

KEY DEALS AFFECTING THE LONDON MARKET

- **Fairfax Financial Holdings Ltd.**
Buys Brit P.L.C. for \$1.88 billion
- **XL Group P.L.C.**
Buys Catlin Group Ltd. for \$4.1 billion
- **Axis Capital Holdings Ltd.**
Merges with PartnerRe Ltd. in a deal valued at \$11 billion
- **RenaissanceRe Holdings Ltd.**
Acquires Platinum Underwriters Holdings Ltd. for \$1.9 billion

P/C INSURERS

London market consolidation keeps rolling

Bigger insurers satisfy broker, buyer needs

BY MATTHEW LERNER AND SARAH VEYSEY

Continued consolidation in the London market is being driven by the changing needs of customers and brokers, along with tighter capital rules for underwriters.

The latest example is Toronto-based Fairfax Financial Holdings Ltd.'s \$1.88 billion February acquisition of Brit P.L.C., making Fairfax one of the top five underwriters in the Lloyd's of London market. It also includes the deal the month before when Dublin-based XL Group snapped up Catlin Group P.L.C. for \$4.28 billion.

The consolidation enables the market players to present brokers and their clients what they want: larger, more capable insurers and reinsurers with greater portfolio diversity, experts say.

The Lloyd's market gives insurers access to an A financial-

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AVIATION

DRONE INSURANCE COVER SET TO TAKE OFF

Interest spikes on FAA approval of unmanned craft



BY JUDY GREENWALD

Insurers are eager to provide coverage for unmanned aerial vehicles, commonly known as drones, now that the Federal Aviation Administration has issued long-awaited proposed regulations for commercial use.

Corporate use of drones — thus far extremely limited and only allowed by special exemption — is expected to soar after the FAA approves final regulations in the next year or two. The FAA's February proposal for drones weighing 55 pounds or less is a good first step, experts say.

Insurers with aviation expertise are expected to write much of the business to cover drones. However, Verisk

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DRONE RULES

Key provisions in proposed Federal Aviation Administration regulations governing drones that weigh less than 55 pounds include requirements that unmanned aircraft:

- Remain within the operator's or observer's sight unaided by any device other than corrective lenses.
- May not operate over anyone not directly involved in the operation.
- Restrict flights to operating only during daylight.
- Have a maximum speed of 100 mph and maximum altitude of 500 feet above the ground.

Source: Federal Aviation Administration

HEALTH CARE BENEFITS

Excise tax may lead to design rethink

Questions linger over consumer health plans

BY JERRY GEISEL

Many employers are likely to redesign the fastest growing group health plan design — high-deductible plans linked to health savings accounts — in the wake of forthcoming Internal Revenue Service regulations.

Those rules will deal with one of the last areas of the 2010 health care reform law to take effect: the “Cadillac” tax that will

impose a 40% excise tax on group health plan premiums that exceed \$10,200 for single coverage and \$27,500 for family coverage in 2018.

Third-party claims administrators will pay the excise tax for self-funded employers. Insurers will pay the tax for fully insured employers. TPAs and insurers are expected to seek reimbursement from employers.

The specter of that tax, which a 2014 Towers Watson & Co. survey found could hit nearly half of employers, has helped fuel employer interest in replacing traditional health plans with much less costly HSA-linked high-deductible plans, also known as consumer-driven health plans.

Employees can make pretax contributions, with a maximum this

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AIG'S BENMOSCHE DIES

Executive who led insurer's recovery after financial crisis died Friday at age 70.

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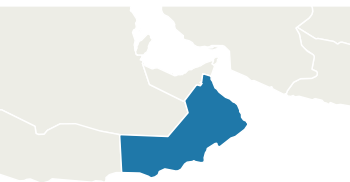
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NEWS

RISK MANAGEMENT

RAIL RATES STABLE DESPITE OIL TRANSPORTATION RISKS

Two more tanker crashes renew call for federal scrutiny

BY DOUGLAS McLEOD

The derailment and explosion of an oil tanker train in West Virginia last month has revived calls for greater train safety measures, but this and other recent accidents are having little effect on the rail insurance market.

The Feb. 16 derailment of 27 crude oil tanker cars from a 109-car CSX Corp. train about 30 miles southeast of Charleston, West Virginia, triggered an explosion and fire and forced the evacuation of about 1,000 people, but caused no injuries. Two days earlier, a Canadian National Railway Co. train derailed 29 tanker cars in rural northern Ontario, sparking a fire but again causing no injuries.

Both trains featured upgraded versions of the type of tank car involved in the 2013 Lac Megantic, Quebec, disaster, in which an out-of-control oil train derailed and exploded near the center of town, killing 47 people.

The rail industry and safety advocates are awaiting new U.S. Department of Transportation rules on tank car construction and other train safety features, expect-



AP PHOTO

A tumble of tanker cars remains on the scene after a train carrying crude oil derailed and caused an explosion last month in West Virginia.

ed in May. Safety advocates and energy companies also are debating whether shale oil from the Bakken formation in North Dakota — involved in both the West Virginia and Lac Megantic accidents — should be treated to reduce its volatility.

While rail insurers are watching these developments, the latest accident and questions about Bakken crude volatility aren't

affecting the market, sources say.

"Underwriters are satisfying themselves with education (about the exposure) as opposed to staying away from the risk," said James R. Beardsley, global rail practice leader with Marsh L.L.C. in Washington.

Since Lac Megantic, "the underwriting community delves a little

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SAFETY

Food processing safer, but injury rates remain high

BY BILL KENEALY

The worker safety record in the food processing business has long lagged other sectors, but advances in ergonomics and automation are helping close the gap.

Safety managers now take a more holistic approach that focuses on automating dangerous or repetitive tasks while working with business leaders, engineers and equipment manufacturers to drive risk of injury out of the production process.

Ken Wengert, Chicago-based director of safety and environmental at Kraft Foods Group Inc. — with products ranging from Kool-

Aid to Philadelphia cream cheese to Oscar Mayer meats — said he has seen a dramatic improvement in food processing plant safety

INJURY RATES

While employment has risen in recent years in the food manufacturing industry, safety and ergonomic improvements have helped reduce its injury and illness rate per 100 full-time employees.

Year	Food	All
2013	5.0	4.3
2012	5.3	4.4
2011	5.6	4.4
2010	5.8	4.3

Source: U.S. Bureau of Labor Statistics

during the course of his career.

"We have had improved safety performance year over the year for the past 20 years, but our rate of improvement has improved dramatically over the past five," Mr. Wengert said, largely crediting an accumulation of incremental process improvements coupled with better technology for the improved safety record. "The safety components the manufacturers include on our processing equipment have come a long way in just the last few years."

Still, food processing workers get hurt more than people working in

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WORKERS COMPENSATION

Tennessee weighing comp opt-out

BY STEPHANIE GOLDBERG

Backers hope Tennessee becomes the third state to allow employers to opt out of the state's workers compensation system, but experts expect most employers would stay in the system to realize savings from recent reforms.

Tennessee legislators in February introduced the Employee Injury Benefit Alternative, a measure to allow private employers to provide injury benefit plans that are less comprehensive than state-mandated workers comp insurance.

The legislation, introduced simultaneously in both chambers as S.B. 721 and H.B. 997, comes one year after Oklahoma permitted employers to provide alternative comp coverage under its Employee Injury Benefit Act, and nearly eight months after significant changes to Tennessee's comp law.

The Tennessee law stiffened requirements for work-related injuries to be compensable, mandating that they arise "primarily" from employment. The law also moved the state from a court-based adjudication system to an administrative process.

The opt-out legislation, under consideration by a Republican-controlled Legislature and governor's office, could face opposition.

At least three employers have expressed an interest in opting out, but "more than a handful" say they "don't think there's been enough time to see what (the already approved reforms) can do," said Abbie Hudgens, administrator for the Workers' Compensation Division of the Tennessee Department of Labor and Workforce Development in Nashville.

Companies doing business in Tennessee are still adjusting to changes that went into effect last July, said Fred Baker, member of law firm Wimberly Lawson Wright Daves & Jones P.L.L.C. in Cookeville, Tennessee.

The law aims to make workers comp more efficient and cut costs for payers by changing the way permanent partial disability benefits are calculated and creating a medical advisory committee in an effort to reduce medical costs, among other changes, Mr. Baker said.

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ONLINE
FEATURES

BMOY 2015

Nominations open for 2015
benefit manager awards

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VIDEO



In Focus: Return to Work

Riskconnect's new platform helps implement return-to-work programs.

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GALLERY

Transportation safety

The National Transportation Safety Board has released its 2015 list of most-wanted safety improvements.

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WHITE PAPER

Benefits Captive Strategies



Placing employee benefits into captives is a growing trend. Learn how to assess the opportunities and cover the risks in this updated white paper by captives expert Karin Landry.

www.BusinessInsurance.com/BenefitsCaptiveWP

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NEWS

SAFETY

ENERGY WORKERS' STRIKE
PUTS FOCUS ON SAFETY ISSUES

Union battles with employers over staffing levels, pay

BY BILL KENEALY

A strike by nearly 7,000 workers at 15 petroleum refineries coupled with a recent explosion at a Torrance, California, plant that injured four workers highlight safety issues inherent to the industry.

In the aftermath of the Feb. 18 explosion, many noted that Irving, Texas-based Exxon Mobil Corp., the owner and operator of the 730-acre Torrance facility, was cited for eight serious and 17 general safety violations at the refinery in November 2014 by the California Division of Occupational Safety and Health.

Kenneth McKey, Houston-based associate director and casualty loss control consultant at Wortham Insurance & Risk Management, noted the refining industry's recordable rate of nonfatal occupational injuries and illnesses is low compared with other manufacturing sectors and noteworthy considering the inherent dangers of processing petroleum.

"Refineries have some of the finest and most experienced safety professionals in the world," he



AP PHOTO

A February explosion in a gasoline processing unit caused extensive damage at an Exxon Mobil refinery in Torrance, California.

said. "They have to because they face a lot of safety challenges, everything from high pressures to high temperatures."

Yet, Kim Nibarger Pittsburgh-based health, safety and environment specialist at the United Steelworkers, which represents the striking workers, said official safety statistics such as those from Occupational Safety & Health Administration fail to convey the

complete picture.

"When the industry talks about safety, they usually refer to the personal safety numbers that OSHA tracks, and those look pretty good," Mr. Nibarger said. "However, the real concern in the petrochemical industry is process safety events such as leaks and equipment failures that are really

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WORKERS COMPENSATION

States mull workers compensation reform

BY SHEENA HARRISON

Illinois and Wisconsin are expected to lead the way in state legislation proposed in 2015 to reduce workers compensation system costs, though sweeping comp reforms are not expected in most states this year.

Greg McKenna, counsel and head of governmental affairs for Itasca, Illinois-based third-party administrator Gallagher Bassett Services Inc., said Illinois and Wisconsin appear to be gearing up for debates on reducing system costs.

"I think they're starting to see what the rules of engagement are going to be and how they're going to be working together," Mr. McKenna said.

First-term Illinois Gov. Bruce Rauner indicated in his recent State of the State address that he

PROPOSED LEGISLATION

Workers compensation reform legislation has been proposed in several states. The proposals include:

Illinois H.B. 2418: Would require employees injured while traveling to show their injuries arose from their employment and that they were actively engaged in work duties to receive workers comp benefits.

New Mexico H.B. 238: Would require workers comp wage benefits to be reduced in proportion to a worker's level of intoxication at their time of injury or death.

Texas H.B. 687: Would classify communication between an insurer and a covered employer as confidential under Texas' workers comp law.

supports "much-needed reforms that address the shortcomings of the workers compensation law that was passed in 2011."

Illinois reforms from 2011 include

a 30% reduction in the state's workers comp medical fee schedule, a requirement that comp arbitrators use the American Medical Association Guide to the Evaluation of Permanent Impairment when determining disability ratings, establishment of workers comp-specific medical provider networks and requiring medical utilization reviews.

Experts and business advocates are waiting to see what specific proposals Gov. Rauner has in mind. They're hopeful reforms can reduce comp costs after Illinois was named the No. 7 costliest workers comp state in the 2014 Oregon Workers' Compensation Premium Rate Ranking Summary.

"Past legislatures made some changes, but (those changes have)

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AGENTS & BROKERS

NARAB finally
moves closer
to reality

BY MARK A. HOFMANN

Agents' and brokers' longtime dream of establishing a national clearinghouse for nonresident state licensing could become a reality in two years.

The National Association of Registered Agents & Brokers, established by legislation that also extended the federal government's terrorism insurance backstop through 2020, will be a nonprofit. Its board of directors, consisting of eight current and former state regulators and five other members with expertise in producer licensing, will set membership standards for eligible nonresident insurance producers and provide access to every state on a nonresident basis.

Supporters say streamlining the licensing system would result in lower transactional costs, which could benefit buyers.

The law, supported by the National Association of Insurance Commissioners, preserves states' rights on resident licensing, continuing education and other issues of interest to state regulators.

But there's a lot that has to go well before the national broker licensing clearinghouse is up and running. The first step could be complete in April, when President Barack Obama names the 13 board members, which the law requires be done within 90 days of the law's Jan. 12 effective date.

Still, questions of standards required of producers to participate, as well as how the body will be funded, remain unanswered.

Also unanswered, and likely to remain so for years, is whether

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AP PHOTO

President Barack Obama is to name the 13 members of the NARAB board by mid-April,

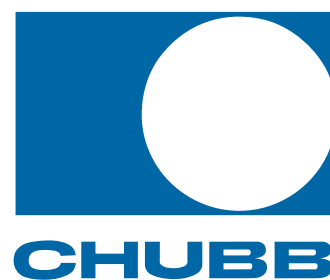


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Updated same-sex marriage rules simplify FMLA benefits for employers

BY MATT DUNNING

New regulations mandating federal emergency leave for all married same-sex couples may require employers to revise their policies and provide additional training, but it also should provide some administrative relief for benefit managers and human resources professionals.

The U.S. Department of Labor last week issued a long-awaited final rule that expands the definition of spouse under the Family and Medical Leave Act to include all legally wed same-sex couples, effective March 27.

The FMLA guarantees eligible private and public employees up to 12 weeks of unpaid leave per year in cases of serious illness or injury or to care for sick or injured family members, including spouses and their immediate relatives.

Previously, married gay and lesbian couples were guaranteed only emergency unpaid leave under the law if they lived in one of the 36 states that recognize same-sex marriages.

"I think most employers will welcome this as one less thing for them worry about when it

comes to administering FMLA leave," said Jean Schmidt, a shareholder at Littler Mendelson P.C. in New York.

Under the new rule, same-sex couples will be eligible for spousal FMLA leave as long as they were legally married in a state, U.S. territory or foreign country that recognizes such marriages.

Employment law experts say the Labor Department's new rule is likely to be particularly beneficial for national and regional employers whose operations are in states with differing marriage recognition laws, as well as companies with substantial numbers of out-of-state commuters among their workforce.

"Those employers are finally going to be able to apply the same eligibility standard across the country and not have to rifle through various sources of information to figure out which spouses are entitled to leave benefits and which aren't," said Jeffrey Nowak, partner with Franczek Radelet P.C. in Chicago.

Mr. Nowak said some employers may see a slight increase in the volume of FMLA leave requests once the rule is imple-



FINAL RULE

Under the U.S. Labor Department's final rule concerning same-sex spouses' rights under the Family and Medical Leave Act:

- The definition of spouse includes all individuals legally married in a U.S. state or territory or foreign country, regardless of where they currently live.
- The definition of spouse includes common-law marriages, but not same-sex or opposite-sex domestic partners or civil unions.

Employer action items

- Review and update internal policies, forms, employee communications and other documents referencing FMLA leave.
- Train and educate all personnel and external service providers responsible for FMLA administration.
- Communicate changes in same-sex spouse eligibility to employees and, if possible, their families.

mented, "but for the average employer, that's probably not going to be a significant burden."

Experts say that while the rule reduces the complexity associat-

ed with administering leave benefits under the FMLA, there are steps many employers will need to undertake to ensure compliance with the federal rule on and after March 2.

"The first thing employers ought to do is conduct an audit of their internal policies and any other kind of documentation that they're using for the administration of leave benefits," said Laura Maechtlen, San Francisco-based partner at Seyfarth Shaw L.L.P.

"That can be a little bit trickier for some employers than for others, especially if they're using a third-party administrator to manage those benefits. That said, some employers have specific definitions or statements about spouses and eligibility in their employee handbooks or FMLA policies, and those need to be looked at carefully," she said.

Employers also should provide additional training for their benefit managers, human resources professionals and — in many cases — operational supervisors on the rule and its implications for their company's leave management strategy going forward, even if they already provided FMLA leave to all married same-sex couples.

"This is a great opportunity for retraining, because it's an issue that a remarkable number of even sophisticated HR departments get wrong," said Ricki Roer, partner with Wilson Elser

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AP PHOTO

Robert Benmosche

Former AIG chief Benmosche dies at age 70

BY MARK A. HOFMANN

Former American International Group Inc. President and CEO Robert H. Benmosche, who had battled cancer for five years, died Friday in New York. He was 70.

In a statement, AIG said Mr. Benmosche, who had undergone treatment for lung cancer since 2010, died at New York University's Langone Medical Center.

Head of AIG from 2009 to 2014, he won plaudits for restoring the insurer to sound financial footing after it nearly collapsed in 2008 and was bailed out with more than \$180 billion in federal assistance. He succeeded Edward Liddy, a retired CEO of Allstate Corp. who was tapped by the U.S. Treasury Department in September 2008 to lead AIG back from the brink of bankruptcy due in large part to non-insurance-related financial activities.

Under Mr. Benmosche, AIG continued an aggressive program to raise capital to repay the federal assistance by divesting noncore business. AIG completed its repayment in 2012.

"I am very sad to learn of the passing of Bob Benmosche. He was a very good friend, and we knew each other for many years," former AIG head Maurice R. Greenberg, now chairman and CEO of Starr Cos., said in a statement. "I knew ... Bob would do an outstanding job" as head of AIG, "and that he would be effective in saving AIG. That outcome speaks for itself."

Mr. Benmosche, a former chairman, president and CEO of MetLife Inc., stepped down last year. Peter D. Hancock, who had headed AIG's property/casualty business, was named his successor. Mr. Benmosche "poured his energy and focus into enabling AIG's people to live up to their potential, and that's why this company today is a sustainable enterprise that understands the importance of meeting and exceeding the expectations (of) all of our stakeholders," Mr. Hancock said in the statement.

"Bob was one of the most inspirational and successful leaders in corporate America by any measure," AIG Chairman Robert S. Miller said in the statement. "We will never forget that under Bob's extraordinary leadership, the people of AIG repaid America in full plus a profit of nearly \$23 billion ... He will be deeply missed."

EMPLOYMENT PRACTICES

EEOC may need to rethink legal strategies after second failure

BY JUDY GREENWALD

The U.S. Equal Employment Opportunity Commission may change its approach to criminal background and credit check cases it brings against employers now that a second appeals court has criticized the quality of its statistical analysis.

"They'll need to rethink their methodology" in proving employers improperly used criminal and credit background checks in hiring, said Patrick M. Muldowney, a partner at law firm Baker & Hostetler L.L.P. in Orlando, Florida.

In the latest ruling, the 4th U.S. Circuit Court of Appeals in Richmond, Virginia, said the agency used poor-quality data as evidence in a case that accused Dallas-based trade show firm Freeman Decorating Services Inc. of using criminal background checks in hiring that had a disparate effect on minorities. In upholding a 2013 ruling by U.S. District Judge Robert W. Titus, the three-judge appeals court panel cited data collected by Kevin Murphy, an industrial/organiza-

tional psychologist. "The sheer number of mistakes and omissions in Murphy's analysis renders it 'outside the range where experts might reasonably differ,'" the unanimous panel ruled.

Judge Titus had harshly criticized the EEOC in his 2013 ruling for the statistical evidence it presented to support its charges against Freeman, saying the case was "a theory in search of facts to support it."

Freeman had credit and background check policies that excluded applicants whose histories revealed prohibited criteria such as a conviction for violent crime. In its 2009 suit, the EEOC alleged that Freeman's criminal background checks had a disparate impact on black and male job applicants, and that its credit checks had a disparate impact on black job applicants.

In a separate case last year, a three-judge panel of the 6th U.S. Circuit Court of Appeals also unanimously upheld dismissal of a lawsuit the EEOC had brought against Kaplan Higher Education Corp. That case also involved background checks and data pre-

pared by Mr. Murphy, which the 6th Circuit panel also criticized. "The EEOC brought this case on the basis of a homemade methodology, crafted by a witness with no particular expertise to craft it, administered by persons with no particular expertise to administer it, tested by no one and accepted only by the witness itself," the 6th Circuit panel ruled.

Mr. Muldowney said the courts have made it clear that the EEOC's method of analysis was insufficient to prove their case.

"I don't think this is going to deter the EEOC from going forward on these kinds of cases," but the agency likely will use a different statistical methodology in the future, he said.

"It's a stunning opinion," said Gerald L. Maatman Jr., a partner at Seyfarth Shaw L.L.P. in Chicago, of the 4th Circuit ruling.

The ruling affirms what many critics have said, that the "EEOC sues first and asks questions later," Mr. Maatman said.

"We are disappointed but still studying the decision and have no further comment at this time," the EEOC said in a statement on the 4th Circuit ruling.



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11/13

Home Depot breach costs at \$33 million and counting

■ The Home Depot Inc. incurred \$33 million of pretax net expenses related to last year's data breach in 2014, but still cannot estimate the breach's ultimate cost, the Atlanta-based retailer said in its fourth quarter 2014 results. Home Depot said \$5 million of the \$33 million was recognized in the fourth quarter, and that further breach-related costs could include liabilities to payment card networks for reimbursements of credit card fraud and card reissuance costs; liabilities related to the company's private label credit card fraud and card reissuance; liabilities from current and future civil litigation and government investigations, among other expenses. Meanwhile, the judge in charge of litigation filed against Home Depot in connection with the breach has set dates for filings in the case. Chief U.S. District Judge Thomas W. Thrash for the Northern District of Georgia, who set up separate consumer and financial institution litigation tracks in January, said in an order that consumers and financial institutions will have until May 1 and May 15 respectively to file master complaints in the case.

Ex-Hartford leader Liam McGee dead at 60

■ Former Hartford Financial Services Group Inc. Chairman, President and CEO Liam McGee died Feb. 13 at the age of 60. Mr. McGee died "following a courageous battle with cancer," Hartford said in a statement. He most recently served as Hartford's executive chairman, a position from which he stepped down on Jan. 5. He served as chairman, president and CEO of Hartford from Oct. 1, 2009, through July 1, 2014, overseeing the insurer's reorganization. He focused on the company's property/casualty, group benefit and mutual funds businesses while exiting its individual life, retirement plan and broker-dealer operations, and placing its annuity business into runoff. "Thanks to Liam's leadership and tireless efforts, the company has completed a strategic and financial transformation," said Chris Swift, Mr. McGee's successor as chairman and CEO, in the statement. "His vision of The Hartford as an exceptional company, celebrated for financial performance, character and customer value, will continue to be a guiding principle for all of our colleagues. We are grateful for Liam's many contributions to our company and our community along with his guidance, wisdom and friendship."

RIMS touts value of risk committees

■ Risk committees represent a "proven process for promoting a risk-aware workforce," the Risk & Insurance Management Society Inc. said in a report. "Exploring the Risk Committee Advantage" includes observations from four senior risk professionals on how risk committees function and their value to their organizations. Risk committees come in three distinct varieties, the report says: a committee of the board, a C-suite risk committee and an operational risk committee. "The type of risk committee that best suits an organization is a function of who should have governance or oversight," according to the report. Risk committees are often linked to the practice of enterprise risk management "with a holistic view and understanding of the organization's operations." But the report adds that "perhaps more importantly, it provides a direct connection with mem-

bers from those business units to discuss imminent threats and opportunities."

Wal-Mart settles age bias, disability discrimination suit

■ A Wal-Mart Stores Inc. unit has agreed to pay \$150,000 to settle a U.S. Equal Employment Opportunity Commission lawsuit in which it was charged with harassing, then firing, a Texas store manager because of his age. The Bentonville, Arkansas-based retailer has denied the charges. The agency said the supervisor of Keller, Texas, store manager David Moorman frequently ridiculed him with taunts including "old man" and "old food guy." It said also that after being diagnosed with diabetes, Mr. Moorman requested reassignment to a store co-manager or assistant manager position, but Wal-Mart Stores Texas L.L.C. unlawfully refused this request for a reasonable accommodation and fired him. Mr. Moorman was 54, according to court papers. Wal-Mart was charged with violating the Age Discrimination in Employment Act and the Americans with Disabilities Act. Under terms of the settlement, in addition to paying Mr. Moorman \$150,000, the retailer agreed to provide ADA and ADEA training to its employees.

Opioid painkillers emerging as safety threat for elderly

■ A National Safety Council study finds that risk of death and unintentional injury is particularly high for elderly adults taking opioid painkillers. Besides the risks of addiction, "Psychological and Physical Side Effects of Pain Medications" finds use of opioid medications can cause physical side effects including gastrointestinal, respiratory, endocrine and cognitive impairment issues. The study also found that adults over the age of 65 taking opioid painkillers such as Vicodin and Oxycontin are 68% more likely to be hospitalized and 87% more likely to die than those taking over-the-counter pain medications. The paper, authored by NSC medical adviser Dr. Donald Teater, recommends asking medical providers to re-evaluate their prescribing habits and working with insurers to develop mechanisms to facilitate nondrug treatment of pain, including appropriate physical therapy and counseling.

Incentive-based wellness programs gain popularity with employers

■ A small majority of employers have added health-contingent financial incentives to their workplace wellness programs to improve employees' health and reduce medical costs. More than 52% of employers polled in October 2014 by the International Foundation of Employee Benefit Plans said they offer some manner of health-contingent wellness incentive to their employees. Roughly half of those employers offer financial rewards to employees who complete weight-loss programs, fitness challenges and other health-related activities, according to the foundation's "2015 Workplace Wellness Trends Survey." The other half of employers offering health-contingent incentives have elected to reward their employees for measurable improvements in employees' health outcomes, such as achieving or maintaining a healthy weight, reducing their cholesterol or quitting smoking, the survey results said. Among 25.5% of employers polled that said they offer outcomes-based incentives, 54.8% said they've tied the rewards to tobacco cessa-

tion programs, while 57.1% said they reward their employees for improvements in their health risk assessment and/or biometric screening results.

Stricter filing rules limit M&A lawsuit venues

■ Litigation challenging merger and acquisition activity is being filed in fewer courts, according to "Shareholder Litigation Involving Acquisitions of Public Companies, Review of 2014 M&A Litigation," issued by Boston-based Cornerstone Research Inc. A recent Delaware ruling provides that firms domiciled in the state, which account for more than half of publicly held companies nationwide, may include a requirement in their bylaws that derivative litigation be filed in a particular jurisdiction. Plaintiff attorneys filed 608 lawsuits challenging M&A deals announced in 2014 and valued at more than \$100 million vs. 612 in 2013, according to Cornerstone. Although 93% of them were litigated, virtually unchanged from 94% in 2013, 60% of the 2014 deals were filed in only one jurisdiction vs. 62% being litigated in more than one court in 2013.

Sandy settlement lawsuits delayed in favor of negotiations

■ A federal court in New York has indefinitely suspended a hearing over lawsuits that accuse insurers of doctoring reports on home damages caused by Superstorm Sandy after a government agency said it hoped to settle the litigation out of court. A judicial panel had planned to examine evidence in U.S. District Court in Brooklyn purportedly showing that some New York homeowners were denied federal flood insurance money as a result of the altered reports after the historic 2012 storm. But the Federal Emergency Management Agency, which administers the National Flood Insurance Program, filed a letter with the court saying it was seeking to meet privately with the Sandy plaintiffs and the insurance companies named as defendants in the lawsuits. In an order, the judicial panel said it was adjourning the hearing indefinitely "to allow the parties to continue conducting meaningful settlement discussions." The 2012 storm damaged over 100,000 homes in New York, FEMA said.

Reuters

Mental health stigma persists in the workplace

■ A growing number of employers have observed a persistent if not worsening workplace stigma associated with mental and behavioral health issues, according to a recent study by the Disability Management Employer Coalition. More than 24% of employers polled in July and August of 2014 said they believe workplace stigma surrounding diagnosed psychological or psychiatric disorders has increased, compared with just 7% of employers polled in 2012, according to findings from the San Diego-based DMEC's "2014 Behavioral Risk Survey." Additionally, between 20% and 25% of employers polled said they perceived a rise in workplace stigma in 2014 surrounding the treatment of mental and behavioral health conditions compared with just 3% in 2012. "In spite of all of the tools, resources and information available to employers about mental illness and behavioral health, stigma in the workplace is at higher levels than it's ever been," Terri Rhodes, DMEC's executive director in San Francisco, said.

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Agenda at a glance:

Wednesday, March 4, 2015

8:00-9:00 am	Registration and Networking Breakfast
9:00-9:45 am	Welcome Keynote Speaker: Former Chairman of the House Intelligence Committee Mike Rogers
	From Terrorism to Cyber, the New - and Changing - World of Risk
9:45-10:45 am	International Risks Part I: Protecting Your Business
10:45-11:15 am	Coffee & Networking Break
11:15-12:15 pm	International Risks Part II: Protecting Your People
12:15-2:00 pm	Innovation Awards Luncheon
2:00-3:15 pm	Legal drug use poses "pot holes" for employers
3:15-3:30 pm	Networking Break
3:30-4:30 pm	Roundtable discussions
	• Roundtable 1: Breaking Down Silos: Improving RM, HR Communication • Roundtable 2: The Role of Risk Managers in Mergers and Acquisitions • Roundtable 3: Establishing and Implementing a Social Media Policy • Roundtable 4: Impact of Climate Change on Supply Chain Risks • Roundtable 5: Filling the Talent Gap in Risk Management
4:30-6:30 pm	Cocktail Reception

Thursday, March 5, 2015

8:30-9:30 am	Networking - Coffee & Continental Breakfast
9:30-10:30 am	Virtual Offices, Real Exposures
10:30-11:00 am	Coffee & Networking Break
11:00-12:00 pm	Deploying "Big Data" Analytics in Risk Management
12:00-1:15 pm	Networking Lunch
1:15-2:15 pm	Cyber Risks: Tapping CGL, Other Policies to Respond to Breaches
2:15-3:00 pm	Risk Managers Only Session
3:00-4:30 pm	Closing Keynote "Info-tainment" & Cocktail Reception



Keynote Speaker:
Former Chairman of
the House Intelligence
Committee: Mike Rogers
Topic:
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The New - and Changing -
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BUSINESS INSURANCE
WHAT MATTERS MOST



Global catastrophe losses fall to five-year low

■ Insured catastrophe losses in 2014 fell to the lowest level since 2009, according to Guy Carpenter & Co. L.L.C.'s annual "Global Catastrophe Review," which said insured catastrophe losses last year were about \$33 billion. In contrast, what Guy Carpenter called "historic" insured catastrophe losses in 2011 totaled about \$126 billion. The Americas accounted for 57% percent of global losses in 2014, compared with 48% a year earlier. Total insured catastrophe losses in 2013 were about \$40 billion. Asia and Australasia accounted for about 23% of the insured losses, with two large snowstorms striking Japan early in the year, causing about \$3.1 billion. Insured losses in Europe, Africa, and the Middle East accounted for the rest of the total, according to Guy Carpenter. The report said that Windstorm Ela was among the most notable events, causing insured losses of about \$2.8 billion to parts of Germany, France, Belgium and Austria.

Windstorm blows in \$374M in damage

■ Windstorm Egon-Felix caused an estimated €328 million (\$373.6 million) in insured property damage to parts of Western Europe and Scandinavia, according to Zurich-based catastrophe loss data company Perils A.G. Perils said the majority of the damage from the windstorm, which struck Jan. 8-11, was sustained in Denmark, Germany, Norway, Sweden and the United Kingdom. The windstorm was also known as Dagmar-Egon in Denmark and Sweden and as Nina in Norway. Perils expects an updated estimate to be available by April 8.

Brit names new executive following Fairfax bid

■ Brit P.L.C. has appointed Matthew Wilson to the newly created role of group deputy CEO, the Lloyd's of London insurer announced last week. Mr. Wilson currently is CEO of Brit's global specialty arm. "Matthew has been with Brit for over 15 years and is the ideal candidate to work alongside me to drive the business forward in the next chapter of the Brit story," said Mark Cloutier, Group CEO of Brit, in a statement. Brit, which Toronto-based Fairfax Financial Holdings Ltd. plans to buy for about \$1.88 billion, also announced a profit of £139.0 million

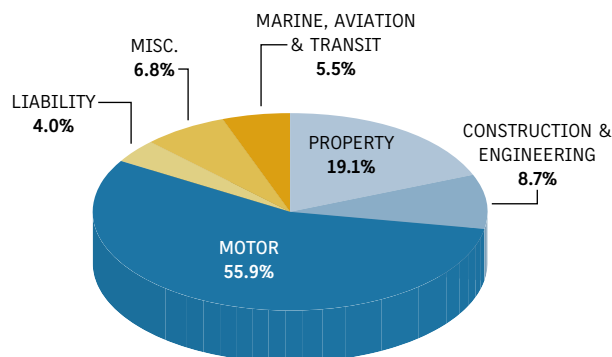
PROFILE: OMAN

\$686.5 MILLION

The growth rate for Oman's property/casualty market was about 10% for 2012 and 2013 as the sultanate's economy expanded and interest in insurance increased. In particular, the property insurance market, which includes onshore energy risks, increased 17.5%. Private group health insurance is seeing rapid growth, too, as employers seek to use insurance to replace previous arrangements. Slumping oil prices, however, could have a knock-on effect on the insurance market if government spending is curbed.

◀ 2013 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



AREA
119,500 square miles

POPULATION
3.6 million

GLOBAL P/C MARKET RANKING
70

2015 GDP CHANGE (PROJECTED)
3.9%

MARKET DEVELOPMENTS

UPDATED FEBRUARY 2015

- In August 2014, Oman introduced minimum capital requirements of \$26 million for insurers. Existing insurers have three years to comply with the requirement.
- Regulators are considering introducing a fund to compensate victims of hit-and-run auto accidents, which would be funded by an insurance documentation fee.
- Legislation is expected that would provide that takaful insurers would need to be separately capitalized from other insurance operations, effectively banning takaful departments within conventional insurers. Regulators have so far approved the licensing of two takaful insurers: Al Madina Takaful and Takaful Oman.
- Since July 2013, all auto insurers in the market have been required to share electronic records with the Royal Oman Police. The system controls the issue of vehicle licenses, which can only be processed after insurance details have been uploaded.
- Regulators are rumored to be considering increasing third-party property damage limits for auto policies to about \$390,100 from about \$195,000.

COMPULSORY INSURANCE

- Auto third-party liability
- Workers compensation
- Professional liability for insurance brokers and doctors
- Shipowners liability for marine oil pollution

NONADMITTED

Nonadmitted insurance is not permitted in Oman because the law provides that insurance must be purchased from locally authorized insurers. There are no exceptions to the prohibition on nonadmitted property/casualty coverage.

INTERMEDIARIES

Agents and brokers must be licensed and authorized to carry out insurance business. Brokers are not permitted to act as agents for nonadmitted foreign insurers.

MARKET PRACTICE

Most local corporate life and property/casualty risks are insured with locally licensed insurers in Oman. Some marine cargo export risks are covered by foreign insurers under shipping contracts, but technically this is a breach of the law.

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

(\$214.0 million) for 2014, a 39.7% increase over 2013. Mr. Cloutier said the increase was driven in part by improved investment returns. Brit posted a combined ratio of 89.5% for 2014, compared with 85.4% for 2013, and investment income of £75.7 million (\$116.6 million) a 38.4% increase over 2013. Brit's gross written premiums increased by 9.2% to £1.3 billion in 2014.

Willis investment unit opens Sydney office

■ Willis Capital Markets & Advisory said it will open an office in Sydney and that managing director John D. Philipsz will move from London to Sydney to establish company operations there. The Sydney office will complement the existing Hong Kong office, which is led by Michael Guo, head of Willis Capital Markets

Advisory Asia, Willis Capital Markets & Advisory said in a statement. Mr. Philipsz joined the Willis Group Holdings P.L.C. unit in 2010 from Bank of America in London, where he was a director in the financial institutions group. "The new WCMA platform will reinforce our activities across Asia, which is a high-growth region for both investment banking and insurance," Tony Ursano, CEO of Willis Capital Markets & Advisory, said in the statement.

2014 Allianz earnings miss the mark

■ German insurer Allianz S.E. fell short of Wall Street projections after earnings in its core property/casualty insurance businesses lagged and asset management stalled following client defections at its U.S. unit Pimco. Group operating profit of €10.4 billion (\$11.84

billion) for the full year was short of the average expectation of €10.7 billion (\$12.18 billion) in a Reuters poll. The company forecast the same operating profit of €10.4 billion for 2015, adding that the result could be €400 million (\$455.2 million) higher or lower depending on the development of capital markets and large damage claims. Full-year net profit came in a €6.22 billion (\$7.08 billion) for 2014, compared with the average expectation of €6.45 billion (\$7.34 billion) in the poll. Asset management operating profit also fell short of expectations in the full year amid investor withdrawals and management turmoil at U.S. bond manager Pimco, including the defection of investment guru Bill Gross. Cash withdrawals totaled \$150 billion from Pimco's U.S. open-end mutual funds in 2014. In January, investors pulled \$11.6 billion from the Pimco Total Return Fund. "Geopolitical tensions, continued market volatility and a further

decline in interest rates in 2014 led to lower global economic growth than expected," outgoing Allianz Chief Executive Michael Diekmann said, giving his last set of full-year earnings before handing over to successor Oliver Baete.

Reuters

Catlin tops London broker satisfaction survey

■ Catlin Group Ltd. was the London market insurer that provided claims brokers the greatest net satisfaction with claims service and standards in 2014, according to a study by London-based Gracechurch Consulting. Claims brokers were asked to rank their satisfaction with the level of service received from insurers operating in the London market on a scale of 1 to 10, where 1 is poor and 10 is excellent. After Catlin, the top-performing London market compa-

nies ranked by net satisfaction with their claims service were Hiscox Ltd.; Beazley P.L.C.; ArgoGlobal; Canopus Group Ltd.; Amlin P.L.C.; Swiss Re Ltd.; and Tokio Marine Kiln Group Ltd. About 265 claims brokers were polled by Gracechurch.

Canada to require more oil-by-rail insurance

■ Canada will boost the minimum insurance railways will have to carry when they haul crude oil, and an additional fund will be set up with levies on oil shipments to cover major disasters, under recently introduced legislation, two sources familiar with the bill said. The legislation is in reaction to a spate of oil-by-rail accidents, the most prominent being the 2013 explosion of a runaway train in the Quebec village of Lac-Mégantic that leveled the heart of the town and killed 47 people. The government recently gave notice of intention to introduce “An Act to amend the Canada Transportation Act and the Railway Safety Act.” The

costs of the cleanup and reconstruction for Lac-Mégantic far exceeded the 25 million Canadian dollars (\$20.1 million) of insurance coverage carried by Montreal, Maine & Atlantic Railway Ltd., driving the railroad into bankruptcy and leaving federal and provincial governments to pick up the tab. A government official told Reuters last year that Ottawa was considering something loosely based on the Ship-Source Oil Pollution Fund, set up in the 1970s to cover big maritime oil disasters and financed with levies on oil tanker shipments.

Reuters

Chilton named CEO of Gallagher International

■ Former Benfield head Grahame Chilton has been named CEO of Arthur J. Gallagher International, Arthur J. Gallagher & Co.’s international brokerage division in London. He replaces David Ross, who recently left to lead London-based brokerage Towergate Group P.L.C. Mr. Chilton, who built

reinsurance brokerage Benfield Group Ltd. prior to its acquisition by Aon, also leads London-based Capsicum Reinsurance Brokers L.L.P., a 2013 joint venture between Mr. Chilton and Arthur J. Gallagher, according to a statement.

Chinese hackers move toward identity theft

■ Groups in China continue to target Western interests, but there has been a shift in focus from the theft of intellectual property to identity information as well, says a report issued by Palo Alto, California-based information technology firm Hewlett-Packard Co. A high-profile example of this involved Indianapolis-based Community Health Systems Inc., which disclosed a breach, allegedly by a China-based group known as APT 18, in which Social Security numbers and other personal information of 4.5 million patients was compromised. There was also state-sponsored or state-condoned cyber activity of actors in Iran,

North Korea and Turkey, according to the report, “HP Security Research, Cyber Risk Report 2015.”

Lloyd’s insurer Novae promotes executives

■ Lloyd’s of London insurer Novae Group P.L.C. has promoted Jo Butcher to chief executive of Novae Syndicates Ltd. London-based Mr. Butcher, who was previously group underwriting director at Novae, takes over from Jeremy Adams, who will retire April 1, a Novae spokeswoman said. Meanwhile, London-based Rob Forster has been named to fill Mr. Butcher’s previous role, now titled chief underwriting officer. The spokeswoman said Mr. Forster was most recently Novae’s divisional head of marine, aviation and political risks and joint active underwriter. In a series of additional executive changes, Novae named Stuart Heath as divisional head of property, John Owen as divisional head of marine, aviation and political risks, and Bob Patten

as divisional head of casualty, Novae said in a statement. Finally, Ian Burford has been named underwriting performance director and sole active underwriter for Lloyd’s syndicate 2007, Novae said in the statement.

Ironshore International taps Catlin executive

■ Ironshore International Ltd. has named former Catlin Singapore Pte. Ltd. executive Hui Yun Boo to the newly created position of managing director of the Asia-Pacific region. The appointment is effective March 2. Ms. Boo was also named principal officer in Singapore and will oversee the insurers’ specialty lines business in the Asia-Pacific region spanning Singapore, Hong Kong, Tokyo and Sydney, Hamilton, Bermuda-based Ironshore International said in a statement. Previously, Ms. Boo was chief financial officer for the Asia-Pacific region for Catlin Singapore, a unit of Hamilton-based insurer and reinsurer Catlin Group Ltd.



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PRIVATE EXCHANGE EXEC SEES HEALTHY GROWTH

Q How do you see private health insurance exchange utilization among employers progressing over the next one to two years?

A We've all heard the latest predictions, from exchange growth tripling over the coming year to the Private Exchange Evaluation Collaborative's latest survey, which says 47% of employers have already implemented or are considering a private exchange. From our experience, once companies become aware of the benefits of a private exchange, they typically choose to adopt quickly. Over the next couple of years, we expect to see not only more companies migrate to a private exchange ... but also to observe companies comparing different approaches in the market to best meet their specific goals and objectives.

Q What do you see as the primary reason(s) employers have been reticent thus far to embrace private exchanges as a means of delivering and managing group health care benefits?

A We're actually not seeing much in the way of reticence but,

Q&A

rather, healthy levels of interest and adoption. Health care and benefits are emotional decisions and, appropriately so, companies treat their strategies in these areas thoughtfully. The uptake of private exchange adoption feels consistent with other innovations in benefits over the last 30 years, such as 401(k) plans, managed care and health savings accounts.

Q How important is it for employers to obtain independent advisory services if they are contemplating moving their group health benefits into a private exchange?

A Employers should always strive to get good, quality advice for their key business problems, and certainly how to manage benefits is right at the top of that list. Whether it comes from an insurance broker, a benefits consultant or another third party, advisory support is essential so long as the adviser offers meaningful expertise and market knowledge.

Q What do you see as the "next frontier" in private exchanges from a technological perspective?

A Technology has come a long way to create a simple yet engaging experience to help employees choose and use their benefits. There is still a lot of room for improvement. We expect to see continued breakthroughs and refinements in the areas of user experience, decision support and data aggregation, including information from third parties such as carriers, account administrators and wellness providers. Overall, continued innovation will enable the private exchange to function as the 24/7/365 information and action hub to help people become both smarter shoppers and health-



ASHOK SUBRAMANIAN
LIAZON CORP.

Matt Dunning about his expectations for the private exchange market in 2015 and beyond. Edited excerpts follow.

Ashok Subramanian is CEO of Liazon Corp. After co-founding the company in 2007, Mr. Subramanian sold Liazon to Towers Watson & Co. in November 2013 for \$215 million. As of February, more than 900 employers were offering health care coverage to active employees and/or retirees through Liazon's "Bright Choices" exchange platform. Mr. Subramanian recently spoke with *Business Insurance* Associate Editor

ier individuals.

Q What do you think are employers' most common misconceptions when it comes to private health insurance exchanges?

A The most common misconception is that exchanges need to be all about cost savings. The reality is that in addition to helping companies secure more value from their benefits spend, private exchanges are an incredible tool for enabling employees to personalize their benefits and fully value their total compensation. Exchanges offer an easy solution to help attract and retain the type of workforce that employers need to thrive in the 21st century. So, yes, while cost savings can be realized, forward-thinking companies that want to position benefits as an area of strength can benefit tremendously from adopting a private exchange.

COMINGS & GOINGS

UP CLOSE: LINCOLN PAN

PUDONG, SHANGHAI-BASED CEO
Willis China

PREVIOUS POSITION: Hong Kong-based executive director for Willis Hong Kong; sales leader and head of operations for Willis' business in Hong Kong.

GOALS FOR NEW POSITION: I have identified five key priorities for Willis China in 2015. Two involve new business strategies, one involves development of several key team leaders, and two involve operational improvements.

CHALLENGES FACING INDUSTRY: Like everywhere in the insurance industry, the biggest challenge is talent acquisition and development. Our strategy is to combine a competitive salary and benefits package with formal and informal learning and development, and longer-term incentive compensation. There is nothing more important for me to get right in Willis China than our talent and development plan for the next five to 10 years.

INDUSTRY OUTLOOK: Economists will benchmark the penetration of insurance domestically in China against the U.S., Japan and (Europe) and point to the massive



domestic insurance opportunity. This is unquestionably there. But the risk adviser who can differentiate by advising on international investments and overseas insurance structuring for Chinese-owned assets will become the pre-eminent adviser to large Chinese companies internationally and domestically.

FIRST INDUSTRY JOB: My first job in insurance was with Willis in Hong Kong.

OUTSIDE THE INDUSTRY, A DREAM JOB: Power forward for the New York Knicks, which will of course never happen given I am 5'7".

HOBBIES: I have a 10-month-old son, so my hobbies the past year have been block stacking, peek-a-boo and singing along to children's songs. When I'm not playing with my son, I stay fit by swimming and practicing yoga.

THING MOST PEOPLE DON'T KNOW ABOUT ME: I spent about nine months studying at Harvard Divinity School and seriously considered a Ph.D. in religious studies.

Professional Moves & Promotions

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* Transaction, subject to regulatory approvals, is expected to be completed in the second quarter of 2015.



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EDITORIAL

ACA SUCCESS BENEFITS ALL

If there ever was an example of what a difference a year makes, enrollment in the health care reform law public exchanges is it. When the 2014 open season began, potential exchange enrollees faced huge problems, not the least of which were malfunctioning and crashing websites and inordinate waits for telephone assistance.

Those problems fortunately were overcome, and more than 8 million had selected health insurance plans offered through the public exchanges by the end of the 2014 open season.

With the 2015 open season now over, the numbers are even better. According to the U.S. Department of Health and Human Services, about 11.4 million people had selected plans through the exchanges, a roughly 70% increase compared with actual exchange enrollment just prior to the 2015 sign-up period.

That sharp growth is not just good news for enrollees, many of whom were uninsured and now have insurance coverage, reducing their exposure to big medical bills. It is also good news for employers. One of the sources of rising health care costs are providers shifting the costs of treating uninsured patients through jacking up charges to those with health insurance coverage.

To the extent that more people have coverage, providers will treat fewer uninsured patients, reducing their need to cost-shift.

More coverage also increases the likelihood that individuals will seek treatment before medical issues mushroom into expensive-to-treat complications. Said another way, more health insurance coverage means a better, more cost-efficient use of medical services.

That said, there is a big cloud hanging over public health insurance exchanges. That cloud is how the U.S. Supreme Court will rule this session in a case involving whether government premium subsidies are available to those obtaining coverage in the federal exchange or, as plaintiffs maintain, only in exchanges run by states.

More than 8.8 million people have selected plans in the federal exchange, with about 87% of them eligible for premium subsidies. There is little doubt that many of them would again become uninsured if the Supreme Court strikes down the premium subsidies.

We hope that does not happen, and that the high court affirms, as we believe Congress intended, the legality of the subsidies provided for coverage offered through the federal exchange.

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COMMENTARY

BEWARE OF BEING BLINDED BY BRAND OBSESSION

Branding clearly is an integral part of commerce, but sometimes obsession with brand can lead corporations down a dangerous path.

Take the case heard last week by the U.S. Supreme Court involving a young woman, Samantha Elauf, who was turned down for a job at Abercrombie & Fitch Stores Inc. after she attended an interview wearing a headscarf.

The suit, which was brought by the U.S. Equal Employment Opportunity Commission, alleges that the clothing retailer turned down Ms. Elauf after the manager interviewing her told a more senior manager that she thought Ms. Elauf was a Muslim and was wearing the headscarf, or hijab, for religious reasons. The senior manager, who denied that he'd been informed that Ms. Elauf was likely a Muslim, said she should not be hired because she did not conform to Abercrombie's "Look Policy," which precludes "caps." The company has since changed its clothing policy.

According to the appeals court ruling, Abercrombie holds that a sales associate, or "model," who violates the Look Policy "inaccurately represents the brand, causes consumer confusion, fails to perform an essential function of the position, and ultimately damages the brand."

The 10th U.S. Circuit Court of Appeals in Denver ruled for the retailer, with most of the argument centering on whether the hijab-wearing job applicant explicitly told the company that she wore the headscarf for religious reasons and would, therefore, need an accommodation under Title VII of the Civil Rights Act of 1964.

Abercrombie argues that she did not and that the company should not be held liable.



**GAVIN
SOUTER**
EDITOR

Reading the often entertaining transcript of oral arguments before the Supreme Court, it's hard to judge which way the justices are going to rule — the familiar liberal/conservative split clearly is showing — but, like many lawsuits, there are powerful arguments on both sides.

The EEOC holds that Ms. Elauf was not informed of the Look Policy in detail during the interview and, therefore, there was nothing to prompt her to raise the issue. Court records show that she asked a friend working at the store whether the headscarf would be a problem and the friend indicated that it probably would not.

Abercrombie — and no doubt other employers — understandably is concerned that a high court ruling against them would open it up to numerous other lawsuits from rejected job candidates who wore some kind of garb to an interview that suggested a religious belief but did not bring up the topic of religious accommodation.

Aside from the liability issues, you can't help feeling that if the retailer had been a little less focused on the minutiae of brand conformity, it would not have found itself in the position it is in. And, judging by her blog, if Abercrombie had focused more on what was inside Ms. Elauf's head rather than what was on it, they could have recruited a hip, fashion-conscious young woman with more than a little marketing savvy.

Natural disaster resilience requires united approach

Insurers, businesses and elected officials should work together to improve community flood resilience across the country, say Mike Foley, CEO of North America commercial and regional chairman of North America for Zurich Insurance Group, and Frank Nutter, president of the Reinsurance Association of America. Both men recently were invited to the White House to discuss climate resilience.

Looming ominously over the federal budget — its rapid growth fueled by seemingly unstoppable demographic trends — is a threat with projected costs that will exceed the resources of any one community or state. Indeed, it dwarfs the budget for entire branches of the federal government. No, we are not referring to Social Security, Medicare or Medicaid. This grim specter is in fact the cost of aid for natural disasters. It should be discussed in the same breath as the growing liabilities of the country's entitlement programs.

As the world has seen an increase in size and frequency of catastrophic events in the past several years, we should not overlook the potential financial effects of disaster aid on our nation. Congress appropriated nearly \$60 billion alone in disaster aid for Superstorm Sandy — an amount that exceeded the 2012 budget for the Congress, judicial branch and Office of the President combined. The Federal National Flood Insurance Program is some \$25 billion in debt stemming from losses primarily related to Hurricane Katrina and Sandy. According to Temple University in Philadelphia, federal expenditures related to disaster relief will be \$20 billion a year on average for the next 75 years, with the long-term cost being essentially the same as the unfunded trillions for Social Security.

As insurers, we know firsthand disaster costs are growing: 12 of the 16 most expensive insured catastrophes in the United States have occurred in the last decade. With roughly 200 events in both 2009 and 2010, the value of assets at risk is growing. Insured property values for U.S. coastal exposures now total over \$10.6 trillion.

Americans view the dramatic television images of homes, businesses and even entire communities disrupted and destroyed by floods, tornados, hurricanes, and other perils. Many of us have felt the effects directly in our communities, as both the frequency and severity of natural disasters have increased in recent years. When disasters strike, people look to their insurers and governments for financial resources to recover, and of course it's both our business and our obligation to assist. But we can all do more than just provide funds in the aftermath, and given the growing costs, we simply have to do more. Disaster cannot be entirely averted, but the costs in lives and dollars can be reduced, through better information and better

decision-making about the risks of moving into harm's way.

The human and socioeconomic costs of extreme weather events are growing at an accelerating rate, in large part because we are building and moving into the riskiest areas, such as cities and coastal areas. For example, half of the world's population now lives in cities, up from one-fifth 100 years ago — a proportion that is set to rise, further



As the world has seen an increase in size and frequency of catastrophic events in the past several years, we should not overlook the potential financial effects of disaster aid on our nation.

concentrating risk. And exposures are cross-subsidized by certain public policies. For example, the National Oceanic and Atmospheric Administration estimates that 49 million households, or 39% of the U.S. population, now lives in coastal counties — the areas of greatest risk for many disasters — with 1,355 building permits issued in these areas every day.

We need to be smarter about development by building safer and stronger. Risk prevention is a far more cost-effective solution than just spending on recovery. For example, floods affect more people globally than any other risk, and cost benefit analysis studies show that for every dollar spent on selected flood risk reduction measures, an average of five dollars is saved through avoided and reduced losses.

Global networks of academics, scientists, and other experts from non-governmental organizations, government agencies and the business community are collaborating in a global program designed to advance knowledge, develop robust expertise and design strategies that can be implemented to help communities strengthen their resilience to flood risks. Initial research and field work in this emerging field has affected thousands of families and businesses in the developing world. But to scale this up so that we promote community flood resilience across the United States will require intense collaboration with government at the federal, state and municipal levels.

Working together, the insurance industry and government can promote insurance programs and policies that encourage prevention and mitigation. Under a directive within his administration's climate action plan, President Barack Obama has launched an initiative to bring together the expertise and resources of the federal government and the private insurance industry to reduce risks and costs of extreme weather events and climate-related events.

Policymakers at every level need to turn this initiative into opportunities for their own communities to build a more resilient future. The considerations over how best to protect a community can be complex, involving many stakeholders with very different priorities. Insurers can play a key role in this process by helping people quantify the risks they face. The fundamental functions of insurance — underwriting, risk engineering, claims management, and asset management — are some of the greatest economic tools we have to encourage individuals, businesses and communities to understand, prepare for and mitigate risks.

For its part, government must play an integral role in sourcing data, implementing a decision process and enforcing standards. Building a system capable of compensating for dynamic variables at the community level across the country in a meaningful way will not be easy. It will require political will, public support, funding, and time. But it's the right thing to do, and it's the right thing to do now.



Mr. Foley



Mr. Nutter

Mike Foley is CEO of North America commercial and regional chairman of North America for Zurich Insurance Group. Frank Nutter is president of the Reinsurance Association of America. Mr. Foley can be reached at mike.foley@zurichna.com and 847-605-8753. Mr. Nutter can be reached at nutter@reinsurance.org and 202-783-8314.



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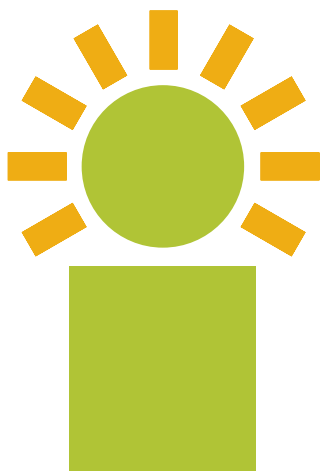
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INNOVATION AWARDS 2015

Insurance industry brings out high-caliber, creative solutions in competitive market

The 2015 *Business Insurance* Innovation Awards showcase the best new products and services launched over the past year for risk managers. This awards program, which started in 2010, recognizes innovation in the insurance and risk management sector, and the high caliber of the winning entries shows that commercial insurers, brokers and other service providers continue to break new ground with their offerings.

All of the nominations were reviewed by an independent judging panel composed of professional risk managers (see story, page 23), and the 10 highest-scoring nominations were selected for 2015 Innovation Awards, which will be presented during the *Business Insurance* Risk Management Summit to be held March 4-5 in New York.

The winning entries range from insurance coverage for drones to an analytics dashboard for workers compensation.

The nomination process for the 2016 Innovation Awards will begin in the fall.

For more information, visit www.businessinsurance.com or email *Business Insurance* Editor Gavin Souter at gsouter@businessinsurance.com.

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Ace Ltd.

ACE LOGISTICAL ENVIRONMENTAL RESPONSE TECHNOLOGY, OR ACE ALERT

www.Acegroup.com/us-en/businesses/Ace-alert.aspx

Environmental accidents that cause hazardous spills and health concerns require a quick response.

So say developers of Ace Logistical Environmental Response Technology, a portal available on computers, smartphones and tablets that swiftly connects the insured to claims adjusters, disaster experts, environmental assessors, cleanup contractors and more.

Known as Ace Alert, the program was developed to avoid the often troubling insurance response to an emergency, said Robert Winterburn, Philadelphia-based assistant vice president and product line manager at Ace Environmental Risk, a unit of global insurer Ace Ltd.

"Before we designed and implemented Ace Alert, it was a more traditional reactive process," Mr. Winterburn said. "There was reporting and invoicing; we would collect information, ask contractors for help. Ace Alert allowed us to be very proactive."

With the program that rolled out last year, "we are alerted within minutes of an incident; by getting

involved in the very beginning, we are able to understand what the work is," Mr. Winterburn said.

For the parties involved, "this eliminates the Monday-morning quarterbacking and second-guessing that often occurred," he said.

Steve Piatkowski, Philadelphia-based vice president of Ace Environmental Risk, recalled that previously a client would call in after a loss and be subjected to an answering service. Often, the person on the line would take information without any knowledge of the client or risk factors.

"What we did with Ace Alert is give our insured access to a qualified person immediately," Mr. Piatkowski. Ace Alert is available 24 hours a day, seven days a week. Everything from contractor referrals — a database of more than 3,500 companies — to invoicing is available via the online portal.

The system, a 2015 *Business Insurance* Innovation Awards winner, also allows claim documentation to be uploaded to the portal.

"This is (about) getting the right



Mr. Winterburn



Mr. Piatkowski

contractors, getting everybody on the right page," Mr. Winterburn said. "The Ace Alert program is a communication platform; it's that pebble into the pond. The communication goes out in all directions so everyone is on the same page. The lack of communication can cause a lot of mistakes. With Ace Alert, we are able to upload information so everybody is seeing the information."

He said the first year of Ace Alert has been so successful that the insurer is looking to expand it to other business units and product lines, including nonenvironmental incidents such as construction slips, trips and falls as well as overturned trailers and other transportation-sector accidents.

Ace also is working on a multilingual capability, he said.

By Louise Esola

"We are alerted within minutes of an incident; by getting involved in the very beginning, we are able to understand what the work is."

Robert Winterburn,
Ace Ltd.

American International Group Inc.

UNMANNED AIRCRAFT INSURANCE

www.aig.com/uav_3171_659652.html

A lifelong aviation enthusiast, Carson Lyons foresaw the burgeoning popularity of drones.

The Atlanta-based vice president and global product line manager of aerospace at American International Group Inc. knew his team would need to craft policies specific to using the unmanned aircraft systems, as the technology has rapidly gained a foothold in industries ranging from agriculture to energy to law enforcement to insurance claims.

"From an aviation standpoint, we understood that more uses of unmanned aircraft were coming forward," Mr. Lyons said.

Accordingly, AIG's aerospace unit last year launched its stand-alone Unmanned Aircraft Insurance, which provides physical damage and third-party liability coverage tailored to the unique risks presented by the commercial use of drones, Mr. Lyons said.

Long before the Federal Aviation Administration issued its proposed rules for drones last month, the insurer relied on extensive dialogue with external and internal drone and aviation experts about



AIG's aerospace unit last year launched its stand-alone Unmanned Aircraft Insurance, which provides coverage tailored to the unique risks of drones.

the exposures resulting from the use of drones.

"We are ... constantly learning, but also being able to rely on decades of experience in aviation has allowed us to quickly adapt," he said.

Recognizing similarities between manned and unmanned systems was essential, Mr. Lyons said.

For example, while losses arising from electronic malfunctions as well as failure of electronic components, accessories and power equipment supplies are excluded on standard manned aircraft policies, such coverage is standard on the Unmanned Aircraft Insurance policy covering drone operators.

Moreover, the policy broadens

the definition of "operators" to include the pilot of the drone as well as ground crews by listing them as being covered by the policy.

"We had to evaluate the existing aerospace coverages and look at what might need to be altered to address the unique exposures that these aircraft represent," he said.

In addition to its stand-alone policy, AIG also has an unmanned aircraft liability endorsement for its surplus lines insurer, Lexington Insurance Co. The endorsement to commercial general liability coverage is designed for unmanned aircraft weighing up to 5 pounds, with wingspans or combined rotor span of up to 3 feet. It also contains optional coverage, such as an electronic hijacking of the drone.

Mr. Lyons said given that unmanned aircraft are being used across industry sectors, versatility was a key consideration when devising the product, a 2015 winner of the *Business Insurance* Innovation Awards.

"The product is designed to adapt and grow as the industry does," he said.

By Bill Kenealy

"We had to evaluate the existing aerospace coverages and look at what might need to be altered to address the unique exposures that these aircraft represent."

Carson Lyons, American
International Group Inc.

FM Global

FM GLOBAL RESILIENCE INDEX

www.fmglobal.com/resilienceindex

Multinational firms have a difficult task quantifying where their major risks exist, the nature of gaps in their protections and where the risk management focus ought to be placed.

Jon Hall, Johnston, Rhode Island-based chief operating officer at FM Global, said about 75% of the insurer's roughly 2,000 clients are multinational firms.

"We have a client base with huge exposures in faraway places, and we thought, 'How can we give them tools?'"

So the commercial insurer spent a year with analysts scouring data from 130 countries and territories around the world and last year introduced its Resilience Index, an online tool that assigns a score of zero to 100 in nine categories—such as economic performance and supply chain risks—to provide an overall score that developers say will help decision-makers.

The Resilience Index gives companies a simple way to analyze their international risks, Mr. Hall said.

"If people understand the hazards they face, they'll make good decisions," he said. "Most of the time when things happened, people didn't understand the hazards. This goes back to the hallmark of our business, which is helping our clients understand the hazards."

The index provides users with country-level insights into the risks and vulnerabilities facing suppliers and customers as well as data to support risk management and business decisions.

For example, developed countries such as Norway, Switzerland and Canada top the scoring as the most resilient nations in the overall index, while nations such as Thailand, Pakistan and Bangladesh, which often are used by manufacturers, are in the lower half of the ranking.

Since its introduction last summer, the website has seen 12,000 users, 40% of which were repeat visitors, Mr. Hall said.

While the idea for the Resilience Index grew from the needs of FM Global's clients, Oxford Metrica Ltd., a London-based analytics and advisory firm hired by FM Global, actually devised the index, a 2015 *Business Insurance* Innovation Awards winner.

The analysis of 130 nations and territories "started with a blank piece of paper," said Deborah Pretty, London-based principal at Oxford Metrica. "From there we started by identifying all the threats to supply chains. We looked at 38 threats that could affect a country's resilience. From there we started modeling and examined the threats that came up more often in our research, what

we saw as dominant variables. Then we modeled the different variables to see which ones correlated, from political risk to terrorism risk."

The monumental analysis took the work of about two dozen people, including FM Global engineers, software developers, mathematical analysts and specialists, she said.

"It was FM Global that had the foresight to invest in this," Ms. Pretty said.

The index is available to the public and will be updated annually, taking into account political and natural events, she said.

The latest update of the FM Global Risk Index is set for later this month.

By Louise Esola



"Most of the time when things happened, people didn't understand the hazards. This goes back to the hallmark of our business, which is helping our clients understand the hazards."

Jon Hall, FM Global

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Arthur J. Gallagher & Co.

ONE2ONE RISK SOLUTIONS

<https://www.one2onerisk.com/>

When the Pattonville School District in St. Ann, Missouri, decided to provide laptop computers for students, it found the commercial insurance market ill-prepared to meet the program's unique needs.

The district's primary property policy would not be of much use for damage or loss claims for individual laptops, since the policy's \$1,000 deductible was more than the cost of a computer.

Alternatively, a handful of insurers offered specialized electronic device policies with lower deductibles, but annual premiums in excess of \$100,000 were too expensive for the district to justify in 2012, given the nature of the risk.

"We realized we had to develop a self-insured program where the parents and students would have some skin in the game, because they're the ones with care and custody of the devices," said Scott Wightman, area executive vice president at Arthur J. Gallagher & Co. in St. Louis.

Working with school district Chief Financial Officer Ron Orr and technology services director Greg Southard, Gallagher developed and last year launched One2One Risk



Solutions, a Web-based inventory and claims management platform serving as the online hub of the self-funded laptop insurance program, financed in large part by individual damage waivers sold to parents. They pay up to \$40 for the damage waiver with a \$25 deductible for the first claim, \$50 for the second claim and \$100 for all subsequent claims.

"That way, there's a contractual arrangement between the schools and the parents saying that if the device their child is given is damaged or lost, the school takes care of the repair or replacement costs, minus a deductible," Mr. Wightman said. "The idea is to shift some of the financial interest over to the parents, but in a reasonable way."

Following the program's successful

implementation in the Pattonville School District, Gallagher began marketing One2One Risk Solutions to other school districts, at first in the Midwest and eventually nationwide.

As of February, Gallagher said it has integrated the One2One Risk Solutions with existing risk management systems in 45 school districts in Illinois, Indiana, Michigan, Minnesota, Missouri, Ohio, Wisconsin, Texas and Wyoming.

Developers of the program, a winner in the 2015 *Business Insurance* Innovation Awards, credit its flexibility in design and function for the rapid growth in utilization.

"Every one of our clients has a different opinion on how implementation should go, different requirements and different demographics that they have to consider," said Steve Wightman, a St. Louis-based account executive at Gallagher. "Some of them want to charge more upfront for the waivers, some of them want to charge more on the deductible end."

"What we've learned is that our goal needs to be to put them in the driver's seat," he said.

By Matt Dunning

Liberty Mutual Insurance Co.

RISKTRAC WORKERS COMPENSATION ANALYTICS INTERACTIVE DASHBOARD

www.libertymutualgroup.com

A dashboard added to Liberty Mutual Insurance Co.'s RiskTrac risk management information system allows workers compensation policyholders to use the tool as though it were a customized predictive model.

While Liberty Mutual has used RiskTrac since the 1980s to analyze its workers comp claims data, it rolled out the interactive dashboard last August to workers comp policyholders and customers of Liberty Mutual's third-party administrator, Helmsman Management Services L.L.C.

A risk manager's question is credited with prompting Liberty Mutual to set up the dashboard, a winner of the 2015 *Business Insurance* Innovation Awards.

The risk manager of a large "sophisticated" firm asked Helmsman whether the TPA could devise a predictive model to display results of the firm's unique comp claims data, rather than all of Liberty Mutual's claim information, Helmsman President Debbie Michel said.

"Her challenge to us was, 'How do you make this real for me, and how do you make this valuable for me and my team?'" Ms. Michel said.

Ms. Michel said the result was a system that pinpoints workers comp claims that are at greatest risk of becoming high-cost claims.

In turn, risk managers who use the dashboard can decide on strategies to help mitigate escalating costs of flagged workers comp claims, such as medical interventions or

claim settlement, said Heather McMinn, RiskTrac product manager for Liberty Mutual in Dover, New Hampshire.

"It presents ... a simplified look at their open workers comp claims, (and) it plots them so that they can easily see which of their open claims are most severe and those that have the highest potential severity to escalate. And it allows them the ability to drill in to find out which claims those are so ... they can bring resources to them quicker," Ms. McMinn said.



Ms. Michel

The dashboard is available to all Liberty Mutual and Helmsman customers using RiskTrac, but Ms. Michel said the tool has been particularly useful for companies large enough to have a risk manager and significant workers comp claims volume. Though Liberty Mutual said it's too early to quantify savings that have resulted from the dashboard, customers have indicated that the tool has allowed them to better manage their workers comp claims and potentially

reduce their costs, Ms. Michel said.

"It made the predictive model that we've got running through all the open claims every day personal to her business and allowed her the flexibility to focus in based on her organizational structure (and) the injury types they know to be a problem for their type of operations," Ms. McMinn said of the unnamed client who sparked the dashboard idea.

By Sheena Harrison

Marsh L.L.C.

PRIME HABITATIONAL PROPERTY INSURANCE FACILITY

usa.marsh.com

Unique risks and demographics associated with multifamily real estate were the impetus behind a specialized insurance program to address the sector's needs, said Jeffrey S. Alpaugh, Boston-based global real estate practice leader at brokerage Marsh L.L.C.

Apartments are a profitable business and considered "one of the darlings of the real estate investment industry," Mr. Alpaugh said.

But multifamily dwellings represent "a real challenge for insurance companies" because of the 24-hour exposures they create, unlike commercial

properties in which tenants arrive in the morning and leave by early evening, he said.

Furthermore, with many apartments built on coastal properties, there are catastrophic windstorm exposures "up and down the Eastern seaboard," as well as earthquake, hail and tornado exposures, said Mr. Alpaugh.

"There were many clients that had good loss experience that were facing a tough

market," with some underwriters walking away from them, he said.

"There were a couple of patchwork-type solutions out there," but "there was a real need for a true insurance program that actually met the needs of this segment within the industry that was finding it very difficult to get insurance and challenged with increasingly high rates as well as high deductibles," Mr. Alpaugh said.

"We sought to take the analytics we had with the data on the losses to see if we could create a product to fill the void in the marketplace," he said.

Marsh was "pleasantly surprised" when its analysis found the business could be written profitably, leading to the establishment of Marsh's Prime Habitational Property Insurance Facility, a winner of the 2015 *Business Insurance* Innovation Awards.

Working with specialist broker Bowring Marsh, Faraday syndicate 435 at Lloyd's of London, which is owned by General Re Corp. and ultimately Berkshire Hathaway Inc., agreed to provide \$25 million in primary coverage. With additional excess coverage from other insurers, Marsh's program has offered up to \$350 million in capacity.

Mr. Alpaugh said that while he had met with many insurers, Faraday "quickly grasped what we were trying to put forward on a primary property program."

There is a \$50,000 deductible, although a separate mechanism can reduce that to as little as \$10,000, Mr. Alpaugh said.

Since its January 2014 launch, Marsh has completed about 20 programs covering more than 175,000 units for multifamily clients, whose premiums declined an average of 20%, he said.

A more recent variation, which also has a \$50,000 deductible with options to go down to \$10,000, expands the program to student housing, assisted living facilities, single-family homes and low-income housing.

By Judy Greenwald

Riskonnect Inc. and IASIS Healthcare L.L.C.

RETURN TO WORK

www.iasishealthcare.com

<http://riskonnect.com/return-to-work-healthcare-patient-events>

Transferring the paper-heavy return-to-work process to an electronic platform that is accessible to all parties involved has helped acute care and managed care provider IASIS Healthcare L.L.C. cut costs and get its injured nurses back on the job faster.

With so many people involved in the return-to-work process, often with conflicting objectives, “many times the right hand doesn’t know what the left hand is doing,” said Tim Davidson, assistant vice president of loss prevention, safety and security at IASIS in Franklin, Tennessee.

While the adjuster might not know how quickly a doctor returns employees to work, the doctor might not know what light-duty options are available for workers, Mr. Davidson said.

So injured workers spend too much time off the job “watching claimants attorney commercials,” Mr. Davidson said.

To streamline the process thus accelerating injured employees’ return to work, cutting costs and increasing compliance, the health care provider partnered with Riskonnect Inc., a technology platform provider for the risk management information system industry, to establish Return to Work.

The program, a 2015 *Business Insurance* Innovation Awards winner, is an active return-to-work program that allows electronic documentation and signatures by users, including physicians, and taps predictive analytics to estimate the time it takes an injured employee to return to their job.

“Injured workers get lost in the (old return-to-work) system,” said Jack Tatum, vice president of global business development for Riskonnect in Kennesaw, Georgia. “You end up with this quagmire of misinformation and misaligned incentives.” With Back@Work, the IASIS name for the project, he added, “everybody is accountable because everybody is seeing each other’s activities and ... operating according to the team’s goals.”

Using an injured worker’s age, comorbidities and information from physicians about the worker’s functional capacity, the program provides a list of possible light-duty positions, Mr. Davidson said.

The program launched in Texas, where IASIS has opted out of the state’s workers compensation system, and was rolled out in June 2014 to the rest of the company in Arizona, Arkansas, Colorado, Louisiana and Utah.

The electronic program has cut average lost time severity in Texas, and IASIS had a 39% decrease in total incurred costs in

the first year after the program was implemented, Mr. Davidson said.

In addition to cost savings, getting workers back on the job with light-duty work tells them, “Hey, you’re part of the team. We need you here, we want you here, and we need to work together to get you well,” Mr. Davidson said.

“If your calling (as a nurse) is to serve other people, and you can’t do that anymore, it has an effect on you.”

Once Riskonnect begins marketing the product to other companies in June, Mr. Davidson said “they’re going to have more (business) than they can handle.”

By Stephanie Goldberg



“Injured workers get lost in the (old return-to-work) system. You end up with this quagmire of misinformation and misaligned incentives.”

Jack Tatum, Riskonnect Inc.

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MTG-2855 (1/15)

Ventiv Technology Inc.

COMBINED CORPORATE & CAPTIVE RISK MANAGEMENT SOLUTION

www.ventivtech.com/en-US/Insurance/Captives

Ventiv Technology Inc.'s Combined Corporate & Captive Risk Management Solution evolved from a customized product for one client into a standard offering that allows risk managers track a host of insurance, risk management and corporate finance activities in one risk management information system.

The origins of the RMIS go back as much as six years, said Ilka McHugh, London-based director and solutions consultant at Ventiv, which changed its name last year following Aon P.L.C.'s sale of Aon eSolutions to Palo Alto, California-based Symphony Technology Group.

That sale included all of Aon eSolutions' products, including the RiskConsole system of which the Combined Corporate & Captive Risk Management Solution is a part, to Symphony. Aon still resells the former eSolutions products under a multiyear agreement with Ventiv.

"There was an original client request, which we met with a very bespoke solution. That evolved over time into something that can be used as a standard," Ms. McHugh said.

Angus Rhodes, who is in product marketing and business development at Ventiv in London, said additional development efforts last year rounded out "the policy module to the point where we had a solu-

tion that was a standard."

The changes allow corporate risk and insurance managers to manage information from premiums and their allocation to risk exposures, while providing additional control over the information to also facilitate legal and regulatory reporting such as Solvency II, said Kathy Burns, Chicago-based CEO of Ventiv.

The software system also can track insurance limits, aggregates, commissions, recoveries, fronting and reinsurance arrangements, and stop-loss programs.

The product is intended to ease the responsibilities of corporate risk and insurance managers, many of whom have seen their roles grow and become more sophisticated, Mr. Rhodes said.

"There has been a bit of an unmet need in the industry," Ms. Burns said of the growing information management requirements of the insurance industry.

The software, a 2015 *Business Insurance* Innovation Awards winner, can be tailored to meet the needs of small companies with captives that have relatively simple requirements all the way up to global corporate entities with sophisticated needs, Ms. McHugh said.

By Matthew Lerner

"There was an original client request, which we met with a very bespoke solution. That evolved over time into something that can be used as a standard."

Ilka McHugh,
Ventiv Technology Inc.



Mr. Esposito



Mr. Kaplan

XL Group P.L.C.

P3 PLUS

<http://xlgroup.com/insurance/insurance-coverage/casualty-insurance/p3-plus>

When it comes to insuring massive public-private construction projects, a lack of communication and insurance products that often exist independently of one another have been long-term headaches for those overseeing work and maintenance of public roadways, bridges and more.

Insurer XL Group P.L.C.'s North America construction team introduced P3 Plus last year to better manage the design, construction, operational and maintenance phases that accompany public infrastructure projects.

"For a lot of these public-private partnerships, there were individual coverages, such as professional liability and builders risk and primary coverages, but it wasn't all coming together as a total integrated approach," said Michael Esposito, Atlanta-based vice president and executive underwriter at XL and a key developer of P3 Plus.

Referred to as a "one-stop shop" to insure private-public construction projects, P3 Plus, a winner of the 2015 *Business Insurance* Innovation Awards, is an enhanced version of XL's P3 program.

In P3 projects, private compa-



"This was very much a customer-driven innovation."

Andre Guyer,
Zurich Insurance Group Ltd.



Zurich Insurance Group Ltd.

MY ZURICH 2.0

<https://www.zurich.com>

My Zurich 2.0 aims to give risk managers a user-friendly online display to monitor their large, complex insurance programs.

The tool, which is under constant development, was designed to allow Zurich clients to manage and react to changing global risk and regulatory data, said Andre Guyer, the Zurich-based head of

global transformation at Zurich who led the project to develop My Zurich 2.0, which the insurer said was a large-scale improvement of the customer interface that was launched last year.

"This was very much a customer-driven innovation," Mr. Guyer said.

Customers with large, complex international programs who are

subject to ever-changing regulations globally told the insurer their programs needed constant management, which would be more effectively achieved online than manually.

Also, Mr. Guyer said, the tool aims to help risk managers become more effective in managing risks by giving them a much better overview, with data pre-

sented in an easy-to-understand format, to hopefully enable risk managers to spot ways to reduce their overall cost of risk, he said.

The tool, which is accessed via a password and a double layer of security involving a code sent to a registered mobile device, is the revamped version of a system rolled out to customers in 2012, Mr. Guyer said.

nies, including many contractors, contribute capital to public projects, build them, and recoup their investment by operating and maintaining the asset or infrastructure as a revenue source.

“One of the key components missing was the operations and maintenance” insurance, Mr. Esposito said. “XL is trying to solve risk management for our clients. We wanted them to have all the products they needed for all their insurance needs.”

The trouble with insuring large public construction projects often involves maintenance that emerges three to four years after their completion, he said.

P3 Plus ensures the original contractor performs the maintenance — all covered by the original insurance, which translates into better budgeting and bidding for public projects.

“The contractor who performed the work will do the maintenance,” Mr. Esposito said. “They built it. They have the supplies. They know what they are working with.”

With P3 Plus, clients are assigned an experienced construction risk engineer who oversees and ensures better continuity of risk services.

Gary Kaplan, Chicago-based president of North American construction at XL, said the market wants price certainty.

“They have to know what the cost of insurance is up front,” he

said. “If they get it wrong, it will have a huge impact on whether (the contractors) are profitable.”

“The key thing here is most insurance companies are constructed in silos,” Mr. Kaplan said. “People work on pieces of the puzzle and they hand it off when it is no longer construction.”

“The marketplace was incapable of coming up with this solution,” Mr. Kaplan added. “At XL, we worked together so there are no handoffs of projects. We thought this integrated approach was something we could work better with.”

By Louise Esola

Zurich surveyed users of that system and gathered feedback on their needs, he said. It also looked at what companies were doing in other fields — such as the travel industry — to develop a platform that was the best it could be and not just the best in insurance, Mr. Guyer said.

From a claims management standpoint, My Zurich 2.0, a 2015 *Business Insurance* Innovation Awards winner, enables users to view their claims history on a global basis or examine specific claims with just a few mouse clicks, Zurich said.

The tool also enables customers to contact Zurich risk engineers and review the progress of customers’ risk improvement actions around the world.

This lets users track their risk management history and retain an audit trail in compliance with the International Standards Office guidelines, according to Zurich.

In the future, My Zurich 2.0 users also will have access to more predictive analytics, Mr. Guyer said.

For example, starting in April, users will have access to information about tropical storms that will generate alerts depending on a customer’s risk locations around the world, as well as being able to get advice about how to prepare for such events.

By Sarah Veysey

PANEL OF JUDGES

All of the entries for the 2015 *Business Insurance* Innovation Awards were reviewed by an independent panel of judges, all of whom are risk management professionals.

The judges assessed the entries based on five criteria: Originality in serving the needs of professional risk managers; relevance to the core concerns of risk managers; effectiveness in solving one or more problems in the risk management process of identifying, assessing/analyzing, controlling and/or financing risk; the presentation of the product or service in terms of its ease of use and understanding; and the results achieved when implemented by risk managers.

The judges scored each entry, and the 10 highest-scoring entries were selected as the 2015 Innovation Awards winners.

THE 2015 JUDGES

Patricia Grass

Senior manager, corporate insurance
GATX Corp.

Delany Haj

Treasury global insurance lead,
global risk assessment and insurance
Accenture P.L.C.

Brian Sammons

Assistant vice president of risk management
Equity Residential

Terry Sampson

Director of risk management
The Art Institute of Chicago

Amy L. Scovill

Director of insurance and risk management
Fortune Brands Home & Security Inc.



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SPECIAL
REPORT

Cyber Risk

Insurance & Liability

Cyber property risks
leave cover gaps,
opportunities

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Risk managers
have new chance
to shine

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Claims disputes
to accelerate
as cover matures

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Cyber's role grows
among risks
businesses face

PAGE 29

Cyber rates squeeze retailers

General market remains soft but big losses give some insurers pause

BY JUDY GREENWALD

Major retailers are getting pinched in the cost and availability of cyber insurance, but pricing generally remains soft despite some insurers limiting capacity or even exiting the category.

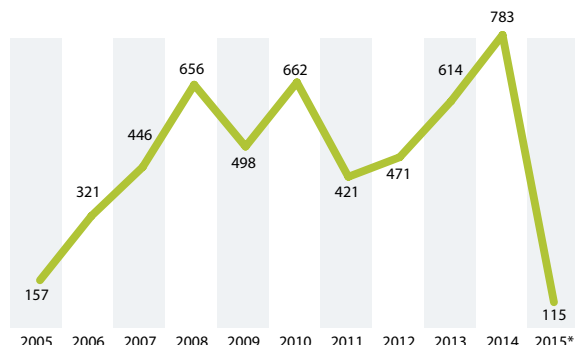
The cyber insurance market has been hit multiple times in the past year, including major data breaches affecting Target Corp., Home Depot Inc. and, earlier this month, by Anthem Inc.

"It's a market that's seeking to find its footing," said Robert Parisi, managing director and national cyber risk practice leader at Marsh L.L.C. in New York. "You've got a market that's had a couple of shocks in terms of some high profile breaches over the past 18 months," and some insurers are aggressively pushing forward while others are "stepping onto the sidelines and licking their wounds."

Some insurers are exiting the market entirely, "not because of any real losses," but based on their fear of potential losses, he said.

Insurers that covered large retailers have had "some big claims on their hands, and they didn't expect that," said John Coletti, New York-based chief underwriting officer of cyber and technology at XL Group P.L.C.

U.S. DATA BREACHES PER YEAR



*As of Feb. 18

Source: Identity Theft Resource Center

Still, cyber coverage is one of the few areas of opportunity either because companies do not have it or rely on inadequate coverage, Mr. Parisi said.

Among retailers, financial institutions, hospital and health care facilities, "there are huge increases in demand right now," while for the first time in 15 years there is the potential that capacity will decrease, said Kevin Kalinich, Chicago-based global practice leader of cyber risk insurance at Aon Risk Solutions.

Most insurers are "not completely running away," but are reducing capacity, he said. Insurers that had offered \$20 million to \$25 million capacity now may offer \$10 million, and those that offered \$10 million now may offer \$5 million, he said.

"You've got more companies buying coverage and more kinds of companies buying coverage," including a broader spectrum of small- and medium-size companies, said Timothy C. Francis, second vice president at Travelers Bond & Financial Products in Hartford, Connecticut.

Meanwhile, boards of directors are "engaged with their risk managers more than ever" in trying to understand cyber risks and the role insurance can play, which is driving demand, said Catherine Mulligan, New York-based senior vice president and national underwriting manager of specialty errors and omissions at Zurich North America Inc.

Part of the challenge is cyber coverage is not "homogenized" among the more than 30 insurers that do offer the coverage, said J. Andrew Moss, a partner at law firm Reed Smith L.L.P. in Chicago.

Cyber coverage "is a little bit all over the map because the nature of the risks does not lend itself to easy

See **MARKET** next page

GOVERNMENT CYBER BACKSTOP COULD EMERGE FROM CATASTROPHIC CYBER ATTACK

Would Congress consider a safety net for a cataclysmic cyber attack? A federal backstop for cyber risks akin to that for terrorism eventually may be feasible, experts say.

Although Congress has yet to approve significant cyber legislation, such a national cyber safety net could come in the form of government support in the event of a catastrophic cyber attack, experts say. Meanwhile, some experts think there may be cyber coverage under the existing Terrorism Risk Insurance Program Reauthorization Act.

Speaking during an analysts' conference call Feb. 10 — the week after Anthem Inc. announced a massive data breach — Catlin Group Ltd. CEO Stephen Catlin said if governments think there is a need to create pools to cover risks that are finite, such as TRIA, “then why on earth would governments not think about a pool for cyber?”

Such a facility “might have some benefits for the areas where there are gaps that the insurance community isn’t fully embracing, in particular property damage and bodily injury arising from a cyber event,” said Robert Parisi, managing director and national cyber risk practice leader at Marsh L.L.C. “But I think it would have to be fairly narrowly focused so as not to do more damage than harm.”

The two areas that underwriters “just won’t touch” are warlike acts and infrastructure attacks, said Peter Foster, New York-based

senior vice president of network security and privacy, media, tech professional and intellectual property at Willis North America Inc. “It’s about aggregation of losses, and the only way we’re going to address those losses is through a TRIA-type approach.”

While some think the federal terrorism backstop already might apply to a massive cyber attack, specific language addressing cyber issues never was settled upon before Congress passed fresh TRIA legislation in January, said Kevin Kalinich, Chicago-based practice leader of cyber risk insurance at Aon Risk Solutions.

Even though it is not explicit in the TRIA law, indications are that it would provide coverage in the event of a catastrophic cyber attack, Mr. Kalinich said.

“I think if the United States suffered the digital equivalent of a 9/11, then we will be rethinking this country’s vulnerability and how to manage it from scratch,” Robert Hartwig, president of the New York-based Insurance Information Institute said.

“At that point, everything would be on the table, and the federal government may wish to enlist the private insurance sector in a more robust way, and may seek to incentivize it to protect business against future such attacks.”

President Barack Obama signed the law Jan. 12 extending the federal terrorism backstop until Dec. 31, 2020.

By Judy Greenwald and Sarah Veysey

Cyber property risks ripe with opportunity, fraught with uncertainty

BY JUDY GREENWALD

More insurers are covering the “Internet of things,” or damage to property created by cyber breaches and other issues that fall between traditional property and cyber coverage.

While just a handful do so far, they include American International Group Inc., which last year introduced CyberEdge, enhanced cyber coverage that addresses gaps in property, casualty and other insurance where cyber-related exposures may be limited or even excluded.

There is about \$300 to \$350 million in capacity for such coverage, said Peter Foster, New York-based senior vice president of network security and privacy, media, tech professional and intellectual property at Willis North America Inc.

“It’s fairly new, and it’s looking to close that gap” between business interruption coverage under a property form and cyber policies, he said.

Not many insurers have entered the market so far, said Kevin Kalinich, Chicago-based global practice leader of cyber risk solutions at Aon Risk Solutions, which has been involved in this area. The market is developing slowly because many insurers separate their property, cyber and crime business, he said.

“We’ve had to break down the barriers” of this siloed approach. There is a need for such coverage when malware causes property damage, such as a remote-control truck hitting and injuring someone, Mr. Kalinich said.

Lacking 20 years of data on automated systems is another factor “that makes (insurers) a little bit hesitant if they have to take a leap of faith and use the best modeling they can” said Mr. Kalinich.

The market is developing, said Emily Freeman, Lockton Cos. L.L.C.’s San Francisco-based risk management cyber and professional liability specialist for the broker’s global technology and privacy practice.

“I see that insurance is becoming more relevant to the large operational risks raised” by data breaches and computer networks, she said.

Insurers are moving toward covering cyber-related damage in the energy delivery and utility industries, which is somewhat unique in that there is not a “neat delineation” between the physical and the nonphysical, said J. Andrew Moss, a partner at Reed Smith

L.L.P. in Chicago.

For example, he said, damage to an electrical utility’s cyber system can lead to a fire.

“Traditional cyber liability coverage usually stops at the physical world. It’s really designed to respond to risks in the intangible world,” Mr. Moss said.

Tracie Grella, New York-based head of professional liability of global financial lines, said AIG has not yet bound a CyberEdge policy, although it is “just about ready to.”

The insurer offers \$100 million in capacity.

“We’ve had a lot of interest from clients, and quite a few submissions, but it’s a very new way to look at things.” It “takes time for clients to get an understanding of what they currently have in place,” Ms. Grella said.

Laila Khudairi, London-based underwriter at the Tokio Marine Kiln Group Ltd., said the insurer offers \$25 million in cyber-related damage coverage, with the deductible varying based on the client.

“The demand is increasing, but it’s still relatively low because at times the property insurers will include the coverage,” she said of the coverage offered for about two years, primarily to utilities.

Rick Welsh, London-based head of cyber insurance at Aegis London, the U.K.-based subsidiary of energy industry mutual insurer Associated Electric & Gas Insurance Services Ltd., said Aegis also offers difference-in-conditions coverage for cyber-related property damage and has \$50 million in capacity.

“It may be easier to address that exposure through some existing platforms as opposed to introducing a new product,” said John Coletti, New York based head of XL Group P.L.C.’s North American cyber and technology business.

“I think that’s something that can be dealt with in a general liability offering, and even the existing cyber policies could be expanded, or language could be introduced on those policies to pick up Internet of things exposures,” Mr. Coletti said. “I don’t see the need for a separate stand-alone policy.”

The need for a separate policy depends upon whether other types of coverage exclude cyber-related damage, said Timothy C. Francis, second vice president at Travelers Bond & Financial Products in Hartford, Connecticut.

Industry conversations on the topic are just beginning, he said.

MARKET

Continued from previous page

categorization,” he said.

Insurers “that were out on the edges already, and only played in the excess market, are starting to decide they don’t want to deal with it,” said Michael Born, Kansas City, Missouri-based vice president of the global technology and privacy practice at Lockton Cos. L.L.C.

Insurers are paying more attention to the exposure of their overall book of business rather than individual accounts, Travelers’ Mr. Francis said.

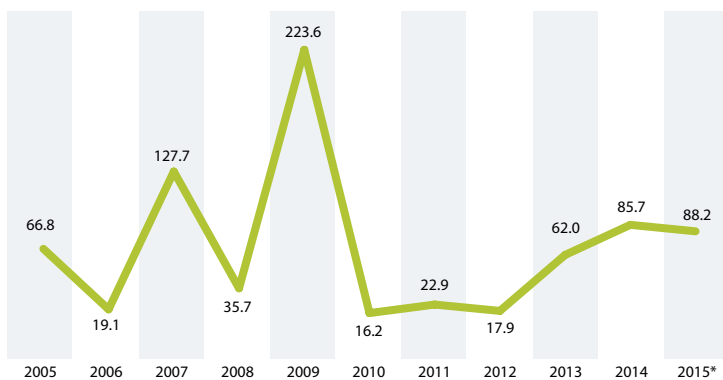
“We are closely watching aggregation exposures and price adequacy on national accounts,” Kurtis Suhs, Atlanta-based vice president of technology insurer Ironshore Insurance Services L.L.C. said in a statement.

Kristy Harris, Dallas-based manager of corporate insurance at Southwest Airlines Co., said she expects retailers that rely on credit-card machines for payment “are going to have a harder time getting the limits” they seek.

While the airline processes only a limited number of payments via credit-card machines, “it’s a very unknown space now,” Ms. Harris said.

Experts say the large retail seg-

U.S. DATA RECORDS EXPOSED, IN MILLIONS



*As of Feb. 18

Note: 40% of the data for the breaches does not show records exposed.

Source: Identity Theft Resource Center

ment has had the most capacity withdrawn and what remains could see double-digit price increases.

Peter Foster, New York-based senior vice president, network security and privacy, media, tech professional and intellectual property at Willis North America Inc., said, “Large retailers are seeing some strong pushback from underwriters. A few underwriters will not write retail now,” especially retailers with multibillion-dollar annual revenue; other underwriters are reducing capacity, increasing their retentions and/or premiums.

“If you’re buying, let’s say, \$100 million in coverage, it may take a couple more (insurers) to add

that \$100 million up,” Travelers’ Mr. Francis said.

Mr. Foster said many financial institutions have gotten more capacity, such as moving from \$200 million to \$500 million in limits, in exchange for higher retentions, such as moving from \$50 million or \$100 million.

And while the Anthem data breach affecting 80 million people is massive, its effect on the cyber insurance market is not yet clear, said Marc S. Voses, a partner at Kaufman Dolowich Voluck L.L.P. in New York.

While it will increase health care company demand for the coverage, “there are too many variables” to determine its effect on rates, he said.

Increased cyber losses means more claims disputes

Most litigation centers on CGL policies but that's not expected to last

BY DOUGLAS McLEOD

Litigation over cyber claims so far has centered on general liability policies, but fights over network security and privacy liability policies are expected to grow.

Coverage disputes involving cyber policies have already arisen without reaching the courts over issues such as policyholders' choice of outside advisers, application of policy retroactive dates and exclusions for malicious employee actions, experts say.

"Within the next two years, we are definitely going to see reported decisions" in cyber insurance coverage cases where policies don't include arbitration clauses, said Roberta D. Anderson, a partner at law firm K&L Gates L.L.P. in Pittsburgh.

"There's been a lot of negotiating behind the scenes on cyber claims," often leading to confidential settlements, said Joshua Gold, a shareholder at Anderson Kill P.C. in New York.

Risk managers need to work with expert advisers on the terms of cyber insurance, which vary considerably from insurer to insurer, to head off potential disputes, lawyers and brokers recommend.

Companies seeking coverage for data breaches under general liability policies often have turned to the personal and advertising injury part of the forms, and disputes have centered on whether a breach constitutes a "publication" that violated a right to privacy.

Buyers have had mixed success in court.

For example, a Connecticut appeals court ruled in 2013 that Atlanta-based Recall Total Information Management Inc. had no GL coverage for more than \$6 million in costs from lost data tapes containing personal information of 500,000 employees of International Business Machines Corp. There was no evidence a third party accessed the data, so there was no "publication" under the policy terms, a judge ruled.

A New York state judge created a new hurdle last year, ruling that Sony Corp. had no GL coverage in the massive 2011 PlayStation hack. The hackers were responsible for publishing PlayStation users' stolen information, and only intentional acts by Sony would have triggered coverage, the judge found. Sony is appealing.

Buyers' odds of finding GL coverage for data breaches may soon get worse.

More insurers are adopting the Insurance Services Office's May 2014 cyber exclusions for GL policies, market experts said. Another less-noticed April 2013 ISO

endorsement drops personal and advertising coverage for "oral or written publication, in any manner, of material that violates a person's right of privacy."

Ms. Anderson said the GL form endorsement means "lights-out for data breach coverage."

Cyber insurers, meanwhile, have already paid some large claims.

Target Corp. expects to recover

\$90 million from cyber insurers, partially offsetting \$248 million in expenses in the 2013 hacker attack affecting personal and credit card data of 70 million customers, the retailer said in its most recent quarterly SEC filing. Minneapolis-based Target said it had already received \$28 million from insurers. Target's cyber insurers include Ace Ltd., American International

Group Inc. and Axis Capital Holdings (BI, Jan. 20, 2014).

In its third-quarter filing, The Home Depot Inc. said it had a \$15 million cyber insurance receivable, partially offsetting \$43 million in pretax expenses in a 2014 breach exposing some 56 million customer payment cards. Atlanta-based Home Depot has \$100 million in cyber coverage above a \$7.5 mil-

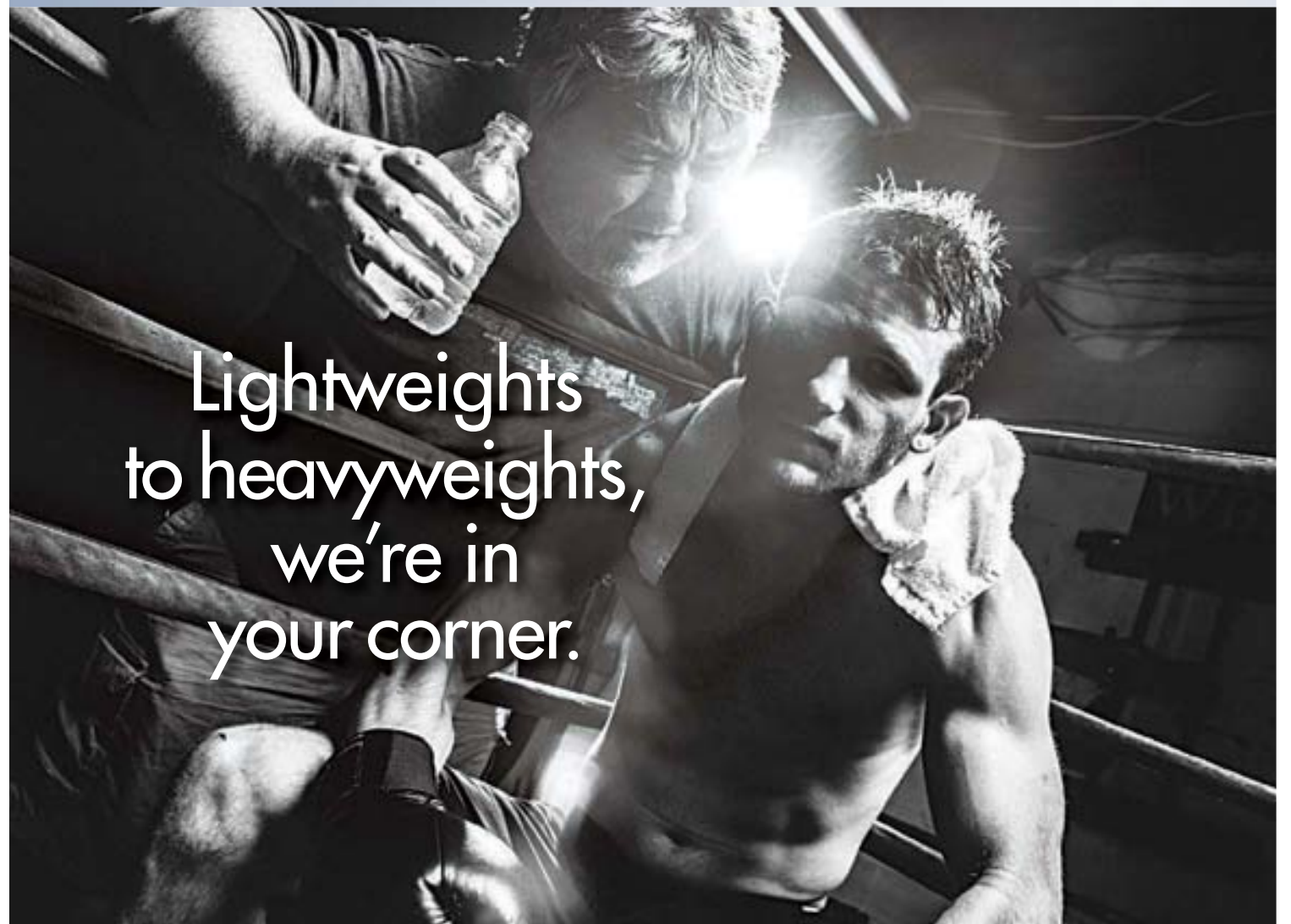
lion deductible, according to the filing. Home Depot's cyber insurers include AIG, Zurich Insurance Group Ltd., Liberty Mutual Insurance Co. and HCC Insurance Holdings Inc. (BI, Sept. 15, 2014).

Cyber insurers generally have been responsive to losses, brokers and others say.

See **CLAIMS** next page

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Risk managers, tech security teams can create formidable cyber defense

Grappling with new exposures offers chance for career development

BY DOUGLAS McLEOD

The crisis in cyber security gives risk managers a chance to shine.

As many organizations struggle to manage growing cyber risks, risk managers can take larger roles in cyber security issues than they have in the past.

Beyond buying cyber insurance to pay for breach-related costs, risk managers can do several other things to help prevent and respond to data breaches, experts say. These range from partnering with information technology, legal and other departments in their organizations to helping to keep corporate boards informed and taking part in emergency response planning.

“Risk managers and chief risk officers should become highly engaged,” said Grace Crickette, chief risk officer for AAA Northern California, Nevada and Utah in Emeryville, Ca. “There’s a huge opportunity for risk managers to participate with IT security teams.”

A decade ago, information technology departments and risk managers often engaged in turf battles over risk assessments and the need for cyber insurance, with information technology specialists often arguing that money devoted to insurance would be better spent on technological defenses.

“Anybody who says that (today) is probably going to get a serious stare-down from the C-suite,” said Richard Betterley, president of Betterley Risk Consultants Inc. in Sterling, Mass.

“That’s a trend that’s significantly reversed,” agreed Emily Cum-

pling with the best ways of dealing with cyber threats.

Despite greater concerns about the exposure among board members and top executives, risk management efforts in some ways actually flagged last year, an August 2014 Advisen Ltd. survey of 507 risk managers found.

Only 62% of the respondents were certain their companies had data breach response plans in place, according to New York-based Advisen and Zurich North America, which sponsored the study. The number of companies with multi-department information security risk management teams continued to drop, hitting 52% of respondents last year from 56% in 2013 and 61% in 2012.

And information technology was overwhelmingly reported as the department primarily responsible for cyber security risk management, cited by 69% of respondents, with the risk management department a distant second at 11%.

Still, risk managers can become a key part of their organizations’ teams that tackle cyber risk.

The process of buying cyber insurance itself can enhance risk managers’ role, for example. Underwriters typically require a range information from information technology, human resources, legal and other departments, and those departments have to work with risk management to

provide it.

“It’s going to facilitate internal communication,” Mr. O’Donnell said.

Loss prevention and other services provided by insurers — such as table-top emergency response exercises — also come via the risk manager, added Robert A. Parisi Jr., cyber risk product leader with Marsh USA in New York.

“Cyber hits across everything a company does,” Mr. Parisi said. “We’ve seen cyber insurance in many cases raise the profile of the risk manager.”

Risk managers should be working with information technology and other departments to develop a company’s incident response plan and be part of the team that implements that plan in case of a breach, Ms. Crickette said.

They also should be part of a team that develops the company’s security risk management program based on information technology security standards such as those in the International Organization for Standardization’s ISO 27000 series, she said. A risk assessment using those standards should cover about a dozen areas of concern, including data access controls, physical security of servers and other hardware, policy and governance and employee training, she said.

Making sure that workers and third-party vendors are trained on data security measures is key,

NRA’s Ms. Cummins said, since unintentional employee errors are a major cause of data breaches.

“Training individual employees and contractors is the best thing you can do to contain and mitigate your risk,” she said.

To better understand the cyber security landscape, Ms. Crickette also advised joining, or at least engaging with, various organizations that deal with the issues. These could include the Information Systems Audit and Control Association, based in Rolling Meadows, Illinois; the Washington-based National Association of Corporate Directors; and EC-Council USA, based in Albuquerque, New Mexico, which offers professional certification and programs for chief information security officers.

Risk managers also need to make the effort to become advisors to corporate board committees dealing with cyber security, experts say.

Many risk managers already deal directly with boards, helping outline the scope of the risk and explaining what’s being done to protect the company, including not just insurance but also risk management processes and breach response plans, Mr. O’Donnell said.

“Risk managers play a key role in dealing with the board and getting the company ready,” Ms. Cummins said.

CLAIMS

Continued from previous page

“Carriers in the cyber insurance space do not want to have a reputation of not paying claims,” said Scott N. Godes, a partner at Barnes & Thornburg L.L.P. in Washington.

Still, coverage disputes have arisen under cyber liability policies, and more are likely in the future as the coverage becomes more common, experts say.

One issue so far has been choice of outside counsel and providers of breach recovery, credit monitoring and other services, said Lon A. Berk, a partner at Hunton & Williams L.L.P. in McLean, Virginia.

“There’s been a good deal of pressure from insurance companies to use vendors and attorneys chosen by the insurers, which is not always in the policyholder’s best interest,” he said.

Buyers who already have quali-

fied lawyers and providers should reach agreement in advance on using them.

“It’s always easier to have that conversation before the breach than to have it under the gun afterwards,” said David Finz, senior client adviser at Marsh L.L.C.’s FINPRO division in New York.

Retroactive periods

Another problem area is retroactive inception dates. Ms. Anderson cited a study last year by Alexandria, Virginia-based security firm Mandiant, a FireEye Co., that hackers were present on victim networks for a median 229 days before being discovered. Insurers are denying coverage for attacks occurring before the policy inception date where there was no retroactive coverage, Ms. Anderson said.

Mr. Berk said he has seen retroactive periods of up to five years when a policyholder has been with the same insurer for some time.

Many cyber policies contain conduct exclusions, eliminating coverage for “dishonest acts or omissions” of an insured and its employees, Ms. Anderson said. Because malicious employee acts frequently cause cyber claims, companies should seek to limit the exclusion to a defined group of high-level employees, she said. Insurers have denied coverage or reserved rights on the basis of the exclusion, she said.

Breach victims also may face disputes over the cost of fixes to software and systems in the wake of an attack, Mr. Berk said.

The fact that there is no standard cyber insurance form means buyers, brokers and insurers need to work harder to clarify the intended meaning of policy terms, said Adam Cantor, senior vp and claims advocate with the FINEX division of Willis North America in New York.

Cyber policies are not as “mature” as CGL and other forms that have been around longer, he said.

DATA BREACH CASES

To date, insurance-related litigation resulting from data breaches has involved primarily commercial general liability policies.

PENDING

■ *Zurich American Insurance Co. v. Sony America Corp.*
Breach: 77 million PlayStation user accounts, 2011
Policy: CGL
Status: New York court finds Sony did not cause breach and has no coverage, which Sony is appealing

■ *Travelers Insurance Co. v. P.F. Chang’s China Bistro Inc.*
Breach: 7 million customer payment card numbers, 2014
Policy: CGL
Status: Declaratory action pending

RESOLVED

■ *Safety National Casualty Corp. v. Michaels Stores Inc.*
Breach: 2.6 million customer payment card numbers, 2013-2014
Policy: CGL
Status: Declaratory action withdrawn after underlying class actions dismissed, 2014

■ *State National Insurance Co. v. Global Payments Inc.*
Breach: 1.5 million payment card numbers, 2012
Policy: Technology E&O
Status: Confidential settlement, 2014

■ *Recall Total Information Management Inc. v. Federal Insurance Co.*
Breach: Personal information of 500,000 IBM employees, 2007
Policy: CGL
Status: Connecticut appellate court in 2014 ruled there was not “publication” and no coverage for Recall

■ *Arch Insurance Co. v. Michaels Stores Inc.*
Breach: 94,000 customer payment card numbers, 2011
Policy: CGL
Status: Confidential settlement, 2013

Sources: Court filings; DataLossDB.org

TOP BUSINESS RISKS

Global concern for cyber risk increased in 2015, positioning cyber among the top five most important business risks.

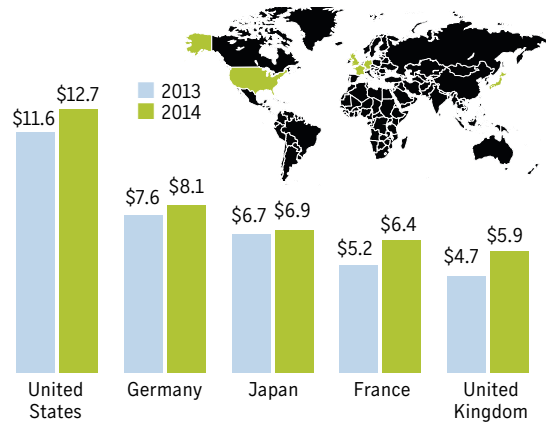
2015 rank	Business risk	% concerned, 2015	2014 rank	% concerned, 2014	Trend
1	Business interruption and supply chain	46%	1	43%	No change
2	Natural catastrophes	30%	2	33%	No change
3	Fire/explosion	27%	3	24%	No change
4	Changes in legislation and regulation	18%	4	21%	No change
5	Cyber crime, IT failures, espionage, data breaches	17%	8	12%	Increase
6	Loss of reputation or brand value	16%	6	15%	No change
7	Market stagnation or decline	15%	5	19%	Decrease
8	Intensified competition	13%	7	14%	Decrease
9	Political/social upheaval, war	11%	18	4%	Increase
10	Theft, fraud, corruption	9%	9	10%	Decrease

Note: Survey participants were asked to name up to three risks they believed to be the most important/most concerning from a business perspective.

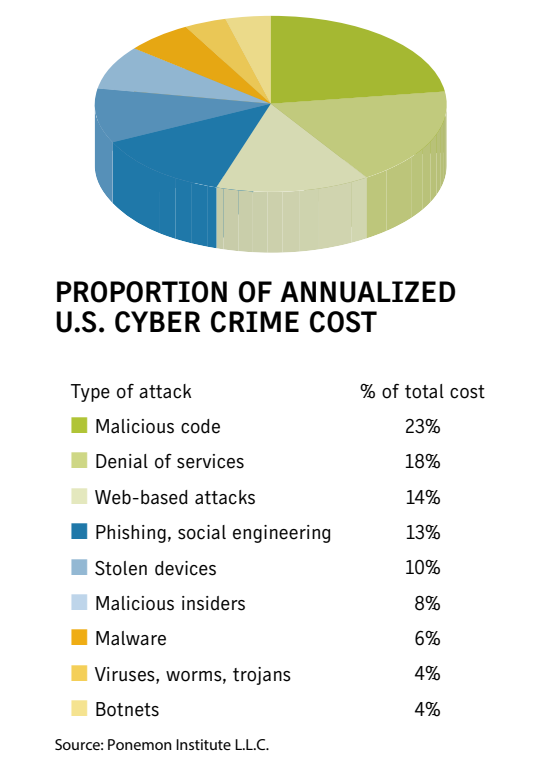
Source: Allianz Global Corporate & Specialty S.E.

CYBER CRIME BY COUNTRY

The total cost of cyber crime, in millions of dollars, increased between 2013 and 2014 for the five developed countries listed. Of those countries, the United States had the highest total cost of cyber crime.



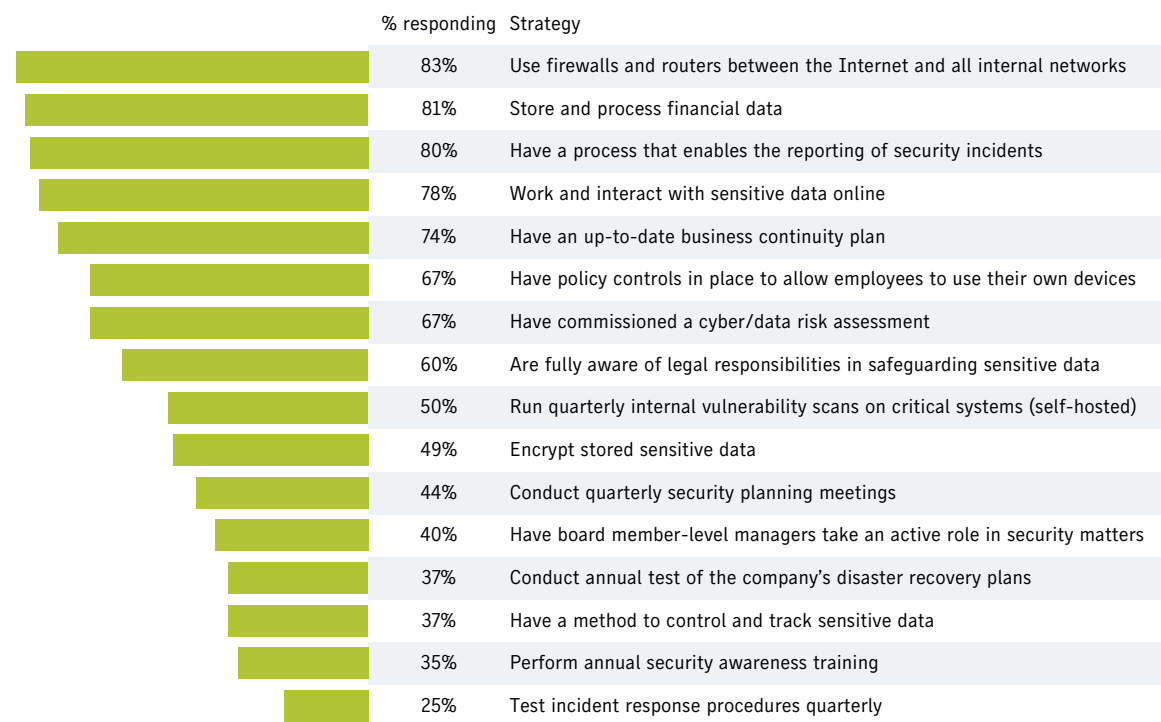
Source: Ponemon Institute L.L.C.



Source: Ponemon Institute L.L.C.

CYBER RISK MITIGATION STRATEGIES

The methods businesses worldwide use to protect themselves from cyber security risks



Source: Trustwave Holdings Inc.

GREATEST CYBER CONCERNS

Loss of reputation and loss of valuable data are key concerns.

Which cyber risks are the main cause of economic loss?	
Loss of reputation	61%
Business interruption	49%
Loss of customer data	45%
Which cyber risks do companies fear most?	
Data theft and manipulation	64%
Loss of reputation	48%
Increased threat of persistent hacking	44%
What is preventing companies from being better prepared against cyber risks?	
Risk is underestimated	73%
Budget constraints	59%
Haven't analyzed the problem	54%

Source: Allianz Global Corporate & Specialty S.E.

Warranties cover for deals worth up to \$50 million

New York-based managing general underwriter Ambridge Partners L.L.C. has formed a team to focus on underwriting for small to medium-sized business transactions worth up to \$50 million.

The team, led by New York-based Jack Sinchak, will primarily offer representations and warranties insurance, which provides protection against a breach or inaccuracy in the representations or warranties made during a business deal, Ambridge Partners said in a statement.

The policy offers limits of more than \$120 million, and the lead insurer is Lloyd's of London syndicate 4711, managed by Aspen Insurance Holdings Ltd., an Ambridge Partners spokesman said.

Artex captive facility covers pension risks

Artex Risk Solutions Inc. has announced the launch of Iccaria, a captive facility for midsize and large pension funds' longevity risks.

Domiciled in Guernsey and developed through a partnership with PricewaterhouseCoopers L.L.P., Iccaria is designed to provide a cost-effective risk transfer solution for pension funds with as little as £250 million (\$381.1 million) in liabilities, Artex said in a statement.

Additionally, the Itasca, Illinois-based captive insurance and alternative risk financing firm said employers that elect to use the Iccaria facility can select their own administrative services providers to oversee the arrangements.

Paul Eaton, Artex's new business director in Guernsey, said in a statement that Iccaria was designed specifically to meet the pension longevity risk transfer needs of midsize pension plans.

BKS Partners to offer asset, income protection

Baldwin Krystyn Sherman Partners L.L.C. has launched a division that will work with businesses and entrepreneurs to design, procure and implement advanced life insurance and disability insurance for protection from loss of income and assets, the insurance brokerage said in a statement.

The BKS Partners asset and income protection business segment will design programs that respond to expected and unexpected events to ensure a client's liquidity needs are met, business operations continue without interruption, personal and business assets are transitioned efficiently, and the impact of estate and business taxes are minimized, according to the statement.

For businesses, BKS will design an approach to maintain operations in the event of an anticipated or unanticipated departure of a key person, the statement said. The asset and income protection division will offer insurance solutions for the continuity of operations, including key person coverage, funding buy/sell agreements, funding collateralization of business loans and offering disability protection.



Weight Watchers, Humana team to curtail obesity

***** Humana Inc. has partnered with Weight Watchers International Inc. to target employee obesity by providing weight management services to employees insured through Humana's health care plans.

The program integrates Weight Watchers into Humana's medical and wellness programs, providing Humana members with the weight-loss program at no cost for the first six months, then at a discounted price after that, Louisville, Kentucky-based Humana said in a statement.

Participants will be connected to Weight Watchers through Humana's disease management programs, health coaches, personal nurses, customer service department and the Humana Vitality rewards program.

Humana also said employees can opt to participate in Weight Watchers online or attend meetings for in-person support from a coach and peers.

"We want to help employers find effective ways to battle obesity, improve the overall wellness of their employees and create healthy communities," Beth Bierbower, president of Humana's employer group segment, said in the statement. "With that in mind, partnering with Weight Watchers just made sense — it allows us to connect our members with a leading weight loss program so that they can better navigate their wellness journeys."

Axa benefits unit to target smaller firms

French insurer Axa S.A. will launch a U.S.-based employee benefits business later this year to serve small and midsize companies.

Based in New York, the new business unit will offer a suite of insured benefit products including group life, dental, vision, short- and long-term disability, gap medical, hospital indemnity and critical illness coverage through two of Axa's U.S. subsidiaries, Axa Equitable Life Insurance Co. and Mony Life Insurance Co. of America.

In a statement, Axa said the new benefits business will focus on small and midsize clients with 20 to 500 full-time

employees, a segment the company thinks has been underserved through the employee benefits marketplace's transformation following the enactment of health care reform in the U.S.

Axa said it is planning a midyear roll-out for the products.

Swiss Re opening South Africa office

Swiss Re Corporate Solutions Ltd.'s South Africa subsidiary is now licensed as a financial services provider and is expected to begin operations during the second quarter.

Swiss Re Corporate Solutions Advisors South Africa Pty Ltd., based in Johannesburg, will provide commercial insurance services focusing on property, mining and engineering risks to midsize and large customers, according to a statement. Products for the agriculture and energy industries will also be offered, the insurer said.

The South Africa operation will bind insurance through Guardrisk Insurance Co. Ltd., a Johannesburg-based insurer, according to the statement.

Ullico expands fiduciary liability capacity

Managing general agent Ullico Casualty Group Inc., a unit of union-owned insurance company Ullico Inc., has increased its multiemployer fiduciary liability insurance capacity to \$25 million, up from \$15 million.

Washington-based Ullico Casualty will provide limits of up to \$15 million on the fiduciary liability primary form, and up to \$10 million of excess coverage.

The coverage is provided by Alterra America Insurance Co., a subsidiary of Glen Allen, Virginia-based Markel Corp.

In a statement, Ullico said the coverage includes a duty to defend policy form with the policyholder's right to select counsel, broad definitions of "insured" and "wrongful act," and coverage for fiduciary exposures.

Coverys launching excess underwriter

Medical professional liability insurer Coverys has formed an excess and surplus lines underwriting company, the Boston-based firm said.

Coverys Specialty Insurance Co., which will be domiciled in New Jersey, will provide tailored excess and surplus coverage for unique or hard-to-place risks, the company said in its statement.

It will be accessible through select agents and brokers, said the company, which could not be reached for comment on how much capacity it will offer.

Coverys said the new insurer will provide customers with flexible speed-to-market insurance coverage that addresses emerging health care delivery exposures and trends, as well as provide coverage for health care facilities with unique risk profiles that seek insurance not typically available in the traditional insurance market.

DEALS & MOVES

Willis buys 49% stake in Indian brokerage Almondz

Willis Group Holdings P.L.C. has agreed to buy a 49% stake in New Delhi-based insurance brokerage Almondz Insurance Brokers Private Ltd.

Terms of the deal were not disclosed.

Placing both insurance and reinsurance, Almondz operates in nine offices across India and employs about 300 people, Willis said in a statement.

The transaction follows recent legislative changes in India that increased the foreign direct investment cap in the insurance sector to 49% from 26%.

Integro acquires niche California E&O broker

New York-based Integro Ltd. has acquired Mission Viejo, California-based insurance brokerage E&O Professional Risk Management and Insurance Services L.L.C.

Terms of the deal were not disclosed.

E&O Pros specializes in niche segments of the errors and omissions market, such as broker and dealer, investment adviser, insurance agent and real estate errors and omissions, Integro said in a statement.

E&O Pros will operate out of Integro's office in Newport Beach, California, according to the statement.

JLT sells minority stake in Paris brokerage to Ardian

Jardine Lloyd Thompson Group P.L.C. has agreed to sell its 26.2% stake in Milestone, the holding company of Paris-based brokerage Siaci St. Honoré, to Paris-based private investment company Ardian.

The deal will net JLT an exceptional gain of £21 million (\$32.0 million) in 2015, with net proceeds of £82.1 million (\$125.2 million) payable in cash and used to repay debt, London-based JLT said in a statement.

The deal, subject to the signing of a definitive agreement and authoritative approval, is expected to close in April, JLT said.

According to the statement, Milestone's pretax profit in the year ended Dec. 31, 2013, was £24 million (\$36.6 million), and it contributed £5 million (\$7.6 million) to JLT.

Technology analytics firm focuses on insider threats

Analytics firm LemonFish Technologies L.L.C. will provide businesses with services to detect threats from insiders.

Its technology integrates disparate data sources with identity comparison and graph analytics capabilities to detect fraud, intellectual property theft, cyber security incidents and workplace violence, Reston, Virginia-based LemonFish said in a statement.

"Most companies conduct due diligence on companies and people before doing business with them, but the real risk is when they have access to your facilities, people and your intellectual property," LemonFish CEO and co-founder Thom Ottoson, a former technical director in the Office of the Director of National Intelligence, said in the statement.

LemonFish is backed by private equity firm L.L.R. Partners Inc.

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PUBLIC NOTICES

Reach the A-list



DIRECTORIES BUSINESS INSURANCE

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LLOYD'S

Continued from page 1

strength rating, as well as a strong network of international licenses, including ones in high-growth markets such as China and Brazil, and an efficient capital structure.

"The Lloyd's market has proven very attractive to international insurance groups and also private equity" buyers, said Catherine Thomas, London-based director of analytics at A.M. Best Co. Inc. and head of the rating agency's London team.

Larger deals often are done to achieve synergies and cost savings that eventually pull through to pricing for the customer, said Alessandro Santoni, New York-based director of property/casualty mergers and acquisitions at Towers Watson & Co.

To that end, Catlin was the largest single managing general agent at Lloyd's, as measured by gross written premiums.

Meanwhile, Fairfax Chairman and CEO Prem Watsa, a value investor who models himself after Warren Buffett, has been expanding Canadian Fairfax's footprint in Europe, recently inking deals to buy much of QBE Insurance Group's assets in Eastern Europe. Brit gives Fairfax a London specialty underwriter in a diverse group of industries,

including marine, energy and equestrian.

"Like the Catlin-XL transaction, the deal rationale underpinning the ... sale of Brit to Fairfax is one of increased scale, a broadened product offering, adding Brit's complementary specialty business to Fairfax's portfolio and of increased relevance with brokers," Jonny Urwin, London-based analyst with UBS A.G., said in an investor note.

ly viable carrier or partner with enhanced capabilities. This has got to be good news for our clients," said Donald Bailey, New York-based president of global sales at Marsh L.L.C.

"It's clear now that probably just being a really good underwriter is not enough; you do need scale, portfolio diversity and distribution diversity," Mr. Bailey said.

Like Ms. Thomas, Mr. Bailey also sees deals involving the London

during a media call last week to discuss the company's results.

Fairfax and Mr. Watsa are known to operate at arm's length from acquired companies.

"They tend to buy the entity and let it run itself, so overall I would expect not a lot of changes with respect to the way that Brit is managed. That's the way he's done it in the past," said Brian Schneider, Chicago-based senior director of insurance at Fitch Ratings Inc.

through further consolidation.

"I'm certain there will be" more deals, Mr. Bailey said. "The volume and magnitude of those transactions is an open issue."

For her part, Ms. Thomas said: "What we have been observing over the past few years is some dynamics in the specialist property and casualty sector changing, and we see that as encouraging merger and acquisition activity in the London market."



AP PHOTO

PREM WATSA'S FINANCIAL SERVICES EMPIRE

Since the 1980s, the founder, president and CEO of Fairfax Financial Holdings Ltd. has built a global financial services and insurance empire of 18 companies. Key insurers held by Fairfax, according to Fitch Ratings Inc., are:

Company	Year purchased	Coverage provided	2013 net written premiums
Odyssey Re Holdings Corp., Stamford, Connecticut	1996 ¹	Reinsurance	\$2.38 billion
Brit P.L.C., London	2015	Insurance, London market, Lloyd's platform	\$1.57 billion ²
Crum & Forster, Morristown, New Jersey	1998	Insurance, U.S.	\$1.23 billion
Northbridge Financial Corp., Toronto	2003 ³	Insurance, Canada	\$1.20 billion
Zenith National Insurance Corp., Woodland Hills, California	2010	Insurance, U.S.	\$691.0 million

1 Purchased Skandia America Reinsurance Corp. in 1996, later renamed OdysseyRe. IPO launched in 2001. Taken private in 2009. 2 Net earned premiums. 3 IPO launched in 2003. Taken private in 2009.

Brokers assembling smaller panels in the London subscription market also have driven insurers to get stronger by combining. "The size of a company's balance sheet is being seen as a way to strengthen their negotiating position with brokers," Ms. Thomas said.

Brokers also see benefits in having larger, better capitalized trading partners capable of offering greater insurance line size and expertise.

"What you are actually doing, hopefully, through these transactions is creating a more financial-

market driven in part by customer demand.

"Our clients are looking for long-term, viable partnerships," he said. "These transactions tend to represent more of a step in that direction. This should be the very basis of these transactions."

Brit management also sees advantages for the clients of the London marketplace.

"We believe we should be able to expand our distribution and the ability of customers to access our specialty Lloyd's products," Mr. Cloutier, Group CEO of Brit, said

One change could be less business conducted through Lloyd's, Fitch London analysts Anna Bender and Martyn Street said in an investor note.

"For transactions involving one or more Lloyd's players, the greater scale of the merged entities could make it more attractive for groups to underwrite directly through their own brand," according to the Fitch investor note.

No matter the outcomes from the spate of recent deals, experts expect the evolution of the London market to continue, in part



HEAR INTERVIEW

Access Business Insurance's interactive digital edition

to hear Donald Bailey, president, global sales for Marsh L.L.C., discuss consolidation in the insurance and reinsurance sectors with Business Insurance Associate Editor Matthew Lerner.

FOOD

Continued from page 3

other manufacturing industries. The food processing industry's injury rate was 5.0 injuries per 100 full-time workers in 2013, the latest data available from the U.S. Bureau of Labor Statistics, vs. 4.3 for the U.S. manufacturing sector as a whole.

Paul W. Pressley, Tucker, Georgia-based executive vice president of industry programs at the U.S. Poultry & Egg Association, cited Occupational Safety and Health Administration data showing that poultry processors have roughly halved their illness and injury rate over the past decade.

"In the early 1980s, I started as a safety manger (at a poultry processing plant) and then worked as a director of risk management and insurance, so I've seen an awful lot of workers compensation claims," Mr. Pressley said. "There was a long learning curve, but it has been remarkable to see the change in the processing plants themselves ... We've gone from a slaughterhouse mentality to food processing mentality."

"Safety managers used to walk the factory floor and look for violations, but we don't much anymore," Kraft's Mr. Wengert said.

FOOD PRODUCTION TOUGH TO AUTOMATE

Unlike many other manufacturing processes, food processing does not always lend itself well to automation.

For example, while car and computer parts come in standardized sizes, the variation in raw materials used in food production, such as chickens, can thwart attempts to automate.

Nonetheless, strides are being made in automating many food production processes and gathering data to improve ergonomic conditions in manual ones, said Sim Harbert, Atlanta-based senior research engineer at the food processing technology division of Georgia Tech

Research Institute.

While Georgia Tech researchers are trying to develop robots that use 3-D imaging and sophisticated sensor-based cutting technology to debone poultry, the more immediate use is capturing motion data to better design tools and to train poultry workers.

"As we go forward with our research, some of the sensor technology is really coming down in price," Mr. Harbert said. "We are looking at ways of changing the environment or training workers based on objective measures of what they are doing."

By Bill Kenealy

"Back then, the mindset was more about meeting OSHA's regulatory requirements, but now the general perception is that there is a huge disconnect between regulatory compliance and actual injury prevention."

Food processors can make workers safer by investing in ergonomics, said Woody Dwyer,

Hartford, Connecticut-based second vice president of workers compensation and risk control at Travelers Cos. Inc. Such ergonomically driven changes also can help improve worker productivity and food quality, Mr. Dwyer said.

"We can show companies that if you make these engineering changes, there is a good return on

investment," he said.

Rather than re-engineering existing facilities and processes, Mr. Wengert said, "It's so much easier and cheaper for organizations to design safety into new organizations and new processes."

Mr. Pressley said poultry producers have leveraged automation to increase worker safety as well as efficiency. While processes such as killing, gutting and cutting poultry once were performed by "people standing shoulder to shoulder on processing lines with sharp knives," the work now is largely automated, he said.

"Pretty much the last manual labor-intensive process is deboning, and that's because the technology hasn't caught up with us yet," he said.

"When we talk about injuries from food preparation, strains and sprains are the loss leaders," Mr. Dwyer said. "You often have heavy raw materials going into the process, which can create risk."

Donald A. Wilson, Kansas City, Missouri-based vice president and senior loss control consultant at Lockton Cos. L.L.C., said reducing the weight of packages can reduce the frequency and severity of manual material handling injuries.

"As an industry, we are also seeing a reduction in case size," Mr. Wilson said. "Years ago, it was not uncommon to see packaging in

weights of excess of 50 pounds, but I now see case sizes reducing to below 35 pounds."

Mr. Pressley said poultry producers are widely using ergonomic principles to refine protective gear, work stations and tools such as knives and scissors. The industry also is investing in better medical tracking of injuries and emphasizing exercise and wellness programs.

"It's been a slow process, but we've seen steady improvement," he said.

Many best practices that have helped large businesses improve their safety are applicable elsewhere, said Doug Miller, Rochester, New York-based president of Occupational Safety Consultants Inc.

In addition to establishing better engineering controls for machinery and providing workers with personal protective equipment, safety managers should stress job rotation and training to keep workers safe, Mr. Miller said.

The need for education is especially essential in restaurant kitchens, where workers often receive limited training and face language barriers, he said.

"You can have young, inexperienced workers cutting themselves with knives," he said. "However, with enough training, there is no hazard that cannot be corrected."

year of \$3,350 for single coverage and \$6,650 for family coverage, to the HSAs to pay uncovered health care expenses.

But in its notice last week laying out “potential” approaches in its future regulations dealing with the excise tax and seeking comment, the IRS said employees’ pretax contributions to HSAs will be included to determine if the total plan cost will trigger the excise tax.

“Treasury and IRS anticipate that future proposed regulations will provide that employer contributions to HSAs” will be included in plan calculation costs, and employees’ pretax salary reductions would be “treated as employer contributions” for plan cost calculations.

While the IRS’ intent is not a surprise, there had been some hope it might take a different approach. That is because the Patient Protection and Affordable Care Act does not explicitly say that employees’ pretax contributions to HSAs are to be included in calculating plan costs.

Instead, the law refers to only employer contributions, leading some to believe that pretax contributions might be excluded.

“It was hoped that employees’ pretax contributions would not be treated this way,” said Rich Stover, a principal at Buck Consultants at Xerox in Secaucus, New Jersey.

If the IRS does adopt rules

IRS SEEKS INPUT ON SPECIFIC SERVICES, CERTAIN EXCEPTIONAL EMPLOYEE GROUPS

In its notice about upcoming rules to implement the “Cadillac” tax on high-cost health plans in 2018, the IRS laid out its thinking related to several areas of the health care reform law’s excise tax.

They include:

Employer on-site medical clinics: On-site clinics that provide only minor services would not be considered group plans and would be excluded in excise tax calculations. But the IRS wants comments on whether on-site clinics that provide immunizations and treat workplace injuries should be

excluded from the calculations.

Self-insured dental and vision plans: The health care reform law already excludes insured dental and vision plans when calculating the excise tax. The IRS said it is considering extending that exclusion to self-insured dental and vision plans.

Age and gender adjustments: “Comments are requested on whether it would be desirable and possible to develop safe harbors that appropriately adjust dollar limit thresholds for employee populations with age and gen-

der characteristics that are different than those of the national workforce,” the IRS said.

High-risk professions: The IRS also sought comments on allowing plan costs above the excise tax cost trigger of \$10,200 for single coverage and \$27,500 for family coverage in 2018 for high-risk professions, such as law enforcement, firefighters and paramedics, and how an employer would determine if most workers in a plan are engaged in a high-risk profession.

By Jerry Geisel

“Some employers will consider amending their HSAs to eliminate employee salary reduction contributions and permit employee HSA contributions only on an after-tax basis in order to reduce excise tax exposure.”

Anne Waidmann, PricewaterhouseCoopers L.L.P.

requiring employers to include employees’ pretax HSA contributions in calculating plan costs,

employers are likely to redesign their high-deductible plans, such as capping pretax contributions or allowing only after-tax contributions to reduce the likelihood of triggering the excise tax, experts say.

“You would see a change in contribution strategy in which contributions would have to be made on an after-tax basis,” said Steve Wojcik, vice president of public policy at the National Business Group on Health in Washington.

“Some employers will consider amending their HSAs to eliminate employee salary reduction contributions and permit employee HSA contributions only on an after-tax basis in order to reduce excise tax

exposure,” said Anne Waidmann, a director at PricewaterhouseCoopers L.L.P. in Washington.

While after-tax HSA contributions would be excluded when calculating plan costs, employees would be able to achieve nearly the same tax result as pretax contributions by deducting the after-tax HSA contributions on their individual tax returns, Ms. Waidmann said.

Still, such a switch from pretax to after-tax contributions would erode tax savings for employers and employees. That is because while employees can take a tax deduction for their after-tax HSA contributions, their salaries — for tax purposes — are not reduced

in computing FICA taxes. That 7.65% tax on wages is paid by both employers and employees.

While employers may redesign their CDHPs, they are unlikely to move away from the rapidly growing health plan design entirely, experts say.

CDHPs “make employees more conscious of health care costs, making them better consumers of health care services, which in turn helps to keep costs down,” Mr. Wojcik said.

In fact, changes in the tax treatment of employees’ pretax HSA contributions may accelerate employer adoption of CDHPs before the excise tax takes effect in 2018, he said.

“You may want to pull the trigger sooner rather than later,” Mr. Wojcik said, referring to employer adoption of CDHPs linked to HSAs.

And employer adoption of the plans has been rapidly growing. Last year, 41% of employers with at least 500 employees offered a CDHP linked to an HSA, up from 32% in 2013, according to a Mercer L.L.C. survey.

Meanwhile, benefit lobbying groups and others say they will not give up and will urge the IRS to exclude pretax HSA contributions in its excise tax regulations.

“We will continue to press the IRS to change this,” said Gretchen Young, senior vice president of health policy at the ERISA Industry Committee in Washington.

“Everyone with these types of plans wants the HSA contribution — of any sort — to be disregarded” in cost calculations, said Andy Anderson a partner at Morgan, Lewis & Bockius L.L.P. in Chicago.

OIL RAIL

Continued from page 3

deeper into the potential and consequences of derailments involving trains carrying crude,” said Nicholas J. Bayliss, vice president and railroad segment leader with Gemini Transportation Underwriters, a W. R. Berkley unit, in Boston.

The seven large Class I railroads, including CSX, have liability self-insured retentions of up to \$50 million per occurrence, meaning that only large incidents would hit insurance programs.

The railroads generally carry between \$1 billion and \$1.5 billion in liability limits, insurance sources say, and the market for the coverage is expanding. Marsh L.L.C. is finalizing a program underwritten by Bermuda and other insurers that will provide \$1 billion in coverage excess of currently available limits of up to \$1.5 billion. AIG’s Lexington Insurance Co. last year announced a similar program to provide \$1 billion in rail liability limits excess of \$1.5 billion in underlying coverage.

The risk has increased with the rapid growth of rail shipments of Bakken crude oil. Bakken production, which began in 2006, rocketed to a yearly total of about 345 million barrels in 2014, according to North Dakota government figures. Most has been shipped by rail rather than pipeline, with rail volume expected to hit about 800,000 barrels

per day in 2015 and 2016, according to PLG Consulting, a Chicago-based logistics and engineering firm.

The Lac Megantic disaster focused attention on the safety of the older DOT-111 tank cars involved in the accident, and many shippers have since upgraded to cars designated CPC-1232, which have more steel shielding.

But last month’s West Virginia and Ontario

ident of PLG Consulting.

That design “seems to be what everyone is betting on, but no one’s sure,” Mr. Robinson said.

The long-delayed hazardous materials safety administration rules, in the works since 2012, also may require:

- Railroads to perform routing analyses to find the safest route for oil trains.
- Written sampling and testing programs

OIL TRAIN ACCIDENTS

Major accidents involving crude being transported by rail

Location	Date	Cars derailed	Impact speed	Gallons lost
Mount Carbon, West Virginia	Feb. 16	27	33 mph	TBD
New Augusta, Mississippi	Jan. 31, 2014	26	45 mph	90,000
Casselton, North Dakota	Dec. 30, 2013	20	42 mph	476,436
Aliceville, Alabama	Nov. 8, 2013	26	39 mph	630,000
Lac Mégantic, Quebec	July 6, 2013	63	65 mph	1,585,000

Source: U.S. Department of Transportation, Transportation Safety Board of Canada

accidents both involved CPC-1232 cars, raising questions about their safety as well.

The transportation department’s Pipeline and Hazardous Materials Safety Administration is expected in May to announce new specifications for tank cars built after Oct. 1, 2015. Many rail industry experts expect the hazardous materials safety administration to choose a design developed by the Association of American Railroads that has a thicker steel shell than the CPC-1232 and other safety features, said Taylor Robinson, pres-

to properly characterize oil and gas cargoes.

- Enhanced braking systems.

The volatility of Bakken crude has become another subject of debate. Like other shale oil, Bakken oil contains natural gas liquids such as ethane and propane that produce vapor pressure during transportation. Federal investigators are looking at the possibility that excessive vapor pressure contributed to the explosion of the CSX train in West Virginia, Reuters reported.

The North Dakota Industrial Commission

last December ordered energy companies to “condition” shale oil starting April 1, a process that uses heat to reduce vapor pressure. Safety advocates, however, say that the oil should be “stabilized,” a process in which natural gas liquids are separated before shipment.

“Conditioning crude oil is not enough — the dangers of transporting highly flammable, volatile crude across the country are too great,” New York State Democratic Assemblyman Phil Steck wrote in a Feb. 20 letter to transportation department Secretary Anthony Foxx.

Oil trains pass through Mr. Steck’s district, which includes Schenectady.

Railroads and oil shippers have been lucky so far that — with the exception of Lac Megantic — accidents have mostly occurred in lightly populated rural areas, Mr. Beardley said. Oil shipments are likely to get safer as experience with them grows, he said.

That doesn’t mean that serious accidents won’t happen, though. In a cost/benefit analysis of its proposed safety rules, the hazardous materials safety administration projected — absent the effect of the rules — that there will be 15 mainline derailments this year, falling to five derailments by 2034. At the high end of its assumptions, the group projected nine accidents producing more than \$1.15 billion in personal and environmental liabilities each and one producing more than \$5.75 billion in losses over the next 20 years.

OPT OUT

Continued from page 3

Of seven national employers that have opted out in Texas and Oklahoma, “all but one have Tennessee operations and have expressed an interest” in opting out, said Bill Minick, president of Dallas-based PartnerSource, an alternative workers comp consultant unit of Arthur J. Gallagher Risk Management Services Inc.

National employers that have opted out in Texas and Oklahoma include retailers Big Lots Inc. and Dillards Inc. and Regis Corp., the global hair salon chain.

Opt-out bills in Tennessee and Oklahoma are based on Texas’ 100-year-old nonsubscription system. In Oklahoma, which passed opt-out legislation and other reforms in 2013, 33 employers have elected to provide alternative benefit programs.

Bruce Wood, Washington-based vice president and associate general counsel at the American Insurance Association, criticized opt-out efforts.

“We think (opt out) is a bad idea,” Mr. Wood said. “(Oklahoma) improved their system, but then at the same time they gave a conflicting message that said, ‘Despite all the work we’re doing, all the improvements here, we’re now telling employers you can leave it,’” he said. “It’s sort of the same message in Tennessee ... Now we have legislation that says to employers, ‘You know all that work you did to improve the system? Now we think you ought to be able to abandon it.’”

It takes several years for cost savings to be realized and reflected in workers comp rates, Mr. Wood said. “But to the extent that the workers compensation system is delivering as intended, there is less of an incentive for employers to opt out.”

Mr. Minick said he expects rate cuts as a result of last year’s legislation to “slow interest in the option during the first year.” In time, however, “employers who want more employee accountability and more predictable claim outcomes will begin to move to the option.”

He said the opt-out legislation in Tennessee could further reduce workers comp premiums, whether companies opt out or not, if workers comp insurers reduce rates to compete with alternative products. In addition, Mr. Minick said, “employers that have significant claim frequency will elect the option, which leaves a better risk pool in the workers compensation system.”

Cities and counties in Tennessee already can forgo traditional workers comp insurance and set up their own injury benefit plans.

Still, “about 98% of municipalities have opted into workers comp,” while counties that have not opted into the state system offer similar benefits, Ms. Hudgens said.

Concerns about provisions

included and not included in the legislation raises questions, with sources saying there’s no mention of permanent disability benefits and no minimum death benefit. Employers also have the final say on settlements, which sparked recent legal challenges to Oklahoma’s law, sources said.

“Until the constitutional landscape is clarified (in Oklahoma) ... you’re not going to see a lot of employers opting out (anywhere),” Mr. Wood said.

Supporters in Tennessee are probably “aware that there could be constitutional challenges if it’s passed,” but Mr. Baker said he’s not sure whether the bill will remain in its current form.

COULD FIRMS OPT OUT TO AVOID PREMIUM HIKES?

The Tennessee Employee Injury Benefit Alternative triggers questions about how it would affect workplace safety.

To help determine pricing, insurers assign experience modification factors based on an employer’s claim history. More claims could result in higher workers comp pricing.

Opting out of the state system could be seen as a way for an unsafe employer to “wash his (experience modification) away,” said Bruce Wood, Washington-based vice president and associate general counsel with the American Insurance Association.

Rather than employers trying to improve workplace safety, they could just opt out and purchase alternative benefit plans, Mr. Wood said.

Exclusive remedy protections don’t apply in the Tennessee model, when there’s a limited benefit mandate and limited negligence liability.

“That liability exposure requires that employers pay special attention to training, maintenance of equipment and other safe practices in the workplace,” said Bill Minick, president of Dallas-based PartnerSource, a consultant on alternative workers comp plans.

Regardless, all employers still would be subject to rules of the Tennessee Occupational Safety and Health Administration, said Abbie Hudgens, administrator for the Workers’ Compensation Division of the Tennessee Department of Labor and Workforce Development in Nashville.

By Stephanie Goldberg



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DRONES

Continued from page 1

Analytics Inc.'s Insurance Services Office Inc. also has developed endorsements to the commercial general liability and commercial liability umbrella/excess policies that go into effect in June. Commercial general liability policies generally exclude aviation risks.

"Most drone operators are buying legal liability limits of less than \$10 million, and at those levels there is abundant capacity in the market," said Chris Proudlove, senior vice president at aviation underwriter Global Aerospace Inc. in Parsippany, New Jersey.

Optional ISO endorsements cover bodily injury and property damage, personal and advertising injury or both liabilities under a single endorsement. Three parallel optional exclusions also are available, said Ron Beiderman, vice president of commercial lines coverage products at the Jersey City, New Jersey-based ISO.

Although there is significant underwriting capacity available, drones present risks and challenges, including issues of privacy, bodily injury and property damage. Experts pointed to the recent incident involving a drone landing

on the White House lawn as an example of what can go wrong.

There are numerous commercial uses for drones, including agriculture, filmmaking, firefighting, meteorology, mining, power line inspection, real estate and insurance claims adjusting. Drones often can fly into areas too dangerous for people.

"They're too economically feasible to be overlooked," and there are few industries in which they



would not be useful, said John Geisen, Minneapolis-based senior vice president of Aon Risk Solutions' aviation practice.

The economic windfall could be significant. The Arlington, Virginia-based Association for Unmanned Vehicle Systems International estimated in 2013 that unmanned aerial vehicles would have a total economic effect of

some \$13.6 billion in the first three years being integrated into the national airspace. This estimate takes into account sales, supplies, direct jobs created and state tax revenues, among other things.

Experts say one significant positive aspect of the FAA's proposal is it would not require a pilot's license to operate drones weighing 55 pounds or less. Also, because the proposed rules would require operators to always keep drones in sight and bar operations at night, they would prohibit them from being used to deliver packages.

If users "can show that the technology's available to operate them safely within the national airspace, then I think there is an opportunity to expand those regulations," said Terry Miller, president of Conifer, Colorado-based aviation brokerage Transport Risk Management Inc.

"It is worrying," however, that there is no training requirement beyond a written test, said Keven Gambold, CEO of the Americas with Yorktown, Virginia-based Unmanned Experts L.L.C., which provides drone training and obtains its drone insurance through Risk Transport.

While the FAA's proposed rules do not require insurance, "some industry experts think that insurability of unmanned aircraft is the

'gorilla in the room'" and "is a necessary event before business can successfully use" drones in national airspace, Tom Karol, general counsel, federal affairs, of the Indianapolis-based National Association of Mutual Insurance Cos., said in a white paper last week.

Experts say it could be several years before regulations are proposed for drones that weigh more than 55 pounds.

"They're bigger, they're faster, they present more of a safety hazard," said Mark Del Bianco, special counsel at Antonelli Law Ltd. in Chicago.

Before issuing the proposed rules, the FAA already had granted 35 exemptions to operate drones, including two for Bloomington, Illinois-based State Farm Automobile Insurance Co. for aerial and roof inspections.

In a statement, State Farm, one of the nation's leading home and automobile insurers, said its drone plans are "proprietary."

But obtaining the Section 333 drone use exemptions, as they are known, is a long and arduous process, and several hundred applications are still awaiting approval, experts say.

Despite the rules not yet being firm, experts say insurers are ready to write drone business.

"There's not a lot of growth in

aviation" and this presents a new opportunity, said Bradley A. Meinhardt, Las Vegas-based area president and managing director of aviation at Arthur J. Gallagher & Co.

Allianz Corporate & Specialty S.E., a unit of Allianz S.E., is among insurers offering drone coverage.

Coverage available includes legal liability, together with physical damage for the owner/operator and product liability for the service provider.

American International Group Inc.'s aerospace unit launched coverage last year for unmanned aircraft, and is among Innovation Awards winners this year (see story, page 18).

While some insurers have developed their own policy forms for drone coverage, others are adapting their airline liability policy forms to drones, said Paul Chance, New York-based vice president at Marsh L.L.C.'s aviation and space practice.

Nevertheless, experts say drones could present a catastrophic risk and cause the same sort of accident that occurred in 2009 when a flock of geese hit a jet and forced it to land in New York's Hudson River.

For example, a drone operator "who doesn't know what they're doing can fly in the path of a jet," Mr. Meinhardt said.

REFORM

Continued from page 4

been nibbling around the edges of our tremendous cost problem here in Illinois," said Todd Maisch, president and CEO of the Illinois Chamber of Commerce, alluding to 2011 changes in Illinois.

Several workers comp-related bills have been submitted for consideration with the Illinois chamber's backing. Proposals in those bills include limiting comp benefits for traveling workers unless the injury arises in the course of their employment.

"Right now, the bar is so low that if the workplace contributes even less than 1% to an injury, it's still 100% compensable under workers compensation," Mr. Maisch said. "Illinois is a terrible outlier in that way, and we very much need to get in line with other states where the workplace has to be the major contributing factor for it to be a workers compensation injury."

Observers acknowledge that the Republican governor has a tough road ahead of him in pushing workers comp reforms through a Democrat-controlled Legislature.

"I'm not going to minimize the Legislature is still going to be somewhat of an obstacle, but I do think with the governor's help, we have a fair shot" at passing workers comp reforms in Illinois, said Joe DiGiovanni, senior vice president of state affairs with the American Insurance Association in Washington.

Mr. Maisch said the chamber

hopes that bills already introduced in Illinois will be packaged together and get Gov. Rauner's backing.

In Wisconsin, observers expect to see the reappearance of a workers comp reform bill that has been approved by the Wisconsin Worker's Compensation Advisory Council, which has labor and business members who advise Wisconsin legislators.

The bill, which failed to pass last year, included implementing a workers comp medical fee schedule — something comp watchers have supported since Wisconsin is one of only five states that don't set prices for comp-related medical services.

Missouri, New Jersey, Iowa and Virginia also do not have workers comp medical fee schedules.

"We definitely need to be able to control the medical costs there, but we have to work through the (legislative) process," said Rita Nowak, vice president of commercial lines and research for the Property Casualty Insurers Association of America in Des Plaines, Illinois.

Though they say it's unclear whether a similar bill would have a chance of passing this year in Wisconsin, sources say they're hopeful it would have a chance considering the support it previously had from stakeholders.

Steve J. Piette, director of global risk management at Quad/Graphics Inc., said he would like to see Wisconsin adopt a medical fee schedule. The Sussex, Wisconsin-based printing company has 26,000 employees worldwide.

"In our experience, prices in

states without fee schedules are consistently higher and outpace the price growth of states with fee schedules," Mr. Piette said. "So not only are Wisconsin employers bearing the higher costs associated with the current system, but the pricing trends are still outpacing those of our peer states."

Aside from Illinois and Wisconsin, states generally are expected to consider "isolated fixes" to workers comp-related issues that may arise from court decisions rather than major reform packages that typically need a coalition of worker comp stakeholders to gain traction, Gallagher Bassett's Mr. McKenna said.

He said New Mexico will look at ways to limit employer liability for medical marijuana payments under workers comp. For instance, New Mexico H.B. 238 would reduce workers comp wage benefits in proportion to a worker's level of intoxication at the time of injury or death.

The bill was introduced in January after the New Mexico Court of Appeals ruled in January this year and May last year that medical marijuana is compensable under the state's "compassionate use" law. Mr. McKenna said the intoxication legislation could allow employers to limit liability for medical marijuana regardless of whether the drug is considered legal in the state.

Observers say they're also watching for possible workers comp reforms in Texas, where the Legislature meets every other year and began its most recent session in January.

NARAB

Continued from page 4

NARAB could prove to be a template for future legislation affecting the intersection of state and national insurance regulation.

Supporters are simply happy that the body at last will come into being after several failed attempts to get the Senate to follow the House of Representatives' lead in supporting the legislation.

Joel Wood, senior vice president at the Council of Insurance Agents & Brokers in Washington, noted President Obama has the power to form the board, reconstitute it and overturn any of its decisions.

"All of that is proper and consistent with what a good statute should do," said Mr. Wood. "I certainly hope this doesn't become a political football, and I don't have any reason to believe it will."

Mr. Wood singled out Federal Insurance Office Director Mike McRaith for "publicly and privately stating the administration's commitment to an effective (NARAB) board that really wants this to work."

"Passage of NARAB II was a huge legislative accomplishment," said Charles Symington, senior vice president of the Alexandria, Virginia-based Independent Insurance Agents & Brokers of America Inc. Details of standards that will apply to producers were deliberately left up to the board, he said.

"As the marketplace evolves, the board and the standards can evolve," he said. "There's a lot of

work that has to go into implementation, and that's where we find ourselves now." Once the board is appointed, it is supposed to meet within 45 days, he said. "They have to establish bylaws, and then they get into the nitty-gritty of setting these standards."

One big question facing the body is how it will be funded, said Sue Stead, a partner in the Washington office of Nelson Brown Hamilton & Krekstein L.L.C., which does business as Nelson Brown & Co.

While NARAB can impose membership fees, it cannot get money from the federal government, not even a loan, according to the law.

"How do you get membership fees unless you're up and running?" said Ms. Stead, who also is a former Ohio insurance regulator.

The board will have to consider private funding sources, perhaps loans, said Jill Hoffman, assistant vice president with the National Association of Insurance and Financial Advisors in Falls Church, Virginia. The body will also have to hire staff, she said. "This is not going to be overnight," she said.

Opinions differ on whether the NARAB model could apply to other insurance regulations.

"I don't see this structure as a template for anything else," Ms. Stead said. "This goes to licensing."

"It's too early to tell if it's a template," Mr. Symington said. "I think it's a concept that can garner the adequate political support for potentially other areas, but first and foremost, it has to be proven to work in the marketplace."

REFINERIES

Continued from page 4

causing the problem, and those numbers are not tracked.”

Accordingly, the USW says that safety issues are the primary grievance in talks with the owners of the refineries, though salaries, working conditions and other issues also are on the table.

The strike affects Findlay, Ohio-based Marathon Petroleum Corp.; Houston- and London-based LyondellBasell Industries N.V.; Houston-based Shell Oil Co.; San Antonio-based Tesoro Corp.; and Houston-based Motiva Enterprises L.L.C., a joint venture of Shell and Saudi Refining Inc., a unit of Saudi Arabian Oil Co.

Michael J. Wright, Pittsburgh-based director of health, safety and environment for the United Steelworkers, said working hours and excessive use of inexperienced outside contractors for critical tasks are top union concerns.

“Excessive overtime and fatigue are still rampant in the industry,” Mr. Wright said, noting that the U.S. Chemical Safety Board’s examination of the deadly 2005 explosion at a Texas City, Texas, refinery owned by BP P.L.C. found that three key operators had worked 12-hour shifts for 29 to 37

consecutive days.

Nonetheless, a spokesman for Marathon Petroleum denied that safety issues are the “primary area of disagreement” in the walk-out. “The union’s concerns are not about safe staffing levels, but about shifting the staffing levels to increase the dues-paying members of the international union by forcing the company to replace con-

AGING INFRASTRUCTURE

Experts say it takes decades to recoup upfront costs of building a petroleum refinery. The U.S. refinery built most recently was in 2008 in North Dakota, though two refineries are under construction.

Operating refineries: **142**

Simple* refineries built since 1991: **4**

Most recent complex* refinery: **1976**

*Complex refineries can produce a variety of petroleum products, including gasoline. Simple refineries generally produce one petroleum product.

Source: U.S. Energy Information Administration

tractors with USW-represented employees,” he said.

Conversely, the USW said in a statement that it “does not and will not seek to bar the subcontracting of such work to contractors whose employees are represented by North America’s Building Trades Unions.”

While the labor-related issues

have yet to be settled, experts say there are steps that refiners can take to make facilities safer.

Paul Garrot, Houston-based vice president and product line manager of energy at Ironshore Inc.’s specialty casualty business, said a good example of refiners achieving better safety through design is increasing the spacing between crude oil distillation units. That reduces the possibility of one distillation unit affecting the rest of the units at a particular facility should there be a breach or worse.

“Before, we used to see the process units being grouped tightly together to cut back on the cost of laying pipe,” Mr. Garrot said. “Now they are spread out as far as possible for safety.”

However, expecting oil companies to make wholesale retrofits of existing infrastructure is unlikely, since a firm may need to run a refinery 60 or 70 years to recoup upfront investment costs; the price of a single catalytic fluid cracking unit, used to convert oil into high octane gasoline, can top \$1 billion.

“Boiling oil is a pretty set science,” Mr. Garrot said. “That’s why you have a lot of old equipment in this industry. You can still use it” if properly maintained.

Stewart Hostetter, Houston-based managing director of loss control at Wortham, said refineries looking to improve their safety

need to focus on processes and people as much as infrastructure.

“In the hazard analysis phase, we look at things like equipment spacing, drainage and the pressure ratings of vessels,” he said. “But we then look at whether maintenance and inspections are up to date, and we really want know what kind of emergency action plans are in place.”

Mr. Garrot agreed that emergency planning is vital for safety, noting that the U.S. Occupational Safety and Health Administration mandates that refineries adhere to a process safety management program to minimize catastrophic releases of toxic, reactive, flammable or explosive chemicals.

“From an underwriting perspective, the first thing we look at is their (process safety management) program,” he said. “The second thing we look at is their in-house emergency response team.” He said training to properly handle hazardous materials in difficult, confined spaces is essential.

Refineries also can improve safety by establishing clear procedures and unambiguous chains of command, Mr. Nibarger said.

Entrusting frontline workers with “stop work” authority to shut down equipment regarded as a safety threat would go a long way to allaying worker concerns about safety, Mr. Nibarger said.

FMLA

Continued from page 6

Moskowitz Edelman & Dicker L.L.P. in New York. “Anytime there’s a chance to retrain or fine tune implementation of FMLA leave benefits, I strongly recommend that employers take it.”

Prior to the Labor Department’s new definition of a spouse, the FMLA was one of the last federal employment laws under which married same-sex couples in certain states could not access the same benefits as opposite-sex spouses. Most other federally mandated marriage rights and benefits were extended to all legally married same-sex couples in late 2013 and 2014, after the U.S. Supreme Court’s partial overturn of the 1996 Defense of Marriage Act.

“It just so happened that the language of the FMLA when it passed in 1993 defined the word spouse according to the state in which the employee resides, and that made the FMLA a bit of an anomaly because a lot of other federal laws didn’t define it at all,” Ms. Schmidt said. “It’s unclear why it was written that way in the first place, but those of us who have been following the expansion of rights and protections for same-sex couples have been expecting this.”





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Budding farmer causes pot fire

If you ever feel the inclination to turn your basement into a marijuana production factory, you might want to tell your insurer first. That was the lesson learned by a Michigan homeowner who ultimately had her fire claim turned down by her insurer, Nationwide Mutual Fire Insurance Co., after her then-husband had an accident in his marijuana lab that destroyed her house.

The woman bought the house in 2005 and obtained a homeowners policy from Nationwide, according to a ruling by the 6th Circuit Court of Appeals in Detroit. Around 2010, her then-husband obtained a medical marijuana card and starting growing marijuana in the basement using a butane extraction process to produce "honey oil."

In 2012 while making some honey oil he lit a flame to smoke some and it ignited butane that had not yet evaporated.

After initially paying some of the fire claim, Nationwide denied it on several grounds, including that the homeowner had not informed the insurer of the change in use of the residence and sought repayment of the nearly \$140,000 it had paid.

Yelp sues websites, calls foul play

Online review site Yelp, which aims to help people find local businesses through "honest and personal opinions," is suing a company that offers businesses "complete review control" of customer reviews. Alleging trademark infringement, unfair competition and false advertising, among other complaints, Yelp filed a civil suit on Feb. 13 against three individuals doing business as Revleap, Revpley and Yelp Director.

Yelp first learned about the company in November 2013 when it was doing business as Yelp Director, according to the civil suit. Yelp sent a cease-and-desist order, but the company continued doing business as Revpley and Revleap.

"The business willfully infringes Yelp's trademarks, defrauds and spams businesses that use Yelp, and seeks to undermine the integrity of Yelp's platform," according to the civil suit.

"While Yelp's online reviews are a trusted resource for consumers to learn about local businesses, unfortunately some try to game the system and undermine that trust by building businesses based on fraudulent reviews, invasive spam, and conduct that otherwise violates the law as well as Yelp's Terms of Service," the suit says.

LIVE NATION SUED OVER ALLEGED PIMPIN' OF JAY-Z TUNE



AP PHOTO

Jay-Z has been embroiled in litigation following the 1999 release of his hit song "Big Pimpin'."

When Jay-Z rapped about "spending cheese" in his 1999 hit "Big Pimpin'," we imagine he wasn't referring to shelling out for the endless litigation that has resulted from the song's release. Concert promotion giant Live Nation Worldwide Inc. has become the latest entity to find itself embroiled in legal action over the song's alleged sampling of Egyptian composer Baligh Hamdi's song "Khosara, Khosara" from the 1960 film "Fata Ahlami."

Mr. Hamdi's nephew, Osama Ahmed Fahmy, claims in a lawsuit filed Feb. 18 in U.S. District Court in Los Angeles that Live Nation illegally profits from Jay-Z's concerts, at which "Big Pimpin'" is regularly performed. Mr. Fahmy claims that Live Nation itself routinely uses the song in promotional materials in order to drive ticket sales and other revenues derived from Jay-Z's performances.

Mr. Fahmy alleges in the lawsuit that Live Nation "knew that Big Pimpin' infringed upon the 'Khosara, Khosara' copyright but it nevertheless continued to sponsor, promote, and facilitate Jay-Z's performances of the infringing work." Mr. Fahmy has been battling Jay-Z and EMI Music Publishing Ltd., MTV Networks Enterprise Inc., Paramount Pictures Corp., UMG Recordings Inc. and Warner Music Inc. on his deceased uncle's behalf since 2007.

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Lance Armstrong hits \$10 million road bump

Disgraced cycling superstar Lance Armstrong's admittance to using performance-enhancing drugs has turned into a long-tailed insurance liability. An arbitration panel slapped the former two-wheeler dealer with a \$10 million penalty stemming from his spinning the truth on collecting sports insurance policies with incentives tied to his success, according to media reports.



Dallas-based sports and prize insurance company SCA Promotions Inc. had paid Mr. Armstrong bonuses for winning the Tour de France in 2002 and 2003, reports state. But Mr.

Armstrong sued SCA after it refused to cough up the 2004 winner's bonus, claiming it didn't have to pay because the cyclist had cheated.

When Mr. Armstrong denied wrongdoing under oath, the case was settled in arbitration in 2006, with SCA paying \$7.5 million, according to USA Today. But SCA's investigative efforts are credited with starting the process that led to his eventual downfall when the U.S. Anti-Doping Agency banned him for life and stripped him of his Tour titles in 2012. After he admitted his transgressions to Oprah Winfrey in 2013, SCA took legal action, leading to the latest \$10 million penalty award.

Mr. Armstrong's vowed appeal of the award could be an uphill battle.

"Perjury must never be profitable," the arbitration panel's 2-1 majority wrote in its ruling.



Leonardo da Vinci's portrait of Isabella D'Este was found in a Swiss bank vault.

Fraud investigation proves work of art

The latest da Vinci code has been cracked with the discovery of one of the master's missing paintings languishing in a Swiss bank.

Leonardo da Vinci's portrait of Isabella D'Este was recovered from a Swiss bank vault as a result of a seemingly separate investigation into tax and insurance fraud, according to media reports.

Police first learned about the painting in 2013 when an unnamed Italian lawyer tried to sell it for more than €95 million (\$107.5 million) without proper licenses. But it was the investigation into tax and insurance fraud that eventually led police to the painting in Lugano, Switzerland.

This isn't the first da Vinci painting to go missing. The Mona Lisa was taken from the Louvre in Paris on Aug. 21, 1911.

Q:

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