think we can add value to the asset, we’re willing to step up and justify the value,” said Devanshu Dhyani, head of strategy and corporate development at Marsh & McLennan Cos. Inc. in New York during the S&P panel discussion.

Valuations seem strong, but “if people want to maintain these valuations for similar assets in the future, something will have to give,” he said. “My sense is people will have to find more ways to wring out synergies.”

“It is a great asset class to be in, but a lot of folks in their desire to get into the space are being overly aggressive in the pricing around assets,” said Paul Vredenburg, executive vice president and chief acquisition officer at AssuredPartners Inc. in Hartford, Connecticut, during the panel.

“The fact of the matter is people want to be in the space so badly, they’re not really looking at the dynamics of the underlying asset,” Mr. Vredenburg said.

“There are a lot of people out there who are using their equity as a carrot with the idea of using overvaluation of that go-forward equity,” he said.

“If they’re not able to achieve what they’ve promised to the people joining or they have to sell to a strategic buyer and someone doesn’t want to join, that could be the blowout,” he said.

While valuation multiples are high, “the highest price isn’t always winning,” said Tim Hall, Chicago-based executive vice president and head of M&A at brokerage Relation Insurance Inc.

“We call it the Baskin-Robbins approach — you can basically pick what type of integration strategy you want, but if that integration strategy doesn’t comport with the seller, it doesn’t matter what the price is, you’re not going to be chosen,” he said.

PACE OF BROKER MERGERS ACCELERATES AS CONSOLIDATION CONTINUES

At its current pace, 2019 is poised to overtake 2018’s record number of mergers and acquisitions in the U.S. brokerage and agency sector, experts say.

There have been 451 brokerage/agency transactions as of Sept. 30, compared with 429 in 2018 and 418 in 2017, according to the latest figures from MarshBerry Capital Inc., based in Woodmere, Ohio.

This follows some 580 transactions

for all of 2018, which made it “the most active year on record,” John Wepler, chairman and CEO of Woodmere, Ohio-based Marsh, Berry & Co. Inc., said during a panel discussion at S&P Global Inc.’s 10th Annual Insurance M&A Symposium in New York in October.

One of the drivers is a lot of independent insurance agencies and brokers across the country are aging, which creates a continual

pool to acquire, he said.

There were 28,900 independent agencies and brokerages in 2015, and now there are 28,400, Mr. Wepler said.

“You would think that the consolidation would be so dramatic that we’d be running out of targets, but it does seem to replenish fairly quickly,” he said.

The current pace of mergers and acquisitions in the brokerage sector is a relatively “new normal” because there

are “still a lot of targets and as many acquirers as ever before, and the capital is there,” Elan Sharoni, vice president of M&A at brokerage NFP Corp. in New York, said at the S&P event.

It would take a macroeconomic event such as a recession, “to cause people to be more cautious and scale back,” Mr. Sharoni said. “Otherwise I don’t see a reason why it will slow down.”

Claire Wilkinson



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Presumption laws for cancer, PTSD fall short

BY ANGELA CHILDERS

achilders@businessinsurance.com

Presumed to help first responders with costs and time off related to occupational cancers or post-traumatic stress disorder, newly enacted and proposed laws that aim to provide workers compensation coverage for such conditions are not working as planned, experts say.

The outcome? Some first responders are left without care, or fighting for coverage, while municipalities are struggling to cover the costs associated with litigation, or insurance in some cases, related to diagnoses as unpredictable as wildfires, experts say.

“If you’re listening to the first responders ... they’re convinced that presumption is exactly what they’ve earned,” but municipal workers comp pool managers will “tell you that presumption actually fails” in many ways, said John Hanson, an Atlanta-based senior consultant with Willis Towers Watson PLC.

“The cost is extraordinary,” he added. “The reality is that a large number of these claims ... are all heavily litigated or arbitrated, and a really high percentage of these claims are not readily paid.”

At least 33 states offer firefighters workers compensation coverage for some occupational cancers, and legislation in 13 states specify a list of cancers as presumptively compensable, according to nonprofit First Responder Center for Excellence, an affiliate of the National Fallen Firefighters Foundation. More than a dozen states have also passed legislation making the diagnosis of post-traumatic stress disorder for certain first responders compensable under workers compensation; five of those states have laws creating a rebuttable presump-



PTSD IN THE US

Post-traumatic stress disorder, which can occur after a trauma, can happen to anyone, according to the National Center for PTSD.

About **7 OR 8 OUT OF EVERY 100 PEOPLE** will have PTSD at some point in their lives.

About **8 MILLION ADULTS** have PTSD during a given year. This is only a small portion of those who have gone through a trauma.

About **10% OF WOMEN** develop PTSD sometime in their lives compared with about **4% OF MEN**.

Source: National Center for PTSD, U.S. Department for Veterans Affairs

tion of a compensable mental health injury.

Rather than placing the burden on the employee to show that an injury or occupational disease is compensable, rebuttable

presumption legislation places the burden of proof on the employers and insurers, and can drive up the cost of litigation, said Bert Randall, Baltimore-based president of law firm Franklin & Prokopik P.C.

Fighting such claims may include paying for independent medical examinations, conducting detailed investigations into the claimant’s medical history and their exposures and more, which are “really costing employers and their insurers a lot of money,” said Mr. Randall.

The Boca Raton, Florida-based National Council for Compensation Insurance Inc. has also expressed its concern with presumption bills, stating in a 2018 research brief that “the uncertainty of future losses” from firefighter presumption bills may lead some governments that don’t self-insure unable “to find coverage through the voluntary insurance marketplace” and stated

that the agency was “unable to quantify the estimated workers compensation system cost impact of establishing a compensability standard” for PTSD claims.

“One thing you have to keep in mind, especially with a cancer presumption, is you’re not going to see the cost right away — cancer has a long latency,” said Desiree Tolbert-Render, Orlando, Florida-based assistant vice president of national technology compliance for workers compensation at Sedgwick Claims Management Services Inc. “You may not get cancer claims until years from now ... you just have the potential exposure now” and can anticipate increasingly higher legal costs rebutting these cancer claims as they come in, she said.

When a cancer claim under a presumption law is submitted, the burden shifts to the employer to prove that the cancer was not work-related, which can include digging up details of specific fires that the firefighter fought to see if there was a potential asbestos or chemical exposure and conducting a deep dive into the records of the worker and family members, said Ms. Tolbert-Render.

“If a workers comp claim is submitted for cancer, the position from a claims standpoint, depending on the facts that you’re able to develop, is that this is an ordinary disease of life,” she said.

The examinations will look into whether the firefighter smoked, if a family member smoked in the house, if there was family history of the particular cancer, any evidence of prior medical treatment before the claim was made and medical opinions if a claim is denied explaining why, she said. Some laws specifically exclude smokers and obese individuals from cancer presumption.

“I think the costs are going to skyrocket,”

State approaches to PTSD coverage vary

The push to cover post-traumatic stress disorder for first responders is likely to continue despite challenges, according to experts.

Legislation “has flipped the burden of proof, and there are more cases being filed,” said Mark Kleinschmidt, partner at Mendota Heights, Minnesota-based law firm Cousineau, Waldhauser & Kieselbach PA. “It’s very difficult to figure out ... objective measurements by which to say the person was exposed to a traumatic incident. You’re looking at a treatment cost that’s difficult to manage, and along with the treatment cost comes the period of disability ... that might be longer than a physical injury.”

California, Maine, Minnesota, Oregon and Vermont have passed occupational

presumption legislation for PTSD. Colorado, Connecticut, Florida, New Mexico, New Hampshire, New York, Nevada, Texas and Washington have passed legislation that makes PTSD diagnosis compensable for certain first responders. Some bills, like those in Florida and Connecticut, define exactly what types of traumatic events must be witnessed for PTSD to be compensable.

Hawaii, Michigan, North Carolina, Tennessee, Virginia and West Virginia all introduced some form of first responder PTSD legislation at the beginning of the 2019 legislative session but none have become law.

Ohio had considered the addition of PTSD presumption for first responders, but the language was stripped from the 2019

budget by the state’s Senate until further study into the cost of the presumption could be conducted.

South Carolina took a different approach by creating a fund to help first responders with out-of-pocket medical costs related to PTSD treatment.

Although most of these PTSD laws limit coverage to firefighters, police officers and emergency medical technicians, other public workers and even some groups in the private sector are fighting for PTSD presumption coverage, said Desiree Tolbert-Render, Orlando, Florida-based assistant vice president of national technology compliance for workers compensation at Sedgwick Claims Management Services Inc.

“What you are seeing more are attempts

to expand” coverage, she said. “For instance, in some states where they started out with firefighters and police, it’s expanded to include other state employees, correctional officers.”

That includes the private sector. California nurses and Connecticut private ambulance drivers have been lobbying to have PTSD preemptively compensable, said Ms. Tolbert-Render, and teachers have also argued why they may witness a tragic event — such as the Sandy Hook Elementary School shooting in 2012 — but don’t have the same benefits as a first responder on the scene.

“If it keeps expanding, it’s probably going to end up being cost-prohibitive,” she said.

Angela Childers

said Mr. Randall, noting that more presumption laws will “drive more and more claims.”

Municipalities are already having difficulty finding workers compensation coverage from private insurers, resorting to state funds; and the expenses from PTSD, especially if the worker cannot return to work, may make that worse, he said.

Colorado passed its rebuttable presumption for occupational cancers legislation in 2007, but the costs “were quite devastating financially,” Joe DePaepe, Portland, Oregon-based administrator of the Colorado Firefighter Heart and Cancer trust and an executive vice president at McGriff Seibels & Williams Inc., said in an email. He said under the 2007 legislation, about one-third of firefighter cancer claims were accepted, a third were denied and not contested, and a third went to court, which often took between six months and two years for a ruling.

“Most of the municipalities started sharing loss and exposure data through a common annual survey to enable more accurate budgeting for expected losses statewide; \$1 million-plus cancer claims became common,” he said.

And first responders aren’t necessari-

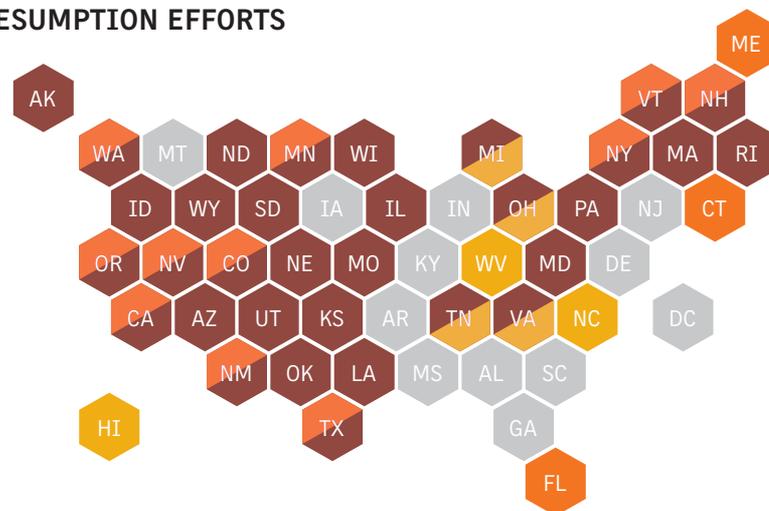
ly reaping the benefits. In Arizona, presumption legislation covering 19 cancers was passed in 2017, yet according to Brian Moore, Phoenix-based fire captain and vice president of member benefits for United Phoenix Firefighters Local 493 of the International Association of Firefighters, some municipalities are denying workers comp claims, forcing firefighters to pursue litigation and treatment through group health.

“This is putting a tremendous burden on the private health care plans ... as they’re having to pick up the coverage for medical care treatment where it should be under workers comp,” he said. “Many (firefighters) are terribly upset because the law is not working as advertised.”

In Houston, nearly all comp claims made by firefighters for occupational cancers have been denied, and out of more than 100 court challenges, just a few firefighters have won and been granted workers comp, said Houston attorney Michael Sprain, who represents firefighters.

Cities are generally self-insured, and “they either pay for it under health insurance or workers comp,” said Mr. Sprain. “They’re spending all of this money trying to defend themselves when, if there’s

PRESUMPTION EFFORTS



- States that have passed legislation creating a rebuttable presumption for firefighters diagnosed with certain occupational cancers
- States that have passed legislation making PTSD compensable for first responders
- States that considered making PTSD compensable during the 2019 session but didn't pass legislation

Source: Legislative websites

a presumption there, they really should be accepted.”

Meanwhile, Texas municipalities have gone after firefighters in state court. The City of Baytown, Texas, about 25 miles directly east of Houston, sued a firefighter with thyroid cancer in the 295th District

Court of Harris County to deny his workers compensation claim. In early October, the city and the firefighter settled, with Baytown agreeing not to seek to recover out-of-pocket medical expense costs paid to the firefighter as long as he withdraws his workers comp claim.

Comp alternatives may be the answer

Alternatives to presumption laws, such as supplemental benefit programs, are likely the future for municipalities, experts predict.

And more first responders, facing legal challenges while fighting cancer, are embracing the idea of such alternatives, said John Hanson, an Atlanta-based senior consultant with Willis Towers Watson PLC.

“We’re not going to do away with the presumption ... but I also feel that at the end of the day, if it’s taxpayer dollars that you’re really looking at, a municipality should have the opportunity to opt into a program” that offers a lump-sum payout to offset medical costs rather than treating the occupational cancer or PTSD through the comp system, he said.

In early 2017, Georgia created such an alternative to workers comp for firefighters with occupational cancer, passing legislation that removed cancer presumptions from workers comp and instead offering a lump-sum payout of \$25,000 to first responders with terminal cancer or metastatic cancers that require surgery, radiation or chemotherapy in lieu of workers compensation, and \$6,250 to those with one of the qualifying cancers that don’t meet the more serious criteria. To obtain the lump-sum payout, first responders need to provide proof of diagnosis by a board-certified physician in the medical specialty of the particular cancer or disease, according to the law’s language.

Also in 2017, Colorado created a self-

funded trust, enabling any municipal employers who are members of the trust at the time of a firefighter’s cancer diagnosis to be exempt from the 2007 workers comp presumption statute. Firefighters diagnosed with a qualifying cancer are awarded a cash benefit within 10 days upon diagnosis to reimburse for anticipated out-of-pocket medical expenses. About half of the state’s full-time firefighters are covered by the trust, according to Joe DePaepe, Portland, Oregon-based administrator of the Colorado Firefighter Heart and Cancer trust and an executive vice president at McGriff Seibels & Williams Inc.

Other states — Alabama, Mississippi and Florida, for example — have passed similar laws giving cancer patients cash instead of comp.

Firefighters in Alabama will have access to a benefit program that offers a lump-sum payout of \$25,000 to full-time firefighters diagnosed with a serious cancer or \$6,250 for a less serious malignancy, as well as up to \$3,000 in disability pay for up to 36 months. The program is covered by an insurance policy from Hartford Financial Services Group Inc., and all municipalities will be participating in the program by Jan. 1, 2020, said Greg Cochran, deputy director of the Alabama League of Municipalities in Montgomery.

Mr. Hanson predicted that 10 states will have comp alternatives for occupational cancers by the end of 2020.

Occupational cancer “doesn’t really

belong in the workers comp system,” said Mr. Cochran. “We looked at the states that have implemented worker comp cancer presumption bills ... (they’ve) found them to be very costly.”

Pushback from firefighters has been minimal in Alabama, he said.

Although firefighters in Alabama initially lobbied for a cancer presumption, they supported the payout plan when they realized that medical care provided to a firefighter with cancer in the comp system would be directed by the employer, said Mr. Cochran. He said he anticipates the program will cost its cities \$1.5 million collectively, and the league is also exploring the idea of creating a similar arrangement for PTSD diagnoses.

“This might get them payment on a more expedited basis because it’s potentially easier to prove” under the new law, said Carin Burford, shareholder at Ogletree, Deakins, Nash, Smoak & Stewart P.C. in Birmingham, Alabama.

“Cancer, because it has so many causes, is often harder to be deemed a compensable claim” under workers compensation, she said.

In New York, volunteer firefighters had been fighting for workers compensation for occupational cancers for years but were concerned about the fiscal impact that presumption would have on workers comp payments, said John D’Alessandro, commissioner of the Halfmoon-Waterford Fire District in upstate New York.

“We certainly wanted to cover it, but also realize that as residents of these

communities, we had to be cognizant of the cost,” he said.

While full-time firefighters with occupational cancer are covered by disability retirement benefits in the state, volunteer firefighters are now covered by an insurance policy that offers a payout. Policies from three insurers, including Chubb Ltd., have been approved by the New York State Department of Financial Services.

“A lot of states are grappling with this issue and trying to figure out the best way to go,” said Mr. D’Alessandro. “It’s a serious issue that needs to be addressed.”

While such alternatives for PTSD have not been introduced yet, Mr. Hanson said he believes such programs are on the horizon, and he is working on developing an insurance alternative to help remove first responder PTSD from the comp system.

Because the workers comp system “hinges on diagnosis,” it makes more sense to implement a suite of preventive resources for first responders exhibiting symptoms of PTSD versus claiming through the comp system, which “wasn’t built” for addressing these issues, he said.

“Some states that have the presumption have discovered that the volume of PTSD claims is far greater than they imagined,” he said. “There is a lot to PTSD that has yet to be revealed. If we create a presumption, have we opened the floodgates to potential catastrophic damage to municipal comp pools?”

Angela Childers

Can digitized claims replace human touch?

BY LOUISE ESOLA

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With insurtech solutions making headway in workers compensation as a way to improve efficiency and organization, claims experts are saying too much technology could be a bad thing in an era where patient advocacy has become the norm.

“Everybody is excited about artificial intelligence and the new technology,” said Stephen Sandberg, Atlanta-based director of sales for core solutions for risk management information systems provider Origami Risk LLC. “But it’s not to replace the claims professional; it’s to enhance the claims experience.”

Most workers comp carriers and third-party administrators are putting technology solutions to work — from chatbots that collect information and claims management software to applications that organize tasks and send notices — yet in recent years these same organizations have touted a more worker-friendly model that many have said can lead to less troublesome claims and fewer issues such as malingering and litigation.

Could the two — technology and the personable approach — coexist? Comp professionals say: tread carefully.

Risk managers speaking at a panel on top industry concerns at the California Workers Compensation Conference in Dana Point, California, in September warned that too much automation in claims handling could make matters worse when dealing with claims and the emotional experience of being injured — and that a lack of human communication leads to litigation.

Claims professionals “love all the stuff automated, but you still have the human factor,” said Karen Fry, who oversees workers compensation claims at Commerce Casino, a casino and hotel in Commerce, California. “You have (injured workers) who need that human contact ... we can’t expect them to know workers compensation.”



“People still want to talk to people,” she told attendees. “Especially when we hear, ‘I got an attorney because no one talked to me.’”

Kurt Leisure, vice president of risk services for Calabasas, California-based The Cheesecake Factory Inc., said it’s especially true in the case of automated messages that aim to provide an injured worker information on their claim — which he referred to as “spam calls.”

“Workers comp can be a little confusing for people who have never had a claim before,” he said.

The adjusters, in turn, are on “data overload” with the influx of digital information. “They do start to ignore it after a while,” he said.

“I can see where automation really helps,” said Karen Townsend, senior manager for health, safety and envi-

ronment for Gaithersburg, Maryland-based Sodexo USA, a facilities and food service company. “The word I use is ‘streamline.’

INSURTECH SOLUTIONS

Interviewing executives at 450 insurance agencies on why they were exploring tech solutions, A.M. Best Co. Inc. found in 2018 that 22% of company executives said they wanted to **better address customers’ needs**; 21% said they wanted to **gain a competitive advantage**; and 16% said they wanted to **realize operational efficiencies**.

Source: A.M. Best Co. Inc.

If it’s documentation, find out how to use innovation and to streamline your documentation.”

Other industry stakeholders are taking note, saying claims organizations should automate mundane tasks but keep the human voice on the line.

“I think there has to be a balance,” said Max Koonce, Bentonville, Arkansas-based chief claims officer for Sedgwick Claims Management Services Inc., a third-party administrator with a nurse-case management system that hinges on constant contact with the injured worker.

“I do not ever see a time when a physical injury does not require some kind of human touch” in managing

the claim, he said. “There is always going to have to be that human touch that is focused on advocacy.”

Rohit Verma, Peachtree Corners, Georgia-based global chief operating officer for claims management firm Crawford & Co., said the push for technology in the industry comes from clients who are seeking efficiency and speed in claims processing.

“There’s a lot of push toward technology,” he said. “While a number of conversations are happening at boardroom levels about what needs to be done with technology, I still believe this is a people business ... Most of us feel comfortable talking to a human being.”

Mr. Verma said claims organizations that aim to appropriately apply technology must evaluate the type of communication at hand. For checking the status of an indemnity payment or a medical evaluation, a computer program could work. However, checking the status of a claim could call for a live voice.

“Let’s say the claim is denied and the reason is, ‘I don’t have coverage.’ That triggers me to want to talk to someone,” he said. “I can never be convinced by a machine. I want to explain and put forth my point of view.”

Conversely, “I don’t want to dial in and wait three minutes in a queue if I am just checking my claim,” he said. “Machines are useful in that they are speeding things up that used to take a long time.”

Indemnity payment notifications, for example, could come in the form of a text message, according to Mr. Sandberg, adding that computer programs make claims and the process “more visible” for both the injured worker and the claims organization.

By deploying technology, “adjusters can spend more with the claimant instead of talking about payments,” he said.

“We need to be somewhere striking that balance where it is not all machine or not all human,” said Mr. Verma. An injury “is a very emotional event, so I do believe that empathy is really critical.”

WILLINGNESS TO USE TECHNOLOGY VARIES BY PERSON, NOT GENERATION

It remains unclear whether there are generational differences in how injured workers want to communicate during the claims process. However, anecdotally, experts say claims handlers have to be prepared to cater to individual preferences.

“In this world, you do need capabilities that span generations,” said Rohit Verma, Peachtree Corners, Georgia-based global chief operating officer for claims management firm Crawford

& Co. “We have been trying to figure out which working style works best and what are the preferences.”

Travelers Cos. Inc. recently discovered something that surprised claims managers there, according to the insurer’s head of workers compensation claims.

As of October, more than 48,000 injured employees had signed up for MyTravelers for Injured Employers, the insurer’s app that helps workers

compensation claimants manage their claims, according to the company.

“The user demographic closely mirrors our normal injured employee distribution,” Rich Ives, Hartford, Connecticut-based vice president of claims for workers compensation at Travelers, said in an email.

The numbers contradict the notion that older workers prefer communication over the phone or in person and that younger

workers prefer technology, he said.

“We started with a perspective that there would be generation differences, but we’ve learned injured employees of all ages want digital self-service tools,” he said, adding that phone calls will never go away.

“Our goal is to engage the right resources at the right time ... to deliver an experience that best meets what the injured employee wants,” he wrote.

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Reinsurance rates set to rise at renewals

BY MATTHEW LERNER
AND GAVIN SOUTER

BOSTON — Reinsurance rate increases have not kept pace with insurance and retrocessional reinsurance price increases over the past several months, but price hikes still are likely at year-end renewals, reinsurance experts say.

While primary rate increases have been led by several large insurers and retrocessional capacity has been crimped by lower alternative capital participation (see related story), higher catastrophe losses, increased liability awards and lower investment yields are plaguing the whole market, they said during meetings last month in Boston at the American Property Casualty Insurance Association conference, which is the principal North American reinsurance renewal meeting.

“The dynamic we are seeing right now is more pressure on the retro side, some uplift on the primary side and then some on the reinsurance side where there have been losses,” said Dan Dick, Dallas-based executive managing director of reinsurance solutions at Aon PLC.

“The property rates are up, the retro rates are up, and the reinsurance rates aren’t,” said Chris Buse, head of casualty treaty reinsurance for North America at XL Reinsurance Inc., part of Axa XL, a division of Axa SA, in Stamford, Connecticut. “That U shape can’t continue.”

The reinsurance pricing environment could change soon, said Keith Wolfe, Armonk, New York-based president of U.S. property/casualty at Swiss Re Ltd.

“There is this U-shaped pricing environment, and I think that basic economic theory will close that gap quite quickly,” Mr. Wolfe said.

Primary insurers are now seeking more rate, especially in the face of rising rein-



surement retentions over the past few years that have put pressure on their earnings, Mr. Wolfe said. In addition, because many retrocessional deals are structured as aggregates, those players are also now seeking rate, as some losses not retained by primaries were passed through to the retro market.

“The property rates are up, the retro rates are up, and the reinsurance rates aren’t. That U shape can’t continue.”

Chris Buse, XL Reinsurance Inc.

Changes in terms and conditions across most lines in the primary market “come from several major players remediating their portfolios,” said David Priebe, chairman of Guy Carpenter & Co. LLC in New York.

American International Group Inc., Lloyd’s of London insurers and FM Global, have led the drive for primary insurance rate increases, sources say.

Liability rate increases are being driven in large part by so-called social inflation, where settlements and jury awards are increasing by multiples, sources said.

Increased liability awards are rising at rates that have not been seen before, said David Marra, senior vice president and chief underwriting officer at RenaissanceRe Holdings Ltd. in New York.

The higher awards hit commercial auto first but are also affecting other liability lines, he said.

“In the past, \$1 million was a big award for a commercial auto loss, but now every time a truck hits something or something hits a truck, a \$5 million or \$10 million limit’s in play,” Mr. Marra said.

“The severity is up,” Mr. Buse said. “The claims are big and they’re getting paid now.”

“These nuclear verdicts are astronomical in size compared to what they typically have been historically,” said Mike Hudzik,

head of casualty underwriting for U.S. and Canada, and managing director for casualty underwriting with Swiss Re in Armonk, New York.

“We’ve been seeing verdicts in commercial auto and excess liability that can reach over \$100 million that in the past would be a fraction of that,” he said, adding that the median cost of the top 200 excess liability claims was \$27 million in 2014 but doubled to \$54 million by 2018.

Property losses for some catastrophes have risen beyond expectations, sources said.

Catastrophe models continue to underestimate the size of some catastrophe losses, particularly when loss-adjusting expenses rise above expectations and costs increase due to issues related to contractor billing for repairs in Florida, but the models should not be expected to predict those extra costs, said Mr. Dick of Aon.

Insurers should take into account their own analysis of their exposures, policy forms and claims adjustment protocols when using the models, said Mr. Dick.

“There’s a time when the industry has to start grasping” its own view of risk “versus completely outsourcing it to a third party,” he said.

Meanwhile, the continued low interest rate environment has limited insurers’ and reinsurers’ returns on investments, leading them to seek greater profits from underwriting, sources said.

“The industry is really getting little relief out of investment returns,” said Steve Levy, president and CEO of the reinsurance division at Munich Reinsurance America Inc. in Princeton, New Jersey.

“The industry is going to need to make profit on the underwriting side for the foreseeable future,” he said.

Low yield on asset returns “forces more pressure on improving underwriting profits,” Mr. Wolfe said.

RETRO CAPACITY RETRACTS AS CATASTROPHE LOSSES WEIGH

BOSTON — The catastrophe losses of 2017 and 2018 led to a moderate reduction in alternative capital investments in reinsurance, which might put pressure on reinsurers in the short term but is unlikely to be a long-term problem, experts say.

After the big losses, which were the first significant claims to hit many investors in insurance-linked securities, some investors reduced their capital levels and others found their capital “trapped” while they awaited final loss estimates before it could be released.

“There’s clearly been a tightening of retro capacity this year mainly due to some alternative capital withdrawing

from the market, some being trapped by recent events,” said Steve Levy, president and CEO of the reinsurance division at Munich Reinsurance America Inc. in Princeton, New Jersey.

The ILS market, which includes catastrophe bonds, collateralized reinsurance, industry loss warranties and sidecars, offers about \$93 billion in total market capacity in 2019, down from \$98 billion in 2018, according to Aon PLC.

Alternative capital accounts for about 75% of retrocessional capacity, Mr. Levy said.

The drop in retro capacity will likely reduce the capacity of some reinsurers,

depending on how reliant they are on retro support, Mr. Levy said.

“I would view that as a trend and a factor that leads in all probability to higher rates going forward in the retro market and knock-on effects in the property cat market,” he said.

“Some investors have pulled back while others have stepped further into the insurance-linked securities market, said David Priebe, chairman of Guy Carpenter & Co. LLC in New York. Still others, he said, “are talking about stepping into the market. It’s like anything, it’s a fluid marketplace, and net-net we think we’ll continue to see

capital from the capital markets increase, not decrease, in the coming year.”

A tighter ILS market will increase the cost of capital for reinsurers, said David Marra, senior vice president and chief underwriting officer at RenaissanceRe Holdings Ltd. in New York.

Swiss Re Ltd. has been active with insurance-linked securities for more than 20 years, according to Keith Wolfe, the reinsurer’s Armonk, New York-based president of U.S. property/casualty. “We think the market is a very good one to complement the traditional reinsurance space.”

Gavin Souter and Matthew Lerner



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Cloud-based tools change risk profiles

BY MATTHEW LERNER

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Software as a service offerings are proliferating in the insurance sector, providing insurers, brokers and others with access to a growing array of tools and capabilities, but ease of use also comes with some restrictions, according to industry sources.

Along with the growing universe of capabilities, companies using software as a service products have an increased reliance on connectivity, security concerns and potential limitations on flexibility, they say.

From external data sets to analytics, evolving machine learning, artificial intelligence and security capabilities, software as a service users are obtaining and accessing a variety of services via web-based platforms.

Software as a service is technology/infrastructure that lives in a cloud environment, as opposed to being deployed and hosted on-site.

“Historically, you might have purchased software or even infrastructure that you would install or host in your own data center,” said Nick Graf, assistant vice president for information security in Las Vegas with CNA Financial Corp.’s specialty insurance organization.

CNA recently announced a partnership with Opaq Networks Inc. to offer the security services to CNA cyber insurance customers.

Opaq offers a security technology product as a service aimed primarily at small and medium-size enterprises that is accessed online. It provides an online managed firewall that can be accessed by individual users online, or with the addition of a hardware appliance used to secure an entire location, such as an office, said Casey Corcoran, chief information security officer in Baltimore for Opaq.

“It makes a great deal of sense as far as risk management goes,” Mr. Graf said. “If we can make recommendations or offer services that help our insureds reduce the likelihood or severity of a claim, that’s beneficial to everyone.”

Opaq is also working with P.S.A. Financial Center Inc., which has included the online firewall with its Cyber On policy launched in June in what Mike Volk, P.S.A.’s vice president for cyber risk solutions, called a “small business-specific initiative” aimed at firms with fewer than 50 employees or less than \$15 million in annual revenue, such as a small association, he said.

The abundance of software as a service offer-

“You still have to set the security levels ... You as the customer still must see that security is managed in an appropriate and reasonable way.”

Stacy Scott, Kroll LLC



ings has led insurers to exist in a “multicloud” environment, said Mark McLaughlin, global insurance director for IBM in Chicago, which brings challenges such as maintaining interoperability.

There are “lots of different data sources you can fold into this, and many are offered as a service,” Mr. McLaughlin said. “Providers are offering all manner of better data, better visuals” and better interpretation of visual data, he said.

Insurers and other organizations are “getting some mix of services from different cloud providers and having to operate across those various services from various providers,” he said, which can be challenging.

IBM data services range from simple storage to analytics, machine learning and other capabilities, Mr. McLaughlin said.

Maintaining security across operations that may utilize multiple vendors and internal systems can be challenging, he said.

Software as a service can allow small and medium-size companies to access and utilize technology in a more cost-effective way, industry sources say, but still requires critical participation from users as well.

“You still have to set the security levels and the configurable items,” such as access controls, said Stacy Scott, managing director for cyber risk in Dallas with Kroll LLC, a wholly owned affiliate of Duff & Phelps LLC.

“You as the customer still must see that security is managed in an appropriate and reasonable way,” she said.

Users of software as a service, Mr. Graf said, must remain “mindful of what responsibilities you do still have.”

Software as a service does, however, provide

tools to help companies cope with the ever-expanding list of technology issues such as security and data storage, which are costly and difficult to manage, Ms. Scott said.

“I think it’s something that should be considered,” said Marie Carr, principal of global growth strategy and U.S. financial services practice in Chicago for PwC, also known as PricewaterhouseCoopers. “Anyone who’s looking to grow, this should be in your consideration set.”

Offerings in the software as a service space have been proliferating, she said.

There was \$4.15 billion of global insurance technology investment in 2018, according to a recent report from PwC, with 28 investments of \$30 million or more.

Ms. Carr said that using software as a service can allow insurers and other users to trial new technologies before becoming fully invested but cautioned that users should make sure such capabilities can grow and scale with the user’s growth plans.

Another concern is the increased reliance on connectivity, according to Mr. Graf.

“As you move more and more resources, software, infrastructure to the cloud, that connection becomes your pipeline to these services,” he said.

A loss of an online connection could impair business operations, although this is becoming less of an issue as high-speed access becomes more widely available, he added.

There also can be a lower degree of customization available with such services, he said, as opposed to when a company hosts technology internally, such as with security configurations and user settings.

VENDOR CHOICE REQUIRES CARE

Properly managing the selection and reliability of vendors can be a critical step in deploying software as a service, insurance industry sources said.

“It’s important for a business owner to show diligence in choosing vendors,” said Nick Graf, assistant vice president for information security in Las Vegas with the specialty risk control team at CNA Financial Corp.

That diligence should extend to a thorough review of any contract to make sure the software as a service buyer’s interests are represented.

“There’s contractual things you can do, like put in a right to audit (vendor) clause,” said Stacy Scott, managing director for cyber risk in Dallas with Kroll LLC, a wholly owned affiliate of Duff & Phelps LLC.

Users or potential clients of a software vendor also can ask for a third-party assessment report, which documents that procedures and information technology controls are in place and running well, Ms. Scott said.

Potential consumers may want to involve legal counsel in a review of a service contract, Mr. Graf said.

Mr. Graf suggested that a business entering into an agreement with a software as a service provider could have its counsel “redline” the service contract to ensure an appropriate distribution of liability in the cloud services agreement.

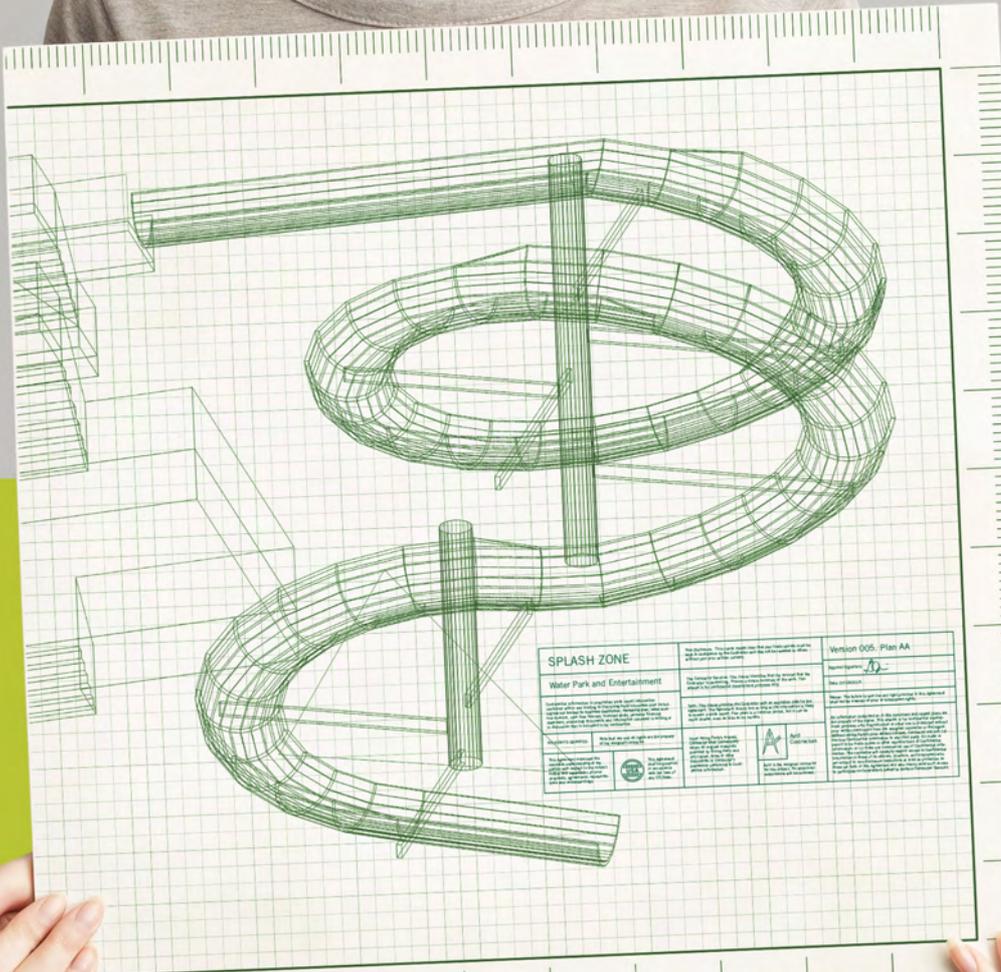
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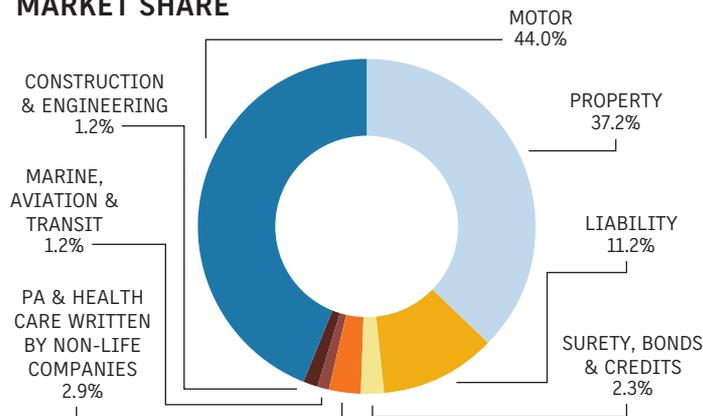
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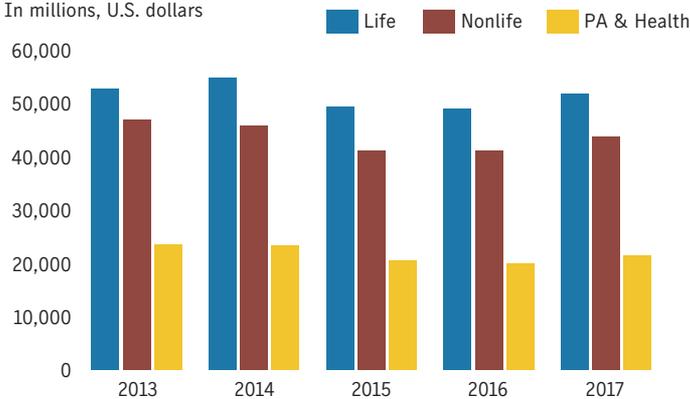
The Canadian economy is the 10th largest in the world, and the country's property/casualty insurance market is sophisticated, mature and dominated by a few large local insurers and foreign companies from Europe and the U.S. Business in Ontario dominates the market, followed by Alberta and Quebec. These three provinces, together with British Columbia, Saskatchewan and Nova Scotia, account for nearly 95% of total premium. The sector's profitability tends to be based on the extent of natural perils losses in any given year; 2016 was especially affected by claims from the Alberta wildfires. The market has hardened considerably in some areas, and local sources expect that to continue until the end of 2020. Auto represents the largest class of insurance, with a 44% market share in 2018.

MARKET SHARE



MARKET GROWTH

In millions, U.S. dollars



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

COMPULSORY INSURANCE

- Auto third-party bodily injury/property damage and accident benefits coverage
- Liability for railway operators
- Liability for the operation of pipelines and nuclear installations
- Fidelity guarantee cover for insurance brokers in some provinces
- Professional liability for insurance brokers, doctors, lawyers, architects, engineers and others
- Shipowners liability against marine oil pollution
- Aviation liability
- Workers compensation

NONADMITTED

Unauthorized insurers cannot carry on insurance activity in Canada. At the same time, there is nothing in the law indicating that insurance must be purchased from locally authorized insurers, with some exceptions. This is generally interpreted to mean that insurers can issue policies from abroad, with some exceptions, if approached by a buyer and/or a specially licensed intermediary in some provinces.

INTERMEDIARIES

Intermediaries must be authorized to transact insurance business, and they are licensed and regulated at provincial level. A reciprocal licensing system for agents and brokers has been adopted and provides that the host province will accept most of the licensing requirements established by the home province but may also have additional requirements. Intermediaries involved in nonadmitted placements must be registered with the local provincial regulatory authorities.

MARKET PRACTICE

The licensed market is large, and the unlicensed market is well established, operating through managing general agencies that have binding facilities available for most classes of business.

MARKET DEVELOPMENTS

Updated August 2019

- In the latter half of 2018 and into the first half of 2019, the market hardened significantly in some areas, particularly property, professional indemnity and directors and officers liability, with most insurers seeking price increases and higher deductibles, coupled with lower capacity.
- Consolidation among brokers is ongoing. The acquisition of Jardine Lloyd Thompson Group PLC by Marsh & McLennan Cos. Inc. was completed on April 1 in a deal that created the world's biggest broker. Both companies had significant operations in Canada. In January, Arthur J. Gallagher & Co. acquired Jones Brown Inc., a major independent broker. Hub International Ltd. has been a regular purchaser of smaller brokers across the country.
- The Canadian Council of Insurance Regulators and the Canadian Insurance Services Regulatory Organizations jointly issued new guidelines on how customers should be treated in September 2018. This guidance covers all sectors of the insurance market and includes topics such as the fair treatment of customers, relationships between insurers and intermediaries and with regulators, conflicts of interest, disclosure to customers, claims handling, complaints and protection of personal data.
- There is ongoing discussion and lobbying for greater involvement by the federal government in supporting flood coverage in some form, and the government is considering how best to provide insurance cover for homes at the highest risk of flooding.



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POPULATION

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MARKET CONCENTRATION

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market share of top five insurers

2019 GDP CHANGE (PROJECTED)

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Ex-CNA underwriter gets prison for fraud

■ Former CNA Financial Corp. health care liability underwriter David Ballard was sentenced to four years and two months in prison for defrauding health care organizations of \$16.1 million in premiums paid for deductible insurance.

Mr. Ballard, who pleaded guilty to the charges last year, could have been subject to an eight-year prison term under the plea agreement.

A Chicago-based vice president of a CNA underwriting group, Mr. Ballard will report to begin his sentence in mid-December, said his attorney, Terence H. Campbell of Cotsirilos, Tighe, Streicker, Poulos & Campbell LLP in Chicago.

Mr. Ballard was originally charged with defrauding an unnamed hospital of \$13.5 million by using phony binders and policies to divert premiums to a shell company he controlled and then used the money “to purchase real estate for himself and his family and to pay for his personal expenses, including credit card bills, expensive dinners, and trips,” court papers say.

The policies, which were designed to cover deductibles if a policyholder became insolvent, never experienced a claim, allowing the fraud to go undiscovered for more than a decade.

During the investigation, Mr. Ballard confessed to other schemes involving other health care companies, taking the total he agreed to pay in restitution to \$16.1 million.

Bank must face 9/11 insurer suit

■ The 2nd U.S. Circuit Court of Appeals in New York reinstated litigation filed by hundreds of Lloyd’s of London syndicates, insurers and others affected by the 9/11 attacks against a Saudi Arabian bank charged with aiding the terrorists.

The ruling in *In re: Terrorist Attacks on Sept. 11, 2001* said the case against Al Rajhi Bank is different than others it has dismissed for lack of personal jurisdiction

because of the bank’s “specific intent to further terrorism.”

“In brief, Plaintiffs-Appellants principally allege that Al Rajhi Bank provided financial services and donations to charities that it knew financially supported al Qaeda and provided financial services to know extremist operatives,” said the ruling.

“They further allege Al Rajhi Bank’s provision of financial services was done with the specific intent to further al Qaeda’s terrorism against the United States,” said the brief ruling, which overturns a 2018 ruling by the U.S. District Court in New York that dismissed the case on the basis of lack of personal jurisdiction.

The ruling by the three-judge panel of the 2nd Circuit says while it has held in other cases that defendants were not subject to personal jurisdiction in the United States, “The inclusion of allegations related to Al Rajhi Bank’s specific intent to further terrorism in the United States, however, distinguishes the present case.”



Social media sinks mail carrier’s claim

■ A U.S. Postal Service mail carrier who claimed more than a decade of total disability related to a back injury he suffered in 1989 had his conviction affirmed by the 1st U.S. Circuit Court of Appeals in New Orleans after evidence from surveillance and social media posts proved he was able to perform tasks he had claimed he couldn’t.

Rodolfo Vázquez-Soto had a history of back problems when he filed a workers compensation claim in 1989, and upon returning to work after a 45-day period of paid leave, he was granted limited work duty and accommodations for his back pain, according to documents in *United States of America v. Rodolfo Vázquez-Soto*. In 1998, he filed a recurrence claim, asserting that his original condition had worsened. Two evaluating doctors recommended that he could continue working with a reduced schedule and accommodations. For over a decade, he continued to file claims for total disability.

In 2012, the USPS began investigat-

ing Mr. Vázquez-Soto’s lifestyle after it saw he had collected \$448,000 in benefits but only \$8,000 in medical benefits. It gathered evidence on social media that showed him participating in the activities of a motorcycling group and surveillance footage performing activities he had said he could not do.

A jury eventually convicted Mr. Vázquez-Soto on two counts of making false statements and one count of theft of government property. A judge later sentenced him to five years’ probation and ordered him to pay restitution of \$19,340.79.

On appeal, he argued that the court had abused its discretion in admitting into evidence photographs taken from a Facebook page under the name of his ex-wife.

However, the 1st Circuit ruled, “We conclude that sufficient evidence supported Vázquez-Soto’s convictions, and that the district court did not abuse its discretion in allowing admission of the challenged Facebook photos despite an authentication objection or in its response to the jury’s request for a transcript.”

Older salesmen win age bias court fight

■ A Brooklyn jury awarded two fired employees of a beverage distribution company, who were the firm’s two oldest salesmen, a total award of \$458,000 in an age discrimination case filed on their behalf by the U.S. Equal Employment Opportunity Commission.

Cesar Fernandez was 66 and Archibald Roberts was 64 when they were fired in January 2014 by West Woodbury, New York-based AZ Metro Distributors LLC, according to the complaint filed in U.S. District Court in Brooklyn in *U.S. Equal Employment Opportunity Commission v. AZ Metro Distributors LLC*.

According to the 2015 complaint in the case, Mr. Roberts was told he was being discharged because of his age and the firm’s general manager’s desire to move the sales force in a different direction by hiring younger workers.

AZ Metro maintained the employees were not discharged, but had voluntarily resigned, according to the EEOC’s statement.

The EEOC said in its statement that in addition to awarding the men \$458,000 in lost wages, the jury found that AZ Metro had acted “willfully” within the meaning of the Age Discrimination in Employment Act, which the agency expects will trigger an eventual liquidated damages award by the court.

“The jury plainly understood that Mr. Roberts and Mr. Fernandez were dedicated employees who lost their jobs for an unfair and illegal reason — their age,” EEOC trial attorney Kirsten Peters, who led the agency’s trial team, said in the statement.

DOCKET



CHUBB TO PAY ZURICH IN EXCESS COVER CASE

The U.S. District Court in Houston ordered a Chubb Ltd. unit that was primary insurer for a company involved in a fatal accident to pay \$7.3 million to a Zurich Insurance Group Ltd. unit, an excess insurer on the policy, for not accepting a \$2 million pretrial settlement offer in a case that resulted in a jury verdict of nearly \$40 million but settled for \$9.8 million. Ruling in *American Guarantee and Liability Insurance Co. v. Ace American Insurance Co.*, the court said Texas law requires an insurer to accept a reasonable settlement demand within policy limits, adding Chubb “acted unreasonably in preparing its valuation of the case.”

CLAIMS ADJUSTER’S NONCOMPETE VALID

A noncompete agreement for a claims adjuster is enforceable, the 6th U.S. Circuit Court of Appeals in Cincinnati ruled in *York Risk Services Group Inc. v. John Couture*, affirming a lower court. Mr. Couture joined York in 2005 as a national general adjuster but left in 2018 to join McLarens Global Claims Services, a direct competitor. “We agree with the district court that the noncompete covenant is likely valid,” the ruling stated. Specialized loss adjusting is “highly personalized,” and Mr. Couture was “a major player in that business.”

UNCONFIRMED DRUG TEST INADMISSIBLE

An unconfirmed drug test following a workplace accident is inadmissible, the Supreme Court of Louisiana in New Orleans held in *Jerome Parson v. Truck Parts & Equipment Inc.*, affirming a workers compensation judge’s decision to grant the injured worker’s motion to exclude his positive drug test and reversing an appellate court. Given the “gravity of denying compensation benefits to an injured worker, the evidence used to prove disqualification or forfeiture of those benefits must be deemed competent,” the ruling stated.



The purchase of Relation Insurance Inc. by private equity investor Aquiline Capital Partners LLC earlier this year marks a new phase for the Walnut Creek, California-based brokerage. Since the deal was announced, Relation, the 38th-largest brokerage of U.S. business according to *Business Insurance's* latest ranking, has taken on a new chief financial officer and a new head of mergers and acquisitions, and last month announced its expansion into the central U.S. with the purchase of Premier Consulting Partners in Tulsa, Oklahoma. With ambitions to grow its business and expand its footprint, the brokerage plans more deals. CEO Joe Tatum recently spoke with *Business Insurance* Editor Gavin Souter about Relation's strategy and the market environment for brokerage M&As.

Joe Tatum RELATION INSURANCE

Q What was the background of the Aquiline deal, and what does it mean for the firm?

A We talked with a number of private equity firms, and Aquiline was the clear choice. It was just their deep understanding, by the senior leadership and the entire team, of the insurance space, and when we were having the conversations with them we were completing each other's sentences.

Q What does it mean for you going forward?

A Aquiline has made a strategic investment, but they also have a large reserve in capital that we can deploy to make acquisitions. They have a very similar mindset on keeping the leverage ratio lower, so we are thoughtful about how we use debt — we all want to be able to sleep well at night without thinking that we are overleveraged — and they've put together some great lending partners for us. But the mindset of inorganic growth and organic growth, which has been a passion of ours, is also part of the mindset of Aquiline.

Q What will be your acquisition strategy?

A We have an awful lot of the country where we are not present, and we are looking to fill in that gap. We are really looking for platform-size acquisitions — something that's \$10 million revenue and above — and we can do secondary tuck-in acquisitions around them. We'll do two to three of those a year.

Q Would you look to do anything larger?

A Absolutely. We'd love to find something that is transformative. For us, that would be something that's \$40 million and up, and we think if we can find the right partners, we'd absolutely love to do something that's transformative and do it in the next 12 to 24 months.

Q Are there any particular sectors you are looking at — geographic or product line?

A Either. The sheer scale would be transformative because we are about \$110 million, but specialty business and

niches are of strong interest to us and is an area we've focused intently on the M&A side, but also geographic areas that we have a strong desire to get into. For example, the upper Midwest, the Mountain region, the Northwest, are all areas where we have a strong desire to find platform-sized acquisitions.



Q How do you find good deals in such a competitive market for brokerage acquisitions?

A We say it again and again, but I think it's a matter of culture. We have a strong belief that if it's a bad cultural fit, you can't acquire something cheap enough and you can't sell it high enough to make it work. So we look at the cultural fit first. We want people who we want to be in business with us as partners in the truest sense of the word, then we start pulling down the numbers. If we can find the right cultural fit, typically we can work out the numbers. It is a very aggressive market. There are 40-plus private equity-backed buyers active in the market right now, in addition to the publicly backed buyers, which are numerous, and also small, privately owned firms looking for tuck-ins, and we have competition with them as well.

Q What are you looking at in terms of volume of transactions?

A This year, we'll complete seven to 10. I think we'll probably be closer to 10 than seven. Next year it will probably be 12 to 15, and that will probably be our pace. We are not the type of buyer that is going to try to do 50 to 100 a year. That's just not us, because I don't think that you can

achieve the kind of organic growth levels that we've targeted if you are distracted by doing that many acquisitions, and I don't think the sellers will have the same quality of experience being integrated and the value of the greater firm if you are trying to do 50-plus deals a year.

Q What are you looking to achieve in terms of growth?

A 8% organic growth. That's a high target, but it's a target that we are absolutely dedicated to achieve.

Q How will you achieve that?

A We have retention levels in the 92%-94% range, so that's step one. We are also looking to expand our production workforce.

Q How do you view market trends, and how will that affect your strategy?

A Rates are definitely trending up, everywhere outside of California comp, where we have large presence. We are starting to see some turn in that market, but I don't expect it to fully turn until probably 2021. We are starting to see some of the combined ratios go up, and I think there's some slow reporting of those combined ratios, as well. So I think they are higher than what's currently being reported, but we expect another rate decrease from the state next year, and we'll see whether the markets follow suit. But we are seeing rate increases in transportation, trucking, personal lines home insurance, auto, across the board. It's really a much harder market in all those areas.

Q How about wildfire exposures?

A We have a number of commercial and private clients that are really experiencing some difficulty with rate increases and finding markets that are interested in insuring that exposure right now. It's been a difficult renewal season for our clients and our team. We are having to get creative and expanding, such as looking at the excess and surplus lines market place, and trying to find other opportunities. It's taking a lot more work to try and get clients a good result.

We have a strong belief that if it's a bad cultural fit, you can't acquire something cheap enough and you can't sell it high enough to make it work. So we look at the cultural fit first..

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CONSTRUCTION FIRMS STRUGGLE WITH OPIOIDS

Injured workers more likely to take potent pain meds before shifts to keep earning while jobs remain available

BY ANGELA CHILDERS
AND LOUISE ESOLA

The wear and tear construction work inflicts on the human body makes the industry a ground zero for the opioid epidemic, experts say. High injury rates, decades of loose prescribing of opioids to workers suffering from chronic pain, lack of sick pay and the cyclical nature of construction work combine to create an environment where workers are more likely to be exposed to addictive drugs, they say.

While drug testing can help identify impaired workers, it won't solve what has become a systemic problem for the sector, they say.

"We have to face it: Injuries are happening on our job sites, and this is something that has become a byproduct of all of that," said Robert Petrucelli, Wellesley, Massachusetts-based CEO of the Associated General Contractors of Massachusetts. "They are getting injured on the job, and they are getting prescribed pain medications."

The problem is two-pronged and affects work sites differently, he said. First, workers come to work after taking medication not intended to be used while on the job, creating safety concerns. Second, workers are becoming addicted to pain medication.

"We know that people in construction have high-impact jobs," said Rachael Cooper, senior program manager for opioid use harm prevention at the Itasca, Illinois-based National Safety Council. Construction workers also tend to experience injuries more frequently, often have a lack of sick time and, given the short-term nature of many construction contracts, want to get back to work quickly, she said.

Death rates are a growing concern, which Mr. Petrucelli called "sobering." For example, between 2011 and 2015, 25% of people who died from opioid overdoses in Massachusetts

were construction workers, according to data released last year by the Massachusetts Department of Public Health, which also found construction workers six times more likely than other workers to overdose on strong pain medications.

The problem is a nationwide issue among ironworkers, carpenters, roofers and others whose jobs are to build, doing tasks that break down muscles and bone, said Chris Cain, executive director of The Center for Construction Research and Training in Silver Spring, Maryland.

"When you have an industry that inflicts so much pain on the worker, there is a normal human reaction to try to deal with that pain."

Chris Cain, The Center for Construction Research and Training

"It's not, 'Oh, construction workers have pill problems,' it's about work that causes pain," she said.

The problem has no easy answer, according to experts who say construction workers are among the least likely to skip work as a result of pain.

"It's strenuous work, and you only

get paid for hours worked," said Thomas Gunning, director of labor relations for the Building Trades Employers Association in Braintree, Massachusetts. "If you can, take a pill and go to work," he said.

A painful industry

While injury rates in the construction industry overall mirror those of all industries, standing at 3.1 recordable injuries for every 100 workers, certain segments of the construction sector have injury rates that tower over those figures, according to the latest Bureau of Labor Statistics data released for 2017. New data will be released in December.

For example, 7.5 framing contractors were injured for every 100, and the injury rate stood at 4.9 for structural steel and precast concrete contractors and at 4.3 for foundation, structure and building exterior contractors, according to the data.

The incident rates don't always take into account one of the biggest drivers of pain among construction workers: chronic pain from soft-tissue injuries accumulated over years working in the industry, according to Ms. Cain.

"Fifty percent of construction workers live in pain," she estimated. "When you have an industry that inflicts so much pain on the worker, there is a normal human reaction to try to deal with that pain."

As a result, opioid use tends to be higher in the construction industry, according to Melissa Burke, Southington, Connecticut-based head of managed care and clinical for comp insurer AmTrust Financial Services Inc.

"I think it relates to the severity of the injuries," she said. "In construction, (injuries) tend to be high-severity, and also workers want to come back to work as fast as possible. There's high pressure to get back to the job."

No work, no pay

Construction work is cyclical — often taking place in the warmer months — and relies on contracts, deadlines and some out-of-town jobs, which makes the situation for a worker hampered by pain complicated, according to Ms. Cain, because workers feel they have to work whenever they can, regardless of pain.

"Construction workers don't get sick time, and if they don't work, they don't get paid," said Ms. Cain. "You are going to take your 16-hour days and you are going to work your tail off. What happens if you are in pain? You go to your doctor."

Pain medications taken by construction workers aren't always obtained through the workers com-

See OPIOIDS next page



OPIOID COSTS TO CONSTRUCTION

At the height of the opioid epidemic in 2015, researchers with the Midwest Economic Policy Institute gathered data on opioids costs to the construction industry in several Midwest states, estimating that, overall, the crisis cost employers \$5.2 billion annually.



The institute's analysis also found that each construction worker with an untreated substance abuse disorder costs an employer \$6,800 per year in excess health care expenses, absenteeism and turnover costs; but when a construction employee is in recovery from a substance abuse disorder, contractors save nearly \$2,400 per year.

Source: Midwest Economic Policy Institute

MULTIPRONGED APPROACH NEEDED TO HELP ADDICTS BEAT DEPENDENCY

Thomas Gunning, director of labor relations for the Building Trades Employers Association in Braintree, Massachusetts, said he knows the struggle with opioids well.

After years of taking the opioid Percocet and, later, heroin, Mr. Gunning "got clean" on his eighth go in a rehabilitation program. He said he hopes to see more contractors catch on to what they can do to help.

"The goal should be to help one person," he said. "More people will start coming out the more we talk about it."

Enhancing benefits to construction workers, focusing on injury prevention and providing access to drug treatment are trends to watch as the industry grapples with its opioid problem, according to experts.

"The worst thing a company can do is what we have been doing," said David Argus, director of operations for Karas & Karas Glass Co. Inc. in South Boston, Massachusetts. "You shame them, you punish them, you embarrass them, and you kick them off the job."

The industry is instead trying to

move forward by providing solutions that help those struggling with pain and medications, he said.

"The whole dialogue has been wrong," said Chris Cain, executive director for The Center for Construction Research and Training in Silver Spring, Maryland, adding that drug testing and firing haven't helped to keep prescription opioids out of the industry. "The answers to this problem are not easy, but doable."

Boston-based Shawmut Woodworking and Supply Inc., which completes up to 500 projects nationwide annually with concentrations in such cities as Los Angeles, Boston and New York and subcontracts as many 40,000 workers on individual job sites, has made drug use and prevention a priority, according to Shaun Carvalho, the company's vice president of safety.

"Over the last 10 years, safety has evolved past equipment; now it's the opioid crisis," he said, adding that contracts that require subcontractors to cover pain management and injury prevention are increasingly becoming part of work deals.

"We are creating policies for subcontractors on soft tissue injuries and materials handling," he said. "Don't make someone carry hundreds of pounds over his shoulder all day, we say."

Sick days, provided depending on the contractor, are a slowly emerging trend, according to experts, who say giving workers paid days off to recuperate from workplace aches and pains — not necessarily an injury — could help curb the need to take pills to work through pain.

One challenge is that smaller subcontractors may not have the resources to provide sick pay, according to Ms. Cain. "Part of the challenge in our industry is we are populated with small employers who are resource-poor," she said.

Treatment information, however, is available to construction companies through organizations such as The Center for Construction Research and Training, which provides free information and resources.

Shawmut provides its subcontractors and their workers with access and information on

treatment for drug abuse. "Our research has told us that if someone has a substance use disorder and they get a moment of clarity and they say they want help and they are ready to go, you need to get them help right away because that timing is so important," said Mr. Carvalho.

"We don't want to be a company that sits idly by," he said. "We want to be as proactive as possible and as helpful as possible, even with competitors. We share information. We know this is a major problem."

Robert Petrucelli, Wellesley, Massachusetts-based CEO of the Associated General Contractors of Massachusetts, said one major stride has already been accomplished: not ignoring the problem.

"We have to get rid of the stigma," he said, adding there are annual stand-down days in nearby Boston, where construction work is put on hold and talks are given, information is presented and opportunities to get clean are provided.

"For the first time, everybody is talking about this," he added.

Louise Esola

PROACTIVE STANCE

Recommendations for helping the construction industry fight opioids:

- Provide health insurance that covers substance abuse and mental health treatment
- Adopt new policies in health plans that limit dosages of opioid medications
- Encourage physical therapy and anti-inflammatory medications for chronic wear-and-tear injuries
- Educate employees about responsible prescription opioid use
- Provide at least two weeks of paid sick leave
- Update employee policies to include regular drug testing, but do not immediately fire employees who test positive
- Put employees on prescription opioids in low-risk positions temporarily
- Fund substance abuse treatment programs and workforce development initiatives

Source: Midwest Economic Policy Institute

compensation system; some come from primary care physicians on the group health side, according to experts, who say such a visit would trigger a comp claim and time off if necessary.

“It’s up to the individual whether he is going to take off work or not,” said Mr. Gunning, whose own experience tells him that the pay cut that comes with comp — two-thirds of pay equals indemnity in most states — is a deterrent to reporting pain or treatment on the job site. Instead, it’s kept a secret, he said, adding that a doctor could allow a person to return to work despite having a prescription.

“Then there is this construction tough-guy mentality,” he said. “You get up and you work every day.”

The St. Paul, Minnesota-based Midwest Economic Policy Institute in 2018 found the injury rate for construction workers in several Midwest states studied to be 77% higher than the national average for other occupations. As a result, an estimated 15% of the region’s construction workers have a substance abuse disorder, compared with the national average of 8.6%.

“In the construction business, if you don’t go to work you don’t get paid, and that’s the beginning and end of it,” said David Argus, director of operations for Karas & Karas Glass Co. Inc. in South Boston, Massachusetts, who also does volunteer work with former addicts in construction.

“It’s up to the individual whether he is going to take off. ... Then there is this construction tough-guy mentality. You get up and you work every day.”

Thomas Gunning,
Building Trades Employers Association

Mr. Argus, in his work as president of the newly formed nonprofit The Boston Phoenix Foundation, said he learned more about the problem by spending time with the workers themselves.

“People say they had to go to work,

through their injuries and soreness, and everybody was saying that (taking opioids) was a great way to work and not deal with pain,” he said. “And the pills were everywhere.”

Impairment struggles

The limits of drug tests to determine drug use coupled with the ever-present legal obstacle of someone working while testing positive for a drug that was legally prescribed to them, a component of the federal Americans with Disabilities Act that protects workers with medical conditions, along with the transitory nature of construction sites and changing crews, makes spotting impairment tough, according to experts.

“It’s harder to spot (an impairment) if it’s not an employee that you work with consistently,” said Ms. Burke, adding that supervisors and employees may not know where to turn for help on a construction site or know what resources are available.

“If you’re not continuously in the same place ... drugs in the workplace, drug impairment, testing, it’s harder to enforce,” she said.

Ms. Cain said drug testing will always be a part of contracts in construction, but “these people are not always impaired and they are able to work,” she said. “A lot of them are on a legal prescription.”

The issue raises other questions about better care for employees, according to Ms. Cooper.

Employers “need to be proactive ... how do we link people into the care they need?” said Ms. Cooper. “They really need to develop policies and train supervisors to recognize impairment.”

LACK OF LIGHT DUTY OPTIONS COMPLICATES RETURN TO WORK

Getting injured workers back to work is challenging in many sectors, but in labor-intensive and safety-sensitive industries such as construction, return to work is even more of a hurdle, experts say.

It’s much more difficult to get workers back to work in construction because of the physical demands of the job, said Rich Ives, Hartford, Connecticut-based vice president of workers compensation claims at Travelers Cos. Inc.

Construction workers often don’t have paid sick time, and given the short term-nature of many construction contracts, they want to get back to work quickly and take home a regular — not reduced — paycheck, said Rachael Cooper, senior program manager for opioid use harm prevention at the Itasca, Illinois-based National Safety Council.

The use of opioids complicates the problem.

The concern is whether “somebody is using opioids to mask pain that hasn’t healed yet, and if they are, are

you looking at someone who is maybe going to be impaired in the workplace and just trying to self-medicate to get back to work?” Ms. Cooper said.

Many employers won’t allow workers on opioids to return to work, said Julia Uehling, director of claims, workers compensation, for Minneapolis-based brokerage Hays Companies, a unit of Brown & Brown Inc.

“They would rather pay the ongoing time loss than to risk having someone under the influence of an opioid to come to work as a danger to themselves and others,” she said.

“I have seen instances where an employer will provide transportation to the employee from home to work ... and puts them in a transitional or light-duty position where they’re not a danger to themselves or others.”

The construction industry has a limited number of roles that allow for light duties, said Melissa Burke, Southington, Connecticut-based head

of managed care and clinical for AmTrust Financial Services Inc.

One option may be assigning injured workers still taking opioids to a tool cage or counter where they can distribute parts or tools or light equipment, Ms. Uehling said.

Ms. Cooper suggested that construction employers create a list of tasks or job duties that can be assigned to injured workers and ensure that supervisors speak directly to injured workers’ physicians so they understand their patients’ job duties and how their prescriptions may affect their job performance.

“If an injured worker has a year or two or five or 10 under their belt, they may still be able to contribute (on the job site) in another meaningful way that’s considerably more valuable than having to find a new worker,” said Mr. Ives. “But it has to be something meaningful to the injured employee. They want to feel like they’re adding some value.”

Angela Childers

STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION

(Required by 39 U.S.C. 3685)

1. **Publication Title:** Business Insurance
2. **Publication No.:** 0007-6864.
3. **Filing Date:** 10-1-19.
4. **Issue Frequency:** Monthly.
5. **No. of Issues Published Annually:** 12.
6. **Annual Subscription Price:** Varies (\$29/\$49/\$99/\$149/\$189).
7. **Complete Mailing Address of Known Office of Publication:** Business Insurance, PO Box 1010, Greenwich, CT 06836. Contact Person: Brian McGann. Phone: 917-678-7082.
8. **Complete Mailing Address of Headquarters or General Business Office of Publisher:** PO Box 1010, Greenwich, CT 06836.
9. **Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor:** Publisher, Keith Kanner, Business Insurance, PO Box 1010, Greenwich, CT 06836; Editor, Gavin Souter, Business Insurance, PO Box 1010, Greenwich, CT 06836; Deputy Editor, Claire Wilkinson, Business Insurance, PO Box 1010, Greenwich, CT 06836.
10. **Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and address of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)** Beacon International Group, PO Box 1010, Greenwich, CT 06836; Steve Accunto, President, PO Box 1010, Greenwich, CT 06836.
11. **Known bondholders, mortgagees and other security holders owning or holding 1 percent or more of total amount of bonds, mortgages or other securities:** None.
12. **Tax Status (Must be completed if the publication title shown in item 1 is a publication published and owned by a nonprofit organization.)** The purpose, function, and nonprofit status of this organization and the exempt status for Federal income tax purposes: (Check one)
 - Has Not Changed During Preceding 12 Months
 - Has Changed During Preceding 12 Months. (If changed, publisher must submit explanation of change with this statement)
13. **Publication Name:** Business Insurance
14. **Issue Date for Circulation Data Below:** September 2019.
- 15.

Extent and Nature of Circulation	No. Average No. Copies Each Issue During Preceding 12 Months	Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)	45,674	46,192
b. Legitimate Paid and/or Requested Distribution (By Mail and Outside the Mail)		
(1) Outside County Paid/Requested Mail Subscriptions Stated on PS Form 3541 (Include direct written request from recipient, telemarketing and Internet requests for recipient, paid subscriptions including nominal rate subscriptions, advertiser’s proof copies, and exchange copies)	0	0
(2) In-County Paid/Requested Mail Subscriptions Stated on PS Form 3541 (Include direct written request from recipient, telemarketing and Internet requests for recipient, paid subscriptions including nominal rate subscriptions, advertiser’s proof copies, and exchange copies)	24,627	27,247
(3) Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid or Requested Distribution Outside USPS®	0	0
(4) Requested Copies Distributed by Other Mail Classes Through the USPS (e.g. First-Class Mail®)	0	0
c. Total Paid and/or Requested Circulation (Sum of 15b (1), (2), (3), and (4))	24,627	27,247
d. Nonrequested Distribution (By Mail and Outside Mail)		
(1) Outside County Nonrequested Copies Stated on PS Form 3541 (Include Sample copies, Requests Over 3 years old, Requests induced by a Premium, Bulk Sales and Requests including Association Requests, Names obtained from Business Directories, Lists and other sources)	0	0
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(4) Nonrequested Copies Distributed Through the USPS by other Classes of Mail (Include Pickup Stands, Trade Shows, Showrooms and Other Sources)	0	0
e. Total Nonrequested Distribution (Sum of 15d (1), (2), and (3))	18,393	19,288
f. Total Distribution (Sum of 15c and e)	43,020	46,535
g. Copies not Distributed (See Instructions to Publishers #4, (page #3))	815	845
h. Total (Sum of 15f and g)	43,835	47,380
i. Percent Paid and/or Requested Circulation (15c divided by 1 times 100)	57.25%	58.55%
16. Electronic Copy Circulation		
a. Requested and Paid Electronic Copies	11,707	7,427
b. Total Requested and Paid Print Copies (Line 15c) + Requested/Paid Electronic Copies (Line 16a)	36,334	34,674
c. Total Requested Copy Distribution (Line 15b) + Requested/Paid Electronic Copies (Line 16a)	54,727	53,962
d. Percent Paid and/or Requested Circulation (Both Print & Electronic Copies) (16b divided by 16c x 100)	66.39%	64.26%
17. This Statement of Ownership will be printed in the November 2019 issue of this publication.		
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PROFESSIONAL LIABILITY

AI meets medicine as a double-edged lancet

BY CLAIRE WILKINSON

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As the use of artificial intelligence and machine learning technologies in the medical and health care sector increases, medical professionals, health care facilities and malpractice insurers face new risks, experts say. While artificial intelligence may help raise the standard of care that patients receive from medical professionals, its involvement in medical decision-making will also give patients new reasons to sue, expanding the potential liabilities confronting doctors, they say.

AI is beginning to play a larger role in the practice of medicine, and as it does the goal of AI is to improve medical decision-making, which will have an effect on medical outcomes, said Dr. Richard Anderson, chairman and CEO of The Doctors Co. in Napa, California.

“To the extent that medical outcomes are better, then everyone’s happy. But

to the extent that medical outcomes will occasionally be worse, or if there’s a catastrophic problem with a particular algorithm that could affect many people at once, that creates a nightmare litigation scenario,” Dr. Anderson said.

Medical malpractice insurers are taking note, and as AI-driven technologies become more widespread and lead to

“With any kind of new technology ... the question is always going to be the interaction between humans and the technology. How much reliance is there on it? How much of a human factor is there?”

Greg Ferrell,
Admiral Insurance Group

claims, insurance coverage will have to evolve, just as it did with the advent of electronic health records and telemedicine, they say.

“With any kind of new technology or new evolution in the provision of care, the question is always going to be the interaction between humans and the technology,” said Greg Ferrell, Austin, Texas-based vice president of professional liability with Admiral Insurance Group, a W.R. Berkley Co. unit.

“How much reliance is there on it? How much of a human factor is there? Software is great and AI is great, but in reality those calculations are only as good as the data input by a human hand. So there is always that concern,” said Mr. Ferrell.

The increased utilization of information technology in health care delivery is blurring the distinctions between providers and patients, said Dale Van Demark, a partner with McDermott, Will & Emery LLP in Washington.

“As individual consumers, we are increasingly being empowered to take care of ourselves with these tools” via digital products and apps that can be put on smartphones, said Mr. Van Demark.

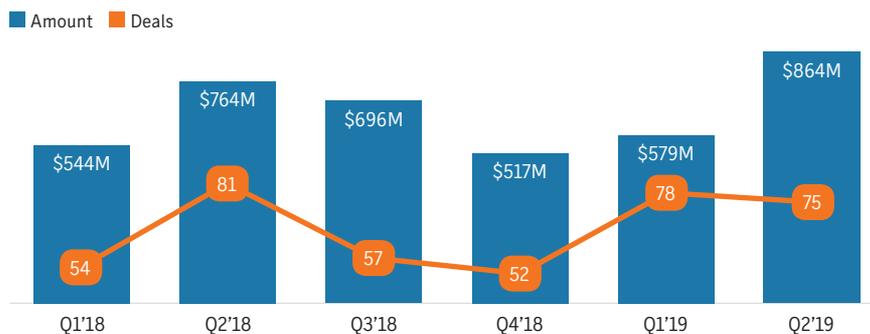
“A good example would be a diabetes management tool ... where a consumer, acting alone or in conjunction with a physician, is able to start taking over more responsibility for the management of that chronic condition,” he said.

“Who’s the provider of the health care service? Is it the patient, the doctor or the device? Is it some combination of those?” he said.



AI IN HEALTH CARE FUNDING REACHES A HIGH

Venture capital-backed deals and financing to health care AI startups, in millions



Source: CB Insights

In the near term, AI is going to present many legal quandaries, said Scott M. Kosnoff, partner at Faegre, Baker Daniels LLP in Indianapolis.

“If I were to go to the doctor and for whatever reason he does not avail himself of AI and makes a mistake, I would argue that the doctor failed to rely on AI. We may get to the point where a failure to rely on AI is an indicator of a doctor’s — if not malpractice — of not living up to the prevailing standard,” said Mr. Kosnoff.

“You could also argue the other side of that coin,” to the extent that the doctor

relied on AI but didn’t exercise his/her own independent medical judgment relying “exclusively on the AI without asking if it was working like it should,” Mr. Kosnoff said.

Going forward, “it’s likely that (patients) will seek liability from providers for injuries that result from the use of AI,” said Nicholson Price, a professor of law at the University of Michigan in Ann Arbor, adding: “I suspect they’ll also sue the makers of AI.”

“A good analogy is autonomous vehicles. Who’s going to be liable for automobile accidents between autonomous

vehicles? The same kinds of issues we’re facing in the not-too-distant future with autonomous vehicles are like what we face with AI in medicine,” said Dr. Anderson.

From the underwriting standpoint, the challenge is “how to connect the dots between the technology itself and the true front-line provision of care,” said Mr. Ferrell.

When insurers are unsure about how new technology is involved, they are unable to structure insurance policies that address all the relevant exposures facing providers, he said.

“At the early onset, it’s going to be a learning curve. It won’t be an intentional omission of coverage ... but until you know how those suits are going to be brought — the vernacular, the vocabulary, the terminology used, the extent to which technology is built into the process of care — there’s really no way we can say this is how we’ll cover it,” Mr. Ferrell said.

Coverage will change and evolve, he added, and what might eventually follow is a package policy that includes medical malpractice, general liability, products liability, the technology exposure and a cyber component as well, he said.

“My guess is AI will be covered as part of your standard policy as opposed to something distinctly different ... As AI becomes more integral in medical practice, it’ll become difficult to insure medical practice except where it’s influenced by AI,” said Dr. Anderson.

WHO’S IN CHARGE HERE? DOCTORS SHOULD VIEW AI AS A TOOL

Medical professionals can take steps to mitigate the risks of using artificial intelligence technologies in a clinical setting, thereby reducing potential exposure, experts say.

“Artificial intelligence is powerful, but it’s just a tool, a tool like any other that has come along in the medical profession,” said Scott M. Kosnoff, a partner at Faegre Baker Daniels LLP in Indianapolis.

“If you’re a doctor and you’re using a stethoscope, you need to understand how to use it, what it’s good for and what its limitations are,” Mr. Kosnoff said. “The

same is true for AI ... you can’t be so enamored with it that you forget you’re the doctor and you’re in charge.”

In health care today, the physician bears potential legal liability or responsibility for potentially all health care outcomes regardless of how they are intermediated, said Dr. Richard E. Anderson, chairman and CEO of The Doctors Co. in Napa, California.

“If there’s an adverse outcome influenced by AI, a physician is going to be held accountable. So if you are using AI in your practices, you need to

understand who the vendor is, what the benefits and blind spots are, and you need to understand that the vendor is unlikely to take responsibility for the outcome,” Dr. Anderson said.

“Use AI as a confirmation to reach the conclusion you otherwise would have reached,” said Nicholson Price, a professor of law at the University of Michigan in Ann Arbor.

While this approach leaves more of the capability of AI on the table, it’s “a safe course of action,” he said.

Claire Wilkinson

“We may get to the point where a failure to rely on AI is an indicator of a doctor’s — if not malpractice — of not living up to the prevailing standard.”

Scott M. Kosnoff,
Faegre, Baker Daniels LLP

D&O rates rise after unicorns stumble

BY JUDY GREENWALD

jgreenwald@businessinsurance.com

The recent spate of troubled initial public offerings by firms including Uber Technologies Inc., Lyft Inc. and high-end fitness equipment firm Peloton Interactive Inc., whose stock prices dropped after their IPOs, has led to higher directors and officers liability rates and tighter capacity for companies that are going public.

Further exacerbating the situation are higher litigation costs following 2018's U.S. Supreme Court ruling in *Cyan Inc. et al. v. Beaver County Retirement Fund et al.*, which held securities offerings litigation can be heard in state court in addition to federal court.

Particularly vulnerable to the tightening market are "unicorns," startup companies with valuations of more than a billion dollars, observers say.

Unicorns have not performed well over the past few months, "suggesting their valuations were overstated, not only before



but in the IPO itself," said Kevin LaCroix, executive vice president of RT ProExec, a division of R-T Specialty LLC, in Beachwood, Ohio.

The unicorn IPOs' performance "has driven a lack of capacity," said Jennifer Sharkey, Boston-based president of the management liability practice for the Northeast with Arthur J. Gallagher & Co. "When capacity is provided, there are less limits provided; it has driven the premiums up significantly, and the self-insured retentions to levels we have never seen."

Whereas previously limits of \$5 million or \$10 million limits were available, "we're now seeing \$2.5 million in limits, but the pricing has definitely increased significantly," said Sarah Downey, New York-based FINPRO and D&O product leader for Marsh USA Inc.

"There are very few markets willing to write IPOs on a primary basis right now," said Paul King, Dallas-based senior vice president and national technical director of executive and professional solutions for USI Insurance Services LLC. "The IPO market is more difficult than the general market" because of the perceived IPO failures.

Policyholders may not be able to get full ABC coverage, and instead have a Side A only program, said Christine Williams, New York-based CEO of Aon PLC's financial services group. Side A protects directors and officers when they are not indemnified by the organization.

Side A is "a way to control costs somewhat and get back to some of the original intention of D&O, to protect the individual, but you're narrowing your coverage when you do that," said Mr. King.

Life science and technology companies, whose stocks tend to be volatile, have been particularly affected by the tightening IPO market, according to Priya Cherian Huskins, San Francisco-based senior vice president, D&O, for Woodruff Sawyer & Co.

According to Woodruff Sawyer data, the average cost of the first \$10 million of D&O insurance more than tripled from 2017 through 2019's second quarter for life sciences companies, while the average self-insured retention quadrupled to \$8 million in the same period.

Another complicating factor is the *Cyan* decision, which enables plaintiffs to file D&O litigation in both state and federal courts and has increased litigation costs.

"You're seeing litigation not only in the federal courts but in state courts, and sometimes in both, so your frequency is significantly higher for a company going public because it's strict liability with that Section 11 exposure," said Brian Zink, New York-based head of management liability for Zurich Insurance Group Ltd.

Section 11 of the Securities and Exchange Act of 1933 enables plaintiffs to hold directors and officers liable for damages caused by untrue statements or material omissions of fact within registration statements when they become effective.

State courts "have very little experience with securities class actions, and the rate of dismissal historically" has been much lower, said Ms. Sharkey.

"I think the dollar amounts are often higher when settling with plaintiffs in multiple jurisdictions, so those are real concerns," she added.

According to a midyear report issued in July by Cornerstone Research Inc., of 61 lawsuits after *Cyan*, 23 have been filed in both state and federal courts, 12 in federal court only and 26 in state courts only.

"If you're looking at what the probabilities of a company going public are to being sued, it's around double" within a year of an initial public offering compared with the rate for an already public company, said Scott Meyer, New York-based division president of financial lines for North America with Chubb Ltd. Given this, "there's less interest in insuring those companies," he said.

Mr. Meyer said, "There's a handful of insurers that have pulled out of the market altogether," although Chubb has "stepped up to fill that void."

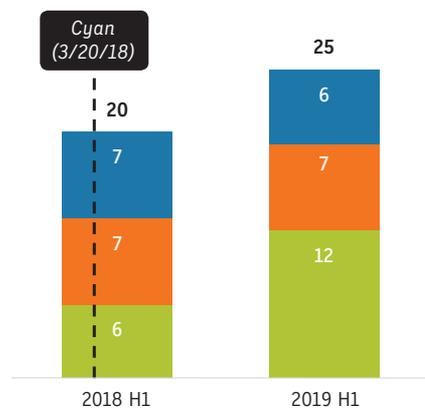
The IPO situation is unlikely to ameliorate soon, say observers.

"Everyone's going to continue to watch the impact of the *Cyan* decision and those Section 11 claims, but I don't see the IPO market changing, at least in the first half of 2020, until we really see more loss data around the impact of these state court cases," Ms. Sharkey said.

PRE- AND POST-CYAN FILINGS

Lawsuits filed in state court alone and in both state and federal courts have increased since the Supreme Court's March 2018 *Cyan* decision

■ Federal Courts Only
■ Parallel Filings
■ State Courts Only



Source: Cornerstone Research; Stanford Law School Securities Class Action Clearinghouse

WITHDRAWAL OF INITIAL PUBLIC OFFERING GIVES UNDERWRITERS PAUSE

WeWork's withdrawn initial public offering has left directors and officers liability insurers wary of future IPOs, observers say.

The workspace-sharing company's parent, New York-based We Co., withdrew its planned IPO in September after questions arose about its corporate governance and valuation.

WeWork "just makes the underwriters a little more skeptical," said Sarah Downey,

New York-based FINPRO and D&O product leader for Marsh USA Inc.

"It just kind of adds to their hesitation to become involved in the IPO space, even though the IPO didn't happen."

"It's made insurers very skittish," said Christine Williams, New York-based CEO of Aon PLC's financial services group.

However, "WeWork's withdrawal of their IPO is in many ways the market working

correctly," said Priya Cherian Huskins, San Francisco-based senior vice president, D&O, for Woodruff Sawyer & Co.

"There was not a lot of financial information about them available, and only after WeWork went through the IPO process did investors and others start to see the real picture. The fact that they withdrew their IPO, I think, speaks well of the IPO process," said Ms. Huskins.

Having appropriate language in a pre-IPO firm's D&O policy that does not exclude coverage if there is a withdrawn IPO is important, "because it's always a risk when you file an IPO you may not succeed in actually completing it," said Kevin LaCroix, executive vice president of RT ProExec, a division of R-T Specialty LLC, in Beachwood, Ohio.

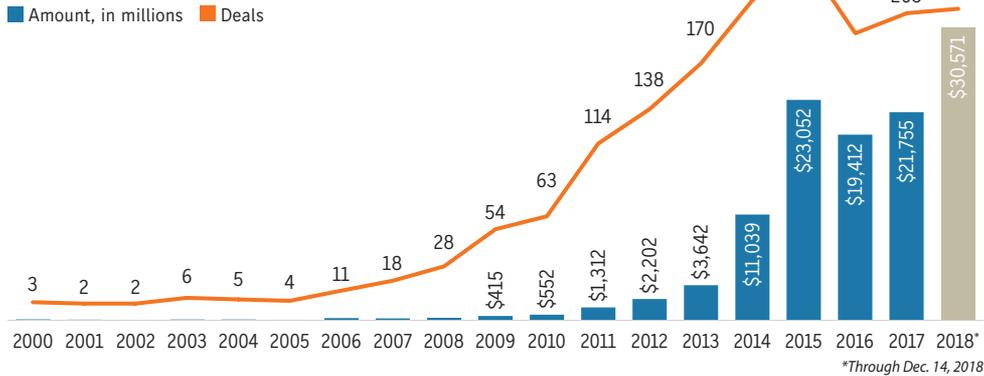
Judy Greenwald

IPO TRENDS

According to the seventh annual edition of the CB Insights Tech IPO Pipeline Report, 2018 was a record fundraising year for Tech IPO Pipeline companies. In 2018, the 286 Tech IPO Pipeline companies raised \$30.5 billion in equity financing.

TECH IPO PIPELINE COMPANIES

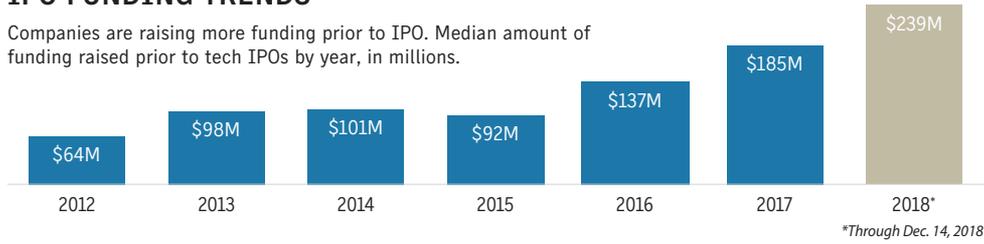
2018 was a record fundraising year for Tech IPO Pipeline companies.



Of the venture-backed U.S. tech companies that went public in 2018, the median time between their first financing and public offering was 10.1 years, compared with 2013, when the median time was just 6.9 years.

IPO FUNDING TRENDS

Companies are raising more funding prior to IPO. Median amount of funding raised prior to tech IPOs by year, in millions.



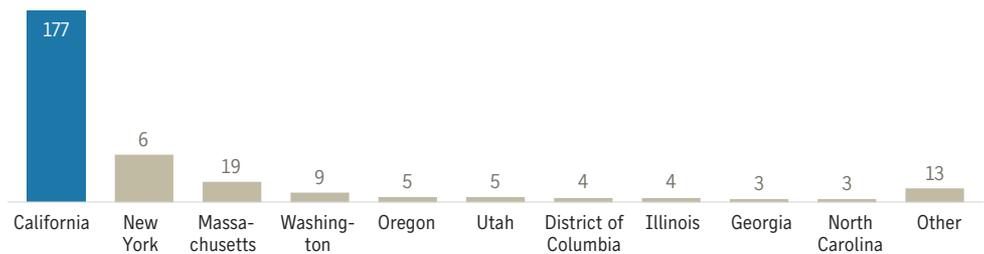
TECH IPO PIPELINE FUNDING CONTINUES TO CLIMB

Mega-rounds for companies in the tech IPO pipeline continue to climb. \$100 million-plus financing rounds to Tech IPO pipeline companies, by year



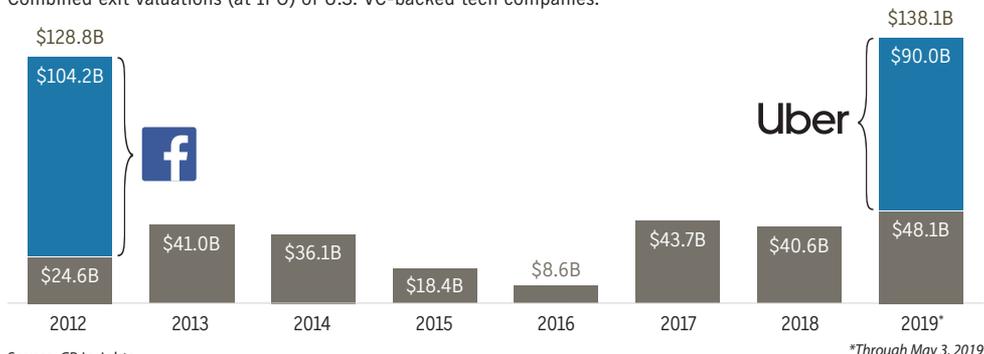
TOP TECH IPO PIPELINE STATES

California-based companies dominate the Tech IPO Pipeline.



TECH IPO PIPELINE EXIT VALUE

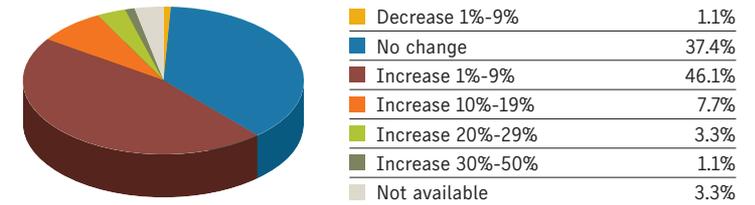
2019 could set a new record for Tech IPO Pipeline exit values. Combined exit valuations (at IPO) of U.S. VC-backed tech companies.



Source: CB Insights

D&O PRICING

During the second quarter of 2019, April 1-June 30, 58.2% of survey respondents saw increases in premium rates for directors and officers liability coverage.



Source: Council of Insurance Agents & Brokers

RENEWAL PRICING

Average D&O renewal pricing changes by quarter since 2016

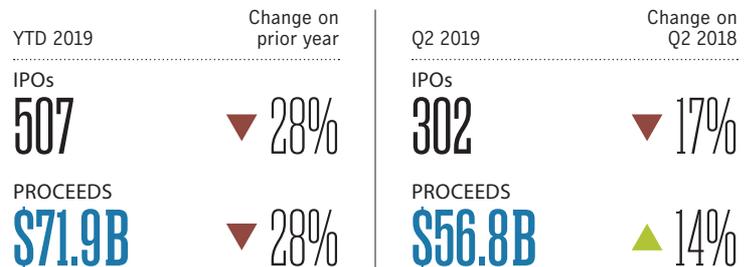


Source: Council of Insurance Agents & Brokers

PREVIEW OF 2019 IPOs

According to the EY Global IPO Trends report, a record number of unicorn initial public offerings came to market in 2018, pushing their proceeds to historic heights. The second quarter of 2019 continued this trend, despite geopolitical uncertainty, U.S.-China trade tensions and Brexit. Thirteen unicorns launched IPOs, helping to push the first half of 2019 to 507 IPOs, raising total proceeds of \$71.9 billion.

MARKETS



SECTORS

Technology, health care and industrials saw the largest share of IPOs in the second quarter of 2019 by both volume and proceeds. This suggests that investors continue to strike a balance between new innovation and sticking with the basics.

Q2 2019 ACTIVITY BY HIGHEST NUMBER OF IPOs



STOCK EXCHANGES

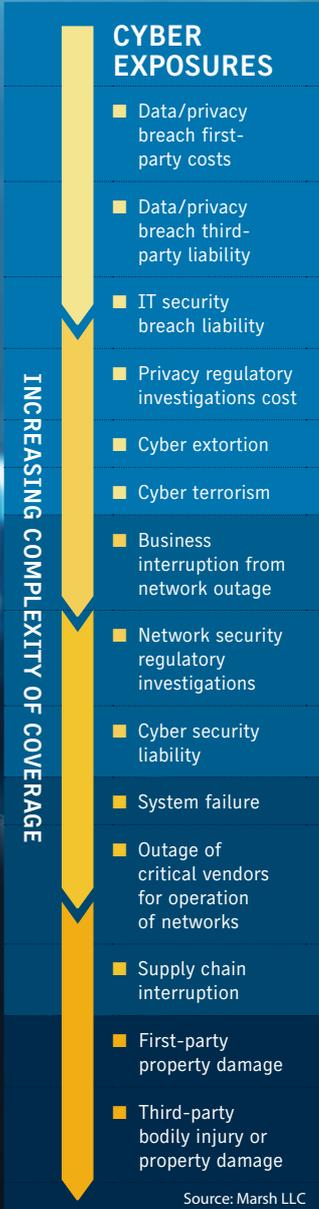
There were 66 U.S. IPOs in the second quarter raising a total of \$27.0 billion. With activity from larger unicorn companies, second-quarter 2019 proceeds raised increased by 79% compared with the second quarter of 2018. Led by four of the five IPOs with deal sizes above \$1 billion, technology accounted for a dominant 64% of proceeds in the quarter.

Q2 2019 ACTIVITY BY HIGHEST TOTAL PROCEEDS



Source: EY Global IPO Trend: Q2 2019

CYBER LIABILITY



Insurers take affirmative stance on cyber

BY JUDY GREENWALD
jgreenwald@businessinsurance.com

The insurance industry is undergoing a shift as it moves away from “silent cyber,” where coverage for cyber-related losses is left unaddressed in standard commercial policies, toward policies that explicitly affirm or exclude coverage.

As insurers redraft wordings, coverage will likely be provided either through separate cyber policies or perhaps via sublimits in standard property/casualty policies, experts say.

Some insurers are still considering their approach to the issue, which may depend on the line of coverage.

Spurred in part by the urging of European Union regulatory authorities and led by Lloyd’s of London, Allianz SE and American International Group Inc., insurers are moving towards clearly stating whether insurance coverage provides for cyber-related losses.

Meanwhile, the cyber insurance sector continues to grapple with other issues, including risk aggregation, contingent

business interruption coverage and malware (see related story). But the market remains competitive.

Silent cyber is “a huge issue,” said Robert Parisi, New York-based managing director and cyber product leader for Marsh LLC.

“It’s probably going to consume a huge amount of attention and energy for the next 18 to 24 months as we sort through and go back through a variety of policies” and “start seeing markets throw on cyber exclusions, some of which are very nar-

rowly focused and appropriately drafted and some of which are overreaching, and throwing out the baby with the bath water,” he said.

The market will struggle with silent cyber issues well beyond 2020 and there will likely be related coverage litigation, Mr. Parisi said.

Insurers are taking two basic approaches, said Shiraz Saeed, Starr Insurance Cos.’ New York-based cyber risk national practice leader. One is to exclude or provide explicit grants of coverage on individual policies, with siloed, individual profit centers.

The second, the direction in which Mr. Saeed said Starr is moving, is to centralize cyber so that any ensuing loss from a cyber incident can be channeled into one underwriting vertical with multiple disciplines, whether it involves physical or nonphysical damages.

“It’s an issue that clients potentially don’t truly understand,” and “the fact that we’ve seen losses and litigation on cyber policies

is helping to clarify it for any insurance buyer — that they can’t just depend on silence to equal affirmative coverage,” said Stephanie Snyder, Chicago-based senior vice president and national sales leader for cyber insurance with Aon PLC.

“It’s going to be painful as we go through the transition, where people who had coverage by way of silence no longer have it, or they may have some sublimits of coverage. But the end result will be clarity, and that is most important to the cyber insurance buyer,” said Max Perkins, Atlanta-based senior vice president for global cyber and technology, global professional and financial risks with Lockton Cos. LLC.

This could result in “more emphasis on building towers of affirmative cyber coverage,” said Bob Wice, Farmington, Connecticut-based head of the U.S. cyber underwriting team for Beazley PLC.

“This is a move that all insurers have to make,” said Tracie Grella, AIG’s head of cyber risk insurance. “The idea of having silence on this type of risk doesn’t allow

you to manage it in the most effective way,” while risk managers “want to make sure that they are fully addressing their exposure throughout their entire portfolio” and are asking for more clarity.

AIG announced in September that by January 2020 nearly all its policies would exclude or affirmatively cover cyber risks.

Many insurers have delayed addressing the issue of cyber coverage in existing policies, said Marcin Weryk, New York-based head of cyber-West and South at Axa XL, a unit of Axa SA.

“A few carriers, including us, will have to take a more defined approach in terms of where coverage is granted, and where it’s specifically excluded on more traditional P/C lines when it comes to cyber as a peril,” he said.

But individual types of cyber exposure may be addressed differently.

Richard DePiero, New York-based senior vice president and U.S. cyber product leader for Sompo Pro, the U.S. professional liability insurance unit of Sompo International Holdings Ltd., said, “I do think that property damage stemming from a cyber event will eventually be covered in its own stand-alone policy or incorporated into a cyber liability policy,” although “it’s really early, and I think a lot of markets are trying to figure out their approach.”

“We definitely are collaborating across

EMERGING CYBERSECURITY TRENDS RAISE THE STAKES

While the issue of how and under which policies cyber risks should be covered is the main issue insurers and insurance buyers are grappling with, several other trends are raising concerns in the sector.

RISK AGGREGATION

Fears linger about potential problems with a major cloud or software provider that causes losses across multiple policyholders. Insurers are examining the aggregation of cyber risk as use of cloud services provided by Amazon.com Inc., Microsoft Corp. and other providers grows, said Bob Wice, Farmington, Connecticut-based head of the U.S. cyber underwriting team for Beazley PLC.

Insurers “have come a long way” in dealing with the issue of risk aggregation, “but it’s still what keeps them up at night at management levels,” said Dan

all lines of business to understand what the costs are and evaluate exposure in a holistic perspective,” said Michelle Chia, New York-based head of professional liability and cyber for Zurich North America.

Ms. Snyder of Aon said insurers are tak-

Burke, national cyber practice leader at Woodruff Sawyer & Co. in San Francisco.

CONTINGENT BUSINESS INTERRUPTION

Complex supply chains and the resultant contingent business interruption exposures are a rising concern in the cyber market.

“There is a huge interconnection between a company and its vendors and its clients, and so my clients are very concerned about that,” said Robert Parisi, New York-based managing director and cyber product leader for Marsh LLC.

They are undergoing “a tremendous amount of due diligence to make sure” their vendors are resilient and that any one vendor does not create a bottleneck, Mr. Parisi said.

Insurers are beginning to offer broader contingent business interruption coverage with new forms of coverage

for events that result from accidental system failures, in addition to cyber attacks, said John Farley, New York-based managing director of cyber for Arthur J. Gallagher & Co.

RANSOMWARE

“Ransomware is running rampant,” said Michael Tanenbaum, New York-based executive vice president at Chubb Ltd. Where demands used to be for \$15,000 or \$30,000, criminals now are making six- and seven-figure demands, with “no boundaries” in size or sector.

Richard DePiero, New York-based senior vice president and U.S. cyber product leader for Sompo Pro, a unit of Sompo International Holdings Ltd., said he expects losses and related expenses stemming from ransomware will exceed the cyber insurance market’s data breach costs within 12 months.

Judy Greenwald

ing different approaches but the market “is moving in the right direction from a contract certainty standpoint.”

Meanwhile, the cyber liability insurance market remains competitive albeit with some signs of tightening, say observers.

“I haven’t seen any meaningful impact” on the market of the move toward affirmative coverage, said John Farley, New York-based managing director for cyber with Arthur J. Gallagher & Co. “We’ll see what happens next year and the year after.”

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SPECIAL REPORT

LARGEST CYBER INSURERS (STAND-ALONE POLICIES)*

The top 10 insurers wrote 82.3% of the total U.S. market. Direct earned premium is \$1.03 billion. In the 2018 report, the gap between earned and written premiums has decreased between 2017 and 2018, indicating the stand-alone cybersecurity insurance marketplace is maturing.

Rank	Company	2018 direct written premium	Market share	Loss ratio (including defense & cost containment)
1	Axa Insurance Group	\$255,874,528	23.0%	57.2%
2	American International Group Inc.	\$232,312,591	20.9%	36.1%
3	Travelers Cos. Inc.	\$112,920,719	10.1%	27.7%
4	Beazley Insurance Co. Inc.	\$100,860,728	9.1%	6.1%
5	Zurich Insurance Co.	\$43,315,425	3.9%	18.2%
6	BCS Insurance Co.	\$39,534,843	3.5%	13.5%
7	Fairfax Financial Holdings Ltd.	\$38,145,472	3.4%	23.4%
8	Tokio Marine Holdings Inc.	\$34,858,640	3.1%	38.2%
9	Liberty Mutual Holding Co. Inc.	\$33,427,580	3.0%	43.6%
10	CNA Financial Corp.	\$25,032,362	2.2%	13.7%

*Not including surplus lines
Source: National Association of Insurance Commissioners

LARGEST CYBER INSURERS (PACKAGE POLICIES)*

The top 10 insurers of package policies wrote 71.8% of direct written premiums in 2018.

Rank	Company	2018 direct written premium	Market share	Loss ratio
1	Chubb Ltd.	\$320,729,113	35.7%	28.6%
2	CNA Financial Corp.	\$58,324,863	6.5%	32.5%
3	Axis Capital Holdings Ltd.	\$56,408,989	6.3%	9.1%
4	Hartford Fire & Casualty Group	\$39,704,460	4.4%	16.4%
5	Sompo Holdings Inc.	\$34,054,366	3.8%	56.7%
6	Travelers Cos. Inc.	\$33,309,900	3.7%	4.5%
7	Liberty Mutual Holding Co. Inc.	\$33,067,460	3.7%	34.1%
8	BCS Insurance Co.	\$29,969,858	3.3%	6.3%
9	Argo Group Inc.	\$20,593,376	2.3%	27.4%
10	Berkshire Hathaway Inc.	\$18,564,643	2.1%	68.9%

*Not including surplus lines
Source: National Association of Insurance Commissioners

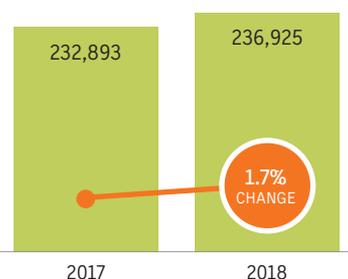
IDENTITY THEFT COVERAGE

Identity theft coverage remained the most common product related to cybersecurity insurance in 2018.

STAND-ALONE IDENTITY THEFT POLICIES

The year-end 2018 data for identity theft coverage indicates that the stand-alone premium on the 236,925 policies was \$9.3 million, or approximately \$39.35 per policy.

NUMBER OF POLICIES WRITTEN

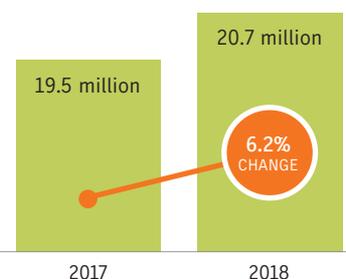


Source: National Association of Insurance Commissioners

PACKAGE IDENTITY THEFT POLICIES

The package premium on 20.7 million policies sold in 2018 was \$216.6 million, or approximately \$10.45 per policy.

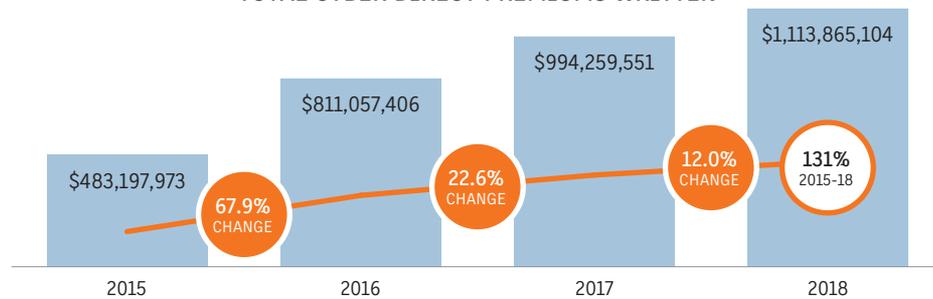
NUMBER OF POLICIES WRITTEN



STAND-ALONE CYBER INSURANCE MARKET

Stand-alone cybersecurity insurance coverage increased 12.0% to \$1.11 billion in 2018 from 2017.

TOTAL CYBER DIRECT PREMIUMS WRITTEN

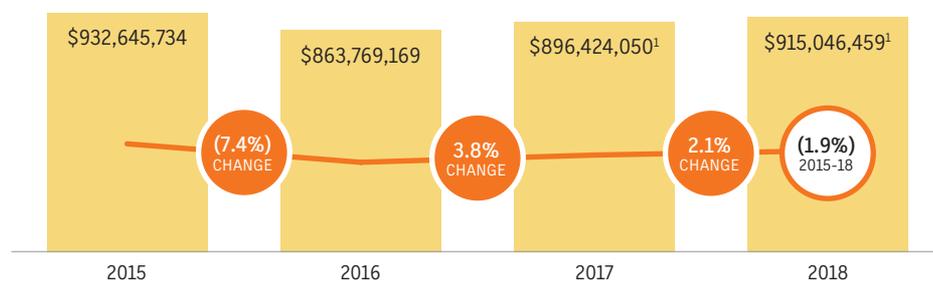


Source: National Association of Insurance Commissioners

PACKAGE CYBER INSURANCE MARKET

Cybersecurity package policies increased 2.1% to \$915 million from last year but decreased by 1.9% from 2015.

TOTAL CYBER PREMIUMS WRITTEN



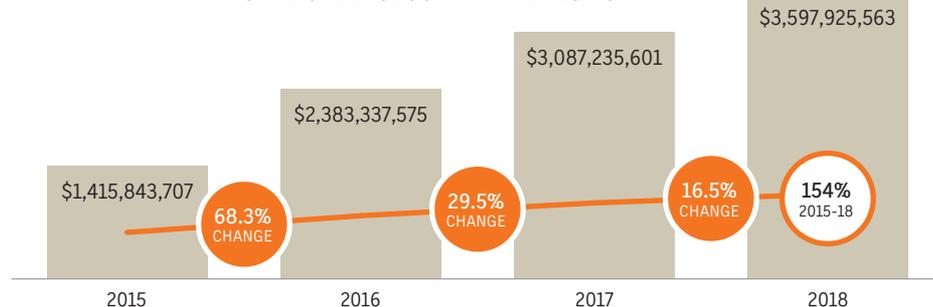
*To arrive at figure representing a complete market, it was assumed that 16 of the 462 insurers in 2017 and nine out of 491 insurers in 2018 where premiums were not reported would have reported premiums in the same ratio as those insurers reporting premiums, representing 3.46% and 1.83% (\$16.8 million) respectively of direct written premiums for package policies.

Source: National Association of Insurance Commissioners

CYBERSECURITY INSURANCE MARKET

Total U.S. market for cybersecurity insurance increased 16.5% to \$3.6 billion, from \$3.1 billion last year, in total premiums written in 2018.

TOTAL CYBERSECURITY PREMIUMS WRITTEN

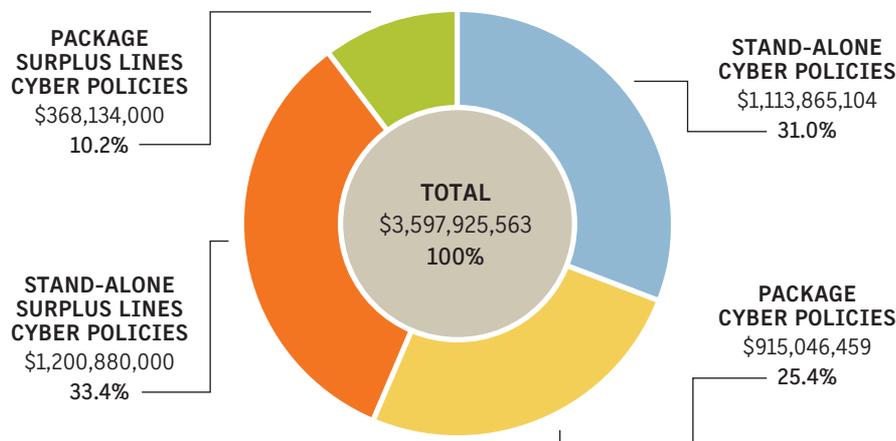


Source: National Association of Insurance Commissioners

ADMITTED VS. NONADMITTED CYBER INSURANCE MARKET

The total admitted market for cybersecurity insurance is \$2.03 billion, or 56.4%, and the nonadmitted market is \$1.57 billion, or 43.6%.

CYBER PREMIUMS WRITTEN



Source: National Association of Insurance Commissioners



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Terrorism backstop still plays key role

Even with the distance of 18 years, the Sept. 11, 2001, terrorist attacks still have a profound effect on the insurance and risk management sectors.

First and foremost, many people in the industry had friends and colleagues who were trapped in the Twin Towers on 9/11 and did not make it out. The hundreds of insurance industry professionals that died in the attacks remain fixed in many people's memories and continue to be memorialized by their companies.

While obviously less consequential compared with the human loss, the financial ramifications of 9/11 also are still with us.



Gavin Souter
EDITOR

The attacks starkly exposed a weakness in insurance for companies exposed to terrorist threats. While the industry — after some court fights — paid more than \$30 billion in claims from the attacks, insurers were leery of continuing to offer coverage for a peril that was tough, if not impossible, to underwrite with any degree of certainty. Lack of historical loss data, concentration of exposures and difficulty in spreading the risk make provision of terrorism insurance a conundrum.

As a result, the economic repercussions threatened to multiply as lenders said they would not grant loans on properties without terrorism coverage, among other things.

But in the year after the attacks, the industry worked with lawmakers to draft an innovative solution that provided a backstop to the insurance industry: the Terrorism Risk Insurance Act of 2002, which allowed insurers to dispense with terrorism exclusions and offer affordable coverage to businesses.

At its reauthorizations, the backstop was scaled back in various ways, such as with higher deductibles and changes to the recoupment charge on premiums in the event of an attack. But TRIA remains an effective support mechanism for insurers and commercial policyholders at no cost to the federal government.

After the delayed reauthorization in 2015, which helped highlight what the significant role TRIA plays, the program is again up for renewal at the end of next year.

The industry and interested lawmakers already are working to extend the program and have made solid progress. A bill has been introduced in the U.S. House of Representatives that would keep the existing provisions intact and look at ways to update the coverage. While it is unclear how quickly the legislation would progress in the Senate, the industry is off to a good start.

Any legislation that provides financial benefits to companies — real or potential — is always likely to be subject to charges of corporate welfare, but lawmakers should not seek to pare back any more coverage from TRIA. If another major terrorism attack occurs in the United States, the last thing anyone needs to be worrying about is its effect on insurance.

While there are plenty of distractions in Washington, lawmakers should not shift their focus away from a key economic buttress for a vital sector.



REUTERS

WILDFIRE EXPOSURE

There were 44,390 wildfires affecting 4,515,860 acres in the United States through Oct. 28, 2019, compared with 50,753 fires affecting 8,236,872 acres during the same period in 2018 and 52,668 fires affecting 8,830,850 acres in the 2017 period.

Source: National Interagency Fire Center

RISKS ASSESSMENT

Wildfire challenges raging

BY CLAIRE WILKINSON

cwilkinson@businessinsurance.com

Managing the risk of wildfire seems to be as hard as managing the wildfire itself in the new normal of “public safety power shut-offs” and extreme weather conditions in California.

Parts of the state are facing “extremely critical” fire weather conditions, according to the National Oceanic and Atmospheric Administration’s Storm Prediction Center, as the combination of strong winds and low humidity creates repeated warnings and ongoing danger for communities in both Northern and Southern California.

California Gov. Gavin Newsom declared a statewide emergency Oct. 25 due to the effects of unprecedented high-wind events that resulted in fires and evacuations across the state.

Meanwhile, Pacific Gas & Electric Co. has turned off the power multiple times as a “precautionary measure” to reduce wildfire risk across portions of the state, leaving several million homes and businesses without electricity.

Even customers not experiencing extreme weather conditions in their locations may be affected by a power shut-off, San Francisco-based PG&E said, because the electrical system relies on power lines working together to provide electricity across cities, counties and regions.

PG&E also warned that it may take several days to fully restore power after the weather passes and safety inspections are completed.

This means that amid the dynamic conditions that fuel wildfires, business owners and residents could face several rounds of power shutoffs, and some may not even get electricity restored between events. Add to that mandatory evacuations, hospitals, schools

and businesses closed in fire areas, major roadways blocked to traffic, displaced workers, emergency management and fire responders working at full tilt, and smoke impacts in areas beyond the fires, and you have a situation that presents cascading challenges to risk managers across many different public- and private-sector entities.

In the ongoing debate on how to mitigate the financial effect, much focus has been placed on the cause of wildfires, given the record \$25 billion in insured losses resulting from the 2017 and 2018 wildfires.

PG&E said in September it had reached an \$11 billion settlement with entities representing about 85% of insurance subrogation claims relating to those wildfires.

While the connection between power lines and wildfires can’t be ignored, the human factor is responsible for most ignitions, according to risk modelers and insurers.

Then there’s the climate factor. The weather, climate and environmental conditions that make a certain property or area wildfire-exposed change from season to season and year to year, Swiss Re Ltd. said in a recent report.

Just as wildfires remain dynamic, not static, events, one approach to managing wildfire risk likely won’t work. It will take a range of viewpoints from across an organization or organizations to manage this complex and changing risk moving forward.

For example, if insurance isn’t affordable or available, establishing risk pools may be a way for businesses to share the financial risks. Having a risk management framework that incorporates values around land resources and management and assesses the operational impact of different approaches is another consideration.

Overextended warranties

What policyholders should know to protect themselves from overbroad warranty statements

When purchasing directors and officers liability insurance, policyholders are often asked to warranty that they are not aware of any facts that might lead to a claim under the prospective policy.

While such warranty statements are common in D&O underwriting, in recent years insurers have increased their efforts to aggressively use the warranties — which are often broadly worded — to deny coverage for almost any claim involving facts that predate the relevant warranty.

A December 2018 decision by the 2nd U.S. Circuit Court of Appeals in *Patriarch Partners LLC v. Axis Ins. Co.* highlights the importance of policyholders closely reviewing the precise terms and potential implications of any warranty statement they are asked to provide, and the risks they face when they provide broadly worded warranty statements to insurers.

Risks of broad warranty statements

Patriarch concerns a warranty statement signed by Patriarch's CEO at the request of a new excess D&O insurer. The warranty states that no "director or officer of Patriarch is aware of any facts or circumstances that would reasonably be expected to result in a Claim under the (excess policy)" and that the excess policy "does not provide coverage for Claims relating to facts or circumstances that, as of the date of this letter, Patriarch was aware of and would reasonably have expected to result in a Claim."

The CEO was Patriarch's sole officer and sole director. When she signed the warranty letter, she was aware that the Securities and Exchange Commission was conducting an "informal investigation" of Patriarch. Additionally, Patriarch's outside counsel — but not the CEO — was aware that the SEC had issued an internal order directing investigation into "possible violation" of federal securities laws by Patriarch in the "structuring and marketing" of collateralized loan obligations that it sold. In signing the warranty statement, Patriarch did not mention this investigation to the insurer.

After the excess policy was issued, Patriarch received a formal subpoena from the SEC, provided notice of the subpoena as a claim under the excess policy, and sought coverage for the cost of defending the subpoena. The insurer denied coverage, asserting that Patriarch—at the time it signed the warranty statement—should have reasonably expected the SEC investigation to result in a claim, such as the subpoena, and thus was not entitled to

coverage based on the warranty statement.

This dispute eventually reached the 2nd Circuit, which held in favor of the insurer. The court observed that while the first sentence of the warranty statement concerned the knowledge of any "director or officer of Patriarch," the second sentence concerned the knowledge of "Patriarch," and concluded that the outside counsel's knowledge was relevant to the accuracy of the warranty. Based on outside counsel's knowledge of the order to investigate Patriarch's "possible violation" of securities laws when its CEO signed the warranty statement, the court held that Patriarch "would reasonably have expected" a claim by the SEC and that coverage was therefore foreclosed by the warranty statement.

Key considerations for policyholders

While the facts of *Patriarch* may be somewhat uncommon, the considerations that it highlights are not. These include: (1) the fact that many insurers aggressively use warranty statements to disclaim coverage; (2) the importance of clearly identifying whose knowledge is relevant to a warranty; (3) the importance of clearly identifying precisely what knowledge is being warranted; and (4) the possibility that a warranty statement dispute may result in prolonged coverage litigation. Policyholders should give substantial attention to these considerations, preferably before signing a warranty statement.

Most obviously, *Patriarch* demonstrates that insurers will aggressively use warranty statements to deny coverage for otherwise covered claims, even when facts suggest that a warranty's signatory believed her statements were accurate. Any policyholder asked to provide a warranty statement should carefully review each term in any warranty before signing and consider discussing these terms with experienced coverage counsel. While insurers in many situations will refuse to issue coverage without a warranty statement, the terms of that warranty may be negotiable.

More specifically, *Patriarch* underscores the importance of preemptively identifying the individuals whose knowledge is relevant to a warranty statement. The *Patriarch* warranty statement referenced the knowledge of both Patriarch and directors and officers, and the 2nd Circuit held that "Patriarch" included the company's agents, including outside counsel. While other courts might disagree with this broad reading or find *Patriarch* limited to its facts, policyholders should be aware that insurers may construe warranties provided on behalf of a corporate entity to encom-

pass the knowledge of all the company's employees and agents.

Since almost no company can confirm whether each employee and agent knows of facts likely to result in a claim, policyholders should demand that any warranty be limited to the knowledge of specific individuals. For instance, insurers will sometimes agree to limit a warranty statement to the knowledge of a company's senior executives. Alternatively, even if the knowledge of individuals beyond senior executives is relevant to a warranty, an insurer may agree that only the knowledge of senior executives can be imputed to the company and impact coverage for the company.

Additionally, some insurers will agree that the knowledge of each individual to whom the warranty applies is severable, and only an individual who has knowledge inconsistent with a warranty will be precluded from coverage. While many D&O policies contain similar severability and nonimputation language in their general conditions, some courts have held that such general provisions do not automatically extend to warranty statements, so policyholders should be prepared to demand that such language be expressly incorporated into any warranty statement.

Patriarch also highlights the risk presented by warranties that turn on vague descriptions of what a policyholder knows about future claims. In *Patriarch*, an individual knew only that the SEC had ordered the investigation of a "possible violation," but this was still found to be awareness of a fact that "would reasonably be expected to result in a Claim." Other warranty statements contain even broader language — for example, some insurers request a warranty that no insured "could have reasonably foreseen that a claim might likely be made." To address this issue, policyholders should seek the clearest possible terms to describe the knowledge being warranted — while some uncertainty in language may be unavoidable, that only underscores the need to clearly define whose knowledge is relevant to a warranty.

Of course, once the universe of relevant knowledge has been defined as clearly as possible, a policyholder must communicate with the relevant individuals and understand what pertinent information they possess for purposes of the warranty. If that process yields information about a potential future claim that might be precluded by the warranty under discussion, the policyholder should evaluate whether it can provide a notice of circumstance to its existing D&O insurers that might lock in coverage for the potential future claim under those existing policies (and



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thus limit any future disputes regarding the potential claim and the warranty).

Lastly, *Patriarch* is a reminder that disagreements over warranty statements can result in substantial coverage disputes and litigation. Policyholders must be cognizant of issues that may arise in this context. Most notably, they should be aware that courts interpreting warranty statements may apply different tests depending on the applicable law and facts. The first test looks to what an objective policyholder should have known and at what potential claims they objectively should have expected based on that information. The second test — which is most commonly applied by courts — looks at what a policyholder actually knew and at what potential claims they objectively should have expected based on that subjective knowledge. The third test looks at what a policyholder actually knew and at what potential claims they subjectively expected based on their subjective knowledge. Determining which of these tests to apply is often critical in disputes over warranty statements. Policyholders also should anticipate disputes over discovery — for example, policyholders should be prepared to demand information regarding an insurer's drafting and prior use of warranty statements and to resist overbroad insurer requests regarding every detail of the underlying claim.

For all of these reasons, policyholders should be careful to closely review any warranty statements they are asked to provide and be ready to negotiate the scope of such warranties.

MGU raises limits for cybercrime cover

■ Corvus Insurance Holdings Inc. increased its limits for broad-form social engineering and cybercrime coverages.

The Boston-based managing general underwriter in a statement said it is offering \$1 million in limits to organizations that its Corvus Scan, a technology that assesses organizations' cyber risk posture, assesses as having taken the most effective steps to reduce the risk of a social engineering attack.

Corvus founder and CEO Phil Edmundson added in an interview that the MGU's previous default limit was \$250,000.

Social engineering and cyber coverage includes coverage for losses due to activity such as phishing, spear phishing and other forms of criminal deception, which often take place via email, Corvus said in the statement.

Brokers launch distribution incubator

■ Holmes Murphy & Associates Inc. has partnered with several firms to launch BrokerTech Ventures to develop distribution technologies.

Waukee, Iowa-based Holmes Murphy and Madison, Wisconsin-based M3 Insurance Solutions Inc. are co-founders of the venture.

Partners include PayneWest Insurance, ABD Insurance & Financial Services, Conner Strong & Buckelew and Assurance Agency Ltd., Holmes Murphy said in a statement.

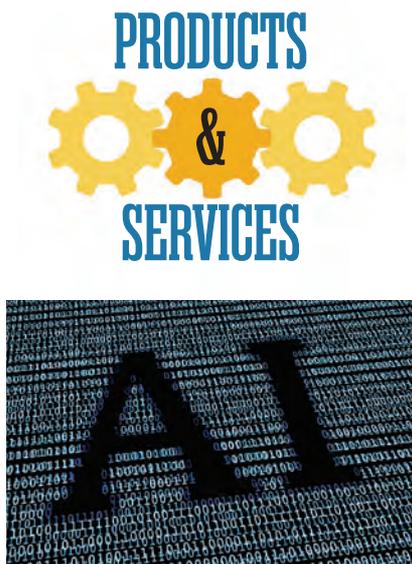
BrokerTech Ventures will provide funding, curriculum, mentoring and other support for tech startups in the distribution realm, according to the statement.

Marsh pilots blockchain platform for trade credit

■ Marsh LLC launched a blockchain-based placement platform for trade credit insurance, which it plans to expand to place other lines of business.

The system provides "a client-facing digital experience, a colleague-facing digital experience and a carrier-facing digital experience" that replaces emails, spreadsheets and legacy systems, and at key points, such as policy binding, the process uses blockchain technology, said Sastry Durvasula, chief digital officer and chief data and analytics officer for Marsh in Phoenix.

Trade credit coverage was selected for the pilot because blockchain is already transforming trade financing and the coverage is relatively uniform, he said. The brokerage plans to develop the exchange to



Aon offer claims platform with AI capabilities

■ Aon PLC launched a claims platform that uses artificial intelligence to read claims notes and aims to help adjuster productivity for U.S. and Canadian insurers.

Partnering with AI technology provider CLARA Analytics Inc., Aon's ClaimsMonitor X platform uses natural language processing to read open claims notes and to identify if adjusters are following best practices, Aon said in a statement. If best practices are not being followed, an alert will be sent to a supervisor.

The approach builds on Aon Inpoint ClaimsMonitor software tool for claims auditing by extracting unstructured data using natural language processing and AI, Aon said, adding the claim review platform operates across all business lines.

place other types of commercial insurance coverage, he said.

Wholesaler boosts risk evaluation

■ CRC Insurance Services Inc. has revamped the search functionality for its risk evaluation database platform.

REDY.Search helps identify markets and programs with the highest likelihood to write an account by analyzing data points and millions of risk characteristics on all bound accounts since 2016, the Birmingham, Alabama-based wholesaler said in a statement.

The tool allows users to match risks based on over 530 attributes, from number of doors to number of beds, or from total insured value to loss experience,

according to Neil Kessler, chief operations officer at CRC Group.

Brokerslink, Swiss Re team on platform

■ Brokerslink AG is partnering with Swiss Re Corporate Solutions Ltd. to develop an international insurance program management platform for the brokerage network.

The platform will enable broker partners and affiliates to manage and deliver structured and compliant international and cross-border programs from one platform, Brokerslink, a broker network based in Zug, Switzerland, said in a statement.

Swiss Re Corporate Solutions will draw from its international program administration technology platform that structures the workflow and administration for international programs, from communications with network partners to information validation and policy issuance, a spokeswoman said.

Berkley offers coverage for design professionals

■ W.R. Berkley Co. unit Berkley Design Professional is offering per-project primary limits of \$1 million to its policyholders with a new product.

Berkley Design Professional, which specializes in professional liability products and services for the design professional industry, said in a statement that the \$1 million limit applies to every project covered under policyholders' professional liability policy from the retroactive date through the end of the policy period.

For additional premium, Berkley DP policyholders can have \$1 million limits for every project their firm has ever designed for which coverage applies, the statement said.

MedRisk partners with EMR software firm

■ MedRisk LLC, a managed care organization specializing in physical therapy for the workers compensation industry, has partnered with Temecula, California-based Raintree Systems Inc., an electronic medical records software company, to streamline administrative systems for physical therapists working in the comp sector.

King of Prussia, Pennsylvania-based MedRisk will integrate with Raintree's EMR software, with the goal of simplifying authorization workflows, expediting claim adjudication and automating claim and clinical documentation delivery for network providers, the company said.

DEALS & MOVES

EPIC buys rival PE-owned brokerage

Private equity-owned EPIC Insurance Brokers & Consultants agreed to acquire Prime Risk Partners Inc., another PE-owned brokerage in Atlanta.

Terms of the deal were not disclosed. The acquisition adds 600 staff in 20 locations and over \$115 million in revenue to San Francisco-based EPIC.

Prime Risk Partners will initially operate as Prime Risk Partners—an EPIC company following closing, EPIC said in a statement.

Helmsman makes first TPA acquisition

Helmsman Management Services LLC has agreed to acquire Kent, Washington-based boutique third-party administrator Eberle Vivian Inc., marking the first acquisition by the Liberty Mutual Insurance Co. unit

Terms of the deal were not disclosed.

Eberle Vivian will continue as a stand-alone operation under Helmsman, and its current president, Lisa Vivian, will remain head of Eberle Vivian and join Helmsman's leadership team.

Gallagher buys construction, auto agency

Arthur J. Gallagher & Co. acquired Louisville, Kentucky-based Garrett-Stotz Co., an agency that specializes in construction/surety, real estate and auto dealers.

Terms were not disclosed.

Garrett-Stotz President Bill Kantlehner III, Vice President Tom Mitchell, Secretary-Treasurer Don Mucci, all shareholders, and their associates will continue to operate from their Louisville location, Gallagher said in a statement.

Holmes Murphy buys captive manager

Brokerage Holmes Murphy & Associates Inc., based in Waukee, Iowa, acquired captive manager Global Captive Management.

Terms were not disclosed.

Global Captive Management, which is headed by longtime captive insurance executive Peter McKay, has offices in three domiciles: Cayman Islands, South Carolina and New Jersey. With a staff of 17, it managed 65 captives with total premium volume of \$624 million in 2018.

Global Captive Management will continue to operate under its existing name, the Holmes Murphy said in a statement.

BUSINESS INSURANCE®

BEST PLACES TO WORK 2019



Best Places program lists leading insurance industry firms

Best Places to Work in Insurance is an annual feature presented by *Business Insurance* and Best Companies Group that ranks the agents, brokers, insurers and other providers with the highest levels of employee engagement and satisfaction.

The 2019 report features 100 companies of various sizes, from 26 employees to more than 5,000. What these honorees have in common is a commitment to attracting, developing and retaining great talent through a combination of culture, benefits and other programs that their employees value.

Harrisburg, Pennsylvania-based Best Companies Group identifies the leading employers in the insurance industry

by conducting a free two-part assessment of each company. Through an employer questionnaire on policies, practices and demographics and a confidential employee survey, Best Companies Group assembles the data points and analyzes them according to eight core focus areas:

- Leadership and planning
- Corporate culture and communications
- Role satisfaction
- Work environment
- Relationship with supervisor
- Training, development and resources
- Pay and benefits
- Overall engagement

The program divides employers into the categories of small, or those with 25-249 employees; medium, for organizations with 250-999 employees; and large, those with 1,000 or more employees. The 2019 overall winners, by employer size, are:

S
Captive Resources

M
Origami Risk

L
AF Group

The following report highlights what makes these and other companies in the insurance industry among the best places to work.

LARGE EMPLOYER CATEGORY (1,000+ U.S. Employees)				SMALL EMPLOYER CATEGORY (25-249 U.S. Employees)			
Rank	Company	U.S. Employees		Rank	Company	U.S. Employees	
1	AF Group	1,394		1	Captive Resources	211	
2	Lockton Companies	4,637		2	RBN Insurance Services	35	
3	CBIZ Benefits and Insurance Services, Inc.	1,493		3	SIG	64	
4	West Bend Mutual Insurance Company	1,321		4	Atlas General Insurance	160	
5	Higginbotham	1,031		5	Pritchard & Jerden	98	
6	OneDigital Health and Benefits	1,626		6	Deeley Insurance Group	61	
7	Philadelphia Insurance Companies	2,030		7	Reliance Partners	117	
8	NFP Corp	3,858		8	TexCap Insurance	38	
9	Burns & Wilcox	1,171		9	Burnham Benefits Insurance Services	97	
10	Risk Strategies	1,192		10	BKCW Insurance	42	
11	UFG Insurance	1,174		11	Plastridge Insurance	82	
12	Shelter Insurance Companies	1,970		12	Apex Benefits Group, Inc.	64	
13	AssuredPartners, Inc.	5,007		13	Transtar Insurance Brokers, Inc	28	
MEDIUM EMPLOYER CATEGORY (250-999 U.S. Employees)				14	White & Associates Insurance	82	
1	Origami Risk	260		15	Gunn-Mowery, LLC	62	
2	Assurance	507		16	Virtus, LLC	34	
3	Athens Administrators	354		17	VUMI Group	48	
4	FCCI Insurance Group	832		18	Socius Insurance Services, Inc.	81	
5	Hylant	725		19	Lipscomb & Pitts Insurance	130	
6	Brown & Riding	270		20	Rogers & Gray Insurance	175	
7	Holmes Murphy	965		21	ECBM Insurance Brokers & Consultants	76	
8	Safety National	501		22	The Ashley Group	28	
9	Baldwin Krystyn Sherman Partners	335		23	Virtual Benefits Administrator	42	
10	TMNA Services, LLC	413		24	Alternative Service Concepts ¹	121	
11	Euler Hermes	399		25	Martin & Zerfoss Inc. - Nashville, TN	39	
12	PayneWest Insurance	721		26	HNI Risk Services	147	
13	Amerisure	704		27	Connor & Gallagher OneSource	78	
14	All Risks, Ltd.	848		28	American Integrity Insurance	224	
15	Tokio Marine America	330		29	MarketScout	58	
16	Paychex Insurance Agency	919		30	Hoffman Brown Company	53	
17	BXS Insurance	632		31	W. Brown & Associates Property & Casualty Insurance Services	26	
18	Gilsbar, LLC - Health & Life	368		32	QEO Insurance Group	85	
19	World Insurance Associates LLC	255		33	The Partners Group, Ltd.	165	
20	Everest Insurance	668					
21	AMERISAFE	430					
				34	SET SEG	74	
				35	Lacher	44	
				36	Prime Insurance Company	161	
				37	The Odell Studner Group	55	
				38	Bigfoot Insurance, dba Commercial Insurance Group LLC	50	
				39	MGIS	64	
				40	Canal Insurance Company	233	
				41	Simkiss & Block	54	
				42	Avalon Risk Management Insurance Agency LLC	128	
				43	TROXELL	112	
				44	Venture Pacific Insurance Services, Inc.	38	
				45	Liberty Insurance Associates, Inc.	33	
				46	Kapnick Insurance Group	167	
				47	AHT Insurance	195	
				48	IPMG	108	
				49	Key Risk	164	
				50	Tangram Insurance Services	30	
				51	McConkey Insurance & Benefits	97	
				52	US Assure	116	
				53	The Nitsche Group	115	
				54	Wallace Welch & Willingham	109	
				55	A.I.M. Mutual Insurance Companies	176	
				56	Networked Insurance Agents, LLC	109	
				57	Fred C. Church Insurance	154	
				58	TRICOR Insurance	221	
				59	The Jacobson Group	91	
				60	Wisconsin Reinsurance Corporation	99	
				61	Acclamation Insurance Management Services, Inc.	183	
				62	Haylor, Freyer & Coon	185	
				63	Austin Benefits Group	26	
				64	Lyons Companies	46	
				65	Safeware	78	
				66	Insight Risk Management	57	

¹Alternative Service Concepts was acquired by Davies Group Ltd. on 10/16/19.



BEST PLACES TO WORK 2019



Large employer (1,000+ employees)

AF Group

Longtime Best Places to Work honoree AF Group is the top-ranked large employer in the 2019 Best Places to Work in Insurance. The Lansing, Michigan-based insurance company takes pride in its 107-year history and its culture based on innovation, collaboration and caring. Beginning as a state accident fund in Michigan, AF Group today writes workers compensation in all 50 states as

well as various other insurance products. Among the traits that AF Group's nearly 1,400 employees value most are its: recognition and appreciation of hard work; down-to-earth, caring leadership; and flexibility in work scheduling. Benefits that AF employees especially appreciate include dependent tuition, quarterly councils where employees can meet with the CEO, and wellness incentives.

Lockton Companies, a longtime Best Places to Work in Insurance honoree, took second place in the large-employer category in the 2019 competition. Among the things Lockton's more than 4,600 U.S. associates value are its culture of service and caring, celebration of individual achievements and social events. In 2019, Lockton introduced Associate Dreams, a program that celebrates



LEFT: Offsite events are popular with AF Group's teammates in Lansing, Michigan. RIGHT: AF Group teammates participate in events that support communities, such as the food bank in Lansing, Michigan.

associates by providing time and/or money to make a goal reality.

CBIZ Benefits and Insurance Services Inc. earned third-place honors among large employers in the

2019 Best Places to Work in Insurance. Cleveland, Ohio-based CBIZ has nearly 1,500 employees, who strongly value the firm's flexible work benefits, relaxed dress code and volunteering program.

1

AF Group

2

Lockton Companies

3

CBIZ Benefits and Insurance Services Inc.

Medium employer (250-999 employees)

Origami Risk

Chicago-based Origami Risk is known as an innovator in risk technology and is one of the fastest-growing providers of cloud-based risk management software. But its people-centered culture sets it apart as a Best Place to Work in Insurance. Origami earned first place in medium size employer category of the 2019 Best Places to Work program. The company also was a runner-up among small employers in the 2018 competition. Founded in 2009, Origami today has 260 employees, who value the company's frequent recognition



Origami Risk's Atlanta team members volunteer with FurKids to promote pet adoptions and help with conservation.

of individual achievements, focus on empowering employees, and an annual colleague conference. As CEO Bob Petrie says, "Origami is not only a software company, but also a talent organization that depends on the skills, enthusiasm and creativity of the people who work here.

We place a priority on finding people who can best serve customers and providing them with the culture, tools and support they need to be successful."

Second place in the medium size employer category in the 2019 Best Places to Work in Insurance went to **Assurance**

Agency Ltd. of Schaumburg, Illinois. A longtime honoree as a Best Place to Work, Assurance has more than 500 employees, who value the firm's branded perks program, a culture of helping workers recharge with onsite fitness and recreational equipment, and paid time off for volunteering.

Third place went to **Athens Administrators**, a Concord, California-based third-party administration firm. Athens' more than 350 employees especially value the TPA's family-like culture of caring, professional development programs, and flexible work environment to help

1

Origami Risk

2

Assurance Agency Ltd.

3

Athens Administrators

employees balance their obligations to clients and family members.

Small employer (25-249 employees)

Captive Resources won top honors in the small-employer category of Best to Places to Work in Insurance (see profile, page XX). Placing

second in this category was **RBN Insurance Services**, a Chicago-based property/casualty and employee benefits brokerage with 35

employees. In third was **Silberstein Insurance Group**, or **SIG**, a Baltimore, Maryland-based employee benefits firm with 64 employees.

1

Captive Resources

2

RBN Insurance Services

3

Silberstein Insurance Group (SIG)



Captive Resources treats employees to social outings, "Just 'Cuz" it's fun.

BEST PLACES TO WORK 2019



Insurers/Providers

FCCI Insurance Group

For the second straight year, Sarasota, Florida-based FCCI Insurance Group has earned top honors among insurance company/providers in the 2019 Best Places to Work in Insurance. Founded in 1959, FCCI is a multi-regional provider of property, casualty and surety products and services. The company has more than 830 employees, whom the company calls teammates. FCCI's teammates appreciate

the company's culture of service and support for employees. Among the benefits that FCCI teammates value are: monthlong events each March recognizing corporate and individual achievements, an annual day of group activities to raise funds for the United Way, and a holiday formal party for teammates and their significant others. In 2019, FCCI introduced a program of paid time for volunteering.

FCCI employees enjoy a catered breakfast during the company's March Madness celebration of achievements.



FCCI teammates volunteer their time to build homes with Habitat for Humanity.



BEST PLACES TO WORK IN INSURANCE 2019: INSURERS/PROVIDERS

Rank	Company	U.S. Employees
1	FCCI Insurance Group	832
2	Plastridge Insurance	82
3	VUMI Group	48
4	AF Group	1,394
5	ECBM Insurance Brokers & Consultants	76
6	American Integrity Insurance	224
7	West Bend Mutual Insurance Company	1,321
8	Safety National	501
9	Euler Hermes	399
10	Prime Insurance Company	161
11	Canal Insurance Company	233
12	Key Risk	164
13	Philadelphia Insurance Companies	2,030
14	Amerisure	704
15	A.I.M. Mutual Insurance Companies	176
16	Tokio Marine America	330
17	Wisconsin Reinsurance Corporation	99
18	UFG Insurance	1,174
19	Shelter Insurance Companies	1,970
20	Everest Insurance	668
21	AMERISAFE	430
22	AssuredPartners, Inc.	5,007

Agents/Brokers

Captive Resources LLC

Itasca, Illinois-based Captive Resources LLC has been named the top agent/broker in the 2019 Best Places to Work in Insurance. Founded more than 35 years ago, Captive Resources is dedicated to advising member-owned captive entities that help thousands of businesses to control their insurance costs. The firm's more than 200 workers value Captive Resources' approach to employee well-being, collaboration, and concern about each other and the community. Among the benefits that employees appreciate at Captive Resources: flexible



Captive Resources hosts fun and games during its annual Fall Fest.

work arrangements and telecommuting, an onsite fitness center, and wellness events. A commonly cited description of Captive

Resources is "We work hard and provide our clients with service that's unmatched in our industry, but we always try to have fun doing so!"

BEST PLACES TO WORK IN INSURANCE 2019: AGENTS/BROKERS

Rank	Company	U.S. Employees	Rank	Company	U.S. Employees
1	Captive Resources	211	38	Lacher	44
2	RBN Insurance Services	35	39	OneDigital Health and Benefits	1,626
3	SIG	64	40	The Odell Studner Group	55
4	Assurance	507	41	Bigfoot Insurance, dba Commercial Insurance Group LLC	50
5	Atlas General Insurance	160	42	MGIS	64
6	Pritchard & Jerden	98	43	Simkiss & Block	54
7	Athens Administrators	354	44	Avalon Risk Management Insurance Agency LLC	128
8	Deeley Insurance Group	61	45	TROXELL	112
9	Reliance Partners	117	46	Venture Pacific Insurance Services, Inc.	38
10	TexCap Insurance	38	47	Liberty Insurance Associates, Inc.	33
11	Burnham Benefits Insurance Services	97	48	Kapnick Insurance Group	167
12	BKCW Insurance	42	49	PayneWest Insurance	721
13	Hylant	725	50	AHT Insurance	195
14	Apex Benefits Group, Inc.	64	51	IPMG	108
15	Transtar Insurance Brokers, Inc	28	52	Tangram Insurance Services	30
16	White & Associates Insurance	82	53	McConkey Insurance & Benefits	97
17	Gunn-Mowery, LLC	62	54	US Assure	116
18	Virtus, LLC	34	55	The Nitsche Group	115
19	Brown & Riding	270	56	All Risks, Ltd.	848
20	Socius Insurance Services, Inc.	81	57	Wallace Welch & Willingham	109
21	Lipscomb & Pitts Insurance	130	58	NFP Corp	3,858
22	Rogers & Gray Insurance	175	59	Networked Insurance Agents, LLC	109
23	The Ashley Group	28	60	Fred C. Church Insurance	154
24	Alternative Service Concepts ¹	121	61	Paychex Insurance Agency	919
25	Martin & Zerfoss Inc. - Nashville, TN	39	62	TRICOR Insurance	221
26	Lockton Companies	4,637	63	BXS Insurance	632
27	Holmes Murphy	965	64	Burns & Wilcox	1,171
28	HNI Risk Services	147	65	Gilsbar, LLC - Health & Life	368
29	Connor & Gallagher OneSource	78	66	Acclamation Insurance Management Services, Inc.	183
30	MarketScout	58	67	Risk Strategies	1,192
31	Hoffman Brown Company	53	68	Haylor, Freyer & Coon	185
32	W. Brown & Associates Property & Casualty Insurance Services	26	69	Austin Benefits Group	26
33	CBIZ Benefits and Insurance Services, Inc.	1,493	70	World Insurance Associates LLC	255
34	QEO Insurance Group	85	71	Lyons Companies	46
35	The Partners Group, Ltd.	165	72	Safeware	78
36	Baldwin Krystyn Sherman Partners	335	73	Insight Risk Management	57
37	Higginbotham	1,031			

¹Alternative Service Concepts was acquired by Davies Group Ltd. on 10/16/19.

BEST PLACES TO WORK 2019



How insurance firms attract talent

What does it take to join the list of the Best Places to Work in Insurance? A number of attributes set apart the companies on the 2019 list. Perks ranging from employee appreciation, to onsite amenities such as fitness centers and recreational equipment, to social outings and other programs can contribute to team building. A longer-lasting impact, however, comes from an employer's focus on building a culture around employee engagement and satisfaction.

One 2019 honoree points out that it has "built its reputation by providing great service to three key stakeholders: clients, associates and communities. The commitment to associates means creating an environment where they feel welcome, valued and are excited to come to work."

Another honoree expresses its secret to success: "Our amazing employees are the heart of our organization. Together, we provide best-in-class experiences to every customer. We can count ourselves among the best because our team makes it so."

Best Companies Group analyzes the responses to confidential employee surveys in eight core areas. These areas show where significant

differences exist between the best employers and those that did not make this year's list:

Leadership and planning. This area includes understanding of the company's strategy, confidence in leadership, adequate planning and follow-through and care about employees' well-being. For all companies on the 2019 list, the number of positive responses in this area averaged 88%, vs. 76% for companies that failed to make the list.

Corporate culture and communications. Components of this area include clear and frequent communication, trust, a spirit of cooperation, a feeling that employees are valued and a culture of diversity. Positive responses averaged 87% for companies on the list, and 78% for other companies.

Role satisfaction. This area looks at how employees like the work they do, their ability to balance work and life, and whether they feel valued and part of a team. Positive responses averaged 90% for the top employers, vs. 83% for others.

Work environment. Positive responses about physical working conditions, comfort and safety averaged 91% for the top employers



Lockton associates rode in the Courage Classic to raise money for Children's Hospital Colorado.

and 85% for others.

Relationship with supervisor. Fairness, respect, trust and feedback are elements of this area. For the Best Places to Work, positive responses averaged 91%, vs. 87% for other employers.

Training, development and resources. Initial and ongoing training, adequate and dependable equipment, room to advance and promotions for good work are among the components of this area. Positive responses for the top employers averaged 83%, vs. 72% for others.

Pay and benefits. Fair compensation and satisfaction with benefits such as paid vacation, health care, dental and retirement plans are among the components of

this area. For the Best Places to Work in Insurance, positive responses averaged 86%, and 78% for other employers.

Overall engagement. This area includes employees' overall satisfaction with the employer, a sense of pride in working there, willingness to

give extra effort, willingness to recommend the employer's products or services, and recommend working there to others. Positive responses here averaged 91% for the Best Places to Work in Insurance, and 83% for employers not on the list.

HOW TO GET INTO BPTW

To participate in the Best Places to Work program, an organization must:

- Be a for-profit or non-profit business
- Be publicly or privately held
- Have a facility in the United States
- Employ at least 25 people in the United States
- Be in business for at least 1 year

Eligible insurance organizations are: retail agents/brokers, wholesale brokers/managing general agents, reinsurance intermediaries, claims services companies, benefit brokers and consultants, property/casualty insurers, group life/health insurers, and reinsurers. Non-profit insurance associations or service organizations aligned with the commercial insurance industry also are eligible.

For more information and to participate in the 2020 program, please contact Marie LaFerrara at 917-270-1989 or mlaferrara@businessinsurance.com, or visit www.bestplacestoworkins.com.



Athens Administrators' New Jersey employees enjoyed a summer picnic.

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“There is a universal lack of appreciation for flood risk ... In fairness to those who do not have flood insurance, it is hard to appreciate the need for a low-frequency yet high-severity risk until it happens to you.”

UP CLOSE

Louis Hobson

NEW JOB TITLE: Chicago-based senior vice president, North America flood insurance, Chubb Ltd.

PREVIOUS POSITION: Chicago-based CEO, National Flood Services

OUTLOOK FOR THE INDUSTRY: Flooding is the most common natural disaster, and the sobering reality is all properties, regardless of proximity to a large body of water, are at risk. Dramatic weather patterns and land development are reducing the earth's capacity for water absorption and increasing the risk of floods. Compounding matters, flooding is also the most devastating and expensive natural disaster. We believe Chubb's capabilities, in addition to rapidly improving hazard evaluation and pricing tools, allow us to appropriately underwrite the risk.

GOALS FOR YOUR NEW POSITION: In addition to growing profitability for Chubb in this area, since flood is the most common and costly natural disaster, my primary goal will center on bringing awareness of the flood exposure and help educate the marketplace on the associated risks, while working with agent and broker partners to increase the adoption of flood coverage and ensure their clients receive the right coverage.

CHALLENGES FACING THE INDUSTRY: There is a universal lack of appreciation for flood risk. “Too complex” or “already covered by homeowners insurance” (which is seldom true) or “not mandatory” are common refrains. In fairness to those who do not have flood insurance, it is hard to appreciate the need for a low-frequency yet high-severity risk until it happens to you. Nonetheless, the risk is real.

FIRST EXPERIENCE: When Aon purchased National Flood Services in 2014, I joined the NFS team and was responsible for the integration. In 2017, I got firsthand experience running a highly regulated and technology-dependent business when I was appointed CEO of Aon NFS. My main focus was on pivoting from a traditional business process outsourcing vendor to a flood solutions partner, actively selling flood insurance, and adopting a modern digital approach via a flexible, multitenant, modular platform, before ultimately helping Aon sell the company in August 2018.

ADVICE FOR A NEWCOMER: Read “Affordability of National Flood Insurance Program Premiums – Report 1.” Roy Wright, the former deputy associate administrator for insurance and mitigation, made the book mandatory reading for all new members of his team. To understand the current state of any industry and to put it into the appropriate context, it's important to understand the industry's history — and flood insurance is no different.

DREAM JOB: Coaching a boys or girls varsity high school team.

LOOKING FORWARD TO: Flood insurance has a large addressable market, yet it's underpenetrated because home and business owners do not fully appreciate the risk. I am looking forward to driving greater adoption of flood insurance.

COLLEGE MAJOR: Electrical engineering

FAVORITE MEAL: Mussels

HOBBIES: Reading nonfiction books that center on chronicling high-profile situations or individuals, and golf.

BOOK: “Stress Test: Reflections on Financial Crises,” by Timothy Geithner.

TV SHOW: “Everybody Hates Chris” and “Seinfeld” re-runs.

ON A SATURDAY AFTERNOON: Attend a college football game.

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ON THE MOVE



Marsh & McLennan Agency LLC named **Paul Hering** to the newly created role of vice chairman. Mr. Hering, who is based in San Diego, previously served as

chairman of Marsh & McLennan Agency's West region, a role he assumed after 16 years as CEO of Barney & Barney LLC.



Willis Towers Watson PLC appointed former Lyft Inc. risk manager **Joseph Hurley** as director of corporate risk and broking, a newly created position. Based in

San Francisco, Mr. Hurley was senior manager of risk solutions at Lyft.



Lockton Cos. LLC named longtime Marsh LLC executive **Tom Orrico** as senior vice president, managing director of financial institutions. Mr. Orrico will be

based in New York in the newly created position. A 28-year industry veteran, Mr. Orrico previously built and led Marsh's financial institutions practice.



EPIC Insurance Brokers & Consultants named Dallas-based **Pam Stoutenburgh** as a principal in its property/casualty operations. Ms. Stoutenburgh was

most recently risk finance and insurance director with The Freeman Co.



Chubb Ltd. appointed **Joe Vasquez** to be president of Combined Insurance. Chicago-based Mr. Vasquez succeeds Kevin Goulding, who will retire from the

company at year's end. Mr. Vasquez was previously senior vice president of Chubb Group and head of its global accident and health insurance business.



Tokio Marine Kiln Group Ltd. named London-based **Aoife Woulfe** to the newly created role of head of intellectual property. Previously, Ms.

Woulfe was an underwriter on the cyber and intellectual property team.



Video game hooks kids like cocaine?

A law firm in Montreal is seeking class action status for a lawsuit it filed against the makers of the video game Fortnite on behalf of two parents who claim that the game is as addictive as drugs, the website PCGamer.com reported.

Parents in droves are claiming that their children have become dependent on the addictive game created by Epic Games Inc., officials with the law firm Calnex Legal told reporters.

In the suit, the firm compared Fortnite to “cocaine and tobacco,” claiming that Epic “knowingly put on the market a very, very addictive game which was also geared toward youth,” alleging that the company hired psychologists and “really dug into the human brain and they really made the effort to make it as addictive as possible,” according to the article.

Pot: It’s what’s for lunch

Employers in Los Angeles grappling with what to do when it comes to workplace drug testing and pot legalization might hope their employees avoid this place for lunch: Lowell Farms: A Cannabis Café opened in trendy West Hollywood recently.

The new lunch and dinner joint aims to show the world that pot can be just as acceptable and crave-able as gooey nachos or a sloppy pulled-pork sandwich, both on the menu, according to media reports.

One patron told CBS News she’s glad she “doesn’t have to lie about her marijuana use at work and that dining at a place that encourages smoking while eating is just a reflection of how far recreational pot has come.”



PET INSURERS SHAMED AS ‘EMOTIONALLY MANIPULATIVE’



A consumer advocacy group is howling over pet insurers, giving the entire industry a “Shonky Award” for unfair practices, the Guardian reported last month.

What sounds like a good idea — health insurance for one’s pet — is actually nothing but an “emotionally manipulative” ploy to get pet owners to fork over premiums for policies that are “riddled with exclusions,” said Choice, an Australian consumer group that awards business and industries with bad-faith and poor practices awards known to be “shonky,” slang for shoddy and unreliable.

The Guardian goes on to tell the treacherous tale of Rocky, the little mutt in Melbourne, Australia, who got into his mom’s chocolate brownies — poison to a dog. After his owner rushed him to a local animal hospital for treatment, an \$800 bill and a sigh of relief followed — Rocky was OK and she had pet health insurance.

But when she submitted the claim and other paperwork, her claim was rejected on the basis of something found in the fine print: snake bites are covered, but nothing “household.” Fine print and long lists of exclusions were found in all 86 policies Choice reviewed for the dreaded Shonky Award, the group said.

“Pet insurance is the insurance a business sells when it wants to make money without providing any service at all,” Choice’s chief executive, Alan Kirkland, told the newspaper.

We all scream for real vanilla

Wegmans Food Markets Inc. is accused of not putting vanilla in its vanilla ice cream, according to a class action lawsuit filed against the Rochester, New York-based company in federal court this fall.



Responding to the complaint, filed by two customers and reported by Buffalo, New York’s WKBW station, a spokesperson for Wegmans issued a statement saying that the company “complies with all regulations and industry standards, and is not misleading in any way.”



¡Yo quiero Taco Bell deal as advertised!

A New Jersey couple claiming they were charged \$2.18 too much after ordering two Taco Bell meals advertised as \$5 apiece have filed a lawsuit, the Bridgewater Courier News reported.

Nelson Estrella-Rojas and Joann Estrella claimed they went to a Taco Bell in May 2018 to order food after they saw a TV commercial advertising \$5 meals that included a chalupa supreme, a five-layer burrito, a crunchy taco, a cinnamon twist and a drink, according to the news report.

When the bill came to \$12.99, they inquired about the overcharge, to which they were told to read the fine print, which popped up on the screen 1/16th the size of the “\$5” font and only for a few seconds, according to the lawsuit alleging violations of New Jersey’s Consumer Fraud Statute.

“You can’t tell someone you are going to charge them \$5 in big bold print and then take it away with a fine print disclaimer,” attorney Douglas Schwartz told the New York Daily News.

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