

U.S. BACKSTOP TRIGGER

Under legislation signed into law last week, the loss trigger for the U.S. terrorism reinsurance backstop will increase.

Loss trigger	Year
\$100 million	2015
\$120 million	2016
\$140 million	2017
\$160 million	2018
\$180 million	2019
\$200 million	2020

Source: Marsh L.L.C.

RISK MANAGEMENT

TRIA hiatus opens door to private cover

Brokers, insurers report increased demand

BY MATTHEW LERNER

The temporary lapse of the federal terrorism reinsurance backstop has spurred growth in the stand-alone market, with greater buyer interest in purchasing private insurance and more insurers offering private coverage of the risk, brokers and insurers say.

President Barack Obama last week signed into law the Terrorism Risk Insurance Program Reauthorization Act of 2015, which extends the federal backstop, originally established by the Terrorism Risk Insurance Act in 2002, through 2020. Its provisions include gradually increasing the program trigger to \$200 million in losses from the previous \$100 million and the insurance industry retention to \$37.5 billion from the

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CYBER RISKS

SONY ATTACK RECASTS CYBER SECURITY DEBATE

Information sharing seen as key component



AP PHOTO

President Obama proposed cyber security legislation to Congress last week.

BY JUDY GREENWALD

The cyber attack on Sony Corp. has been a wake-up call for many senior managers nationwide who were not already motivated by earlier hacking events.

They are reacting by making inquiries about their firm's cyber protection arrangements and seeking either to buy or increase insurance coverage, experts say. Meanwhile, insurers are expected to introduce stricter cyber underwriting standards before insuring a business.

President Barack Obama, who has blamed the Sony Pictures Entertainment Inc. hack on North Korea, introduced a cyber

See **SONY** page 24

BOLSTERING CYBER SECURITY

Steps companies can take to avoid hacker attacks and other cyber threats:

- Investigate possible cracks and invest more in cyber security.
- Protect critical information, perhaps through encryption.
- Monitor computer networks closely, including sensors to spot anomalous behavior.
- Investigate "dark web" areas occupied by hackers to detect threats before they occur.

P/C INSURERS

China comes calling for U.S. insurers

Fosun enters market; more deals likely

BY DOUGLAS McLEOD

Chinese companies such as conglomerate Fosun International Ltd. will become larger players in the U.S. insurance market, which they see as a key step in their global expansion.

Shanghai-based Fosun last month announced plans to acquire Southfield, Michigan-based Meadowbrook Insurance Group Inc. for about \$433 million, becoming the first Chinese company to buy a U.S. insurer outright.

The move wasn't surprising, given the growing interest of Chinese companies — with their government's support — in investing in insurance and other industries abroad, experts say.

"I think you're going to see more of it this year," said Boris Lukan, a principal with Deloitte Consulting L.L.P. in Chicago. Korean and Japanese companies also are expected to bid for U.S. insurance assets, he added.

"If you want to be seen as a global player, you have to have a position in the U.S.," Mr. Lukan said.

"We'll see more acquisitions moving in both directions between Chinese and U.S. insurance entities as a result of increased comfort on both sides," said John Wicher, principal of consultant John A. Wicher & Associates Inc.

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Q&A: DEBORAH A.P. HERSMAN

National Safety Council president discusses the risks for various age groups and how to mitigate them.

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HEALTH CARE REFORM UPDATE

Health exchange premium subsidies await U.S. Supreme Court ruling; reform law rules remain uncertain; Republicans take aim at the Patient Protection and Affordable Care Act; employers strive to hold down health care costs.

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A STRONG BALANCE SHEET.

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*Balance sheets as of 09/30/2014 for the Berkshire Hathaway National Indemnity group of insurance companies.

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Croatia's property/casualty market is dominated by domestic insurers. With the country's economy in recession, the market is soft. **10**

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Stepping up cyber security



The U.S. Securities and Exchange Commission has sharpened its focus on cyber security,

presenting opportunities for risk preparedness, says Daniel Garrie of Zeichner, Ellman & Krause L.L.P. **15**

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Neighbor act won't hold water

Nicole Kidman is in hot water for flooding her downstairs neighbor's Manhattan home after a pipe burst in her condo. **26**

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NEWS

RISK MANAGEMENT

PARIS TERRORISM ATTACKS SPOTLIGHT SECURITY EXPOSURES

Multinational employers may rethink protection efforts

BY LOUISE ESOLA

The terrorist attacks in Paris earlier this month shocked the world and served notice to companies in the West the urgent need to ratchet up security for their employees.

Risk and security consultants who assist U.S. multinational firms in anti-terrorism risk management say terrorism should be considered a fact of life in Europe. While it is unpreventable in some instances, employers need to reevaluate their security measures and terrorism insurance coverage to be prepared for targeted attacks like the ones against journalists at Charlie Hebdo's offices and Jews at a kosher grocery store.

"There is an evolution in the way terrorist activity is manifesting itself," said Scott Bolton, London-based director of business development and network relations for crisis management with Aon Risk Solutions.

The recent attacks highlight the issue of Muslim extremists worldwide using social media to indoctrinate followers and encourage jihadi attacks. "People think of (terrorism) as a bomb going off; now it's more of a people risk."

Al-Qaida claimed responsibility for the Jan. 7 massacre by two gunmen at the satirical newspaper



AP PHOTO

Policemen guarded the entrance of a cemetery in Paris during a funeral for a political cartoonist slain in this month's terror rampage.

Charlie Hebdo, which left 12 people dead. Meanwhile, police say the shooter who killed a Paris policewoman and later four people at a kosher market belonged to the Islamic State, a jihadi group that broke away a few years ago from al-Qaida.

In terms of insurance, the Paris attacks are not market-shifting, said James De Labillière, London-based head of war, terrorism, and political violence insurance for the specialty insurer Hiscox Ltd.

"The threat of ISIS is not a new threat; we link it to Islamic extremism," he said, referring to a special-

ty coverage that deals mostly with property damage and business interruption stemming from terrorist attacks. "For businesses who have not considered specialty coverage, it demonstrates the importance of giving consideration when planning for risk management."

Aon's Mr. Bolton said there's another way multinational companies can look at such terrorist attacks — as they would workplace violence or a lone-shooter incident.

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WELLNESS

More employers reward healthy behavior

BY MATT DUNNING

As employers pursue effective workplace wellness programs, their embrace of results-based financial incentives and other emerging health management strategies is likely to broaden this year.

Twenty-three percent of large employers polled in a survey released in December by Mercer L.L.C. said their wellness programs include incentives tied to an employee's achieving — or at least demonstrating progress toward — a certain health status or biometric reading, up from 20% in 2013.



Similarly, a September survey by Towers Watson & Co. found that 18% of employers already use outcomes-based wellness incentives, while another 10% plan to do so this year.

Outcomes-based incentives are "where we've been heading for a while now, and I don't see that changing," said Jill Micklow, a Chicago-based wellness consultant at Schaumburg, Illinois-based Assurance Agency Ltd. "I think you're definitely going to see more of the same this year and into next year from employers."

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CORRECTION

In the Jan. 5 issue in the article, "TRIA expiration adds uncertainty to property insurance market," it incorrectly stated that Patrick Daley, head of property at Zurich North America, cited two factors for increases in property rates. Mr. Daley cited a couple of factors for decreases in rates.

MERGERS & ACQUISITIONS

Talent retention viewed as key to XL, Catlin deal

Merger of rivals creates \$10 billion firm

BY SARAH VEYSEY AND MARK A. HOFMANN

The need to retain key staff members and the business they generate will be a key challenge in the merger of XL Group P.L.C. and Catlin Group Ltd.

The tie-up of the two companies will result in a specialty insurer and reinsurer with significant scale to boost profitability in the future, but sources said the risk of losing key underwriters and staffers who make the Catlin franchise such a valued one will be one of the biggest threats to the deal's success.

The roughly \$4.3 billion cash-and-stock acquisition of Hamilton, Bermuda-based Catlin by Dublin-based XL was announced earlier this month and is expected to close at midyear. It would result in an insurer with about \$10 billion in net premiums written and will boost the size of syndicate 2003 — currently operated by Catlin and the largest at Lloyd's of London —



Mr. McGavick

which is expected to have about a 10% share of Lloyd's premium volume once it is combined with XL's syndicate 1209.

The combined entity, known as

XL Catlin, would be the world's third-largest broker-market catastrophe reinsurer, said Mike McGavick, CEO of XL, who will continue as CEO of the combined group.

XL has offices in 22 countries and about 4,000 employees. Catlin has offices in more than 50 cities and more than 2,300 employees.

Mr. McGavick said Stephen Catlin, CEO of the company he founded in 1984, is expected to join the XL Catlin board as executive deputy chairman. XL was formed in 1986.

Having a blended management team will be key to success, Mr. McGavick said.

"These are people businesses," said Eamonn Flanagan, head of the Liverpool, England, office of investment adviser Shore Capital Group Ltd. The loss of key personnel is "the single biggest risk" in

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1/19/15

ONLINE
FEATURES

WEBINAR

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BUSINESS INSURANCE (ISSN 0007-6864)
Vol. 49, No. 2, is published biweekly by Crain
Communications Inc., 150 N. Michigan Ave.,
Chicago, IL 60601-7620. Periodicals postage is paid
at Chicago and at additional mailing offices.

POSTMASTER: Email address change to
customerservice@businessinsurance.com or mail to
Business Insurance Circulation Department, 1155
Gratiot Ave. Detroit, MI 48207-2912. \$10 a copy and
\$149 a year in the U.S. \$169 in Canada and Mexico
(includes GST). All other countries, \$249 a year
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International Publications Mail Product (Canadian
Distribution) Sales Agreement No. 40012850. GST
No. 136760444. Canadian return address: 4960-2
Walker Road, Windsor, ON N9A6J3. Printed in USA.
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NEWS

ENERGY

TUMBLING OIL PRICES
TEST ENERGY RISK MANAGERS

Commodity pricing a top exposure for energy firms

BY BILL KENEALY

The ongoing drop in oil prices is putting new emphasis on risk management in the energy sector as insurers brace for potential market changes.

While exploration and production companies raced to open wells in recent years due to surging demand and advances that made extraction less expensive, many drilling companies have started idling their least profitable wells as a supply glut suppresses prices.

With crude prices dropping over 50% in the past six months to less than \$50 a barrel, experts say the energy sector and insurers must re-examine longstanding assumptions.

"The falling prices are impacting every risk manager in energy," said Reed Wykes, Houston-based director of risk and insurance for exploration and production firm Hilcorp Energy Co.

"Commodity prices are always something we consider when we look at our enterprise risk models," Mr. Wykes said. "It will always be a top exposure for us."

Bruce Jefferis, Houston-based CEO of Aon Risk Solutions' energy practice, said while most energy companies won't change their basic insurance coverage, they will reconsider how they structure and



AP PHOTO

Oil operations such as this one in Williston, North Dakota, are shutting down rigs as the price of oil continues to plummet.

optimize retentions, limits and other factors to reduce costs.

"When oil prices were over \$100 a barrel, perhaps some of these things didn't matter as much, but now people will make more careful decisions regarding all their expenditures and how to better manage their retained loss costs," Mr. Jefferis said. "The good news for the companies is that the market is incredibly soft for basic energy insurance. The price has come down each of the last few years, and it doesn't look like that is going to change anytime soon."

Some companies may seek to

tweak their coverage in light of market conditions, said Matt Waters, Boston-based vice president and chief underwriting officer at Liberty Mutual Insurance Co.'s commercial insurance energy practice.

For example, large energy companies with large deductibles may seek to change collateral requirements, Mr. Waters said.

"Usually the focus is on fixed, hard insurance costs for managing claims and excess premiums, but with lending a little tighter and

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WORKERS COMPENSATION

Employers push back on off-label drug use

BY STEPHANIE GOLDBERG

Medications such as Abilify and Actiq are being used off-label to treat injured workers, prompting the workers comp sector to focus on curbing inappropriate prescribing that be pricey and dangerous.

Research shows that about one in five of all prescriptions are written for off-label use, or uses outside those approved by the U.S. Food and Drug Administration.

Experts say the practice has popped up in workers comp with drugs such as Abilify, an anti-psychotic that's FDA-approved as an add-on treatment for adults with depression, but inappropriately

used as a lone treatment of injured workers' depression or anxiety.

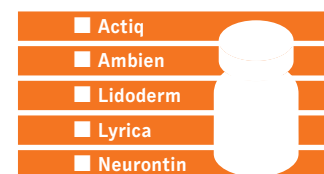
"We're starting to see more Abilify being added to problematic claims, and Abilify really doesn't have a place in work comp," said Brian Carpenter, Atlanta-based senior vice president of pharmacy product development and clinical management for Healthcare Solutions. "It's a very expensive medication."

About \$6.5 billion was spent on Abilify in the United States in 2013, according to the IMS Institute for Healthcare Informatics.

"Certainly because of the cost

OFF-LABEL DRUGS

Anti-convulsants, anti-depressants, opioids, sleep aids and muscle relaxants often are used off label to treat injured workers' pain in workers compensation cases. These drugs are commonly prescribed in workers compensation for conditions or durations that fall outside the U.S. Food and Drug Administration's guidelines:



Source: Pharmacy benefit manager data

REGULATION

2015 legislative
wish list
a mixed bag

BY MARK A. HOFMANN

No issue dominates this year's legislative and regulatory agenda of the risk management and property/casualty insurance community as reauthorization of the federal terrorism insurance backstop did even several weeks ago.

Extension of the program, which lapsed several days before Congress reinstated it in early January, united the industry around a single goal.

But with the program in place until the end of 2020, familiar themes such as clarifying and tempering provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Patient Protection and Affordable Care Act appear among the policy goals of some groups.

New issues, such as federal tax reform and expanding risk retention groups' offerings to include property coverage, also have some support.

How Dodd-Frank will affect insurers remains a key industry question.

As Leigh Ann Pusey, president and CEO of the Washington-based American Insurance Association, noted during a briefing earlier this month, the law is part of a regulatory regime that includes domestic and global components. She said insurers are trying to avoid having to deal with additional levels of regulation.

The Property Casualty Insurers Association of America is considering a "basket of issues surrounding" the Financial Stability Oversight Council and the Federal Insurance Office, both of which were established by Dodd-Frank, said Nat Wienecke, a senior vice president at the PCI's Washington office.

The FSOC determines which companies are systemically important and subject to heightened oversight, he said. "But it doesn't give them a clear path" to determine what steps to take to be removed from the list of systemically important financial institutions. "It's like the Hotel California; once you get in, you can never leave," he said in paraphrasing the Eagles' song.

Concern about regulation extends overseas, said Jimi Grande, senior vice president in the Washington office of the

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EMPLOYMENT PRACTICES LIABILITY



APPEALS COURTS FORCING EEOC TO TAKE CONCILIATORY STEPS

High Court may dilute commission's aggressiveness

BY JUDY GREENWALD

The U.S. Supreme Court appears highly likely to take some degree of judicial review of whether the Equal Employment Opportunity Commission must seek conciliation with employers before suing them for violating federal law.

The high court heard oral arguments last week in a case in which a three-judge panel of the 7th U.S. Circuit Court of Appeals in Chicago ruled unanimously in 2013 that employers cannot use the EEOC's failure to seek conciliation as a defense.

The EEOC had alleged in *EEOC v. Mach Mining L.L.C.* that the company discriminated against women in its hiring practices.

"My impression is that the court is very concerned with what appears to be the EEOC's position" that it is not subject to judicial review on the conciliation issue, said David Barmak, a member of law firm Mintz Levin Cohn Ferris Glovsky & Popeo P.C. in Washington, who is not involved in the case.

Raanon Gal, an attorney at Taylor English Duma L.L.P. in Atlanta, said a ruling in the employer's favor "will tip the balance of how these cases are litigated and how the conciliation process will be going forward, if the EEOC has to worry they actually made a good faith effort to settle."

Mr. Barmak said, however, the ruling's significance will be as much about the Supreme Court's willingness "to rein in the EEOC" as it will be about the outcome of this particular case.

Meanwhile, the EEOC recently had two judicial defeats in cases that experts say provide some hope of employers' success in challenging the agency's aggressive legal strategy.

In its Jan. 6 ruling in *EEOC v. Royal Caribbean Cruises, Ltd.*, the 11th U.S. Circuit Court of Appeals in Atlanta denied the agency's appeal for a full

court hearing to reconsider a three-judge panel's ruling. That November ruling, which upheld a magistrate's decision, chastised the agency for issuing an overly broad and burdensome subpoena in a discrimination case.

The case involved Argentine national Jose Morabito, who alleged in 2010 that Miami-based Royal Caribbean violated the Americans with Disabilities Act by refusing to renew his employment contract after he was diagnosed with HIV and Kaposi's sarcoma, a cancer frequently associated with AIDS.

In *EEOC v. Performance Food Group Inc.*, the agency accused the Richmond, Virginia-based food marketer and distributor and its predecessor company of an ongoing pattern of refusing to hire women at their distribution facilities.

In a Jan. 5 letter, the magistrate assigned to the case by the U.S. District Court in Baltimore refused the EEOC's requests for sanctions for the defendant's alleged "blatant disregard of court-approved and ordered deadlines" to provide its requested data, stating they are "not warranted at this time."

The rulings in *Royal Caribbean* and *Performance Food* give firms the "ammunition to go to court where they really didn't have a viable opportunity to do that before" in cases where the EEOC "visibly exceeded the boundaries of a reasonable investigation," said David Gevertz, a shareholder at Baker, Donelson, Bearman, Caldwell & Berkowitz P.C. in Atlanta.

"It's too early to say there's been a complete turnaround, but it's just interesting that we start the year with the judges pulling back on the EEOC," said Gerald L. Maatman Jr., a partner at Seyfarth Shaw L.L.P. in Chicago.

An EEOC spokeswoman said the agency does not comment on ongoing litigation.

"My impression is that the court is very concerned with what appears to be the EEOC's position" that it is not subject to judicial review on the conciliation issue.

David Barmak, Mintz Levin Cohn Ferris Glovsky & Popeo P.C.

"It's too early to say there's been a complete turnaround, but it's just interesting that we start the year with the judges pulling back on the EEOC."

Gerald L. Maatman Jr., Seyfarth Shaw L.L.P.

BENEFITS MANAGEMENT

Federal agency seeks de-risking disclosure

BY JERRY GEISEL

Employers that reduce the risk of their pension plans could face a new requirement: disclosing basic information about the transactions to the Pension Benefit Guaranty Corp. as part of paying their annual premium to the federal agency.

If the Office of Management and Budget approves the proposal, the risk-transfer disclosure requirement would affect 2015 premium filings, which for most employers are due Oct. 15.

In cases when employers offer to convert plan participants' monthly annuity to a cash lump sum, employers would have to answer four questions: how many plan participants not in pay status, such as retirees, were offered the option and how many took it. The same questions for employees in pay status also would have to be answered.

In cases when employers buy a group annuity from an insurer and the insurer then provides the pension benefits to participants, the employer would have to report how many participants were in pay status and how many were not when the annuity was purchased.

However, employers could disregard annuity purchases and lump sum benefit offers made less than 60 days before the PBGC premium filing was made. Initially, the agency had proposed a 30-day cutoff, but expanded the cutoff amid suggestions from employer groups that 30 days was too short, a change welcomed by employer groups.

The ERISA Industry Committee "supports the more reasonable time frame the PBGC will use for purposes of counting annuity and/or lump sum purchases in

these circumstances. We want to ensure that the data collection is accurate and reflective of the transactions covered in the notice," said Kathryn Ricard, the Washington-based benefits lobbying organization's senior vice president of retirement policy.

The answers to the PBGC questions would relate to lump sum offers and annuity purchases that occurred in 2014 and those in 2015 that occurred 60 days prior to when plan sponsors made their PBGC premium payments.

In succeeding years, it is widely expected that risk-transfer information for a one-year period would be required.

The proposed requirement to file the risk-transfer information comes amid a surge of employers over the last few years who have engaged in such transactions.

The potential effect of such transactions on the PBGC's premium base was the driving force behind the move to obtain risk-transfer information.

Risk transfers "deserve PBGC's attention because, among other things, they lower the participant count and reduce premium income," the agency said last week in a filing with OMB. "Premium losses have the potential to degrade PBGC's ability to carry out its mandate" to guarantee benefits.

Employer groups concur that the PBGC needs the information. "We are open-minded about it. De-risking has an impact on the PBGC premium income base, and the PBGC wants to know what that impact will be," said Lynn Dudley, senior vice president of global retirement and compensation policy at the American Benefits Council in Washington.

REDUCING PENSION RISKS

Many major employers have shifted pension plan liabilities to insurers through buying group annuities or offering certain pension plan participants the option to convert their monthly annuity to a cash lump sum to reduce or eliminate the risk associated with providing a defined benefit plan. Those employers include:

Company	Amount or participants	Transfer method	Year
Bristol-Myers Squibb Co.	\$1.4 billion	Group annuity	2014
General Motors Co.	44,000	Lump sum	2012
General Motors Co.	\$25.1 billion	Group annuity	2012
Hartford Financial Services Inc.	13,500	Lump sum	2014
Motorola Solutions Inc.	\$3.1 billion	Group annuity	2014
Motorola Solutions Inc.	32,000	Lump sum	2014
Newell Rubbermaid Inc.	5,700	Lump sum	2014
Verizon Communications Inc.	\$7.5 billion	Group annuity	2012

Source: company reports

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Strong cat bond market forecast for 2015

■ The catastrophe bond market should remain strong in 2015 following a robust 2014, according to separate reports by Aon Benfield Securities and Willis Capital Market & Advisory released last week. “As we enter 2015, Aon Benfield Securities expects another strong year in the catastrophe bond market, as funds continue to attract new capital, a large number of existing bonds mature, thereby freeing up investor capital, and sponsors seek to expand their use of (insurance-linked securities) in their reinsurance programs,” said the Aon Benfield Group Ltd. unit in “Insurance-Linked Securities: Fourth Quarter 2014 Update.” Fourth-quarter catastrophe bond issuance of \$2.1 billion included Everest Re Group Ltd.’s Kilimanjaro Re Ltd. Series 2014-2, which provided Everest Re with \$500 million of earthquake coverage in Canada and the United States and is the largest-ever transaction with a term of five years, according to the report. Given the growth of the ILS market to \$8 billion in issuance in 2014, issuance levels could reach \$9 billion in 2015, Willis said in its report. “2015 is set to be a memorable year for the ILS market,” the report stated.

65% of workers comp costs traced to five injury types

■ The five leading causes of workplace injuries accounted for about 65% of workers compensation costs in 2012, according to research by Liberty Mutual Group Inc.’s Workplace Safety Index. Overexertion — or injuries related to lifting, pushing, pulling, holding, carrying or throwing — was the top cause of workplace injury in 2012, representing 25.3% of the top 10 work hazards and costing U.S. businesses \$15.1 billion. Rounding out the top five causes of workplace injuries were falls on the same level, being struck by an object or equipment, falls to a lower level, and other exertions or bodily reactions.

Interruption, catastrophes top risk manager concerns

■ Business interruption risks and natural catastrophes are top concerns of risk managers for 2015, according to a study by Allianz Global Corporate & Specialty S.E. The fourth annual

Allianz Risk Barometer, which surveyed over 500 risk managers and corporate insurance experts from more than 40 countries, found the top concerns are business interruption and supply chain risk, picked by 46% of respondents, natural catastrophes at 30%, and fire and explosion at 27%. Another risk garnering concern among respondents is cyber risk, which ranked fifth in this year’s survey vs. eighth last year. The risks identified by the survey are becoming increasingly interrelated, said Chris Fischer Hirs, CEO of Allianz Global Corporate & Specialty. “Identifying the impact of any interconnectivity early can mitigate or help prevent losses occurring,” he said. “It is also essential to foster cross-functional collaboration within companies to tackle modern risks.”

EEOC creates task force on workplace harassment

■ The U.S. Equal Employment Opportunity Commission has announced the creation of a task force to address the issue of workplace harassment. EEOC Chair Jenny R. Yang said the task force, to be co-chaired by commissioners Chai Feldblum and Victoria Lipnic, will convene experts from the employer community, workers’ advocates, human resources experts and academics, among others, in an effort to identify effective strategies that prevent and remedy workplace harassment. “By identifying underlying problems in workplaces and industries where we see recurring patterns of harassment, we are developing strategies that focus on targeted outreach and education as well as systemic enforcement to promote broader voluntary compliance,” Ms. Yang said.

Senate support grows for ACA bill redefining full-time workweek

■ Legislation that would ease the Patient Protection and Affordable Care Act’s definition of a full-time employee by changing it to those working an average of 40 hours a week is quickly picking up support in the Senate. Thirty-two senators, including two Democrats, Sens. Joe Donnelly, D-Ind., and Joe Manchin, D-W.Va., have signed on to the Senate bill, S. 30, introduced earlier this month by Sen. Susan Collins, R-Maine. That 30-hour of work a week definition of a full-time employee is counterproductive, Sen. Collins said in a statement. “The law creates a perverse incentive for businesses to cut their employees’ hours so they are no longer considered full time. Our concerns are

not hypothetical, more than 450 employers have already cut work hours or staffing levels in response to the law,” Sen. Collins said.

Proposed medical fee changes would hike Florida’s comp costs

■ Potential updates to Florida’s medical fee schedule for workers compensation health care providers could increase the state’s workers comp system costs by \$61 million, or 1.9% annually, the National Council on Compensation Insurance Inc. says. The proposal being considered by the Florida Division of Workers’ Compensation, which would update Florida’s fee schedule to reflect 2014 Medicare reimbursement rates for physician services and outpatient hospital services, would increase medical costs related to physician payments by 2.6%, NCCI said. That would represent a 1.8% increase in overall comp costs for Florida, the rating and research agency said.

Salisbury to step down as head of EBRI

■ Dallas Salisbury, the first and only head of the Employee Benefit Research Institute since it was launched in 1978, will relinquish that position at the end of 2015 and become EBRI’s president emeritus. Mr. Salisbury, 66, said the change will enable him to spend more time with his family. “Dallas is a fixture in Washington, he is hard to replace, and his leadership will be greatly missed,” EBRI Chair Pamela French said in a statement. EBRI has 148 members, up from a founding membership of 13. Ms. French is leading a search for a new CEO.

Supreme Court to rule on same-sex marriage this term

■ The U.S. Supreme Court says it will weigh the question of whether state-level bans on same-sex marriage violate the U.S. Constitution before the end of its current term, granting writs of certiorari to four lawsuits challenging the legality of anti-gay marriage laws in Ohio, Kentucky, Michigan, Ohio and Tennessee. Supreme Court justices will aim to determine whether the 14th Amendment to the U.S. Constitution requires states to issue marriage licenses to same-sex couples and recognize the validity of same-sex marriages legally sanctioned in other states.

Joanne Wojcik named to conferences role

Joanne Wojcik, a veteran *Business Insurance* reporter, columnist and editor, has moved to a newly created position to improve and expand the publication’s events and conferences business.

Ms. Wojcik, who most recently had been a senior editor covering benefits management, now is director of conference programming. She is responsible for developing the content for and coordinating the magazine’s industry education and awards programs, including Risk Manager of the Year®, Women to Watch, 40 Under 40 Brokers and the Cyber Risk and Risk Management summits.

For the past few years, Ms. Wojcik has been pivotal in organizing and expanding the Women to Watch program, making it one of the most popular and successful *Business Insurance* events.

In her new position, she will work closely with the events management team, including events manager Julie Ford and custom media business development director Kimberly Jackson.

Ms. Wojcik joined *Business Insurance* as a reporter in 1980. Early in her career, she also held copy editor and copy desk chief positions. In 1990, she returned to reporting and writing to become

the magazine’s Los Angeles bureau chief, a job she held until being promoted to senior editor in 1995. Four years later, she moved to Denver, where she currently is based.

During her long career, she has reported on most of the commercial insurance, risk management and employee benefits topics the magazine covers via print and digital editions. In addition, she has written regular commentary and moderated editorial webinars.

Ms. Wojcik earned a bachelor’s degree in English in 1979 from the University of Illinois at Urbana-Champaign.



Ms. Wojcik

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War, extreme weather among top global risks

■ A mix of geopolitical and environmental issues dominates a new ranking of global risks released by the World Economic Forum. According to the World Economic Forum Global Risks 2015, the top five likeliest risks are: interstate conflict with regional consequences, extreme weather events, failure of national governance, state collapse or crisis, and high structural unemployment or underemployment. Environmental and societal risks were among the top five global risks in terms of impact, with water crises, the spread of infectious diseases, weapons of mass destruction and interstate conflict with regional consequences and failure of climate-change adaptation taking the top five rankings. The report is based on an annual survey of global risk professionals in business and academia and ranks risks according to both likelihood and potential effect.

Gard leads coverage for grounded ship

■ Gard P&I (Bermuda) Ltd. is the protection and indemnity insurer for a ship carrying automobiles that was deliberately run aground off the south coast of England by its captain after developing a severe list. The Höegh Osaka, which was carrying 1,400 cars destined for Bremerhaven, Germany, was grounded at Bramble Bank in the Solent River near the port of Southampton, England. Arendal, Norway-based Gard said that as well as being the ship's P&I insurer, it also is claims lead on the ship's hull and machinery policy.

Quebec rail explosion settlement proposed

■ A proposed partial settlement of nearly \$200 million has been reached in the 2013 Lac-Mégantic, Quebec, train derailment and explosion disaster, attorneys said. The July 6, 2013, accident killed 48 people and destroyed more than 30 buildings after unattended train cars carrying fuel oil derailed and some of the cars exploded. Participants in the settlement include the now-bankrupt Montreal Maine & Atlantic Canada Co., the attorneys said in a statement. Robert Keach, a shareholder with law firm Bernstein, Shur, Sawyer & Nelson P.A. in Portland, Maine, said companies involved in the disaster that have not yet settled include Miami-based fuel distributor World Fuel Services Corp.,

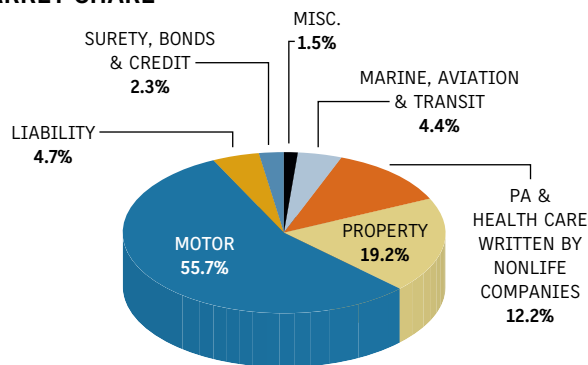
PROFILE: CROATIA

\$1.15 BILLION

The property/casualty insurance market in Croatia is unique in Eastern Europe because it is dominated by domestic insurers. The nation has been in a recession since 2009, resulting in a soft insurance market. The economy is expected to begin modestly growing this year. However, steep costs to comply with Solvency II this year and in 2016 will render some of the domestic insurers incapable of adapting without consolidation or capital injections from foreign insurers.

◀ 2013 P/C gross premium

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



CROATIA

AREA
21,829 square miles

POPULATION
4.29 million

NUMBER OF P/C INSURERS
10

2015 GDP CHANGE (PROJECTED)
0.8%

MARKET DEVELOPMENTS

UPDATED
JANUARY 2015

- In July 2014, the Insurance Amendment Act was passed to provide, among other things, fresh minimum capital requirements for insurers.
- In April 2014, the Croatian finance ministry said insurers from other European Union nations writing risks in Croatia must pay the nation's fire service levy and premium tax on auto third-party liability coverage.
- In July 2013, the statute regarding compulsory insurance for cargo in transport was amended to define minimum insurance requirements.
- In July 2013, an insurance law went into effect that increased minimum capital requirements for property/casualty, life insurance and reinsurance companies.
- In July 2013, a law went into effect allowing gender to continue being used as an underwriting factor for life, accident and health insurance policies.

COMPULSORY INSURANCE

- Auto third-party liability
- Workers compensation
- Professional indemnity for insurance agents and brokers
- Airline operators liability
- Shipowners liability against oil pollution
- Clinical trials liability

NONADMITTED

Nonadmitted insurance is not allowed because the nation's law requires that insurance be bought from licensed Croatian insurers. However, insurers from European Economic Area states, such as Iceland, Liechtenstein and Norway, can sell coverage in Croatia under freedom-to-provide-services rules.

INTERMEDIARIES

Insurance agents and brokers must be licensed to do business in Croatia. Brokers are not permitted to arrange contracts with unlicensed insurers, and insurance companies are not allowed to accept policies placed by unlicensed brokers. Intermediaries from the European Economic Area can do business in Croatia, as long as they are licensed in their home countries.

MARKET PRACTICE

Most foreign-invested risks are fronted by local insurers via Croatian policies or insured on a freedom-of-services basis. High-level global coverage, such as directors and officers and kidnap and ransom insurance, are essentially the only nonadmitted policies in force in the nation.

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

New York-based Canadian Pacific Railway Ltd. and Saint John, New Brunswick-based processor Irving Oil Ltd. The settlement must be approved by the Quebec Superior Court and the U.S. Bankruptcy Court.

A.M. Best holds dour global reinsurer outlook

■ A.M. Best Co. Inc. is maintaining its negative outlook for the global reinsurance sector because of ongoing challenges, the rating agency said in a report. "As compression continues bearing down on investment yields and underwriting margins, this strain on profitability will ultimately place a drag on reinsurers' financial strength," Best said in "Weak Operating Fundamentals Keep Reinsurance Sector Outlook Negative." Rated balance sheets are

well-capitalized and can withstand some stress, and reinsurers are responding to challenges by tapping greater capital market capacity to help optimize results and reduce net probable maximum losses, Best said in the report. The outlook for the global reinsurance industry was revised to negative from stable in August 2014.

First cat bond placed in Swiss francs

■ GC Securities, a division of MMC Securities Corp., said it has placed the first Swiss-franc denominated catastrophe bond for a new issuer in the market. The 70 million Swiss franc (\$69.9 million) private catastrophe bond is to provide Gebäudeversicherung Bern of Ittigen, Switzerland, with one year of aggregate protection on identical coverage terms to its

traditional reinsurance program positioned alongside traditional reinsurance coverage on each layer of GVB's program, GC Securities said in a statement. The bond covers storms, hail, flood, landslide, rockslide, rock avalanche, avalanche, snow pressure, snow slide and earthquake risk, according to a spokeswoman for GC Securities. It was issued through Kaith Re Ltd., a Class 3 Bermuda insurer and was the first time GVB has tapped the capital markets, GC Securities said in its statement.

PartnerRe Asia licensed in Singapore

■ The Monetary Authority of Singapore has licensed PartnerRe Ltd.'s Partner Reinsurance Asia Pte. Ltd. to operate as a nonlife and life reinsurer, Pembroke, Bermu-

da-based PartnerRe said in a statement. Effective April 1, PartnerRe Asia will be the principal reinsurance carrier for PartnerRe's business underwritten in the Asia Pacific region. Alain Flandrin, head of Partner Reinsurance Europe SE, Singapore branch, has been appointed CEO of PartnerRe Asia.

Hiscox acquires MGA, R&Q Marine Services

■ Hiscox Ltd. has reached a preliminary agreement to acquire a managing general agent and a high-net-worth insurance company from Randall & Quilter Investment Holdings Ltd. Hamilton, Bermuda-based Hiscox said it would acquire R&Q Marine Services, an underwriting agency specializing in yachts that generated gross written premium of £17 mil-

lion (\$25.7 million) in 2014 from R&Q, which also is headquartered in Hamilton. In addition, Hiscox said it would acquire London-based Synergy Insurance Services (U.K.) Ltd., which underwrites high-value household and auto business and generated gross written premiums of £6 million (\$9.1 million) in 2014. Terms of the proposed deal were not disclosed. Completion of the transaction is subject to due diligence, as well as obtaining regulatory and board approval, Hiscox said in a statement.

Ironshore International buys Dubai underwriter

■ Ironshore International Ltd. has acquired Dubai-based Visionary Underwriting Agency Ltd. Visionary writes specialty lines including political violence and terrorism, casualty, energy and construction, in the Middle East, the Far East and Africa, Ironshore said in a statement. An Ironshore spokeswoman said terms of the transaction, completed in December according to the statement, were not disclosed. Visionary was founded in 2012 by David Austin, who will continue to serve as CEO of the company.

Cooley launches London insurance practice

■ U.S. law firm Cooley L.L.P. said it has launched a practice in London, including an insurance and reinsurance team. The practice, led by London-based Justin Stock, comprises 20 partners and more than 55 lawyers and other professionals, Palo Alto, California-based Cooley said in a statement. David Kendall will lead the five-member insurance and reinsurance team, which also includes partners James Crabtree, Mark Everiss, Chris Finney and Richard Hopley, a company spokesman said in an email. "We handle sophisticated transactions and disputes often requiring an innovative approach, in a regulated industry that is going through significant change," the team said in the statement. "The strengths of Cooley's corporate and litigation practices will enhance our ability to serve clients in this environment."

High capacity lowers reinsurer pricing

■ Abundant capacity, which is outstripping the demand for reinsurance, led to decreased rates at the Jan. 1 renewal across most territories and lines of business and may increase pressure on some

companies to merge or be acquired, according to a report by Willis Re, the reinsurance arm of Willis Group Holdings P.L.C. As well as rate reductions, many buyers were able to secure improved terms and conditions when their programs renewed at Jan. 1, noted the report, "1st View Market Reshaping a Reality." Pressure on reinsurers, particularly small or monoline catastrophe underwriters, may lead to an uptick in merger and acquisition activity,

according to the report. "In the current environment, many reinsurers recognize they can no longer hope for salvation through major market losses or increasing interest rates," Peter Hearn, chairman of Willis Re, said in a statement. "Their only sustainable course of action is to change their business models, portfolio mixes and to strive for scale," he said. "The new mantra is diversification."

Burns & Wilcox Canada acquires Avec Insurance

■ Managing general agent Burns & Wilcox Canada Inc., a unit of Kaufman Financial Group, has acquired Toronto-based MGA Avec Insurance Managers Inc. Terms of the deal were not disclosed, a Burns & Wilcox spokesman said. Avec specializes in ocean marine, inland marine and

other specialty commercial lines, Kaufman Financial said in a statement. As part of the acquisition, Avec President Stephen Oxley and his entire team will join Burns & Wilcox Canada, eventually moving into the firm's Toronto-based headquarters, according to the statement. Mr. Oxley and his original partners, Thomas Sampson, Patrick Barco and Martha Paz, will remain in leadership roles, reporting to Burns & Wilcox Canada director Jodie Kaufman Davis.



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SAFETY ADVOCATE TAPS DATA TO SHAPE NATIONAL POLICY

Q How have your experiences on the National Transportation Safety Board shaped what you do in your current role?

A At the NTSB, where I was before, we had the job of investigating incidents and determining their probable cause and making recommendations to prevent them from recurring. At the National Safety Council, we follow the data, we follow the facts, and we issue recommendations, guidance, best practices and tool kits for employers to use. We advocate for laws and changes in regulations, whether it's for the individual or organizational or national level.

Q What are some of the biggest safety concerns right now?

A For the youngest members of our population, it's motor vehicle crashes. Children and teens, those into their 20s, that's the biggest risk factor for them. A lot of people may be under the impression that teens have crashes because they're irresponsible behind the wheel. That's really not the case. It's about a lack of experience.

Q&A

rience. Their first year and their first 1,000 miles are the deadliest.

For people in middle age, the biggest killer is drug overdoses. Prescription painkillers really are responsible for more deaths than cocaine and heroin combined. These are drugs people are getting sometimes for very innocent reasons and then getting addicted to, resulting in these unintended overdoses. They're taking multiple medications, so they have reactions between the drugs. Some of them are doctor shopping, so they're getting multiple prescriptions from different doctors.

Slipping and falling is the biggest risk area for older adults. For Americans older than 65, the number of fall-related deaths has increased 112% (since 1999). It's important for us to understand that this is a significant problem that leads to hospitalizations, and then they might have complications once they're in the hospital.

Q Moving forward, will the National Safety Council focus more on injuries and fatalities that occur in the workplace or at home?

A We do see 4,000 fatalities in the workplace every day, but people are nine times more likely to be injured or killed off the job than on the job. While we do really focus on safety at work because we are a 100-year-old organization that was founded on workplace safety, we also try to communicate to people about the risks off the job.

Q How can employers encourage workers to take safe behaviors home with them?

A There are a lot of ways to encourage safety at home.



DEBORAH A.P. HERSMAN
NATIONAL SAFETY COUNCIL

Deborah A.P. Hersman became president and CEO of the National Safety Council in March 2014. Based in Itasca, Illinois, the nonprofit organization works to prevent injuries and fatalities at work and in homes and communities. Prior to joining the National Safety Council, Ms. Hersman served on the National Transportation Safety Board and was its chairman from 2009 to 2013. Citing her desire to help people learn from a "tragic event without

having to experience it," Ms. Hersman recently spoke with *Business Insurance* Associate Editor Stephanie Goldberg about the major risks various age groups face and how the National Safety Council is working to mitigate them. Edited excerpts follow.

We encourage companies to put their own cellphone policies on their employees. So the company has a policy to say no calls when you're behind the wheel — hand-held or hands-free. Once employers put these restrictions in place, that becomes the (modus operandi).

So encouraging people to take

lessons (as well as) the smart things you have in the workplace home — some of it is about communication, some of it is about modeling the right behavior, and some of it is about educating employees so they understand what the risks are and enabling them to make decisions about their behavior, too.

COMINGS & GOINGS

UP CLOSE: MARY JANE PICKENS

CHARLESTON, WEST VIRGINIA-BASED EXECUTIVE DIRECTOR
West Virginia Board of Risk and Insurance Management

PREVIOUS POSITION: Charleston, West Virginia-based counsel with Spilman Thomas & Battle P.L.L.C.

LOOKING FORWARD TO: I really enjoyed my prior public service (as general counsel for the West Virginia Offices of the Insurance Commissioner), and I am looking forward to returning to that environment ... It's an opportunity to help improve the lives of people. It's rewarding.

CHALLENGES FACING INDUSTRY: There are always challenges around the legal environment. We've struggled with that for a number of years. We are reaching a point where there will be real debate about how that environment can be improved. Insurance is becoming more complex. You have to change to address the needs that are brought about by that complexity.

INDUSTRY OUTLOOK: I am generally positive. I think there is an opportunity to look at things a little bit differently from a litigation perspective.

FIRST INDUSTRY JOB: As counsel at the Offices of the



Insurance Commissioner. Before that, I was in private practice, and I didn't do insurance work.

WHAT SURPRISED ME: The general lack of understanding of (insurance). It's a hard product to explain to people. It's challenging to explain it to policymakers and legislatures and the general public. It's critically important to a business environment.

ADVICE: Your credibility is critically important. To be successful ... you have to have credibility, and you have to be willing to share facts and stand behind what you say and to consistently be forthcoming.

HOBBIES: I love to read, and I tap dance, which is tons of fun. Spending time with my kids, too.

CAN'T-MISS TELEVISION SHOW: I really like the "Masterpiece Mysteries" on PBS.

FAVORITE BOOK: I have lots of them. What comes to mind is "The Education of Little Tree" by Asa Earl Carter. It is a really wonderful book.

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WHAT MATTERS MOST

EDITORIAL

MAKE TERROR BACKSTOP PERMANENT

The fortunately temporary expiration of the federal terrorism insurance backstop came as a year-end drama that supporters of the program certainly could have lived without. Admittedly, the circumstances that led to the lapse were unusual and unlikely to be repeated when the program comes up for renewal at the end of 2020. One retiring senator objected to a provision creating a new National Association of Registered Agents and Brokers, a provision no one else found objectionable, and managed to block the lame-duck Senate from passing a House-approved extension bill. That lawmaker — Sen. Tom Coburn, R-Okla. — is now gone from Washington.

Even the barely week-long lapse of the federal terrorism program had market implications, as we report elsewhere in this issue. Insurers had to get reinsurance they otherwise wouldn't have needed; some businesses had to scramble for coverage amid market uncertainty.

Now that the uncertainty's been lifted, it's not too soon for advocates of the program to start considering how to avoid another lapse.

We think the best way is to make the program permanent.

The reason for establishing the program, which was created by the Terrorism Risk Insurance Act of 2002, was to allow the creation of a private terrorism insurance market. That market is emerging more slowly than expected, and for good reason. Unlike natural risks, the man-made risk of terrorism defies normal underwriting practices. As the world learned all too tragically again in Paris a few days ago, terrorist attacks ignore prediction.

Putting the program on a permanent footing might require some structural changes. Insurers, who will assume a greater share of any future terrorist losses under the measure just signed into law, may have to accept an even larger share. In fact, the price could ultimately be a requirement that insurers — and indirectly their policyholders — pay some small premium upfront to help prepay for the program.

Supporters of the program have nearly six years to consider what needs to be done to make the backstop permanent. They should make the best use of that time, too. In an ever-more-dangerous world, even another short-term lapse is a risk we can ill afford to take.

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

EARLY KEY POLITICAL MOVES BODE WELL FOR RISK MANAGEMENT

From a risk management point of view, it looks as if the government is off to a good start in 2015.

First of all, the terrorism insurance backstop extension was passed quickly — better late than never — and the provision to streamline broker licensing managed to get through on the back of that legislation, which should make life simpler for brokers and hopefully reduce insurance placement costs.

On top of that, last week President Barack Obama signaled that the administration would back legislation to improve cyber security, which is a significant step forward as the president had threatened to veto previous legislation aimed at improving cyber security over privacy concerns.

That veto threat hanging over the Cyber Intelligence Sharing and Protection Act came a couple of years ago — and of course a lot has changed since then.

First, there was the Target Corp. breach in December 2013, which highlighted just how vulnerable large commercial organizations are to cyber attacks and the financial losses that can occur. More recently and more worryingly, the attack on Sony Pictures Entertainment Inc. is proving to be another watershed event in the fast-moving world of cyber security.

The Sony attack gained worldwide attention largely due to the gossipy revelations about various celebrities and their corporate overseers, but it was far more significant on other levels. The attack involved the destruction of data rather than just the dissemination of data, and, if U.S. security officials are right, the attack was orchestrated by North Korea as punishment for Sony's backing of a movie depicting



GAVIN SOUTER
EDITOR

the assassination of Kim Jong Un, the country's head of state — or "supreme leader," as he likes to style himself.

If the U.S. is right, then clearly there needs to be a new approach to cyber security. It's one thing for corporations to fight against independent hackers working from their basements, but quite another for them to go toe to toe with highly mili-

tarized and highly unpredictable nation states.

It's not the first time that the U.S. has accused other nations of orchestrating cyber attacks or cyber espionage efforts against corporations, but the nature of the Sony attack moved to a different level.

While privacy concerns are understandable, as retired Gen. Keith B. Alexander, a former head of cyber command, said at the Property/Casualty Insurance Joint Industry Forum in New York last week, the types of problems that the government and industry face are increasingly the same. So they have to find a way of working together to react to and, to whatever degree possible, stifle the attacks. That means they have to share information.

It is still early, and the details have to be worked through, but let's hope the rest of the year plays out as well as the first couple of weeks in terms of government and industry collaboration on risk management and security concerns.

Risk managers should step up as SEC targets cyber security

The U.S. Securities and Exchange Commission has sharpened its focus on cyber security preparedness, says Daniel Garrie, co-head of the cyber security practice at Zeichner, Ellman & Krause L.L.P. law firm in New York. Risk managers now have the opportunity to help guide their organizations as they seek to address the vast legal liabilities that are arising from cyber risks.

The spate of cyber hacking in 2014 reflects the ugly reality that today virtually every company either has been hacked or doesn't know it's already been hit. The victims included the U.S. Postal Service and many household corporate names: Sony Pictures Entertainment Inc., Alcoa Inc., Allegheny Technologies Inc., Domino's Pizza, eBay Inc., The Home Depot Inc., JPMorgan Chase & Co. and P.F. Chang's China Bistro Inc., to name a few.

Last summer, the prestigious Center for Strategic and International Studies estimated the annual worldwide cost of cyber crime was more than \$445 billion.

Four long years ago, Juniper Networks found that 90% of companies had been hit by hackers at least once. The firms range from retailers to financial services firms, and restaurants, manufacturing, transportation, utility, information and professional services firms.

But not all companies have come to grips with reality. According to a 2013 Deloitte L.L.P. survey included in its technology, media and telecommunications global security report, less than half of survey respondents reported having a response plan in place to address a security breach. And Financial Executives International's magazine reported in May 2014: "Though many companies have made considerable strides to address cybersecurity issues in a strategic fashion, many others still do not have an adequate strategy or plan."

Worrying is not a cyber risk mitigation strategy. And cyber security attacks can no longer be the exclusive domain of an organization's chief information officer. The risks are too great. Risk managers must guide the board of directors and CEO to provide more than concern; they must help them to provide active oversight to assure that their enterprises have prudently taken all reasonable measures to protect themselves. If they fail to, it can be a "get fired" type of decision.

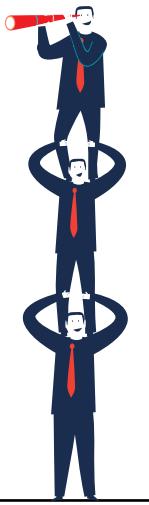
Increased scrutiny and pressure from corporate boards, insurance companies and government agencies such as the U.S. Securities and Exchange Commission and the Federal Trade Commission are creating a sea change. Importantly, the SEC has sharpened its focus on cyber security preparedness. Specifically, regulation of disclosure by public companies soon may address cyber security as a material risk that needs to be fully

and properly disclosed. If these risks are regularly disclosed and a company has legally insufficient protections, lawsuits presenting substantial risk are sure to follow.

Risk managers now must turn to a special new cadre of cyber attorneys to help them guide boards and CEOs in protecting their companies from the vast legal and reputational liabilities that flow from cyber security vulnerabilities. This means that risk managers need to become technologically savvy and fluent in the associated legal issues and risks.

To be effective for boards and CEOs, risk man-

Risk managers must guide the board of directors and CEO to provide more than concern; they must help them to provide active oversight to assure that their enterprises have prudently taken all reasonable measures to protect themselves.



agers and their cyber attorneys today must fully understand all the technological implications of cyber security. Absent full understanding of cyber technology, both are ill-equipped to properly advise and protect companies regarding the legal and regulatory issues involved.

Those issues are multiplying and complex. They range from compliance with government and industry regulatory bodies to litigation arising from lawsuits by customers, employees, shareholders, vendors, joint venture and other corporate partners whose personal data, proprietary information, intellectual property or confidential policies and procedures have been lost, compromised, and/or held hostage.

To protect against substantial liabilities, risk managers must make sure that their cyber attor-

neys are able to address and resolve these central legal issues:

- What are a firm's overall cyber security governance policies and systems?
 - What are the technology, training and personnel, process, policy and procedural steps — including vulnerability gap assessments — that a business, government entity or institution needs to take to pass the test of reasonable prudence when it comes to protecting everything from networks and information, remote customer access and funds transfer requests to the security of the policies and systems of vendors and other third parties who have access to your network or sensitive information, particularly as they may relate to cyber security litigation?
 - What are the readiness standards that companies must follow to ensure proper performance regarding meeting new SEC "voluntary suggestions" or the FTC's more aggressive enforcement policies regarding adequate cyber security for customers' personally identifiable information?
 - What constitutes "cyber negligence" on the part of companies faced with cyber security threats?
 - What determines whether companies have taken the necessary steps to assess vulnerabilities, prepare for and defend against cyber attack, and are these steps sufficient to cause cyber insurance carriers to pay cyber claims?
 - What are the circumstances under which boards of directors or executive officers can be held liable or thrown out for failure to ensure corporate information systems are protected from attack?
 - What constitutes proper and adequate cyber security governance and identification of risks, including proper practices for early warning monitoring in detecting unauthorized activity, how to protect such critical infrastructure as networks, software network resources and remote customer access, as well as funds transfer requests, among other things?
 - What are the proper cyber security roles and responsibilities inside each company, and how should companies determine whether they have the right people with the right training?
- Today, cyber systemic risks are virtually unprecedented, crossing geographic boundaries and affecting multitudes of companies in a single event.
- Litigation by companies seeking payment from their insurance policies for damages from cyber attacks, breaches and hacks soon may well account for 10% to 20% of all corporate insurance litigation and will be one of the three most litigated aspects of insurance law in the near term.
- The time is now for the risk manager to help guide his or her company to take the necessary and prudent steps to protect against vast legal liabilities, especially with the SEC beginning to look at cyber security in the context of disclosure of material risks.



Attorney Daniel Garrie is co-head of the cyber security practice at Zeichner, Ellman & Krause L.L.P. law firm in New York and editor-in-chief of the Journal of Legal Technology Risk Management and the Journal of Law and Cyber Warfare. He can be reached at dgarrie@zeklaw.com and 212-223-0400, ext. 689.

SPECIAL REPORT

Health Care Reform

Update

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Health cover subsidies in the balance

Supreme Court ruling could radically affect reform law implementation



BY MATT DUNNING

For a third consecutive year, the U.S. Supreme Court in 2015 finds itself positioned to determine the fate of the federal health care reform law. On March 4, the high court will hear oral arguments in *David King et al. v. Sylvia Mathews Burwell et al.*, one of four lawsuits seeking to block the Obama administration from providing premium subsidies under the Patient Protection and Affordable Care Act for health care coverage purchased through the federal government's public health insurance exchange.

For employers operating in the 37 states that have elected to rely

on the federal exchange in lieu of establishing one of their own, legal experts say a ruling against the federal government could substantially undermine enforcement of the Affordable Care Act's employer mandate.

Effective Jan. 1 of this year, employers with 100 or more full-time workers that fail to provide affordable health care coverage to 70% of their workforce this year — increasing to 95% in 2016 — must pay an annual penalty of \$2,000 per eligible employee, but only if at least one employee buys subsidized coverage through a public exchange.

Absent the availability of premium subsidies in the federal exchange, experts say the Internal Revenue Service's ability to enforce the cov-

BREAKING DOWN THE LEGAL ARGUMENTS

The challengers

The plaintiffs in *David King et al. v. Sylvia Mathews Burwell et al.* — as well as three other lawsuits pending in lower courts — claim the Patient Protection and Affordable Care Act expressly limits the Internal Revenue Service's authority to provide premium subsidies for health insurance to coverage bought through public exchanges operated by individual states.

Therefore, they say, employers and individuals in the 37 states using the federal public exchange should be exempt from the reform law's minimum essential coverage requirements, which are predicated on the availability of the subsidies.

The government's case

Attorneys for the IRS, the U.S. Department of Labor and the U.S. Health and Human Services Department claim that while the specific statutes at issue do not contain an explicit authorization for subsidized coverage sold through the federal exchange, lawmakers' intent to do precisely that becomes obvious when viewed against the context of the broader reform law.

"Although the federally facilitated exchanges are operated by HHS, each one is a state-specific marketplace," the government's attorneys argue in their brief to the Supreme Court.

The lower courts

In February 2014, a judge for the U.S. District Court in Richmond, Virginia, rejected the *King* plaintiffs' arguments for a judicial order barring the government from offering subsidized coverage in the federally run exchange.

A three-judge panel of the 4th U.S. Circuit Court of Appeals, also in Richmond, affirmed the district court's decision in July, hours after a judicial panel in the U.S. Court of Appeals for the District of Columbia Circuit ruled for the plaintiffs in *Jacqueline Halbig et al. v. Sylvia Mathews Burwell et al.* The *Halbig* plaintiffs' arguments closely resembled those offered by the *King* plaintiffs.

highly unlikely that a ruling by the Supreme Court freeing many employers from exposure to the coverage-related penalties would precipitate a mass exit from sponsored group health insurance.

"I don't think the impact on the enforcement mechanism is necessarily going to cause them to turn on a dime and make a different decision on offering health care benefits or not, simply for all of the business needs that it would impact," said Kathryn Wilber, senior counsel of health policy for the American Benefits Council in Washington.

If the high court ultimately elects to overturn the 4th Circuit's decision in favor of the Obama administration and rules for the plaintiffs, experts say employer segments likely to be most immediately affected are larger companies that plan to — or recently did — discontinue group health care benefits for early retirees and part-time employees, opting instead to use the subsidized coverage plans sold through public exchanges to

reduce their total health care enrollments.

"Everyone seems to be focused on the idea that without the subsidies, the coverage mandate goes away in the states that don't have their own exchanges, but I don't think that's the big issue," said Steve Wojcik, vice president of public policy at the National Business Group on Health in Washington. "I think the big issue is what you do with any current employee populations that rely on those subsidies and won't be getting them in the future."

Also unclear is the extent to which the Obama administration could preserve the availability of subsidized health care coverage in the federally run exchange through additional regulatory rulemaking and guidance in the event of an unfavorable ruling from the Supreme Court.

"I'm not sure that there are a lot of options for the administration to take regulatory action or issue guidance," said Sarah Bassler Millar, partner and vice chair of the employee benefits and executive compensation practice group at law firm Drinker Biddle & Reath L.L.P. in Chicago. "I think it's an issue that the Congress would have to fix through legislation in order to make the intent of the language clear."

Although oral arguments before the Supreme Court are scheduled for early March, Mr. Wojcik said employers should not expect a final ruling from the court until the last days of its current term in late June or early July.

"It's really too early to know any of this," Mr. Wojcik said. "And even after the court's decision, there are still going to be a lot of things to watch for."

erage mandate would essentially be limited to employers located in states operating their own public insurance exchanges.

"This case is really the whole ballgame for this year, because in some ways it could really eviscerate the coverage aspects of the law," said H. Guy Collier, a Washington-based partner at McDermott Will & Emery L.L.P.

Judicial panels of two federal appeals courts issued opposite rulings on July 22, 2014, on the legality of the subsidies' use outside of the state-run public exchanges, with the 4th U.S. Circuit Court of Appeals in Richmond, Virginia, finding in favor of the federal government in *King* and the U.S. Court of Appeals for the District of Columbia Circuit ruling for the individual plaintiffs in *Jacqueline Halbig et al. v. Sylvia Mathews Burwell et al.*

The *Halbig* lawsuit, along with two additional lawsuits challenging the legality of the subsidies, have been held in abeyance pending the outcome of the Supreme Court's review of *King*.

While litigation over premium subsidies is not the only legal front on which the health care reform law is being challenged — most notably, several lawsuits filed by religious nonprofit organizations seeking exemptions from provisions of the law requiring employers to provide cost-free coverage for contraceptives remain open in federal courts — experts said employers' questions and concerns have been focused squarely on the *King* lawsuit and its potential ramifications.

"These are the cases that I've been spending my time on," said Frank Fanshawe, an Albany, New York-based partner with law firm Wilson Elser Moskowitz Edelman & Dicker L.L.P. "The uncertainty is really what has clients in a state of unease. You can imagine from a planning and budgeting perspective, these cases continue to add uncertainty into the equation for those employers."

While the long-term effects on employers' benefits strategies are difficult to predict, experts say it is

Uncertainties remain on reform law rules

Guidance most needed on 'Cadillac tax'

BY JERRY GEISEL

Employers still are waiting for regulatory guidance to help them comply with several key provisions of the health care reform law.

The most significant requirement of the Patient Protection and Affordable Care Act for which regulatory guidance is lacking involves the law's so-called "Cadillac tax" — a 40% federal excise tax health plan on premiums that exceed \$10,200 for single coverage and \$27,500 for family coverage in 2018.

The tax is to be paid by insurers and, in the case of self-insured employers, by third-party administrators, which then would almost certainly seek reimbursement from employers.

While the excise tax may appear straightforward, several issues still need regulatory guidance.

For example, the law is not clear on whether employees' pre-tax contributions to health savings accounts and self-insured dental and vision plans are to be included in calculating health plan costs.

In addition, it isn't clear if the excise tax trigger can be adjusted to reflect geographical cost differences, as health plan costs vary widely by region.

"Can you do regional calculations? That isn't clear yet," said Amy Bergner, a managing director at PricewaterhouseCoopers L.L.P. in Washington.

Guidance is needed to determine how the tax would be allocated in situations where a self-funded employer uses several TPAs, experts say.

Also not yet clear is whether the excise tax for family coverage would apply, regardless of the number of dependents, or if it would vary based on the number of dependents.

"Many employers have different tiers of coverage: employee plus one, employee plus two, that sort of thing. How would the cost trigger be calculated? It is a pretty basic question" on which guidance is still needed, said Judy Bauserman, a partner at Mercer L.L.C. in Washington.

In addition, it's not yet known whether administrative costs, such as fees self-funded employers pay TPAs, are to be included or excluded in calculating plan costs, she said.

"In short, there are lots of questions involving the application of the excise tax," Ms. Bauserman said.

Guidance also is needed on an

ACA provision requiring employers with 200 or more employees to automatically enroll workers who don't respond to employers' offer of health coverage. The requirement will not go into effect until rules are in place.

Automatic enrollment situations "can get quite complicated" should an employer automatically enroll an employee only to find out the worker is covered by their spouse's employer, said Ann Marie Breheny, a senior legislative adviser at Towers Watson & Co. in Arlington, Virginia.

In addition, nondiscrimination rules for insured group health plans were to go into effect in 2011, but have been put on hold until the IRS develops those rules.

Experts say one reason for the delay is that the IRS also wants to issue updated rules to replace its 30-year-old nondiscrimination rules for self-insured health plans, so they are similar to fully insured plans.

As for timing, "I have heard this is being fast-tracked, but I also have heard we will have nothing soon," said Rich Stover, a principal at Buck Consultants at Xerox in Secaucus, New Jersey.

Also yet to come are final rules on an ACA provision requiring employers to offer plans providing "minimum value" to avoid financial penalties. Late last year, regulators said plans would have to provide "substantial" coverage for in-patient hospital and physician services to pass the test and sought public comment on defining substantial. The comment period expired last month.

Experts say at least some regulatory guidance is expected this year — perhaps as soon as summer — while also saying that such predictions are just a guess in the absence of signals from regulators.

NEEDED GUIDANCE

Provisions of the health care reform law for which final rules are needed

- How to calculate the 40% federal excise tax on high-cost health plan premiums
- Automatically enrolling employees who don't choose a health plan
- Nondiscrimination rules as they apply to fully insured plans
- Reporting health plan enrollment to the government

RULES GET STRICTER



Effective Jan. 1, **employers with 100 or more full-time workers** that fail to provide affordable health care coverage to **70%** — increasing to **95%** in 2016 — of their workforce this year must pay an annual penalty of \$2,000 per eligible employee, but only if at least one employee buys subsidized coverage through a public exchange.





AP PHOTO

POTENTIAL CHANGES

Health care reform law revisions Congress is expected to target this year include:

- Raising the definition of a full-time employee to 40 hours a week from 30 hours
- Repealing ACA-imposed excise taxes on medical device manufacturers
- Repealing or delaying the “Cadillac tax” on high-cost health plan premiums
- Redefining the mandate to apply only to larger employers
- Repealing the automatic enrollment requirement

Republicans are expected to use their control over both chambers of Congress to try to make changes to the health care reform law.

REPUBLICANS TAKE AIM AT HEALTH CARE REFORM LAW

But bipartisan support still needed for revisions to happen

BY JERRY GEISEL

Republican-backed proposals to amend the health care reform law will not share the same fate as those in prior congressional sessions, as the GOP regained control of the U.S. Senate after the November elections while adding to their majority in the House.

That means House-passed measures to revamp the law no longer will be dead on arrival in the Senate.

But how many, if any, GOP-backed proposals on amending the Patient Protection and Affordable Care Act will become law is less certain. With 55 members in the Senate, Republicans would need bipartisan support to muster the 60 votes needed to stop Democratic filibusters or the 67 votes needed to overturn a presidential veto.

“The bottom line is there is not much Congress can do to seriously weaken the law given who is president,” said Geoffrey Manville, a principal at Mercer L.L.C. in Washington.

“Lawmakers may make some changes around the edges, but I don’t see significant changes,” said Katy Spangler, senior vice president of health policy at the American Benefits Council in Washington.

Still, Washington benefit observers are not ruling out all changes.

The change that may have the best chance of passage — changing the definition of a full-time employee — is one the House approved in 2014 but on which the Senate never acted.

Instead of defining full-time employees as those working an average of 30 hours per week, a broad array of business groups have backed legislation to change that to 40 hours per week, in part to avoid a \$2,000 per employee penalty for not offering health coverage to at least 70% of their full-time employees this year and 95% in 2016 and succeeding years.

“That is a big one,” Mercer’s Mr. Manville said, referring to the 30-hour-per-week standard in the health care reform law.

In certain industries, such as retail and hospitality, coverage rarely is extended to employees working as few as 30 hours a week. That leaves employers with a difficult choice: face higher costs for covering more workers or pay the ACA penalty for not offering the coverage to a high enough percentage of employees.

“There is a good deal of bipartisan support” to change the definition of full-time employee to 40 hours, said Steve Wojcik, vice president of public policy at the National Business Group on Health in Washington.

Indeed, 12 Democrats joined Republicans when the House, earlier this month, again approved the measure bumping up the definition of full-time employees as those working an average of 40 hours per week. The Senate has not yet taken up the measure.

Still, President Barack Obama has threatened to veto such a change, contending it would reduce the number of people with health insurance coverage by 1 million. Experts say the GOP would struggle to muster votes to override

such a veto.

Repealing a requirement that employers with at least 200 employees automatically enroll employees who do not select a health plan also “has the potential of repeal,” said Ann Marie Breheny, a senior legislative adviser at Towers Watson & Co. in Arlington, Virginia.

One factor that could boost the chances of lawmakers eliminating automatic enrollment is that the requirement hasn’t yet gone into effect.

“When there is nothing to undo, repeal is easier,” Ms. Breheny said.

Another item high on employers’ list of ACA provisions they would like to see repealed or amended is the 40% excise tax on high-cost health plan premiums that is to go into effect in 2018.

A big unknown — one that could make the administration more receptive to accepting certain changes — is how the U.S. Supreme Court will rule in a key health reform law case.

In *David King et al. v. Sylvia Matthews Burwell et al.*, the high court will hear oral arguments March 4 on whether lower-income people who are uninsured can use federal premium subsidies to obtain coverage in federal exchanges.

If the high court tosses out the IRS rules, that could make the Obama administration more receptive to legislative change on the exchange issue and “could open the door for negotiations on other provisions,” said Gretchen Young, vice president of health policy at the ERISA Industry Committee in Washington.

Employers keep striving to hold down health care costs despite lower projected increases for many this year

Excise tax on high-cost plans could hit half of large employers in 2018

KAREN PALLARITO

Most large and midsize employers that offer health insurance to their employees are maintaining it this year, but they're still looking to limit their costs.

Many employers face health care costs that are projected to increase in the single-digit range as well as taxes and fees related to the Patient Protection and Affordable Care Act. They're also taking steps to avoid the 40% excise tax on high-cost health plans that will go into effect in 2018.

Based on various employer surveys, one-third to more than half of large employers are on a trajectory to hit that tax in 2018.

"That's why we've been seeing pretty bold (cost-containment) strategies for a couple of years now," said Tracy Watts, a Washington-based senior partner and national health reform leader at consultant Mercer L.L.C.

For example, Mercer data shows that employers expect an average increase of 4.6% in health care costs this year, but it would have been 7.1% had they not made changes to their plans.

In contrast to recent years, when benefits enhancements such as banning lifetime limits and expanding coverage to adult children resulted in major changes due to the ACA, 2015 is "a fairly quiet year for major plan changes among large employers," said Randy Abbott, a Boston-based senior consultant and health and benefits group practice leader at Towers Watson & Co.

By and large, midsize employers did not make huge benefit plan changes for 2015, although there was a continued migration to high-deductible health plans, said Rebecca McLaughlan, vice president of health and benefits at Marsh & McLennan Agency L.L.C., in Troy, Michigan. However, some

retail and service businesses reduced worker hours or added lower-cost health plans with higher employee contribution rates to comply with the ACA's mandate to provide coverage to employees, she said.

For the future, nearly four in five midsize to large employers expect to make some change by 2017 in benefits offered to full-time employees, according to a Towers Watson study. Benefits consultants expect even more action as 2018 approaches. Mercer estimates about one-third of employers would be subject to the excise tax without changes to their health plans.

The excise tax, which is to be levied on plans that cost more than \$10,200 a year for individuals and \$27,500 for a family, could force Chicago-based Jones Lang LaSalle Inc. to scrap its standard preferred provider organization plan as early as 2016, said Tim Quitmeyer, the real estate management and investment firm's vice president of benefits. The company has informed its roughly 15,000 benefits-eligible U.S. employees and, for now, is taking a wait-and-see approach, he said.

Rick Wald, Minneapolis-based director and national practice leader at Deloitte Consulting L.L.P.'s employer health care consulting practice, said "a fair number of employers (are) still holding their breath, seeing what the new Congress will do."

In the meantime, Jones Lang hopes to expand enrollment in its two high-deductible plans, with in-network deductibles of \$1,300 to \$6,750 depending on the plan and the number of people covered, through employee education and tech tools to help individuals and families gauge health care spending.

Many employer benefit plans nudged up deductibles, coinsurance and premium contributions for 2015, several surveys show.

Caterpillar Inc. is replacing fixed-dollar copays on certain prescription drug tiers with coinsurance due to rapidly growing costs. A spokeswoman for the Peoria, Illinois-based company declined comment, but in an overview of health benefit changes, Caterpillar said "copays have not increased since 2004 for most participants" and that brand name drugs, which the heavy equipment maker said tripled in cost in 10 years, and growing prevalence of high-cost specialty drugs were major reasons for the move.

Employers also are migrating to high-deductible health plans.

al content provider declined to comment.

Roughly one-third of employers are considering a surcharge for spouses who have health insurance through their own employer or excluded spouses from coverage, according to Towers Watson data.

Outcomes-based incentives also are becoming more prevalent, benefits experts said. Towers Watson's survey predicted a 10% increase in the number of employers taking that approach this year, with another 48% considering it for 2016 or 2017.

Although the U.S. Equal Employment Opportunity Commission has filed several suits challenging wellness programs that penalize employees for nonparticipation, Steve Flores, an associate in the Chicago office of Winston & Strawn L.L.P., said the law firm is not advising clients to pull the plug on wellness plans. Until the litigation plays out, what employers can do is make sure their programs "are communicated as an incentive and not a penalty," he said.

Miami-Dade County Public Schools, the nation's fourth-largest school district with about 40,000 full-time benefits-eligible employees, has extended its incentive for employees to have an annual physical, participate in biometric screening and complete a health risk assessment. Employees who meet wellness goals by Sept. 30 may select a narrow-network plan with no premium for employee-only coverage.

By encouraging employee participation in wellness activities, the district hopes to raise employee awareness of health risks and encourage them to take action that, in turn, will save the school district money.

Facing potential excise taxes of almost \$17 million in 2018 and \$40 million in 2020, the school district also is exploring adding a CDHP for 2016, said Scott Clark, the district's Miami-based risk and benefits officer.

Adding a CDHP won't solve the excise tax issue, but it will begin "to chip away at it," said Mr. Clark, a former president of the Risk & Insurance Management Society Inc., adding that the district will seek proposals this year for a tool that will help employees shop for the most cost-effective health care facilities.

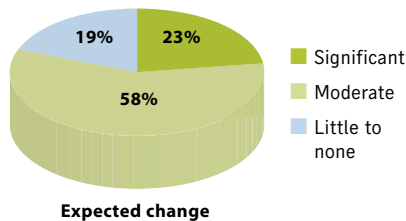
While employers are interested in private health insurance exchanges to provide benefits to their workers, only 3% of large employers have made the move, according to Mercer data.

For some employers, private exchanges are "a logical choice," said Karen Marlo, a vice president at the National Business Group on Health in Washington.

The retail and hospitality industries, for example, have moved to exchanges in greater numbers because many employers expanded coverage to employees who work at least 30 hours a week. But for companies doing a good job controlling costs, private exchanges are "not the right model at this time," she said.

APPETITE FOR CHANGE

More than four out of five employers expect to make moderate to significant changes in health care programs offered to employees by 2017.



Source: Towers Watson & Co. 2014

More than half of large employers are adding or expanding consumer-driven health plans, and those offering such plans as their only option jumped 10 percentage points to 32% this year, according to the National Business Group on Health's annual employer survey.

New York-based McGraw-Hill Education adopted two new CDHPs this year, replacing its standard PPO and a different CDHP, according to the company's open enrollment materials. The New York-based education-

"We've been seeing pretty bold (cost-containment) strategies for a couple of years now."

Tracy Watts,
Mercer L.L.C.



BROKERS AND CONSULTANTS OFFERING PRIVATE HEALTH EXCHANGES FOR GROUP EMPLOYEES¹

Company	Headquarters	Exchange Name	Exchange technology platform	Target employer size ²	EMPLOYER CONTRIBUTION	
					Defined contribution	Defined benefit
The Addis Group Inc.	King of Prussia, Pennsylvania	The Addis Group Marketplace	Bright Choices	N/A	✓	
AIA Benefits Resource Group	Mechanicsburg, Pennsylvania	Simplific-e Private Exchange	Bright Choices	Small to very large	✓	
American Westbrook Insurance Services L.L.C.	Westchester, Illinois	American Westbrook National Private Exchange	GoHealth and InsureMonkey	Very small to very large	✓	
Aon Hewitt	Lincolnshire, Illinois	Aon Hewitt Corporate Health Exchange	Proprietary	Medium to very large	✓	
Arthur J. Gallagher & Co.	Itasca, Illinois	Gallagher Marketplace	Bright Choices	Small to medium	✓	
Ascension Insurance Inc.	Walnut Creek, California	BenXchange by Ascension	Bloom Health	Very small to large	✓	
AssuredPartners Inc.	Lake Mary, Florida	Assured Options Private Exchange	Bright Choices	Small to Large	✓	
Barney & Barney L.L.C.	San Diego	The Barney & Barney Atlas Employer Exchange	MyPlan Source	Small to very large	✓	
BB&T Insurance Services Inc.	Raleigh, North Carolina	CarePlus Benefits Exchange- Custom	ProView Resource Group	Medium to large	✓	
BB&T Insurance Services Inc.	Raleigh, North Carolina	CarePlus Benefits Exchange - Standard	Bright Choices	Very small to small	✓	
Benefit Advisors Network	Cleveland	Benefit Advisors Network Private Exchange	Bright Choices	Small to medium	✓	
Broad Reach Benefits Inc.	Madison, New Jersey	Broad Reach Benefits Private Exchange	Bright Choices	N/A	✓	
Brown & Brown Inc.	Daytona, Florida	The Brown & Brown Employee Benefits Marketplace	Bright Choices	Very small to very large	✓	
Buck Consultants at Xerox L.L.C.	New York	RightOpt	Proprietary	Large to very large	✓	✓
Cbiz Inc.	Cleveland	CbizChoice	Bright Choices	Small to medium	✓	✓
CBP	Stamford, Connecticut	CBP Select	ebenefit	Very small to very large	✓	
Clarke & Co. Benefits L.L.C.	Columbia, South Carolina	Clarke & Co. Private Exchange	QHIX Private Health Exchange	Small to large	✓	✓
Conner Strong & Buckelew	Marlton, New Jersey	Conner Strong & Buckelew Private Benefits Exchange (2 types)	Bright Choices and Benefits Shoppe	Medium to large	✓	
Corporate Synergies Group L.L.C.	Mt. Laurel, New Jersey	SynergiesSelect	SmartBen	medium to large	✓	
Crawford Advisors L.L.C.	Hunt Valley, Maryland	Crawford Advisors Private Exchange Solutions	bswift	Small to large	✓	✓
The Crichton Group	Nashville, Tennessee	The Crichton Group's Private Exchange	Assurex Global Platform	Medium to large	✓	✓
Digital Benefits Advisors	Atlanta	Digital Benefits Marketplace	N/A	N/A	✓	
Evolution Benefits Consulting L.L.C.	Malvern, Pennsylvania	Evolution Benefits Healthcare Exchange	bswift	Medium to very large	✓	
Frenkel Benefits L.L.C.	New York	Frenkel Benefits Marketplace	bswift	Medium to very large	✓	
The Graham Co.	Philadelphia	The Graham Company Private Exchange	Assurex Global Platform	Medium to large	✓	✓
Harden	Jacksonville, Florida	The Harden Private Exchange	Assurex Global Platform	Small to large	✓	✓
The Hatcher Agency	Little Rock, Arkansas	The Hatcher Agency Private Exchange	QHIX Private Health Exchange	N/A	✓	✓
The Horton Group Inc.	Orland Park, Illinois	The Horton Group Private Exchange	Assurex Global Platform	Medium to large	✓	✓
Hub International Ltd.	Chicago	Hub International Private Exchange	Bright Choices	Medium to large	✓	
Insurance Marketing Center Inc.	Rockville, Maryland	IMC Private Exchange	N/A	N/A	✓	
J.W. Terrill Inc.	Chesterfield, Missouri	TerrillChoice	SmartBen	Medium to large	✓	
Kelly & Associates Insurance Group Inc.	Hunt Valley, Maryland	Kelly's Private Exchange Solutions	KTBSOnline	Very small to very large	✓	✓
Leslie Saunders Insurance Agency Inc.	Lutz, Florida	Simplifi Benefits Exchange	ConnectedHealth	Very small to small	✓	
Lockton Cos. L.L.C.	Kansas City, Missouri	Lockton Marketplace	Spotlite, GetInsured, SelectQuote	Small to large	✓	
Lovitt & Touché Inc.	Tucson, Arizona	ClearPath Prime	Bright Choices	Very small to very large	✓	
M&T Insurance Agency Inc.	Buffalo, New York	M&T Insurance Agency Private Exchange	Bright Choices	N/A	✓	✓
The Mahoney Group	Mesa, Arizona	The Mahoney Group Private Exchange	Assurex Global Platform	Small to large	✓	✓
Mercer L.L.C.	New York	Mercer Marketplace	Benefitfocus	Medium to very large	✓	✓
Murray Securus	Lancaster, Pennsylvania	Choice Benefits Marketplace	PlanSource	Very small to medium	✓	
National Financial Partners Corp.	New York	NFP Marketplace	bswift	Small to large	✓	✓
Oswald Cos.	Cleveland	Oswald Private Exchange	Assurex Global Platform	Small to large	✓	✓
Paychex Insurance Agency Inc.	Rochester, New York	Paychex Insurance Agency Personal Marketplace	ConnectedHealth	Very small to large	✓	✓
Regions Insurance	Memphis, Tennessee	Regions TruSelect	Bloom Health	Small to large	✓	
Solstice Benefits Inc.	Plantation, Florida	Solstice Marketplace	Proprietary	Small to medium	✓	✓
Total Benefit Solutions Inc.	Bellevue, Washington	Beam Health Exchange	bswift	Small to medium	✓	
Towers Watson & Co.	New York	OneExchange	Extend Health	Large to very large	✓	✓
United Benefit Advisors L.L.C.	Indianapolis	benefitbay	Proprietary	Very small	✓	✓
United Benefit Advisors L.L.C.	Indianapolis	Benefits Passport	Hanna Global Solutions	Small to large	✓	
USI Insurance Services L.L.C.	Valhalla, New York	USI Exchange	Bright Choices	Small to large	✓	
Walsh Duffield Cos. Inc.	Buffalo, New York	Walsh Duffield Private Exchange	Bright Choices	N/A	✓	
Willis North America Inc.	New York	The Willis Advantage	Bright Choices	Medium to very large	✓	

¹ Some of these brokers may also offer a private health exchange for individuals or families. Brokers offering only private exchanges to individuals or families are not included.

² Very small = 2-49 employees, small = 50-99, medium = 100-499, large = 500 -1999, very large = 2,000 or more

N/A = Not available.

Source: Company websites, press releases and/or direct contact with companies

EXCHANGE SERVICE TECHNOLOGY PROVIDERS

Companies offering technology for private health exchange services, including benefits administration, enrollment, payment administration and payroll services.

- Benefit Express Services L.L.C.
- Benefitalign L.L.C.
- BenefitMall
- BenefitsConnect (Transcend Technologies Group Inc.)
- EBenefits Solutions L.L.C.
- eHealthInsurance Services L.L.C.
- Genius Avenue (DirectWeb Administrative Services L.L.C.)
- Solstice Benefits L.L.C.

EXCHANGE PLATFORM AND/OR MARKETPLACE PROVIDERS*

Companies providing the technology platforms and marketplaces powering private health exchanges.

- Array Health Solutions Inc.
- Benefitfocus Inc.
- Bloom Health Corp.
- bswift L.L.C.
- ConnectedHealth L.L.C.
- Connecture Inc.
- GoHealth L.L.C.
- hCentive Inc.
- InsureMonkey
- Liazon Corp.
- Quadrant 4 System Corp.

*Partial list

ASSOCIATIONS' PRIVATE EXCHANGES*

Private health insurance exchanges run by business associations.

- CBIA Health Connections (Connecticut Business & Industry Association)
- Chamber Preferred (Vermont Chamber of Commerce)
- Florida Bar Private Health Exchange (Florida Bar Association)
- Illinois Police Insurance Exchange (Illinois Police Benevolent and Protective Association)
- MBA Health Link (Mortgage Bankers Association)
- Mississippi Retail & Grocers Association Private Benefits Exchange
- MyCU Exchange (Credit Union Benefits Alliance)
- North Carolina Chamber MarketPlace
- Realtors Insurance Marketplace (National Association of Realtors)
- Truckers Insurance Exchange (National Association of Independent Truckers)

*Partial list

HEALTH INSURER MARKETPLACES

Health insurers offering private exchanges.

- Aetna Inc.
- Anthem Insurance Cos. Inc.
- BlueCross BlueShield (several states)
- Cigna Corp.
- Highmark Inc.
- Land of Lincoln Health Inc.
- Medica Health Plans
- Medical Mutual of Ohio
- United Healthcare Services Inc.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
IN RE PETITION OF DAN YORAM SCHWARZMANN
AND MARK CHARLES BATTEN,
AS PROVISIONAL LIQUIDATORS OF
INDEPENDENT INSURANCE COMPANY LIMITED,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 01-13899 (SMB)

NOTICE IS HEREBY GIVEN THAT ON DECEMBER 24, 2014, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON JULY 31, 2001. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON JUNE 23, 2015 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE STUART M. BERNSTEIN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE STUART M. BERNSTEIN AND SERVED ON COUNSEL FOR THE PETITIONERS LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONERS.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE PETITIONERS
1301 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019
(212) 408-5100
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For 2015 BI Rates or Editorial Calendar call
Pegeen Prichard at 312.649.5446 or
pprichard@businessinsurance.com

REQUEST FOR PROPOSALS



The Delaware River Port Authority (DRPA) is requesting a Technical Proposal and a Price Proposal for Broker/Consultant Services for Traditional Property & Casualty Insurance and Pollution Legal Liability. Interested parties can find the Request for Proposal documents by going to the DRPA web site www.drpa.org, clicking on the "Working with DRPA" link, and then clicking on "Bids and Contracts."

REQUEST FOR PROPOSALS



The Delaware River Port Authority (DRPA) is requesting a Technical Proposal and a Price Proposal for Broker/Consultant Services for Bridge Property & Excess Liability. Interested parties can find the Request for Proposal documents by going to the DRPA web site www.drpa.org, clicking on the "Working with DRPA" link, and then clicking on "Bids and Contracts."

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WHAT MATTERS MOST

Atlas General offers special disaster form

Atlas General Insurance Services L.L.C. has drafted a difference in conditions form focused on commercial policyholders with property values of up to \$10 million.

The policy has limits of up to \$5 million and is underwritten by Lloyd's of London, a spokeswoman for San Diego-based Atlas said.

The difference in conditions policy includes earthquakes and floods, and covers real and personal property, business income and loss of rents in the California area.

Target classes include apartments, condominiums, retail and wholesale establishments, and offices and warehouses, the spokeswoman said.

"This will allow us to serve the medium to smaller commercial earthquake segment and complement our current binding agreements," John Coleman, president of Atlas' specialty property division, said in a statement.

Brit forms reinsurer for property portfolio

Brit P.L.C. has created a special purpose reinsurer to provide collateralized supports for the carrier's 2015 property treaty portfolio.

Versutus Ltd., which will be initially capitalized at \$75 million, has entered into a quota share agreement with Brit, under which it will reinsure a share of the London-based Brit's existing worldwide property catastrophe excess of loss portfolio, Brit said in a statement.

"This is an important step for Brit as we look to broaden and enhance our capabilities within the capital markets arena and to maximize the efficiencies of our reinsurance programs for 2015," said Brit Global Specialty CEO Matthew Wilson in the statement. "We are delighted to have secured funding for Versutus from a range of new partners whom we look forward to working with closely in the future."

Versutus is based in Pembroke, Bermuda.

Group offers coverage for firms in war zones

A consortium of international risk management experts has launched a risk mitigation, emergency response and insurance program designed for organizations that operate in hostile or complex environments.

Hostile Environment Liability Protection, or HELP, aims to protect the operations of security, logistics, engineering and construction firms, and nongovernmental organizations, charities or media that deploy personnel to war zones. London-based HELP said in a statement. The program is also open to firms with domestic operations, including nuclear installation protection, homeland security, VIP protection, explosive detection, and air, sea and land security.

Underwritten by Lloyd's of London and led by a Beazley P.L.C. syndicate, the lia-



Wellness portal tracks workers' activity data

* Tracking technology company Garmin Ltd. has created the Garmin Connect wellness portal, a website for corporate wellness programs that allows employers to track the activity data of participating employees.

The wellness portal allows companies to create and implement a wellness program, invite employees to join via email, and engage employees using social interaction and challenges, Garmin said on its website.

Companies can measure progress and overall engagement through an administrative dashboard displaying activity data, Garmin said.

Meanwhile, participants can monitor their individual progress toward fitness goals and track how their progress compares with the rest of the program.

"The introduction of our wellness portal offers an all-in-one solution for companies to encourage and motivate employees to adopt a healthier lifestyle through wellness programs," Dan Bartel, Garmin vice president of worldwide sales, said on the company's website.

bility policy covers losses from political violence, war and terrorism, according to the statement. The coverage offers limits of \$20 million for each claim and aggregate limits of \$20 million for combined liabilities, a program spokesman said.

Coverage includes professional, general, employers, auto and technology products liability with worldwide jurisdiction.

Acappella launches as holding company

Acappella Group Holdings Ltd. has launched as an insurance holdings company that will operate a managing general agency business and a fund management company.

London-based Acappella, which operates multiline Lloyd's of London syndicate 2014, backed by individual investors — or names — also intends to create a Lloyd's managing agency.

Brokerage Willis Group Holdings P.L.C. and holding company Ironshore Inc. also have stakes in Acappella.

Canopus division focuses on renewable energy

Canopus Group Ltd., the London-based insurance and reinsurance platform of Sampo Japan Nipponkoa Insurance Inc., has launched an Amsterdam-based renewable energy division.

The division will underwrite jointly for Canopus and Sampo Japan Nipponkoa Insurance Co. of Europe Ltd., Canopus said.

Canopus said the division will initially focus on offshore wind renewable energy risks.

Berkshire specialty unit expands pollution cover

Berkshire Hathaway Specialty Insurance, a unit of Berkshire Hathaway Inc., has expanded its U.S. casualty liability products to include pollution coverage.

In a move to enter the environmental insurance market, the Boston-based insurer now offers pollution coverage on general casualty forms on a primary and excess basis, with capacity of up to \$25 million, Berkshire Hathaway Specialty Insurance said in a statement.

Altru adds coverage form in Midwest, South

Cincinnati-based managing general underwriter Altru L.L.C. has started a miscellaneous professional liability coverage form in nine states in the Midwest and South.

The policy offers limits of up to \$5 million and is provided by Old Republic Insurance Co., a unit of Chicago-based Old Republic International Corp., Altru said in a statement.

The coverage is approved in Indiana, Iowa, Kentucky, Michigan, Ohio, Pennsylvania, Tennessee and Wisconsin, according to the statement.

The program is awaiting approval in Illinois and Massachusetts, an Altru spokeswoman said.

Training targets senior risk management leaders

Malvern, Pennsylvania-based The Institutes and the University of Virginia Darden School of Business have announced their 2015 Executive Education program, which provides leadership training for senior-level managers in the insurance and risk management industries.

The program, slated for March 22 to 27, aims to help participants learn strategic decision-making techniques, understand insurance industry issues, develop leadership skills, and network, The Institutes said in a statement.

The Institutes is the operating name of the Malvern, Pennsylvania-based Insurance Institute of America, and the American Institute for Chartered Property Casualty.

Led by Darden faculty in Charlottesville, Virginia, the program features class discussions, workshops, and real-world case studies, according to The Institutes' website.

DEALS & MOVES

Marsh acquires Belgium trade credit insurer

Marsh L.L.C. has acquired Aalst, Belgium-based trade credit insurer Trade Insure N.V., Marsh announced.

Terms of the deal were not disclosed.

The combined entity will trade as Marsh Trade Insure and serve clients through Marsh's Benelux offices in Antwerp, Brussels, Liege, Luxembourg and Roselare, as well as Aalst.

"I am delighted to welcome the experienced team from Trade Insure to Marsh," Flavio Piccolomini, CEO of Marsh Continental Europe, said in a statement.

Keefe, Bruyette & Woods buys insurance research firm

Investment bank Keefe, Bruyette & Woods Inc., a subsidiary of Stifel Financial Corp., has acquired Wilmette, Illinois-based insurance research firm Cagney Research Group Inc.

A spokeswoman for New York-based KBW declined to disclose the terms of the deal.

Richard Cagney, former principal of Cagney Research Group, joins KBW as managing director of insurance in its equity group, the firm said in a statement. He will be based in Chicago.

Alliant Insurance Services acquires American Benefits Consulting

Specialty insurance broker Alliant Insurance Services Inc. said it has acquired employee benefits consulting firm American Benefits Consulting L.L.C.

New York-based American Benefits Consulting provides employee benefits consulting services for Fortune 500 companies, focusing on voluntary benefits, group insurance, executive benefits and international benefits, Alliant said in a statement.

A spokeswoman declined to comment on the terms of the deal, which were not disclosed.

American Benefits Consulting CEO Peter Worth joins Alliant as vice chairman of employee benefits, according to the statement.

American Benefits Consulting and its staff of 50 employees will continue to operate in the firm's current locations.

Marsh & McLennan Agency buys Benefit Planning Group

Marsh & McLennan Agency L.L.C., a subsidiary of Marsh L.L.C., said it has acquired Durham, North Carolina-based employee benefit consulting firm The Benefit Planning Group Inc.

A spokeswoman for White Plains, New York-based Marsh & McLennan Agency declined to comment on the terms of the deal, which were not disclosed.

The Benefit Planning Group specializes in providing employee benefits and insurance services to the health care community, including medical schools, physicians and medical practices, Marsh & McLennan Agency said in the statement.

The Benefit Planning Group's founder and president, Mike Waters, and its 14 employees will join Marsh & McLennan Agency's mid-Atlantic region and continue to operate out of The Benefit Planning Group's Durham office, according to the statement.

ISIS

Continued from page 3

“You have to take away the dialogue that they used to justify this and think about it as a shooter attack,” he said. “There’s nothing they can do to stop a terrorist attack, yet they can take steps to handle an active shooter.”

The real concern is the shifting landscape for what can happen and when it can happen, said Pamela Fox, London-based divisional director of credit and political risks at Arthur J. Gallagher & Co.

“We have for a number of years seen terrorist actions,” she said. “The problem is terrorism isn’t limited to nasty foreigners. We are all seeing homegrown people who are becoming indoctrinated.”

Tim Holt, the London-based head of Intelligence at Alert: 24, a subsidiary of Willis Group Holdings P.L.C.’s special contingency risk

unit, called it “jihadi cool,” as “social media networks allow the rebranding of fundamentalism as fashionable.”

Mr. Holt cautioned that the recent attacks in Paris are an extension of a pattern that has been emerging since the well-orchestrated Sept. 11, 2001, attacks in the United States. “The trend is low-tech,” he said. “In the U.K., people have been aware of this for a long time.”

Yet in instances such as shootings at workplaces and schools, and perhaps lone terrorist attacks, there lies a gaping risk management hole — the collection and dissemination of information, said Rick Shaw, CEO and founder of Lincoln, Nebraska-based risk management advisory firm Awareity Inc.

Companies ought to have a central place where suspicious activity and threats can be reported, he said.

“For example, if someone came in (to an office) and asked a series

of questions or made threats,” he said. “People see things and hear things; (perpetrators) announce what they are going to do on social media, for example.

“In multinational companies if you have this type of incident you call this person or that person, and therein are silos and disconnects that are keeping the right people from getting the information at the right time,” Mr. Shaw said.

In his analysis of the events at Charlie Hebdo, Mike Ackerman, CEO of the Miami-based Ackerman Group L.L.C., a firm that specializes in counterterrorism and risk mitigation for multinational companies, said he does not think the Charlie Hebdo attack was well-planned. He cites several instances of sloppiness: the hijacking of a getaway car following the shooting, the robbing of a store for gas money.

It is, however, a sign of the times, he said. “The problem of terrorism has been with us for a long time, yet this is a new wake-up call.”

WELLNESS

Continued from page 3

Another 48% of employers plan to add a results-based incentive strategy to their wellness program by 2016 or 2017, according to Towers Watson’s survey.

“The days of giving employee small tokens like gift certificates or T-shirts are long gone,” said Lisa Weston, director of wellness promotion at human resources consultant Bagnall Co. in Phoenix.

Ms. Weston said most employers migrating toward outcomes-based incentive designs thus far have been larger firms.

Another recent development experts say could gain substantial momentum this year is the burgeoning popularity of value-of-investment metrics as an alternative way to measure a wellness program’s positive and/or negative effects.

“Over the last two years, we’ve seen this debate rise up over the ROI of wellness, and I think there is a healthy level of skepticism to apply there,” said Ron Leopold, the Atlanta-based national practice leader for health outcomes at Willis North America Inc.

Unlike the cost/benefit-oriented return-on-investment assessments many employers use to gauge their wellness programs’ financial

viability, experts say value-of-investment assessments examine the breadth of a wellness program’s cost-effectiveness relative to an employer’s other operations.

“I think there’s a growing recognition among employers that wellness is a marathon, it’s not a sprint, and there are far more targeted ways to put in programs in order to lower your medical costs,” Mr. Leopold said. “The lion’s share of what’s in a wellness program ... does pay dividends over time.”

“There’s also a growing body of evidence that suggests that companies that do invest in good health and wellness programs correlate with better business returns and greater profitability when compared to peer companies that have not invested in wellness,” he said.

As much as 32% of employers polled last year by Arthur J. Gallagher & Co. indicated they already use one or more of the most common value-of-investment metrics — including employee engagement, lost work time and lost productivity — to evaluate their wellness program.

“It gets to all of what comes out of all of the resources invested in wellness programs,” said LuAnn Heinen, a Minneapolis-based vice president at the National Business Group on Health. “It gives you a look at what your business results are, beyond the medical trend.”

CATLIN

Continued from page 3

this type of deal.

“There could be real fallout if the synergy at the top doesn’t work out,” Mr. Flanagan said.

Mr. McGavick said there would be some job losses when the companies combine, but said he believed XL Catlin would be able to “retain the best of the best.”

Sources said about 10% of Catlin’s current staff are likely to lose their jobs as part of anticipated cost synergies of \$200 million annually, with one-time integration costs of about \$250 million.

Integrating two global organizations makes this a complex transaction, said Anvar Gabidullin, London-based associate director of insurance at Standard & Poor’s Corp. in London.

After the deal was announced, S&P affirmed its A rating of Catlin with a stable outlook.

Catlin is well-known as a leading Lloyd’s platform, which is one of XL’s drivers for the deal, which Mr. Gabidullin said makes it “very important” to keep key staff.

A risk, said one source who asked not to be named, is that the most talented underwriters — who effectively make up the value of the company XL is buying — would be poached by rivals.

Moody’s Investors Service Inc. said “the inability to successfully integrate Catlin and retain the majority of its personnel and business” is a risk it will monitor.

While Messrs. McGavick and Catlin both believe the cultural fit will be quite good, “it will be interesting to see how ... two strong personalities interact post-merger,” said James Eck, senior credit analyst at Moody’s.

Fitch Ratings Ltd. affirmed its A+ ratings of XL’s core companies, but said “integration risk (is)

UPCOMING EXECUTIVE CHANGES

A series of executive changes are expected following the merger of XL Group P.L.C. and Catlin Group Ltd.

Stephen Catlin is to serve as executive deputy chairman of XL Catlin on completion of the deal, the companies said.

XL Chief Financial Officer Peter Porrino will retain that post once the insurers combine.

An additional Catlin director is expected to join the XL Catlin board on completion of the deal.

Greg Hendrick, now chief executive of XL’s insurance operations, will become chief executive of reinsurance.

Until the deal closes, John Welch, chief executive of XL’s North America reinsurance operations, will lead XL’s global reinsurance operations following last year’s retirement of Jamie Veghte as chief executive of reinsurance.

Paul Brand, chief underwriting officer at Catlin, is to become chair of the insurance leadership team and chief underwriting officer.

Myron Hendry, chief platform officer at XL, will lead the integration of the businesses.

By Sarah Veysey

for more than 18 months to put the deal together.

Sources say much of integration’s success may hinge on how well the two work alongside each other once the deal is completed.

According to one source, who asked not to be named, Mr. Catlin has been extremely close to the business and is unlikely to find it easy to relinquish control.

Another source, who also asked not to be named, said Mr. Catlin likely will retain a key role in the day-to-day business once the two entities are combined.

Mr. Catlin could not be reached for comment.

While reinsurance rates for many lines of business continue to fall, boosting its reinsurance presence likely makes sense for XL in the longer term, sources said.

The deal will make the combined entity a top 10 global reinsurer. The need for scale in the current soft reinsurance market, particularly property catastrophe business, was one rationale for the deal that Mr. McGavick cited.

XL is targeting scale and diversity with the deal, and buyers tend to look for those qualities in reinsurance partners, S&P’s Mr. Gabidullin said.

“Exposing oneself to a less profitable reinsurance sector will not be immediately beneficial,” but the deal makes sense from a “critical mass perspective,” said a reinsurance broker source, who asked not to be named. “With the reinsurance sector going the way it is, in five years, only the large and strong will survive,” he said.

Catlin’s focus on specialty primary insurance “is the diversifying segment that is accretive to XL and where XL will be targeting growth,” Mr. Gabidullin said.

Many companies operating in the Lloyd’s market also are keen to diversify their business mix and gain scale, so more M&A activity at Lloyd’s is likely, he said.

inherent in the acquisition.”

“Fitch would view negatively the departure of key senior management members or the inability of the combined organization to retain clients that results in a significant loss of business,” Brian Schneider, Chicago-based lead analyst of XL at Fitch, said in a note to investors.

Mr. McGavick said he and Mr. Catlin had been working closely

OFF-LABEL

Continued from page 4

and the fact that ... we believe there are other drugs that are therapeutically effective to do what it does, we would certainly try to have a conversation with a physician” to not use the drug to treat an injured worker, said Rita Wilson, Delray Beach, Florida-based CEO of Tower MSA Partners L.L.C., a Medicare secondary payer compliance company.

The impact of off-label drugs is difficult to quantify in workers comp since it’s not always clear why a medication is prescribed, said Brigitte Nelson, Cave Creek, Arizona-based senior vice president of workers compensation clinical management at St. Louis-based pharmacy benefit manager Express Scripts Inc.

However, sources said off-label use in comp is seen primarily in pain management.

Opioids make up a large percentage of off-label prescriptions, said Michael Gavin, Duluth, Georgia-based president of medical cost management company PRIUM.

“It has serious implications for injured worker health because the FDA is signaling to the physician community that these drugs should be used in really limited circumstances, and yet we see our work comp payer community spending \$1.5 billion a year on them,” Mr. Gavin said.

It’s important for PBMs and third-party administrators to be

familiar with medications commonly prescribed off-label so they can appropriately flag and monitor claims, sources said.

State rules also can come into play. For example, a recent update proposed for the California Medical Treatment Utilization Schedule could limit off-label use by requiring physicians to prove with a study or alternate guideline that that treatment contrary to the state’s schedule is appropriate.

Off-label prescribing becomes a problem when physicians prescribe potentially dangerous and expensive drugs, such as “Actiq instead of Vicodin or Norco,” said David Cooper, director of orthopedic surgery at The Knee Center in Wilkes-Barre, Pennsylvania.

Actiq, which is FDA-approved for breakthrough, chronic cancer pain, is a drug that sources agree has no place in workers comp.

“We’ve seen (Actiq) used in workers compensation for nonspecific low back pain,” Mr. Gavin said. “That’s incredibly damaging. That’s a very powerful narcotic.” He said use of Actiq has declined in recent years as “we’ve gotten smarter as a payer community.”

One of the most important things a TPA can do is partner with the right doctors to avoid off-labeling from the onset, said Debbie Michel, Chicago-based president of TPA Helmsman Management Services L.L.C.

And in states that allow it, conducting utilization reviews is considered a best practice to decide whether off-label use is appropriate, experts said.

SONY

Continued from page 1

security legislative proposal to Congress last week that, among other provisions, calls for better cyber security information sharing between the private sector and government, as well as collaboration and information sharing within the private sector.

Also last week, New York Attorney General Eric T. Schneiderman said he would propose state legislation that would require “new and unprecedented safeguards” for consumers’ personal data.

The Sony attack, blamed on North Korea in reaction to the movie “The Interview,” which mocked its leader, Kim Jong Un, began in November and has led to the theft of more than 100 terabytes of data, including emails, studio executives’ salaries and the personal information of more than 47,000 studio employees.

Firms are viewing the Sony outbreak more seriously in the context of earlier cyber attacks, including those affecting The Home Depot Inc. and Target Corp., experts say.

“Risk managers were well aware of the major cyber threats prior to Sony,” said Kevin Kalinich, Chicago-based global practice leader of cyber risk insurance at Aon Risk Solutions. “The Home Depot and Target breaches already had woken up the risk manager, but for some reason the huge prior breaches had not woken up the management to the extent” that Sony has.

Now, senior management is getting more involved, asking questions about what their firms are doing about cyber security. “We see a more enterprise-level response now from entities to ask if we can help them in connection with that enterprise kind of risk management for cyber,” he said.

There also has been increased interest in cyber insurance as a result of this latest incident, experts say. While “there was already somewhat of a snowball going downhill in terms of the uptake for cyber insurance, the hill got steeper, and the snowball’s getting bigger — fast,” said John F. Mullen, a partner with law firm Lewis Brisbois Bisgaard & Smith L.L.P. in Philadelphia.

“People are going to be asking themselves a lot of questions, try-

ing to figure out where things have fallen between the cracks from a security standpoint, as well as from a coverage standpoint,” said Nicholas Economidis, Philadelphia-based underwriter of professional liability and specialty lines at Beazley P.L.C.

Whereas previously companies had considered whether to invest in information technology security or insurance, “what Sony did was wake up companies to realize it’s not a mutually exclusive question, it’s not an either/or situation,” Mr. Kalinich said. “Companies can invest in investment security as well as supplement that with financial impact protection through insurance.”

The attack has also led to companies’ recognition that the data to be protected can extend far beyond employees’ Social Security numbers or other personal data, experts say.

“We’re really going to have to expand our view” of what information is considered “assets” at this point, said Todd M. Rowe, a partner with law firm Tressler L.L.P. in Chicago.

The embarrassment caused by the data released in the Sony case has raised questions as to how

data is classified, stored and protected, said Adam Cottini, New York-based managing director of insurance and risk management in North America with Arthur J. Gallagher & Co., adding that embarrassment would not have occurred had those emails been encrypted.

More companies “now understand that everyone is in the information business,” said Richard Plansky, executive managing director at cyber security firm K2 Intelligence L.L.C. in New York.

Another factor is executives’ recognition that the impulse behind the Sony cyber attack was maliciousness, not financial gain.

This “is a different type of cyber attack than what we’ve traditionally seen over the years,” said Jay Shelton, Chicago-based vice president of risk management services at Assurance Agency Ltd. “That’s hard to proactively manage.”

Even if firms have nothing to do with North Korea, “there’s always somebody who might want to come after you” from a political, public relations or other nontraditional angle, Mr. Economides said.

“The concern right now with a lot of clients, especially in the retail sector, is can they even get the level of insurance they need” and,

if the coverage towers are available, are they sufficient to cover probable exposure, said Mark Greisiger, president of Gladwyne, Pennsylvania-based NetDiligence.

Meanwhile, “underwriting is getting more scrutiny,” said Mr. Kalinich, though he said the more experienced insurers in the market are already on top of this risk.

Mr. Kalinich added, however, that he thinks underwriting requirements will be tightened, with insurers paying more attention to issues such as mandatory encryption and requiring more upfront assessments. With the soft market, “a lot of players were rushing into the business, but I think they were just overlooking traditional loss controls, and I think there’s going to be a movement back to that now,” he said.

Mr. Kalinich also said some insurers are moving beyond the standard war risk exclusion toward putting exclusions in cyber policies that specifically address government-sponsored attacks.

But “I think you’d really have a tough time proving that under a coverage declamation scenario,” as a similar threat is involved whether the hacker is state-sponsored or not, Mr. Greisiger said.

CHINA

Continued from page 1

in San Francisco. “It’s like dating; it takes awhile.”

Chinese buyers also are looking elsewhere, particularly Europe, where a weak economy and the strength of the Chinese yuan against the euro may create greater opportunities, said Stuart J. Valentine, international counsel at Debevoise & Plimpton L.L.P. in Hong Kong.

But the U.S. is the world’s largest economy in gross domestic product, and Chinese investors see U.S. insurers “as trophy acquisitions,” Mr. Valentine said.

With interests in mining, pharmaceuticals, retailing, asset management and tourism, Fosun has made a string of insurance acquisitions in the past year. Before last month’s Meadowbrook announcement, Fosun bought a 20% equity stake last August in Bermuda-based Ironshore Inc., becoming Ironshore’s largest shareholder. In January 2014, it secured a foothold in the European Union with a €1 billion (\$1.18 billion) bid to take over state-owned Caixa Seguros e Saude S.A., Portugal’s largest insurance group, from the Portuguese government.

As for Meadowbrook, Fosun said it will not only give it a platform to “establish a significant presence” in the U.S. property/casualty marketplace, but also will be an added source of “long-term high-quality capital” for its investments. Fosun Chairman Guo Guangchang previously has expressed admiration for Warren Buffett’s use of insurance and reinsurance subsidiaries’ “float” to build Berkshire Hathaway Inc.

The rapid expansion of Chinese business and industry internationally provides another motive for Chinese investors seeking insurance assets in the U.S. and elsewhere, Mr. Valentine said.

China’s government a decade ago started pushing private and state-owned companies to invest abroad. They have since moved

into mining, infrastructure construction, aircraft leasing and other businesses outside China. Chinese insurers want to be able to provide services wherever those companies and their employees are located, he said.

They are not likely to move rashly, though, after hard experiences investing in financial services businesses overseas, experts say.

Shenzhen-based Ping An Insurance (Group) Co. of China Ltd., one of the country’s largest insurers, had to write off most of a 23.9 billion yuan (\$3.85 billion) investment in Fortis Group after the Belgian insurance and investment company founded in 2008 and was broken up by the Belgian and Dutch governments.

Rather than commit huge sums to far-flung businesses, Chinese investors have trod more carefully since then. Fosun is an example, Mr. Valentine said, looking close to home in Hong Kong to establish Peak Reinsurance Co. Ltd., its first insurance venture outside China, in 2012.

Similarly, China Reinsurance (Group) Corp. worked for three years with Catlin Group Ltd. to underwrite through a special-purpose Lloyd’s of London syndicate before announcing in November that it would form a stand-alone syndicate to write open-market business starting with reinsurance. Syndicate 2088 is the first Chinese-owned Lloyd’s syndicate, and China Re said it eventually will take over management from Catlin.

Chinese acquirers may sometimes make bold, large-scale moves if the right opportunity presents itself. Typically, though, acquisitions are likely to be small to medium in size, Mr. Valentine said.

While Chinese firms may have a growing presence in the U.S., new investment isn’t likely to come in a flood, said Robert Hartwig, president of the Insurance Information Institute Inc. in New York. “I don’t think we’re on the leading edge of a massive wave of Chinese investment in the insurance industry,” but the Chinese are looking worldwide for opportunities, he said.

WISH LIST

Continued from page 4

National Association of Mutual Insurance Cos. “We would like to see a serious focus on oversight of the federal agencies that are negotiating new global standards for insurers,” he said. “We need to end the discussion about importing bank-centric regulations from the E.U. for U.S. insurers.”

For the Reinsurance Association of America, movement on covered agreements is key, RAA President Frank Nutter said. “We’ve been supportive of a covered agreement that provides both U.S. domestic companies as well as foreign reinsurers with a clearer cross-border trading route,” he said.

Covered agreements are essentially treaties for the nation’s treatment of cross-border reinsurance.

Mr. Nutter said RAA also is following tax reform discussions. Tax reform “whatever that might end up meaning,” also is on the AIA’s radar, Ms. Pusey said.

“There have already been discussions about where that will go,” said Charles Symington, senior vice president of the Alexandria, Virginia-based Independent Insurance Agents and Brokers of America. “As small business owners, a lot of our members are organized as pass-through entities. We have to stay very vigilant that those entities that file (income taxes) at individual rates are not unduly disadvantaged.”

Allowing risk retention groups to offer members commercial property coverage as well as liability cover is favored by the Council of Insurance Agents & Brokers, said Joel Wood, the group’s Washington-based senior vice president. “We don’t think we should have to wait for a crisis to have a modest, sensible expansion of the act.”

Mr. Symington said the IIABA is “currently neutral” on expanding the RRG law.

“It has to be done correctly,” he said. “You have to have adequate capital requirement and must have state oversight. State insur-

ance commissioners must be comfortable with these entities and any possible expansion. It has to be proven that it’s necessary, and that there is a marketplace need.”

The council’s Mr. Wood said 2015 “will be largely a year about benefits. While there will be the early votes on the 40-hour work-week and the employer mandate, we expect as the calendar ticks by there will be greater likelihood of some agreements on the ACA.”

He said that of the 174 million U.S. residents who receive their health insurance through their employer, about two-thirds are receiving products brokered by council members.

Also of particular interest to the council is clarifying the scope of the Foreign Account Tax Compliance Act. While it is designed to target noncompliance with U.S. taxes by U.S. taxpayers with foreign accounts, the council and other groups fear it could be extended to some property/casualty transactions. “We made some headway last year on the regulatory process on FATCA, but we still would like to see noncash value property/casualty insurance transactions exempted from the FATCA. It could be achieved either through legislation or through regulatory processes,” Mr. Wood said.

The Risk & Insurance Management Society Inc. supports legislation that clarifies that captive insurance is covered by the Nonadmitted and Reinsurance Reform Act and legislation that “encourages uniformity and reciprocity among states that license insurance claim adjusters,” said Janice Ochenkowski, chair of RIMS external affairs committee and international director of global of risk management for Jones Lang LaSalle Inc. in Chicago.

She said RIMS also will keep an eye on cybersecurity legislation.

Mr. Grande said that NAMIC also would like to see Congress take a “serious look” at federal disaster assistance focusing on a national mitigation strategy “instead of waiting for disaster to strike and spending money ineffectively and inefficiently.”

TRIA

Continued from page 1

previous \$27.5 billion.

“We now have a good bill that provides certainty for both building owners and developers and is very important to New York,” Shari Natovitz, New York-based senior vice president of risk management at Silverstein Properties Inc., said in an email.

While hailing the return of the backstop that had expired Dec. 31, some industry groups are pushing for a permanent solution (see related story).

During the nearly two weeks the program lapsed, some clients turned to stand-alone coverage to plug the gap, said Tarique Nageer, New York-based senior vice president and head of terrorism placement and advisory at Marsh L.L.C.

“For certain clients, there was an additional expense,” Mr. Nageer said. Those that cancel the gap coverage face what is known as a minimum earned premium, or the amount they must pay no matter when they cancel the coverage.

“The marketplace in general was seeking minimum earned premiums running from 25% to 50%” of the overall premium for private terrorism coverage, said one senior underwriter, who asked not to be named.

“In some cases, some of the big carriers were granting 30- and 60-day extensions of coverage,” said Aaron Davis, New York-based managing director at Aon P.L.C.’s property broking unit. “Those carriers that went that route will have greater continuity of coverage for our clients than those that went the exclusionary route.”

An informal survey of some 60 insurers showed about 80% had a grace period, and an even higher percentage would waive sunset clauses on a case-by-case basis, said Mr. Nageer.

Hiscox Inc., for example, extended coverage through the first quarter of this year backed solely by the company, according to a letter Hiscox CEO Ben Walter sent to

its U.S. brokers.

Hiscox quoted and bound “a lot more” stand-alone terrorism business than normal in the last two weeks of 2014, said Jennifer Rubin, New York-based vice president and underwriting leader of war, terrorism and political violence coverage at Hiscox USA.

So far, there have been few cancellations, she said.

“What we’re hoping is that clients who went into the stand-alone market are here to stay. Even though the bill has been reauthorized, buyers may decide ‘I don’t want to go through this again,’” Ms. Rubin said.

“The delay in getting this done gave us a glimpse of what challenges we would all face if TRIA were not available as a backstop,” Silverstein Properties’ Ms. Natovitz said.

“A sizable number of markets expressed an interest to Aon should TRIA expire and still have a keen interest in entering the stand-alone terrorism market,” said Aon’s Mr. Davis. “Our expectation is that we will continue to see an uptick in stand-alone entrants as well as takeup by our clients.”

“We did see some new capacity enter the market in late December and into the first couple weeks of January,” said Marsh’s Mr. Nageer.

“I think you’re going to find other players are going to try to jump into the conventional terrorism space, but there will still be a reluctance to come into the nuclear, biological, chemical and radiological space,” said Wendy Peters, Radnor, Pennsylvania-based executive vice president of the terrorism practice group at Willis North America Inc.

“We’ve had a couple of companies come into the marketplace offering stand-alone coverage,” said Ironshore Inc.’s James Dover, senior vice president of the terrorism and sabotage insurance practice in New York.

Sources said insurers providing more capacity recently include Starr Surplus Lines Insurance Co. and Berkshire Hathaway Special-

RISK MANAGERS, INSURERS TURN ATTENTION TO MAKING FEDERAL BACKSTOP PERMANENT

BY MARK A. HOFMANN

Now that the federal government’s terrorism insurance backstop has been extended through 2020, supporters are refocusing on what should be done before Congress deals with reauthorization again.

The program, established by the Terrorism Risk Insurance Act of 2002 in the wake of the September 2001 U.S. terrorist attacks, lapsed at the end of 2014 when the Senate failed to reauthorize it before adjourning.

Legislation reinstating the program was one of the first bills dealt with by both houses of the new Congress, and President Barack Obama signed it into law last week — much to the relief of risk managers and insurers alike.

But looking ahead, some in the industry already have turned their attention to revising the law, including the possibility of making the program permanent.

“Obviously, we’re thrilled that the legislation passed,” said Janice Ochenkowski, chair of the Risk & Insurance Management Society Inc.’s external affairs committee and international director of global of risk management at Jones Lang LaSalle Inc. in Chicago.

But RIMS would have preferred that lawmakers change the program somewhat, she said.

The first issue is “to make it permanent rather than temporary,” she said. “The second is to address in a meaningful way” losses from a nuclear, biological, chemical and radiological attack, which can be excluded from coverage.

“We think a more permanent solution to addressing all of the areas of concern of all of the stakeholders is appropriate,” she said.

“We argued from the inception of the program that unless the nature of terrorism changes, the risk doesn’t change — you need a program,” said Jimi Grande, senior vice president in the Wash-

ington office of the National Association of Mutual Insurance Cos. “The only reason it’s not permanent today are political reasons, not substantive ones.”

Failure to reauthorize the program before its sunset on Dec. 31, 2014, cost insurers significantly, he said.

“It’s a shame that congressional failures based on ineptitude and unrelated politics just cost consumers in our industry billions of dollars,” Mr. Grande said. “People had to run out and buy stop-gap coverages; every insurer had to run out immediately and buy reinsurance to cover the hole that was put in their book by the absence of the program.”

Robert Gordon, a senior vice president in the Washington office of the Property Casualty Insurers Association of America and a key congressional staffer in drafting the original TRIA bill, said, “Right now everybody’s very focused on the implementation issue” of the latest backstop. “We’re trying to make sure the implementation goes smoothly.”

He said PCI estimates that some 750,000 businesses temporarily lost their terrorism coverage based on conditional terrorism exclusions.

“Those businesses had almost no time to go back to the marketplace to find coverage during the temporary lapse,” he said.

However, one industry trade group is in no hurry to change the federal program.

“While one can contemplate making changes to the program, the overall concept has proven itself over time and has worked very well,” said Charles Symington, senior vice president at the Independent Insurance Agents and Brokers of America. “I think we need to continue to give it a chance to work and, when the powers that be get together and decide what steps to take after the current extension,” the IIBA plans to “actively participate in those discussions.”

ty Insurance. The insurers could not be reached for comment.

Last year, Valhalla, New York-based broker USI Insurance Services Inc. introduced a stand-alone terrorism facility with Amlin P.L.C. as the lead Lloyd’s of London syndicate, which it later doubled to \$200 million, company officials said.

Mr. Dover said that unlike the

federal law that requires government certification to trigger the federal backstop, private terrorism coverage does not require government certification to successfully make a claim.

“There is definitely a demand from customers for the stand-alone solution over the government solution, particularly when they understand the nuances of

the cover,” Mr. Dover said.

“Any concerns over insurers applying terrorism exclusions have now been lifted,” said Brad Wood, senior vice president of risk management with Marriott International Inc. in Bethesda, Maryland.

“We expect a rational market will continue now that TRIA has been reauthorized,” he said.

ENERGY

Continued from page 4

banks charging more for lines of credit, I think big companies may focus more on what they are putting up for collateral,” he said. “When the markets are booming and credit is easy, there is less focus on collateral.”

Paul Garrot, Houston-based vice president and product line manager of energy at Ironshore Inc.’s specialty casualty business, said one boon of declining oil prices for insurers is that the quality of risks may improve as firms with worse loss histories leave or reduce their presence in the sector.

“On the casualty side, these prices force some of the bad actors

“A year ago, drilling activity was so intense that if you had a pulse and a strong back, there were some (exploration and production) companies willing to hire you and put you on a rig.”

Paul Garrot,
Ironshore Inc.

out of the business,” he said. “A year ago, drilling activity was so intense that if you had a pulse and a strong back, there were some (exploration and production) companies willing to hire you and put you on a rig. Now that this is scaling back, contractors will have a

better pool of skilled employees to choose from, which should help reduce accidents on rigs.”

Mr. Waters agreed, saying many claims the energy industry has generated in recent years have been due to accidents caused by inexperienced fleet drivers.

“I do see opportunities for risk managers who are doing the right thing to improve driver quality,” he said. “The good companies will use this downturn as an opportunity to thin out their driver pools and leave themselves with only the most qualified drivers.”

Still, some insurers may restrict their underwriting, he said.

“I would expect some carriers to tighten capacity, especially in the lead umbrella (area), where they have been getting hit most with commercial auto losses,” he said.

“So brokers might start building their towers through more carriers, and capacity might have to be shopped a little more.”

But Mr. Garrot does not foresee the amount of capacity for energy risks changing appreciably.

“In North America, there will continue to be plenty of capacity for energy needs,” he said.

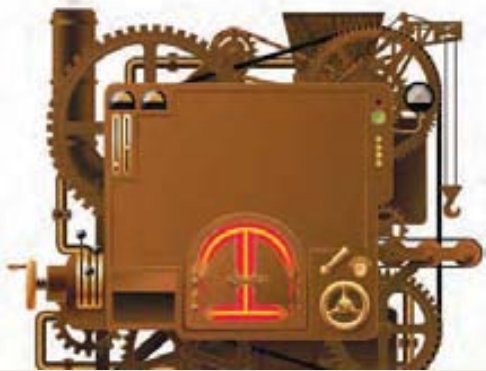
Likewise, Jeanne Jankowski, Houston-based head of energy for global corporate in North America for Zurich North America, said insurers have become accustomed to the cyclical nature of the energy businesses, adding that Zurich focuses more on providing claims and engineering services and less on oil prices. “If you look at price of oil historically, it goes up and down,” she said. “So, we tend to take a long-term view of it.”

NORTH DAKOTA RIGS

Oil production in North Dakota is dropping as producers idle rigs in response to falling oil prices.

Month	Operating rigs
February 2014	189
March 2014	193
April 2014	188
May 2014	189
June 2014	190
July 2014	192
August 2014	193
September 2014	195
October 2014	191
November 2014	188
December 2014	181
January 2015	156

Source: North Dakota Department of Mineral Resources, Oil and Gas Division



Tales of damaged gear break down

A word of advice to would-be insurance crooks: Just because a claims adjuster can't easily recognize a piece of supposedly damaged equipment doesn't mean it's a safe bet for fraud.

A Dallas-area man learned that lesson the hard way and now will spend nearly a decade in jail for his trouble.

A U.S. District Court judge in Dallas sentenced Leroy Nelson, 61, to nine years in federal prison for his role in a seven-year, multimillion-dollar insurance scam, according to a statement released Jan. 5 by acting U.S. Attorney John Parker.

Mr. Nelson — with the help of other individuals — defrauded several insurance companies from 2005 to 2012 by submitting multiple claims for accidental damage to a single piece of heavy technical equipment, according to the U.S. attorney's office.

Each claim, the U.S. attorney's office said, included a photo of the damaged equipment and a fabricated accident report along with phony estimates calling for several thousand dollars in repairs.

To avoid detection, Mr. Nelson identified the equipment differently from claim to claim, using terms such as "remote aircraft landing marker," "chemical pipeline examiner" and "seismographic probe."

Who's to blame if car has no driver?

If the safety — if not the notion — of driverless cars has left you scratching your head, you're in good company.

As trials of the vehicles are set to start this month in four U.K. towns, The Independent reports many Brits are unclear about where blame would lie in the event of an accident.

Research commissioned by uSwitch.com showed almost half of respondents would not want to be a passenger, and 43% were skeptical that such cars could operate safely. One-third of respondents worried that introduction of driverless vehicles would drive up insurance rates, The Independent reported. And 16% reportedly were "horrified" by the notion of traveling in one of the newfangled gadgets.

Despite the concerns, the cars are slated for testing in Bristol, Coventry, Greenwich and Milton Keynes.



NICOLE KIDMAN'S NEIGHBORLY ACT DOESN'T HOLD WATER



S_BUKELY/SHUTTERSTOCK.COM

A copper pipe in Nicole Kidman's condo reportedly burst, flooding her neighbor's unit and causing water damage.

Nicole Kidman is in hot water for flooding her downstairs neighbor's Manhattan home. Ms. Kidman's neighbor's insurance company, Nationwide Property and Casualty Insurance Co., is suing the actress for \$46,928.83 for damages allegedly caused by a pipe bursting in her condo on Jan. 5, 2012.

A copper pipe, which the Oscar-winner had installed to bring water to her terrace, reportedly burst when the temperature dropped, flooding her neighbor's unit and causing water damage, according to papers filed recently with the Manhattan Supreme Court.

Ms. Kidman and her husband Keith Urban, who bought the \$10 million condo in 2010, also have homes in Tennessee, California and Australia.

In 2011, Forbes listed Ms. Kidman as the 10th most overpaid star in Hollywood — right behind ex-husband Tom Cruise — noting that for every \$1 she's paid, her films return about \$6.70.

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Canine coverage cost could be big bite

Questions that prospective dog owners might ask themselves when considering which breed to choose include: Will it need to be walked often? How much does it eat? Will it fit in my handbag?

But how many consider insurance costs when selecting a canine companion?

Luckily, U.K.-based members-only insurance advisory group Bought By Many has provided a handy checklist of the major factors that affect insurance costs for dogs and a ranking of the most expensive and the cheapest dogs to insure.

According to the company's website, U.K. dog owners pay an average of £28 (\$42) per month to insure their pet.

But the cost of dog insurance can vary greatly, according to Bought By Many.

The most expensive breed to insure, according to the company's website, is the Dogue de Bordeaux, also known as the Bordeaux Mastiff or French Mastiff, a breed immortalized in the 1989 comedy drama "Turner & Hooch" starring Tom Hanks and Beasley the dog as a man-canine detective partnership.

The second most costly breed to insure is the Great Dane, whose immense size means that many do not live much beyond 10 years.



'Frost quake' roils Great White North

Has the latest cold snap given us insight into yet another North American earthquake risk — or is it just one more reason to dread winter?

Canada's CBC news reports that this month's extreme temperatures led to a noisy but nondamaging "frost quake" on Montreal's West Island.

A resident of Dollard-Des Ormeaux, Quebec, reported being awakened by two loud booms around 2:30 a.m.

Accuweather.com reported the area's Jan. 6 low as -2 (or the more chilling-sounding Celsius figure of -19).

"It sounded like a really big bang, like something fell on the floor in the house. ... We literally felt a huge shaking of the floor," the coldly awakened witness told the CBC.

During 2014's January polar vortex, the Washington Post reported such "cold booms" were reported throughout the Upper Midwest and are caused by a cryoseism, which was described as a mini explosion within the ground caused by the rapid expansion of frozen water.

"The pressure grows until it breaks out and is released. That's the big boom. It's all that energy," David Phillips, a senior climatologist at Environment Canada, told the CBC.



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MATERIAL DUE:	March 12	May 28	August 27	October 22

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