

**ECONOMY, GENERIC DRUGS HELP SLOW INCREASE IN HEALTH SPENDING / PAGE 3**

**SUPREME COURT RULING LETS RELIGIOUS SCHOOL DODGE ADA CHARGE / PAGE 4**

**RADIO FREQUENCY TOOLS HELP CUT RISKS FOR BUILDING PROJECTS / PAGE 6**

## In Brief

**Best still negative on P/C insurers**

A.M Best Co. Inc. is maintaining its negative ratings outlook for commercial property/casualty insurers, the rating agency said. That comes despite improved economic conditions and "some encouraging signs of price firming," Best said. As a result, Best said that while the "vast majority" of rating actions will be affirmations, negative rating actions will outnumber positive ones during this year.

**Reinsurance rates mixed at renewals**

The Jan. 1 reinsurance renewals saw wide-ranging rate movements across territories and lines of business depending on loss experience and exposure perceptions, leading to a fragmented market, Guy Carpenter & Co. L.L.C. said in an analysis. The reinsurance brokerage said that despite the prospect of sustained low

See **IN BRIEF** page 21

### AGENTS & BROKERS

# Aon moving headquarters to London

*Broker giant cites tax benefits, access to emerging markets*

By **MARK A. HOFMANN** and **GAVIN SOUTER**

**CHICAGO**—Aon Corp.'s decision to move its corporate headquarters to London from Chicago will allow it to enhance its ability to engage emerging markets and benefit from favorable tax treatment, according to analysts.

Aon announced the move, which must be approved by shareholders, last week. Aon President and CEO Greg Case said it is another step in the firm's strategic plan to grow Aon as a global platform. In particular, London will help Aon grow its business in emerging markets, he said.

"This is not just about London. It's about accessing the global community and markets around the world," Mr. Case said.

Many Aon clients in emerging markets are seeking coverage for specialty risks, and the

See **AON** page 18



BLOOMBERG

Despite plans to move its headquarters to London later this year, Aon Corp. says it will increase the number of staff at its existing headquarters in Chicago.

### WORKERS COMPENSATION

## Downward claims trend coming to end for comp?

By **ROBERTO CENICEROS**

A recent upturn in the frequency of workers compensation claims may be driven by factors typically seen as the economy moves into recovery from a recession, observers say.

Although it is too early for data to verify whether a slight rise in claims amounts to an ongoing trend, recent hiring of new, temporary and seasonal workers may be among factors behind a 2% to 5% increase in claims over the

past year, they add.

Safety and risk management budgets that were slashed during the Great Recession, a leaner labor force doing more work and employees losing fear of filing claims as alternative job prospects improve also may be factors, said Joe Picone, chief claim officer in Glen Allen, Va., for Willis North America's strategic outcomes practice.

The U.S. Bureau of Labor Statistics reported this month that non-farm employment rose by 200,000

# 2% TO 5%

A slight rise in workers comp claims over the past year may be partly due to recent hiring of new, temporary and seasonal workers.

in December and by 1.6 million over the past year, with job gains in transportation, warehousing, retail, manufacturing, health care and mining.

Meanwhile, claims professionals at the nation's largest workers compensation insurers tell him they have seen claims frequency climb 3% to 4% during the past year, Mr. Picone said.

"Everybody says, 'We have seen it,' but nobody is quite sure why," Mr. Picone said.

Historically, claims surge at the end of recessions as new, temporary or seasonal workers typically suffer more injuries than experienced employees.

See **CLAIMS** page 20

### REGULATION

## Lawmakers urged to act on RRG rules

*Clarity needed to end fights: GAO*

By **RODD ZOLKOS**

**WASHINGTON**—A long-awaited report recommending that Congress clarify Liability Risk Retention Act provisions that include the types of coverage risk retention groups are allowed to write is a positive step, but getting Congress to act will be a challenge, industry experts say.

The report that the Government Accountability Office issued last week says Congress should revise some provisions of the 1986 law to reduce varying interpretations by state reg-

See **RRG** page 20

## SPOTLIGHT

**QUARTERLY TECHNOLOGY FOCUS: CLOUD COMPUTING RISKS**

Managing exposures requires planning; cyber insurance usually covers cloud computing; best practices to curb data loss liability; cloud providers keep data secure. **PAGE 9**

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# Business Insurance

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**PROTECTING NEW ORLEANS:**  
 Tremendous effort has gone into mitigating the type of flood damage caused by Hurricane Katrina in 2005. View photos taken of the Greater New Orleans Hurricane and Storm Damage Risk Reduction System at [www.BusinessInsurance.com/photos](http://www.BusinessInsurance.com/photos).

## MOST POPULAR STORIES

Week of January 9, 2012

1. Top 5 workplace injury causes make up 72% of comp costs
2. U.S. P/C pricing in early stages of hard market: Survey
3. Aon moving headquarters to London
4. Worker injured on break entitled to comp benefits: Court
5. B/I's 2012 Innovation Awards winners named
6. Court reporter can receive comp benefits for aneurysm
7. Best gives Bermuda reinsurer Third Point strong rating
8. Chartis creates chief science officer position
9. Citizens Property Insurance Corp. leader resigns
10. Worker's marijuana use caused explosion, comp benefits denied

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## WOMEN TO WATCH

**2011 SPOTLIGHT VIDEO:**  
 Honorees discuss mentoring. [www.BusinessInsurance.com/video](http://www.BusinessInsurance.com/video)

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Aon Risk Solutions

# Cyber risk or cyber ready?

The current edition of Aon's Global Risk Management Survey report marked the **first time technology failure / system failure made it into the Top 10** risks identified by business leaders across all geographies. As reliance on technology continues to grow, organizations are becoming more vulnerable to system and component failures, which can result in business interruption, damage to reputation and loss of customers.

Evolving risks, such as those related to social media, cloud computing and privacy issues, continue to pose challenges and opportunities, and organizations that manage these risks now will be a step ahead of their competitors. Whether your business is in Silicon Valley or solely exists in the clouds, Aon can help you address exposures and identify solutions and opportunities.

To see how your peers view business risk and how their perceptions compare to your own, visit [aon.com/globalrisksurvey](http://aon.com/globalrisksurvey)



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## HEALTH CARE BENEFITS

# Economy holds down health spending

*Lower-cost drugs, treatments also contribute to slowdown*

By **JERRY GEISEL**

Government researchers and private experts say the weak economy, the rapid rise of generic drugs and lower-cost treatment alternatives are major reasons why total U.S. health care spending increased a modest 3.9% in 2010.

That 3.9% increase followed a 3.8% rise in 2009—the lowest increase in the 51 years the federal government has been collecting and analyzing such information. It contrasts sharply with explosive growth in health care expenditures just a few years ago.

From 2001 through 2003, increases in health care spending averaged nearly 9% a year. As recently as 2007, expenditures surged 6.2% (see chart).

Researchers at the Centers for Medicare and Medicaid Services, which prepared the report, and private experts say that the Great Recession clearly was a factor in the dramatic slowing of health care spending, which totaled \$2.594 trillion in 2010.

## SLOWING RATE OF INCREASE

*Increases in U.S. health care expenditures have eased significantly during the past several years, in trillions of dollars.*

YEAR	EXPENDITURES	INCREASE
2010	\$2.594	3.9%
2009	\$2.496	3.8%
2008	\$2.404	4.7%
2007	\$2.297	6.2%
2006	\$2.162	6.6%
2005	\$2.029	6.8%
2004	\$1.900	7.1%
2003	\$1.774	8.4%
2002	\$1.636	9.5%
2001	\$1.494	8.5%
2000	\$1.377	6.7%

Source: Centers for Medicare & Medicaid Services

The slower growth was influenced by consumers who remained “cautious about their spending—in part because of losses in private health insurance coverage, lower median

household income and future financial uncertainty,” according to the CMS report.

Indeed, spending for certain health care services that often can be deferred remained nearly flat. For example, dental care expenditures rose a modest 2.2% in 2010.

“People are spending less money on elective services. There is downward pressure on utilization,” said Dan Levin, a principal with Buck Consultants L.L.C. in Chicago.

Aiding the recent moderation has been the slew of expensive, widely used prescription drugs that have lost their patent protection, allowing introduction of cheaper generics.

“This has been a record period for drugs going off-patent. There can be a dramatic decrease in the cost of a drug when it goes off-patent,” said Michael Thompson, a principal with PricewaterhouseCoopers L.L.P. in New York.

In fact, prescription drug expenditures inched up to \$259.1 billion in 2010 from \$256.1 billion in 2009, a 1.2% increase. By contrast, prescription drug expenditures rose by double digits annually from 2000 through 2003.

See **HEALTH** page 20



## BI summit to feature critical risks

**NEW YORK**—Expansion. Efficiency. Technology. All offer companies tremendous opportunities to grow and thrive. All also bring rapidly evolving—and potentially catastrophic—risks to businesses.

To get cutting-edge insights into how to manage these risks, risk managers from the largest companies in the world will gather at the Waldorf=Astoria in New York next month for *Business Insurance's* 2012 Risk Management Summit®.

The annual Risk Management Summit®, now in its third year, provides attendees with focused insight via specific, timely general sessions and strategic, thought-provoking discussions with industry leaders and peers.

The Risk Management Summit®, to be held Feb. 29-March 1, is open to senior risk managers at Fortune 1000 companies and international companies of comparable size, as well as to past *Business Insurance* Risk Manager of the Year® and Risk Management Honor Roll® honorees still serving as risk managers. Summit partners include Dempsey Partners, FM Global, Sedgwick and Zurich.

The 2012 Risk Management Summit® will provide case studies on four current issues of greatest concern to risk managers, as identified in a survey of target attendees:

- Cyber liability;
- Risks of global expansion;
- Supply chain risk and business continuity; and
- Captive insurance strategies

Each case study will be followed by panel discussion on the same topic featuring leading academics, executives from industry partner companies and other experts.

Confirmed speakers include: Christopher Soghoian, a prominent technology security activist and a cyber and privacy specialist at the Center for Applied Cyber Security Research; Jorge Luzzi, group risk management director at Pirelli Group and president of the Federation of European Risk Management Assns.; and Edward Erickson, founder of the Supply Chain Risk Management Leadership Council.

In addition, a luncheon on the first day of the event will highlight the winners of *Business Insurance's* 2012 Innovation Awards.

Eligible risk managers can register by visiting [www.BusinessInsurance.com/RMSummit](http://www.BusinessInsurance.com/RMSummit) or by contacting Event Manager Rebecca Briggs at [rbriggs@BusinessInsurance.com](mailto:rbriggs@BusinessInsurance.com) or 212-210-1032.

## CATASTROPHES

## Thai flood losses rising but final tally unknown

*Large reinsurers begin to release flood loss estimates*

By **MARK A. HOFMANN**

Last year will go on record as one of the costliest for insured catastrophe losses, but exactly how great the losses will be could depend largely on flood-ravaged Thailand.

Two major players in the reinsurance industry—Aon Corp.'s Aon Benfield unit and Munich Reinsurance Co.—released different estimates last week. Munich Re said it believes 2011 will top 2005 for insured cat losses, while Aon Benfield says it likely will rank second behind 2005, the year that Hurricane Katrina hit the Gulf Coast.

Part of the uncertainty stems from losses from months of flooding in Thailand. Estimates of total damage vary by the billions of dollars.

In the meantime, Munich Re estimates total catastrophe-related insured damage last year at \$105 billion, which would surpass 2005 as the costliest year in terms of catastrophes. Munich Re sets 2005's insured damage tally at \$101 billion.

Aon Benfield estimated that total insured catastrophe losses reached \$107 billion in 2011, but it also set 2005's insured cat loss-

es at \$120 billion.

Robert Hartwig, president of the New York-based Insurance Information Institute Inc., discounted the discrepancy.

“I've noticed this, too, but do not consider it to be significant,” Mr. Hartwig said in an email.

He noted that 2011 figures are preliminary and that final figures won't be available for some time. He also said that the variance in recently released estimates is small and that the dollar volume of insured cats is “very large.”

Munich Re estimates that earthquakes in Japan and New Zealand early in the year accounted for about two-thirds of the total. The German reinsurer said insured losses from the March 2011 earthquake and tsunami in Japan could reach \$40 billion, while insured losses from the February 2011 quakes in Christchurch, New Zealand, could reach \$13 billion.

Aon Benfield put insured losses in Japan at about \$35 billion and said insured losses from the New Zealand quakes may reach \$15 billion.

Munich Re said severe weather during the tornado season in the United States, such as the tornado that hit Joplin, Mo., caused an estimated \$25 billion in insured damage. Hurricane Irene, the only hurricane to make landfall in the United States last year, added another \$7 billion in insured damage.



Facilities at an industrial park near Ayutthaya, Thailand, were inundated last year. Flooding in Thailand has caused billions of dollars in losses.

But the greatest unknown is the total insured loss caused by months of flooding in Thailand.

Munich Re said the floods caused about \$10 billion in insured damage, while Aon Benfield noted that Thai authorities put the figure at nearly \$11 billion.

The uncertainty over the extent of the Thai flood damages is reflected in estimates of individual insurer losses released last week as fourth-quarter earnings report season approached.

For example, XL Group P.L.C. said its net losses from floods in Thailand could range from \$135 million to \$185 million.

XL also said it has registered additional losses of about \$35 million related to catastrophic events that took place during the first three quarters of last year. XL said the developments on prior-quarter losses stemmed primarily from U.S. events—second-quarter

tornadoes and third-quarter windstorms and subsequent flooding. The estimates are based on review of individual treaties and policies expected to be impacted, as well as available client data, XL said.

Two other insurance and reinsurance groups also announced Thai losses last week. Validus Holdings Ltd. issued a preliminary loss estimate of \$55.5 million and said that industrywide insured losses in Thailand could reach \$12 billion.

Arch Capital Ltd. said its losses in the Thai flooding could range from \$35 million to \$65 million.

All three companies stressed in their announcements that the extent of the damage remains unknown, and that the actual damages could vary widely from the preliminary estimates.

Senior Editor Sarah Veysey contributed to this story.

## LIABILITY &amp; LITIGATION

# Faulty implants in Europe may spawn litigation

*Maker bankrupt, raising questions on target of suits*

By SARAH VEYSEY

**CARDIFF, Wales**—At least one lawyer already has hundreds of clients ready to sue over faulty silicone breast implants, but whether a suit would target the now-bankrupt French firm that made them or medical facilities that implanted them remains unknown.

According to U.S. Securities and Exchange Commission reports, Poly Implant Prothèses S.A., which filed for bankruptcy in Toulon, France, in 2010, had product liability insurance with limits of about \$1 million, excluding the United States.

Sources said, however, that the

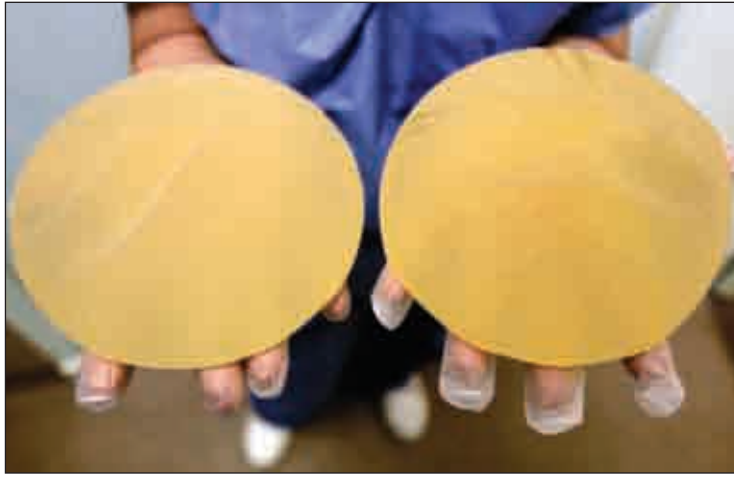
fact that PIP is in bankruptcy and unlikely has much insurance coverage outside of France means that claimants outside of France may seek damages from individuals or medical facilities that implanted them.

The implants were widely sold in Europe, Australia and South America.

In December, the French government advised women who had received implants made by La Seyne-sur-Mer, France-based PIP to have them examined and, in some cases, removed because of fears they had a higher-than-usual rupture rate.

PIP reportedly used non-medical grade silicone gel in the implants.

The French government said it would pay for the removal of implants that were performed for reconstructive, not cosmetic, reasons and seek to recoup some of



AP PHOTO

**At least one lawyer has hundreds of clients ready to sue over faulty silicone breast implants, but whether a suit would target the bankrupt French firm that made them or medical facilities that implanted them remains unknown.**

its damages by filing a criminal complaint against PIP.

This month, Germany, the Czech Republic and the Nether-

lands recommended that women with PIP implants have them removed.

Last week, the Welsh govern-

ment said it would pay for the removal of implants from women who were treated in the private sector. The U.K. government reiterated last week that there was no need for women with PIP-made implants to have them removed unless they had developed a problem.

The government said, however, that it would pay for the removal of implants given to patients by the National Health Service, the United Kingdom's government-backed health system. It stood firm, however, that the government would not pay for replacing the implants.

The London-based British Assn. of Aesthetic Plastic Surgeons said that if women are concerned or have any adverse symptoms, they should have a scan and, if there is any weakening or rupture, have the implants removed.

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## PROPERTY/CASUALTY INSURERS

## Interest rates, big cat losses pressure rates

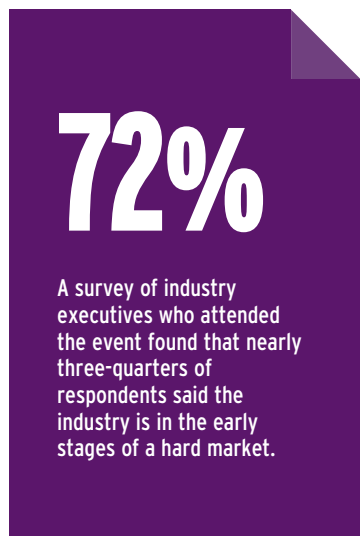
By MATT SCROGGINS

**NEW YORK**—Property/casualty rates are under mounting upward pressure due to recent catastrophe losses and continued low interest rates that have limited investment returns, according to speakers at last week's Property/Casualty Insurance Joint Industry Forum in New York.

In addition, a survey of industry executives who attended the event found that nearly three-quarters of respondents said the industry is in the early stages of a hard market.

After 2012 saw a concentration of international earthquake, flooding and other major catastrophe losses, insurance companies are "seriously rethinking" their exposures, and commercial rates—particularly those involving catastrophe risks—clearly are rising, said Jay Gelb, managing director of Barclays Capital. Mr. Gelb spoke during the event's "Experts Panel: View From the Outside Looking In."

In a separate panel made up of industry CEOs, J. Eric Smith, president and CEO of Swiss Re Americas, said the belief in the industry was that "you're not going to get



large catastrophes all around the globe, right? It just doesn't work that way. Well, that went against us" last year.

In addition, the low-interest-rate environment continues to be a concern for insurers and reinsurers and will have an impact on earnings for at least the next few years, Mr. Gelb said.

"On the flip side, that gives (industry companies) more reason to raise prices, and that's one of the things we're seeing," he said, noting that a "full-on hard market" should emerge within the next three years.

Another member of the experts panel, Matthew C. Mosher, senior vp-global ratings for A.M. Best Co. Inc., offered a similar time frame, noting that while there has been some improvement in property

See **JIF** page 21

## Errors & Omissions

The Jan. 9 story "Higher dosage pain drugs in pipeline" misstated the company affiliation for Brian Carpenter. He is the Tucson, Ariz.-based vp of pharmacy product development for Coventry Workers' Comp Services.

## LIABILITY &amp; LITIGATION

# Religious school dodges ADA charge

*Supreme Court says ruling limited to employment bias*

By JUDY GREENWALD

**WASHINGTON**—A Supreme Court ruling last week that says a religious school can claim a "ministerial exception" to a discrimination charge under the Americans with Disabilities Act for a teacher who also taught secular subjects will discourage litigation in this area, say many observers.

But the court's unanimous Jan. 11 decision in *Hosanna-Tabor Evangelical Lutheran Church and School vs. Equal Employment*

*Opportunity Commission et al.*, does not make clear the extent to which the ministerial exception applies to other religious-organization employees, say some observers.

The nation's highest court also said the ministerial exception bars only employment discrimination lawsuits.

"We express no view on whether the exception bars other types of suits, including actions by employees alleging breach of contract or tortious conduct by their religious employers," Justice John Roberts wrote for the court.

Most attorneys say the Supreme Court ruling will result in fewer lawsuits by employees of

religious institutions.

The ruling concerns Cheryl Perich, who worked as a "called teacher." Called teachers have satisfied certain academic requirements and "are regarded as having been called to their vocation by God through a congregation," according to the opinion. In addition to teaching, she was designated a commissioned minister after completing certain academic requirements, including a course of theological study. In addition to teaching secular subjects, she taught a religion class, led her students in daily prayer and devotional exercises, and took her students to a

See **RELIGIOUS** page 18

## RISK MANAGEMENT

# Economic, cyber risks top global list

By SARAH VEYSEY

**LONDON**—Risk managers must ensure they foster an environment that facilitates discussion about the biggest risks facing companies and societies, experts said during the launch of the World Economic Forum's seventh global risks report.

The "Global Risks 2012" report found that chronic fiscal imbalances as well as risks connected with regulation and cyber risks are the biggest challenges facing govern-

ments and companies.

Risk managers have a role to play in ensuring their companies discuss current and future risks, while the insurance and reinsurance industry should take advantage of the opportunities these risks present by providing products and risk mitigation solutions, experts say.

The report, which was based on findings gathered from 469 risk experts and industry leaders, found that the expanding gap between rich and poor—and the strain being

placed on retirement plans by an aging population—is one of the major risks that societies and companies now face.

The risks associated with lax, inappropriate or overzealous regulation also figured strongly in the minds of contributors to the report.

And the risks associated with increased online connectivity and cyber crime also are major concerns for companies and governments.

The report cited 50 areas of risk, but it also identified other

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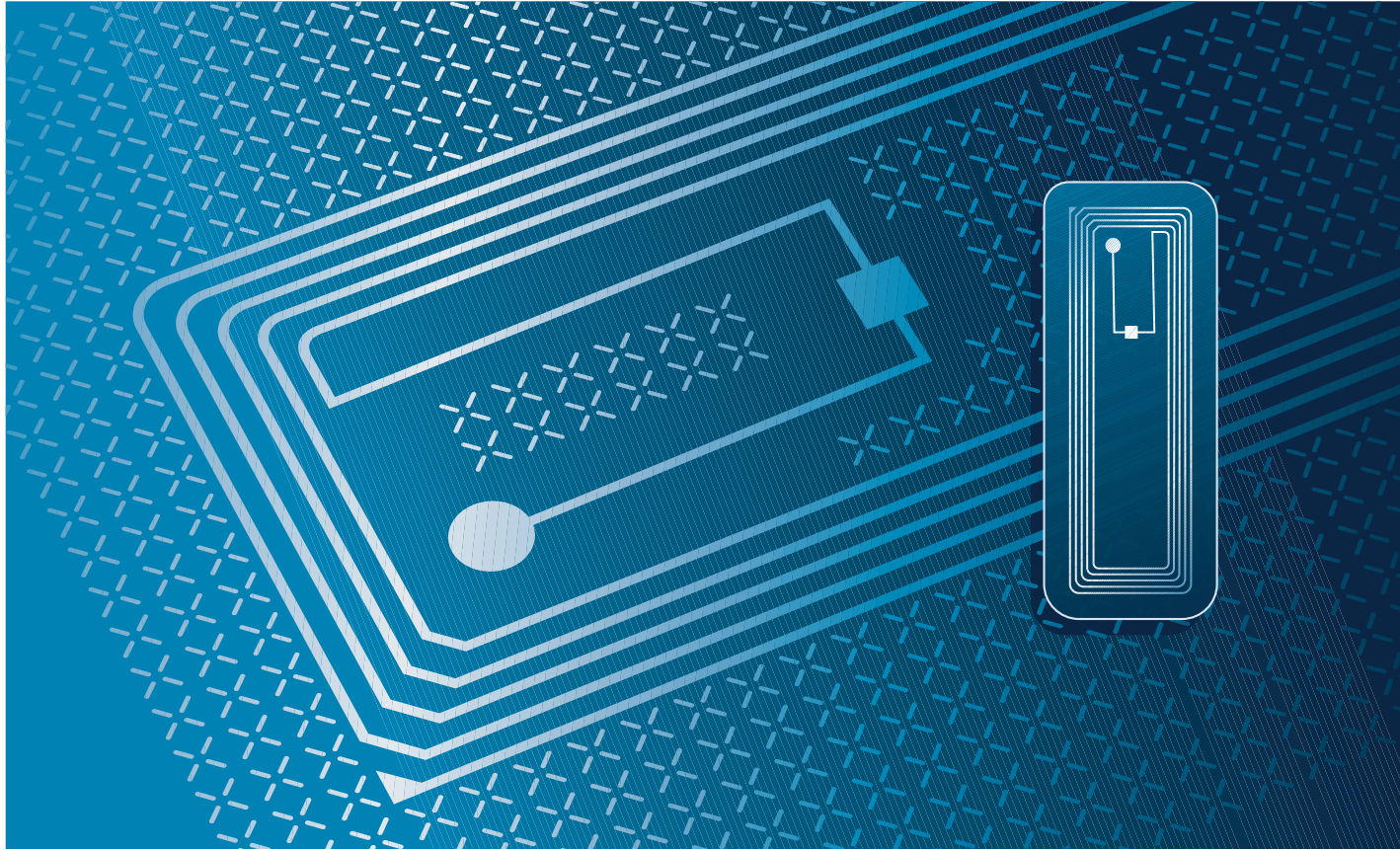


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# Mid-Market EXECUTIVE

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## Constructive use of technology

### RFID tags help cut risks for building projects

By MATT DUNNING

For nearly 30 years, commercial applications of radio frequency identification technology have aided companies across a wide variety of industries—many of which are in the middle market—in managing their security and supply chain risks and regulatory filing obligations.

Shipping and logistics firms, manufacturers and governmental entities use it to monitor point-to-point movements of cargo, raw materials, products and other assets. RFID-enabled security gates have become a popular choice among commercial property owners seeking to limit access to their buildings, while thousands of retailers use RFID tags and readers to track inventory and reduce shoplifting losses.

In construction, RFID tags have been used to log inspections of safety equipment as well as inventory tools and building materials on-site. Consolidating the digital collection and organization of that data can reduce regulatory violations, property losses and wasted work hours, experts said.

Despite the demonstrated applicability to safety management, property protection and inspection compliance, implementation among U.S. construction contractors has been sluggish in comparison with other business sectors, experts and observers said.

In 2011, less than 10% of the construction industry had implemented some form of RFID-enabled asset management system,

experts estimated.

“I think there is some interest in the technology in the industry, but I also think that a lot of contractors aren’t all that aware of what exactly RFID tags could do for them,” said Ethan Cowles, a senior risk management consultant at Denver-based FMI Corp.

The limited number of contractors that are using RFID technology mostly are applying it to on-site material asset management, specifically tracking use and storage of tools and portable equipment, Mr. Cowles said.

**‘I think there is some interest in the technology in the industry, but I also think that a lot of contractors aren’t all that aware of what exactly RFID tags could do for them.’**

Ethan Cowles, FMI Corp.

Field studies of digital tracking systems for construction tools and materials—including RFID and GPS tracking—conducted by University of Texas at Austin researcher Fiatch indicated that foremen can spend as much as 20% of their time on-site searching for tools and materials, “leaving their crews unsupervised and slowing productivity.”

“Quite honestly, there are a lot of other things I’d love to have my foreman doing than looking for tools,” Mr. Cowles said. “Keeping track of your equipment, knowing whether something is accounted for and sparing the manpower it takes to count widgets or track down tools could be a mas-

sive savings.”

RFID technology also has seen at least some construction adoption when applied to safety equipment inspections, experts said.

Several companies, including Toronto-based N4 Systems Inc., have developed software platforms to manage safety inspection data using RFID or barcode identification tags. N4 Systems CEO Somen Mondal said its system, Field ID, can be applied to almost any piece of equipment, from climbing harnesses and other fall-protection gear to fire extinguishers, exit and

emergency lighting, and smoke and gas detectors.

“Anytime you’re conducting an inspection, or you’re looking up the safety audit history of a piece of equipment, identification is the first step, and that’s where RFID really helps,” Mr. Mondal said. “(Manual record-keeping is) really not the best way to do it, because there’s so much human error that can work its way in. The RFID chip practically eliminates that possibility.”

Last year, Rosemont, Ill.-based general contractor McShane Construction Co. implemented the RFID-enabled Field ID program to help its subcontractors enhance

both on-site compliance with safety regulations and its own internal quality control/quality assurance protocols.

Dennis Rumshas, the company’s president and CEO, said McShane Construction’s contracts with subcontractors do not require RFID capability but that use of the technology can influence its selection of them.

“It’s absolutely an incentive,” Mr. Rumshas said. “The contractors that aren’t using RFID simply have to go through all of the extra paces of making sure that documentation is ready, not only for our own use, but for OSHA or whatever state agency knocks on their gate for an inspection. The ability for them to be able to provide us with inspection reports at a moment’s notice makes it so much better and easier for everyone involved than if they’re still doing it with pen and paper.”

Another application of RFID that has seen some traction in the industry is subsurface surveying, experts said. Tagging materials destined for underground installation with RFID markers address management of the asset itself, as well the legal and financial protection of any company that wants to dig near the pipe three or four years later and the safety of the crew doing the digging.

“It’s not just about the physical location of an object, it’s connecting that information to another data source in the service of some higher benefit,” said Fran Rabuck, director of technology research at Exton, Pa.-based infrastructure management software firm Bentley Systems Inc.

The technology’s various applications notwithstanding, experts said adoption of RFID-enabled asset management has been stifled by several factors, including a lack of software and hardware standardization among system manufacturers. Without greater standardization, program providers have been hesitant to roll out products.

“That lack of a ready-made solution is probably the biggest damper on adoption; that companies have to kind of invent the system that they want rather than just pulling one off the shelf” is an impediment, said Huw Roberts, Bentley Systems global marketing director for building and structural products.

Additionally, current RFID-enabled systems can cost tens of thousands of dollars for even basic configurations.

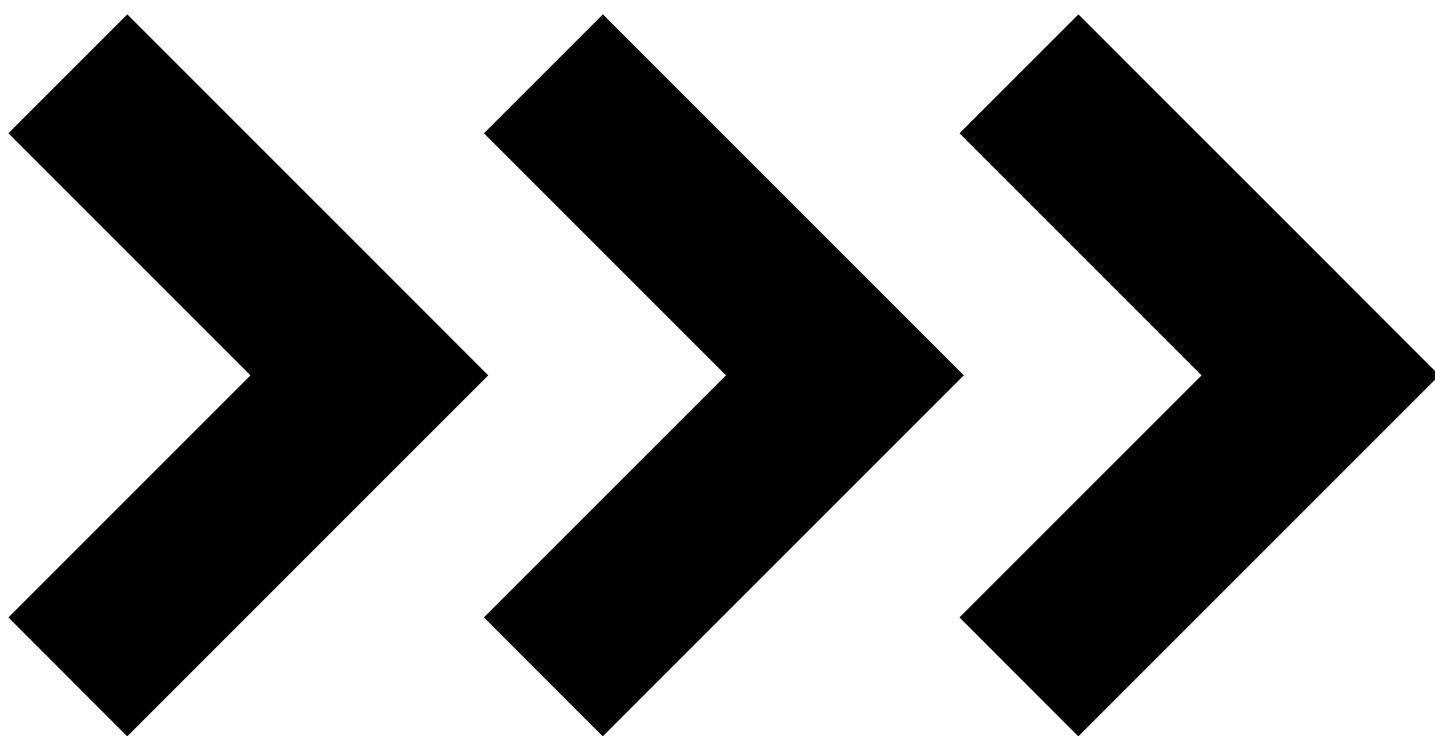
Mr. Roberts said the upfront investment coupled with the uncertainty surrounding the technology’s long-term evolution of standards has been enough to discourage most firms from adopting an RFID system.

“Those companies that are already thinking about the (return on investment) and about the benefit of having their workforce, their materials and tools and inspections tied into together using these tags, those are the ones that are just waiting for the right package solution,” Mr. Roberts said.

Another key to more widespread implementation in the construction industry, Mr. Rabuck added, will be integrating RFID scanning capabilities with smartphones.

“The cost to get a handheld scanner today is going to be at least a couple thousand dollars,” Mr. Rabuck said. “But once manufacturers begin equipping cell phones with RFID readers, that’s when you’re likely to see a real and sudden increase.”

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# Opinions

## EDITORIAL

## Heartening data on health costs

**W**Henever a health care cost study is released, it has become almost inevitable that the findings will show that costs keep going up.

That is why a new Centers for Medicare and Medicaid Services report on national health care expenditures is worth a second glance.

As we report on page 1, national expenditures have increased during the past couple of years, but at a rate much slower than a decade or so ago.

Expenditures rose by 3.8% in 2009 and 3.9% in 2010, the most recent years available. Those increases are modest compared with 2002, when expenditures climbed by 9.5%.

The Great Recession likely caused health care spending to slow. The authors of the CMS survey note in the report that persistently high unemployment and loss of private health insurance coverage led some people to forgo care or seek less costly alternatives.

But broad and long-overdue changes in the nation's health care financing and delivery system have been overshadowing recessionary factors. The most significant change has been employers' move away from health care plan designs in which they picked up nearly all of the costs. This change was not simple cost-shifting but a conscious attempt by employers to make employees better consumers of health care services.

Changes in the health care delivery system also are having a positive impact on costs. The proliferation of urgent care centers, for example, has given consumers a vastly more cost-efficient alternative to hospital emergency rooms.

In addition, more medical procedures can be done on an outpatient basis and cost much less compared with when those procedures are performed on an inpatient basis.

And the growth of generic drugs after the expiration of patent protection for several widespread brand-name products also has had a dampening effect on costs.

Two years of data does not signal that the battle against soaring health care costs has been won. But the news is encouraging and should serve as a signal to employers that their efforts to better control health care costs will not be wasted.

## LETTERS

*Business Insurance* welcomes letters to the editor.

The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters.

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## SCHILLERSTROM



## COMMENTARY

## Storm mitigation efforts outstanding

A few months back, I was given the opportunity to participate in a pretty amazing event—a tour of the new Greater New Orleans Hurricane and Storm Damage Risk Reduction System.

I wrote about the tour and the new system in last week's issue of *Business Insurance*, and if you haven't had a chance to read it you can find it and a photo gallery of some of the risk reduction system's features at [www.businessinsurance.com](http://www.businessinsurance.com).

The tour was a remarkable experience. Among other things, the sheer scale of some of the features—the pumping station at the Gulf Intracoastal Waterway West Closure Complex, for example, the largest drainage pump station in the world and capable of filling an Olympic-sized swimming pool in less than five seconds—was overwhelming.

As stunning as the physical scale of the new storm risk reduction features was, however, I was equally impressed by discussions of the science and engineering that went into planning the elements of the 133-mile system designed to protect the Greater New Orleans perimeter from a 100-year storm.

Talking with Michael F. Park—chief of Task Force Hope in Louisiana, part of the U.S. Army Corps of Engineers' Mississippi Valley Division—who oversees the Hurricane and Storm Damage Risk Reduction System work and the long-term planning of coastal restoration and hurricane damage reduction in New Orleans and Southeast Louisiana, he offered a clear understanding of just what was involved in designing the \$14.6 billion system's components.

The research behind the system included modeling 152 storms—some actual, some theoretical—ranging from a 25-year event to a 5,000-year event. Monte Carlo simulations to assess probabilities were conducted, involving 350 features of the perimeter against myriad storm tracks. Designers also considered such factors as subsidence in southern Louisiana and the effects of climate change and sea level rise to ensure that the system's hard features will be viable through at least 2057.

Of course, as no lesser sages than Blue Oyster Cult once noted, "History shows again and again how nature points out the folly of men," and Mr. Park made a point of distinguishing between "protection" and "risk reduction."

"We're not providing flood protection," he said. "We're providing flood risk reduction."

So, as confident as he is in the storm risk reduction system the Corps of Engineers is providing New Orleans, Mr. Park knows you can't eliminate risk. Beyond the perimeter protection, there remains a role for insurance, zoning and building codes, coastal protection and restoration and—likely still—evacuations in the face of certain storms.

"You can still be overwhelmed by something that exceeds what you've designed," he said.

But it sure looks like the system the Corps designed should go a long way toward reducing New Orleans' future risk.

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**RODD ZOLKOS**  
SENIOR EDITOR



# Reining in risk

Not everyone should go into the cloud 'because there are risks that simply can't be completely mitigated.'

Gene Spafford, Purdue University's Center for Education and Research in Information Assurance and Security

*Managing exposures of cloud computing requires planning*

By JUDY GREENWALD

**M**ore businesses are using cloud computing as a means to cut costs, but planning is an essential component of protecting company data, experts say.

To minimize the risks inherent in data being held remotely by third parties, companies should carefully investigate potential cloud providers, provider contract language, what data is stored in the cloud, where the data is actual-

ly located and with whom the virtual space is shared, observers say.

Cloud computing essentially involves using remote services to process, manage and store data.

Gene Spafford, director of Purdue University's Center for Education and Research in Information Assurance and Security in West Lafayette, Ind., said not everyone should go into the cloud "because there are risks that simply can't be completely mitigated."

But many observers say when properly implemented, the cost efficiencies generated by cloud computing can more than offset its inherent risks.

See **CONTROL** next page

**QUARTERLY  
TECHNOLOGY  
FOCUS:**

Cloud  
Computing  
Risks

**SPOTLIGHT**

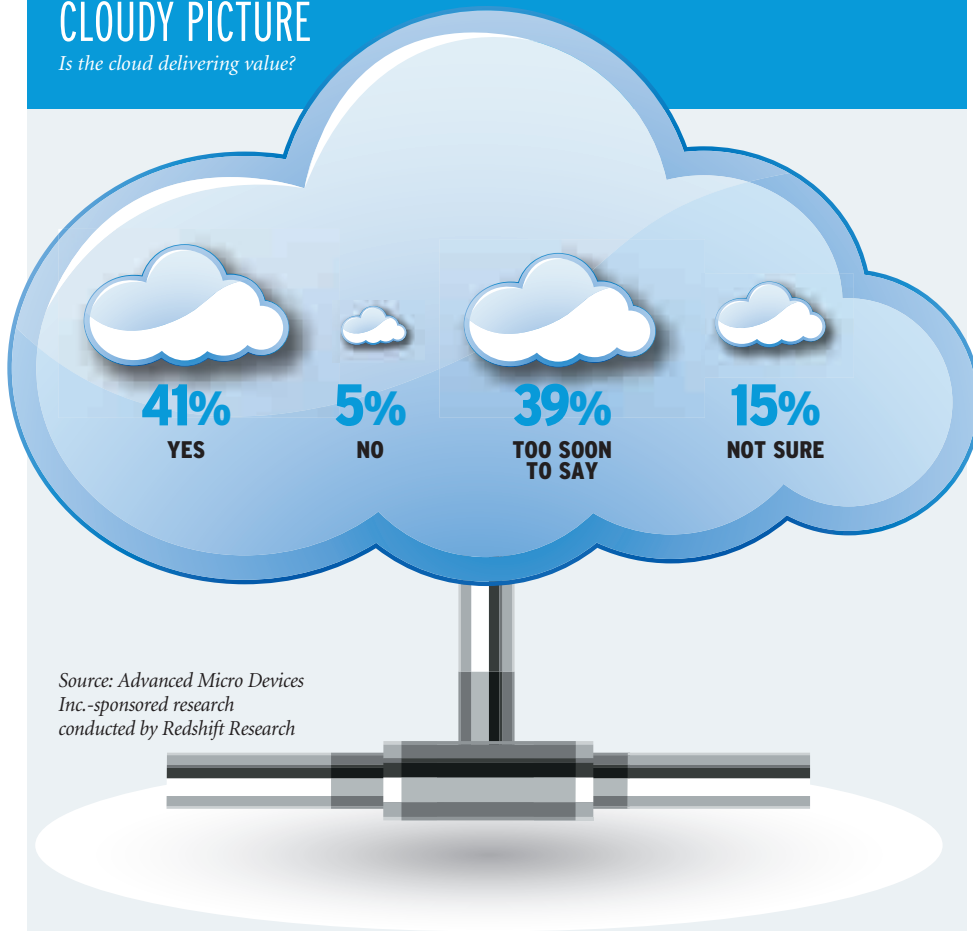
**CYBER INSURANCE  
USUALLY COVERS  
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**DESPITE RISKS,  
CLOUD PROVIDERS  
KEEP DATA SECURE  
PAGE 14**

## CLOUDY PICTURE

Is the cloud delivering value?



## Control: Managing cloud risks requires planning, strategy

CONTINUED FROM PREVIOUS PAGE

"Make sure you fully understand the risks and understand the relationship with the cloud provider and with the contract that you're entering into with your cloud provider," and that the risk manager, attorneys and technical experts are involved, said Hartford, Conn.-based Tim Francis, enterprise cyber insurance lead for Travelers Cos. Inc.

One critical factor is the data that will be put in the cloud.

Chris Barbier, director of technology services at consultant Smart Devine & Co. L.L.C. in Philadelphia, said it's essential to make "sure you know what data is going to be stored, and how that data needs to be protected."

One option is to retain more sensitive, personal information.

Mark Camillo, vp of professional liability at Chartis Inc. in New York, said a retailer, for instance, may decide to put its catalog on the cloud but use its own website to process transactions.

Certain data subject to state or federal regulations may have specific security requirements, said Michael R. Overly, a partner with law firm Foley & Lardner L.L.P. in Los Angeles.

Encryption can help protect the data that is placed in the cloud, assuming the encryption key is not stored on the same server, said Tom Srail, Cleveland-based senior vp of FINEX North America at Willis North America.

"You want to assess the competency of the vendor, their professionalism, their history, the business, the number of satisfied customers—like you would any" service provider, said Nicholas Economidis, Philadelphia-based underwriter of professional liability and specialty lines at Beazley P.L.C. "You want them to take reasonable amounts of responsibility for any mistakes."

Organizations need to make certain that a provider's security protocols are "no less rig-

orous around data privacy" than the organization's, said Greg Leffard, Simsbury, Conn.-based vp of professional liability for The Hartford Financial Services Group Inc.

Larry Collins, New York-based managing director and head of e-solutions at Zurich Services Corp., said cloud computing represents an "enormous improvement in security" over that of individual firms. "Having said that, cloud infrastructure is like a fortress with three walls," because users have to come in and out.

**'You want to assess the competency of the vendor, their professionalism, their history, the business, the number of satisfied customers—like you would any' service provider.**

Nicholas Economidis, Beazley P.L.C.

Be sure the cloud provider complies with recognized security protocols, said Kevin Hunter, Owings Mill, Md.-based chief architect information technology for Zurich North America. "Even the small providers typically invest enough" to meet those certifications, he said.

However, Richard L. Santalesa, Fairfield, Conn.-based senior counsel at Information Law Group, said he anticipates greater focus on audit certifications by third parties with regard to security. Such focus "has not moved to the level" he said he hopes it will this year.

Do not hesitate to ask for detailed information on security "so you can gain confidence your data will be protected," Foley & Lardner's Mr. Overly said. "What kind of

responsibilities are they willing to take on?" If companies find their providers are dragging their heels on providing security data, "then I think you need to be concerned."

While a business wants to be certain that its data is secure, "there are also business risks," said Sandy Coddling, Boston-based leader in the U.S. commercial E&O advisory practices of Marsh Inc.'s FINPRO unit. "Will the data be available when you need it? Will it be available as fast as you need it?"

Observers warn, though, that there may be little room for negotiation with cloud service providers about their security.

"Unless we're talking about a very large transaction, generally most agreements are relatively non-negotiable," said Mr. Overly. Cloud service providers are set up so as "to provide one service in a cost-effective manner," and that cannot be achieved by addressing each customer's unique security requirements, he said.

Another contractual issue is legal and regulatory obligations.

Veronica Somarriba, Whitehouse Station, N.J.-based senior vp and worldwide technology manager for Chubb Commercial Insurance, said if information is transferred to a cloud provider and there is a breach, the cloud user may have to provide notification under the contract.

"You want to be sure you have the protection to repatriate the data should it be required by an attorney general or subpoena" or as a regulatory requirement, said Alex Ricardo, New York-based director of breach response services at Beazley. In some cases, "it could be problematic for the insureds to get those back, depending on where the provider sits."

Most cloud providers have multiple data centers and a client may not know where data from their business is stored, although this can be important, said Mr. Overly. Financial services firms for instance, must conduct due diligence as to where sensitive data is located, he said.

Cloud services providers also may have data centers in the U.S. and abroad, and moving highly sensitive data across borders can be an issue, Mr. Overly said. European Union regulations, for instance, are "very strict" on this issue, he said.

The issue is not well-understood, he said. In addition, questions remain about electronic discovery in litigation cases, he said.

The availability of data if there is a catastrophe, if the cloud service provider goes out of business or if the user decides to switch cloud service providers also are concerns.

"What happens if, a few years from now, you decide to essentially use another vendor" that offers a better price, said Shawn Ram, San Francisco-based national technology practice leader for Aon Risk Solutions. "What is your exit strategy? How do you get your information out of one particular cloud and into another cloud?"

Firms also must be concerned with what happens when something does go wrong, Mr. Srail said. "Doing the forensics and investigations is a lot easier when you have all of your data internally."

Another issue is a company's vulnerability should another firm on the same cloud be attacked or if the cloud service provider itself is a target.

"You could be taken down even if you're not a target," said Mr. Srail. "You may want to ask" what other entities are in the "same virtual area of the cloud," he said, although the information may not be made available.

CERIAS' Mr. Spafford said there are economic concerns related to appropriately budgeting for backups, audits and possibly redundant communications with the cloud provider.

"It's not simply something you can turn over to another party and then forget about," Mr. Spafford said.

## New data risks emerge from old technology

The concept of cloud computing is both old and new.

Observers note that the concept behind it—sharing computer time—has been around for decades. Its use in conjunction with the Internet, however, is of relatively recent vintage.

A survey last year of more than 1,500 public- and private-sector organizations in the United States, Europe and the Asia-Pacific region by Sunnyvale, Calif.-based Advanced Micro Devices Inc. found that 70% either are using or investigating cloud computing for remotely hosted applications or to store data.

Coming up with a definition, though, has been tricky.

In October, the Gaithersburg, Md.-based National Institute of Standards and Technology, an arm of the U.S. Commerce Department, said it had finally developed a working definition of cloud computing—after years of work and 15 drafts: "A model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g. networks, servers, storage, applications and services) that can be rapidly provisioned and released with minimal management effort or service."

According to the NIST, five essential characteristics of cloud computing are: on-demand self-service, broad network access, resource pooling, rapid elasticity and measured service.

There are four cloud-computing types, according to NIST:

- Private cloud, which is for the exclusive use of a single organization.

- Community cloud, which is for the exclusive use of a specific community of consumers from organizations that have shared concerns. Examples would be educational or financial institutions, said Nolan M. Goldberg, senior counsel with Proskauer Rose L.L.P. in New York. Community clouds have been "starting to come on their own" in the past year, he said.

- Public cloud, which is open to the general public and exists on the cloud provider's premises.

- Hybrid cloud, which is a composition of two or more distinct cloud infrastructures—including private, community or public—that have a standardized or proprietary technology

—By Judy Greenwald

# Cloud exposures generally covered by cyber policies

*Coverage important as cloud vendors try to limit liability*

By JUDY GREENWALD

Insurance coverage for cloud users generally falls under firms' cyber risk policies, observers say.

That's because cyber policy language generally is broad enough to cover cloud computing, and observers say they do not anticipate the need for separate cloud computing policies.

Cloud providers are "a new twist on the old outsourcing, so it hasn't moved the needle much in the cyber insurance process," said Tom Srail, Cleveland-based senior vp of FINEX North America at Willis North America.

Insurance coverage is an important issue for cloud computing users because cloud service providers generally accept little if any liability, said Nicholas Economidis, Philadelphia-based underwriter of professional liability and specialty lines at Beazley P.L.C.

"That's something that's traditionally been a tug of war between service providers and anyone seeking to outsource. The vendor wants to accept as little responsibility as possible," he said.

Providers' limitation of liability is "usually going to be a number that's small relative to the potential damages you may suffer," said Sandy Coddling, Boston-based leader in the U.S. commercial errors and omissions advisory practice of Marsh Inc.'s FINPRO unit.

"From the start we have to protect the insured and their interests," said Scott Schleicher, Exton, Pa.-based underwriting manager for technology and cyber risk liability with XL Insurance's Select Professional unit. "They're going to be the ones" who must notify those affected by the data breach, who consider them to be the parties that were holding the information.

"Most people don't know their information is being held by some third party," Mr. Schleicher said.

Scott N. Godes, of counsel at law firm Dickstein Shapiro L.L.P. in Washington, said he has seen few if any policies where cloud computing is specifically named in an insurance policy, but liability policies and even first-party policies typically are written so that the language covers cloud computing.

In addition, there are variations among various insurers' forms and even within multiple forms offered by an individual insurer, said Mr. Godes. "Close attention should be paid to when the term 'computer system' or 'computer network' is defined, if those are the operative terms of what is covered," ensure problems related to cloud service providers are covered, he said.

Steven Gilford, a partner with Proskauer Rose L.L.P. in Chicago, said, "There are lots of issues with

respect to cyber policies, and what they actually cover and what they actually don't." These policies "are not necessarily consistent, and they're not common forms, and the forms change from year to year," he said.

"You need to look at how your insurance matches up against whatever indemnifications and protections you're getting from your service provider," he said.

In many ways, it is comparable to the traditional supply chain problems, he said. "It's just a more

technical, complicated industry," Mr. Gilford said.

Tim Stapleton, assistant vp and product manager of professional liability at Zurich North America in New York, said that among the questions Zurich underwriters ask are: how often and in what capacity is the potential insured engaged with the cloud provider; what is the nature of the data that may be stored in the cloud; to what extent is the potential insured vetting the cloud provider's security; does the cloud

provider actually outsource any data or functions; who is responsible for an incident response in the event of a data breach; and what contractual revisions can be negotiated to protect the insured.

"Ultimately, the insurer wants to know who will be responsible for the economic costs associated with responding to a breach," Mr. Stapleton said.

However, Gene Spafford, director of Purdue University's Center for Education and Research in Information Assurance and Secu-

rity in West Lafayette, Ind., warned, "This is an area where potentially catastrophic losses can occur that really can't be covered from insurance."

If all of a company's proprietary data, customer lists or financial records disappear, "it really doesn't matter what the insurance coverage is, because they're gone," he said.

Cyber insurance is "intended to recover from an unexpected event" but not a catastrophe, Mr. Spafford said.

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# Provider checks, contract terms key

*Security audits, liability agreements help cut cloud risks*

By **RUSS BANHAM**

As companies increasingly shift their information technology resources to cloud-based systems hosted by third-party providers, they are finding that they cannot shift their liability from a data breach along with it.

Although the provider may pledge to protect sensitive information, the company that collects the data is statutorily liable for its security, experts say.

Fortunately, best practices are arising to help risk managers limit their companies' financial exposure to a data breach. These include contractual considerations that shift certain breach-related costs to providers, improved methods of assessing vendors' security measures, and insurance mitigating the financial impact of a breach that has occurred.

Getting in front of the issue is crucial, experts say, given the vast array of data now stored in the cloud, not to mention the firm resolve of cyber criminals to pry open the vault.

"As cloud services gain in popularity, related breach incidents will surely increase," said Alan Brill, senior managing director of cyber security at New York-based security firm Kroll Inc.

So far, the number of data breaches of cloud vendors appears to be quite small, although not all incidents may have been publicly disclosed (see story, page 14). Nevertheless, Mr. Brill said many companies are ill-prepared to cope with the fallout from a breach.

"In many cases, organizations are making the decision to use cloud services without bringing in risk management or legal to weigh in with their expertise and opinions," he said. "Important questions—like who can access our data, are we sure the data is secure, and will we be indemnified by the vendor if there is a breach—are not being asked. Thus, there may be no contractual responsibility on the part of the provider to make the company whole, post-breach."

Mr. Brill is not alone in his concern. "It's a question of trust," said Jay Heiser, vp of research at technology consultant Gartner Inc. "In the case of commercial cloud service providers, clients trust their data will be safe. But trust is a very superficial way to manage risk."

Cloud risk management begins with an assessment of the types and range of information technol-



ogy—the full IT infrastructure or just specific services—that a company wants to move to the cloud.

"There are two distinct service buckets," said Robert Parisi, senior vp of broker Marsh Inc.'s FINPRO practice in New York. "One is 'software as a service' and the other is 'infrastructure as a service.' Each creates different risks. If a critical app is breached in a SaaS environment, it will slow down a company but not cripple it. If this happens in an IaaS environment, the potential for harm is much higher."

Once this decision is reached, auditing the security and performance reliability of different providers is vital. The most prevalent means, experts say, is to conduct an SSAE 16 audit, the new "attest" standard put forth by the Auditing Standards Board of the American Institute of Certified Public Accountants that replaces the SAS 70 standard. SSAE 16 requires a service organization to

provide a description of its system, in addition to a written statement of "assertions," i.e., the essential security and privacy requirements that the service organization will effectively "assert" to.

"SSAE 16 allows for an independent assessment by an independent auditor around the operational environment used to deliver the cloud platform, in terms of security protocols and how they are being enforced," said Irfan Saif, a principal in the security and privacy practice of accounting firm Deloitte & Touche L.L.P.

Mr. Saif added that another security consideration is whether the provider is compliant with ISO 27001, a standard mandating specific technology security requirements, such as proper firewalls and encryption of data at rest and in transit.

In the future, buyers of cloud services also may find reassurance from the Security, Trust and

Assurance Registry Initiative, which is being developed by a consortium of service providers. The initiative involves a self-assessment questionnaire taken by providers attesting to their security controls.

"The goal is to encourage transparency of security practices by providers and more of an 'apples-to-apples' comparison," said Mr. Saif, noting that Deloitte & Touche is a member of the consortium.

Still, as Gartner's Mr. Heiser points out: "The fatal flaw with security audits is that they cannot promise you that a provider is totally free of security vulnerabilities. It's easy to come up with a checklist for the known environment. It's what's next, security-wise, that is most worrisome." Hence the wisdom in inking sound contracts with providers and buying cyber insurance to fill in the gaps, he says.

Once a cloud provider is selected, contractual negotiations commence. "The question to address in the contract is who is paying for what," said Shawn Ram, national technology practice leader at broker Aon Risk Solutions. "State laws require the organization that collected personally identifiable information to be responsible for the cost of notifying people of a breach involving their information," he said. "Studies indicate this can cost more than \$200 per individual, a sizable figure when thousands of people are involved. You want to ensure in the contract that if a breach occurs, the provider will bear this expense and the cost of monitoring the credit of affected people."

Attorney David Navetta, a partner at Denver-based Information Law Group, advises the development of contracts with meaningful terms around incident response.

"When a breach occurs, you want to be sure the provider will conduct a proper investigation of what happened, ascertain the scope of the breach and its cause, and permit you to conduct your own forensic investigation to ensure you are getting the full picture," Mr. Navetta said.

Mr. Parisi recommends that risk managers make sure that the provider has a professional liability insurance policy in the event of a lawsuit alleging negligence.

In most cases, contracts with providers fail to address clients' potential business interruption losses if they have to shut down for an indeterminate period while a security flaw is fixed, according to Mr. Heiser. At present, there is no insurance product for cloud providers to transfer this risk, given the risk aggregations involved.

"The potential losses for a cloud vendor that has thousands of clients whose businesses may be interrupted has thus far deterred insurers and reinsurers from absorbing this risk," said Mr. Heiser, "but I believe this is a big opportunity for the industry."

There is, however, a robust cyber insurance market to transfer first-party and third-party cloud-based data-breach losses, as well as business interruption and other financial exposures. The market has matured in the past five years to the point where several insurers offer free breach notification and credit monitoring of victims, Mr. Parisi said. The cost, meanwhile, is down about 20% over the last five years for roughly commensurate coverage terms, conditions and financial limits, according to Mr. Parisi.

Mr. Navetta, who formerly worked in the legal department of American International Group Inc., said cyber insurance is a valuable asset for companies migrating IT systems to the cloud.

"There is more competition and better pricing," he said. "If risk managers haven't looked at this, the time to do that is now."

**'In many cases, organizations are making the decision to use cloud services without bringing in risk management.'**

Alan Brill, Kroll Inc.

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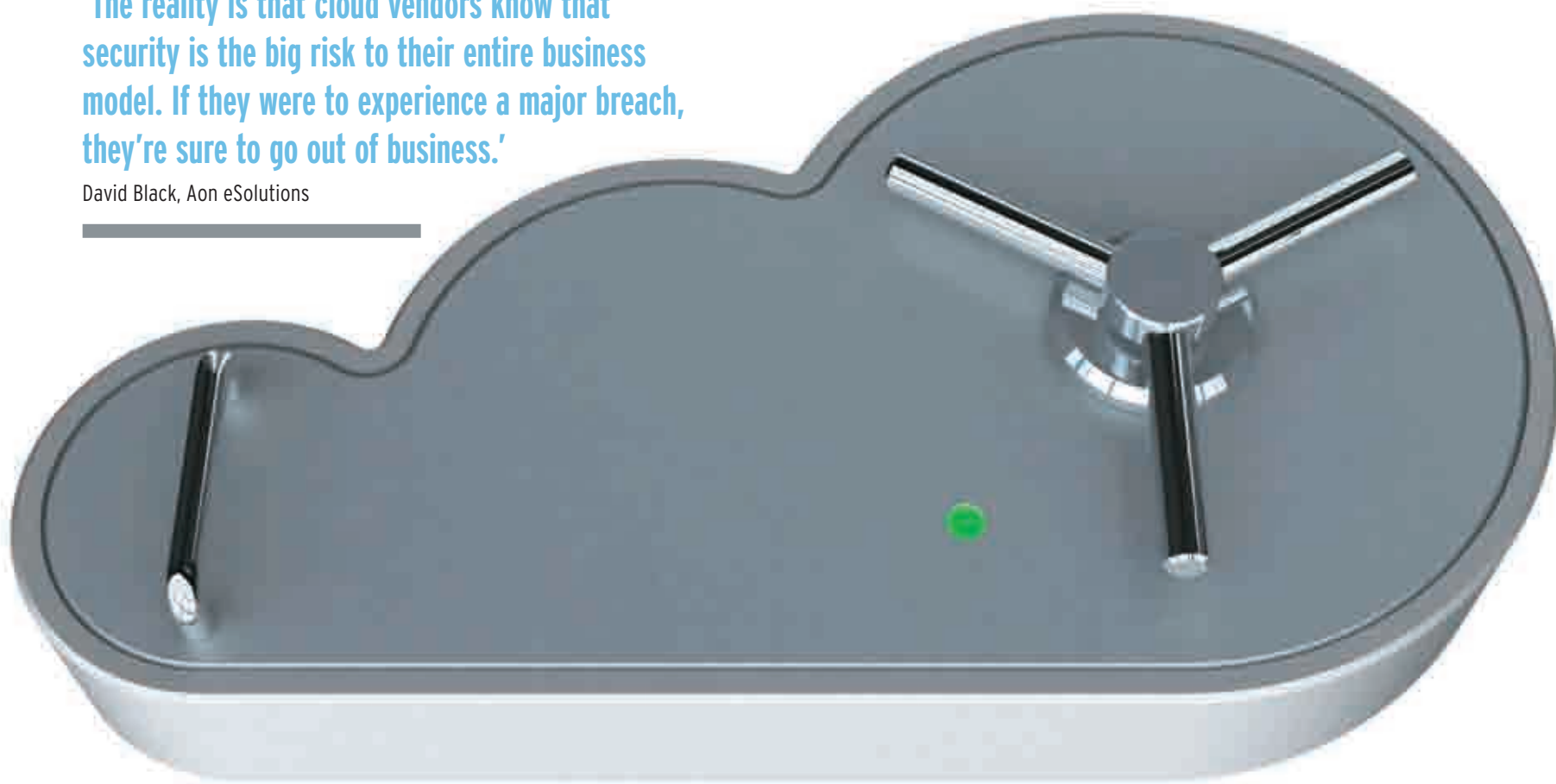
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**'The reality is that cloud vendors know that security is the big risk to their entire business model. If they were to experience a major breach, they're sure to go out of business.'**

David Black, Aon eSolutions



# Few data breaches in the cloud—for now

*With so much at stake, vendors focused on security*

By **RUSS BANHAM**

Data breaches seem to be everywhere these days except the one place everyone fears—the cloud.

Despite major breaches in 2011 affecting Expedia Inc.'s Trip Advisor, email marketing provider Epsilon Data Management L.L.C., Sony Corp.'s online entertainment services, and the Institute of Electrical and Electronics Engineers—to name a scant few—cyber criminals for the most part have kept their activities, well, earthbound. The cloud may be the place with more competitive, proprietary and personal information locked away; but other than a handful of reported breaches, it's either impenetrable or has been largely left alone.

"Most of what we've seen happen are breaches that result in downtime, but not the loss of personally identifiable information like customer and employee Social Security numbers and birthdates—at least not yet," said David Navetta, a partner at Denver-based Information Law Group. "That's the big concern, of course, since a single cloud provider may house sensitive information on tens, if not hundreds, of thousands of individuals."

This experience stands in stark contrast to data breaches of corporate systems. Through Dec. 16, 2011, Privacy Rights Clearinghouse had tracked 535 breaches involving 30.4 million sensitive records. Since 2005, the organization has identified total reported breaches involving at least 543 million records, and this is a "conservative number," according to information posted on the organization's website.

Of late, hackers seem to be lowering their sights to midsize and smaller enterprises,

which also store a treasure trove of personally identifiable information but generally lack the security measures of their larger counterparts.

Of the 761 data breaches investigated in 2010 by the U.S. Secret Service and Verizon Communications Inc.'s forensics analysis unit, 63% occurred at companies with 100 or fewer employees. And a 2011 survey by security systems provider Symantec Corp. of more than 2,000 small and midsize enterprises indicated that 73% had been breached by a cyber attack, with the average

**63%**

Of the 761 data breaches investigated in 2010 by the U.S. Secret Service and Verizon Communications Inc.'s forensics analysis unit, 63% occurred at companies with 100 or fewer employees.

annual cost per organization pegged at \$188,242.

Why aren't cyber criminals aiming higher—in the cloud? One can argue that vendors are acutely cognizant of the reputational risk of a major data breach involving consumer information and, therefore, have battened down the hatches. As Jay Heiser, vp of research at technology consultant Gartner Inc., puts it, "Cloud providers put more emphasis on security than other entities. If they didn't, they'd fall over."

Others agree. "Potential data breaches in the cloud are talked about a lot, but there hasn't been much to point to," said David

Black, chief information security officer at Aon eSolutions, the technology solutions business of Chicago-based Aon Corp. "The reality is that cloud vendors know that security is the big risk to their entire business model. If they were to experience a major breach, they're sure to go out of business."

Yet another reason for the relatively low number of cloud breaches was offered by David Roath, risk assurance partner at PricewaterhouseCoopers L.L.P. and leader of the consultancy's information technology security practice: "Their reputation depends on not incurring a breach; consequently, they will do everything they can, if there is a breach, to ensure it isn't made public."

Not that there haven't been some partings of the cloud.

"Google had a big failure in March (2011), involving the deletion of 150,000 Gmail users' emails, applications, contact and calendar information—basically their entire accounts," Mr. Heiser said. "The email contents and contact contents were just gone. Google attributed this to a software upgrade that had unexpected consequences. It took Google four days to fully restore data to the impacted users, which is a very long time, given that Google characterized this as impacting much less than 1% of its accounts."

Similar cloud computing applications include Microsoft Corp.'s Azure and Apple Inc.'s MobileMe and iCloud offerings. The Microsoft Business Productivity Online Suite, aimed at commercial enterprises, reportedly was hit with a data breach in 2010, and customers of the BPOS cloud service apparently could download information on other customers of the suite, albeit inadvertently. The technology giant said it resolved the issue within two hours of its discovery, and only a few customers were involved, according to reports.

Other commercial cloud vendors have

suffered breaches, such as GoGrid, which reported last March that an unauthorized third party possibly had viewed its customers' account information, including payment card data.

According to GoGrid, the provider took immediate action, notifying federal law enforcement authorities. In a letter to customers, GoGrid stated that it believed the situation had been contained and that there was no indication that customers' personally identifiable information had been shared with unauthorized parties.

Online cloud storage provider Dropbox Inc. experienced a different outcome—a class action lawsuit brought by users in July 2011 for failure to secure their private data and immediately notify them about a recent data breach. Plaintiffs alleged that Dropbox did not encrypt the personal data it stored according to industry best practices, according to reports.

While reported data breaches involving cloud vendors have been limited, some recent closures of providers raise concerns over performance reliability. In some cases, the vendors have been vague about the cause of their demise.

Coghead, a popular "software as a service" cloud vendor closed shop in 2009, attributing its closure to economic reasons.

In addition, Mr. Heiser said Gartner had learned from several sources that SaaS-based contract management application provider Mumboe Inc. had told its customers in late October that "they had two weeks to pick up their data before the cloud was permanently grounded." Mumboe could not be reached for a comment.

"We've been suggesting for quite some time that procurement organizations need to develop new skills, not only for the procurement of SaaS applications but also for the ongoing monitoring of provider viability," Mr. Heiser said.

# Insurers buy doctor practices as health landscape shifts

By **REBECCA VESELY**

They say politics makes strange bedfellows. The rapid transformation of health care is making strange ones, too.

High-profile deals between major health insurers and physician practices are a prime example. In recent months, multiple insurers have moved to acquire physician practices. In November, UnitedHealth Group Inc.'s Optum business closed on its acquisition of Irvine, Calif.-based Monarch HealthCare, an independent practice association with 2,300 physicians, for an undisclosed sum.

In August, UnitedHealth rival WellPoint Inc. completed its \$800 million acquisition of CareMore Health Plan, a Medicare Advantage plan in California, Nevada and Arizona that operates 28 neighborhood care centers. WellPoint said it plans to expand the care-center model to other markets it serves.

In November, Humana said it would purchase SeniorBridge Family Cos., an in-home chronic-care manager with 1,500 care providers, for an undisclosed sum. That acquisition came about a year after Humana scooped up Concentra, which operates urgent and occupational care clinics, for \$790 million.

The deals are raising eyebrows among physicians and raising the hackles of some competing health plans in affected markets. Although some analysts decline to call it a trend, it is clearly a move by insurers and physicians to gain competitive advantage.

"I think this is largely symptomatic of the disruption in the health care system," Dr. Glen Stream, president of the American Academy of Family Physicians, said of the insurer-physician deals. "What we are really seeing is a lot of stress in our health care system and various attempts to respond."

Federal health care reform—which includes programs that aim to give patients better care coordination and outcomes for a lower cost—accelerated the trend, but it started well before, Dr. Stream said. "The complexities of health care finance are what's driving this," Dr. Stream said, as well as the move away from solo and small group practices.

Analysts caution that the deals are not part of some larger scheme for payers to directly deliver health care. UnitedHealth Group executives said as much at their investor day in December.

"It isn't so much about them getting into the business of care delivery as it is creating access for their members," said Bridget Maehr, senior financial analyst at A.M. Best Co. Inc.

Whatever the motivation, valuations will go up with insurers and hospital systems on the hunt for physicians to acquire, Best ana-

lysts said. Large insurers, such as UnitedHealth Group, have accumulated a lot of cash and are willing to pay top dollar.

Ms. Maehr said insurers are especially keen for their members to have access to primary care providers. This is because millions of uninsured Americans are expected to gain access to coverage through state-based health insurance exchanges launching in 2014. Under the health care reform law, nearly all Americans will be required to carry health insurance in 2014, and insurers will no longer be able to deny policies based on pre-existing medical conditions. "There's already a primary care provider shortage," Ms. Maehr said. "Health plans are saying, we need to create access points for our membership."

## 'The same vision'

While that may explain why insurance companies would pursue physicians, it may be harder to answer why physicians would indulge those advances rather than form alliances with other physician groups or hospitals and health systems.

When Monarch HealthCare began putting out feelers to potential partners, "Everyone you can imagine contacted us," said Dr. Bart Asner, CEO of the California practice association. "Then Optum showed up on our doorstep."

Dr. Asner said the organization concluded that UnitedHealth's Optum will be able to deliver on what the physicians need to be successful moving forward. More broadly, Optum has "the same vision and values of caring for our patients," Dr. Asner said.

The Monarch board of directors, which is entirely composed of physicians, decided they would need three things to deliver superior care to their 76,000 HMO patients: upgraded technology, clinical programs and capital for growth.

Monarch has been rolling out electronic medical records, but the financial commitment to do so has been high. "As fast as we are doing this, we need to do it faster," Dr. Asner said. "Optum has the capital to do that."

Monarch also is seeking to expand its clinical care programs. "Optum has expertise in mental health programs, which is not a source of strength for us," Dr. Asner said. An Optum division called Inspiris offers care to homebound patients, which was attractive to Monarch, he added.

Monarch physicians conducted site visits at other Optum-owned physician groups to see what the company could offer. Dr. Asner personally visited Lifeprint, an Optum-owned network of 450 physicians and hospital partners



in Phoenix, and came away impressed. "They've put together a state-of-the-art chronic care clinic with telehealth," he said. "I've never seen anything like it."

Optum's business includes integrated care delivery, care management, consumer engagement, health information technology (including Insight, formerly called Ingenix Inc.), pharmacy benefit management and health financial services. Optum owns independent practice associations and

medical groups in five states: Arizona, California, Florida, Nevada and Texas. These practices, including Monarch, are folded into the company's OptumHealth Collaborative Care delivery system branch, Dr. Asner said. Optum referred all questions about its acquisition of Monarch to Dr. Asner.

## UnitedHealth doubles down

Analysts say UnitedHealth Group is doubling down on its Optum line of services. "It's clear

to us that United will continue to make strategic investments in its Optum business," Citigroup Inc. senior analyst Carl McDonald said in a recent investor note.

UnitedHealth Group has estimated that the total market of its Optum business represents a \$500 billion opportunity and that Optum only has 6% of that market share. The company is projecting that it can grow its market share at 9% a year by 2020, Mr. McDonald wrote. Optum accounted for about 7.6% of total UnitedHealth earnings in 2010, or \$610 million. Meanwhile, UnitedHealth Group has the capital to invest in providers. The Minnetonka, Minn.-based insurer has about \$5 billion available in 2012 for mergers and acquisitions and other capital needs, according to Citigroup.

Dr. Asner stressed that Optum has autonomy from UnitedHealth Group's insurance division, UnitedHealthcare. "Optum has its own infrastructure and leadership separate from the insurance piece," he said. "We contract with every major health plan in California. The health plan side didn't even know about this until it was announced."

But other payers are skeptical about the firewalls between Optum and the insurance side. On Dec. 1, Blue Shield of California, a San Francisco-based insurer, announced it would no longer contract with Monarch physicians effective May 1, 2012.

"By assigning its contract with Blue Shield to United without Blue Shield's consent, Monarch

See **PRACTICES** next page

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# Practices: Insurers buy physician operations

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effectively breached the contract," Blue Shield said in a statement.

Blue Shield is now alleging that Monarch physicians were refusing to make appointments with Blue Shield members and that Monarch is urging Blue Shield members to switch health plans via recorded phone calls.

"These actions have confused and frightened patients and are clear violations of Monarch's contract with Blue Shield," the health plan said in the statement. "In light of these breaches, Blue Shield is preparing to take legal action against Monarch."

About 20,000 Blue Shield members have a primary-care physician affiliated with Monarch, according to the insurer.

For his part, Dr. Asner called Blue Shield "an outlier" and said all other major insurers plan to continue to contract with Monarch. The IPA added a carrier recently, with Humana signing on starting in 2012, Dr. Asner said. "It's absolutely baffling to me," he said of Blue Shield's decision to pull out. "It's illogical. Their decision is going to create disruption for patients, and I just think that's not right."

Blue Shield declined to comment further beyond its statement.

Another carrier has also changed course since the Optum

buy. Anthem Blue Cross of California, which is owned by WellPoint, has pulled out of an accountable care organization pilot with Monarch. The pilot is one of five around the country launched by the Engelberg Center for Health Care Reform at the Brookings Institution and the Dartmouth Institute for Health

**'We wanted to partner with a player with lots of market share and lots of markets. We were little, and we were in need of a bigger playground to play in.'**

Alan Hoops, CareMore

Policy & Clinical Practice.

An Anthem spokesman confirmed the decision and said current Monarch physician contracts won't be affected.

Monarch, which recently was chosen as one of 32 participants in the CMS Innovation Center's Pioneer program for ACOs that are ahead of the curve, is in talks with two other health plans interested

in joining the ACO, and Dr. Asner said he expects to have either one or two health plan partners in place by mid-2012. Optum is working with Arizona's Tucson Medical Center and area physicians on an ACO. Tucson Medical Center is also a Brookings-Dartmouth pilot site.

WellPoint, meanwhile, is likewise putting resources into the business of providing care, paying \$800 million to acquire CareMore. The company operates clinics that support the enrollees in its Medicare Advantage plans and specialized plans for patients with chronic illnesses.

WellPoint plans to expand that model into markets beyond the ones in California, Arizona and Nevada, where CareMore already operates. A WellPoint spokesman said the intent of the deal is to better serve senior members with chronic conditions. "Are we buying physicians? No," a spokesman said. "It's more the secret sauce; it's the model."

Alan Hoops, chairman and CEO of CareMore, said the decision to sell to WellPoint came down to the insurer's ability to expand the company. "We wanted to partner with a player with lots of market share and lots of markets," Mr. Hoops said. "We were little, and we were in need of a bigger playground to play in."

CareMore, which started as a medical group in the early 1990s, currently serves about 65,000 seniors and employs about 40 staff physicians as well as nurse practitioners and an array of other clinicians to serve seniors with multiple chronic conditions who need intensive case management. Now a division of WellPoint, CareMore is working to establish relationships with providers in four new states where WellPoint operates; WellPoint declined to say which ones. CareMore also is readying its Medicare bids for 2013 to expand its Advantage plans.

Observers and participants in these new configurations say whether physicians work for bosses whose primary business is providing health care or paying the bills won't determine the quality of the care.

The AAFP's Dr. Stream is keeping an open mind. "What is most important for us is that patients get the best care, that it is coordinated care and that it is wellness-oriented," Dr. Stream said. "How that system gets formed can take a number of paths."

Dr. Asner said he's surprised at Monarch's left-turn union with Optum. "Not 10 years ago I would not have thought of something like this," Dr. Asner said.

He added that up until recently, the trend was of physician practices buying physician practices and hospitals buying hospitals and everyone getting larger. "But this is no longer about having greater market share," Dr. Asner said. "This is about getting better delivery of care to patients."

Rebecca Vesely is a freelance writer based in San Francisco. She is a former reporter for *Modern Healthcare*, a sister publication of *Business Insurance*.

## UP COMINGS & GOINGS CLOSE

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# Perspectives

Having workers get back on the job safely and early is a tremendous social and economic benefit that predictive modeling is helping to achieve, says Amel Arhab, Boston-based manager at Deloitte Consulting L.L.P. Severe workers compensation injuries, moral hazard, unnecessary litigation, and soft and hard fraud are issues that predictive modeling is helping to mitigate or avoid altogether thanks to large digital data captures and a combination of statistical analysis and technology, she says.

## Predictive modeling in digital age

By Amel Arhab

In today's digital world, the rapidly declining cost of computing power and digital storage have created a multitude of business opportunities to develop deeper and more complex insights about an organization's data.

Predictive analytics are being used to recognize and decipher these insights, understand their impact on the organization's profitability, help solve important business issues and identify new opportunities.

From analyzing clicks to suggesting new friends and business relationships on social media sites, analytics have taken over many aspects of life. With the rise of data collection and digital "footprints," the use and impact of data analytics will continue to increase. The insurance industry is no exception to this trend. In fact, insurance companies have been one of the earliest adopters of data analytics.

The use of data in the insurance industry started in the 19th century with simple analyses focused on underwriting marine insurance and pricing life insurance. These analytics have since evolved to significantly more complex multivariate models that focus on important areas such as underwriting, price optimization, strategic marketing and insurance claim processing.

The latter is the subject of this article, which will help illustrate how predictive analytics are being used in workers compensation claims to decrease costs, increase recoveries, improve resource assignments and generate savings to the bottom line.

### What is data analytics?

Data analytics, predictive modeling and business intelligence all are terms that are used interchangeably in the industry today. They point to the notion of using statistics and technology on vast amounts of internal and external data to solve business problems.

Specifically, data analytics in the claims world refer to the use of large informational datasets (e.g., premium records, claim transactions, policy files, third-party vendor databases etc.) combined with statistics to link, decipher and extract insights from all this information (e.g. data mining or other statistical techniques), and leverage technology to take appropriate business actions based on

these insights.

The use of analytics in workers compensation insurance is largely considered table stakes when it comes to the underwriting of new and renewal business. In fact, organizations that are not leveraging analytics in the underwriting process likely are at a disadvantage and may be exposed to adverse selection from competitors in the marketplace that do utilize analytics. Insurance companies are actively expanding their analytics reach into newer areas, notably the claims management space, to reduce spending, enhance resource allocation and increase recoveries.



Ms. Arhab

### Claim life cycle

From claim occurrence and first notice of loss to claim resolution and closure, opportunities exist to positively impact the claim's life cycle and realize social and economic benefits. Getting the injured employee back to work as safely and as quickly as possible is everyone's priority.

Fair and effective settlements are achieved by responding to the first notice of loss proactively: recognizing the level of claim complexity, specialty resource needs and attention level required.

However, limited and immature information available at the first notice of loss coupled with deeply rooted traditional practices are slow to recognize specialized needs in many cases. This is precisely where analytics can help. By focusing on such information, supplementing it with third-party data, and applying complex analyses, analytics are able to help recognize claim intricacies and forecast likely outcomes as early as the first day.

More precisely, workers compensation claim predictive models have matured during the past five years and organizations utilizing advanced analytics now know what type of information is important to look for at the first notice of loss. From intuitive and available characteristics (e.g. age and gender) to more complex information (e.g. lifestyle behavior of the individual and how that relates to the individual's household), these models have become more advanced at recognizing if a claim just reported likely will end up being:

- A complex, long-duration claim that would require medical resource and/or legal attention, vs.
- A simple medical-only claim that should be paid and closed without contact.

Having a model that helps pinpoint complex claims can allow claim department professionals to take the most appropriate actions earlier in the claim's life cycle (e.g. likely the first day claim is filed). Early action helps reduce or avoid inefficiencies that result from reassignments, unnecessary claim escalation, and the loss of time and information between adjusters' hand-offs.

### An example of model impact

Take the case of a workers compensation claim that was just reported to the insurance company. Based on the company's rules in place (e.g. young worker, soft-tissue injury and a clerical work classification), this claim was assigned to a lower-tier adjuster.

Actions taken by the lower-tier adjuster were limited to a telephone interview with basic injury and claim characteristics questions. A claim then was opened, processed and payments paid as bills are filed with minimal investigation. This same claim was scored by a workers compensation predictive model and returned a score indicating a high complexity potential. In looking at the main drivers of the model score, it was found that the claimant was in poor financial condition, lives more than 50 miles from work and has filed multiple workers compensation claims in the past three years.

All these elements tend to increase duration due to moral hazard: Such claimants tend to file multiple claims and stay out of work longer than needed. Additional investigation revealed that the claimant had multiple co-morbidities including hypertension and diabetes, which typically increase the time to heal from any medical condition. For all these reasons, the model predicted a much higher duration and severity than expected for a soft-tissue injury on a younger clerical worker.

Had the predictive model been in place, the claim would have been assigned to a higher-tier adjuster with the authority to deploy a nurse on the case and other medical resources to speed the claimant's recovery. Given the high score, the higher-tier adjuster likely would have kept a close eye on the claimant and conducted frequent conversations to help reduce the company's exposure to moral hazard and keep the claim duration closer to expectations.

The high score also may have prompted the experienced adjuster to put in place a litigation mitigation plan, because high-scoring claims have historically displayed stronger propensity to move

toward litigation. A litigation mitigation plan might include frequent courtesy calls to the claimant and a more focused customer service approach to help avoid the claim from moving towards litigation.

### Beyond first notice of loss

As time goes by, complex claims that drive most of an organization's cost typically stay open. During that time, more information becomes available on the claim: The medical diagnosis evolves to its ultimate state, pharmacy and medical bills become available, and treatment patterns become known. Predictive models are being designed to absorb this continuous feed of information to improve any predictions made. As a result, we see through-time predictive models become stronger over time due to this supply of additional information.

Using the prior claim example, the claimant's treatment patterns were examined in terms of chiropractic visits. According to industry norms for this state and medical diagnosis, the treatments were expected to be in the single-digit range during the first month of injury and decrease until the sixth month—after which they were expected to cease. This claimant's treatments, however, were observed to be double-digit counts in the first three months before starting to decrease and cease on the 10th month. This overtreatment may suggest a moral hazard that has been observed and quantified in the past. Therefore, the predictive model adjusted to this information month after month to sustain a higher score after the first notice of loss. This indication helps arm the adjuster and nurse practitioner with the information they need to have a proper discussion with the claimant and medical provider to determine whether any treatments are truly needed.

### Getting the employee back to work

Having workers get back on the job safely and early is a tremendous social and economic benefit that predictive modeling is helping us achieve. Severe injuries, moral hazard, unnecessary litigation, and soft and hard fraud are issues that predictive modeling is helping to mitigate or avoid altogether thanks to large digital data captures and a combination of statistical analysis and technology.

By creating a highly effective path for recovery and return-to-work, we are participating in creating a tremendous social benefit that our workforce and economy truly needs.

Amel Arhab is a manager at Deloitte Consulting L.L.P. in Boston.

# Aon: Brokerage moving headquarters to London

CONTINUED FROM PAGE 1

London market provides capacity and expertise in many specialty risk areas, he said.

Mr. Case will maintain a presence in Chicago and London. Up to 20 Aon staff members, including about 50% of the executive committee, will transfer to London as part of the move, including Steve McGill, chairman and CEO of Aon Risk Solutions; Christa Davis, chief financial officer; and Peter Lieb, executive vp and general counsel. Aon already has a substantial operation in London with about 10% of its 60,000-member staff based there. Aon places about 20% of all business placed into the London market, an Aon spokesman said.

Aon said the move will not lead to any staff reductions in Chicago. Rather, it plans to move 750 staffers to Chicago from elsewhere in the United States and plans to add 1,000 U.S. positions.

"We'll be adding jobs across the U.S. as our business continues to grow," Mr. Case said.

The new staff will be concentrated largely in Aon's HR solutions sector, and the states that will see the largest recruitment will be Florida, Illinois, North Carolina and Texas, Mr. Case said. According to Aon's filing with the U.S. Securities and Exchange Commission on the proposed move, Aon is "working on a special jobs initia-

tive with the city of Chicago."

Chicago will remain the headquarters for Aon's Americas operations. Its benefits consulting unit, Aon Hewitt, will continue to be based in Lincolnshire, Ill., Mr. Case said.

However, "we want to expand the Aon Hewitt brand globally," and the corporate headquarters move will help the unit develop its retirement, benefits and human resources consulting business in Europe, he said.

Aon also expects to reap tax benefits from the move.

In the SEC filing, Aon said it expects to "drive significant value to shareholders" under the U.K. territorial tax system in three primary ways. Aon said it expects "greater financial flexibility of future free cash flow." It also will have access to about \$300 million of excess capital held internationally on the balance sheet upon the close of the transaction.

Thirdly, the brokerage expects to increase "future cash flows through a significant reduction in our global effective tax rate, due primarily to changes in the geographical distribution of income," Aon said in its filing. "A reduction in our global tax rate over the long term, similar to the reduction achieved over the last five years, would allow Aon to remain competitive with certain global competitors."

According to the Deloitte International Tax Source online

database, the maximum U.S. corporate tax rate can reach 39.5%, while the maximum U.K. statutory corporate tax rate is 26% and slated to drop to 25% on April 1. The state of Illinois imposes one of the highest state corporate tax rates at 9.5%, a rate that took effect last year.

Among the moves shareholders must approve is Aon changing its incorporation from Delaware to England. Shareholders would receive one share of the newly

**'The corporate tax rate in the U.K. is lower than it in the U.S. I would emphasize that they're coming from Illinois.'**

Meyer Shields, Stifel Nicolaus & Co.

formed English public limited company for each share of common stock if they approve the change. Aon U.K. expects to be listed on the New York Stock Exchange.

The transaction is expected to close in the second quarter.

Lloyd's of London welcomed Aon's intended move.

"This is very good news for the London insurance market and for Lloyd's," Lloyd's Chairman John Nelson said in a statement. "It will help reinforce London's position in the global insurance marketplace."

Aon is one of several insurance-related companies to change domiciles over the past several

years. Its brokerage rival Willis Group Holdings P.L.C. redomesticated from Bermuda to Dublin in 2010, and insurer XL Capital P.L.C. redomesticated from Cayman to Dublin in 2010.

Over the past several years, other international insurers and reinsurers have redomesticated to Switzerland and Bermuda. London, though, is rarely chosen as a redomestication site by large insurance-related firms.

Market analysts said the move

makes sense, both for enhancing access to emerging markets and for financial reasons.

"The way I look at it is whenever you give a list of reasons for something, the most important reason is the last one," said Meyer Shields, director at Stifel Nicolaus & Co. in Baltimore. "That's financial flexibility embedded in lower tax rates and capital access."

"The corporate tax rate in the U.K. is lower than it in the U.S.," he said. "I would emphasize that they're coming from Illinois, which has been less hospitable to corporations."

"It's an interesting story. This is

more about financial flexibility and cash flow," said James Auden, an analyst with Fitch Ratings Inc. in Chicago. "It makes sense strategically given where their business is. They are a global company, and a large percentage of their revenue comes from overseas."

"Taxwise, it's got to be good for them," said Mark Dwelle, an insurance analyst with RBC Capital Markets, a unit of RBC Dominion Securities Inc. in Richmond, Va. "Illinois just raised their taxes substantially."

"Strategically, it's something that makes some long-term sense for them," Mr. Dwelle said. "In the long run for the industry, emerging markets is where the growth will be."

"Emerging economies have been growing faster than developed economies for some time, and we expect that to continue," said Bruce Ballentine, an analyst in New York at Moody's Investors Service Inc. "Aon already has a major international presence and seems to be emphasizing access to those markets and further growth in those markets through the proposed move to London."

"From a financial standpoint or ratings standpoint, we don't think it will change things," said Fitch's Mr. Auden.

Standard and Poor's Corp.'s rating service issued a bulletin on Friday that said the move would not affect its ratings of Aon.

Aon's shares closed down 39 cents, to \$46.28, on Friday amid a generally declining market.

## Religious: School dodges ADA charge

CONTINUED FROM PAGE 4

weekly chapel service for the entire school.

Ms. Perich was terminated in 2005 after the school refused to reinstate her after a disability leave, although a doctor said she

could return to work with no restrictions. She then filed suit, claiming discrimination and retaliation under the ADA.

A lower court agreed with the school that it was entitled to a "ministerial exception" to the ADA and dismissed the case.

However, in its unanimous opinion in 2010, the 6th U.S. Circuit Court of Appeals in Cincinnati disagreed, stating that "legislative history makes clear that Congress intended the ADA to broadly protect employees of religious entities from retaliation on the job, subject only to narrowly drawn religious exemption." Ms. Perich's participation in some religious activities "does not make her primary function religious," the appeals court said.

In overturning the appeals court, the Supreme Court said that while it has not ruled on this issue until now, it agrees with appeals court rulings that there is a ministerial exception grounded in the First Amendment.

"The members of a religious group put their faith in the hands of their ministers. Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the church,

depriving the church of control over the selection of those who will personify its beliefs," the high court ruled.

The ministerial exception applies in this case based on "the formal title given Perich by the church, the substance reflected in that title, her own use of that title and the important religious functions she performed for the church," the court ruled. "We conclude that Perich was a minister covered by the ministerial exception."

"When a minister who has been fired sues her church alleging that her termination was discriminatory, the First Amendment has struck the balance for us. The church must be free to choose those who will guide it on its way," the court ruled.

Douglas Laycock, professor of constitutional law at the University of Virginia in Charlottesville, Va., who represented the church in the case, said the ruling "will considerably reduce the litigation in this area." People "who are clearly ministers will no longer file lawsuits," he said.

Gerald L. Maatman Jr., a partner with Seyfarth Shaw L.L.P. in Chicago, characterized the opinion as a "courthouse door closer"—meaning that the ruling will make it more difficult for church employees to find counsel to litigate their cases—"because the ministerial exception is given a very broad reading. And given the circumstances and facts in this case, it seems difficult for anyone

to get around the ministerial exception, practically speaking," said Mr. Maatman, who was not involved in the case.

Nathan Adams, a partner with Holland & Knight L.L.P. in Tallahassee, Fla., said the decision provides an "affirmative defense to claims by individuals held out to be ministers, and so to that extent it is likely to be an additional ground" to have their cases dismissed at an early stage.

Plaintiff attorney Paul W. Mollica, of counsel at Outten & Golden L.L.P. in Chicago, said if you go back to the case law on this, it has been recognized since the 1960s that religious school teachers, for example, tend to have the ministerial exemption "because they have a pedagogical mission of promoting the religious space."

"Now, if we were talking about somebody who was in the office, a secretary, or somebody who was not involved in teaching students, you might be talking about another issue altogether," Mr. Mollica said.

Jeffrey A. Pasek, a defense attorney with Cozen O'Connor P.C. in Philadelphia, said the opinion did leave "open how far religious organizations can go in the future in defining categories of employees who are 'ministers.'"

In this case, Mr. Pasek said the plaintiff was a "called teacher" who performed the same duties as lay teachers. "It's not clear whether the court's decision would extend" to the lay teachers as well, he said.

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The Midwestern Higher Education Compact (MHEC-pronounced mek) is soliciting proposals from insurance brokerage firms for administrative services for its programs of insurance. MHEC's current program of insurance is the Master Property Program with 50 colleges and universities insuring more than \$79 billion in values.

Participation in a pre-bid webinar on January 25, 2012, is mandatory. Brokerage firms seeking to be a candidate for program administrator are NOT authorized to approach any markets on MHEC's behalf.

Proposals will be received by the Midwestern Higher Education Compact office no later than Monday, March 12, at 4:00 PM CDT, at which time they will be opened and reviewed. The Request For Proposal may be obtained on MHEC's website at: [www.mhec.org/rfps](http://www.mhec.org/rfps) as of Wednesday, January 11, 2012. Questions should be directed to Mary Roberson, MHEC Director of Communications and Marketing, [maryr@mhec.org](mailto:maryr@mhec.org).

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# Products & Services

## Schinnerer launches artisan E&O policy

**CHEVY CHASE, Md.**—Victor O. Schinnerer & Co. has launched an errors and omissions policy for specialty and artisan construction contractors.

The product is designed to protect specialty trade contractors from professional liability exposures, including claims for faulty workmanship or defective materials and products. Elements of the policy were modeled after the Chevy Chase, Md.-based underwriting manager's existing professional and pollution insurance products for general contractors.

"We want to offer our artisan contractor policyholders an insurance solution that speaks to their unique exposures," Emerson Browne, vp and manager of the contractor program at Schinnerer, said in a statement. "Many artisan contractors don't have a design liability exposure. Their biggest exposure is typically faulty workmanship claims, which our new E&O policy covers."

The minimum premium for the coverage is \$4,200 with limits up to \$5 million, according to the statement. Minimum self-insured retention is \$5,000 with 5% coinsurance.

The E&O policy for specialty contractors, which is available nationwide as excess and surplus coverage, is underwritten by CNA Financial Corp., Schinnerer said.

For more information, contact Cady M. Sinks, assistant vp for Schinnerer, at 301-951-6939 or [cady.m.sinks@schinnerer.com](mailto:cady.m.sinks@schinnerer.com).

## RiskMeter Online adds wildfire reporting service

**BOSTON**—RiskMeter Online, an Internet mapping service that provides insurance agents, brokers and underwriters real-time natural hazard risk reporting for any property in the United States, has added Texas wildfire reporting as part of its services.

The report will return a property's proximity to wildfire risk for properties in Texas by entering an address or uploading a book of business, the Boston-based unit of CDS Business Mapping L.L.C. said

son, founder of RiskMeter, in the statement.

Including Texas, the tool for wildfires now provides reporting for 15 states, RiskMeter said, noting that extreme wildfire events in Texas could increase due to ongoing drought, hot dry winds, high temperatures and urban expansion.

"After consulting with our customers, we took their feedback and had our analysts create a Texas wildfire report. This tool will allow RiskMeter's users to quickly and easily screen new business for the proximity to wildfire risks, as well as to evaluate the overall threat to their current book of business," Mr. Munson said.

For more information, contact

Mr. Munson at 617-737-4444 or [dmunson@cdsys.com](mailto:dmunson@cdsys.com).

## Momentous Insurance starts equine practice

**VAN NUYS, Calif.**—Momentous Insurance Brokerage L.L.C. has launched an equine specialty practice for horse owners and horse-related businesses.

The Van Nuys, Calif.-based brokerage, which specializes in insurance for high-net-worth individuals; film and television productions; and music and touring companies, among others, established the equine practice to address luxury hobbies that blend private assets with business enterprise, Momentous said in a

statement.

"There are very few insurance brokers that focus specifically on equine insurance," Terri Peters, equine practice leader for Momentous, said in the statement.

The equine product offers personal equine liability, equine mortality coverage that includes medical coverage for the horse, commercial equine liability, farm and ranch liability, and property coverages, Momentous said.

"By coupling our expertise and launching this new specialty practice, we will be able to better serve the equine community," Ms. Peters said.

For more information, contact Ms. Peters at 818-574-0902 or [tpeters@mmibi.com](mailto:tpeters@mmibi.com).

in a statement.

RiskMeter provides more than 30 real-time reports using Internet mapping technology to determine the proximity to natural hazards, including flood zones, earthquake information and distance to coast, among others.

"Each year, wildfire events cause hundreds of millions of dollars in losses," said Daniel Mun-

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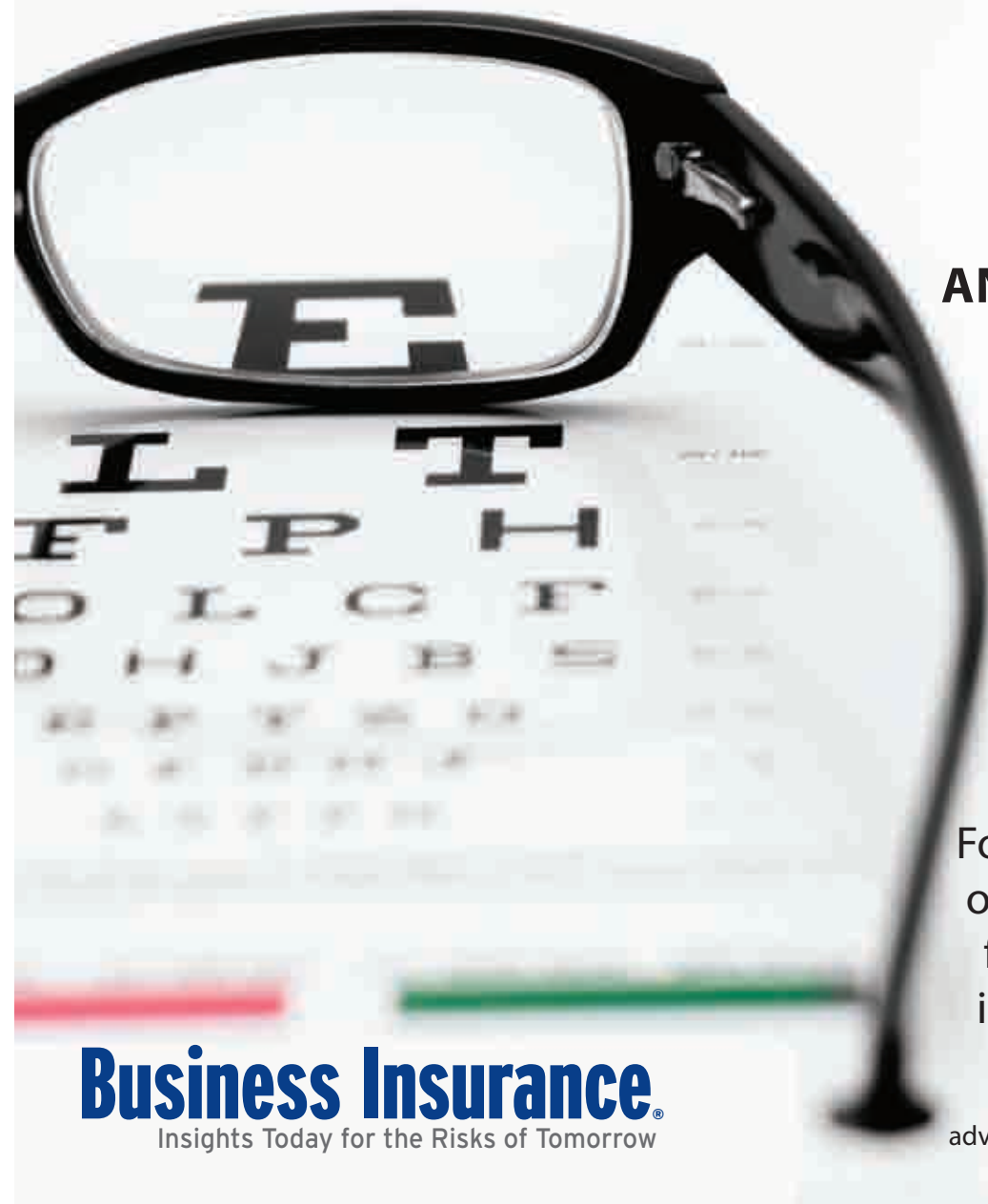
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# Health: Changes help curb spending

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With more brand-name drugs losing their patent protection, the percentage of prescriptions filled through cheaper generics has surged. Today, it isn't uncommon in a group plan for two-thirds of prescriptions to be filled with generics, a big change from 15 or so years ago when generics often accounted for just 45% of prescriptions, Mr. Levin said.

Experts also attribute the moderation of health care spending increases to sweeping changes—still ongoing—in the ways health care services are delivered. In particular, the growth of urgent care services has given consumers a

lower-cost alternative to hospital emergency rooms for certain services.

"Care is being delivered in more cost-efficient settings," said Jim Winkler, large employer market leader in the Norwalk, Conn., office of Aon Hewitt.

In addition, a growing number of medical procedures are being performed on an outpatient basis, further restraining cost increases, PwC's Mr. Thompson said.

Group health care plan redesign may—finally—also be a factor that is restraining costs.

During the past several years, a rapidly growing percentage of employers have embraced high-deductible health insurance plans.

Last year, for example, nearly one-third of employers with at least 500 employees offered a consumer-driven health plan linked to a health savings account or health reimbursement arrangement, up from just 5% as recently as 2005, according to New York-based Mercer L.L.C.

Many other employers have simply boosted deductibles. For example, the median deductible for individual coverage now is \$1,000 among preferred provider organizations that impose deductibles, according to Mercer.

Exposing employees to a bigger chunk of costs has, experts say, led many to become better health care consumers, making them

more likely to look for lower-cost ways of receiving services.

"By definition, a \$1,000 deductible is going to make you a better health care consumer," said Tracy Watts, a Mercer partner in Washington. "They will look for the most cost-effective alternatives."

Still, even as the growth of health care spending has eased, it continues to consume a record portion of the economy.

The nearly \$2.6 trillion that was spent on health care in 2010 amounted to a record 17.9% of the gross domestic product, the same percentage as in 2009.

As recently as 2000, health care expenditures came to 13.8% of GDP, while in 1980 health care spending amounted to just 9.2% of GDP.

# RRG: Report reaction

CONTINUED FROM PAGE 1

ulators and the courts.

The report suggests that those varying interpretations are "due in part to LRRRA's silence on certain issues such as registration requirements, fees and the types of insurance coverage RRGs can write, sometimes resulting in litigation between state insurance regulators and RRGs."

The GAO recommends that Congress clarify nondomiciliary state registration requirement and fee provisions, as well as provide a more specific definition of the types of coverage permitted under the LRRRA.

The long-awaited report updates the GAO's last analysis of RRGs. In that 2005 report, the GAO recommended implementing more uniform state regulatory standards. Since then, the new report notes, the National Assn. of Insurance Commissioners has revised its accreditation standards to align RRG regulation more closely with that of traditional insurers, including a risk-focused examination process for all RRG financial examinations begun during or after 2011.

"There are some good things in

it," said Robert H. Myers Jr., managing partner of the Washington office and co-chair of the insurance and reinsurance practice at Morris Manning & Martin L.L.P. In particular, Mr. Myers, who is general counsel to the National Risk Retention Assn., cited the report's finding that the RRG industry has grown and is financially sound.

"There were two parts that I thought were great," said David F. Provost, deputy commissioner of the Vermont Department of Banking, Insurance, Securities and Health Care Administration. "One was that they recognized that the NAIC has made progress in addressing the concerns they had in the last report."

"And their final conclusion was right on," said Mr. Provost. "There are certain things in here that people are interpreting in various ways, and the law shouldn't be subject to interpretation."

"If we have that much disagreement among reasonable people," Congress should clarify the act, Mr. Provost said.

But Mr. Myers said the NRRA was disappointed the GAO didn't recommend the organization's

suggestion to resolve disputes between RRGs and some state regulators.

"The GAO didn't really engage or come down with a recommendation regarding some of the issues we pointed out to them," Mr. Myers said. "We think the act is clear."

"We think the answer to this is what we have in our bill, H.R. 2126, which says the Treasury should exercise oversight," Mr. Myers said of the bill that would grant Treasury the ability to resolve disputes.

While existing law anticipates that disputes would be resolved in federal court, "most RRGs are small and don't have the money," he said.

Others also said the GAO report didn't go far enough.

While pleased that the GAO recommended congressional action, the NRRA is "disappointed that the agency's report failed to take a strong position in support of RRGs where certain states have imposed requirements that clearly are in direct conflict with the federal law," said Sanford Elsass, president and CEO of Alpharetta, Ga.-based Uni-Ter Underwriting Management Corp. and NRRA chairman.

Longtime RRG industry practitioner Jon Harkavy also is disappointed with the GAO report. "Ambiguity is really not the issue

in the law," he said.

"I would suggest that no matter how precise you make the language, certain states are going to ignore it," Mr. Harkavy said. "The only way you're going to get out of this 50-state Byzantine practice is some sort of federal intervention."

Mr. Myers said that while the GAO didn't take "the next logical step," the fact that it identified the differing interpretations of the LRRRA as a problem in need of congressional action was "somewhat positive." But most members of Congress seem to have many issues they consider greater priorities than RRGs, so "getting a law passed is a very difficult process."

"We see a very fractious Congress," said Mr. Harkavy. "And while the bill is very important to the risk retention group community, I don't see Congress speeding to act."

While the GAO report's recommendation makes the next move one for Congress, Mr. Provost said the NAIC Risk Retention Group Task Force, which is considering what accreditation standards should apply to RRGs chartered under state captive insurance laws, will review the report.

"It will be almost the only thing that's left for the Risk Retention Group Task Force to look at," he said.

# Claims: Some say comp frequency up

CONTINUED FROM PAGE 1

Although hiring remains anemic, the 18-month-long Great Recession ended in June 2009, according to the Cambridge, Mass.-based National Bureau of Economic Research.

Recently created jobs are lower paying, which tend to drive more claims than better paying jobs, said Neil Harrison, group managing director of risk control, claims and engineering for Aon Global Risk Consulting, a unit of Aon Corp. in Chicago.

"The sort of hiring that is going on is at the level in an organization that is likely to drive frequency up," Mr. Harrison said.

He said he believes improved employment numbers are starting to drive lost-time claim volume upward, amounting to a 2% to 5% increase.

Charles F. Martin, the Norwalk, Conn.-based national claims consulting practice leader at Marsh Risk Consulting, a unit of Marsh Inc., agreed that comp claim frequency is up, as is severity.

As the economy continues to improve, Mr. Martin said he believes claim frequency and severity will continue to increase.

However, not all workers comp professionals report seeing an increase in claims, while other observers are skeptical that there is a link between recent hires and

workers comp claims.

"It's way, way too early" to determine whether those just hired are responsible for recently filed claims, said Bruce Hockman, executive vp and workers comp practice leader in Philadelphia for Towers Watson & Co. "There isn't even enough anecdotal information to suggest one way or another."

Additionally, sources at several third-party administrators say they have not seen a spike in claim volume but note that still may happen.

"What we are experiencing is not really an increase in the actual number of claims," said G. Bryan Thomas, president, CEO and chair-

man of Danville, Ill.-based TPA Cannon Cochran Management Services Inc. "Rather, we are seeing an increase in employer payrolls, which ultimately should drive an increase in claim occurrences."

Aon's Mr. Harrison agreed there is not yet data to substantiate an ongoing trend.

"Is it too early to be scientific about it? Yes," Mr. Harrison said. "What we are sensing, though, is the volume is on the uptick. There is more discussion and concern than we have seen for 18 months or so from our risk manager clients about what the volume is going to be."

While the rise in claims is small, it does represent a reversal from claim volume decreases experienced during the depth of recession, Mr. Picone added.

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## JIF: Cover rates under pressure

CONTINUED FROM PAGE 4

rates, the industry is still a year or two away from "something we would call a 'firm' market."

Low interest rates and the resultant impact on investments are causing "extreme difficulty" for reinsurers in terms of delivering consistent earnings, Mr. Smith said. That problem will have to be solved with good underwriting and a willingness to increase prices, he said.

"We think there is rate deficiency in a lot of areas," the Swiss Re executive said. "Rates have to move up. There's just not enough income coming in to replenish capital."

Economic pressures have also had an impact on insurance buyers, said Shivan S. Subramaniam, chairman and CEO of Factory Mutual Insurance Co., which does business as FM Global. He noted that recent years have seen a "distinct reduction...in terms of commitment to risk improvement" as companies facing pressure on margins have reduced their risk management departments.

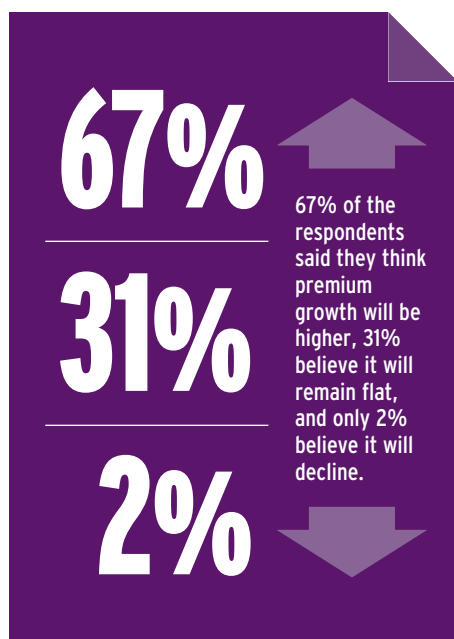
Meanwhile, the survey of attendees found that 72% believe the industry is in the early stages of a hard market, while 75% of the respondents said they expect an improvement in profitability.

In addition, 67% of the respondents said they believe premium growth will be higher, 31% believe it will remain flat, and only 2% believe it will decline.

Seventy-eight percent of the respondents said they believe the industry's combined ratio will be lower in 2012 than it was in 2011.

The survey was based on the responses of approximately 40% of the nearly 250 industry representatives who attended the forum.

Mark A. Hofmann contributed to this report.



## Global: Top risks identified

CONTINUED FROM PAGE 4

risk areas, which it called "X factors," that have the potential to grow in importance but currently have unknown consequences.

"Without a doubt, the most important thing risk managers can do is try to create an environment that fosters transparency and trust" within their organizations so there is an awareness of potential risks, said David Cole, chief risk officer at Zurich-based Swiss Re Ltd.

He added that while it would not be desirable for all risks to be eliminated—because with risk also comes opportunity—there needs to be an awareness of risks within companies so they can be mitigated.

"One of the important lessons we have learned is that you cannot always be looking in the rearview mirror," Mr. Cole said.

Risk managers must be aware of some of the "X factor" risks, which include constant connectivity; epigenetics, or the effect of heredity and habit on individuals' genetic code; financial illiteracy; mega-accidents; poor education; misinformation; neotribalism, or the idea that humans have evolved into a tribal society rather than a mass society; resource wars; and volcanic winter, he said.

Those risks may well develop into major risks in the coming years, so discussion about their impact and management must begin now, he said.

"The key role for the insurance industry is to work with clients to identify the risks

inherent in their business and to accept a certain level of risk," Mr. Cole added.

The concept of taking a holistic view of risk is a difficult one, "but it needs to be done," said Steve Wilson, Zurich-based chief risk officer for general insurance at Zurich Financial Services Ltd.

For example, he said, many supply chain disruptions are caused not by an immediate supplier of a company but by a supplier further down the chain. Risk managers need to "look beyond their immediate business connections and be aware of the interconnectivity of risks," he said.

For its part, the insurance industry must try to ensure that the products it offers are relevant and match the risks faced by clients, Mr. Wilson said.

There must be transparency, and buyers must have an idea of what it is they need to insure to ensure that they have the best possible coverage, he said.

Risks highlighted by the WEF report present opportunities to the insurance industry, said John Drzik, CEO of Oliver Wyman Group, a unit of Marsh & McLennan Cos. Inc.

For example, the shift of certain risks associated with longevity from the public to the private sector provides the industry with opportunities to devise products, he said. The growing shift from defined benefit to defined contribution plans places more responsibility on individuals to ensure that they have saved enough for their retirement, and the insurance industry has a role to play in providing products that give security to consumers.

"It requires product innovation," he said.

**'Without a doubt, the most important thing risk managers can do is try to create an environment that fosters transparency and trust' within their organizations so there is an awareness of potential risks.**

David Cole  
Swiss Re Ltd.

## Implants: Facilities could be sued

CONTINUED FROM PAGE 4

"We believe there is a moral and ethical obligation on the clinics who performed these operations in the first place to facilitate the removal of the faulty implants for free or at the bare-minimum cost," Fazel Fatah, president of BAAPS, said in a statement.

Mark Harvey, a partner and head of litigation at Cardiff, Wales-based law firm Hugh James Solicitors, is putting together a group action claim on behalf of more than 700 women in the United Kingdom who received PIP implants.

The law firm will seek to have the cases treated as a group action in a court hearing in Cardiff this month.

Mr. Harvey said he originally intended to pursue PIP and its insurers for damages, but that is not a viable option because the company no longer is in business.

Legal actions in the United Kingdom and elsewhere in Europe likely will be against medical facilities that used PIP's products, said Manoj Vaghela, a partner in the insurance and reinsurance practice of London-based law firm Clyde & Co. L.L.P.

Those facilities, however, likely would use the defense that the products were approved by regulators, he said.

Even if such a defense is successful, however, clinics will incur costs that may not be recoverable from their product liability policies, Mr. Vaghela said.

## inBrief

CONTINUED FROM PAGE 1

interest rates, rate movements for casualty business were "subdued" at the Jan. 1 renewals, while most other lines saw modest movements with price increases or decreases in the single digits.

### Union says keep pensions for American attendants

The union representing American Airlines Inc.'s flight attendants is urging the airline to retain pension plan coverage for current attendants. "American Airlines flight attendants have earned their pensions, and we have sacrificed wages and other benefits in exchange for them," Laura Glading, president of the Assn. of Professional Flight Attendants, said in a statement. With an average age of 51, the impact of a pension plan termination or freeze on the airline's flight attendants would be "particularly devastating," the association said. American, whose parent company, AMR Corp., filed for Chapter 11 bankruptcy reorganization in November, has not said whether it intends to terminate or freeze its pension plan covering flight attendants or its three other pension plans.

### Nebraska withdraws from NIMA

The Nebraska Department of Insurance will withdraw from the Nonadmitted Insurance Multi-State Agreement, which could signal a delay in the clearinghouse's launch. The withdrawal is effective March 5.

### Top 5 work injury causes drive 72% of costs

The five leading causes of workplace injuries drive nearly 72% of the nation's direct workers compensation costs, according to research by Liberty Mutual Group Inc. Overexertion costs businesses \$12.75 billion in direct annual expenses and accounts for more than 25% of the national burden. Fall on same level ranks as the No. 2 cause of disabling injury, followed by fall to lower level, bodily reaction and struck by object.



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## Shopper falls on his can

Being flattened beneath an avalanche of groceries might be funny business for Saturday morning cartoon characters, but a Hartford, Conn., man allegedly bloodied by falling foodstuffs says his injuries are no laughing matter.

Agapito Lopez, 54, is suing a New Britain, Conn., Price Rite supermarket for injuries he sustained during a December 2009 visit to the store, the Hartford Courant reported last week.

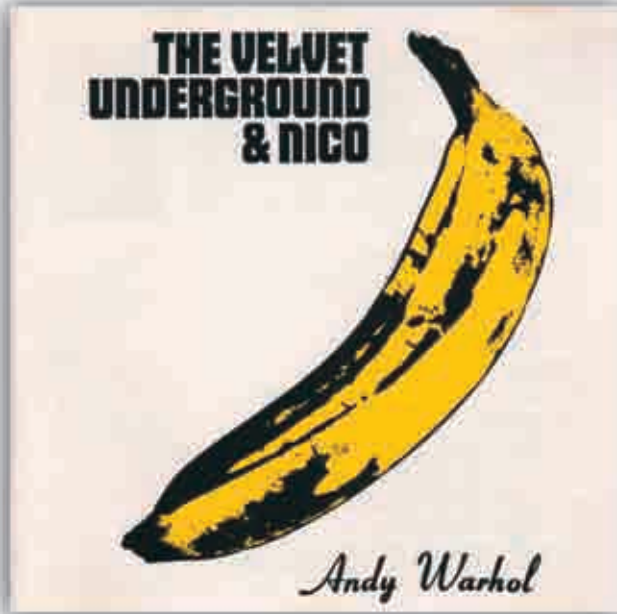
According to the Courant, Mr. Lopez was struck in the face and knocked to the ground by a falling stack of tomato sauce cans after he tried to pull one can from a shelf above his head. He suffered a cut to the bridge of his nose, bruising, sprained or strained back muscles, dizziness and spasms, the Courant reported.

Mr. Lopez filed suit against PRRC Inc., doing business as Price Rite of New Britain, on Jan. 4 seeking reimbursement for his medical costs, which include ambulance transport, emergency hospital care, medical care, prescriptions and diagnostic tests, as well as compensation for lost work time and quality of life, according to the news report.



CONTRIBUTING: Matt Dunning, Mike Tsikoudakis

# End Page



Artist Andy Warhol's famous illustration of a yellow banana, which served as the cover for the Velvet Underground's most recognizable album.

## Band goes bananas over image rights

The Velvet Underground have reunited—sort of.

The iconic New York-based rock group, which broke up in 1973, has filed suit against the Andy Warhol Foundation for the Visual Arts, the Wall Street Journal reported.

According to the report, the band has accused the Warhol Foundation of selling reproduction rights of the artist's famous illustration of a yellow banana, which served as the cover for the Underground's most recognizable album, "The Velvet Underground and Nico."

The lawsuit, filed in a Manhattan federal court on Wednesday, comes after press reports that Apple Inc. had bought

licensing rights to the banana image, intent on applying it to special edition iPads and iPods, the Journal reported.

Neither the band nor the foundation has a trademark registration for the cover art, according to the news report. The band hopes to use "common law" unregistered trademark laws to assert its ownership of the image by proving that the public more closely associates it with the "Nico" album—and the band in general—than with the foundation.

Beyond its own merchandise, the band has pointed to a 2001 Absolut Vodka ad campaign, which featured the banana with the words "Absolut Underground" beneath it.

## Man wants cops to cough it up

A Brooklyn resident is seeking to force the New York Police Department to pay a \$9,530 hospital bill for procedures he says police forced him to undergo.

In a lawsuit against the department, Schedrick Campbell, 54, alleges that three plainclothes officers stopped him in March 2011 as he was exiting a Crown Heights grocery store, the New York Post reported.

One of the officers allegedly grabbed Mr. Campbell by the throat and told him to "spit it out," but found neither drugs nor any foreign objects when he inspected Mr. Campbell's mouth.

The officers reportedly took Mr. Campbell to a nearby hospital, where they forced him to undergo X-rays and scans, hoping to locate whatever it was they believed Mr. Campbell had swallowed.

The officers allegedly kept Mr. Campbell in the hospital for two days,



depriving him of his prostate medication and instructing him not to defecate, as he could be charged with "tampering with evidence," the newspaper reported.

The charges against Mr. Campbell eventually were dropped after the tests were negative for any foreign objects or drugs.

However, the hospital still charged him \$9,530 for the procedures, according to the newspaper.

## ROBOT BATTLE HEADS TO COURTROOM

What happens when two robots show up to an event wearing the same outfit? They file a lawsuit.

Andrew Moore, who dances at nightclubs in his famous giant robot light suit, has filed a lawsuit against a Deerfield Beach, Fla.-based entertainment company for copyright infringement.

Mr. Moore has performed as the internationally recognized electronic music act Kryoman since 2005 and has registered the suit with the U.S. Copyright Office, according to a lawsuit filed in a Florida federal court.

As Kryoman, Mr. Moore, who is based in Miami, adorns a nine-foot-tall color-changing suit wielding laser light guns and has performed with musical acts David Guetta, the Black Eyed Peas and Nicki Minaj, among others, according to a lawsuit filed in a Florida federal court.

In the lawsuit, Mr. Moore claims that Dayglow, a

company that stages music parties, approached him in 2009 to perform at a Miami music festival in which he declined to appear. Dayglow, along with its artistic director, allegedly constructed a replica suit and began booking events.

"It is plainly apparent that, rather than use their own creativity, defendants did nothing more than construct a replica of the Kryoman suit," Mr. Moore said in the complaint. "After creating the knock-off suit, the defendants began booking events where the knock-off suit appeared. Oftentimes, the defendants utilize multiple robots during each performance, just like Kryoman."

Mr. Moore is seeking that Dayglow's suits be destroyed and damages of more than \$150,000, according to the lawsuit.



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WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP

### RISKS OF GLOBAL EXPANSION CASE STUDY & EXECUTIVE PANEL:

As companies continue to expand overseas, particularly to high-growth regions such as Brazil, China and India, what challenges do their risk managers face? How do they ensure that their assets are protected and that their coverage will respond in the event of claims? These sessions will provide an analysis of the risks that companies face as they expand overseas including: political and regulatory risks; coverage concerns; claims issues.



JORGE LUZZI  
GROUP RISK MANAGEMENT DIRECTOR  
PIRELLI GROUP

For additional information on the  
2012 Risk Management Summit  
please contact  
Rebecca Briggs, Event Manager:  
212-210-0132 or  
RBriggs@BusinessInsurance.com

[BUSINESSINSURANCE.COM/RMSUMMIT](http://BUSINESSINSURANCE.COM/RMSUMMIT)

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# YOU CAN'T PREDICT ACCIDENTS, BUT YOU CAN SEE COMPLICATIONS COMING A MILE AWAY.

**INDUSTRY:**  
MANUFACTURING

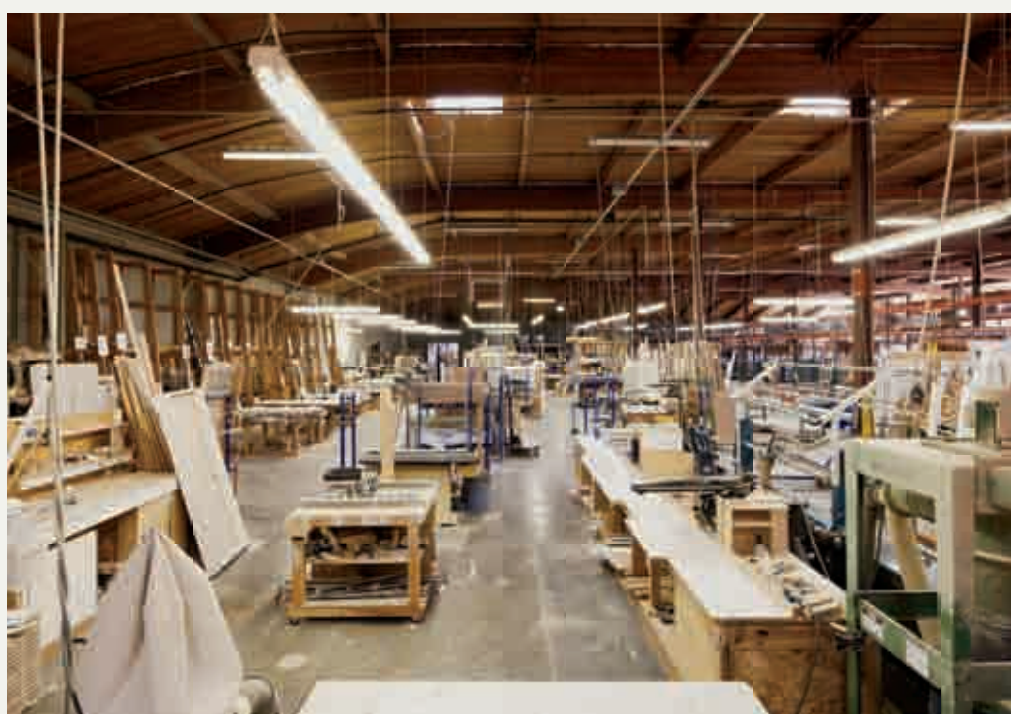
**CUSTOMER:**  
FURNITURE DESIGNER

**CASE OBJECTIVE:**  
MANAGE UNRELATED COMPLICATIONS  
OF AT-WORK INJURY



**CASE SPECIFICS:**

While working, an employee at one of our customers' furniture factories recently had an accident. What seemed like a fairly straightforward claim changed when our VantageComp™ predictive model alerted us early that the man had key triggers for type 2 diabetes. We were able to get our doctors and other medical staff involved early to craft a plan that treated the injury and helped the employee manage his diagnosis. By combining innovative data analytics with experienced talent, VantageComp led us to the best solution for today and tomorrow. To learn more, contact your agent or broker, or go to [libertymutualgroup.com/factory](http://libertymutualgroup.com/factory)



COMMERCIAL AUTO  
GENERAL LIABILITY  
PROPERTY  
**WORKERS COMPENSATION**  
GROUP BENEFITS

