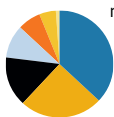


WHOLESALE CHANGES

CGSC North America Holdings Corp., the former Swett & Crawford operations that BB&T Corp. wants to buy for \$500 million from Cooper Gay Swett & Crawford Group Ltd., would add \$200 million to BB&T's 2015 pro forma insurance revenue, totaling \$1.8 billion.



CGSC North America Holdings Corp. and CRC Insurance Services Inc.*	37%
BB&T Insurance Services Inc.	25%
McGriff, Seibels & Williams Inc.	15%
Crump Life Insurance Services	10%
AmRisc L.L.C.	7%
BB&T Insurance Services of California Inc.	5%
BB&T Assurance Ltd.	1%

*BB&T purchased Crump Group Inc. in 2012
Source: Securities and Exchange Commission filings

MERGERS & ACQUISITIONS

BB&T targets wholesale lines for growth

But Swett purchase not seen as trend

BY JUDY GREENWALD AND MATTHEW LERNER

BB&T Corp.'s \$500 million cash deal to acquire the North American brokerage business of Cooper Gay Swett & Crawford Ltd. reflects ongoing industry consolidation, but does not signal a major return by retail brokers to ownership of the wholesale segment.

BB&T Corp., already the largest broker with wholesale business in the latest *Business Insurance* ranking, would expand that with the acquisition announced last week of the former Swett &

See **WHOLESALE** page 24

RISK MANAGEMENT

SCALIA'S DEATH LIMITS CHANCES FOR PRO-BUSINESS RULINGS

Employers lost reliable backer on Supreme Court



AP PHOTO

Senate Democrats, including Minority Leader Harry Reid of Nevada, center, and Republicans have sparred over when to replace Associate Supreme Court Justice Antonin Scalia.

BY JUDY GREENWALD

The vacancy on the U.S. Supreme Court created by the death of Associate Justice Antonin Scalia could pose a roadblock to significant employer-friendly rulings on issues that include the Affordable Care Act and class-action litigation.

The conservative justice's opinions frequently were pro-employer, but not always, said Gerald

L. Maatman Jr., a partner at Seyfarth Shaw L.L.P. in Chicago. They were based on a "faithful reading of the statute and a view of the limited role of government." (See story, page 25.)

Since Justice Scalia was found dead in Texas Feb. 13, Senate Democrats and Republicans and President Obama have sparred, with Republicans vowing not to consider any nominee by the

See **SCOTUS** page 25

AGENTS & BROKERS

Aon hits back in battle over broker talent

Suit alleges rival JLT violated noncompetes

BY MARK A. HOFMANN

Aon P.L.C.'s suit against seven former employees and two units of rival insurance brokerage Jardine Lloyd Thompson Group P.L.C. shows how companies of all kinds are being more aggressive in trying to protect their human assets.



The suit, filed last week in Cook County Circuit Court in Chicago, accuses current JLT Specialty Insurance Services Inc. CEO Michael Rice and

six others of violating their agreements not to compete against Aon for two years after leaving the company.

The suit also accuses JLT Specialty Insurance Services Inc. and JLT Re (North America) Inc. of inducing the former Aon employees to violate their noncompete agreements and a "coordinated effort" with "certain other former Aon and current JLT employees" to engage in "multiple raids on Aon's officers, employees and clients" since August 2014.

Aon said it had lost 55 employees and "millions" of dollars in business to JLT.

The suit seeks unspecified compensatory damages, an injunction enjoining the former employees from direct involvement with Aon competitors or clients for two

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Q&A: MIKE CHRISTIAN

CEO and founder of Risk Strategies Co. discusses a year of big acquisitions

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Gender equality is still a long way off, if recent discrimination cases are anything to go by

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IN BRIEF

Thomas Fitzgerald is among a group of Aon executives who have new positions

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CAPTIVES REPORT MORE CAPTIVES COME TO MAIN ST.

States lure captives with tax breaks and incentives; captives more willing to change domiciles; Latin America's nascent market is ripe for growth.

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Competition is pressuring rates, particularly for small insurers and the Islamic risk cooperatives known as

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OFF BEAT



Actor breaks a leg

A lawsuit followed after Harrison Ford suffered a broken leg and other injuries while filming a Star Wars sequel. **26**

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NEWS

INTERNATIONAL

INSURERS WARY OF CONSEQUENCES
IF BRITAIN EXITS EUROPEAN UNION

June vote could hit strategies of U.S., Bermuda carriers

BY SARAH VEYSEY

A vote in favor of Britain leaving the European Union could profoundly affect the London insurance market and put billions of dollars in premiums at risk.

If voters in the June 23 binding referendum opt to leave the European Union, insurers — including those from the United States, Bermuda and Japan that have U.K. operations — could lose their ability to write business throughout the E.U. using so-called “passporting” rights they gain by reporting only to their home regulator, experts say.

U.K. Prime Minister David Cameron, who supports staying in the E.U., announced the referendum earlier this month. Voters will be asked if they favor staying in the E.U. or leaving it.

Last week, more than 200 U.K. businesses signed an open letter published in Britain’s The Times newspaper in support of Britain remaining in the E.U. trading and political bloc. They said jobs could be at risk if Britain exits the E.U. in a move known as “Brexit.”

RSA Insurance Group P.L.C., one of the largest company market insurers in London, was among signatories of the letter published in the newspaper.

While Mr. Cameron favors staying in the E.U. — albeit with certain concessions, such as a limit he negotiated this month on the ben-



AP PHOTO

While U.K. Prime Minister David Cameron favors staying in the E.U., major politicians have criticized the bloc for burdensome regulation and a lack of accountability.

efits that migrants can claim — major politicians have criticized the E.U. for burdensome regulation and a lack of accountability.

Regulations such as the Solvency II risk-based capital rules for insurers and reinsurers that went into effect Jan. 1 are made at the E.U. level and then transposed into national laws.

John Nelson, chairman of Lloyd’s, has publicly voiced his desire for the United Kingdom to remain within the E.U. and was one of the signatories to the letter to The Times.

In a speech to the Insurance Institute of London earlier this

See **BREXIT** page 23

STAY OR GO?

- The United Kingdom has been a member of the European Union since 1973.
- The E.U. currently has 28 member states.
- The governing Conservative Party promised a referendum on E.U. membership in its 2015 election manifesto.
- U.K. Prime Minister David Cameron is spearheading the “stay” campaign.
- London Mayor Boris Johnson is supporting the “leave” campaign.
- The United Kingdom did not adopt the E.U.’s single currency, the euro.
- Many regulations, including the Solvency II risk-based capital regime for insurers, reinsurers and large captive insurers, are made within the E.U. and transposed into national laws.

WORKERS COMPENSATION

Medical reviews survive California challenge

BY SHEENA HARRISON

California Supreme Court action that effectively upholds independent medical reviews of workers compensation claims may help reduce unnecessary treatments and claim costs.

While two other legal challenges to the process implemented as part of California’s 2013 workers comp reforms remain pending, experts say they’re optimistic the reviews of treatment plans conducted by anonymous physicians working for Reston, Virginia-based contrac-

tor Maximus Federal Services Inc. ultimately will be upheld.

Though experts and officials say definitive data is not yet available, they believe independent medical reviews have helped affirm employer and insurer utilization reviews that denied medications, such as opioids, and medical care deemed unnecessary.

“While we don’t have a precise estimate of the isolated impact of IMR, our sense is that it has been very significant in driving down some of the medical cost levels we’ve seen,” said Dave Bellusci,

executive vice president and chief actuary of the Oakland-based California Workers’ Compensation Insurance Rating Bureau.

In the case this month, the California Supreme Court rejected a petition to consider *Frances Stevens v. Workers’ Compensation Appeals Board et al.* It also declined to “depublish” the California 1st District Court of Appeal’s October ruling that independent medical reviews are constitutional, “fundamentally fair and (afford)

See **IMR** page 23

SAFETY

Work injury
reporting rules
raise concerns

New website seeks
additional information

BY GLORIA GONZALEZ

Some workplace safety lawyers are discouraging employers from using the Occupational Safety and Health Administration’s website to report severe injuries and fatalities in the workplace for fear the information will be used against them.

OSHA’s revised reporting requirements that went into effect last year require all workplace fatalities be reported within eight hours and that certain severe injuries be reported within 24 hours of management learning of the incidents.

The agency’s reporting website went live in December, giving employers another option to report fatalities and severe injuries other than calling their local OSHA office or the agency’s 24-hour hotline.

In its first month, 252 reports were submitted online, according to OSHA. By comparison, the agency received 200 to 250 new reports each week in 2015 when the revised rule went into effect and such reports were only made over the phone.

“It does not matter the method employers use to report injuries or fatalities,” the agency said Feb 16 in a statement. “What is most important to OSHA is that employers meet their obligation to report a fatality within eight hours, and an in-patient hospitalization, amputation or loss of an eye within 24 hours.”

However, Mary Katherine Geraghty, a Boston-based partner at law firm Burns & Levinson L.L.P., cautions employers against using the website because it requires more extensive information than is required when calling OSHA to report such incidents. Employers cannot submit a report without filling out mandatory fields — a particular concern given the short reporting time frames, she said.

“It could be used as an admission (of fault). Once you’ve made that admission, it’s a lot harder to back away from it — even if you found out subsequently to the initial reporting that things were not exactly what you thought at the outset,” Ms. Geraghty said.

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ONLINE
FEATURES

GALLERY

Rogue drones in pictures

Unmanned aerial vehicles in the wrong place at the wrong time.
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VIDEO



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GALLERY

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RESEARCH

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BUSINESS INSURANCE (ISSN 0007-6864)
Vol. 50, No. 5, 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 (includes expedited air delivery). Canadian Post 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. Copyright © 2016 by Crain Communications Inc.

NEWS

RISK MANAGEMENT

DEADLY PLANT BLAST
PUTS SPOTLIGHT ON SAFETY

Report details lack of insurance, location risks

BY GLORIA GONZALEZ

A deadly explosion at a Texas fertilizer plant highlights the importance of identifying, addressing and communicating such facilities' unique hazards, particularly since many are in or near population centers.

The April 2013 explosion at the West Fertilizer Co. in West, Texas, killed 12 emergency responders and three civilians and injured more than 260 others, according to the U.S. Chemical Safety and Hazard Investigation Board.

The explosion, which destroyed the facility and caused extensive damage to 150 offsite buildings, triggered an estimated \$230 million in insurance-related losses, the chemical safety board said in a January report. However, the company, which filed for bankruptcy after the disaster, was insured for just \$1 million, according to the report.

The insurance coverage "was pretty minimal, unfortunately for many of the people involved," said Mark Hanna, Austin-based program manager and staff liaison at the Insurance Council of Texas. "The reason for that is if you look at their track record, (it was) pretty quiet. It was kind of like a forgotten business that was embedded in their community."



An April 2013 explosion at the West Fertilizer Co. in West, Texas, killed 12 emergency responders and three others.

West Fertilizer had commercial general liability and on-site property and business loss policies with Enid, Oklahoma-based Triangle Insurance Co. Inc. from 2007 to 2009, but the insurer rejected renewing the coverage after that period because of the company's lack of compliance with its loss control recommendations, according to the federal agency's report.

"The insurance carrier is a business, and they really cannot force the plant manager or the risk manager to implement the recommendations," said Walt Beattie,

See **BLAST** page 22WHAT IS
AMMONIUM NITRATE?

- Ammonium nitrate, an important nitrogen-containing component of many fertilizers used in farming, is a crystal salt produced from the reaction of ammonia gas and nitric acid.
- While ammonium nitrate is considered nonflammable, it is a "strong oxidizing agent" that can cause combustible materials such as wood, paper and oil to ignite.
- "Only under extreme conditions of heat and pressure in a confined space will ammonium nitrate explode," says The Fertilizer Institute on its website.

Source: The Fertilizer Institute

BENEFITS MANAGEMENT

Employers help lift the veil on mental health

BY SHELBY LIVINGSTON

SAN FRANCISCO — Though it once took a back seat to workplace programs focused on the physical and financial aspects of worker health, behavioral health has emerged as the new frontier of employee wellness.

Employers are recognizing behavioral health — which encompasses mental, emotional and spiritual health — as an essential piece of a healthy culture and a way to improve business performance while saving on health care costs.

Employers such as Michelin North America Inc., Johnson & Johnson, and Comcast Corp. are making mental health and wellness part of the workplace culture by giving employees the tools they need to combat depression, anxiety and stress, as well as tackle issues like substance abuse and alcoholism.



"Twenty years ago, we did not talk about behavioral health at all," Rich Paul, Raleigh, North Carolina-based senior vice president of employer strategy and development with Boston-based employee assistance program provider Beacon Health Options, said during a session at the Integrated Benefits Institute's annual forum in San Francisco Feb. 15-17. "We are certainly talking about it now, and the impact that behavioral health has on all aspects of employer costs."

For instance, the behavioral health initiatives of Greenville, South Carolina-based tire manufacturer Michelin have led to a 30% reduction in related outpatient claims spending, according to Jim West, manager of Michelin's behavioral health program, Michelin Employee Life Services.

See **IBI** page 22

RISK MANAGEMENT

Resilience
efforts face
challenges

Leadership needed to tackle huge issues

BY MARK A. HOFMANN

WASHINGTON — Governments' response to disasters sometimes can actually harm efforts to promote resilience.

The convergence of manmade and natural disasters can make the task of dealing with resilience that much more difficult.

That was the assessment of speakers and attendees during a Washington event earlier this month hosted by Lloyd's of London and Washington-based risk management consultant Risk Cooperative.

The summit, Pathways to City Resilience, reviewed the findings of "Lloyd's 2015-2025 City Risk Index" and examined ways to improve resilience, particularly regarding infrastructure.

"Resiliency is a journey that will never end," said Tom Ridge, former U.S. secretary of Homeland Security and chairman of Washington-based consultant Ridge Global L.L.C.



Mr. Ridge

Doing business in the 21st century requires building a culture of resilience that has to begin in the C-suite, he said. "Everyone has a role to play, from the boardroom to the loading dock."

But governmental entities can inadvertently get in the way of promoting resilience, some speakers and attendees said.

Moral hazard exists on the governmental side "in that it misprices risk," said Risk Cooperative CEO Dante Disparte. Rebuilding structures as they were predisaster "can preclude innovation in building more resilient structures."

"Government treats risk as if it were a surprise event," he said in an interview. "We need to think about budgeting or large losses. We know large losses will occur. We shouldn't treat them as a surprise."

"With the growing complexity and interconnectedness of risk, not just in the U.S. but globally, the importance of the economic and behavioral signals insurance can

See **RESILIENCE** page 22

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- ▶ Managing M&A Risks: When 1 + 1 Doesn't Equal 2
- ▶ Social Engineering: How an Employee's Digital Footprint May Tread on His Employer
- ▶ How to Practice Good Cyber Hygiene
- ▶ Opting Out: Workers' Compensation System Alternatives
- ▶ Risk Engineering Success Stories
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AVIATION

Flying on autopilot improves airline safety but can lead to errors

Regulators worry pilots lose edge with lack of manual experience

BY DONNA MAHONEY

Some insurers would like to see commercial airline pilots get more “hands-on” flying time, as would federal agencies worried about whether pilots are losing their manual flying skills to cope with an emergency.

The Federal Aviation Administration estimates commercial airline pilots use automation to fly 90% of the time. However, a U.S. Department of Transportation inspector general’s report in January said the FAA doesn’t know if a pilot is prepared to fly a jet manually should the need arise.

“Several recent accidents, including the July 2013 crash of Asiana Airlines flight 214, have shown that pilots who typically fly with automation can make errors when confronted with an unexpected event or transitioning to manual flying,” according to the inspector general’s report. Industry experts’ concern is growing about “whether pilots are provided enough training and experience to maintain manual flying proficiency,” the report continued.

The Asiana Airlines Inc. flight

crashed short of a runway in San Francisco due to the crew not understanding the aircraft’s automation system and failing to perform a proper go-around, according to the National Transportation Safety Board in a June 2014 investigation report.

The conclusions of the DOT, which also said improvements in airline automation have resulted in an “impressive” U.S. safety record, stemmed from an audit of nine airlines’ flights between March 2014 and November 2015.

Airline flying skills “are perishable,” and more manual flight training is “a patch in the armor,” said Jim Anderson, Scottsdale, Arizona-based senior vice president of Starr Aviation, a unit of C.V. Starr & Co.

“Flying is a terribly unforgiving environment when something goes wrong,” he said. “When it comes to those instantaneous situations where you have got to respond, just being able to program those responses is crucial.”

Still, he said, automation has improved safety.

“Pilots may lose some hand flying skills because of autopilots, but



AP PHOTO

Asiana Airlines flight 214 crashed short of a runway in San Francisco due to the crew not understanding the aircraft’s automation system and failing to perform a proper go-around.

DOT AUDIT

■ “(Commercial) pilots who typically fly with automation can make errors when confronted with an unexpected event or transitioning to manual flying,” a U.S. Department of Transportation inspector general’s report concluded in January.

■ The conclusions stemmed from an audit of nine commercial airlines, pilots and Federal Aviation Administration officials.

■ Airlines included in the audit were Alaska Air Group Inc., Endeavor Air, Kalitta Charters L.L.C., Omni Air International Inc., Swift Air L.L.C., United Airlines Inc., US Airways (which merged with American Airlines Group Inc. in December), USA Jet Airlines and Mesa Airlines Inc.

look what automation when used correctly can do,” Mr. Anderson

said.

None of the DOT-reviewed flight simulator training programs identified the amount of time pilots were required to train on manual flying skills. The FAA plans to impose new manual flight simulator training requirements, but compliance for air carriers is not mandatory until 2019.

One pilot who conducts pilot evaluations for the FAA said in the DOT audit that “most pilots turn on the autopilot as soon as they can during evaluations so as to minimize the potential for error during a graded event.”

However, major U.S. airlines have their own “excellent” flight simulators and spend millions of dollars on training, said Chuck Cederroth, New York-based man-

aging director of Aon Risk Solutions’ aviation practice.

“There’s a severe risk in using a real plane to simulate a problem if you make a mistake,” Mr. Cederroth said. “Airlines encourage pilots to fly manually when it is safe, and most pilots do so when below 10,000 feet, such as on approach and takeoff — unless it’s a really busy area.”

Terry Miller, president of Conifer, Colorado-based Transport Risk Management Inc., agrees.

“Today you can get a job with less hours of experience but more simulator training than in the past, when you were mostly hand flying and needed to spend a lot of time in the air to be qualified,” he said.

See **PILOTS** page 23

REINSURANCE

Catastrophe bonds attract investors despite concerns over lack of information

BY MATTHEW LERNER

NEW YORK — Investors and advisers expressed optimism for continued growth and support of the insurance-linked securities market even as they discussed the need for greater transparency and disclosure.

“We should all be optimistic about prospects for the coming year,” said Bill Dubinsky, head of insurance linked securities for Willis Capital Markets & Advisory in New York.

One advantage insurance-linked securities offer institutional investors is that such securities are not correlated with the broader equity and debt markets and thus offer investment diversification.

“For most investors, they are really attracted to the asset class for the diversifi-

cation benefit,” said Todor Todorov, senior investment consultant — hedge fund research, for Willis Towers Watson P.L.C. in New York.

“I think it surprised people in terms of its uncorrelated nature, again, especially the new investors,” said Jonathan Malawer, managing director and senior investment analyst for K2 Advisors L.L.C. in New York, adding that 2015 was “such a challenging period for financial markets.”

“Investors continue to grow assets under management notwithstanding the softer market,” said Mr. Dubinsky on the sidelines of the 16th annual Insurance & Risk-Linked Securities Conference sponsored by the Securities Industry Financial Markets Association last week in New York, where Mr. Dubinsky was co-chairman of this year’s

conference.

“Total nonlife ILS capital reached \$70 billion at year-end 2015, and net new capital continues to flow into the space,” said Mr. Dubinsky.

Mr. Malawer said he believes the ILS market has staying power. “I think investors are in it for the long-term for sure,” he said.

“We came to this market with a long-term view,” said Dan Bergman, head of investment research and insurance-linked securities, Third Swedish National Pension Fund, Stockholm, Sweden.

Diversification was part of the draw, he said.

“We came to this market for diversification,” said Mr. Bergman, adding “but not only for that,” emphasizing that returns were equally as important and portfolios are

adjusted as such.

“We’ve now worked in this market space for 10 years, and we don’t plan on leaving, but we do move allocations up and down,” said Mr. Bergman.

As the market grows and expands, it encounters new demands and challenges, high among them concerns over disclosures of losses to catastrophe bonds.

“As the 144A market has expanded with many more catastrophe bonds with indemnity triggers, there’s been a greater need for real-time disclosure to investors with regard to losses,” said Michael Groll, a partner in the corporate insurance and regulatory group of Willkie Farr & Gallagher L.L.P. in New York, referring to one leading ILS for-

See **ILS** page 24

Aon reorganizes brokerage management

■ Warren Mula has been named to the new global role of president of Aon Risk Solutions, and Thomas Fitzgerald has been named to succeed Mr. Mula as CEO of Aon Broking, Aon P.L.C. announced. Mr. Mula will continue to support the broking agenda, Aon said in a statement. Before serving as CEO of Aon Broking, Mr. Mula was U.S. chairman of Aon Risk Solutions. Mr. Fitzgerald previously was CEO of Aon Risk Solutions' U.S. retail business. Aon said two executives will lead Aon Risk Solutions' U.S. retail business: Lori Goltermann, named as CEO; and Steve Keogh, as president. Ms. Goltermann previously was U.S. health and benefits practice leader. Mr. Keogh previously was chief administrative officer of Aon Risk Solutions and head of human resources at Aon Risk Solutions Americas. In addition, Will Sneden has been named U.S. health and benefits practice leader, building upon the foundation Ms. Goltermann and her team established, Aon said in the statement. He previously was a senior vice president at Aon Hewitt. All of the promotions took effect Feb. 22.

AIG shuffles executives as Maag, Schreiber depart

■ The ongoing reorganization of American International Group Inc. has led to the departure of two additional senior executives. In memos distributed to employees Feb. 15, AIG President and CEO Peter Hancock announced that Seraina Maag, CEO of regional management and operations, and Brian Schreiber, chief strategy officer and head of corporate marketing and communications, would leave the company. Both were based in New York. In addition, AIG announced that: Jeff Hurd, the executive vice president of transformation, human resources and administration, had been appointed to the new role of chief operating officer; Sid Sankaran, who was executive vice president and chief risk officer, was named executive vice president and incoming chief financial officer; and Alessa Quane, who was chief corporate actuary and head of global actuarial and value management, was named executive vice president and incoming chief risk officer, succeeding Mr. Sankaran.

EEOC proposes federal agency employment targets for disabled

■ The U.S. Equal Employment Opportunity Commission published a notice of proposed rule-making that reaffirms the government's commitment to achieve a 12% representation employment rate for individuals with disabilities, and a 2% representation rate for individuals with "targeted/severe" disabilities for its employees. The proposed rule does not affect private employers, the EEOC said. Public comments can be made until April 25.

Royal Caribbean faces lawsuits over storm-battered cruise

■ Royal Caribbean Cruises Ltd. faces at least two lawsuits by passengers accusing the company of negligently endangering their lives by letting its Anthem of the Seas cruise ship sail into a fierce Atlantic storm earlier this month. The lawsuits filed in U.S. District Court in Miami claim that Royal Caribbean knew, or

should have known, that a coastal storm carrying hurricane-force winds had been forecast before the ship set sail from Cape Liberty, New Jersey, on Feb. 6 for a scheduled seven-night cruise to the Bahamas. Nonetheless, Royal Caribbean chose to sail the ship into the storm, motivated by a desire to profit at the expense of the safety of roughly 4,500 passengers and 1,600 crew, the lawsuits said. Cynthia Martinez, a Royal Caribbean spokeswoman, said the Miami-based company does not discuss pending litigation and has taken steps to minimize the risk of another similar incident. Royal Caribbean has said the storm was more severe than expected. Both lawsuits seek class action status for passengers and unspecified compensatory and punitive damages.

Reuters

Medical partnership to provide care for worker amputees

■ Washington state workers whose limbs are amputated in occupational accidents will be able to receive specialized care under a new medical partnership established by the Washington state Department of Labor & Industries, the state's monopoly workers compensation insurer. Labor & Industries has partnered with Harborview Medical Center in Seattle to create a center of excellence that will provide medical care for amputees, the department said in a statement. Workers recovering from amputations will have their ongoing medical care managed by Harborview, part of the University of Washington medical system. A group of Labor & Industries staff trained to deal with catastrophic workers comp claims will coordinate with Harborview medical providers and staff at hospitals where injured workers are initially treated. Injured workers with amputations will receive a discharge plan coordinating their follow-up appointments with specialists, and the center of excellence will be in charge of communicating the worker's treatment plan with health care providers, employers and Labor & Industries, the department said.

DOL revises employer health care benefit summary requirement

■ Employers would be required to add a new example to the list of how their health care plans provide coverage in certain situations under newly proposed Labor Department rules. Besides outlining how coverage applies to having a baby and managing Type 2 diabetes, as under the current rule, the summary of benefits coverage statement would also have to detail how coverage applies to simple fractures. When finalized, the rules are expected to apply for the 2017 plan year. Open enrollment season typically begins in October and November. "Employers would have to update these forms fairly quickly," said Rich Stover, a principal at Xerox HR Services in Secaucus, New Jersey.

Dented by debt, fewer Americans saving enough for retirement

■ Fewer Americans say they are saving enough to live comfortably in retirement, according to an America Saves survey. Fifty-two percent of nonretired U.S. residents surveyed said they are saving enough for a retirement in which they will have a "desirable standard of living," down from 55% last year and 58% in 2008. The January survey of more than 1,000 adults also found that men were more likely to save than women at 57% versus 47%. For

those adults not saving enough for retirement, 27% said day-to-day expenses are the main factor that hampers their ability, while 25% cited debt as the main factor, and 12% cited education expenses and debt, the survey found. America Saves is managed by the Washington-based Consumer Federation of America and the American Savings Education Council, part of the Washington-based Employee Benefit Research Institute.

Financial statement mishaps top culprit in M&A claims

■ About one in seven merger and acquisition insurance policies resulted in a claim, and misrepresentations in financial statements were the leading cause, a study by American International Group Inc. of its own data showed. The insurer examined claims on transaction purchase representations and warranties insurance it underwrote between 2011 and 2014 in some 1,000 deals worth more than \$200 billion, AIG said. Overall, nearly 14% of the M&A coverage resulted in a claim. Financial statement misrepresentations accounted for 28% of claims; tax errors or misrepresentations, 13% of claims; and contract discrepancies, 11% of claims, according to the study.

Whistleblowing pilot wins retaliation award from Alaska air charter firm

■ The U.S. Occupational Safety and Health Administration has ordered an Alaska aviation company to reinstate a pilot fired for reporting safety concerns and to pay back wages and damages that could total more than \$500,000. Homer, Alaska-based Bald Mountain Air Service violated federal whistleblower laws with its actions against the employee in 2012, who was suspended, fired and ostracized in the industry after repeatedly raising concerns about issues ranging from missed drug tests for pilots to poor record keeping, OSHA said in a statement. OSHA ordered the aviation company to pay the pilot back wages at the rate of \$350 per day from November 2012 until he receives a bona fide offer of reinstatement and to pay the employee \$100,000 in compensatory damages for pain, suffering and mental distress, according to the statement.

FAA starts rule-making process for public drone flights

■ The Federal Aviation Administration said it would develop drone regulations allowing some unmanned aerial vehicles to fly over people, an authorization eagerly sought by industries including real estate and agriculture. The U.S. aviation regulatory agency, under pressure from Congress and industry to accommodate commercial drones, said it established a rule-making committee to recommend a new regulatory framework by April 1. Authorization to fly over people would be vital to the kind of package delivery services envisioned by Amazon.com Inc. and Alphabet Inc.'s Google. But the new committee will focus on smaller UAVs used for aerial photography in real estate, agriculture and surveying. The drones to be examined would include micro UAVs that weigh no more than 4.4 pounds, but larger ones could also be included if their design, shape or slow speed posed little or no risk to people on the ground or to manned aircraft, the FAA said. The agency will draft a rule-making proposal after reviewing the committee's report.

Reuters

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Airlines worry about Zika virus

■ Several airlines have raised concerns that the rapidly spreading Zika virus may be discouraging travel in the Americas, says the International Air Transport Association's director general and CEO, Tony Tyler. His comment on the sidelines of an event hosted by the global airline trade group marks one of the industry's first acknowledgments that the mosquito-borne virus could hit revenue. Mr. Tyler could not comment on whether the impact was from destination switches or lower bookings overall. Scientists are investigating a potential link between Zika infections of pregnant women and more than 4,300 suspected cases in Brazil of babies born with microcephaly, a condition marked by abnormally small head size.

Reuters

Finding success in the Middle East

■ Some countries in the Middle East and North Africa are more stable than others and companies' risk management strategies should reflect that, according to a report published by the Risk & Insurance Management Society Inc. Companies that can identify, manage and mitigate the significant risks involved in doing business in these regions can benefit financially, according to "The Risks and Opportunities of Doing Business in the Middle East." Rising Internet, YouTube and mobile phone usage, and increased trade opportunities in the region, signal profit potential in those industries. But firms should look at risks — including geopolitical, macroeconomic and the abundant corruption of public officials — and work with trustworthy personnel in the area. Political risk insurance can help in some situations.

Lancashire's profit hit by fall in gross premiums

■ British property/casualty insurer Lancashire Holdings Ltd. reported a 24.2% decrease in full-year pretax profit, hurt by a fall in gross written premiums in its property and energy businesses. The company also said Chairman Martin Thomas would step down in May after about nine years at the helm. He will be replaced by director Peter Clarke. Lancashire, which insures heavy-duty assets such as oil rigs, ships and aircraft, said its pretax profit fell to \$171.7 million in 2015 from \$226.5 million a year earlier. Gross written pre-

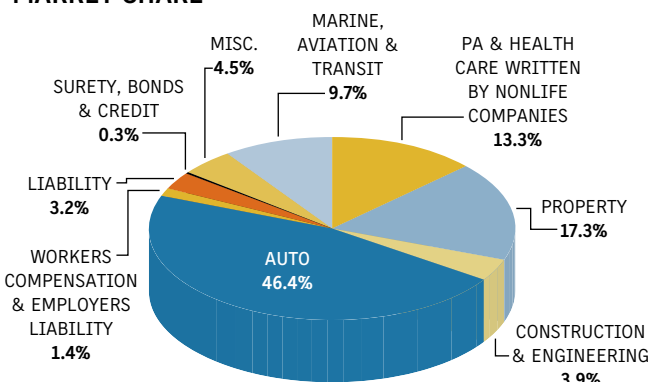
PROFILE: MALAYSIA

\$4.53
BILLION

Intense competition is pressuring rates, particularly for small insurers and the Islamic risk cooperatives known as takaful. Further rate concerns are fueled by the phaseout of fire and auto insurance tariffs. With low-lying coastal areas surrounding mountains, flooding occurs frequently. The worst flood in recent history, in December 2014, caused an estimated \$62.82 million in insured losses. Still, the threat of tsunami is low.

◀ 2014 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

COMPULSORY INSURANCE

- Auto third-party bodily injury
- State-backed workers compensation
- Employer's liability and health insurance for foreign workers
- Professional indemnity for lawyers, insurance brokers and financial advisers
- Travel insurance for trips booking through the Malaysian Association of Tour and Travel Agents
- Fire insurance for apartment and condo buildings

NONADMITTED

Unauthorized insurers cannot carry on activity in Malaysia, which requires insurance to be bought from locally authorized providers except for non-Malaysian registered ships and aircraft, international marine hull and cargo risks for the 10 countries in the Association of Southeast Asian Nations and personal accident cover.

INTERMEDIARIES

Agents and brokers have to be authorized by the BNM. Registered brokers cannot place nonadmitted business without permission. Brokers involved in nonadmitted placements do not have to warn buyers that their insurer is not subject to local supervision.

MARKET PRACTICE

Noncompliance is rare especially considering it can result in prison terms of up to 10 years and/or fines up to \$12.8 million under the Financial Services Act 2013 and Islamic Financial Services Act 2013. Fronting is allowed as long as insurers, in accordance with BNM requirements, give priority to local placement before going overseas.

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

miums fell 29.4% to \$641.1 million, notably in the property and energy businesses. In the energy sector, gross written premiums fell 53.2% to \$112 million. Gross written premiums for property insurance fell 25% to \$197.2 million. Lancashire said it had a combined ratio of 72.1% in 2015 compared with 68.7% in 2014.

Reuters

Expiring insurance turns off Iran oil tap

■ Japan will likely refrain from loading oil at Iranian ports in March because of the impending expiration at the end of next month of special shipping insurance cover provided by the government, industry and government officials said. The potential

restriction from one of Tehran's biggest oil customers highlights Iran's difficulties in boosting exports after U.S. sanctions were lifted in January. International insurers are trying to put together limited coverage to complement the lack of U.S. cover, but it is uncertain whether Washington will approve the plans, officials at Japan's main insurer, the Japan P&I Club, said.

Reuters

Swiss Re promotes Mumenthaler to CEO

■ Christian Mumenthaler will become group CEO of Swiss Re Ltd. on July 1, when Michel M. Lies retires, the reinsurer announced. Mr. Mumenthaler currently is Zurich-based CEO of the compa-

ny's reinsurance business unit. The leadership announcement came as Swiss Re reported net income of \$4.60 billion for 2015, up 31.3% from 2014. Results were boosted by an absence of major catastrophes, reserve releases and strong results from its life and health reinsurance unit, which posted net income of \$939 million for 2015 compared with a loss of \$462 million for 2014, Swiss Re said in a statement. Property/casualty reinsurance net income fell 16.5% year over year to \$3.0 billion on softening rates, several large man-made claims and lower investment gains. The property/casualty reinsurance arm posted a combined ratio of 86.0% for 2015 vs. 83.7% in 2014. Swiss Re said its corporate solutions unit, which writes large primary business, posted net income of \$340 million for 2015, an increase of 6.6%, while its com-

bined ratio deteriorated to 93.8% from 93.0% in 2014

Germany willing to limit utilities' nuclear liability

■ Germany is willing to shield its utility companies from the risks of rising costs linked to the country's nuclear exit, says a draft report from a government-appointed committee seen by Reuters. It recommends that German utilities E.ON, RWE, EnBW and Vattenfall transfer the provisions set aside to pay for interim and final storage of nuclear waste in cash to a government-controlled fund by 2022. The committee also raised the possibility that the power companies remain liable for up to €36 billion (\$40.07 billion) in costs for storage.

Reuters

BROKERAGE CEO SEEKS GROWTH IN SPECIALTY LINES, ACQUISITIONS

Q What were some of the major challenges Risk Strategies faced in 2015?

A We are in what's known as a soft market, particularly in the property and casualty arena. There's a lot of capacity with the insurance carriers, which leads to a fairly competitive environment, which leads to lower premiums and lower revenues for us as a broker. So, being able to maintain our growth is challenging. I think another one that is more reflective of our industry is being able to recruit, attract and develop younger employees, because the baby boomers are beginning to retire and our business is dominated by people in that age group. We are having to look at succession planning and developing newer and younger employees.

Q What do you see for the future of the brokerage industry?

A I think it's no longer transactional. I think it's an industry that will become a little more bifurcated because of the emergence of technology. However, I do think that the business will evolve even

Q&A

more to being more of a consultative type of business. There's a lot of competition with how the global aspect of our economy has transformed businesses. So, they come to brokers, they come to Risk Strategies Co. more and more for advice and for solutions to how they deal with and manage the risk within their own businesses.

Q How have acquisitions helped Risk Strategies?

A We've transformed the company into more of a specialty organization. Over 85% of our clients fall into our various specialty categories, and those categories, are

employee benefits, private client personal lines. We do a lot with health care, higher education institutions, professional liability and real estate. We also work with private equity firms. So, we have some very distinct areas of expertise, and we've evolved more into a firm that really leads with that expertise and has refined the approach that we have to clients and refined, actually, the clients that we work with. I think if you look at the six sort of acquisitions that you have here, Re-Solutions and Welbel and MacCorkle and Dubraski, and a couple of others, they all fall within one or more of those categories that we have. So, at the lowest level, the acquisitions have certainly increased our size; in the qualitative aspect of our business, we've added more expertise.

Q Any more acquisition plans?

A Yes, for sure. We've recently brought on a new financial partner, Kelso & Co. It's a private equity firm based in New York City. Our real aspiration is to build a national platform with significant



MIKE CHRISTIAN
RISK STRATEGIES CO.

Mike Christian is CEO and founder of specialty insurance brokerage Risk Strategies Co. He recently spoke with *Business Insurance* Editorial Assistant Joyce Famakinwa about Risk Strategies' year of big acquisitions, what Risk Strategies looks for in a potential acquisition, changes in the industry and goals for the year. Edited excerpts follow.

resources and enough geographic scope to be able to offer a broader array of services and advice to our clients. We anticipate 2016 to be as active as or maybe even a little more active than 2015 was from an acquisition standpoint.

Q What makes a company a good acquisition candidate for Risk Strategies?

A If a company is in an area or has an expertise in one of the areas that we have a client niche, that certainly makes a good candidate. Maybe the most important thing is the culture of the company, or it's how do they view their interactions with their clients? Are they more consultative or are they more transactional? Certainly if

we see a firm that is consultative and values being able to solve problems for clients, that would be a good candidate. We would like to expand geographically, but that's not at the top of our list.

Q What are some of Risk Strategies' goals for 2016?

A Our strategic plan includes four or five key points, and one is to focus on employee development, staff development, succession planning. I think that a big goal for us, particularly in 2016, is to ramp up our development program, our staff development program. We will continue to make acquisitions. And I think to expand our resources for our clients is another pretty keen objective for us.

COMINGS & GOINGS

UP CLOSE: JIM GALLIC

NEW YORK-BASED EAST MARKET HEALTH AND BENEFITS SALES LEADER
Mercer L.L.C.

PREVIOUS POSITION: New York-based health and productivity practice leader for New York and Connecticut at Buck Consultants at Xerox.

LOOKING FORWARD TO: Engaging clients in the important discussions relating to the health, wealth and career needs of their most valued asset: their workforce.

CHALLENGES FACING INDUSTRY: Health care is going through a tremendous and fundamental change. Benefit costs are now equal to or greater than net profit for many companies.

INDUSTRY OUTLOOK: The industry outlook is strong, but it will evolve as the core benefits give way to a variety of new offerings that address the changing needs of the workforce.

FIRST INDUSTRY JOB: Working at ADP (L.L.C.), providing benefit, payroll and benefit software solutions.

WHAT SURPRISED ME: How much you need to know to get started and to stay on top of industry trends.



ADVICE: Connect what you do to why you do it. It will give you the drive to push through when adversity strikes. Ask meaningful questions that will invite people to think differently.

OUTSIDE THE INDUSTRY, A DREAM JOB: Author and motivational speaker.

HOBBIES: Playing golf, guitar and volunteering.

THING MOST PEOPLE DON'T KNOW

ABOUT ME: I wrote all the music for my wedding and for a number of family members' events.

WHEN I RETIRE: Spending time at the beach with my wife and four kids.

FAVORITE MEAL: Cedar plank salmon with grilled vegetables.

FAVORITE BOOK: "Practical Wisdom: The Seekers Guide to a Meaningful Life" by Frank Mallinder, and anything by Patrick Lencioni or Steven D. Levitt.

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EDITORIAL

COMP REVIEWS WORTH A TRY

While the jury is out on whether independent medical reviews are working to reduce workers compensation medical costs in California, a recent decision by the California Supreme Court could give comp payers time to weigh the effectiveness of the review process and make tweaks to the system, if needed.

The California high court declined this month to consider a case that argued that independent medical reviews are unconstitutional, effectively upholding a lower court decision upholding independent reviews for California comp claims. Independent medical reviews, established under a 2012 California workers comp reform law, allow injured workers or physicians to appeal medical treatment denials or modifications by workers comp claim payers to an independent review service provider.

So far it appears that independent medical reviews have been crucial for upholding decisions by insurers or employers to deny the use of certain medications, such as opioids, or medical treatments, according to recent analysis from the California Workers' Compensation Institute.

For instance, nearly half of independent medical reviews conducted involved decisions to modify or deny pharmaceutical treatments for injured workers, according to the CWCI. Of those reviews, nearly 90% of independent reviews upheld those medication modifications or denials.

Although independent reviews seem to be reaffirming treatment decisions that already have been made by workers comp claim payers, review proponents say the independently conducted reviews show insurers are approaching medical care for injured workers responsibly.

While insurers and employers see independent medical reviews corroborating their treatment decisions, it seems that injured workers also would benefit from having their claims reviewed by an outside party if their medical treatment isn't being handled properly.

Still, it remains to be seen whether independent medical reviews will hold down costs for California workers comp claims. The Oakland, California-based CWCI said in a separate report that data about independent medical reviews is "too green" to determine whether such reviews can help reduce a trend of increased medical-legal costs for California workers comp claims in recent years.

Meanwhile, some comp observers say the rising number of independent medical reviews is increasing claim administration costs, since employers and insurers pay for reviews.

As more data is gathered, it will be important for stakeholders to find ways to make sure that reviews don't become another cost driver in the California comp system.

Business Insurance welcomes letters to the editor.

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SCHILLERSTROM



COMMENTARY

WOMEN STILL WAITING FOR WORKPLACE EQUALITY

So, how long does it take before everyone gets it? That's one of the questions that arises from a verdict this month in which a jury in U.S. District Court in Cincinnati awarded three former general managers at Chipotle Mexican Grill Inc. about \$200,000 each in back pay and punitive damages.

Two of the employees, Tina M. Reynolds and Stephanie Ochoa, charged in the complaint, filed in March 2013, that they had been discharged and replaced by a male employee despite having received good reviews.

But it is the circumstances surrounding the third employee, Elizabeth A. Rogers, that stand out. According to the complaint, Ms. Rogers had notified a supervisor she was pregnant with twins in February 2011. She delivered the babies at 24 weeks on May 29. One twin did not survive, and the other was hospitalized.

Ms. Rogers returned to work Aug. 2, 2011. A day later, an area manager who had covered her store while she was out, asked Ms. Rogers to cover for him the rest of that week, but she could not because of a doctor's appointment for her son.

About a month later, a risk management audit was conducted of Ms. Rogers' store and she was given a "B" grade. But 10 days later, the area manager whom Ms. Rogers had refused to help, gave her a "D."

In November, he told her that her store was understaffed, though she told him she had just hired seven employees. The manager fired her about a week-and-a-half later.

Of course, this is Ms. Rogers' side of it, but it appears



JUDY GREENWALD
SENIOR EDITOR

the jury found her — as well as the other two fired managers — credible. It awarded all three back pay plus \$85,000 each in punitive damages, for a total of almost \$607,000. By the way, all three women had been fired by the same manager, according to a news report.

Whether the chain will appeal the jury verdicts or ultimately succeeds remains unknown.

Still, it would have been nice if someone had taken a closer look at what was going on in those Chipotle stores — the fact alone that three women had been fired by the same man maybe should have raised some suspicion — and perhaps warranted a little bit more digging.

Meanwhile the firing manager is now apparently working at another company, and Chipotle may be stuck with not only paying the jury award, but also with who-knows-how-much in attorneys' fees.

Chipotle is not alone. The Equal Employment Opportunity Commission reported there were 29,396 sex discrimination claims for the fiscal year ended Sept. 30, which accounted for 29.3% of all claims. That was up only 1.4% from fiscal 2014, but that number should be decreasing, not increasing.

And for all the lip service paid to gender equality, it seems we are still facing in the wrong direction.

Memo from Justice Department puts corporate directors on notice

A U.S. Justice Department memo calling for investigations of corporate malfeasance to put a greater emphasis on the conduct of individual board members raises broad and difficult questions. Stephanie Resnick and John C. Fuller, a partner and associate in the directors and officers liability and corporate governance practice of Fox Rothschild L.L.P. in Philadelphia, look at the memo and how it will affect corporate boards and their insurers.

A Department of Justice memo sent to all U.S. attorneys in September is reverberating through America's corporate boardrooms due to its revelation that federal prosecutors are being instructed to focus on the liability of individuals (including board members) when they're investigating allegations of corporate wrongdoing.

Even before the memo was released, many companies were reporting an increase in the number of executives declining to join their boards in the face of escalating corporate exposure. The government's aggressive stance is certain to exacerbate this trend.

Since the prospect of facing personal liability is perhaps the strongest disincentive for joining a corporate board, companies looking to attract top candidates must find realistic solutions that minimize the risk. The focus should be on ensuring indemnification even if such indemnification may not be included in traditional directors and officers liability insurance policies.

Adaptive insurance policies may offer the best solution, but there must be a dialogue between insurers and underwriters to achieve appropriate protections. And higher premiums are likely if insurers are expected to cover increased potential board member liability.

Authored by Deputy Attorney General Sally Quillian Yates, the memo was released Sept. 9, 2015, and sent to all federal prosecutors and investigators. It outlined new procedures for investigating and prosecuting board members and other individuals allegedly involved in acts of corporate wrongdoing. It also outlined a series of core goals — harmonizing civil and criminal investigations, ensuring that directors and officers are the focus of the government's efforts and making it more difficult for directors and officers to evade personal liability when their specific role in corporate misconduct is identified.

The six directives in the Yates Memo reveal that the new policy is mandatory and aggressive:

- A company under investigation can receive "cooperation credit" only if it identifies all relevant facts about potentially responsible directors and officers. The memo specifically instructs prosecutors to scrutinize board members' roles and review all disclosures from companies to ensure

that no officer's or director's role has been downplayed or obscured.

- Prosecutors are directed to focus on officers and board members from the outset. This will increase pressure on the individuals and individual communications and decisions of the officers and directors instead of the narrative outlined in board minutes and the company's financial disclosures.

- Civil and criminal prosecutors are directed to work closely together, which is a directive clearly aimed at ensuring that the full breadth of remedies, including civil penalties and criminal charges, remains available in any case of corporate wrongdoing.

Even before the memo was released, many companies were reporting an increase in the number of executives declining to join their boards in the face of escalating corporate exposure.

- In settlements, prosecutors must get written approval from the supervising assistant attorney general or United States attorney to release officers and directors from potential civil or criminal liability, and the memo directs that individual liability is not to be released absent "extraordinary" circumstances.

- Cases against companies are not to be resolved without an articulated plan to pursue potential individual claims and charges against the directors and officers.

- A director's or officer's ability to pay potential fines or penalties can no longer weigh into a decision on whether to pursue claims or charges against him or her.

The precise effect of these directives will be known only after they have been in practice for some time. Very soon, however, we may begin to see denials of cooperation credit and refusals by the government to release individual directors and officers from liability. These events will

trigger new levels of personal risk for board members and increased costs for companies and their insurers.

Insurance premiums for D&O are likely to rise in response to any new wave of enforcement. To avoid steep increases, companies and insurers must anticipate how the Yates Memo will affect litigation.

The key issues for directors, officers, companies and their insurers to consider are: the appropriate scope of conduct exclusions; heightened conflicts of interest; new demands for independent counsel; increases in early, in-depth discovery; higher defense costs; and increases in judgments against individual directors and officers.

Conduct exclusions are perhaps the single largest concern for potential board members. While D&O policies may still cover some or all of the defense, some policies could leave individual directors and officers vulnerable for acts that have long been attributed to the corporate entity.

Conflict of interest analyses, for example, are sure to change, and directors must be aware of the need to re-examine with general counsel their relationships, because the new directives may put companies and their directors in conflict far sooner. The new policy on corporate cooperation credit means that significant potential conflicts of interest may now arise at almost the very moment when a company comes to anticipate litigation.

The Yates Memo directives will also surely add to litigation costs, and companies and prospective board members must know how the burden will be shared if policy limits are exceeded.

Larger judgments and added obstacles to settlements could also push defense costs beyond current policy limits. The directive that an individual's ability to pay should not affect prosecution decisions may lead to unprecedented judgments against individual officers and directors.

Insurance policy limits and corporate indemnification policies should be clearly communicated to prospective board members to give them a complete understanding of the risks they will assume upon joining the board. Companies aiming to recruit the best and brightest board members must tackle difficult subjects such as liability, policy limits and the other heavy burdens created by the Yates Memo.

Although companies must brace for increased premiums, insurers should be cognizant that the government's shift from corporate to individual targets may generally increase the scope of corporate liability and require new attention to claims against individual directors and officers, which may necessitate altering the structure of the policies they offer. The Yates Memo represents a truly significant increase in the potential liability for individual board members, and companies and insurers must work together to mitigate the individual risk to attract the most talented and capable board members.



Stephanie Resnick is a partner with Fox Rothschild L.L.P. and chair of its directors and officers liability and corporate governance practice. She can be reached at sresnick@foxrothschild.com or 215-299-2082.



John C. Fuller is an attorney with Fox Rothschild L.L.P. and member of its directors and officers liability and corporate governance practice. He can be reached at jfuller@foxrothschild.com or 215-299-3815.

SPECIAL REPORT

Captives Report

States lure captives with tax breaks, incentives

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Captives increasingly willing to move to new domiciles

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Latin America's nascent market ripe for growth

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Comprehensive data on the global captive market

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COUNTING CAPTIVES

Ranked by number of captive licenses at year-end 2015.

Rank	Domicile	2015	2014
1	Bermuda	797	800
2	Cayman Islands	708	759
3	Vermont	596	587
4	Utah	450	422
5	Delaware	323	333
6	Anguilla	319	379
6	Guernsey	319	321
8	Nevis	268	281
9	Barbados	236	231*
10	Luxembourg	217	224
11	Nevada	202	160
12	Hawaii	197	194
13	Montana	196	177
14	District of Columbia	193	191
15	Puerto Rico	182**	152*
16	South Carolina	167	158
17	British Virgin Islands	142	146
18	Tennessee	127	70*
19	Isle of Man	115	122
20	Arizona	110	114
21	North Carolina	94	52
22	Kentucky	92	122
23	Dublin	84	85
24	Oklahoma	73	47
25	Singapore	68	64
26	Turks & Caicos Islands	66	72
27	New York	63**	63
28	Missouri	50	47
29	Sweden	44	47
30	Alabama	42	40
31	Labuan	40	40*
32	Switzerland	36	33
33	Michigan	23	15
34	New Jersey	22	17
35	Texas	21	12
36	Bahamas	20	18
36	British Columbia	20	21
38	Micronesia	18	14
39	Georgia	16	9
40	South Dakota	14	9*
41	Denmark	13	12
41	St. Lucia	13**	13
43	Netherlands Antilles	12**	12
44	Gibraltar	11	15
44	Liechtenstein	11	13
44	Norway	11	12
47	Connecticut	10	7
47	Malta	10	12*
47	Panama	10	10
50	Germany	9	13
51	U.S. Virgin Islands	8	8
51	Vanuatu	8	7
53	Australia	7	7
53	New Zealand	7	10
55	Dubai	4	4
55	Nebraska	4	4
57	Colorado	3	3
57	Guam	3	3
57	Hong Kong	3	3
57	Jersey	3	3
57	Maine	3	3
62	Arkansas	2	2
62	Illinois	2	1
62	Kansas	2	1
Total		6,939	6,839

* Restated. ** BI estimate. Source: BI survey

More captives coming to Main Street

Smaller businesses warm to concept, large firms diversify risks

BY DONNA MAHONEY

Captive insurers, which large companies have long used to cover traditional risks such as commercial general liability and workers compensation, are being used more often by smaller companies as well as organizations looking to cover nontraditional risks.

One reason behind the increase in smaller businesses using captives is they have become more aware of the risk transfer option, said David Snowball, Utah's Salt Lake City-based captive insurance director.

"Smaller businesses are getting to the point where they know about the benefits of captives, and they are taking advantage of that. This education has taken a little longer to get to the West, but it appears to be catching up," he said.

Daniel Message, vice president and head of Latin America at R&Q Quest Management Services Ltd. (Bermuda), said there has been a proliferation in the use of cell captives and agrees increased "industry awareness" is helping drive growth of an area that is "constantly evolving as the market matures."

Microcaptives, or captives formed under Section 831(b) of the U.S. Tax Code also have been growing, boosted by the recent legislative increase to \$2.2 million in annual premium income on which



they can avoid federal taxes, effective in 2017. But stricter rules on what types of ownership structures are eligible for the tax deduction could result in some fallout for the frequently family-owned parent companies.

"There may be a little tapping of the brakes with small captives," said Art Koritzinsky, New York-based managing director of Marsh's Captive Solutions Group.

Michael Bemis, president and CEO in Lisle, Illinois, of the National Catholic Risk Retention Group Inc., a Vermont-domiciled RRG, said soft commercial insurance market cycles have little effect on captives, which differentiate themselves by writing broader coverage than typically available in the

commercial market. He also said sophisticated buyers look into captives to gain control of their costs and risks.

Ellen Charnley, Marsh Captive Solutions' San Francisco-based managing director and global sales leader, also sees captive formations increasing despite soft traditional insurance prices.

"You can use them for risks that are not dictated by commercial lines or what the market is doing," Ms. Charnley said. "Today's captive is more strategic and is focused on risks it wasn't focused on 20 years ago — the enterprise risks such as supply chain, intellectual property and political risk."

As captives mature, captive owners are using the accumulated sur-

plus to take on risks the commercial market is not so willing to accept.

Carolyn Snow, Louisville, Kentucky-based director of risk management at Humana Inc. and a former president of the Risk & Insurance Management Society Inc., said several risks are placed in Humana's captive, Managed Care Indemnity Inc.

General liability, errors and omissions, and professional liability are placed in the captive along with the deductible for workers compensation coverage. Ms. Snow said she recently added property deductible to the captive to cover Humana's wind and flood exposures in Florida.

"Insurance companies will only take some of that risk," Ms. Snow said.

Aircraft Gear Corp., a family-owned business that manufactures components for the aviation and auto industries, uses a group captive to insure its medical stop-loss coverage for 70 employees.

Jim Knutson, the manufacturer's Rockford, Illinois-based risk manager, said the company was struggling with the cost of stop-loss coverage that the commercial market was charging and turned to a group captive for a solution.

"It's really worked out well for us," Mr. Knutson said of the medical stop-loss that is the only risk for which Aircraft Gear uses the

See CAPTIVES page 16

Alabama farmers use captive to cover unique agricultural risks

A cooperative consisting of members that support the farming community has flourished and is preparing to use its captive to meet unique risks it may have to face.

With guidance from Bob Davidson, managing director of captive consulting and underwriting at Iroquois Captive Services L.L.C., The Alabama Farmers Insurance Co. for Cooperatives was formed to reinsure property/casualty insurance deductibles for its members, which include retail locations that sell bulk feed, fertilizer and seed to farmers.

Alabama Farmers is a self-managed captive that members of the Alabama Farmers Cooperative Inc. formed 18 years ago.

Originally domiciled in Vermont, the captive was relocated to Alabama, due to Alabama lawmakers passing legislation in 2006 allowing captive formations as well as its convenience of location and tax savings, said Walt Black, the Decatur, Alabama-based corporate risk manager of the cooperative.

Prior to the captive, each member purchased its own property/casualty insurance. With over 60 locations, the premium costs were large and would only increase, he said.

"The captive allows all members to be on the same insurance policies and for these insurance policies to have much higher deductibles, saving on premium expenditures," Mr. Black said.

Having the captive reinsure the deductibles prevents a member from incurring the full impact of a large deductible if they have a claim.

"For some members, especially those in areas where less farming is taking place, incurring a large deductible would have a severe financial consequence on their business," Mr. Black said. "That's just not sustainable for some entities."

Now that the captive has accumulated a surplus, the cooperative is finding new ways to utilize it. Recently, the cooperative started writing flood insurance out of the captive to keep the premium in the captive instead of paying a commercial insurer, he said.

The cooperative covers about a dozen of its properties' flood insurance.

Recently, the traditional agribusiness insurance market has become reluctant to accept risks inherent to fertilizer components such as ammonium nitrate. Insurers require prevention and mitigation systems for fire suppression, early detection and alarm devices that are incompatible with the corrosive environment of bulk fertilizer storage, Mr. Black said.

"Installing these devices can require constant maintenance and would need replacing in a few years. We would spend thousands of dollars to put them in place and then spend it again a few years later. This would not be cost-effective," he said.

To control costs associated with the liability of handling fertilizer components, the cooperative is

weighing having a \$1 million to \$2 million layer in its captive with excess insurance above that.

While this would still rely on a commercial insurer to be the fronting company and provide the excess insurance, "this strategy can be a win-win for both Alabama Farmers and the commercial insurer," Mr. Black said.

By Donna Mahoney



RICHARD THORNTON/SHUTTERSTOCK.COM

Insurers require prevention and mitigation systems that are incompatible with the corrosive environment of bulk fertilizer storage.



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States dust off the welcome mats to lure captive insurers to their domiciles

Competition leads to premium tax cuts, favorable incentives

BY JERRY GEISEL

State lawmakers continue their drive to amend their states' captive insurance company laws, with roughly a dozen states either amending or considering changes in the past year.

Some of the changes are narrow.

In Vermont, lawmakers are considering a proposal to clarify that certain types of captives, such as sponsored and industrial insured captives that are not writing any business to enter a dormant status, exempting the captives from Vermont's minimum annual premium tax.

The legislation would also allow sponsored or industrial insured captives not doing any business to apply for dormant status.

Such a change, state captive regulators say, would increase the likelihood that the captives would remain in Vermont and, when ready and necessary, be reactivated quickly.

"The same logic applies as before: Keep the company here rather than have it dissolve," said David Provost, Vermont's deputy commissioner of captive insurance in Montpelier.

Currently, though, only eight captives out of the state's nearly 590 captive insurers would qualify for the expanded exemption, regulators say.

On the other hand, legislation elsewhere calls for more significant changes.

In Alabama, legislation introduced in February would impose a \$100,000 annual cap on the annual premium tax a captive could be assessed, exempt newly-formed captives from premium taxes for one year, give the state insurance commissioner discretion to set capitalization requirements for new captives and allow formation of risk retention groups.

The state's captive law is "badly in need of

updating in some areas," said Norman Chandler, president of the Alabama Captive Insurance Association in Montgomery, referring to the latest legislative effort.

In Tennessee, recently introduced legislation would provide a one-year premium tax exemption for captives that redomesticate in the state from non-U.S. domiciles.

"This is a way of encouraging companies to bring their captives to Tennessee," said Kevin Doherty, president of the Tennessee Captive Insurance Association and a partner at law firm Nelson Mullins Riley & Scarborough L.L.P. in Nashville.

The measure also would clarify that the assets of any individual cell captive could not be seized as part of litigation against another cell.

"No protected cell has a duty to defend the rights and obligations of any other protected cell," according to the legislation, S.B. 2402.

Regulators say fierce competition among states to attract and retain captives requires a frequent update to their captive laws in order to continue to attract new captives and keep existing ones.

"We really strive to be in a state of constant improvement in our laws, regulations and practices," said Vermont's Mr. Provost.

Vermont has made numerous changes to its captive law in the nearly 35 years since the state passed its original captive statute.

Georgia is an example of how updating a captive law can make a difference quickly in attracting new captives.

The state licensed seven captives following last year's passage of legislation that slashed captive premium tax rates and capped the maximum premium tax captives can be assessed in a year at \$100,000.

Under the new law, which went into effect last July, Georgia's captive tax rate was cut to 0.4% on the first \$20 million in premiums and 0.3% on

premiums above \$20 million. That's a big change from prior law, which had captives paying the same 4.75% tax rate as commercial insurers.

Those changes "brought Georgia up to speed," said Julie Boucher, Marsh captive solutions practice leader-Americas in Burlington, Vermont.

That reduction was a key factor in why The Coca-Cola Co. moved its South Carolina-domiciled captive, Red Re Inc., to Georgia late last year.

While Coca-Cola was very satisfied with South Carolina, "our home state of Georgia created far more favorable conditions for us by amending the state's captive insurance law. We took advantage of the reduced premium tax rates in our home state and gained some great efficiency," said Laurie Solomon, Coca-Cola's director of risk management in Atlanta.

In Montana, a public entity is in active discussions with regulators about setting up a captive in the state, said Steve Matthews, Montana's captive coordinator in Helena.

That discussion follows passage of legislation last year allowing public entities to set up captives in Montana.

Other state regulators say legislative changes also have led to big increase in the number of captives.

For example, Oklahoma, whose original captive statute was passed in 2004, didn't see significant growth in the number of captives until the law was revamped several years ago, such as by imposing a \$100,000 premium tax cap, said James Mills, director of captive insurance with the Oklahoma Insurance Department in Tulsa.

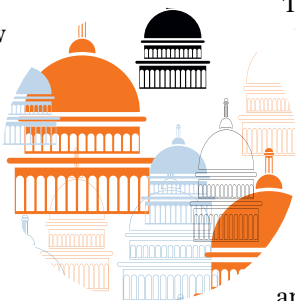
Last year, Oklahoma had 73 captives, up from 47 in 2014 and just 10 in 2013.

But not every captive domicile is considering amending its captive law.

"We think our statute is very captive friendly," said Janet Grace, captive program manager at the Connecticut Insurance Department in Hartford.

"Our home state of Georgia created far more favorable conditions for us by amending the state's captive insurance law. We took advantage of the reduced premium tax rates in our home state and gained some great efficiency."

Laurie Solomon,
Coca-Cola Co.



CAPTIVES

Continued from page 12

group captive, Everlong Group Medical Captive Services L.L.C.

While there has been industry talk about putting risks such as cyber liability in a captive, Jason Flaxbeard, senior managing director at Beecher Carlson Holdings Inc. in Denver, called it a "red herring" risk that is too new to put in a captive.

There "isn't enough data, and the modeling is not robust enough" for anybody to assign a risk financing charge against it, Mr. Flaxbeard said. "It may change over time, but the business interruption around it is hard to define. Nobody had a magic bullet for cyber in a

captive."

However, many companies are examining captives as an option for cyber coverage because the commercial market may offer low limits or a limited breadth of coverage, said Donna Pankotai, Dallas-based president of DM Pankotai Consulting L.L.C. and senior adviser at Hanover Stone Partners L.L.C.

"Insuring for cyber risk is a big issue right now," said Bill Motherway, president of New York operations at insurance brokerage Conner Strong & Buckelew. "People are trying ... (to) incorporate it into their captive instead of buying it in the open market."

He recommends organizations have \$5 million in cyber coverage as a minimum and upward of \$25 million for hospitals and other

large entities that have sensitive personal data.

"The cyber marketplace is going to get tough and problematic, and the primary layers for that kind of coverage are going to get expensive," said Michael Maglaras, a principal at consultant Michael Maglaras & Co., an Ashford, Connecticut-based unit of A.E.M. Holdings Ltd. "But mature captives are going to want to take in some of that risk."

Jim Swanke, Minneapolis-based director of risk consulting at Willis Towers Watson P.L.C., said he has seen more captive formation activity in the past year than the past decade because of risks such as cyber liability due to data breaches.

"The activity being seen is in the nonstandard types of risks that

weren't put in captives in the '80s and '90s such as cyber, wage-and-hour coverage, crime insurance and benefits," Mr. Swanke said. "We are going to see a lot more people putting benefits in their captives."

Many multinational companies are looking to consolidate their global benefits and have one global insurer to provide benefits to their employees and then have the captive reinsure the coverage, Marsh's Ms. Charnley said.

To control expenses, there's a strong movement among for-profit and nonprofit organizations to bring benefits such as group life and group long-term disability coverage, into their captives, Mr. Maglaras said.

Beecher Carlson's Mr. Flaxbeard says controlling expenses is another

reason for medical stop-loss becoming "more on the forefront" of captives since the Affordable Care Act.

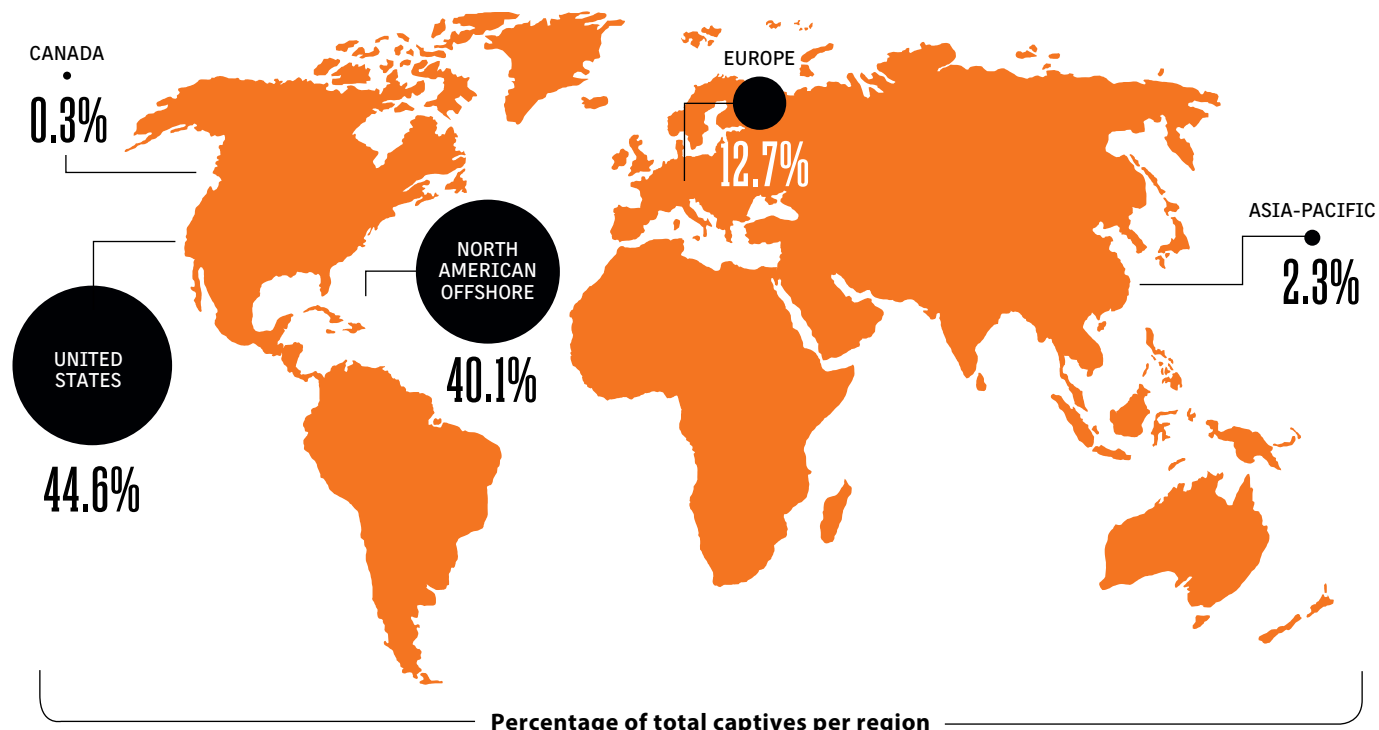
"Chief financial officers want some form of certainty around budgets and don't want to be on the hook for an unlimited amount of insurance for employees," Mr. Flaxbeard said.

"As medical costs continue to go up and companies pay more attention to wellness programs, group captive activities will continue to be more prevalent," Marsh's Mr. Koritzinsky said.

As organizations examine putting new risks in their captives, Willis Towers Watson's Mr. Swanke recommends modeling the risk to gain a better understanding of what kind of losses could affect the organization.

ONSHORE/ OFFSHORE BY THE NUMBERS

There were 6,939 captives worldwide in 2015, a 1.5% increase over 2014. For the first time, the United States surpassed North American offshore domiciles to become the No. 1 region in number of captive domiciles.



Source: BI survey

CAPTIVE OWNERS REVIEW THEIR OPTIONS AS LIST OF DOMICILES INCREASES

Costs, ease of doing business drives surge in redomestications

BY JERRY GEISEL

Two months after Innovative Physician Solutions Risk Retention Group moved to Vermont from Arizona, Chief Operating Officer Mark Tabler said he and the RRG's board of directors are "absolutely thrilled."

"There are significant cost savings and a tremendous captive knowledge base in Vermont," he said.

The move of the 10-year-old RRG, which provides professional liability coverage to about 400 physicians, is among several dozen captives that changed domiciles in the past year.

In Vermont, 11 of the 33 captive insurers state regulators licensed in 2015 were redomestications; Delaware reported 10 redomestications; Tennessee, seven; while Nevada, North Carolina and Texas each had four captives and Georgia had two captives that moved to those states from other domiciles.

"Clearly, redomestications have been on the upswing," said John Lochner, a director at Willis Towers Watson P.L.C. in Hartford, Connecticut.

"There definitely has been an increase in redomestications," said Nancy Gray, regional managing director of the Americas at Aon Risk Solutions in Burlington, Vermont.

A key driver of the moves has been states passing legislation allowing captive formations or enhancing their captive laws, such as reducing their premium taxes, experts say.

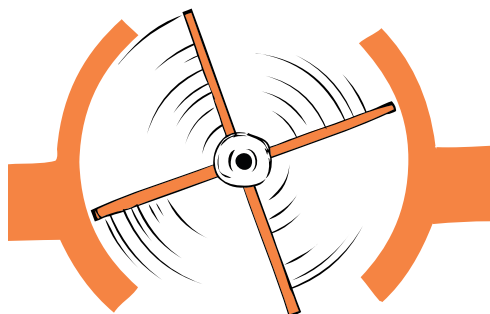
That has been particularly relevant for organizations who years ago set up a captive in another state because their home state lacked an attractive captive statute. Today, nearly three dozen states have captive laws.

In some newer domiciles, such as Texas, whose 11 captive formations included four redomestications, captive growth has been fueled in part by the state's ability to attract captives

licensed in other states and whose parents are located in states that now have attractive captive statutes, said Texas Captive Insurance Association President Josh Magden.

"So many organizations are based here. They want their captives to be in their home state," said Ellyn Casazza, a senior vice president in Atlanta at Marsh Captive Solutions and president-elect of the Texas Captive Insurance Association.

It's easier to do business in a state where the parent is located, said Irving Pozmantier, president of Alternative Insurance Strategies L.L.C.



in Houston, which helped a Texas-based real estate development company redomicile its captive to Texas from Arizona.

Moving a captive to a parent's home state reduces costs and saves time, such as travel to captive board meetings, Aon's Ms. Gray said.

In addition, captive sponsors may look to move their captives to new domiciles for other cost savings.

For example, captive examination fees in Vermont are substantially lower than many other domiciles because the state's captive unit does those examinations rather than contracts them out to outside firms, said Troy Winch, vice president and director of captive insurance at Risk Services L.L.C. in Sarasota, Florida.

Another factor driving parent companies to

move captives to their home state is what is known as self-procurement taxes. Many states assess the tax on premiums paid to captives licensed outside their home state. Those taxes can be costly, often 4% to 5% of premiums.

"A company may say, Why should it pay a 4% self-procurement tax?" when it can pay a fraction of that amount if its captive is domiciled where it is based," said Charles J. Lavelle, a senior partner at law firm Bingham Greenebaum Doll L.L.P. in Louisville, Kentucky.

Concerns about offshore domiciles being known as tax havens also have prompted companies to move their captives to the United States.

"It is a perception issue. Some companies don't want to be perceived as doing business offshore," said David Snowball, Utah's director of captive insurance in Salt Lake City.

To be sure, many captive parents have no intention of moving their domicile.

"There are many reasons why we have stayed in Vermont, not the least of which is their well-deserved reputation for being a fair and thoughtful regulator," said Pamela Davis, president and CEO in Santa Cruz, California, for the Alliance of Nonprofits for Insurance Risk Retention Group, which was licensed in Vermont in 2005 and provides a wide range of coverages, including general liability and coverage for cyber liability.

"The regulators are efficient and prompt when we need them to be. We have periodically looked at moving to another state, but after investigating, have consistently confirmed that United Educators is better off staying in Vermont," said Janice Abraham, president and CEO in Bethesda, Maryland of United Educators Risk Retention Group, which has been based in Vermont since 1987 and provides, among other things, general and legal liability coverages.

"We have periodically looked at moving to another state, but after investigating, have consistently confirmed that United Educators is better off staying in Vermont."

Janice Abraham,
United Educators Risk
Retention Group

CAPTIVE USE STARTS TO SPREAD IN LATIN AMERICAN MARKET

But strict regulation, lack of legislation present hurdles

BY GLORIA GONZALEZ

More Latin American companies are embracing captive insurers, but some countries' rules and taxes increase the hurdles to establishing a captive.

Corporations headquartered in Colombia and Mexico have led the way in utilizing captives to cover a wide range of exposures, but companies in Chile and Peru have more recently joined the captive bandwagon, captive experts said.

"The story of Latin America and captives isn't just a Mexico and Colombia story anymore," said Sean Rider, New York-based managing director of consulting and development at Willis Towers Watson P.L.C.'s global captive practice. "It's now pushing down into South America and we're pretty bullish on that space."

The captive growth is being driv-

en partly by the fact that large infrastructure projects are being developed in Peru and a pro-business mindset in Chile, said Andrew Cater, vice-president and senior underwriter at Aon Risk Solutions in Grand Cayman, Cayman Islands.

Latin American countries have well-established insurance and tax regulations, as well as corporate risk managers who are more willing to talk about alternative risk transfer options, said Maria Escobar, head of captive solutions for Latin America at Marsh L.L.C. in Bogota, Colombia.

However, captives face a challenge in Latin America in the double fronting of captives, where many countries' regulations require a local insurer and reinsurer to act as fronting carriers for the captive and take on some portion of the risk, experts said.

"In most of the cases, we can find a way to solve the problem and to have a negotiation with the carrier and the reinsurer," Ms. Escobar said. "But in other cases, this is a deal-breaker because sometimes it's so expensive to have both."

Captive challenges

In addition, certain Latin American countries have laws or tax regulations that challenge the use of captives, experts said.

Ecuador enacted reforms effective Jan. 1, 2015, that made it cost prohibitive to reinsure to most captive domiciles other than the United States and the United Kingdom. The reforms led to the imposition of significant taxes on the reinsurance premiums paid by companies headquartered in Ecuador to the local insurers issuing domestic policies, which would then pay premiums to the fronting reinsurer that eventually flow to the captive's domicile.

"Taxes imposed on reinsurance premiums paid to the U.S. and U.K. are modest in comparison, and fronting for captives via these countries is possible as a result," Mr. Cater said. "However finding fronting companies in the U.S. and U.K. can in itself prove challenging."

Legislation passed in Brazil in 2007 eliminated the Brazilian Institute of Reinsurance's state monopoly over the reinsurance sector. The IRB did not have the capacity to reinsure all risk, so prior to the change some Brazilian companies created captives to retain some of their risk and cede it to the international market. However, conditions such as minimum capital and minimum ratings in the legislation made it difficult to use captives, said Bruno Freire, CEO of reinsurer Austral Re in Sao Paulo.

"Basically, what we've seen is that these captives were not being used that much after the opening of the market, and we haven't seen more Brazilian companies opening new captives," he said.

Mr. Cater has more hope for increased captive activity in Argentina, which has favorable insurance laws and a new government.

"Argentina always had a lot of

interest in captives, but because of perhaps uncertainties over foreign exchanges in the past, that ambition was not realized," he said. "With the new government there, I would expect that activity in Argentina to pick up quite quickly."

The vast majority of captives established by Latin America-headquartered companies are not domiciled in the region as only Panama has a captive law, Ms. Escobar said. Other Latin American countries have not moved to pass captive legislation as insurance regulators generally do not have the necessary expertise to develop such regulations, she said.

"I don't see that happening in the near future and that's why we have to keep thinking in other domiciles," Ms. Escobar said. "Not even in Mexico and Colombia, who are more into captives or more developed in terms of insurance, I haven't seen a single initiative" to establish captive domiciles in the region.

Bermuda, an early marketer to companies in Latin America, accounts for the vast majority of the domiciled captives, with Barbados and Cayman Islands being players as well, experts said. Puerto Rico has recently made major efforts to capture business with attractive captive and tax regulations, although the United States and Europe are generally not domicile destinations for Latin American companies unless they have operations in those regions, they said.

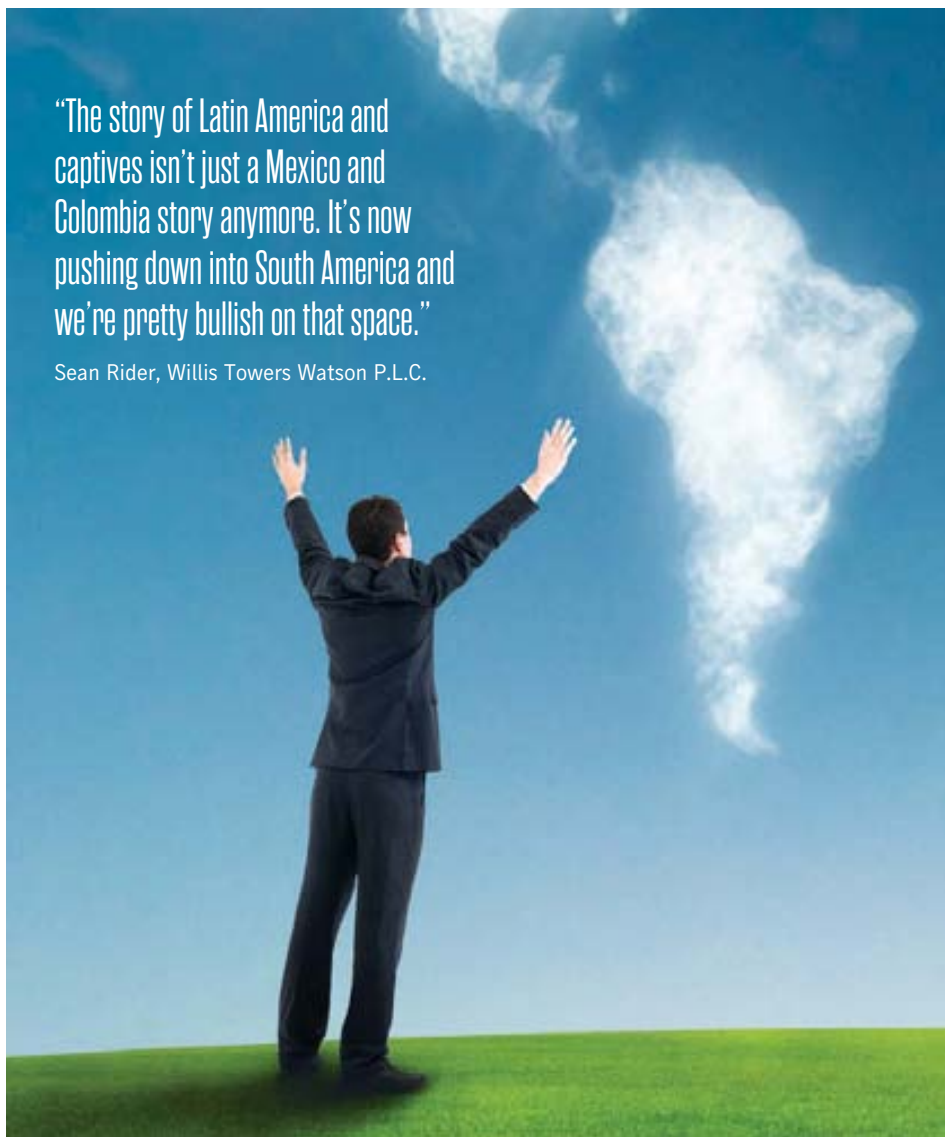
Latin American companies also are using cell captive structures due to pricing differentials or a cell effectively being a "nonowned" structure to lower premium levels that would perhaps not be cost-effective in a single-parent captive, but it is unclear how many cell captives have been formed by these companies, he said.

Overall, captive experts see the potential for expanded use of captives in Latin America, although more work needs to be done to fully propel growth.

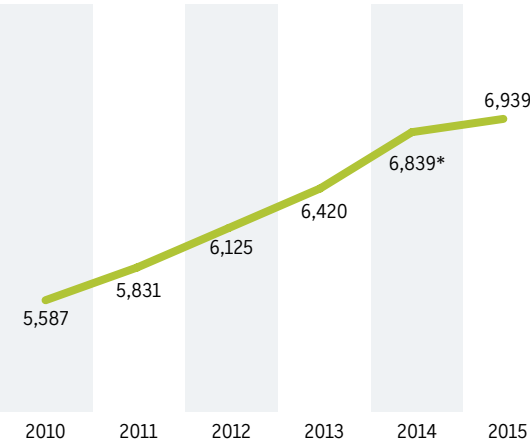
"What we need to be doing as an industry is actually providing more money and effort in training our colleagues in Latin America to be able to provide most of the services themselves," Mr. Cater said.

"The story of Latin America and captives isn't just a Mexico and Colombia story anymore. It's now pushing down into South America and we're pretty bullish on that space."

Sean Rider, Willis Towers Watson P.L.C.



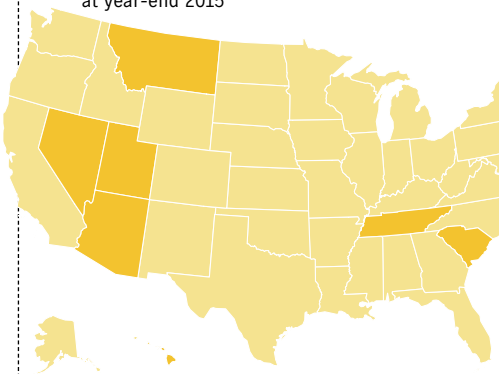
TOTAL CAPTIVES WORLDWIDE



*Restated
Source: BI survey

TOP 10 U.S. CAPTIVE DOMICILES

Ranked by number of captives at year-end 2015



Rank	State	2015	2014
1	Vermont	596	587
2	Utah	450	422
3	Delaware	323	333
4	Nevada	202	160
5	Hawaii	197	194
6	Montana	196	177
7	District of Columbia	193	191
8	South Carolina	167	158
9	Tennessee	127	70*
10	Arizona	110	114

*Restated
Source: BI survey



TOP 5 EUROPEAN CAPTIVE DOMICILES

Ranked by number of captives at year-end 2015

Rank	Domicile	2015	2014
1	Guernsey	319	321
2	Luxembourg	217	224
3	Isle of Man	115	122
4	Dublin	84	85
5	Sweden	44	47

Source: BI survey

TOP 10 CAPTIVE MANAGERS

Ranked by captives managed worldwide in 2015*

Rank	Company/address	Phone/website	2015 Total captives*	2015 Captive premium volume**	Domiciles	Total staff	Principal officers
1	Marsh Captive Solutions 1166 Ave. of the Americas 39th Floor New York, NY 10036	212-345-5000 www.marshcaptive-solutions.com	1,247	\$43,000,000,000	41	430	Chris Lay, president; Julie Boucher, practice leader - Americas; Ian Clancy, practice leader - EMEA Asia Pacific
2	Aon Captive & Insurance Management 8 Devonshire Square London, England EC2M 4PL	44-2076-235-500 www.aon.com	1,076	\$25,500,000,000	36	490	Peter Mullen, CEO
3	Willis Towers Watson P.L.C. Global Captive Practice The Willis Building, 11th Floor 51 Lime St. London, England EC3M 7DQ	44-2031-246-000 www.willistowerswatson.com	354	N/A	29	193	Paul Owens, CEO, Aidan Kelly, chief operations officer & compliance officer, global captive practice
4	Strategic Risk Solutions Inc. 2352 Main St. Concord, MA 01742	781-487-9800 www.strategicrisks.com	254	\$2,785,000,000	16	77	Brady Young, president; Michael O'Malley, managing director
5	USA Risk Group Inc. 2386 Airport Road Barre, VT 05641	800-872-7475 www.usarisk.com	237	\$3,379,174,956	21	66	Gary Osborne, president; Andrew Sargeant, chief operating officer; Paul Macey, president - offshore
6	Kane Group Ltd. Noble House Queens Road St. Peter Port, Guernsey G1Y 1PT	44-1481-730-393 www.kane-group.com	192	\$7,697,688,804	12	104	Simon Hinshelwood, group CEO; Clive James, group chief operating officer
7	JLT Insurance Management Cedar House 41 Cedar Ave. Hamilton, Bermuda HM HX	441-292-4364 www.jltcaptives.com	155	\$2,212,105,598	10	25	Steve Arrowsmith, executive chairman; Richard Daley, president
8	AMS Insurance Management Services Ltd. Sea Meadow House P.O. Box 116 Road Town, Tortola, British Virgin Islands VG1110	284-494-4078 www.amsfinancialgroup.com	117	N/A	5	13	Derek Lloyd, director
9	R&Q Captive Holdings Ltd. 110 Fenchurch St. London, England EC3M 5JT	44-2077-805-905 www.rqih.com	110	N/A	13	44	Nicholas S. Dove, chairman; Nicholas M. Frost, president; Tim Riddell, head of captives
10	Atlas Insurance Management Whitehall House, Third Floor 238 N. Church St. George Town, Grand Cayman, Cayman Islands KY1-1107	345-945-5556 www.atlascaptives.com	97	\$273,000,000	9	28	Martin Eveleigh, chairman; Nicholas Leighton, managing director

*Captives electing to operate under Section 831(b) of the U.S. Tax Code are not included. **Premium volume includes total gross premium volume of captives managed by the company or on its behalf.



TOP 5 NORTH AMERICAN OFFSHORE CAPTIVE DOMICILES

Ranked by number of captives at year-end 2015

Rank	Domicile	2015	2014
1	Bermuda	797	800
2	Cayman Islands	708	759
3	Anguilla	319	379
4	Nevis	268	281
5	Barbados	236	231*

*Restated
Source: BI survey



TOP 5 ASIA PACIFIC CAPTIVE DOMICILES

Ranked by number of captives at year-end 2015

Rank	Domicile	2015	2014
1	Singapore	68	64
2	Labuan	40	40*
3	Micronesia	18	14
4	Vanuatu	8	7
5	Australia	7	7
5	New Zealand	7	10

*Restated
Source: BI survey

Insurer creates cyber liability unit

RLI Insurance Co.'s executive products group has created a new business unit to offer cyber liability insurance.

The unit offers protection for exposure from adverse cyber events including data breaches, data loss, malware attacks, cyber extortion, and disruption of service, Peoria, Illinois-based RLI said in a statement.

The unit will be led by underwriting directors Sean Scranton and Natasha Richard, according to the statement.

"These types of cyber threats and incidents are increasing in frequency, sophistication and volume and creating financial hardships for many companies," Chad Berberich, vice president of the executive products group, said in the statement. "Our cyber liability unit will address this growing concern by offering critical protection for an organization's intangible assets such as electronic data, software and intellectual property, which may not be covered under their current business insurance policy."

Cat model predicts severe storm losses

Aon Benfield Group Ltd. has launched a U.S. severe thunderstorm scenario model.

Aon Benfield's catastrophe model development team at Impact Forecasting L.L.C. created the model to help insurers estimate annual losses based on the last 12 years of historical severe thunderstorm data from the U.S. Storm Prediction Center, the company said in a statement.

According to Aon, severe thunderstorms have overtaken tropical cyclones as the costliest peril for U.S. insurers on an average annual basis.

"Over the last decade, severe thunderstorms have contributed towards an increasingly large portion of the insurance industry's global catastrophe losses," Stephen Hofmann, executive managing director at Aon Benfield, said in the statement. "The rollout of Impact Forecasting's new STS model now means that insurers and reinsurers can effectively manage their risk and use the model's transparency to explain the details of their loss numbers and create their own view of risk from this peril."

Prompt cyber risks alerts offered by IronPro service

IronPro, the professional liability unit of Ironshore Inc., has launched a suite of enhanced risk management services for cyber policyholders that provides cyber monitoring and alert services.

IronPro will provide policyholders with cyber monitoring and alert services, working with Atlanta-based security firm BorderHawk L.L.C. to analyze cyber activity and detect questionable client events, New York-based Ironshore said in a statement.

The cyber monitoring and alert services transmit a cyber risk warning alert when there is potential risk, while other



Broker launches program to cover auto dealers

* Independent wholesale brokerage firm All Risks Ltd. will offer a specialty program for U.S.-based nonfranchised auto dealers.

Part of its national specialty programs unit, the program covers nonfranchised used car dealers, valet services, wholesale auto dealers and brokers, motorcycle dealers and repair, recreational vehicle dealers and repair, heavy truck dealers and repair, auto repair operations, gas stations, and full service car washes, Hunt Valley, Maryland-based All Risks said in a statement.

The coverage also includes garage liability, physical damage, dealers' errors and omissions, and a package with property and general liability exposures, according to the statement.

Coverage limits up to \$5 million are available, according to All Risks' website.

features include cyber security assessment and technical services review by the U.S. Department of Homeland Security, according to the statement.

"We recognize that while 'alerting' systems can be a critical component of cyber security programs, most organizations depend on 'accidental discovery' to initiate investigations of malicious cyber

threats," Steve Akridge, president of Atlanta-based BorderHawk, said in the statement. "IronPro clients will be notified when questionable activity occurs, providing a more responsive investigation when primary security tools do not recognize a potential threat."

Specialty insurer takes on environmental liability

Pioneer Underwriting Ltd. said its Pioneer Special Risk unit has begun underwriting environmental liability.

The Exton, Pennsylvania-based team will be led by Vice President Jessica Huhn-Kenzik. The team will provide property owners, developers and contractors with pollution and professional coverage. This coverage includes site pollution liability, Pioneer Underwriters said in a statement.

"Jessica and her team bring a tremendous background to this new PSR initiative and add significant value to the organization by virtue of their experience and long-standing market relationships," Gary Dubois, president of Pioneer Special Risk, said in the statement.

Partnership to provide midmarket property cover

Rockhill Insurance Group and H.W. Kaufman Financial Group's Global Excess Partners L.L.C. have joined forces to provide property coverage for U.S. middle-market risks.

The coverage is focused on surplus lines middle market property accounts, including those with incidental catastrophe exposure. It will be distributed through Global Excess Partners' wholesale brokers, Rockhill said in a statement.

"GEP and Rockhill complement each other," Mary Pat Thurston, COO and managing director of Global Excess Partners, said in the statement. "Rockhill will enable us to better service our client base and expand our overall property capacity and offerings."

Safety National to launch public entities specialist

Chicago-based Safety National Casualty Corp. said that its new unit, Safety Specialty Insurance Co., will begin operations in March.

Law enforcement liability, public officials liability and educators legal liability coverage will be offered through Safety Specialty, Safety National said in a statement.

"Not only does the formation of Safety Specialty provide a greater ability to address the needs of our public-entity broker partners and clients, as a nonadmitted carrier it also provides greater form and coverage flexibility for new product development," Mark Wilhelm, CEO of Safety National, said in the statement.

"We are working diligently to further expand SSIC's offerings and add to our suite of specialized insurance solutions," he said.

DEALS & MOVES

IBM to buy health care data firm in drive to grow analytics

IBM has announced plans to acquire Truven Health Analytics, a provider of health care data and analytics, for \$2.6 billion, marking its fourth major health data-related deal in the past year.

Ann Arbor, Michigan-based Truven will bring more than 8,500 clients, including U.S. and state government agencies, employers, health plans, hospitals and others, to its IBM Watson Health portfolio, IBM said in a statement.

Armonk, New York-based IBM, launched its Watson Health unit in April 2015.

IBM said that at the expected close of the Truven acquisition later this year, its cloud-based system will house health-related data representing around 300 million patient lives. The Truven data will be integrated with Watson's data, used to identify health cost savings, improve health care outcomes, fight fraud and make operations more efficient, according to the statement.

Reuters

Insurance broker expands with benefits consultant buy

Insurance broker The Plexus Groupe L.L.C. has acquired Chicago-based benefits consultant Benefitdecisions Inc.

Terms of the deal were not disclosed.

Benefitdecisions offers solutions in benefits administration and enrollment, corporate wellness, employee benefits brokerage/consulting and human resource consulting, Plexus, which has offices in Dallas and Deer Park, Illinois, said in a statement.

Benefitdecisions will operate as Plexus, and Benefitdecisions founder and CEO Mark Matuscak will join Plexus as a partner, according to the statement.

AssuredPartners acquires broker focused on architects, engineers

AssuredPartners Inc. has acquired Poulsbo, Washington-based specialty broker Michael J. Hall & Co.

Terms of the deal were not disclosed.

Michael J. Hall & Co. provides professional liability insurance to architects, engineers, land surveyors, construction managers and environmental consultants, AssuredPartners said in a statement.

Michael J. Hall & Co. President Michael Hall and his staff of 46 will join AssuredPartners. The staff will remain under Mr. Hall's leadership, according to the statement.

AmWINS acquires benefits administrator

AmWINS Group Inc. has acquired Group Benefit Services Inc. and GBS Payroll Plus Inc., known collectively as Group Benefit Services.

Terms of the deal were not disclosed.

Founded by Bill and Kathy Simmons, Hunt Valley, Maryland-based Group Benefit Services is a third-party administrator and general agent that provides products and services to support the distribution, delivery and administration of employee benefits and health care services to fully-insured and self-insured groups, AmWINS said in the statement.

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WHAT MATTERS MOST



REQUEST FOR PROPOSAL

NEW YORK CITY HOUSING AUTHORITY

SMD INSURANCE BROKERS/CONSULTANTS TO PROVIDE INSURANCE AND RISK MANAGEMENT SERVICES - Request for Proposals - PIN# 63145 - Due 3-24-16

The New York City Housing Authority (NYCHA), in furtherance of enhancing its risk management programs, is issuing this RFP to invite qualified firms to submit proposals to provide NYCHA with insurance broking services, risk management consulting services, risk control consulting services, auditing consulting services, and community operations insurance broking services.

Minority, Women, and Small Business Enterprises are strongly encouraged to submit Proposals in response to this RFP.

Proposers may submit, via e-mail, written questions in advance to NYCHA's Coordinator, meddy.ghabae@nycha.nyc.gov by no later than 2:00 p.m. on March 7, 2016. Questions submitted in writing must include the firm name and the name, title, address, telephone number, fax number and e-mail address of the individual to whom responses to the Proposer's questions should be given. Proposers will be permitted to ask additional questions at the Proposers' Conference. All responses to questions will be posted NYCHA's online system iSupplier.

Interested firms are invited to obtain a copy on NYCHA's website. To conduct a search for the RFP number; vendors are instructed to open the link: <http://www1.nyc.gov/site/nycha/business/isupplier-vendor-registration.page>. Once on that page, please make a selection from the first three links highlighted in red: New suppliers for those who have never registered with iSupplier, Current NYCHA suppliers and vendors for those who have supplied goods or services to NYCHA in the past but never requested a login ID for iSupplier, and Login for registered suppliers if you already have an iSupplier ID and password. Once you are logged into iSupplier, select "Sourcing Supplier," then "Sourcing" followed by "Sourcing Homepage" and then reference the applicable RFP PIN/solicitation number.

Suppliers electing to obtain a non-electronic paper document will be subject to a \$25 non-refundable fee; payable to NYCHA by USPS-Money Order/Certified Check only for each set of RFP documents requested. Remit payment to NYCHA Finance Department at 90 Church Street, 6th Floor; obtain receipt and present it to the Supply Management Procurement Group; RFP package will be generated at time of request.

Each Proposer is required to submit one (1) signed original and six (6) copies of its Proposal package. In addition to the paper copies of the Proposal, Proposers shall submit one (1) complete and exact copy of the Proposal on CD-ROM or Flash drive in Microsoft Office (2010 version or later) or Adobe pdf format. The original signed hard-copy must be clearly labeled as such. If there are any differences between the original and any of the copies (or the electronic copy of the Proposal), the material in the hard copy original will prevail.

Due Date
3/24/2016
Published
2/24/2016

Solicitation
Request for Proposals
Agency
NYCHA / Supply
Management

Contact
Meddy Ghabae
Phone: (212) 306-4539
Fax: (212) 306-5108
meddy.ghabae@nycha.nyc.gov

Address
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BLAST

Continued from page 4

founder and president of Beattie Fire Protection & Risk Consulting L.L.C. in Pottstown, Pennsylvania. “The insurance underwriter made a business decision to not continue writing business there.”

After the nonrenewal, West Fertilizer obtained a general liability policy with a \$1 million limit from U.S. Fire Insurance Co., a unit of Morristown, New Jersey-based Crum & Forster.

Neither insurer responded to requests for comment.

A key risk of storage facilities for ammonium nitrate, a key fertilizer component, is that they often are in populated areas, with 83% of the 40 facilities in Texas less than 0.3 miles from a residence or apartment building, according to the chemical safety agency.

A May 2014 U.S. Government Accountability Office report said the total number and locations of ammonium nitrate storage facilities are unknown, but it identified at least 1,300 facilities in 47 states that had enough of the chemical that they were obligated to report to the U.S. Department of Homeland Security for security purposes.

Many older facilities are not built to current standards, Mr. Beattie said.

“West had a lot of combustible construction, which would probably not be permitted today in many municipalities,” he said. “And in West, there was no regulation that required a safe distance between the community and the fertilizer store.”

The Texas State Fire Marshal’s Office and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives have not made a final determination about the cause of the fire, but a key lesson learned is “we’ve got to keep fire away from areas that store ammonia nitrate,” said State Fire Marshal Chris Connealy, who is based in Austin. “We’ve got to do what we can to prevent a fire from occurring, because that was the catalyst that led ultimately to the explosion.”

The Texas Legislature passed a law last year mandating that no combustible

materials be stored in the same structure as ammonium nitrate and gave the office authority to conduct inspections to ensure agribusinesses comply, Mr. Connealy said.

Companies that surpass a certain threshold of hazardous chemicals are required by the U.S. Occupational Safety and Health Administration to have a process safety management program, which includes an assessment of the hazards and controls, Mr. Beattie said. The hazard analysis and community outreach that is part of this process did not occur at West, he said.

“They were probably sort of a sleeper hazard,” Mr. Beattie said. “People saw it every day, drove by it and never really gave much thought about it.”

The West explosion was frequently cited and discussed last week at a Washington meeting of the National Advisory Committee for Occupational Safety and Health’s subcommittee for emergency response and preparedness, which is developing a proposed emergency responder preparedness program standard for OSHA consideration.

This proposed standard aims to address a critical issue outlined in the chemical safety agency’s report, which concluded that the West Volunteer Fire Department did not conduct preincident planning or response training at the facility, was likely unaware of the detonation potential of the ammonium nitrate materials and did not have appropriate training in hazardous materials response.

The draft proposal would require emergency service organizations to develop a written, comprehensive community vulnerability and risk assessment of hazards, including specific requirements for hazardous materials mitigation and training.

“They got into a situation that they were not prepared for,” said Rick Ingram, health and safety adviser at BP P.L.C. in Goliad, Texas, and co-chair of the subcommittee. “Unfortunately, we lost a lot of heroes. That brings us back down to earth a little bit.”

“It all goes back to planning, understanding what you’re going to be doing and what risk you’re going to be encountering,” he said.

RESILIENCE

Continued from page 4

send is growing,” said Francis Bouchard, a managing director at Washington-based consultant Hamilton Place Strategies. But he also said governments can distort such signals by relying on nonrisk factors to drive decisions.

That “poses fundamental challenges to the types of public-private partnerships needed to tackle society’s greatest risk challenges,” said Mr. Bouchard. Issues including cyber security, climate change and aging populations all face the same dilemma.

“With these hazards, you’re talking about something that doesn’t happen very often,” said David Snyder, vice president-international policy in the Washington office of the Property Casualty Insurers Association of America.

“Then when you combine that with the perception that the government will come in and bail you out, you have a prescription for moral hazard and not taking prudent steps in advance to reduce your risk,” he said. “That’s true of communities, that’s true of individuals and fosters a sort of short-termism. That’s what makes the role of insurance, which is a long-term proposition, particularly important.”

Natural, manmade risks collide

But the nature of risk itself is changing, with the biggest issue being “the collision of manmade risks with natural ones,” said Daniel Wagner, CEO of Bethel, Connecticut-based consultant Country Risk Solutions. An outbreak of Ebola in 2014 and 2015 serves as a reminder of how little is within our control, he said.

“It’s new for the simple reason because we had previously been accustomed to thinking about risks being in silos,” said Mr. Wagner, who has written a book which will be available later this year titled “Global Risk Agility and Decision Making” with Mr. Disparte. But manmade and natural risks have risen in intensity, so they now collide.

He cited as an example climate change, pointing to the cyclone that ravaged Fiji earlier this month with winds gusting in excess of 200 mph.

“We’re having hurricanes with record lev-

els of intensity almost monthly in 2015 and 2016,” Mr. Wagner said. “That’s having profound impacts wherever it hits,” affecting migration patterns and the ability to grow crops, he said.

He said manmade and natural resources risk can collide in the corporate world as well, as happened with Volkswagen A.G.

“Here’s an organization that made a decision about how to address an environmental and commercial risk,” he said. In making the choices they did and failing to make certain choices, they “created a problem that is much more severe than they could have imagined.” He said the result is a threat to the company’s very existence.

Risk managers have not made the transition to the new world where the collision is occurring, and some don’t realize the change is happening, Mr. Wagner said.

“It’s important for every risk manager to become a decision-maker, and every decision-maker to become a risk manager,” he said.

“It’s all about silos,” said Mr. Snyder. “What can really create a widespread disaster is when the natural disaster strikes a particularly sensitive critical infrastructure like what happened with the tsunami (in Japan following a massive earthquake in 2011), or part of a global supply chain.”

“The other junction to be concerned about is when cyber attacks begin to impact the real world beyond simply the loss of data, such as systems that operate transportation and water systems and the power grid itself,” he said. “So it’s a combined challenge for both government and the private sector — particularly insurance — to make the case to an otherwise skeptical public.”

The Obama administration is aware of the need to promote resilience, said a White House official who addressed the summit.

“Most of our infrastructure was built to withstand historical norms,” said Alice Hill, special assistant to the president and senior director for resilience policy at the National Security Council. “But the historical norms are not turning out to be good guides for the future.” For example, Ms. Hill said that the effect of projected climate change has to be taken into account in infrastructure planning.

Infrastructure needs to be designed and built in a manner that will withstand threats possible throughout the life of the building. “Our goal should be to build it right that first time, not have to rebuild it twice,” she said.

IBI

Continued from page 4

The program is a “one-stop shop” that puts its employee assistance program front and center in every wellness initiative, Mr. West said during the IBI forum.

Run by Beacon, the program has EAP counselors in its on-site health centers, a digital cognitive behavioral therapy tool and telepsychiatry services for its campuses in areas with a shortage of psychiatrists.

Michelin’s health risk assessment asks questions to identify employees’ risks for alcoholism and substance abuse, with special interventions at locations with high scores, Mr. West said.

Overall utilization of Michelin’s EAP was 19% in 2014, and the company’s behavioral health program boasts a return on investment of 182%, Mr. West said.

One reason mental health is moving to the forefront is because it’s becoming easier to talk about, several speakers at the forum said. “We’re starting to see more leaders within organizations really talk about behavioral health, talk about stigma associated with men-

“Organizations that engage employees in their health do have a competitive advantage.”

Dr. Fikry Isaac, Johnson & Johnson

tal health, and then also thinking strategically and creatively around how to reduce stigma in order to increase help-seeking behavior,” Mr. Paul said.

The economic burden of behavioral health issues is hefty: Workplace stress alone contributes between \$125 billion and \$190 billion to health care costs annually,

or 5% to 8% of national spending on health care, according to a January 2015 paper by researchers at Harvard Business School in Boston, and the Stanford Graduate School of Business in California.

Depression, the leading cause of disability for U.S. adults ages 15-44, results in nearly 400 million disability days per year, according to a study published in the February 2015 issue of the Journal of Clinical Psychiatry.

Employers incur an estimated \$100 billion annually in direct and indirect costs associated with depression, including as much as \$44 billion lost to employee absences and lower productivity, according to a survey published in 2014 by Employers Health Coalition Inc., a Canton, Ohio-based nonprofit health benefits service provider.

According to Dr. Fikry Isaac, chief medical officer of health and wellness solutions at New Brunswick, New Jersey-based

Johnson & Johnson, the business case for behavioral health is clear.

“Organizations that engage employees in their health do have a competitive advantage,” he said in a separate session, adding that increased productivity, attraction and retention are benefits of behavioral health programs.

Still, there are hurdles to implementing mental health initiatives in the workplace, and Patricia Purdy, vice president of global employer solutions at Chicago-based employee benefits advisory firm Pacific Resources Benefits Advisors L.L.C., said many employers are “woefully behind.”

For one, Ms. Purdy said, there’s the question of how you label such a program to be broad and non-threatening. “Do we call it mental illness, mental wellness, mental well-being, behavioral well-being?” she asked.

Dr. Robert Carr, director of the executive master’s program in health systems administration at

Georgetown University, Washington, and former corporate medical director with GlaxoSmithKline P.L.C., said it’s important not to treat behavioral health as a “medical condition” but as a “competency” that you help employees strengthen.

“It’s a way of processing, a way of thinking, a way of dealing with your life that allows you to have a stronger mental well-being,” he said.

And stigma can’t be overlooked, as it may prevent employees from coming forward for help.

“We always talk about stigma, but we don’t do much about it,” said Dr. Isaac.

“The conversation needs to change,” he said. “It’s the whole person. It is a holistic approach to health. Mental, emotional, spiritual well-being is part of the bigger picture as it relates to the workforce for the future, and I think we need to really change it into that mindset.”

IMR

Continued from page 3

workers sufficient opportunities to present evidence and be heard.”

Ms. Stevens had contended her due process rights were violated when an independent medical review in 2013 denied her a home health aide and prescription painkillers for a broken foot she suffered in 1997, according to the ruling.

Under the California reforms, injured workers can request independent medical reviews to dispute treatment that was modified or denied under utilization reviews, which employers request. Such disputes previously were adjudicated in court. Insurers and employers pay for independent medical reviews.

“The good thing about the decision is it settles the question of whether we will or will not have an IMR system,” said Mark Sektan, president of the Sacramento-based Association of California

Insurance Cos.

The ruling in *Stevens* “constitutes a win for workers compensation payers,” the California Workers’ Compensation Institute said in a statement.

Separately, the Oakland-based institute said in a report this month that independent medical reviews last year upheld 88.6% of treatment decisions made in utilization reviews.

CWCI President Alex Swedlow said in an interview that the high rate of independent review decisions backing claim payers shows the review system is helping to mitigate medical costs while monitoring care for injured workers.

The high rate of upheld treatment decisions “is a strong indication that both payers and reviewers have been consistent in applying the medical treatment schedule and the other evidenced-based medical guidelines and studies when determining the medical necessity of requested services,” he said in a statement. Others agree.

WCIRB reported in November that several provisions of Califor-

nia’s comp reforms, including independent medical reviews, have produced \$770 million in annual savings for the state’s workers comp system.

“The timing of when we started to see drops in levels of medical treatment ... is tied to when IMR started to be implemented in a significant way,” Mr. Bellusci said.

Marc Leibowitz, a workers comp defense attorney at Laughlin, Falbo, Levy & Moresi L.L.P. in San Diego, said independent medical reviews have allowed his clients to manage medical treatment disputes out of court, thereby reducing their legal costs.

“I was having trial after trial on denied medical treatments,” Mr. Leibowitz said of utilization review disputes before independent medical reviews.

“This is improving medical care that’s delivered to injured workers, and that’s a really good thing,” Joseph Paduda, principal of Madison, Connecticut-based Health Strategy Associates L.L.C.

In its report this month, the CWCI said that “the data is still

too green” to tell whether independent medical reviews will reverse California’s rising medical-legal claim costs and that 10% of the physicians named in last year’s nearly 164,000 independent medical review determinations accounted for 85% of the disputes.

“It indicates that a small subset of the provider community is either incapable of learning or, perhaps more likely, unwilling to learn, and is completely fine with providing inappropriate medical care to their patients and trying to get paid to do so,” Mr. Paduda said.

While CWCI said at least two other lawsuits questioning the constitutionality of independent medical reviews are being considered by California appellate courts, experts say they’re optimistic they’ll withstand the challenges, which would pave the way to optimize the review process.

“Once that question (of constitutionality) has been settled, then insurers and other players in the system can learn how to make it work,” said the California insurance association’s Mr. Sektan.

OSHA

Continued from page 3

Eric Conn, a Washington-based founding partner at Conn Maciel Carey P.L.L.C., also discourages his clients from using the website.

“I don’t know a single employer who completes an effective and thoughtful incident investigation in eight hours or 24 hours, so I think it’s premature to commit in writing to some version of the incident,” Mr. Conn said. “When you make the phone call, you’re not committing in writing to any version. Your own written words are your words, and you’re married to them throughout the process.”

OSHA can use the information from the website reports against an employer during a subsequent enforcement action or as a road map for an inspection, and the reports will be accessible to the public under the Freedom of Information Act, which means unions, competitors or plaintiff lawyers can access them, lawyers said.

Mr. Conn noted that if OSHA documents the phone reports with their own written notes, those notes would be subject to FOIA, but if phone calls are not recorded — as is his understanding — there would be no statement of the employer that is subject to FOIA.

The website also has much of the same information that OSHA seeks during rapid response investigations, which it has pledged not to use against employers.

“I’m highly skeptical of that and, even if it is technically true that they won’t submit the (rapid response investigation) letter as evidence at a hearing, it’s not like they’re going to put blinders on and bury their head in the sand,” Mr. Conn said. “There’s no question it can come back to hurt you.”

OSHA is still working out the site’s bugs, but employers need to meet its reporting requirements because the agency has cited employers who fail to do so, said Edwin Foulke, an Atlanta-based partner at Fisher & Phillips L.L.P.

The website does make it more convenient for employers to report such incidents while giving OSHA the information it is seeking, said Matthew Linton, of counsel at Holland & Hart L.L.P. in Denver.

The reporting rule has broad applicability because all employers under OSHA jurisdiction must report workplace fatalities and serious injuries, even those who are normally exempt from routine OSHA record-keeping because they have 10 or fewer employees or they operate in low-hazard industries, Ms. Geraghty said.

For employers that do report such incidents via OSHA’s website, stick to the facts without adding analysis, Mr. Linton said.

“(M)ost people will start to take some responsibility ... That’s not something that at that initial stage that you want to do, and that’s not something OSHA’s asking for. Just put in the facts that you are absolutely sure are the correct facts.”

BREXIT

Continued from page 3

month, Sean McGovern, Lloyd’s chief risk officer and general counsel, said the London market has contingency plans in place to enable Lloyd’s to continue providing insurance coverage should voters decide to leave the E.U.

“(I) know that the E.U. is not perfect,” Mr. McGovern said, but being part of the bloc confers three “very important benefits” for the London insurance market: It provides access to the single market, encourages foreign direct investment and facilitates trade with countries outside the E.U., he said.

“These benefits are, in my view, critical to the success of the London insurance market and its position as the world’s largest specialist insurance and reinsurance center,” Mr. McGovern said. The current model “is, in many ways, the optimal international regulatory regime for Lloyd’s and other London market firms.”



AP PHOTO

London Mayor Boris Johnson is supporting the “leave” campaign.

Mr. McGovern said that as a conservative estimate, the London insurance market currently writes about £6 billion (\$8.67 billion) of premium volume from the E.U.

The International Underwriting Association, which represents London company market insurers, is surveying its members on a potential Brexit.

A spokesman said since IUA companies comprise a variety of different legal entities, views are expected to differ.

“The main impact on the London company market of a U.K. exit from the E.U., however, would be the potential loss of passporting rights for insurers,” the spokesman said.

He added in an email: “If the

U.K. were to exit, (insurers and reinsurers) from third countries such as the United States and Japan, might be obliged to choose other European centers over London in order to passport into the E.U.”

TheCityUK, a lobbying organization that represents financial and professional services companies, said last week said that it was not its place to tell people how to vote in the June 23 referendum, but also said leaving the E.U. could cost jobs and stunt economic growth.

“London is the E.U.’s financial center and the strong business links across the continent are fundamental to the prosperity of the whole region,” Chris Cummings, CEO of TheCityUK, said in a statement.

Leaving the E.U. would “create prolonged uncertainty for business while the practical implications of a withdrawal are put in place,” he said. “Not least would be the challenging negotiations to agree how the U.K. could maintain access to the E.U.’s single market.”

PILOTS

Continued from page 6

“Simulators can do what you can’t do safely in an aircraft.”

Benjamin J. Goodheart, Golden, Colorado-based director of aviation safety and claims management at AirSure Ltd., said aviation insurers in the past several years have increased their focus on hands-on flight training, such as in-air “upset recovery” or “extreme altitude recovery” practice, where pilots practice recovering from a loss of control due to flying too slow or at too steep of an angle.

Mr. Goodheart said he also has seen underwriters in recent years request additional flight simulator training for some large commercial operators, feeling it’s worth the client’s time to mimic errors that occur when technology fails.

“The industry has shifted to embrace this type of training. To see it and feel it and do it is critical,” Mr. Goodheart said.

Thomas H. Endriss, Munich-based aviation underwriter at Munich Reinsurance Co. and a regional specialist for airlines based in the U.S. and Canada, said his clients focus on manual flying skills from the start of pilots’ careers. Mandatory, recurrent manual training focuses on recovering from an upset and avoiding traffic, he said.

The frequency of aviation accidents has gone down considerably over the past two decades, “predominantly due to modern technology and crew training,” Mr. Endriss said.

“It’s the safest stretch in history, and it’s reflected in the insurance industry with unprecedented premium ratings and profitability for insurance companies,” Mr. Miller said.

“An issue addressed in the report is understanding the performance of the aircraft and what it’s going to do. This is something that’s hard to measure,” Mr. Miller said. “It’s only when things go wrong and you have to fly the airplane — that’s when the diminished skill level or failure to train to competency results in a pilot not being able to fly the airplane.”

POACHING

Continued from page 1

years and an order forbidding JLT from inducing any Aon employee to breach their obligations to Aon.

The suit, on which JLT declined comment, also seeks costs and legal fees.

Poaching suits are not uncommon in the brokerage world. For example, Willis Ltd., part of what now is Willis Towers Watson P.L.C., sued JLT last year in a London court for luring its fine art, jewelry and specie division employees.

Aon also has sued Newport Beach, California-based Alliant Insurance Services Inc. for allegedly poaching key members of its construction practice.

While observers declined to comment on the specifics of the dispute between Aon and JLT, they agree such actions are becoming more common.

“I think it’s industry practice that firms will be in court seeking a (temporary restraining order) and ultimately ask the courts to enforce the validity of covenants not to pirate,” said Timothy Cunningham, a principal at Chicago-based investment banking and consulting firm Optis Partners L.L.C.

“I have no empirical studies that show that there is an increase in suits among competitors for poaching,” said Daniel P. Hart, a partner at Seyfarth Shaw L.L.P. in Atlanta. “But anecdotally, it does seem there is increased litigation across industries by competitors arising out of poaching of their employees.”



BUSINESS LOST

In a lawsuit filed last week against seven former employees and two units of Jardine Lloyd Thompson Group P.L.C., Aon P.L.C. said it had lost 55 employees and “millions” in business to JLT since August 2014. Business it has lost includes:

- Denver-based restaurant chain Chipotle Mexican Grill Inc.
- Sunnyvale, California-based data storage and systems provider NetApp Inc.
- Oakland, California-based developer Catellus Acquisition Co. L.L.C.
- San Antonio-based cloud services provider Rackspace Inc.
- Denver-based social marketing and communications provider Wayin Inc.

Mr. Hart said employee nonrecruit and nonsolicitation covenants generally are more enforceable than customer nonsolicitation covenants.

“As a result, if an employer has evidence that one of its former employees has recruited a number of co-workers to leave and go to work for a competitor, the employer may be able to prove a breach of the nonrecruit covenant by the former employee as well as evidence of a claim for tortious interference by the new employer,” he said.

Such actions are “simply the inevitable outcome of a knowl-

INDIVIDUAL DEFENDANTS

Individuals named in Aon P.L.C.’s suit alleging they violated their noncompete agreements are:

Michael Rice, a former Aon business line executive and now CEO of JLT Specialty Insurance Services Inc., which does business as JLT Specialty USA

Patrick Donnelly, a former Aon broker leader and now president and deputy CEO of JLT Specialty USA

Steve Shappell, a former Aon national practice leader and now chief legal officer of JLT Specialty USA

Paul Graziano, a former Aon producer and now executive vice president and chief business development officer of JLT Specialty USA

Colin Daly, a former Aon national practice leader and now head of specialty at JLT Specialty USA

Jim Gaubert, a former Aon senior property broker and team leader and now senior vice president of JLT Specialty USA’s entertainment and hospitality practice

Bradley McDonald, a former Aon broker leader and now senior vice president of JLT Specialty USA financial lines group

edge-based economy, when one of the most important resources that any company has is its people,” Mr. Hart said.

“There’s always demand for top talent, and there’s always shifts in the market when talented people perceive opportunities elsewhere,” said Terrence P. Canade, a partner at Locke Lord L.L.P. in Chicago.

“My sense is that there have always been disputes of this nature because the law remains somewhat unsettled from jurisdiction to jurisdiction,” which he said creates a challenge for judges, lawyers and employers

and employees.

“The role of noncompete (agreements) in commerce in general has ramped up substantially,” said John L. Ward, CEO of Cincinnati Partners L.L.C., a Loveland, Ohio-based private equity firm. “It’s a big issue.”

Mergers and acquisitions are one driving force.

“When there are acquisitions, there are groups of people who don’t want to stay with the new group,” Mr. Ward said. Whenever intellectual capital is involved, “it becomes an issue of protecting the corporate assets.”

Mr. Ward said attempts to enforce noncompete agreements across the economy are reaching beyond the ranks of top executives. “Once it was only senior executives and it’s coming down into food chain,” he said.

“I don’t know if it’s become more aggressive,” but brokerages since the 2008 financial crisis have sought to control expenses, including compensation, said John Wicher, principal of John Wicher & Associates Inc. in San Francisco.

“People don’t leave when they’re happy,” he said. “In an industry where 99% of your assets walk out the door every evening, you’re at risk when you have brokers who don’t feel that they’re being compensated adequately.”

On the other side of the equation, “making great hires is an alternative to making acquisitions,” he said.

JLT re-entered the U.S. retail market in 2014, and group CEO Dominic Burke last year told *Business Insurance*: “We’ve arrived on the shores of the United States. We’ve burnt our boats, and we are not going back.”

ILS

Continued from page 6

mat under U.S. Securities and Exchange Commission regulations.

His views were echoed by John DeCaro, founding principal and portfolio manager with Elementum Advisors L.L.C. in Chicago.

“As an investor, we are desirous of as much information as possible,” said Mr. DeCaro.

There was confidence, however, that this would happen.

“Our view is that over time disclosures will increase,” said Ben Rubin, executive vice president, capital markets for Axis Re U.S. in New York.

Although catastrophe bond issuance declined to \$6.9 billion in 2015 from \$8.0 billion in 2014, the sector is still showing promising signs of growth, according to insurance industry reports.

Both Aon Benfield Securities and Swiss Re Ltd. say in reports issued Jan. 21 and Jan. 22, respectively, that 2016 catastrophe bond issuance could reach \$7 billion.

Meanwhile, Willis Capital Markets & Advisory, a Willis Towers Watson unit, notes in a report issued Jan. 19 that the 2014 total was bolstered by the largest single catastrophe bond ever issued, the \$1.5 billion Everglades Re Ltd. from Citizens Property Insurance Corp., a bond providing coverage for Florida windstorms that was upsized more than once due to strong demand.

“Looking at the headline catastrophe bond figure, a decline in issuance appears to be the case. However, this general picture fails to account for the huge \$1.5 billion transaction completed in 2014 — Citizens’ Everglades Re — which skews any prior-year comparison,” said Mr. Dubinsky in a statement accompanying the Willis report.

The Aon report, “Insurance-Linked Securities Year-End 2015 Update,” also noted that 2015 saw a record level of catastrophe bond maturities at \$6.8 billion.

The Swiss Re report, “Insurance Linked Securities Market Update, Volume XXIV, January 2016,” notes that this trend will continue with close to \$4 billion worth of scheduled maturities in the first half of 2016.

Growth in the ILS sector in 2015 could also be seen by an important expansion in geography and covered perils as the first catastrophe bond was launched in China.

The third quarter saw four transactions including Panda Re Ltd., the first China-exposed catastrophe bond, which provides \$50 million of earthquake coverage for China Property and Casualty Reinsurance Co.

The fourth quarter saw six transactions including Kilimanjaro Re Ltd. which provided a total of \$625 million of U.S., Canada, and Puerto Rico hurricane and earthquake coverage for Everest Reinsurance Co.

WHOLESALE

Continued from page 1

Crawford business. BB&T said it would add \$200 million in annual revenue.

Despite a parallel trend of retail brokers designating favored wholesalers, market observers say this does not mean retailers have renewed interest in acquiring wholesalers.

The largest insurance brokers withdrew from major wholesale involvement after then-New York Attorney General Eliot Spitzer’s investigation into brokers’ acceptance of contingent fees from insurers, which led to a 2005 settlement with world’s largest brokers — Marsh & McLennan Cos Inc., then-Aon Corp. and then-Willis Group Holdings P.L.C.

Major retailers subsequently divested their wholesale brokerage business to remove any appearance of conflict of interest with their retail arms, but at least some of the largest brokers have decided to limit the outside wholesalers with which they deal, which may be driven by a desire

for higher profits.

For example, a spokeswoman for Chicago-based RT Specialty L.L.C., a division of Ryan Specialty Group L.L.C., said last week that it has been appointed by Aon as its sole “preferred wholesaler” for U.S. retail business. Aon had no comment.

Selecting RT Specialty “is a refinement of what (Aon has) done in the past,” said Mac Wesson, Dallas-based president and chief operating officer of U.S. Risk Insurance Group, an underwriting manager and wholesale broker.

In 2011, Aon said it was limiting the number of wholesalers it uses to two, RT Specialty and Charlotte, North Carolina-based AmWINS Group Inc.

AmWINS, Willis and Marsh did not respond to requests for comment.

“There is a general trend that’s been going on for a while of retailers ... trying to narrow their list of wholesalers to try to get better deals” driven by “intense profit pressure” on retail brokers, said Kevin Stipe, president of Reagan Consulting Inc., which is based in Atlanta.

With regard to Mr. Spitzer, “the wound has healed, but you still see the scar,” said John Wicher, principal of John Wicher & Associates Inc. in San Francisco. Brokers “are far more aware of any appearance of conflict.”

Among risk managers, Mr. Wicher said, “if a retailer is using a controlled wholesaler, there’s a question mark here. You’re going to at least ask ... ‘Am I getting the best possible market?’ ”

‘Strategic value’

As for last week’s deal for most of the former Swett & Crawford business that Cooper Gay bought five years ago, BB&T said the purchase is subject to regulatory approval and expected to close in the first half of this year.

“Swett & Crawford nicely enhances our insurance business and increases and diversifies our overall fee income profile,” Kelly S. King, Winston-Salem, North Carolina-based BB&T’s chairman and CEO, said in a statement.

With \$200 million in annual revenue and a \$500 million purchase price, the deal “appears to have gone for a market price” and

“likely will have some strategic value,” said Timothy J. Cunningham, managing director at Chicago-based investment banking and consulting firm Optis Partners L.L.C.

“The sale agreement is credit positive for Cooper Gay,” said Bruce Ballentine, vice president and senior credit officer at Moody’s Investors Service Inc. in New York.

Cooper Gay, in which Light Year Capital L.L.C. purchased a 55% stake in 2013, has a financial profile that “immediately improves with this transaction, because the company is using proceeds from the sale to eliminate all balance-sheet debt,” Standard & Poor’s Ratings Services said in a statement.

The deal consists of U.S. wholesale insurance brokerage operations, specialty managing general agencies that include J.H. Blades & Co. and U.S. reinsurance brokerage business, Cooper Gay said.

However, it excludes Creechurch International Underwriters, a specialty managing general agent that operates in Canada.



AP PHOTO

The late U.S. Supreme Court Associate Justice Antonin Scalia

SCOTUS

Continued from page 1

president, and the president vowing to propose a successor before he leaves office.

The impasse could lead to 4-4 rulings by the court, on which parties could seek a rehearing when a successor is chosen. But that also means that appeals court splits on critical employer issues could stand for more than a year.

"I don't think the president is going to get anyone confirmed this year, so we're going to have to wait until the next Congress and the next president to get anyone confirmed," said Walter K. Olson, senior fellow at the Washington-based Cato Institute's Center for Constitutional Studies. "Almost any type of Supreme Court justice is a possibility within the next year."

Justice Scalia's demise is "an earthquake on a lot of levels," said M. Miller Baker, a partner at McDermott Will & Emery L.L.P. in Washington and co-head of its appellate practice group.

"It affects everything at a very basic level." Even parties seeking certiorari, which requires four votes to have cases accepted by the high court, will find it more difficult with only eight justices, he said.

It prompted Dow Chemical Co. on Friday to agree to pay \$835 million to settle a decadelong class-action lawsuit on price fixing, saying it has less chance of winning without Justice Scalia on the court.

Several other cases of concern to employers are pending with the Supreme Court, which has heard arguments but not issued opinions. In cases where the court is deadlocked 4-4, it could issue rulings that would uphold the lower court decisions or hold the cases for new arguments once a ninth justice is confirmed, experts said.

The cases include *Spokeo Inc. v. Thomas Robins* and *Tyson Foods Inc. v. Peg Bouaphakeo et al.*

In *Spokeo*, which was argued in November, the issue is whether a consumer who did not suffer actual injury can file a class action based on a technical statutory violation.

Tyson, also argued in November, is a class action on whether employees should be paid for all the time they spend donning and doffing protective gear.

Another case in which the high

Influential high court justice authored several key decisions affecting employers

The legacy of late Supreme Court Justice Antonin Scalia's includes numerous pro-business decisions, and his death creates considerable uncertainty for employers.

Justice Scalia's passing is "really bad news for employers," said Richard R. Meneghello, a partner at Fisher & Phillips L.L.P. in Portland, Oregon.

He was a leading voice on conservative issues favorable to employers, and though much of Supreme Court deliberations are secret, "we've got to assume the charisma that was on display in the public all the time was also very influential when he was sitting around talking with the other justices at conference," Mr. Meneghello said.

"He has written numerous rulings that create the rules of the road, so to speak," in the workplace, said Gerald L. Maatman Jr., a partner at Seyfarth Shaw L.L.P. in Chicago.

Justice Scalia's pro-employer opinions include the court's 2011 ruling in *Wal-Mart Stores Inc. vs. Betty Dukes et al.*, which shattered a proposed gender discrimination class of 1.5 million, resulting in smaller groups of plaintiffs.

"If you're an employer, that's probably the most important decision involving class action laws in the workplace," said Mr. Maatman. "It had a huge impact on employers in terms of changing the playing field and cutting back on the number of class actions that can be certified for employment discrimination."

"The biggest single impact I would say he has had is in the arbitration area," said Charles A. Sullivan, a professor at Seton Hall University School of Law in Newark, New Jersey. "He's been a leading figure in jurisprudence about arbitration being enforceable."

Justice Scalia's majority opinion in *AT&T Mobility L.L.C. vs. Vincent and Liza Concepcion* in 2011 held that arbitration agreements may contain a class action waiver, while his majority opinion in *American Express Co. et al. v. Italian Colors Restaurant et al.* held in 2013 that class action waivers in arbitration agreements are enforceable.

Justice Scalia also wrote the court's 2010 majority opinion in *Robert Morrison et al. v.*



AP PHOTO



Justice Scalia's pro-employer opinions include the court's 2011 ruling in *Wal-Mart Stores Inc. vs. Betty Dukes et al.* He also wrote the June 2015 majority opinion in *EEOC v. Abercrombie & Fitch Stores Inc.*, which said employers must consider whether a job applicant needs an accommodation based on religious needs.

National Australia Bank Ltd., which held that foreign investors who bought non-U.S. based companies' stock on foreign exchanges cannot sue in the United States.

However, Justice Scalia wrote the dissenting opinion in *David King et al. v. Burwell*. The June 2015 ruling, which employers welcomed, upheld 2012 IRS rules that have enabled millions of uninsured people to use federal premium subsidies to buy health insurance in the federal exchange as well as state exchanges.

And he wrote the June 2015 majority opinion in *EEOC v. Abercrombie & Fitch Stores Inc.*, which said employers must consider whether a job applicant needs an accommodation based on religious needs, even if the applicant does not mention the subject.

The opinion shows that when Justice Scalia did agree with the court's liberal wing, those justices "wanted to use it," said Mark I. Schickman, a partner at Freeland Cooper & Foreman L.L.P. in San Francisco.

By Judy Greenwald

court heard arguments in January, *Rebecca Friedrichs et al. v. California Teachers Association et al.*, concerns whether nonunion members can be required to pay union dues.

A major issue on which oral arguments are scheduled for March 23, *David A. Zubik et al. v. Sylvia Burwell et al.*, consolidates seven cases brought by nonprofit religious organizations, challenging ACA-related Department of Health and Human Services rules that require employers to cover prescription contraceptives as part of their benefit plans. Under those rules, such organizations must notify HHS in writing of their objections to the coverage.

Justice Scalia's stance was expected to be pivotal in *Burwell*.

Scheduled for a March 28 argument is *CRST Van Expedited Inc. v. EEOC*, which focuses on whether the Equal Employment Opportunity Commission must pay \$4.7 million in legal fees that the trucking firm spent defending itself from sexual discrimination charges by hundreds of workers, a case largely won by the employer.

In the near term, other issues likely to be brought before the high court include equal pay, procedural standards, arbitration, privacy and affirmative action.

In addition, the Obama administration is likely to issue a "whole slew of regulations" between now

and Jan. 20, 2017, when the next administration takes office, said Michael Lotito, co-chair of Littler Mendelson P.C.'s Workplace Policy Institute in San Francisco. "Many of those situations are going to end up litigated."

Having too many 4-4 votes once cases reach the court is a "poor idea," said Donna Ferrara, Itasca, Illinois-based senior vice president and managing director at Arthur J. Gallagher & Co.

"If you have to go through the trouble and expense and the uncertainty of bringing a case before the Supreme Court, only to potentially have nothing happen, I just think that's systemically bad," she said.



HEAR INTERVIEW

Visit *Business Insurance's* multimedia Web page to hear Gerald L. Maatman Jr., a partner at Seyfarth Shaw L.L.P. in Chicago, discuss how Justice Antonin Scalia's opinions were based on a "faithful reading of the statute and a view of the limited role of government" with *Business Insurance* Senior Editor Judy Greenwald.



Harrison Ford (right), was seriously injured while filming Star Wars: The Force Awakens.

Charges filed after actor breaks a leg

The Force Awakens, in this case, the workplace safety police. Britain's Health and Safety Executive, the government agency charged with enforcing the country's Health and Safety at Work Act, has filed criminal charges against London-based Foodles Production (UK) Ltd. over an incident in which actor Harrison Ford was seriously injured while filming Star Wars: The Force Awakens.

Mr. Ford, whose Han Solo is one of the main characters of the original Star Wars trilogy, suffered a broken leg and other injuries in June 2014 while filming The Force Awakens — the first of three Star Wars sequels — when he was struck by a heavy hydraulic metal door on the set of the Millennium Falcon, his character's famous spaceship. Mr. Ford later underwent surgery on his leg.

Foodles Production is scheduled to appear in court in May to face four charges under the workplace safety legislation.

HONEST STARTUP ACCUSED OF PLAYING DIRTY



AP PHOTO

Honest Co., co-founded by actress Jessica Alba is facing a lawsuit for labeling at least 41 products that contained chemicals as “all natural”.

The Honest Co., an ecommerce startup co-founded by actress Jessica Alba is facing a lawsuit for being a little dishonest. The Los Angeles-based company is an online marketplace that sells household products promoted as non-toxic and eco-friendly. The accusation stems from Brad and Manon Buonasera's original purchase of Honest Co. body wash and shampoo from a New York-based Costco.

In the lawsuit filed Feb. 12 by the Buonaseras in U.S. District Court in Manhattan, the company is accused of labeling at least 41 products as “all natural,” “naturally derived,” “plant-based,” and “no harsh chemicals (ever!),” despite having “a spectacular array of synthetic and toxic ingredients.” The toxins include phenoxyethanol and methylisothiazolinone, Reuters reported.

Ms. Alba is not named in the lawsuit, Fortune reported.

Last year Honest Co. sunscreen received unfavorable reviews from users of the product. Many of them took to social media posting photos of their sunburned skin after using the product, Time reported.

“The Honest Company takes its responsibility to our consumers seriously and strongly stands behind our products. These allegations are without merit, and we will vigorously defend this baseless lawsuit,” the company said.

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A pox on derma firm that invoked a Jenner

Being an acne-prone member of a famous family apparently means you can successfully demand millions for endorsing a skin care product — or at least think you can.

That is apparently the perception of Kendall Jenner, half-sister of TV celebrities Kim, Khloe and Kourtney Kardashian, who charges in a lawsuit filed in U.S. District Court in Los Angeles that a skin care company falsely claimed she had endorsed its product.



The complaint states Ms. Jenner (left) objects to advertisements by Brisbane, California-based Cutera Inc. for its Laser Genesis treatment that said

Ms. Jenner's acne had “completely ruined” her self-esteem, but that her now “nearly flawless skin” was the product of visits to a dermatologist for its treatment.

“Ms. Jenner's actual endorsement of a worldwide campaign such as this would command a fee well into eight figures (assuming she would even agree to do such a campaign, which she most assuredly has not),” states the complaint, which describes her as “one of the world's most popular supermodels.”

The lawsuit charges the company with trademark infringement, false endorsement and violating her right of publicity and seeks a restraining order prohibiting use of Ms. Jenner's name.

Ketchup CondiCup leads to legal mess

One doesn't naturally think of “risk manager” “inventor” and “ketchup” in the same thought, but those three apparently disparate terms were all elements in a federal court case last week.

According to news reports, Scott White, whose day job is director of risk management for the Chicago Housing Authority, had been frustrated by fast food customers' inability to dip their fries in ketchup while driving, so he developed the “CondiCup,” a condiment cup designed to fit into car cup holders.

Mr. White obtained a patent for his idea in 2005. He then filed a patent infringement suit against H.J. Heinz Co., which is now Kraft Heinz Co., in 2012, claiming it had appropriated his idea.

In June, 2013, the examiner at the U.S. Patent and Trademark Office held that many of Mr. White's claims were too obvious to be patentable and cancelled his patent.

Mr. White appealed, and this month the U.S. Court of Appeals for the Federal Circuit affirmed the patent's office decision to cancel Mr. White's patent, in a highly technical ruling. Nevertheless, Mr. White says he'll continue his battle.



TV show fun until someone gets hurt

Taking a leap of faith is difficult for the cast of The Jump when there is no safety net.

The celebrity skiers of the U.K. Channel 4 reality show The Jump, where celebrities compete, taking on challenging winter sports have cause for concern if they are injured. The stars of the show are not insured for financial loss in the event of a serious injury, according to The Mirror.

“Each of the contributors are fully insured to take part, with appropriate levels of insurance, and all are made fully aware of the level of cover before signing to take part,” said Channel 4 in response.

Since The Jump began, 11 contestants have withdrawn from the competition due to injuries such as a ruptured knee, shattered leg, and fractured skull, The Mirror reported.

Made in Chelsea reality star, Mark-Francis Vandelli was the latest to leave the show after fracturing his ankle on the Feb. 7 episode, Yahoo News U.K. reported.

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