

BEHAVIORAL SAFETY STEPS



Most company behavioral safety programs include five key steps:

- 1 PINPOINT:** Firms identify specific safety behaviors for employees.
- 2 MEASURE:** Team leaders observe and record worker behavior to see how well safety standards are followed.
- 3 FEEDBACK:** Observers give positive feedback to employees who follow correct safety procedures, and advise but don't discipline workers who show unsafe behaviors.
- 4 REINFORCE:** Firms give group rewards for meeting safety standards.
- 5 EVALUATE:** Firms should examine safety standards regularly to seek improvements.

Source: Daniel J. Moran, Quality Safety Edge Inc.

WORKERS COMPENSATION

Behavior safety efforts cut comp costs

BY SHEENA HARRISON

Private and public sector employers are implementing behavior-based safety programs in their workplaces to cut workers compensation costs, using feedback and reinforcement to encourage safer work habits of their employees.

Behavioral safety programs, a decades-old regimen to reduce workplace injuries, are finding greater success when employees and top company executives participate in the effort.

Contemporary programs focus on a "conversation rather than observation" approach, in which employees can give feedback to

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RISK MANAGEMENT

HEALTH CARE PROVIDERS FACE STIFF DATA SECURITY RULES

Modified HIPAA guidelines take effect on March 26

RISK ASSESSMENT FACTORS

Under the final Health Insurance Portability and Accountability Act rule adopted in January, covered entities must establish there is a low probability that protected health information has been compromised. The factors that must be taken into account as part of a risk assessment are:

- Who used the information, or to whom it was impermissibly disclosed
- Whether the covered entity or business associate had taken steps to mitigate or eliminate the risk of harm
- Whether the protected health information was actually viewed or accessed
- The type or amount of protected health information that was impermissibly used or disclosed

BY JUDY GREENWALD

Smaller health care providers, as well as many of the firms that work with all health care providers, are struggling to comply with federal data security rules that take effect soon.

But even larger health care providers would do well to examine their contracts with the firms with which they deal, to be sure their contracts include proper indemnification and other safeguards, experts say.

In January, the Department of Health and Human Service's Office of Civil Rights issued its final rule modifying the Health Insurance Portability and Accountability Act's privacy, security, enforcement and breach notification rules under

the Health Information Technology for Economic and Clinical Health Act, which is often referred to as the HIPAA omnibus final rule.

The final rule becomes effective March 26, and final compliance is required by Sept. 23.

The new rule reflects two major changes with respect to firms' cyber activities: It significantly broadens the definition of health care providers' business associates, bringing many more downstream subcontractors and others under HIPAA's authority. These can include data transmission services, document and data storage organizations, personal health record vendors and financial institutions that lend to the health care industry.

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CLAIMS SERVICES

Seven-day pledge to pay big claims

AIG, Marsh formalize property payment deal

BY MIKE TSIKOUDAKIS AND SARAH VEYSEY

An agreement between Marsh Inc. and American International Group Inc. to quickly pay multimillion dollar commercial property damage claims has been welcomed by some buyers, though several observers say it simply codifies existing best practices.

Marsh and AIG say the major claim promise they put into writing affects property claims of \$3 million or more globally. Once coverage is confirmed, AIG will provide the policyholder with 50% of its share of the agreed estimated value of the claim within seven days. The pledge includes property damage, cleanup costs and extra business costs, but not business interruption claims.

Meanwhile, other major brokers and insurers say they have their own quick claims payment efforts, even though they may not be formalized in writing.

David Pigot, London-based chairman of the global claims practice at Marsh, said he helped devise the claims agreement with AIG to resolve client concerns. It has been in place since January and already has been used by clients.

For example, Mr. Pigot said the agreement has been invoked for a large claim from recent flooding in Australia and another claim for

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CAPTIVES GROW AS ECONOMY RECOVERS

Smaller companies break into captive market; owners weigh onshore vs. offshore captive options; reform measure may result in higher taxes; largest domiciles

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NEWS

RISK MANAGEMENT

Organizations face tough issues in deciding whether to arm guards

Well-defined policies, careful training needed

BY RODD ZOLKOS

The December shootings at the Sandy Hook Elementary School in Newtown, Conn., prompted considerable discussion of putting armed guards in schools and other public places, though various factors make the decision a complicated one.

"Every type of public place is different and, from the owner's perspective, it is in their interest to make people feel comfortable and safe," said Tracy Knippenburg Gillis, global reputational risk and crisis management practice leader at Marsh Risk Consulting in New York. "It's not as simple as saying we're going to put armed guards in the mall, for example. Maybe some people would be made uncomfortable by the presence of armed guards in the mall.

"There's an increased exposure, I would say, in having armed guards. If there's an exchange (of



AP PHOTO

The Los Angeles Unified School District has its own police force, whose members receive formal police officer training.

gunfire), someone could be harmed," Ms. Gillis said. "There is some increased risk, potentially."

For those considering putting armed guards in schools or other public places, it's critical to make

sure well-defined policies and proper procedures are in place, along with making sure those carrying the weapons are adequately

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HEALTH CARE REFORM

Self-insured employers see no benefit from fee

BY JERRY GEISEL

Guidance that resolves key questions about a health care reform law program is unlikely to ease self-insured employers' resentment of paying for something but receiving no direct benefit.

Final U.S. Department of Health and Human Services regulations issued earlier this month estimate that group health care plan sponsors will have to pay \$63 for every participant in their major medical plans during the first year of the three-year Transitional Reinsurance Program.

Most of the estimated \$25 billion generated by the fees in the 2014-2016 program, which will be paid by health insurers offering fully-insured plans and by self-insured employers, will partially reim-

HEALTH PLAN FEE

Major points of the Transitional Reinsurance Program

- Assessments paid by insurers and self-insured employers are to raise \$25 billion in revenue from 2014 through 2016, largely to offset costs incurred by insurers writing policies in public health insurance exchanges for individuals with high costs.
- The fee for each plan participant applies to health plans regardless of their size or whether they are insured or self-insured, as well as plans providing major medical coverage to COBRA beneficiaries and pre-Medicare eligible retirees.
- While the 2014 fee is estimated at \$63 per plan participant, the amount will be finalized after health plan enrollment figures are submitted next year.
- 2014 health plan enrollment must be filed to regulators by Nov. 15, 2014. HHS will respond with the amount owed within 30 days of receipt or Dec. 15, 2014, whichever is later.
- Health reimbursement arrangements, health savings accounts and flexible spending accounts integrated with major plans and health care plans that supplement Medicare on a secondary basis are not subject to the fee.

Source: Department of Health and Human Services regulations

burse insurers that underwrite coverage in public health insurance exchanges for high-cost indi-

viduals. Some \$5 billion will

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CLARIFICATION

A book review in the Feb. 25 issue, "Maurice Greenberg Writes His Version of the AIG Story," referred to Mr. Greenberg's \$15 million payment in 2009 to settle civil charges related to investigations of improper accounting practices at American International Group Inc. when he was chairman and CEO of the insurer. Mr. Greenberg settled the U.S. Securities and Exchange Commission complaint — without admitting or denying guilt — as a "control person."

HEALTH CARE BENEFITS

Wellness efforts viewed as investments

BY MATT DUNNING

DALLAS — Employers can greatly improve their employee health and wellness management programs' chances of success by recognizing the relationships between workforce health, productivity and overall corporate performance, several experts say.

Management of employee health and productivity has evolved substantially in recent years, Thomas Parry, president of the San Francisco-based Integrated Benefits Institute, said at the 2013 IBI/NBCH Health & Productivity Forum late last month.

However, too many employers still rely on health costs as the sole success metric of their investment in employees' health and well-being, he said at the forum, which was sponsored by the IBI and National Business Coalition on Health.

"It's not that cost isn't important, but it strikes me that we often miss one of the key aspects of health," Mr. Parry said during the Feb 25-27 forum in Dallas. "Health and all of its dimensions influence the ability of the company to be successful through its people. That's how health and human capital drive business performance."

About 350 people attended the forum.

Sam Gilliland, chairman and CEO of Southlake, Texas-based Sabre Holdings Corp., said during a keynote speech that the travel technology company spent years investing in wellness and other programs designed to lower health care costs, but with little success. That was until 2004, when the company focused on addressing chronic health and productivity risks.

"Today, our first focus is on the health of our people, knowing that cost savings will inevitably come when we can make a lasting impact in our employees' lives, and the results have been pretty awesome," Mr. Gilliland said, noting significant year-over-year reductions in heart disease, diabetes and stroke risk factors since 2004 among a sample group of approximately 200 employees.

Many forum sessions focused on the difficulty many employers face in measuring total returns on their investments in health and productivity management pro-

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03/11/13

ONLINE
FEATURES

SOLUTION ARC

Responding to surge
in violence in public places

Recent violent acts in public places increase liabilities and safety concerns for risk managers.

www.BusinessInsurance.com/
PublicViolenceArc

VIDEO



Broker Beat: Higginbotham

The latest Broker Beat video features Higginbotham & Associates President and CEO Rusty Reid.

www.BusinessInsurance.com/
video

RMOY 2013

Registration open for 2013

Registration for *Business Insurance's* annual Risk Manager of the Year® awards breakfast is now open.

www.BusinessInsurance.com/
RMOY2013

WHITE PAPER

Workplace violence



Workplace violence is a significant problem for employers. A new *Business Insurance* white paper discusses how to prevent

violent incidents, and what to do if they should occur.

www.BusinessInsurance.com/
WorkplaceViolenceWP

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NEWS

RISK MANAGEMENT

ERM techniques
can reduce risks
in new markets

BY JUDY GREENWALD

Enterprise risk management can help address the challenges of working in emerging markets.

“There’s a great connectivity between emerging markets and what (enterprise risk management) is capable of,” said Christopher E. Mandel, senior vice president of strategic solutions at Sedgwick Claims Management Services Inc. in Memphis, Tenn. He made the comments during a panel discussion on emerging markets during the *Business Insurance* Risk Management Summit.

In many cases, risk mitigation strategies, including exercising due diligence and hiring local advisers, do not involve insurance.

“There’s specific things, starting with risk identification, that allow us to go beyond what’s insurable ... and ask questions about what matters most and, therefore, get ahead of the curve,” Mr. Mandel said.

“What you also get when you approach it this way is the ability to understand” risk profiles and how they change when a company moves into a new sector. “Ultimately, (enterprise risk management) leads to better decision-making. At the end of the day, if you connect the dots between risk and strategy, it can help you avoid the things you really need to avoid, including going into a country ... that may not make sense,” Mr. Mandel said.

When the panelists were asked what countries kept them up at night and why, J.P. Fowler, Chicago-based executive vice president and head of customer relationship management for Zurich Global Corporate in North America, said countries such as Russia that have “national competitors who are

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Protecting a good reputation
rests on advanced planning

BY MATT DUNNING

The quality of a company’s preparation for and response to a reputation-threatening event typically determines that company’s success in minimizing the damage to its brand, reputation risk experts say.

Crisis communication planning and brand management strategies are critically important exercises,



NEW YORK — Risk managers and top insurance industry executives met in New York last week for the Business Insurance Risk Management Summit. Issues discussed included risks presented by emerging markets, mergers and acquisitions, crises that can threaten a company’s reputation and storing data in the cloud. Also profiled in this special section are case studies of successful risk management efforts.



MICHAEL MARCOTTE

Shaun Rein, founder and managing director of the China Market Research Group, talked about misperceptions about doing business in China during a keynote speech at the *Business Insurance* Risk Management Summit. Government corruption, favorable labor costs, and political and social unrest dominate news coverage of China, he said. But for multinational firms doing business in China, the threat of internal employee corruption is more pronounced than government corruption; production costs are no longer as low as some companies believe; and social unrest is not a significant issue because Chinese citizens rarely express concerns about the communist government, though that may change if the economic aspirations of the middle class are not fulfilled, Mr. Rein said.

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M&As can prove
risk managers’
bottom-line value

BY RODD ZOLKOS

Risk managers can play vital roles in mergers and acquisitions, potentially helping acquiring companies avoid unexpected liability issues and assisting target companies maximize sale value, according to a consultant who runs his own firm advising companies on the risk management aspects of deals.

Speaking last week on a panel discussing mergers and acquisitions at *Business Insurance's* 2013 Risk Management Summit in New York, Joseph W. Bauer, principal at Bauer Advising L.L.C. in Chelsea, Mich., and a member of the Council of Chief Legal Officers of the Conference Board, said that in every deal in which he’s been involved, there’s been an opportunity for the risk manager to add value or identify issues that otherwise would have gone unnoticed.

“The whole idea of liability data and information is something you know better than anybody in the room and if you speak up you will be recognized for that information,” Mr. Bauer said. “Do not underestimate the real value you can document and show to senior management through claims and liability data.”

The typical negotiation table discussing a merger or acquisition will include a pair of very capable transaction lawyers, said Mr. Bauer, the retired general counsel of Lubrizol Corp. While those transaction lawyers are typically very capable at that aspect of the law, “They haven’t looked at a lawsuit in 40 years. They wouldn’t know an interrogatory if it walked in the door and handed them a cup of coffee,” he said. That being the case, “They’re open to your nudging them,” Mr. Bauer said.

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Risk management strategy needed
before moving data to the cloud

BY MATT DUNNING

Companies using cloud computing to supplement or replace in-house data storage systems without a cohesive risk management strategy can expose themselves to substantial financial losses and reputational harm, cyber risk experts say.

Any migration of company data to the cloud should be preceded by

a thorough assessment of the nature of the data, including the relative impact a loss or theft of that data would have on internal operations, business partnerships and client/customer relations, plus the capabilities, security protocols and interdependencies of potential cloud service providers, the experts said last week during a

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COMMERCIAL AUTO FLEETS RAMP UP USE OF TELEMATICS

Lower technology costs enable more companies to make use of data

BY BILL KENEALY

The increasing prevalence of technology-based tools is creating greater opportunities for fleet and safety managers at mid-market organizations with auto fleets.

Use of telematic devices, which are mounted inside vehicles and use wireless networks to provide speed, location and braking information to fleet managers, has widened as the technology has matured and costs have dropped, said Herbert Mayo, vice president of risk control for Lockton Cos. L.L.C.

"It's been a rapid ramp-up," he said. "Adoption has risen as technologies are vetted and proof of success is available. From a risk management perspective, it is not cost-prohibitive any more, and the benefits are huge."

Fleets using telematics can see a reduction in crashes of 15% to 20%, Mr. Mayo said.

"The types of situations that are causing crashes can be better identified through technology," said Nancy Bendickson, Minneapolis-based senior consultant with Aon Global Risk Consulting casualty risk control.

Indeed, the ultimate goal of fleet managers leveraging telematics should be to better educate drivers to make safer decisions behind the wheel, said Beth Lowrey, Fort Smith, Ark.-based senior associate for fleet management consulting firm Mercury Associates Inc.

"We have always tried to individualize training, but in-vehicle information was hard to capture," she said. "Now, if we see somebody who has had a hard braking event or irregular shifting patterns, we can monitor that through technology and train accordingly."

Chris Hayes, Hartford, Conn.-based director of transportation services in the risk control department of Travelers Cos. Inc., agrees that telematic solutions work best when employed within a larger risk management framework that stresses safety.

"One thing we try to communicate to risk managers is that telematics alone is not a safety solution," he said. "Telematics is technology that supports a risk management solution."

Accordingly, fleet managers



The use of technology in fleet vehicle operations is getting a push from pending regulations.

President Barack Obama signed the Moving Ahead for Progress in the 21st Century Act into law on July 6, 2012. MAP-21 requires the Federal Motor Carrier Safety Administration to issue a final rule by Oct. 1, 2013, regarding the use of electronic on-board recorders.

Experts predict the FMCSA will mandate the recorders for all interstate commercial motor

vehicles when it rules in October.

"Because of MAP-21, there will be more technology going into the vehicles," said Chris Hayes, Hartford, Conn.-based director of transportation services in the risk control department of Travelers Cos. Inc.

"Fleet owners will see that once you put an electronic recording device into a vehicle, it will be an easy transition into more robust telematic devices that put more data into the hands of risk managers."

By Bill Kenealy

should strive to create open communication between driver and safety managers, he said.

"Going forward, it's not so much about the technology as it is about the acceptance of the technology by drivers," she said. "So, as risk managers are becoming more skilled at using technology efficiently, it's becoming an easier sell to drivers."

To help bridge this divide, telematic offerings are evolving from becoming passive recorders of

vehicles' operations to devices that include in-vehicle cameras and active alarms to alert drivers in real time when their behavior exceeds parameters set by their companies, Ms. Bendickson said.

"When a driver sees a light flashing, they will know that they have to take action," she said.

Dominique Bonte, London-based vice president and practice director of navigation, telematics and M2M for ABI Research, a unit of Allied Business Intelligence Inc.,

said such behavior modification technologies are part of the trend toward driver empowerment. By giving drivers instantaneous feedback, telematic devices can help lessen the sense among drivers that the technology is present solely to monitor them, Mr. Bonte said.

"Increasingly, we see the driver is empowered in the process because he is given instant feedback," he said. "This way, a driver can improve himself without his boss or fleet manager having to do so. It's important to reward drivers for good behavior. It can't all be about punishing the bad ones."

Yet, the vehicle-mounted devices must be paired with robust analytics on the back end that help summarize and visualize data for fleet managers in order to avoid overwhelming them with information.

"In order to embrace and use technology, a well-managed fleet operation needs to understand that data is great but you have to have processes in place to learn from it," Ms. Bendickson said.

Gary Hallgren, vice president of corporate strategy at Telogis, an Aliso Viejo, Calif.-based provider of location intelligence and route optimization software, said normalizing and aggregating data before it gets to fleet managers is imperative given the amount of data telematics devices can produce when deployed in fleets of vehicles.

"The more information a fleet produces, the more important it is to put actual safety programs in place and be able to monitor them through analytics dashboards that show trends over time," he said.

Moreover, he said, telematics offerings are benefiting from the emergence of cloud computing, which has eased integration with other risk management and optimization software platforms. Cloud-based software also enables fleet managers to quickly incorporate information gleaned from drivers about, for instance, weather or road conditions to create "community-based knowledge," he said.

"When you manage through the cloud, we can get new routes to drivers and get information to them much more quickly than if they were just following on-board navigation."

OTHER TECHNOLOGIES

Other types of technology that may change auto fleet risk management:



Vehicle-to-vehicle communications

The U.S. Department of Transportation is investigating standards for dynamic wireless exchange of data between nearby vehicles to reduce accidents.



Vehicle-to-infrastructure communications

The U.S. Department of Transportation is working on standards for the wireless exchange of data between vehicles and roadway infrastructure such as bridges to mitigate crashes.



Collision avoidance

Vehicle-based technologies that use infrared or radar sensors to detect potential accidents and apply the brakes if the driver fails to react. Already appearing as an option in the consumer market from several automakers.



Lane departure warnings

Uses sensors to warn a driver when their vehicle begins to move out of its lane. The technology has been in use by some large commercial trucking fleets for a decade.

“When managing a 17-block complex, you need an insurance carrier who can handle complex projects.”

**Lou Haddad, President & CEO
Armada Hoffler**

Armada Hoffler’s real estate ownership and management portfolio spans 45 properties across 18 states. And Zurich helps insure almost every square inch of it. Their Virginia Beach Town Center development is just one example of the enormous breadth and scope of their projects. Yet Zurich provides a single master program customized to meet their specific real estate and property insurance needs. This gives them the clarity and certainty of coverage needed in today’s complex environment. And if a claim should arise, Armada simply calls their single point of contact at Zurich for help. Watch the video to learn how Zurich helps keep Armada’s business moving forward. www.zurichna.com/stories10



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Helping executives at midsize firms and their brokers develop benefits solutions.

BY JOANNE WOJCIK

A growing number of midsize employers seeking to self-insure their health benefits for the first time are discovering that group medical stop-loss captives can provide them with some added protection from potentially catastrophic losses.

At the same time, some smaller and midsize employers that are experienced with self-funding recently have begun tapping into these special-purpose member-owned insurers as a way to smooth out the volatility that sometimes occurs in the cost of stop-loss coverage with specific deductibles below \$250,000.

In either case, group stop-loss captives are helping midsize employers better manage their health benefit costs, experts say.

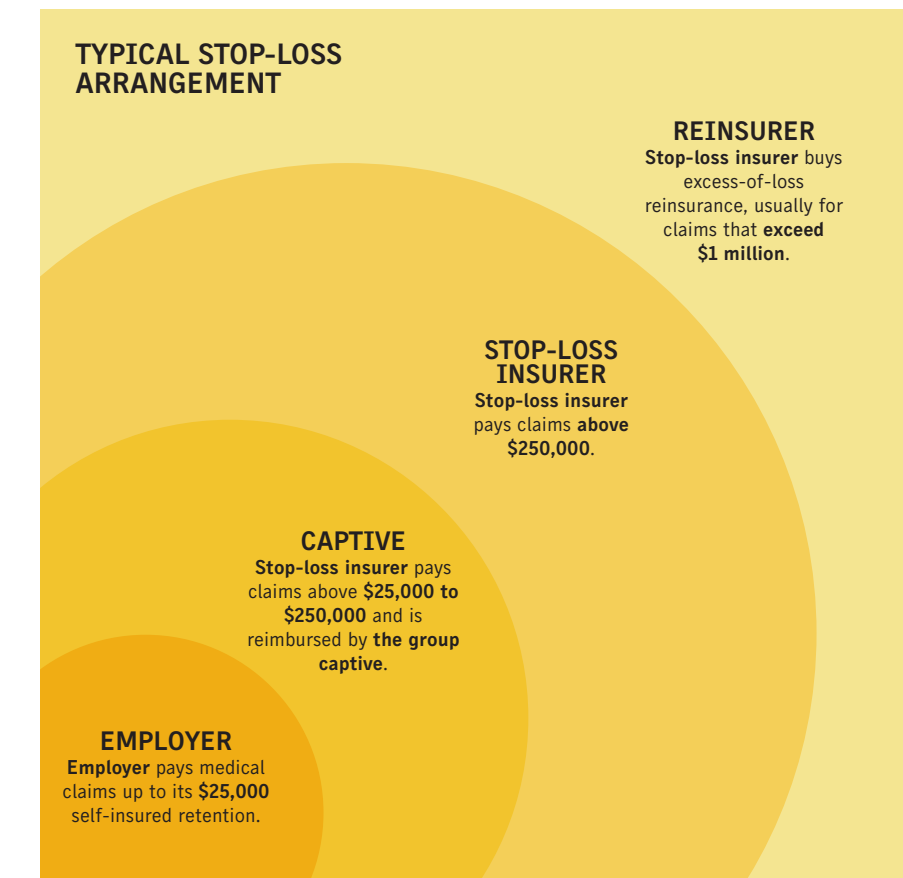
Since the first group stop-loss captive was formed in 2005, the market has grown to encompass more than 40 facilities domiciled offshore and in the United States.

That number is projected to surge as more small and midsize employers choose to self-fund health benefits as a cost-cutting measure.

“I think we are going to see phenomenal growth,” said Andrew Cavenagh, managing director of Pareto Captive Services in Conshohocken, Pa., which launched Contrarian Re on July 1, 2012, with 21 employer-members with groups averaging between 100 and 200 employees.

“Every employer is interested in everything and anything that might give them greater control and lower long-term (health benefit) costs,” Mr. Cavenagh said. “We have about 5,000 lives in our various programs. In two to three years, I predict that will grow to 50,000, and in seven to eight years it will be half a million. It’s going from that ‘shiny-sparkly’ thing that people want to talk about to playing a role similar to that of captives on the property/casualty side of the insurance industry.”

“We have numerous inquiries about doing this,” said Ben Krambeck, a partner with Benefit Captive Re L.L.C. in Des Moines, Iowa, which has placed more than 50 employer groups with 50 to 1,500 employees into group stop-loss captives in Vermont, the Cayman Islands and Bermuda since 2006. “The market is changing so fast due to” the Patient Protection and Affordable Care Act, which many employers fear will



EMPLOYERS REAP BENEFITS FROM STOP-LOSS CAPTIVES

Arrangement makes self-funding easier for mid-market firms

increase the cost of fully insured health benefits, he said.

Group captives provide a way for small and midsize employers to self-fund by serving as a conduit to medical stop-loss coverage, a form of excess insurance that pays claims above the employer’s self-insured retention (see related story).

“Self-funding for employee medical for a long time has been the domain of companies with 1,000 employees or more. Until the last five years or so, self-funding wasn’t doable

for a 250-life company, and the options weren’t great for a 500-life company,” said Tris Felix, vice president of risk management at IMA Inc. in Denver, which began helping midsize employers pool their stop-loss risks via captives in 2009.

Part of the reason self-funding was out of reach for midsize employers was that it was difficult for those companies to purchase reasonably priced medical stop-loss coverage with specific deductibles of less than \$100,000 per claimant, Mr. Felix said. But

with a captive, “self-funding now becomes feasible for that midsize employer because it uses the scale of the group to fund risk in a way that it could never do on its own,” he said.

A typical stop-loss arrangement begins with an employer’s \$25,000 self-insured retention (see box).

IMA has 22 employer-clients with between 65 and 900 employees participating in three group stop-loss captives domiciled in Vermont, Delaware and the Cayman Islands.

Initially, employers that were self-funding for the first time were among those most attracted to group stop-loss captives. But recently, the captives have been gaining traction among employers that had self-funded previously, industry experts report.

In fact, all but one of the 27 employers participating in Well Health Insurance Ltd. already were self-funding, according to Doug Hayden, senior vice president at Captive Resources L.L.C., a Schaumburg, Ill.-based captive consultant that helped form the facility in Grand Cayman in April 2011.

Jim Knutson, risk manager at Acromatic Products Co. in Loves Park, Ill., said his company joined a group stop-loss captive in Bermuda in 2010 after deciding it no longer was feasible to purchase stop-loss coverage on its own for its self-insured group of less than 100 employees.

“We didn’t feel the marketplace was able to give us something sustainable,” Mr. Knutson said, adding that his company also was “motivated in a big way by PPACA. We were trying to manage the exposure through lifetime limits, and when those limits were removed, all of a sudden there was no longer any way to assess it.”

“The group captive brings access to lower reinsurance rates and reduced volatility to the 100- to 200-employee firm,” said Mike Schroeder, president of Roundstone Management Ltd. in Westlake, Ohio, which formed its first group stop-loss captive in 2005.

While the initial premium to join a group stop-loss captive is “not a lot different than traditional stop-loss, over time it is less expensive because stop-loss pricing includes some assumptions that don’t always bear out,” he said. “The captive is a financial mousetrap delivering the lowest stop-loss cost possible.”

How group medical stop-loss captives work

Each employer that participates in a group medical stop-loss captive maintains its own self-funded health benefits plan separate from that of the other member employers. The employer can dictate its own plan rules, including levels of coverage such as copays and deductibles, provided they comply with federal laws governing

self-funded employee benefit plans. The participating self-funded employers also can choose their own third-party administrators and provider networks.

The way the self-insured employers are connected is via the stop-loss program, which is purchased from a medical excess insurer that issues a separate

policy to each captive member. The stop-loss policy has a specific deductible, which applies to each plan participant; and an aggregate attachment point, which applies when the total amount of a single employer’s health benefit plan’s claims reaches a certain level, usually 125% of expected claims.

The captive enters into a rein-

surance agreement with the medical stop-loss insurer that transfers responsibility for payment of claims that exceed the deductible amounts accepted by each employer up to a preset cap, usually somewhere between \$250,000 and \$500,000 per plan participant. The reinsurance agreement also limits the total amount of claims the captive is

responsible for paying.

To fund this layer of risk, the stop-loss insurer pays a portion of the stop-loss premium collected by each captive member to the captive. Under this arrangement, the captive is only acting as a reinsurer, and the stop-loss insurer is said to be “fronting” the captive.

By Joanne Wojcik

Getting in on a trend

More insurers showing interest in medical stop-loss captives

While Boston-based Berkley Accident & Health L.L.C. and AIG Benefit Solutions, a unit of American International Group Inc., hold the lion's share of the medical stop-loss captive market, other insurers recently have begun showing interest.

Berkley and AIG Benefit Solutions have been serving as fronting insurers on group stop-loss captive programs since 2008.

Jim Hoitt, vice president of sales at Berkley Accident & Health in Boston, estimates that a growing segment of the insurer's group stop-loss business is partnered with a dedicated Bermuda-based captive, EmCap, which has tripled its staff over the past three years to serve this emerging market.

"Right now, we're judging the success level based on interest. When we present our EmCap value proposition, it very much

"I love the fact that we're driving business off of the insured market, which has underserved small and midsize employers, by giving them a solution that provides control, stability and transparency."

Jim Hoitt,
Berkley Accident & Health

resonates with the buyers," Mr. Hoitt said. "I love the fact that we're driving business off of the insured market, which has underserved small and midsize employers, by giving them a solution that provides control, stability and transparency."

Burt Wilson, senior vice president, captives, at AIG Benefit Solutions in Auburn, Calif., said AIG's group stop-loss captive business "performs better than our traditional stop-loss business. This is because the employers care about the layer that falls within the captive, whereas before their interest would stop at their specific deductible level."

Though ING U.S. doesn't participate in the group stop-loss captive market, Mary Sullivan, head of stop-loss, said the insurer is "keeping a close eye on this. There are a lot of groups currently evaluating going from fully insured to the self-

funded environment. This allows us to tap into a growing part of that market."

ING markets stop-loss coverage

with a \$50,000 specific deductible to self-funded employers with a minimum of 100 employees.

By Joanne Wojcik

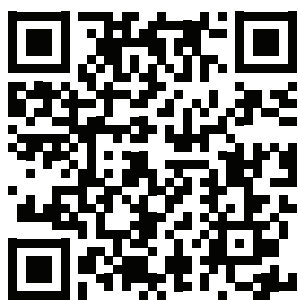


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Scor boosts net income, readies strategic plan

French reinsurer Scor S.E. said it had net income of €418 million (\$544.2 million) in 2012, a 26.7% gain over fiscal 2011. Paris-based Scor's global property/casualty operation's gross written premiums grew 16.8% in 2012 to €4.65 billion (\$6.05 billion), while its combined ratio improved to 94.1% for the year from the 104.5% for 2011. "SCOR achieved solid performances in 2012, despite an economic and financial environment that remains challenging and natural catastrophe costs that are still elevated," Scor Chairman and CEO Dennis Kessler said in a statement. "The group continues to grow, particularly with further very strong increases during the (property/casualty) renewals and the successful integration of the Transamerica Re business, and now conducts around 60% of its activities in Asia-Pacific and the Americas." Mr. Kessler said the reinsurer plans to present a three-year strategic plan in September.

JLT reports higher profit amid soft property prices

Jardine Lloyd Thompson Group P.L.C. reported a pretax profit of £161.7 million (\$243.2 million) for 2012, up from £147.6 million (\$221.9 million) in 2011. The London-based brokerage said total revenue for 2012 was £880.1 million, (\$1.32 billion), up from £818.8 million (\$1.23 billion) the previous year. JLT said the revenue increase was made up of 7% organic growth and 1% from acquisitions. The company's employee benefits business revenue increased 10% to £203.7 million (\$306.3 million). In a statement, JLT said it was launching a two-year business transformation program that would focus largely on its operations in emerging markets.

Standard Life unveils windfall dividend

British insurer Standard Life P.L.C. said its shareholders would get a £302 million (\$455 million) windfall after strong growth in its home market drove a better-than-expected 65% increase in annual operating profit. Standard Life, Britain's fifth-biggest insurer, will pay a special dividend of 12.8 pence (19 cents) per share, it said on Thursday, on top of a regular payout of 14.7 pence (22 cents), up 6.5%. Edinburgh-based Standard Life also reported an operating profit for 2012 of £900 million

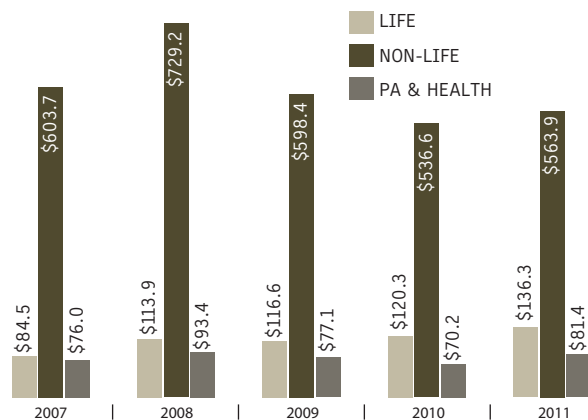
PROFILE: SERBIA

\$563.9 MILLION

The property/casualty insurance market in Serbia has contracted severely since the global financial crisis in 2008, with premiums declining from \$729.2 million in 2008 to \$563.9 million in 2011, the latest year for which figures are available. The market has been depressed by several factors, including recession, lack of corporate liquidity and fierce competition between insurers. Many large state-owned insurers have been forced to cancel or scale back programs because of a shortage of capital. And there has been little foreign direct investment to offset the shrinking domestic insurance market.

◀ 2011 property/casualty premiums

MARKET GROWTH IN MILLIONS OF U.S. DOLLARS



COMPULSORY INSURANCE INCLUDES

- Workers compensation
- Nuclear liability
- Aviation liability
- Third-party auto
- Pollution liability
- Third-party marine liability

NONADMITTED INSURANCE

Nonadmitted insurance is not permitted in Serbia because the law mandates that insurance must be purchased from locally authorized insurers. Serbian law is unusually strict in stating that insurance contracts taken out with nonadmitted insurers are null and void. The National Bank of Serbia is vigilant in policing the insurance market.

INTERMEDIARIES

Insurance brokers may not do business in Serbia without a license from the National Bank of Serbia. Domestic brokers are allowed to place business only with licensed domestic insurance companies. Individuals who sell insurance without a license may be sentenced to prison for up to five years. Brokers found placing business with nonadmitted insurers can lose their license.

MARKET PENETRATION

Serbian insurance market premiums as a percentage of gross domestic product at 1.4% is among the lowest compared with other countries in the region.

(\$1.35 billion), ahead of the £853 million (\$1.28 billion) expected by analysts in a company poll. The improvement was driven by Standard Life's core British division, where operating profit rose 58%.

Reuters

Hannover Re reports \$1.13 billion in 2012 profits

Hannover Reinsurance Co. posted net income of €858.3 million (\$1.13 billion) in 2012, an increase of 41.6% over that of 2011, the Hanover, Germany-based company reported. Gross written premiums rose 13.9% to €13.8 billion (\$18.21 billion), with gross written premiums for nonlife reinsurance increasing 13.1% to €7.7 billion (\$10.16 billion). The company's combined ratio improved to 95.8% from 104.3%.

Aviva slashes dividend to speed recovery plan

British insurer Aviva P.L.C. slashed its 2012 dividend by more than one-quarter to repay debt, sending its shares tumbling 13% and drawing unflattering comparisons with a windfall payout from rival Standard Life P.L.C. Aviva shareholders will get 19 pence (29 cents) from 2012 earnings, compared with 26 pence (39 cents) the previous year, and well below the 25.6 pence (38 cents) forecast by analysts in a company poll, the insurer said. "This was a difficult decision, but it was absolutely necessary to give certainty to our shareholders, to reduce debt, and to put Aviva on a sound footing for the future," Aviva Chief Executive Mark Wilson told reporters, adding that he and other top executives would get no bonuses or pay raises this year.



POPULATION

7.1 million

AREA

34,107 square miles

P/C MARKET WORLD RANKING

70

NUMBER OF INSURERS

24

MARKET DEVELOPMENTS

UPDATED
FEBRUARY 2013

- In August 2012, the Serbian parliament adopted an amended law requiring the entire top management of the National Bank of Serbia to be replaced. The amendment was criticized for reducing the independence of the regulator.
- In March 2012, Serbia was granted official candidate status by the European Union. However, the nation is not expected to be ready to join the E.U. before 2020.
- A new insurance law is expected to come into effect in 2013. The main purpose of the law is to advance the harmonization of Serbia's insurance legislation with relevant E.U. directives. It also will allow foreign insurers to establish Serbian branches.
- In October 2011, the Serbian parliament ratified a \$5 million loan agreement with the World Bank to contribute that money toward Europa Re, a new Swiss-based regional catastrophe reinsurance facility.

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

The dividend cut, Aviva's second in four years, came as the company reported a 15% drop in operating profit to £2.13 billion (\$3.20 billion), broadly in line with forecasts. Standard Life said it would pay investors a special dividend of £302 million (\$454.1 million), on top of a 6.5% increase in the regular payout, after forecast-beating profit growth last year contributed to a "very strong" capital position.

Reuters

New Bermuda group to hold ILS conference

A newly formed association of Bermuda-based insurers, reinsurers, asset managers and regulators announced an inaugural insurance-linked securities conference. Scheduled to be held in Hamilton, Bermuda, on Nov. 14,

the conference, Convergence 2013, is intended to give attendees the "opportunity to network and discuss the industry's most strategic opportunities and pressing challenges in an environment focused on building relationships and making deals," according to the sponsor, ILS Bermuda. "As the world's leading jurisdiction for insurance-linked securities and collateralized reinsurance, Bermuda is a natural convergence hot spot and therefore an ideal host for this conference," an ILS Bermuda spokeswoman said in a statement. "We believe this conference will become the marquee event for the ILS industry." While full conference details are forthcoming, ILS Bermuda said the concept for the conference is being modeled after other reinsurance events such as Monte Carlo's annual Rendez-vous de Septembre.

China to expand investment choices

■ China will loosen restrictions on foreign investment of offshore yuan back into onshore capital markets by permitting investors to buy individual stocks and bonds, rather than restricting them to index funds, regulators said. Changes to the Renminbi Qualified Foreign Institutional Investor will offer foreign institutions a broader range of investment options, according to rules posted on the website of the China Securities Regulatory Commission. The changes may increase foreign investment in small-cap stocks and spark the launch of a wider variety of investment products and attract a broader base of foreign investors. The new rules also expand the types of institutions allowed to participate in the RQFII program to include Hong Kong subsidiaries of mainland commercial banks and mainland insurance companies. Financial institutions primarily based in Hong Kong also gained new access.

Reuters

U.K. banks still profit from mis-selling policies

■ Britain's banks still have profited from the sale of flawed loan insurance policies, even after lifting estimates for the compensation bill to more than £14 billion (\$21 billion), according to data from one bank and industry sources. HSBC Holdings P.L.C., Britain's biggest bank, this week raised its provision for payment protection insurance policies to \$2.4 billion, but it revealed it had sold \$4.1 billion worth of the products since 2000. It is the only bank to publicly estimate its income from PPI, and its provision is regarded as the most conservative of the top lenders, suggesting banks as a whole have still made a net gain from the sale of the products intended to give borrowers a guarantee of being able to pay back a loan. Lloyds Banking Group P.L.C., Royal Bank of Scotland P.L.C. and Barclays P.L.C. declined to say how much income they had made from sales of PPI products, which became controversial because they were often sold to people who did not want or need the protection.

Reuters

China regulatory system needs reform: AIA

■ China's insurance regulatory system, though much improved, needs to undergo further reform,

an official of the American Insurance Association told a congressionally created panel. "One reason for the underdevelopment of China's insurance sector is limited participation of foreign insurers in the market," Stephen M.H. Simchak, AIA's director-international affairs, testified at the U.S.-China Economic and Security Review Commission's hearing. "For instance, there are only 21 foreign property/casualty insurers in

China, and those 21 foreign insurers held only a 1.2% share of the Chinese insurance market in 2012," he said. AIA recommended that the China Insurance Regulatory Commission focus on regulating and not be responsible for developing domestic insurance companies, as is the case now. Mr. Simchak also said the CIRC should harmonize treatment of domestic and foreign insurers and that foreign insurers should be allowed to apply for and

be awarded multiple new internal branch licenses at the same time, if the insurer decides to apply for multiple licenses simultaneously.

Crawford acquires majority interest in LWI

■ Atlanta-based Crawford & Co. announced it will acquire a majority interest in Lloyd Warwick

International Ltd. London-based LWI is a specialist loss consulting company offering onshore and offshore energy expertise. Its services include loss adjusting, major claims management and litigation support. "The acquisition of LWI is in line with our global strategy to grow our portfolio of services and builds on Crawford's existing capability in the energy market," Crawford CEO Jeffrey T. Bowman said in a statement.



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EDITORIAL

HEALTH REFORM PROVISION NEEDS RETHINK

The release this month of final regulations to implement a health care reform law-created program that will slap employers that self-fund their health care benefit plans with billions of dollars in assessments reaffirms our belief that lawmakers should repeal the program.

As background, funds generated for the three-year Transitional Reinsurance Program largely will be used to reimburse commercial insurers writing coverage in public insurance exchanges for those in the personal lines market with the highest health care costs.

As of now, the Department of Health and Human Services, which is administering the program, estimates in the regulations that the first-year fee — paid by insurers and self-insured employers — will be \$63 for each person enrolled in plans they offer. If an employer has 100,000 participants in its health care plans, it can expect to write a check for more than \$6 million to cover its first-year assessment of the \$25 billion program.

Our problem is not with the HHS regulations. We believe they are fair and well-written, clearly answering, as we report on page 3, many practical real-world questions employers and others have raised about complying with the program.

Our problem is with the law itself. Why should employers who provide coverage for their employees and dependents be slapped with a hefty fee to offset claims expenses incurred by individuals for whom they lack a direct connection?

We don't know how this provision got inserted in the Patient Protection and Affordable Care Act during the legislative process. But we know there never was any discussion of it.

As to why the provision was overlooked during the legislative process, that certainly could happen easily enough with business groups having to stay on top of a measure that became more than 2,000 pages long.

But that is the past. What legislators should do is simple: They should amend the provision to exclude self-funded employers from the fee.

That is fair and right, and we hope the Obama administration and members from both sides of the aisle work together to see that it happens.

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

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SCHILLERSTROM



COMMENTARY

EXPECTATIONS FOR FIO COOLING IN FACE OF DELAY

Even routine documents have their fascinating spots. A case in point is the House Financial Services Committee's oversight plan, which spells out what the panel intends to do during this Congress. The paper contains quite a bit of interest for risk managers, insurers and brokers. For example, the committee plans to hold hearings on the federal terrorism insurance backstop program, monitor the implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act as it pertains to insurance, and consider additional reforms of the National Flood Insurance Program.

But perhaps the most interesting part is the document's discussion of the Federal Insurance Office. Dodd-Frank brought FIO into being, and the new office was greeted with fanfare from much of the insurance industry, and understandably so.

After all, the office — which is within the Treasury Department — represented the first time the federal government had a formal entity entrusted with insurance matters. The fact that the Obama administration chose a highly respected state insurance regulator — former Illinois Insurance Director Michael McRaith — as the first head of FIO added to the expectations for the new office.

Judging from the oversight plan, at least some in Congress feel that those expectations haven't been met. Consider this one section of the plan:

"FIO has repeatedly missed multiple statutory deadlines imposed by the Dodd-Frank Act for reports to Congress on (1) the insurance industry, in general; (2) the breadth and scope of the global reinsurance market; (3) the ability of state regulators to access rein-



MARK A. HOFMANN
SENIOR EDITOR

surance information; and (4) recommendations to modernize and improve the system of insurance regulation in the United States.

"The committee urges the FIO to submit these long overdue reports without further delay."

To which anyone with any interest or stake in how Washington treats insurance can only respond "amen."

One of the reports to which the committee refers — the recommendations on insurance regulatory modernization — is now more than a year overdue. No one expects anything in official Washington to adhere to strict deadlines — it's simply not part of the nature of the town no matter who's in charge. But even by Washington standards, a year overdue is a bit much.

The situation may not improve, and in fact could become worse. With the departure of Treasury Secretary Timothy F. Geithner, there's a change at the top of the department, and insurance — which has never been at the top of anyone's priority list in D.C. — may get pushed even further down the list.

The industry deserves better, and the mere establishment of FIO underscores that fact. FIO should heed the committee's urging and submit the mandated reports. Delay in Washington may be routine, but the time to break the routine on this matter is long overdue.

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THE WINNERS

2013

Ace USA
ACE ACCELERATOR
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American International Group Inc.
PROSPECTUS EDGE
 PAGE 15

AIR Worldwide Corp.
CATASTROPHE RISK ENGINEERING SOLUTIONS FOR SUPPLY CHAIN RISK
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CS Stars L.L.C.
STARS DISCOVERY
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Keenan & Associates Inc.
KEENAN SAFESCHOOLS ONLINE TRAINING
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Lexington Insurance Co.
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Marsh Inc.
RCO CORPORATE RESPONSE
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PMSI Inc.
POPULATION RISK SCORECARD
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Rising Medical Solutions Inc.
RX INTELLIGENCE
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Zurich Insurance Co. Ltd.
ZURICH RISK ROOM MOBILE APPLICATION
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MICHAEL MARCOTTE

Winners of the 2013 Innovation Awards presented their winning entries to an audience of risk managers and insurance professionals during the *Business Insurance* Risk Management Summit in New York last week.

INNOVATIVE SOLUTIONS RECOGNIZED WITH AWARDS

Risk managers select winning entries

Products and services ranging from a Web-based portal to ease the process of complying with state auto insurance requirements to software that spots questionable prescription drug use have been recognized with 2013 Innovation Awards from *Business Insurance*.

The awards, which recognize innovation by risk management service providers, were presented during the *Business Insurance* Risk Management Summit®, which was held March 5 and 6 in New York.

The winning entries were selected by an independent panel of judges who are all risk management professionals. The 2013 judges were Julie A. Bean, risk manager at The Duchossois Group Inc.; Patty Grass, senior risk manager at Brunswick Corp.; Richard E. Rabs, vice president – insurance & risk, Veolia Environnement North America; Terry Sampson, director of risk management at the Art Institute of Chicago; Carlos A. Sintes, risk manager for W.W. Grainger Inc.; and Amy

Templeton, senior manager, risk management and insurance at Mondelez International Inc.

In the following section, we profile all the winning entries.

This is the fourth year *Business Insurance* has presented the Innovation Awards. For the 2014 Innovation Awards, the nomination process will begin in the fall. For details, visit www.businessinsurance.com or email Business Insurance Editor Gavin Souter at gsouter@businessinsurance.com.





ACE USA

ACE ACCELERATOR
www.acegroup.com

When Zurich-based Ace Ltd. detected a pain point among its broker clients involving the completion of coverage election forms for uninsured/underinsured motorist coverage, it looked for a technology-based answer to the problem.

The result was Ace Accelerator, which debuted in March 2012 after two years of development. The Web-based portal guides users through 14 to 20 questions and then uses logic to map answers to various state election forms.



Mr. Merna

Matt Merna, New York-based division president of Ace's risk management division, a unit of Ace USA, the U.S.-based retail operating division of Ace, said the product was a direct result of client demand. "We wanted to develop an innovative technology around the Automobile Coverage Selection (UM/UIM) process," he said.

The product has earned a 2013 Innovation Award from *Business Insurance*.

In addition to inspiring the product, clients also helped guide its development, Mr. Merna noted, adding that the Accelerator development team hosted client focus groups across the country over the past 12 months.

"We built it all internally at Ace, so we were able to incorporate client feedback. As a result, the clients and brokers had tremendous input into the outcome of where we are today," he said.

Gary Kramer, vice president of Ace Risk Management, said one key challenge in developing the product was making sure the product rigorously complied with the different rules regarding UM/UIM coverage for all 50 states and the District of Columbia.

"Where we spent a lot of our time was on the compliance, mapping and coding to make sure that we get the answers to the user properly," he said.

Mr. Merna said Ace intends to keep improving the product, which is part of a larger company effort to embrace technology.

"We rolled the product out last year but we have continued to improve it. We are now rolling out a complete electronic format where the clients can utilize an authentication PIN to authenticate their signatures electronically," Mr. Merna said.

By Bill Kenealy



Ace Accelerator guides users through 14 to 20 questions and then uses logic to map answers to various state election forms.

AMERICAN INTERNATIONAL GROUP INC.

PROSPECTUS EDGE
www.aig.com

AIG With the market for Canadian company initial public offerings expected to boom, American International Group Inc. has launched Prospectus Edge, a directors and officers liability insurance product created for Canadian risk managers.

In addition to specifically referencing Canadian laws, rules and regulations, the product is available in French for Quebec clients.

Canadian demand for D&O policies traditionally has been satisfied with products developed in the United States or Europe, where legal terminology differs, said Robert Yellen, New York-based chief underwriting officer for AIG's U.S. and Canadian financial lines.



Mr. Yellen

"What really makes Prospectus Edge cool is that it was built by a Canadian team," Mr. Yellen said. It was developed to meet "broker demand for a better solution in Canada than what London was offering."

Meeting such demand earned the product a 2013 Innovation Award from *Business Insurance*.

AIG said it released Prospectus Edge in

November because the New York-based insurer expects a future wave of Canadian IPOs.

But AIG already has bound accounts that purchased Prospectus Edge and there is a "robust pipeline" of additional accounts interested in the coverage, Mr. Yellen said.

"It's rare that you have people that are binding days after you launch. That is pretty much what we had," he said.

Among other features, the policy's coverage extends beyond traditional D&O to cover other company stakeholders who may be exposed by the offering, such as private equity firms and even family members involved in starting up the operation, Mr. Yellen said.

"If a claim comes in, they could also be targets, so why shouldn't they get the benefit of coverage?" Mr. Yellen

asked rhetorically.

The policy also offers a multiyear reporting period so that buyers have coverage in subsequent years after the IPO offering, Mr. Yellen said. In that way, the coverage focuses on when the IPO transaction occurs rather than on a policy period.

By Roberto Cenicerros



Are you taking the **right amount of risk** with your HPL program?

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www.air-worldwide.com/Consulting-Services/Catastrophe-Risk-Engineering/

The Japanese tsunami and Thai floods in 2011 underscored to insurers and risk managers how natural catastrophes can devastate supply chain networks.

According to Akshay Gupta, vice president and director of catastrophe risk engineering services at Boston-based catastrophe modeler AIR Worldwide Corp., “clients began asking a lot of questions” in the wake of those events about how better to deal with the supply chain risks.

The result was AIR’s Catastrophe Risk Engineering Solutions for Supply Chain Risk, which was unveiled in April 2012 and is being recognized with a 2013 *Business Insurance* Innovation Award.

“It is an analytic process that will eventually lead to a product,” said Mr. Gupta. “Right now, we are working on it as a consultative process.”

The process helps risk managers better assess and reduce their risk from catastrophic perils. Mr. Gupta noted that while catastrophe risk to supply chains is complex, it can be quantified.

AIR combines site-specific catastrophe risk engineering with probabilistic hazard risk modeling. This allows AIR to provide catastrophe risk solutions to supply chain networks across the globe.



“It leverages our access to our global catastrophe risk models,” said Mr. Gupta.

“It’s not like we’ve come up with a new way to measure distance; it’s taking something that’s established and extending it in a unique way,” he said.

The existing method of assessing supply chain catastrophe risks is based on worst-case scenarios, “establishing 0% to 100% disruption one node at a time and propagating the impact through the entire supply chain,” said Mr. Gupta in AIR’s announcement of the process last year. That method does not include a

shutdown’s likelihood or frequency, the partial shutdown of a single node or simultaneous disruption of multiple nodes, he said.

“The traditional approach can now be improved to provide a realistic and comprehensive assessment of the supply chain’s catastrophe risk exposure.”

By Mark A. Hofmann



Mr. Gupta

CS STARS L.L.C.

STARS DISCOVERY

www.csstars.com/landingpage/starsdiscovery.aspx



With its STARS Discovery iPad app, CS Stars L.L.C. taps the capabilities of the iPad to provide risk managers with a mobile risk assessment tool that allows them to perform risk assess-

ments in areas where Internet connectivity is limited or nonexistent.

“We basically started out looking at mobility for our customers,” said Joel Plofsky, product owner at Marsh Inc. unit CS Stars in Chicago, who developed the app with Anurag Mishra, a CS Stars principal application architect. A customer survey had shown that the area in which CS Stars could make the biggest impact in providing a mobile tool was in the risk assessment area.

“So much of the work is done on factory floors or in warehouses or in out-of-the-way spaces where connectivity doesn’t exist,” Mr. Plofsky said. “So it seemed like the perfect way to start out and get into the mobile space was to go after the need.”

Meeting that need earned the product a 2013 Innovation Award from *Business Insurance*.

The STARS Discovery app displays push pins on

a map of nearby locations at which the user has risk assessments to perform and allows users to create new risk assessments on the fly from an existing template. The app lays out multiple-choice, checkbox, essay and applicability questions in a survey-style format and allows the user to use the iPad’s camera function to shoot and attach photos to individual questions. Risk assessment progress is tracked through a “completed questions” status bar.

The app can automatically generate recommendations and action plans to address noncompliant responses. It’s also designed for seamless integration with CS Stars’ STARS Enterprise claims administration and risk management platform, allowing completed risk assessments to be uploaded to the platform.

The app is in the process of being rolled out to clients and prospects, said

Mr. Plofsky.

“The feedback has been fantastic, both in the efficiency and the quality of the information that they’re getting,” he said.

Mr. Plofsky said additional functionality likely will be added to the app in the future. “I’m sure there will be enhancements,” he said.

By Rodd Zolkos



Mr. Plofsky

“The risk manager has strategized and put (the training courses) there as part of their risk improvement action plan.”

Kathy Espinoza,
Keenan SafeSchools Online Training

KEENAN & ASSOCIATES INC.

KEENAN SAFESCHOOLS ONLINE TRAINING
www.keenan.com/technology/keenan-safe-schools/



After meeting with more than 50 California public education professionals such as superintendents, chief business officers and risk managers, insurance broker Keenan & Associates Inc. saw a need to address efficiencies and safety for schools facing fiscal challenges.

To address such challenges, the Torrance, Calif.-based privately held brokerage developed a Web-based safety training and tracking system for schools to comply with requirements of California’s Division of Occupational Safety and Health.

Keenan SafeSchools Online Training, a 2013 *Business Insurance* Innovation Award winner, houses 175 safety and risk management online training modules and allows risk managers to administer courses, track compliance progress and document training completions. The product is built on an existing tool that was extensively enhanced in 2012.

While schools face difficult resource constraints, they are among the most regulated industries in California, said John Stephens, Keenan’s senior vice president and property/casualty practice leader in Torrance. “Obviously they don’t want to sacrifice safety, but the reality is that some of those things were being hindered.”

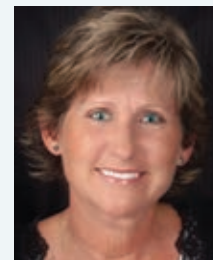
The online training system, which is available to staff any time, allows risk managers to set a planned training schedule throughout the year, said Kathy Espinoza, Keenan’s assistant vice president of ergonomics and safety and Keenan SafeSchools product leader, in Torrance.

Specific training courses covering emergency management and employment practices, among others, are available to users. “The risk manager has strategized and put (the training courses) there as part of their risk improvement action plan,” she said.

Throughout 700 school districts in California, Keenan SafeSchools also collects vast amounts of data so “we know exactly what’s driving losses for our districts, and we design courses that speak specifically to what those loss drivers are,” said Christine Gerbasi, vice president of property/casualty for Keenan in Torrance.

Some school districts “have seen about a 15% reduction in their work comp severity,” she said, noting that such districts also have seen reductions on property and liability exposures.

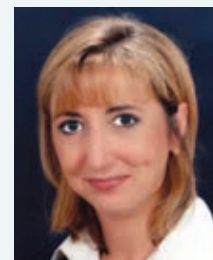
By Mike Tsikoudakis



Ms. Espinoza



Mr. Stephens



Ms. Gerbasi



LEXINGTON INSURANCE CO.

PARITY

<http://www.lexovations.com>

LEXINGTON INSURANCE

In 2010, one of Lexington Insurance Co.'s hospital clients pointed out that a technology vendor contracted to carry out a large-scale update to its information technology systems had placed strict limitations on its own liability for monetary losses or other damages incurred by project owners, regardless of fault.



"Once we brought it up to a number of our clients — particularly larger clients — a lot of them told us that they were interested in the concept."

John Parente,
Lexington
Insurance Co.

That conversation, Mr. Parente said, was the seed from which the company's Parity technology contract risk policy would emerge two years later, in May 2012.

Specifically, he said, Parity is designed to reimburse business interruption losses sustained as a result of an IT contractor's negligent errors or omissions. In addition, the policy provides coverage for a project owner's losses stemming from third-party liabilities, where an IT contractor's negligence has prevented the policyholder from meeting external obligations. The policy also covers the cost of replacing an IT vendor.

The product has earned a 2013 Innovation Award from *Business Insurance*.

Mr. Parente said one of the most difficult aspects of Parity's development was the coordination of coverage for first- and third-party errors and omissions losses under the same policy.

"The first-party elements were pretty straightforward," Mr. Parente said. "The third-party aspect of it was more difficult, in which the project owner is trying to fulfill an obligation to another company, and the contractor's negligence creates a loss for that company as well as the project owner. Rolling all of that into one product was quite challenging."

Since its launch, Mr. Parente said Parity has drawn widespread interest from clients in a range of industries and sectors, including health care, manufacturing and legal services.

"It was definitely something that, once we brought it up to a number of our clients — particularly larger clients — a lot of them told us that they were interested in the concept," Mr. Parente said.

By Matt Dunning

To pursue violations of the Food, Drug and Cosmetic Act, government regulators have increased their application of the "responsible corporate officer doctrine," which provides that responsible corporate officers may be held criminally liable under the law for their firm's wrongdoing, regardless of whether they actually knew about the wrongdoing or participated in the offensive conduct.

The RCO Corporate Response policy was developed by Marsh Inc. and underwritten by Farmington, Conn.-based Allied World Assurance Co. Inc., in response to this, and the policy is intended for companies involved in the health care and life sciences sectors, said Maureen Gorman, New York-based senior vice president in Marsh's FINPRO unit.

The policy's basic premise is that under the theory of strict liability reflected in the doc-

MARSH INC.

RCO CORPORATE RESPONSE

<http://www.marsh.com>

trine, corporate officers can be held accountable for their organization's actions even if they had no knowledge of it and even if when "you did everything within your power to prevent something from happening, that action still happens," said Ms. Gorman.

The product has earned a 2013 Innovation Award from *Business Insurance*.

The policy, which was introduced in March 2012, "provides coverage for defense costs as part of a (Responsible Corporate Officer doctrine) investigation," said Ms. Gorman.

Ms. Gorman said that as a result of an investigation, officials may be barred from working with federal or state health care programs, which is potentially career-ending. To address this, the Marsh policy also "provides a soft landing for an executive" by paying them lost future compensation.

In addition, the policy reim-



Ms. Gorman

burses for "recoupment loss," which is the value of any compensation that must be returned or repaid by an insured person as a result of a judgment, decision, or settlement of a Responsible Corporate Officer claim.

The policy provides up to \$10 million in coverage, said Ms. Gorman. Retentions will be based on the policy, she said.

Potential policyholders include pharmaceutical companies, laboratories, hospitals and nursing homes.

By Judy Greenwald

IN A WORLD OF COMPLEX DECISIONS

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AWARDS 2013

PMSI INC.

POPULATION RISK SCORECARD
www.pmsionline.com/RI-MAY.aspx



A new predictive model developed by Tampa, Fla.-based PMSI Inc. is targeting workers compensation claims that could go awry due to prescription problems.

PMSI, a workers comp pharmacy benefit manager, has been using Population Risk Scorecard for more than one year, according to Maria Sciamé, vice president of clinical services for PMSI. The model analyzes a company's comp pharmacy claims to determine how to improve care and reduce drug spend for claimants that are receiving inefficient medical treatment.

This capability earned the product a 2013 Innovation Award from *Business Insurance*.

"We help identify who is the actual claimant within your population that is highest risk and what type of clinical intervention can you, the client, engage ... to help manage that risk," Ms. Sciamé said.

The model is part of PMSI's MedAssess Risk Intelligence System, a suite of clinical services that aims to provide proper medications for injuries and lower drug risks for patients that need long-term care.



Ms. Sciamé

Claims that would be flagged by Population Risk Scorecard include those that have long-term prescriptions for opioids that are intended for short-term use, or patients who are receiving higher-than-recommended medication dosages. Such claims would receive assistance, such as outreach to treating physicians to help guide their prescribing strategies, or drug testing and monitoring for patients.

While the model focuses on prescription data, PMSI believes Population Risk Scorecard can help improve overall care for workers comp claimants, Ms. Sciamé said.

"We know, as clinicians, that when you manage a medication-related issue, you're often preventing clinical issues down the line — things such as emergency room benefits, hospitalizations, even deaths,"

she said.

PMSI is evaluating how much money Population Risk Scorecard has been able to save clients so far, Ms. Sciamé said. She notes that interventions recommended by the model have already helped clients reduce their pharmacy costs in the past.

By Sheena Harrison

RISING MEDICAL SOLUTIONS INC.

RX INTELLIGENCE
www.risingms.com

Recognizing that workers compensation claimants with chronic pain can sometimes become addicted to the medication used to treat their symptoms, Rising Medical Solutions Inc. developed a software program that flags at-risk cases earlier by tracking all prescription activity.

By spotting questionable prescription drug usage earlier, this Web-based dashboard, when combined with physician pharmacy review, enables earlier intervention to prevent drug misuse and abuse by injured employees.

Previously, employers and their claims adjusters would have to manually pore over workers comp files to determine which claimants were taking potentially addictive painkillers for extended periods of time, said Anne Kirby, chief compliance officer and vice president of medical review services at Rising Medical Solutions in Chicago.

But such cases are identified almost immediately with Rising Medical Solutions' Rx Intelligence technology, which has been recognized for its ingenuity in this year's *Business Insurance* Innovation Awards.

Besides opioids, Rx Intelligence technology also tracks other prescribed drugs that have the potential for abuse or could lead to negative drug interactions.

"If an injured worker is taking one drug, they are



Ms. Kirby

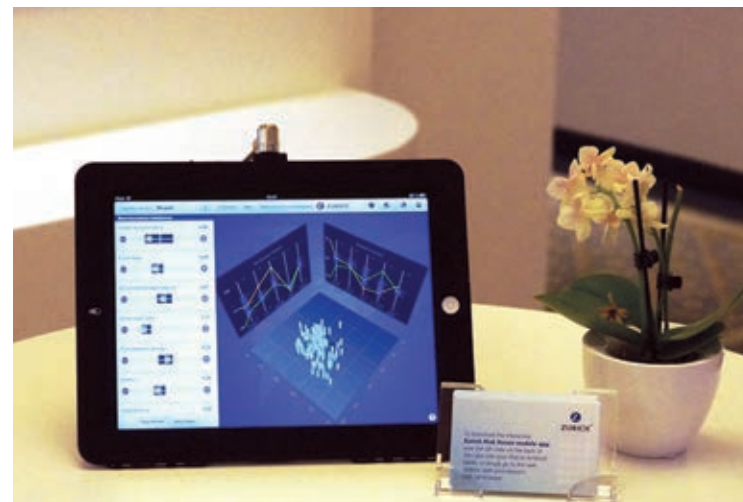


likely taking 10," Ms. Kirby said. "You cannot just deal with opioids in a vacuum because other drugs impact how they're used and what the impact is on their use. It's an interdisciplinary approach to managing the total pharmacy costs related to opioids."

Risk managers also can log into the password-protected Rx Intelligence dashboard to track prescription drug usage by workers comp claimants. Cost of the combination pharmacy dashboard, review and intervention service is \$1,500 per case.

"Twenty percent of the time, we don't recommend any intervention because they may already be on a weaning schedule or may still be in acute pain," Ms. Kirby said. However, in cases when the physicians reviewing the files suspect abuse, they will contact the treating physician directly, she said.

By Joanne Wojcik



The Zurich Risk Room Mobile Application is freely available for Zurich clients, and the company believes it adds value for insurance buyers and for the company itself.

ZURICH
INSURANCE CO. LTD.

ZURICH RISK ROOM MOBILE APPLICATION
www.zurich.com/insight/global-issues/wef/riskroom.htm

The Zurich Risk Room Mobile Application is a lighter version of Zurich Insurance Group Ltd.'s Risk Room and enables risk managers to analyze and assess country risk on their mobile devices.

And, says Daniel Radulovic, Zurich-based proposition manager for the Zurich Risk Room, clients already have found many uses for the tool.

This usefulness has earned the product a 2013 Innovation Award from *Business Insurance*.



Mr. Radulovic

The app employs data presets and risk scenarios within specific categories over five broad areas: macroeconomic imbalances, natural catastrophes, supply chain risk, political volatility and longevity risk.

The tool allows clients to model future events and helps them to "visualize data in a way that is easy to understand and is intuitive," said Mr. Radulovic.

The app is "rapid, at your fingertips, and easy to use," he said.

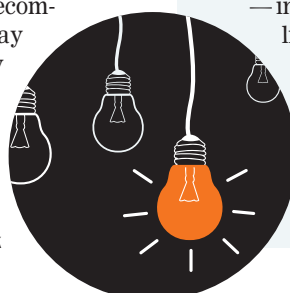
Zurich demonstrated the app at the recent meeting of G20 leaders in Davos-Klosters, Switzerland, as well as at risk and insurance conferences around the world.

Mr. Radulovic said he has received feedback from risk managers who have used the tool to show top executives in their companies the level of political risk in certain countries, from human resource managers who have used the tool to assess demographic issues associated with pension risk, and even from the primary school teacher wife of a client who used elements of the tool to teach a geography lesson.

The tool is freely available for Zurich clients, and the company believes it adds value for insurance buyers and for the company itself, said Mr. Radulovic.

Mr. Radulovic, who studied political science and then went into a career in investment banking, joined Zurich as a consultant after completing an MBA. Two years ago, he was appointed to head up the team working on the Risk Room — initially for Zurich's internal use but made public after demand from clients. He has been working to develop the Risk Room app for about 18 months.

By Sarah Veysey



SPECIAL REPORT

Smaller companies break into captive market

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Owners weigh onshore vs. offshore captive options

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Reform measure may result in higher taxes for captives

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Largest domiciles in U.S. and Europe, managers and more

PAGE 23

COUNTING CAPTIVES

Ranked by number of captive licenses as of year-end 2012*

Rank	Domicile	2012	2011
1	Bermuda	856	862
2	Cayman Islands	741	739 ¹
3	Vermont	586	590
4	Guernsey	333	343
5	Anguilla	291	268
6	Utah	287	239
7	Barbados	261	270
8	Luxembourg	238	242
9	Nevis	203	150 ¹
10	Delaware	190	150
11	Hawaii	179	172
12	District of Columbia	170	157
13	British Virgin Islands	157	174
14	South Carolina	149	159
15	Dublin/Ireland	141 ²	147 ²
16	Kentucky	139	137
17	Nevada	133	127
18	Isle of Man	125	133
19	Montana	114	85 ¹
20	Arizona	101	97
21	Turks & Caicos Islands	83	84 ¹
22	Singapore	66 ³	60
23	New York	50 ⁴	50
24	Sweden	49	49
25	Labuan	41	34
26	Switzerland	34	35
27	British Columbia	31	31
28	Puerto Rico	29	21 ¹
29	Missouri	28	19
30	Alabama	23	18
31	Gibraltar	16 ⁴	16 ⁵
32	Bahamas	15	11 ¹
33	Georgia	13	13
33	Germany	13 ³	13
35	Denmark	12 ³	16
35	Liechtenstein	12 ³	12
35	Malta	12	11
35	Netherlands Antilles	12 ⁴	12 ⁴
35	Panama	12	10
40	New Zealand	11	13 ¹
40	Norway	11 ³	9
42	Vanuatu	10	12 ¹
43	Micronesia	9	8
43	Tennessee	9	4
45	Finland	8 ³	7
45	U.S. Virgin Islands	8 ⁴	8
47	Michigan	6	5
48	Colorado	5 ⁴	5
48	New Jersey	5	3
48	Oklahoma	5	1 ⁴
51	South Dakota	4	4
52	Guam	3 ⁴	3
52	Maine	3	2
54	Connecticut	2	0
54	Dubai	2 ⁴	2
54	Jersey	2	2 ¹
54	London	2 ³	2
54	Nebraska	2	1
59	Arkansas	1	1
59	Hong Kong	1	2
59	Illinois	1 ⁴	1
59	Kansas	1	1
59	West Virginia	1	1

CAPTIVES GROW AS ECONOMY RECOVERS

Competition between domiciles intensifies

BY RODD ZOLKOS

The global captive insurance market continued to grow in 2012, both in terms of new captive formations and new captive domiciles. New captive insurers are forming to provide a variety of coverages for a host of different industries, with particular activity in formations for health care organizations or formations of group captives to provide stop-loss coverage for employee medical benefit programs.

Worldwide, the number of licensed captives increased to 6,052 at the end of 2012 from 5,807 a year earlier, according to the annual *Business Insurance* survey of captive domiciles.

The world's three largest captive domiciles were unchanged at the end of last year, with Bermuda with 856 captives, the Cayman Islands with 741 and Vermont with 586. The Cayman Islands also was among the domiciles licensing the most new captives in 2012 with 53, while Vermont licensed 32.

Other domiciles also had active years, including Utah with 68 new captives and Delaware licensing 59.

"Competition between the domiciles is more intense than ever," said Brady Young, president and CEO of Strategic Risk Solutions Inc. in Concord, Mass. "I think some of the upstart domiciles are aggressively looking to grow and are not happy or willing to take a back seat to Vermont or Cayman or other well-established, mature domiciles."

While new captive formations continued at a healthy pace around the world in 2012, the number of captives being dissolved kept the worldwide total from being even higher. In the Cayman Islands, for example, 51 captives were dissolved last year, while in Vermont there were 36 dissolutions.

In Vermont, the result was that while 2012 "was a very good year" in terms of new formations with 32, overall "we actually lost a net four," said David F. Provost, deputy commissioner of the Captive Insurance Division in the Vermont Department of Financial Regulation.

"Most of the dissolutions were due to merger and acquisition activity" and the merged parents finding themselves with mul-



iple captives, Mr. Provost said. Also, Vermont has been encouraging owners of dormant captives to either make use of them or close them down, he said.

See CAPTIVES next page

*Excludes protected cell captives. 1 Restated. 2 Combines Dublin and Ireland. 3 A.M. Best Co. Inc. "Europe's Captives Ride Out Economic Storm, but Regulatory Changes Loom." 4 BI estimate. 5 Pure captives only.

Source: BI survey

Researched by Angelina Villarreal

CAPTIVES: Competition between domiciles intensifies further

Continued from previous page

Captives move back onshore usually because of cost, Mr. Provost said. “They get a little bit of a perception issue, but it usually comes down to they no longer need to be there and it makes more sense for them to be onshore.”

“I don’t see any great drive to move off the islands,” Mr. Provost said. “It’s such a mature business now that people are going to move and do what’s best for them.”

Of the captives that left Vermont for other domiciles, Mr. Provost said, “We think some of those were directly related to Dodd-Frank self-procurement taxes. And some of those were just that they now have a home-state option. Sometimes politics enters into it.”

“As all the states pass laws — and they’re all pretty similar laws — I think it’s going to be harder for us to differentiate ourselves and we’re going to have to focus on client service,” said Mr. Provost. “We’re focusing now on the efficiency of our exams.”

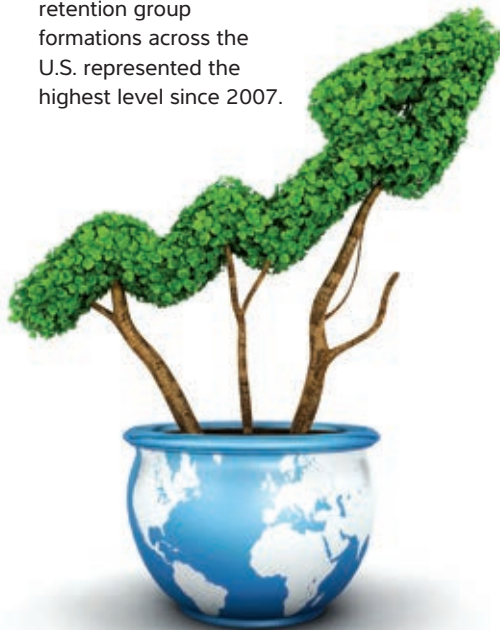
Andrew Sargeant, chief operating officer at USA Risk Group Inc. in Montpelier, Vt., said he doesn’t think regulatory differences are driving captive owners’ domicile choices.

“I think it’s other factors,” he said. In some cases, he said, it’s been issues with parent

companies’ home states’ interpretation of the Nonadmitted and Reinsurance Reform Act of the Dodd-Frank Wall Street Reform and Consumer Protection Act (see story page 22). “I think geographic reasons and not having to travel far has a little to do with it as well,” he said.

Mr. Sargeant said he’s uncertain whether the new domiciles coming on the captive

Last year’s 18 risk retention group formations across the U.S. represented the highest level since 2007.



scene will achieve critical mass and truly compete with the world’s largest domiciles. “We did one in Oklahoma last year, and we did one in New York last year,” he said. The new domiciles will “get a few, but whether they’ll ever get more than 100, I don’t know.”

The captive market also is showing signs of a strengthening global economy. “We had five businesses in the construction industry form captives this year,” Mr. Provost said. “That’s a good sign of a potentially recovering economy, and that’s what we got when we talked to those folks — things were looking up.”

“We still have a lot of interest all over the map and all kinds of activity,” said Les Boughner, managing director of Willis Group Holdings P.L.C.’s North American captive practice in Burlington, Vt. “We still see interest in TRIA captives. Cyber comes up all the time, but I don’t think we’ve actually done one. We’re still seeing a lot of workers comp, still seeing 831(b)s forming.”

Last year’s 18 risk retention group formations across the U.S. represented the highest level since 2007. Around the country, some states continue to engage in regulatory disputes with RRGs over issues of contract liability, however, said Robert H. Myers Jr., partner at Morris, Manning & Martin L.L.P. in Washington. “The same

kind of sniping that goes on from some states is continuing,” Mr. Myers said. “We’ll see how these disputes evolve.”

A significant RRG case that is in the courts — stemming from Nevada’s effort to block the Alliance of Nonprofits for Insurance, Risk Retention Group from writing first-dollar auto coverage in the state — was heard by the 9th U.S. Circuit Court of Appeals in San Francisco in February after a lower court ruled in 2011 that federal law preempted the state’s efforts. There’s no indication of when the appeals court will rule on the case.

Also on the captive regulatory front, the industry continues to be interested in the European Union’s pending Solvency II regulatory regime. While the enactment of Solvency II is now expected in 2016, those in the captive industry continue to monitor developments regarding possible impacts on captives. And while it’s a European initiative, with pressure for international standardization of insurance regulation, it ultimately could have an effect on U.S. captives, Mr. Myers said.

“I think the U.S. is still keeping it at arm’s length, but you never know. We have this unusual regulation system where peer pressure counts sometimes more than what the law says,” he said.

LARGEST MANAGERS OF 831(b) CAPTIVES

Managers of captives electing to operate under Section 831(b) of Internal Revenue Code*

Rank	Company	Captives
1	Artex Risk Solutions Inc.	294
2	Active Captive Management	241
3	Alta Holdings L.L.C.	106
4	AMS Insurance Management Services Ltd.	95
5	Atlas Insurance Management	72
6	USA Risk Group	42
7	Marsh Captive Solutions	39
8	Risk Management Advisors Inc.	34
9	Strategic Risk Solutions	19
10	Willis Global Captive Management	14

*A captive formed under Internal Revenue Code Section 831(b) is taxed only on its investment income if it writes \$1.2 million or less in premiums a year.

Source: BI Survey

Smaller firms break into captive market

Among the major drivers of new captive formations is increasing interest from smaller companies in tapping the alternative risk transfer market.

“I think the small captive market is very frothy,” said Brady Young, president and CEO of Strategic Risk Solutions Inc. in Concord, Mass. Several captive managers are focusing on companies that wouldn’t have been considered to be captive prospects in the past, he said, as strong cash flows, strong earnings and risks that aren’t covered by traditional insurance replace total annual premiums as the new metrics for identifying companies that could benefit from forming captives, he said.

“It’s surprising how much interest there is out there from those types of companies,” Mr. Young said, adding that the “small captive” category might be driving 70% to 80% of new formations.

“Utah was kind of the first to figure that out and target that segment of the captive market,” he said.

Many of those small captives are able to benefit from 831(b) tax elections, under which the U.S. federal government taxes them only on investment income if their annual premiums are less than \$1.2 million. Concerns remain among some man-

agers, regulators and others in the industry about cases in which those captives are formed for purposes of tax hedging rather than true risk transfer, however.

“We’re seeing the midsize captives, 831(b)s,” said Andrew Sargeant, chief operating officer at USA Risk Group Inc. in Montpelier, Vt. “I know there’s been a lot of activity out in Utah with some of these.”

But, Mr. Sargeant said, “We’re very careful when we work with these, because we want to make sure that there’s proper risk transfer and risk activity when you form these and it’s not merely a tax play.”

Smaller companies also are showing considerable interest in using captives in their employee benefit programs.

“There’s a lot of interest in benefits in captives: medium-sized employers looking for a magic bullet and hoping or thinking their captive might be it,” said Mr. Young. There is a “lot of interest, certainly a lot of smoke on using a group captive for medical benefits.”

“The real interest is in medical stop-loss,” said Les Boughner, managing director of Willis Group Holdings P.L.C.’s North American captive practice in Burlington, Vt., with employers forming group captives to provide that stop-loss coverage.

By Rodd Zolkos

“There’s a lot of interest in benefits in captives: medium-sized employers looking for a magic bullet and hoping or thinking their captive might be it.”

Brady Young, president and CEO of Strategic Risk Solutions Inc.

Captive owners weigh onshore vs. offshore options

Business models, costs seen as top factors in choosing a domicile

BY MIKE TSIKOUDAKIS

Captive insurance company owners carefully consider domiciles based on their business plans and how the captive ultimately will be used.

While the Caribbean had more captives in 2012, the U.S. growth rate topped the Caribbean and other regions, according to *Business Insurance* research (see chart).

Offshore domiciles continue to attract organizations based on expertise.

But when U.S. organizations look to form captives, they typically domicile in the United States, where captive operating costs are less expensive overall, experts say.

Redomesticating a captive from an offshore domicile to onshore happens less often and can be time-consuming, with significant legal costs, experts say.

Alan Kubitz, manager of risk finance and captive operations at the American Automobile Association Northern California, Nevada & Utah in Emeryville, Calif., is currently looking to form a new U.S.-based captive for employee benefits-related coverages such as group life insurance and long-term disability.

AAA Northern California's current captive, Pacific Lighthouse Reinsurance Ltd., which was formed in 1998, is domiciled in Bermuda and allows only certain property/casualty coverages.

"Employee benefits programs, whether that's long-term disability or group life insurance — those can't be written offshore," Mr. Kubitz said.

"In setting up a new one, we're very early in the process, but I think there's a clear determination that it should be U.S.-based instead of another offshore captive" because of "U.S. regulations not allowing some business to be written offshore," he said.

U.S. companies looking to form a new cap-



For "new captives, if you're a for-profit company, the path of least resistance for most would be to form it onshore. The path of least resistance for most not-for-profit captives is to form an offshore captive."

Brady Young,
Strategic Risk Solutions Inc.

tive — unless there's a particular reason or advantage to form offshore — generally prefer domiciling onshore, said Brady Young, president and CEO of Strategic Risk Solu-

tions Inc. in Atlanta.

For "new captives, if you're a for-profit company, the path of least resistance for most would be to form it onshore," he said. "The path of least resistance for most not-for-profit captives is to form an offshore captive," Mr. Young said, noting that nonprofit organizations often have more flexibility in the types of coverages they can write and how to operate their offshore captive.

Also, if the captive owner is "entrepreneurial" and wants to write third-party business, "it's easier, generally, to get that kind of captive set up and approved offshore than onshore, as long as the business plan is solid and well-supported," he said.

Les Boughner, executive vice president and managing director of Willis Group Holdings P.L.C.'s captive practice for the Americas in Burlington, Vt., said many U.S. multinational organizations seek offshore domiciles to handle exposures located outside of the United States.

"If you're dealing with a pure U.S. company with only U.S. exposure, I'd be hard-pressed to really identify what those advantages would be" in forming an offshore captive, Mr. Boughner said.

Instead of competing with U.S. locations, offshore domiciles focus on making their domiciles attractive based on the particular expertise and the benefits they bring to captive owners, he said.

"Cayman (Islands), for instance, continues to have a dominant share of health care captives," Mr. Boughner said.

"Fundamentally they can operate a much more successful captive offshore than they can onshore. So health care continues to go to Cayman. Cayman understands the business. There are advantages for them to do it. There doesn't seem to be any reason for that to change," he said.

Additionally, growth in Bermuda has been more of an evolution from traditional, commercial captives to special-purpose vehicles, catastrophe bonds and other types of structured financial arrangements, Mr. Boughner said.

Shelby Weldon, director of insurance, licensing and authorizations for the Bermuda Monetary Authority in Hamilton, said that along with the traditional captive market, Bermuda is looking to innovate and find new business opportunities.

"Bermuda goes beyond the simple 'onshore/offshore' differentiation, which is key to staying competitive and provides opportunities to companies looking to form captives," Mr. Weldon said.

The BMA in 2009 put together a framework for special-purpose insurers, which typically have been used for issuing cat bonds in the insurance-linked securities space, Mr. Weldon said, noting that that such arrangements provide another alternative risk transfer option.

Evanston, Ill.-based Northwestern University, the only captive domiciled in Illinois, has remained with its domicile because of its relationship with the state, said Christopher Johnson, the university's director of risk management.

The university's captive, Rubicon Insurance Co., formed in 1990, has not been courted by other domiciles; and its broker, Aon P.L.C., which is active in offshore domiciles, has not encouraged Northwestern University to change domiciles, Mr. Johnson said.

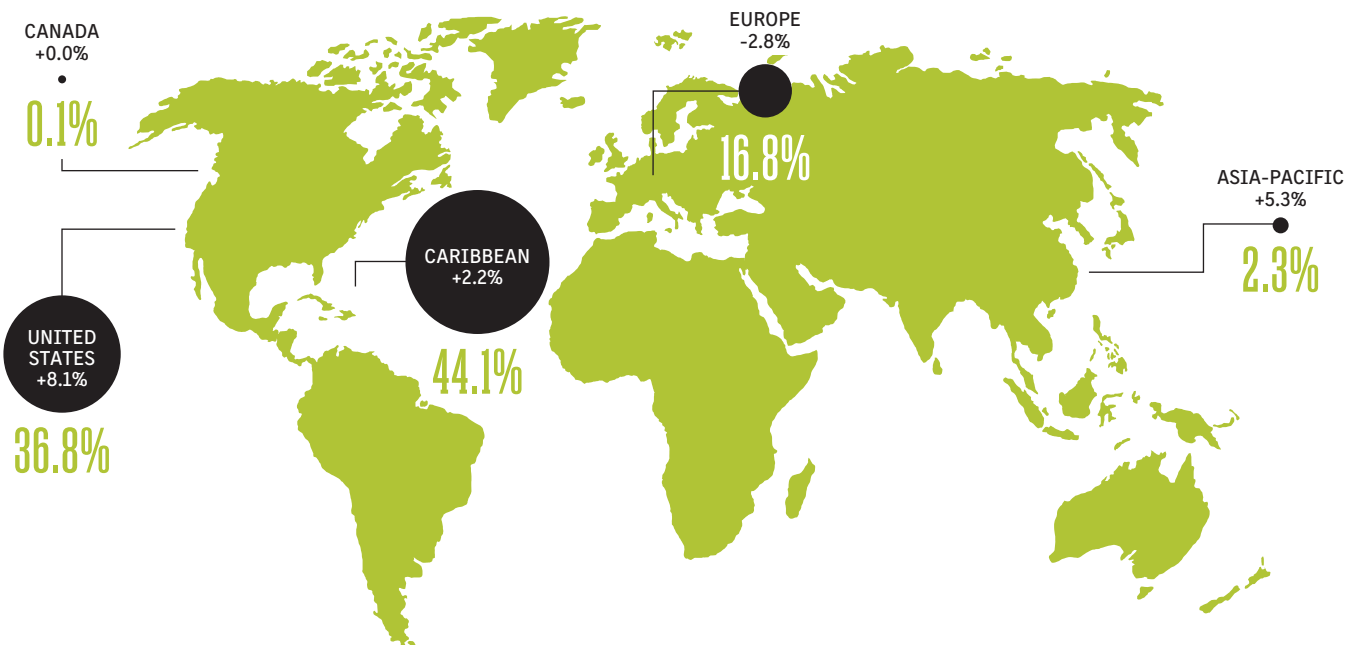
"We have such a good working relationship with (Illinois') department of insurance that we know that they understand what the purpose of the captive is. It's a funding mechanism, not an insurance company," Mr. Johnson said.

"When they come out and do their audits, they do it in that spirit," he said.

ONSHORE/ OFFSHORE BY THE NUMBERS

There were 6,057 captives worldwide in 2012, a 3.7% increase compared with 2011.

Percentage of total captives worldwide and increase in number of captives compared with 2011.



Reform measure may result in higher taxes for captives

BY RODD ZOLKOS

Despite statements from individuals involved in crafting the Nonadmitted and Reinsurance Reform Act of the Dodd-Frank Wall Street Reform and Consumer Protection Act that the act was never intended to apply to captive insurance, confusion remains over the measure's applicability to captives.

At issue is whether the NRRA subjects insurance business placed in captives operating outside their

parent's home states to self-procurement taxes imposed by the parents' home states.

The confusion is being exacerbated, some in the captive industry say, by some states that are using the act to drive captives to form or redomicile in their states.

"I think the level of confusion is pretty high," said Robert H. Myers Jr., partner at the Morris, Manning & Martin L.L.P. law firm in Washington.

"We're at the point where we don't know what to advise our

clients," said Les Boughner, managing director of Willis Group Holdings P.L.C.'s North American captive practice in Burlington, Vt. "Some states are really trying to strong-arm captives into locating in their states.

In February, a co-author and sponsor of the NRRA, Rep. Scott Garrett, R-N.J., said in a statement for the Congressional Record that the act was never intended to apply to captive insurance. "Unfortunately, several states have indicated that they plan to interpret

the NRRA to apply to the captive insurance industry," Rep. Garrett said. "In drafting this legislation, it was never contemplated to have the captive industry fall under the NRRA." The congressman noted that the intent of the legislation was stated in the bill's summary as applying only to surplus lines insurance and reinsurance.

Rep. Garrett's statement came after a December letter from Illinois Republican Judy Biggert, the outgoing chair of the House Committee on Financial Services' Sub-

committee on Insurance, in which she told the committee's new chairman, Rep. Jeb Hensarling, R-Texas, and the committee's new ranking member, Rep. Maxine Waters, D-Calif., that the NRRA was never meant to apply to captive insurance.

The NRRA "was intended to create certainty in the tax treatment and regulation of the surplus lines and in the reinsurance industry," Ms. Biggert said in her letter. "Despite this very specific purpose, a couple of states are misinterpreting the application of NRRA's definition" of what is considered nonadmitted insurance.

In his statement, Rep. Garrett said: "I look forward to working with my colleagues on the Financial Services Committee to address this issue if necessary in the future."

That congressional clarification is a goal of the Coalition for Captive Insurance Clarity, an organization formed under the leadership of the Vermont Captive Insurance Association that has gained support from captive industry participants in other domiciles.

Mr. Myers suggested that the CCIC's efforts are "laying a foundation for technical corrections which will be necessary."

"I think we need something definitive," said Andrew Sargeant, chief operating officer of USA Risk Group Inc. in Montpelier, Vt.

"I think they are making a lot of progress with the VCIA getting that coalition of folks and at least one active congressman saying that was not the intent of the legislation," said David F. Provost, deputy commissioner of the Captive Insurance Division in the Vermont Department of Financial Regulation. "It really does impact everybody."

While states might see a short-term gain by interpreting Dodd-Frank and the self-procurement tax issue in a way that prompts captives with home-state parents to relocate or form in their domicile, Mr. Provost said he thinks that if domiciles are limiting their focus to home-state companies, their growth potential is limited. "Unless you're New York or California, you've got a really small pool," he said.

Brady Young, president and CEO of Strategic Risk Solutions Inc. in Concord, Mass., said that while confusion exists, he's not certain the debate over Dodd-Frank's applicability to captives is relevant.

"Self-procurement tax has been on the books for many years," Mr. Young said. "The unintended consequence of this whole Dodd-Frank thing is the self-procurement tax is now more visible. My view is the genie's out of the bottle. I don't think we as an industry can put the genie back in the bottle and ignore it."

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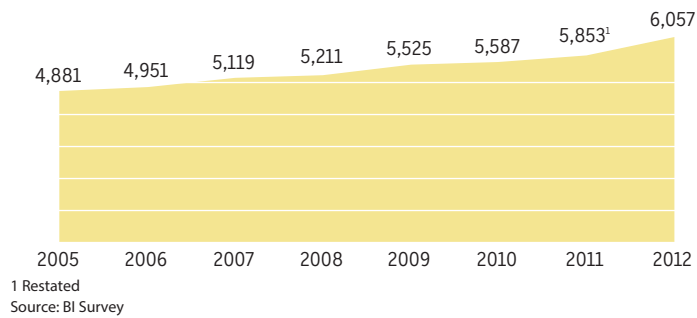
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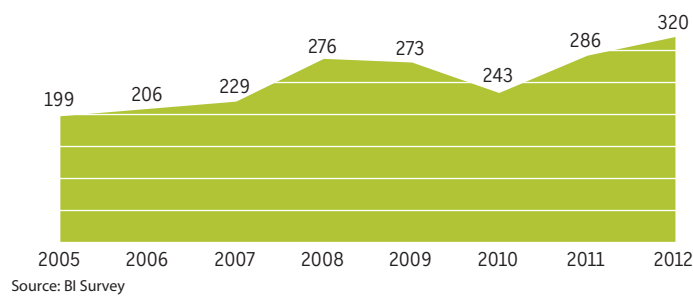
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TOTAL CAPTIVES WORLDWIDE



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LARGEST U.S. CAPTIVE DOMICILES

Ranked by number of captives at year-end 2012

Rank	State	2012	2011
1	Vermont	586	590
2	Utah	287	239
3	Delaware	190	150
4	Hawaii	179	172
5	District of Columbia	170	157
6	South Carolina	149	159
7	Kentucky	139	137
8	Nevada	133	127
9	Montana	114	85
10	Arizona	101	97

TOP 10 CAPTIVE MANAGERS

Ranked by captives managed worldwide in 2012*

Rank	Company/address	Phone/website	2012 total captives	2012 captive premium volume**	Domiciles	Captives formed***	Total staff	Principal officers
1	Marsh Captive Solutions 1166 Ave. of the Americas 39th Floor New York, N.Y. 10036	212-345-7769 www.marshcaptive.com	1,190	\$37,400,000,000	37	N/A	453	Jill Husbands, Julie Boucher and Ian Clancy, managing directors
2	Aon Captive & Insurance Management 8 Devonshire Square London, England EC2M 4PL	44-2076-235-500 www.aon.com	1,143	\$22,526,205,780	29	N/A	470	Peter Mullen, CEO
3	Willis Global Captive Management The Willis Building, 13th Floor 51 Lime St. London, England EC3M 7DQ	44-2031-246-000 www.willis.com	310	N/A	29	15	166	Tom Coughlin, CEO-Willis Global Captive Practice
4	USA Risk Group 2386 Airport Road Barre, Vt. 05641	800-872-7475 www.usarisk.com	213	\$2,485,020,987	19	26	68	Gary Osborne, president
5	Kane Group Ltd. Natwest House, 3rd Floor Le Truchot St. Peter Port, Guernsey GY1 1WD	44-1481-717-803 www.kane-group.com	195	\$3,731,724,361	11	20	94	Clive James, group chief operating officer
6	Strategic Risk Solutions 2352 Main St. Concord, Mass. 01742	781-487-9800 www.strategicrisks.com	157	\$2,032,000,000	12	18	57	Brady Young, president
7	JLT Insurance Management Cedar House 41 Cedar Ave. Hamilton, Bermuda HM HX	441-292-4364 www.jlrcaptives.com	129	\$2,102,781,235	9	10	62	Nick Wild, executive chairman-ex Americas; Steve Arrowsmith, executive chairman-Americas
8	R&Q Quest Management F.B. Perry Building 40 Church St., P.O. Box HM 2062 Hamilton, Bermuda HM HX	441-295-2185 www.rqih.com	103	N/A	11	5	45	Nicholas S. Dove, chairman
9	Beecher Carlson Insurance Services L.L.C. 8390 E. Crescent Parkway, Suite 200 Denver, Colo. 80111	303-996-5408 www.beechercarlson.com	85	\$4,026,558,000	11	6	32	Jason Flaxbeard, senior managing director
10	Global Captive Management Ltd. Governors Square, Lime Tree Bay Ave. 2nd Floor, P.O. Box 1363 Grand Cayman, Cayman Islands KY1 1108	345-949-7966 www.global.ky	71	\$346,382,910	2	6	17	Peter Mackay, chairman/CEO

*Captives electing to operate under Section 831(b) of the Internal Revenue Code are not included. **Captive premium volume includes total gross premium volume of captives managed by the company or on its behalf. ***Captives and protected/seggregated cell companies formed in 2012.
Source: BI Survey



LARGEST EUROPEAN CAPTIVE DOMICILES

Ranked by number of captives at year-end 2012

Rank	Domicile	2012	2011
1	Guernsey	333	343
2	Luxembourg	238	242
3	Dublin/Ireland ¹	141	147
4	Isle of Man	125	133
5	Sweden	49	49
6	Switzerland	34	35
7	Gibraltar	16	16
8	Germany	13	13
9	Denmark	12	16
9	Liechtenstein	12	12

¹ Dublin and Ireland captives combined.

TYPES OF CAPTIVES MANAGED*



*Companies listed in the BI Captive Managers Directory
Source: BI survey

Allied World U.S. launches surety department

Allied World U.S. is expanding its casualty operations to include a surety line of insurance for U.S. clients.

The new surety line offers contract and commercial surety bonds and environmental surety bonds on a stand-alone basis or in tandem with its environmental insurance, Allied World Assurance Co. Holdings A.G. said in a statement.

The line targets middle-market accounts with a capacity of \$20 million per single contract and \$50 million per aggregate program. Higher limits are available based on credit analysis.

Philadelphia-based Robert Staples has been recruited to lead the new surety department. As senior vice president of surety, he reports to Lou Iglesias, president of U.S. property/casualty. Before this new position, Mr. Staples was vice president and line manager for environmental surety at American International Group Inc.

For details, contact Mr. Staples at robert.staples@awac.com.

Hartford to target public entity property

The Hartford Financial Services Group Inc. is expanding its commercial property practice to include insurance programs for the public entity sector, particularly focusing on public entity risk pools, such as for cities and counties.

In addition, the insurer announced the appointment of Hartford, Conn.-based Susan Daigle Bencher as head of public entity property. She will manage the underwriting, sales and marketing to the public entity sector, initially focusing on municipalities, schools, housing authori-

PRODUCTS & SERVICES

Mercer launches pension buyout pricing index

✱ Mercer L.L.C. is launching a monthly index to give employers that are looking to reduce their pension plan risks up-to-date pricing information on the average premium insurers charge to take over retirees' benefits when employers purchase a group annuity.

The Mercer U.S. Pension Buyout Index, which Mercer compiles through pricing data it receives from major annuity insurers, will enable employers to evaluate the cost of a benefit buyout against the administrative costs, premiums charged by the Pension Benefit Guaranty Corp., and the risks associated with remaining liable for retiree benefits.

ties, transit authorities and special districts such as water, sewer, parks and recreation. Before this position, Ms. Bencher was a leader in the national property division at The Travelers Indemnity Co.

"Risk pools offer significant opportuni-

ties for public entities to better manage their overall cost of risk," said David Carter, senior vice president of middle-market commercial insurance, in a statement. For details, contact Ms. Bencher at 860-547-4701 or susan.bencher@thehartford.com.

More states OK Schinnerer real estate E&O form

The expanded real estate errors and omissions policy form from Victor O. Schinnerer & Co. Inc. has been approved in an additional 18 states, the underwriting manager announced. Launched Jan. 1, the policy includes additional insurance offerings for real estate professionals, such as privacy response coverage, open house property damage coverage, public relations coverage and bodily injury and property damage coverage stemming from lockbox claims.

"Reaction to our new real estate E&O policy has been overwhelmingly positive, and I'm pleased that we will soon have approvals in nearly every state," said Eric Myers, vice president and manager of the insurer's real estate E&O program, in a statement.

The expanded form is approved in Alabama, Arizona, Alaska, Connecticut, Delaware, Florida, Georgia, Hawaii, Iowa, Indiana, Idaho, Kansas, Kentucky, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, North Dakota, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming, plus the District of Columbia.

For details, contact Mr. Myers at eric.e.myers@schinnerer.com or 301-951-5428.

DEALS & MOVES

Shareholders approve Markel acquisition of Alterra

Markel Corp. and Alterra Capital Holdings Ltd. announced that their respective shareholders have voted in favor of all proposals necessary for the acquisition of Alterra by Markel.

Under the terms of deal, which was first announced in December, Richmond, Va.-based Markel will pay about \$3.13 billion for Hamilton, Bermuda-based Alterra based on a Dec. 18 closing price of \$486.05 for Markel common stock.

The combined firms will complement and diversify Markel's specialty insurance business, the companies said.

According to a Markel statement issued in December, W. Marston (Marty) Becker, President and CEO of Alterra, is expected to leave the company after the close of the transaction.

Private equity firm Genstar buys retail insurance broker

Private equity firm Genstar Capital L.L.C. has acquired Acrisure L.L.C., a retail insurance brokerage based in Grand Rapids, Mich., for an undisclosed sum.

Acrisure was founded in 2005 to acquire independent insurance agencies across the Midwest and since then has completed 26 acquisitions. Acrisure's business lines include property/casualty, employee benefits and related third-party administrator services, human resource outsourcing and claims management.

San Francisco-based Genstar focuses on investments in selected segments of the insurance and financial services, software, life sciences, health care and industrial technology industries.

"I am pleased to be partnering with the team at Genstar, who bring a proven track record of growing and building a company like ours in the insurance industry," Acrisure CEO Greg Williams said in a statement. "We have a shared vision to continue Acrisure's growth both organically and through strategic acquisitions, and Genstar is the ideal partner who brings additional resources and valuable expertise as we acquire strategic add-on opportunities and accelerate the growth of the Acrisure portfolio."

Digital Insurance buys N.C. benefits consultant

Atlanta-based Digital Insurance has acquired Benefit Services & Design Inc., a 30-year-old benefits consultant that serves employers throughout North Carolina.

Though financial terms of the transaction were not disclosed, a company statement said BSD will be merged into the Raleigh, N.C.-office of Digital Benefit Advisors, a division of Digital Insurance.

In addition, BSD principals Taylor Uzzell and Tom Snell, along with their six-member team, will continue to operate offices in Sanford, Raleigh and Durham, N.C.

Mr. Snell said in a statement that becoming

Oracle enhances financial services ERM suite

TECHNOLOGY

HOW DOES IT WORK?



BILL KENEALY

Risk managers in the financial services industry labor under a rapidly evolving set of regulatory requirements.

The Dodd-Frank Wall Street Reform and Consumer Protection Act's stress testing requirements, as well as the Federal Reserve's Comprehensive Capital Analysis and Review requirements, present a complex challenge for financial institutions.

To assist companies with these processes, Redwood Shores, Calif.-based Oracle Corp. recently enhanced the regulatory capital and credit risk management applications of its Oracle Financial Services Enterprise Risk Management suite.

"This is a regulatory-driven risk management offering," said S. Ramakrishnan, group vice president and general manager, Oracle Financial Services Analytical Applications.

Designed to help companies comply with the upcoming Basel



III global regulatory standard, the Oracle Financial Services Basel Regulatory Capital Version 6.0 includes new functionality to address Basel III leverage ratio, capital adequacy and capital buffers.

For example, a risk manager looking to assess the value of assets in any given portfolio under a variety of economic scenarios could make use of the suite's enhanced Credit Risk Management module. It affords users a single view of portfolio credit

risk across the enterprise by combining results from disparate product types, lines of business, geographies and legal entities.

Likewise, a risk manager looking to address issues surrounding data quality and consistency for the various statistical models used across the enterprise could use Oracle Financial Services Model Risk Management, a tool designed to track all the models in use throughout an enterprise.

"There are many complex models all over the enterprise, and they need to be brought together so an enterprisewide view of risk can be assessed, reported and managed," Mr. Ramakrishnan said.

Taken together, the enhancements should help risk managers achieve a consolidated view of risk across the enterprise, and enable asset managers to make more informed strategic capital decisions, Mr. Ramakrishnan said.

part of Digital Benefit Advisors' national network and having access to its advanced benefits technology will enable BSD to better serve its 250 employer-clients, which range from small businesses to national companies from various industries, including health care, trucking, furniture and manufacturing.

"Digital possesses a strategic approach and the keen ability to adapt to what's coming down the pike," Mr. Snell said in the statement.

"Being part of the Digital Benefit Advisors' national network and having access to its wealth of resources amplifies our ability to serve our clients," added Mr. Snell in the statement.

A wholly owned subsidiary of Fidelity National Financial Inc., Digital Insurance is an employee benefits agency that provides consulting and technology solutions to small and midsize employers nationwide.

Houck Anderson, Chartwell announce merger

Houck Anderson has merged with Chartwell Law Offices L.L.C.

The two companies will operate under the

Chartwell name, the firms announced in a statement.

With branches in Miami and Fort Lauderdale, Fla., Houck Anderson specializes in maritime and admiralty law, while Chartwell, which was founded in 2002 in Valley Forge, Pa., has offices in Pennsylvania, New York, New Jersey and Florida. The firm has practices in first- and third-party insurance coverage, casualty, employment and commercial litigation.

"This is an important new chapter for Houck Anderson," said Mark Houck, founder of the firm and the new managing partner for Chartwell's Florida operations and maritime practice.

"We have worked hard to gain the respect of the maritime industry, and to be a leader in this arena. The timing of this merger is perfect as it gives us the opportunity to use Chartwell's positioning to expand our marine-based practices to the entire eastern seaboard, while Chartwell can increase its footprint in the important Florida market," he said.

"An expanded Florida presence is important to our domestic, European and London clientele," said Chris Troy, chair of Chartwell's insurance practices and property section, in a statement.

"We handle major property and catastro-

phe work around the world, and with the addition of the Houck Anderson attorneys, we are now better positioned to meet our clients' needs in Florida and throughout the Gulf Coast," he said.

LWF Consulting opens office in Vancouver

LWF Consulting has opened an office in Vancouver, British Columbia, to serve the Pacific Northwest, announced the company, which helps insurers and others with equipment and systems failures.

LWG Consulting has named Eric Lalli as senior complex loss consultant. Previously, Mr. Lalli's experience in the forensic investigation industry included mining, oil and gas, manufacturing, transportation, power generation, forestry, buildings and structures, pressure vessels, and metallurgical and chemical processing.

"Eric's technical expertise on a wide variety of equipment failures and his understanding of the legal process make him an excellent strategic fit for our new Vancouver operation," said John Hicks, senior complex loss consultant for its Toronto office, in a statement. "I look forward in working with

him to serve the insurance and legal communities throughout Canada."

Jacobson, EJS Partners announce merger

The Jacobson Group, the Chicago-based staffing and executive search firm, will be merging with EJS Partners Ltd., a similar London-based firm operating throughout Europe as ejsSearch.

The two companies will operate under the Jacobson Group name. They have been collaborating since 2008, and the merger is expected to close in the second quarter of 2013, according to a joint statement.

"As the industry becomes more global in nature, there is an overwhelming demand for a single solution to insurance talent," said Gregory P. Jacobson, co-CEO at The Jacobson Group. "This merger delivers a much-needed integrated one-team approach to client relationships for insurance search cross-border."

Mr. Jacobson and Richard L. Jacobson will continue to serve as co-CEOs, and Barbara Schönhofer, CEO of ejsSearch, will act as senior vice president and CEO, global executive search.

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MORE CONSOLIDATION EXPECTED IN WORKERS COMP SECTOR

Q Do you expect mergers and acquisitions to continue in the workers comp industry?

A Yes. The industry is definitely a mature one and scale is important for mature industries to keep costs down and to invest in technology. So there is consolidation with bigger workers comp services companies buying smaller ones or smaller companies find they can't compete, so they either try to get purchased or they will go out of business.

We are seeing that happening, for example, with Atlanta-based ExamWorks Group Inc., which is in the independent medical examination business. They have been acquiring independent medical exam companies all around the country.

We are continually seeing M&As involving private equity investment firms such as Stone Point Capital's late 2010 purchase of Progressive Medical Inc., a pharmacy benefit manager, which merged Progressive with their existing pharmacy business. In order for pharmacy management businesses to grow at this time, they must acquire rivals, which is what

Q&A

Healthcare Solutions did with its 2012 acquisition of ScripNet.

The size of these businesses is now getting pretty substantial. There will soon exist a workers comp medical service company that will generate \$1 billion in annual revenues.

Q Last year, Aetna Inc. announced the acquisition of Coventry Health Care Inc. Do you expect Aetna will keep Coventry's large workers comp business?

A My strong belief is that Aetna is going to grow Coventry's work-

ers comp business because it's a great business.

Aetna is in group health, Medicare and Medicaid plans. There is a lot of governmental risk around that business because the government can change Medicaid reimbursements. It can stop sponsoring certain Medicare plans. It can take various actions to reduce government-program medical costs.

In the workers comp world there is regulatory risk, but that risk is state by state. So if one state does something you don't like, there are still 49 other states you can operate in. Aetna probably likes the workers comp business because the feds can't flip a switch and put you out of business and Coventry's business is not risk-based. It's not insurance. It's all fee-based, so Aetna is going to make money on a transaction basis and they don't have to worry about insurance claims.

Coventry's workers comp business also generates cash flow necessary for acquisitions, to invest in technology and to hire staff. So Coventry's workers comp business can help Aetna strategically and help fund business development.



JOSEPH PADUDA

PRINCIPAL, HEALTH STRATEGY ASSOCIATES

Joseph Paduda is principal at Health Strategy Associates in Madison, Conn. His services include advising private equity firms acquiring workers compensation service companies. He recently spoke with *Business Insurance* Senior Editor Roberto Cenicerros about mergers and acquisitions among workers comp service companies and the continuing interest that private equity firms have in acquiring these businesses. Edited excerpts follow.

Q Why do private equity firms continue to acquire workers comp companies?

A Workers comp is a pretty inefficient, manual, generally not well-managed industry. There is not as much automation or standardization as there is in other industries. Private equity people have made a lot of money by squeezing inefficiencies out of systems and they have generated significant profits by doing that. So they look at work comp as another industry they can apply their expertise to and do well. And they

are doing well at it, although some have come in with outsized expectations ...

Q Is the M&A activity positive or negative for payers?

A It's quite positive. However, payers are justified in their concern that private equity folks would not be coming into this business unless there was a lot of money to be made. The concern is ... they may position themselves to dictate price to the payers as they consolidate service providers.

COMINGS & GOINGS

UP CLOSE: EILEEN GARCZYNSKI

McLEAN, VA.-BASED SENIOR VICE PRESIDENT AND EQUITY PARTNER

Ames & Gough Insurance Inc.

PREVIOUS POSITION: McLean-based vice president for Ames & Gough.

LOOKING FORWARD TO: Ames & Gough has always prided itself on our client-first focus and our expertise on law firms and professional liability. My goal is to continue to grow our law firm business to continue to be successful. We've grown our business from three law firm (clients) in 2007 to over 100 law firm clients.

CHALLENGES FACING INDUSTRY: It's twofold. The lawyers professional liability insurance market is a subset of the larger insurance market, and we are affected by what's going on in the overall insurance market. We have seen a shift to a hardening of the market in the past year.

INDUSTRY OUTLOOK: Every day it seems like there is something new. Rates are going up. New players are coming in. Take cyber liability — law firms are now among the top targets. Now we have to look at how our firms are structuring risk programs. We have to look at how to tailor new insurance programs to meet that new risk.



FIRST MARKET EXPERIENCE: Right out of college. I didn't have an insurance degree, but I went right into doing claims handling for Travelers Insurance Co. in Baltimore. I did a lot of product liability, asbestos cases ... I got my feet wet there.

ADVICE: There is so much to learn. There are so many different niches. Start out big and then hone your skills in something that interests you. I went to law school, so legal malpractice was something that interested me.

HOBBIES: I run every morning before the sun comes up, and I coach my daughter's soccer team. My hobbies are my kids.

FAVORITE BOOK: "Rebecca" by Daphne du Maurier. I lived in Chile in high school for a year and it was the only English book I had, so I read it three times. It's a wonderful book.

FAVORITE MEAL: Spaghetti. Nothing better than sitting down with my kids, a glass of red wine and a bowl of spaghetti.

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Q-Re	Gunther Saacke
Endurance Specialty Holdings Ltd.	Jerome Faure

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Nelson Levine de Luca & Hamilton L.L.C.	Lawrence H. Mirel
Holland & Knight L.L.P.	David W. Deal

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Surprises the norm in emerging markets

Surprises are inevitable when dealing with emerging markets.

“No matter how big your legal department or corporate compliance group, when doing business in emerging markets, you’re going to have surprises, and it comes from places you never expected,” said Richard J. Coyle, executive director of the Emerging Markets Institute at the Samuel Curtis Johnson Graduate School of Management at Cornell University in Ithaca, N.Y.

Mr. Coyle was the case study speaker on emerging markets at the *Business Insurance* Risk Management Summit last week in New York.

The former senior director for international corporate affairs at Bentonville, Ark.-based Wal-Mart Stores Inc. said the retailer had 100,000 suppliers around the world and “a lot of people trying to find problems in the supply chain on any given day or week.”

So Wal-Mart developed a playbook to handle such surprises, Mr. Coyle said.

The risks of dealing with emerging market are economic, legal, political, cultural/linguistic and reputational, he said.

Economic risks include currency stability and conversion, repatriation of profits, infrastructure development and high unemployment, such as in Greece and Spain, which can cause instability.

Legal risks include land ownership with some countries prohibiting foreigners from owning land. In former communist countries, families could claim they owned land before the communist takeover, he said.

Political risks can include government instability, taxes, tariffs, fees, regulation and protectionism.

“Keep your company politically neutral in case the ruling party changes,” Mr. Coyle said. If there is an upheaval, “then you don’t want to be seen on the wrong side.”

Discussing cultural/linguistic risks, Mr. Coyle said: “You must get your advertising message right.” In China, McDonald’s Corp. ran an ad showing a customer begging a competitor to accept a discount coupon for a sandwich, not realizing that Chinese consider begging to be “horribly offensive.”

In Africa, Gerber Products Co. sold baby food showing a baby’s face, unaware that people there



MICHAEL MARCOTTE

Former Wal-Mart executive Richard Coyle said the retailer developed a playbook to deal with various risks of working in emerging markets.

expect to see a picture of the container’s contents on the label.

In Southeast Asia, Pepsodent’s manufacturer advertised its product made teeth white, only to find out later that people chewed on betel nuts, which resulted in darker that were perceived as attractive, he said.

“These are big mistakes,” said Mr. Coyle. “You need people on the ground who can tell you these sorts of things.”

Discussing reputational risk, Mr. Coyle said Wal-Mart was “always getting requests from environmental groups to stop sourcing certain products from certain countries.” For example, one group called for not importing any

furniture from China because it was built from timber harvested in Siberia, causing the destruction of the Siberian tiger’s habitat. In another case, a group called for Wal-Mart to stop buying wool from Australia, citing the way it was harvested as being cruel to animals.

Decisions must be made as to how to handle these situations, said Mr. Coyle.

Risk mitigation steps in emerging markets include good government and media relations, conducting due diligence, hiring local advisers, establishing backup plans and obtaining good insurance coverage, he said.

By Judy Greenwald

EMERGING

Continued from page 4

fierce in protecting their turf” are challenging, because companies want to do well, “but not at the expense of ethics.”

“One of the things that’s mystifying to me is why the euro’s maintaining the value it has, given what’s going on,” said Daniel Wagner, managing director of Norwalk, Conn.-based Country Risk Solutions.

He also questioned the yen’s recent strength, saying the foreign exchange market “doesn’t make much sense to me at all.”

European economy

Mr. Wagner said he was worried about the economic situation in Europe, which is leading to an increase in far right and fringe groups, has caused a “brain drain among young people” and resulted in smaller tax bases.

“Europe is in a very serious situation, and I don’t see it getting any better anytime soon,” Mr. Wagner said.

Also speaking at the session was Richard J. Coyle, executive director of the Emerging Markets Institute at the Samuel Curtis Johnson Graduate School of Management at Cornell University in Ithaca, N.Y.

MERGERS

Continued from page 4

“As the buyer, you’re going to be running this thing after closing,” Mr. Bauer said. “Liability claims management is more than just organizing the claims data.” Addressing such issues as certificates of insurance, additional insured provisions and letters of credit associated with the deal are also important ways the risk manager can help enhance the success of an acquisition.

“A lot of money is left on the table because you’re unable to enforce the other party’s insurance after closing because you can’t produce the proper certificates of insurance,” Mr. Bauer said.

Mr. Bauer advised risk managers that as part of the acquiring company team, “Show your deal team that you can help make this a more knowledgeable transaction,” and that the risk manager’s role in the deal can be much more than just the usual due diligence.

On the other side of the transaction, the risk manager for the seller can help prevent the deal’s price from eroding and help ensure certainty of the deal’s close. “Because a deal that doesn’t close is a nightmare,” Mr. Bauer said. “You can be a key player” in ensuring the deal closes as the risk manager.

The seller’s risk manager also can demonstrate to the buyer that the

A structured approach to assessing mergers and acquisitions that includes broad involvement by key business units can reduce the risks associated with closing deals, according to a risk manager who has been involved with many buyouts.

Speaking last week at *Business Insurance*’s 2013 Risk Management Summit in New York, James R. Loughlin, director of risk management at Insight Portfolio Group L.L.C., the risk management services company for Icahn Enterprises L.P. in New York, said: “Whenever possible, if you can involve your key business unit, people such as risk management” or the head of human resources “in these M&A strategies — or even divestitures for that matter — the better off you are.”

Broad involvement in mergers and acquisitions can put a company in a position to

make better-informed decisions and makes it less likely that critical exposures will fall through the cracks, Mr. Loughlin said to an audience comprised mostly of corporate risk managers.

Mr. Loughlin offered key risk management questions companies should ask as part of their due diligence in scrutinizing deals. Among them is whether the target company has a formal risk management department and, if so, how robust it is.

Acquiring companies also should determine whether the target has an enterprise risk management program in place and whether risks are merely identified or if they are mitigated through insurance or other means. Knowing there’s a process in place to address risks “should put the company one up in the acquisition strategy,” Mr. Loughlin said.

target company has a grip on its legacy liabilities and that the proper insurance is in place, Mr. Bauer said, as well as providing accurate property exposure values.

The risk and insurance manager can be as important as anyone else at the deal table, Mr. Bauer said. “You can have a seat at the table by showing you can provide insights that don’t occur to others,” he said.

Another panelist, Meghan Magruder, a law partner at King &

Spalding L.L.P. in Atlanta, said that in a merger or acquisition, evaluating insurance and liability issues is critical, offering the risk manager an opportunity to bring value.

“If your company expects to acquire or be acquired by another company ... the cost of the transaction cannot be assessed unless you’ve looked at the contracts, the insurance and the indemnification at issue,” Ms. Magruder said.

The buyer’s due diligence must include a focused assessment of

the seller’s liability exposure and insurance coverages, she said.

“Often overlooked by risk managers today is the value of historical insurance that might address latent or long-tail liabilities that come up,” she said. While it can be a time-consuming process, there’s great value in charting the seller’s current and historic policies.

If significant liabilities are found, the price can be reduced or the buyer can ask the seller to provide indemnification, Ms. Magruder said.

Other due diligence questions should include determining the risk exposures inherent to the target’s industry, the target’s loss experience and identifying the countries in which the target company operates.

Risk management also should be involved in the deal’s purchase and sale agreement, Mr. Loughlin said. “This is another area where you have to involve risk management and not just bring them in at the last minute,” he said.

In mergers and acquisitions, “There are many aspects that the risk manager can look at and come up with solutions that often aren’t thought about,” Mr. Loughlin said.

Asked how risk managers can be sure to get a seat at the deal negotiating table, Mr. Loughlin said, “I think you just have to show value again and again.”

By Rodd Zolkos

Team approach needed to reduce risk in M&As

REPUTATION

Continued from page 4

Larry Walsh, vice chairman of the Alexandria, Va.-based Hawthorn Group L.C. “All of the pieces of your emergency response plan need to be thought of as a corporation-wide process, to which all of those individual response plans need to fit.”

Panelists said companies in search of even greater levels of proactive reputation risk management should consider incorporating focus groups and other advance public opinion sampling into their operational decision-making.

“Something I think a lot of companies could benefit from is a sounding board or junior advisory board made up of people who are very active in social media,” said Shannon Wilkinson, founder and CEO of New York-based Reputation Communications Ltd.

“I think risk officers especially would benefit from having a group like that to run by with important

Johnson & Johnson Services Inc.’s handling of the 1982 Tylenol product tampering case still is regarded as the gold standard in reputation risk management, but shifting dynamics in media, technology and public expectations have compounded potential brand and image damage from a public relations crisis, said Chris Gidez, global crisis practice co-chair at New York-based Hill+Knowlton Strategies Ltd.

“One of the biggest differences is the speed at which information moves,” Mr. Gidez said during last week’s *Business Insurance* Risk Management Summit. Today’s 24-hour news cycle, the Internet and — perhaps most significantly — social media outlets have reduced the time a company has to respond

to a crisis from days and hours to minutes and seconds.

“Companies must react to a crisis much more quickly than they would have had to 10 or 20 years ago,” Mr. Gidez said.

The ubiquity of amateur online journalism coupled with the steady degradation of objective analysis among major media outlets have significantly complicated the task of reputation risk management, he said.

“There’s not lot of upside anymore for corporations in relying on news media for a fair shake,” Mr. Gidez said.

A key element of reputation risk management entirely within a company’s control prior to a critical risk event is the degree to which it manages the public’s expectations

of its business practices, particularly as many companies have seen their stakeholders expand to include employees, non-governmental organizations, community groups, activists and others, he said.

“Every one of them believes in some fashion that they have a right to the seat at the table, and they all have different expectations about what your performance should be,” Mr. Gidez said. “The delta between a company’s performance and expectations of that performance is usually driven by the company itself, and it’s a dangerous place. You won’t be rewarded for meeting those expectations, but you’ll be punished if you don’t.”

BY Matt Dunning

corporate decisions,” Ms. Wilkinson said.

When an incident occurs, panelists said companies would do well to remember that brand management and crisis response mes-

saging are not likely to be very effective if visible efforts are not being taken to fix the underlying cause of the incident itself.

“One of the most important things to remember in a crisis sit-

uation is that you don’t have a PR problem, you’ve got a business problem, so fix the business problem,” said Chris Gidez, executive vice president and co-chair of the global crisis practice at New York-

based Hill+Knowlton Strategies Ltd.

“It’s amazing how much better BP (P.L.C.)’s life got the day after they sealed that well and the camera was turned off,” he said.

ADVISORY BOARD AIDS FOURTH ANNUAL SUMMIT

Business Insurance’s editorial team developed the content for this year’s Risk Management Summit with involvement of its Advisory Board of risk managers. The Advisory Board is made up of Julie DeSantis of Sony Corp. of America, Debbie L. Gramer of Arrow Electronics

Inc., Audrey A. Rampinelli of Loews Corp., Bill Fealey of Dover Corp., Lori Jorgensen of Microsoft Corp., Debbie Rodgers of Aramark Corp. and Carolyn Snow of Humana Inc. The 2013 Risk Management Summit, the fourth year that *Business Insurance* has presented this gathering for senior



risk executives, was held March 5-6 in New York.

For additional information, go to businessinsurance.com/risksummit.

CLOUD

Continued from page 4

panel discussion at *Business Insurance*’s 2013 Risk Management Summit in New York.

“One of the biggest problems we see is that there’s no holistic approach to information security,” said Solange Gerhnaouti, director of the Lausanne, Switzerland-based Swiss Cybersecurity Advisory and Research Group at the University of Lausanne.

Panelists said those assessments ideally should include risk management, compliance and information technology personnel, and senior-level management and supervisors of departments in which employees are likely to use cloud-based services to transfer and store work-related data.

Unfortunately, panelists said, cloud risk analyses are more often than not compartmentalized, if they are conducted at all.

“The key data risk stakeholders within an organization often don’t play well with each other,” said Doug Pollack, chief marketing officer at Portland, Ore.-based ID Experts Inc. “We view it as a team sport.”

Although the National Rifle Association uses cloud computing to manage only a fraction of its data-processing needs, the group’s tax and risk management director, Emily Cummins, takes the risks associated with the cloud very seriously.

Even small bits of personally identifiable information belonging to the controversial Fairfax, Va.-based association’s more than 4 million members demands a rigorous cyber risk management strategy, Ms. Cummins said last week during *Business Insurance*’s 2013 Risk Management Summit in New York.

The association’s use of cloud services is limited solely to processing event-based donations managed by its charitable arm, the NRA Foundation, Ms. Cummins said.

Still, she said, “people are obsessed with our

membership.”

“It’s not that it’s embarrassing to be a member or a donor, but it’s the kind of information that someone could steal in order to gain access to our members’ credit cards and then perpetrate fraud on our members,” Ms. Cummins said.

During her presentation last week, Ms. Cummins outlined the multiple layers of interdepartmental risk assessment the NRA Foundation took before contracting with a cloud services provider, including contract due diligence, data classification and breach response planning.

“It’s something that we got our teams together to do, which meant bringing people together from different parts of the enterprise, so that we all understand each other’s language,” Ms. Cummins said.

Additionally, Ms. Cummins detailed the risk control measures that remain in place to safeguard NRA membership data and other sensitive information from a potential loss or data breach, including top-to-bottom user training on safe data management policies and protocols.

“These policies need to have teeth and they need to be reinforced, and they can only be reinforced through regular training,” Ms. Cummins said.

“What matters is how we carry these messages through at every level of the organization, from the board-level statement to every employee who’s using a device to access company data, whether it’s their own device or a company-issued device,” Ms. Cummins said.

By Matt Dunning

Because most cloud service providers do not offer much in the way of contractual risk transfer and indemnification, panelists said, companies contemplating data management through cloud-based services also should careful-

ly consider the availability of insurance to address potential financial losses stemming from a data breach or service outage. While many cyber risk policies cover first- and third-party liabilities in the event of a data loss,

insurers can often deny coverage if a policy does not specifically mention cloud-based services.

“You want to open up your insurance policy and hone in on the definitions of your computers or your network if you don’t see the word

‘cloud’ in the policy,” said Scott Godes, a Washington-based attorney at Dickstein Shapiro L.L.P. “That will give you a good idea of how broadly your coverage will range in the event of a breach or a cloud-related problem.”

BEHAVIOR

Continued from page 1

managers and are not blamed solely for a company's safety concerns, said Robert Pater, managing director and founder of Strategic Safety Associates Inc. in Portland, Ore.

They also allow employees to voluntarily participate in observations and safety conversations. That combined with a commitment by top executives to provide safe facilities and equipment for employees can help companies see the greatest success, he said.

"The best implementations are not only top-down driven; they have significant input and buy-in from employees and supervisors," Mr. Pater said.

Workplace safety experts say such programs work best when used as one tool in a series of safety protocols rather than a stand-alone cure for all safety challenges. The most effective programs

engage workers in safer behaviors that prevent accidents.

Companies should use behavioral safety programs to improve employee adherence to safety rules, and to measure whether they provide resources and infrastructure that allow employees to work safely, Mr. Pater said.

"To me, the most important thing is that leaders look at themselves and they start acknowledging, 'Where is my part in this?'" Mr. Pater said.

Daniel J. Moran, a behavioral psychologist and Joliet, Ill.-based senior vice president of Quality Safety Edge Inc., said his company estimated behavioral safety programs can reduce injury rates by more than 30% on average in the first year and by more than 90% by their eighth year.

Observation and feedback, part of the five key pieces of behavioral safety programs, are particularly crucial, Mr. Moran said. In these stages, trained observers provide positive, discipline-free feedback

to their co-workers and discuss how safety can be improved. Such steps can reinforce positive work habits.

Giving positive responses for safe behaviors are important because unsafe work habits sometimes can be easier for workers, Mr. Moran said during a recent joint meeting of the Risk & Insurance Management Society Inc. and the American Society of Safety Engineers in Oak Brook, Ill.

"What's happening is taking (unsafe) safety shortcuts lets us get things done faster (or) easier sometimes," Mr. Moran said. "It's less expensive to do it that way."

Behavioral safety has helped significantly decrease injury rates for Knife River Corp. of Bismarck, N.D., and reduced its workers com-

pensation rates to its lowest in 10 years.

Elsewhere, the city of Henderson, Nev., began using E. I. du Pont de Nemours & Co.'s behavioral safety program in its parks and recreation department in 2009. The department has some 1,700 full- and part-time employees, most of whom are seasonal and have a wide range of job functions.

Safety Director Michael Francis said 200 supervisors have been trained to observe employees once a month and provide safety feedback. The observations are reported to the parks and recreation team, and employee feedback is sought.

"Those behaviors, whether they be positive or negative in aspect, we take them as a learning situation," said Mary Ellen Donner, the

city's parks and recreation director.

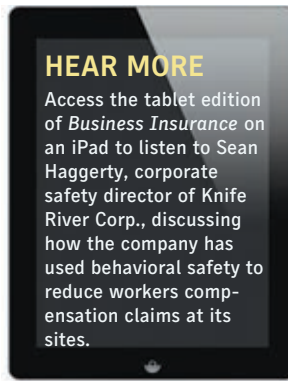
A case study by DuPont showed the department's workers comp claims decreased 25% in the program's first year.

While experts said that behavioral safety efforts have been used by employers for at least two decades, today such programs use much different tactics.

Strategic Safety Associates' Mr. Pater said behavioral safety programs sometimes get pushback from unions because they are viewed as blaming employee behavior for a company's safety concerns.

"Everybody's responsible," Mr. Pater said. "It's not just workers that are responsible for organizational safety."

Tom Krause, a psychologist and independent consultant in Ojai, Calif., said there is a danger for firms to pinpoint employee behavior as a safety concern without providing proper equipment and safe facilities to protect workers.



HIPAA

Continued from page 1

It also changes the criteria to be used in deciding whether a breach requires notification, placing a greater onus on the health care provider to establish why notification should not be made.

"We see our clients making every due diligence to be HIPAA-compliant," said Robert Parisi, network security and privacy practice leader for Marsh Inc. in New York.

Observers say many large health care providers are prepared.

Cris Ewell, chief information officer at Seattle Children's Hospital, said, "We're a mature organization, and we have a very robust security and privacy program here

at Children's, so I think we're going to be able to handle the requirements."

He has worked with Portland, Ore.-based ID Experts, a data breach prevention and response firm

"The largest and most sophisticated health care organizations will be able to embrace the changes and ... update their mechanisms to operate within the rules," said ID Expert Chief Marketing Officer Doug Pollack. "I think the hard thing is when you get into the much smaller organizations," such as rural hospital systems and clinics, which will have a "hard time keeping on top of all this regulatory structure."

Meanwhile, many health care providers' business associates now covered by the rule were

unprepared, which could potentially lead to millions in penalties, say observers.

The business associates rule is a "rude awakening for them because there are real penalties involved here," said Cynthia Larose, a member of law firm Mintz, Levin, Cohn, Ferris, Glovsky & Popeo P.C. in Boston. Violations can total up to \$1.5 million annually for identical violations of the same provision.

There are medium to small vendors, as well as "fringe" vendors such as collection agencies, who may not be ready, said Tom Srail, Cleveland-based senior vice president of FINEX North America at Willis North America Inc.

Many vendors said, "Let's just wait and see what the actual regs come out with," because sometimes regulations "fine-tune

things" that were more broadly written in the law, said Steven J. Fox, a principal with law firm Post & Schell P.C. in Washington.

Drew Gantt, a partner with law firm Cooley L.L.P. in Washington, said many companies "just don't want to be subject to HIPAA" and will have to decide whether to continue in these business relationships with health care providers.

The analyses firms must undergo to determine whether there has been a breach requiring notification also has changed. The previous standard "placed the main emphasis on looking at harm to the individual, which was causing some very subjective situations," said Adam H. Greene, a partner with law firm Davis Wright Tremaine L.L.P. in Washington.

The old standard had been criti-

cized for being comparable to "letting foxes guard the henhouse," said William H. Maruca, a partner with law firm Fox Rothschild L.L.P. in Pittsburgh. The new standard "is supposed to be more objective," and while not totally so, tends to move in that direction, he said.

"Where it might get tricky is when you choose not to notify," said Sarah Stephens, San Francisco-based vice president with Aon P.L.C.'s financial services group.

Bruce A. Radke, a shareholder with law firm Vedder Price P.C. in Chicago said, "I think folks are going to err on the side of giving notification," which will be expensive in terms of notification costs and conducting investigations "from a forensic and also from a legal side" in determining whether notification should be made.

SEVEN-DAY

Continued from page 1

damage caused by a fire in the United Kingdom.

"Marsh came to us with this idea, and we thought this is a good place for us to get the message out that we are looking for opportunities to get material advances out early on," said Dave Crowe, Boston-based head of global commercial property claims for AIG. "If it's clear there are no loss payees or other things involved, then there's no reason we can't get it turned around in a few days."

While some insurance industry experts lauded speedier payment of major property claims, others said the formal Marsh-AIG pledge codifies what many buyers have achieved informally.

Paul Hopkin, technical director of the London-based Association of Insurance and Risk Managers, said any agreement that improves cash flow for insurance buyers is welcome.

He said that Airmic established a voluntary speed-of-settlement agreement for claims greater than £2.5 million (\$3.8 million) three years ago. Under that agreement, which includes major insurers and brokers, the insurer promises to

THE BIG PROMISE

The AIG-Marsh major property claims payment promise states:

- AIG will confirm coverage under the policy as quickly as possible.
- AIG promises within seven days of confirmation to provide the policyholder with immediate working funds of 50% of its share of the agreed estimate for property repairs, clean-up costs and extra expenses.
- The estimate is to be agreed between the policyholder, Marsh and the AIG claims handler based upon reasonably available information.

keep the policyholder "cash flow neutral" by making interim payments when necessary for the duration of the claim.

Wayne Salen, director of risk management for Labor Finders

International Inc. in Palm Beach Gardens, Fla., said he has gotten claims paid quickly through negotiated agreements.

Since AIG "absolutely" can be hard-nosed when it comes to paying claims, the agreement with Marsh may be a way to change that perception, Mr. Salen said.

"I think that reputation is very, very stale from years past, whether warranted or not," AIG's Mr. Crowe said. "We've been trying to get the message out and make people aware that we make a promise and we view it as our job to deliver on that promise when something bad happens."

Marsh and AIG said they want to spread the pledge of quick payment of major property claims throughout the industry.

AIG also is working with London-based Willis Group Holdings P.L.C. on a similar agreement and expects it to be in place shortly, an AIG spokesman said.

"We see the AIG promise as a bare minimum for a best practice, if you've already agreed on coverage and valuation," said Joe

Picone, Richmond, Va.-based chief claim officer of Willis North America Inc. "As such, we don't see the value in marketing this best practice, as all carriers and brokers should be — are — doing this already."

At Aon P.L.C., "We have claims agreements with many carrier partners," said Neil Harrison, group managing director of risk control claims and engineering at Aon Global Risk Consulting in Chicago. "Obviously, we're a large trading partner of AIG. We have a very strong claims management relationship with AIG."

"In many respects, those agreements are simply a documentation of what is fundamentally just claims best practice," Mr. Harrison said.

At FM Global, another big property insurer, "We do not have formal (claims) agreements in place with our broker partners," said Gerry Alonso, senior vice president of claims in Johnston, R.I. "We do have metrics in place where we monitor the speed by which payments are made and

losses settled."

He cited a December case claim in which a \$250 million payment was made within two days on a major loss.

Meanwhile, Mr. Crowe said informal quick claims payment efforts at AIG date back to 2005, when hurricanes Katrina, Rita and Wilma hit the United States.

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LEGAL NOTICE

IN THE MATTER OF THE LIQUIDATION OF NEW YORK MERCHANT BAKERS INSURANCE COMPANY
Supreme Court County of New York, Index No.: 403106/97
NOTICE

Pursuant to an order of the Supreme Court of the State of New York, County of New York ("Court"), entered on January 26, 1998 ("Liquidation Order"), the then-Superintendent of Insurance of the State of New York and his successors in office were appointed as liquidator ("Liquidator") of New York Merchant Bakers Insurance Company ("NYMB") and, as such, has been directed to take possession of NYMB's property, liquidate its business and affairs, and dissolve its corporate charter pursuant to Article 74 of the New York Insurance Law ("Insurance Law"). The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Liquidator of NYMB. The Liquidator has, pursuant to Insurance Law Article 74, appointed Michael J. Casey, Acting Special Deputy Superintendent of Financial Services ("Special Deputy"), as his agent to liquidate the business of NYMB. The Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Liquidator has submitted to the Court a verified petition ("Verified Petition") seeking an order: (i) approving the Liquidator's Report on the Status of the Liquidation of NYMB ("Liquidation Proceeding") and Request for Authority to distribute Assets, and the financial transactions delineated herein; (ii) establishing August 30, 2013 as the bar date ("Bar Date") for presentment of all claims other than claims for administrative costs and expenses; (iii) authorizing and directing the Liquidator to consider for allowance only those claims for actual losses incurred and arising under policies issued by NYMB that are presented to the Liquidator on or before the Bar Date; (iv) barring and discharging all claims for losses reported after the Bar Date; (v) authorizing the continued payment of administrative costs and expenses; (vi) authorizing the Liquidator to distribute NYMB's assets, consistent with this Court's orders and the priorities set forth in Insurance Law Section 7434, to those creditors of NYMB with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available; (vii) extending judicial immunity to the Superintendent in his capacity as Liquidator of NYMB, his successors in office and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74; and (viii) providing for such other and further relief as this Court may deem just and proper.

A hearing is scheduled on the Verified Petition on the 30th day of April, 2013, at 9:30 a.m., before the Honorable Michael D. Stallman, JSC, New York Supreme Court at the Courthouse, IAS Part 21, 80 Centre Street, Room 130, in the County, City and State of New York, 10013. If you wish to object to the Verified Petition, you must serve a written statement setting forth your objections and all supporting documentation upon the Liquidator at least seven business days prior to the hearing and upon the Clerk of the Court by the day of the hearing. Service on the Liquidator shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York as Liquidator of New York Merchant Bakers Insurance Company, 110 William Street, New York, New York 10038, Attention: John Pearson Kelly, Esq., General Counsel

In order to participate in NYMB's Liquidation Proceeding, all claims must be presented to the Liquidator on or before the Bar Date, which is the last date set by the Court to present claims in NYMB's Liquidation Proceeding. The Verified Petition and Report are available for inspection at the above address. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6665.

Benjamin M. Lawsky
Superintendent of Financial Services of the State of New York
as Liquidator of New York Merchant Bakers Insurance Company

Dated: February 26, 2013

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BUSINESS INSURANCE.

Labor continues review of ExPro captive procedure

■ The Labor Department is continuing its review of what is known as the ExPro procedure that employers have used for a decade to get fast review of applications to fund employee benefits through their captive insurers. A Labor Department regulator, who asked not to be identified, said the department is looking at a key condition — enhancement of plan participants' benefits — that must be satisfied to utilize the process to receive a Labor Department exemption in about 2½ months. In the interim, employers can take the longer route of seeking an individual exemption of their captive funding applications.

Catastrophe bond market reaches all-time high in 2012

■ The catastrophe bond market evolved in size and variety in 2012, Swiss Re Ltd. said. It noted that the catastrophe bond market closed the year at an all-time high of \$14.6 billion for 115 bonds in the Swiss Re Global Cat Bond Indices.

Number of defined benefit plans continues to decrease

■ The number of employer-sponsored defined benefit pension plans continues to shrink. As of

Jan. 23, the number of pension plans covered by the Pension Benefit Guaranty Corp.'s single-employer insurance program fell to an all-time low of 22,697.

AIG buys back warrants to end government bailout

■ American International Group Inc. eliminated the U.S. government's last financial interest in the company, buying back warrants from the U.S. Treasury for about \$25 million. The government rescued AIG at the depths of the financial crisis as the insurer teetered on the brink of bankruptcy. The bailout ultimately totaled \$182 billion.

ARMED

Continued from page 3

trained, experts say.

"You want people who are (Police Officer Safety Training) certified," said Gregg Breed, chief risk officer at the Los Angeles Unified School District, which has its own police force. "That way, you know that they are trained in what to do and how to handle situations."

"It does require a good deal of discretion and judgment," said Ronald D. Stephens, executive director at the National School Safety Center in Westlake Village, Calif. "Armed officers generally are going to be academy-trained from the police department."

Douglas W. Gniewek, executive director of the office of risk management at Detroit Public Schools, said the school district employs unarmed contracted security guards at its schools, in addition to having its own police force of armed officers.

Members of the Detroit school district's police force are officers of the Detroit Police Department, Mr. Gniewek said, which ensures they have the proper training and background.

"It's a real question from a risk management perspective," he said. "If you move to armed (guards), the cost goes up. Of course, you never want to make the decision on that basis."

Ms. Gillis said issues to be considered in discussions of placing armed guards in schools apply to other public places as well. "It's even more true, perhaps, for those who manage or own public places, like a mall for example," she said.

Security is one of many factors in addressing the threat of violent

acts, Ms. Gillis said, adding that the issue plays into whether shoppers, moviegoers or other visitors feel more or less safe. That perception aspect, she said, can be "more challenging to get right."

"Guns are not the only option, obviously," Ms. Gillis said. "You need to think long and hard about whether that makes sense, particularly in a public place."

"You absolutely need to ensure that, if you're going down that road, that you understand the downsides as well as the potential upside," she said.

ARMED GUARDS AT U.S. SCHOOLS



About **23,200** schools, or nearly one-third of all public schools, employ armed security guards, according to 2010 data, the latest available.

Additionally, certain large school districts have their own police departments, with the Los Angeles Unified School District being the largest, with **350** officers.

Average annual salary of a school police officer: **\$55,000**

Sources: National School Resource Officers Association, U.S. Bureau of Labor Statistics



For clients evaluating the possible use of force, "what we look for and what we end up seeing is whether there are consistent policies to begin with," Ms. Gillis said. "Otherwise you have created additional exposure for yourself as a business."

After evaluating the client's situation, her Marsh practice group has often determined that the risk of adding guns was too high or that less lethal weapons would be a more effective approach.

FEE

Continued from page 3

reimburse the government for a reform law program that subsidized claims paid by approved early retiree health plan sponsors.

Transitional Reinsurance Program costs would be hefty. For example, an employer with 100,000 participants in its health plans would have to pay the government more than \$6 million in 2014.

"Writing out those checks is certain to lead to employer resentment. Large employers who will be paying millions of dollars are up in arms on why they are paying this fee," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

"It is a large fee for which employers will receive no direct benefit," said Amy Bergner, managing director of human resource solutions at PricewaterhouseCoopers L.L.P. in Washington.

That resentment came through in comments filed with HHS. In the preamble to the final regulations, HHS referred to a commentator expressing "concern that self-insured group health plans are excluded from receiving reinsurance payments and do not benefit proportionally or directly from their reinsurance contribution."

While the commentator asked that self-funded employers pay less per participant, HHS responded that the law requires insurers and self-insurers to pay the entire fee.

Given that regulatory position, the only way the fee would be reduced or eliminated for self-insured employers is through congressional action. So far, federal lawmakers haven't shown any interest in such action.

Still, HHS clarified several key issues that will aid employers in compliance. They include:

■ The fee will apply to COBRA continuation coverage. Earlier, benefit lobbying groups had asked for clarification on whether COBRA beneficiaries should be counted in calculating the fee.

■ The fee will apply to major medical coverage offered to pre-Medicare eligible retirees. While several groups asked for an exemption, HHS said it has "no statutory authority" to do so.

■ The fee applies to Medicare-eligible employees who work after turning 65 and remain covered under their employers' plans. "For example, a working 68-year-old employee enrolled in a group health plan" who "is a beneficiary for whom Medicare is the secondary payer would be counted for purposes of reinsurance contributions," HHS said.

■ The fee is tax-deductible, HHS said, referring to Internal Revenue Service guidance on the issue.

That tax-deductibility "some-what helps to mitigate the financial impact," Mr. Stover said.

There are several situations, though, where the fee would not apply, HHS said.

While a self-funded employer can delegate to its third-party claims administrator the responsibility to pay the fee, the employer is liable to pay the fee if the TPA does not.

While HHS projected that the 2014 fee will be \$63 per participant to generate \$12 billion in revenue in 2014, \$63 is just an HHS estimate.

"The actual amount won't be known until HHS receives and analyzes the enrollment information," said Paul Dennett, senior vice president-health policy at the American Benefits Council in Washington.

IBI/NBCH

Continued from page 3

grams. A 2012 IBI survey of employers found that while 89% of C-suite executives recognized the value of data that shows the impact of employee health on workplace performance or

quality and 82% would benefit from return-on-investment calculations from health risk interventions, some 67% said that information has been unavailable to them.

Donna Cornwell, human resources director at Birmingham, Ala.-based O'Neal Steel Inc., said during a panel discussion that the family-owned company revamped

its wellness program in 2011 to add data collection from health risk assessments and biometric screenings, as well as medical, pharmacy, workers compensation and disability claims.

Since then, Ms. Cornwell said the company has gained a much clearer view of its health management successes and failures, as well as a valuable means to communicate

the program's progress toward short- and long-term goals to senior management.

"We've seen percentage improvements in all of these areas in just one year," Ms. Cornwell said. "We have a lot of employees that are getting out and exercising more, and we're on target for our goals in blood glucose levels and participation."

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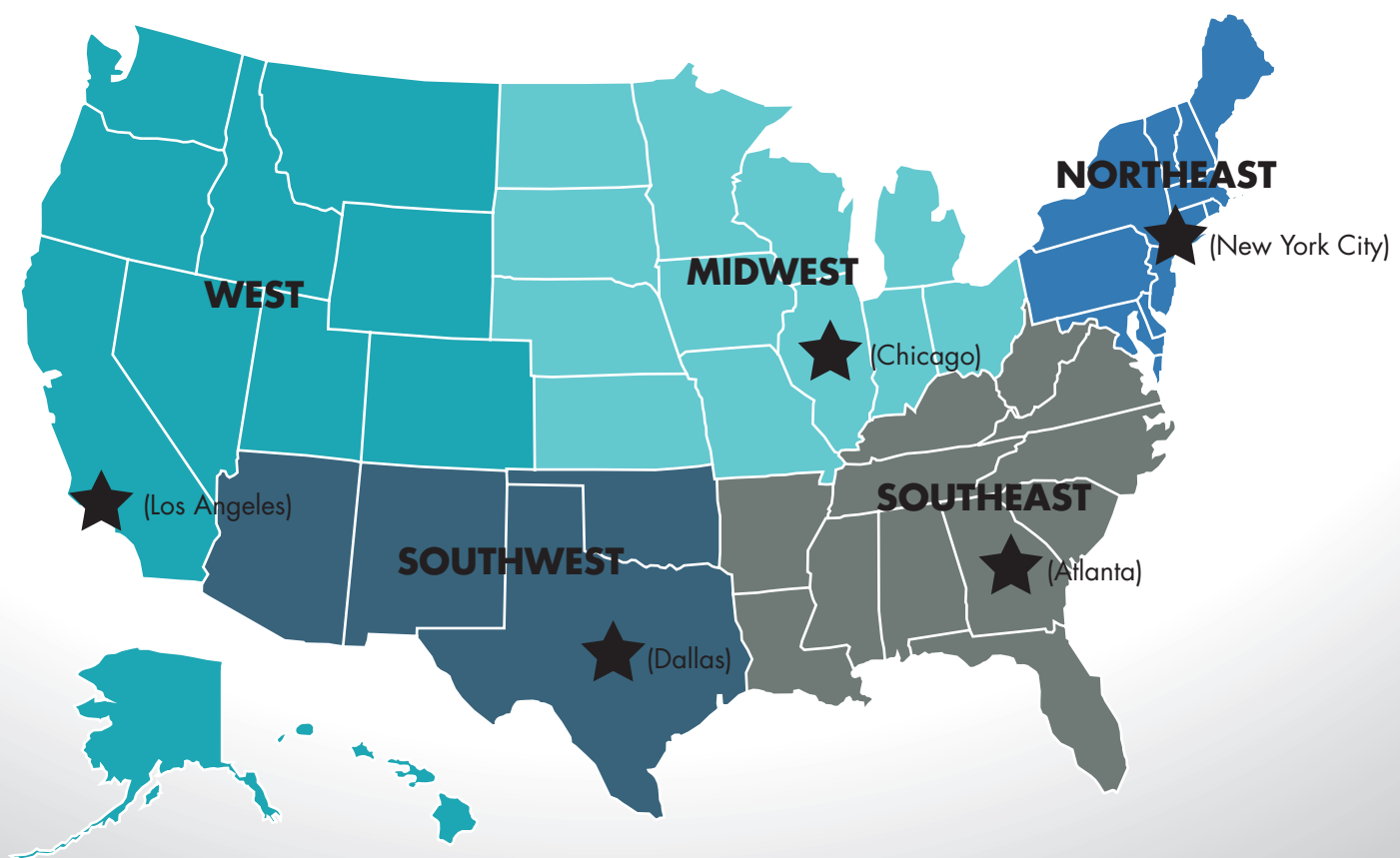
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Model mad at 'Mad Men'



A former 1960s-era fashion model was made mad over the use of her iconic image in the title sequence of the popular television series "Mad Men."

Gita Hall May has filed a lawsuit in the Superior Court of the State of California for the County of Los Angeles alleging that "Mad Men" producer Lions Gate Entertainment Corp. profited from the use of her likeness without her consent, according to court documents.

The photograph, which is seen in the opening credits of the show that also won an Emmy award for main title design, was taken by fashion photographer Richard Avedon for use in a hairspray ad for Revlon in the 1950s. According to the suit, "at no time did she agree to allow, 40 years later, her image to be cropped from the photo, in secret, and inserted as a key element in the title sequence of a cable television series, without her consent and for commercial purposes."

"Defendants sought (Ms. May's) image because she was among the top models of her day, and her likeness ... was perfectly associated with the late 1950s/early 1960s advertising look the defendants sought for their program," according to the suit.

Ms. May seeks compensation for the use of her image, claiming that the title sequence has contributed to the success of the show.

JOHNNY FOOTBALL TACKLES T-SHIRT SELLER IN LAWSUIT



DEBBY WONG/SHUTTERSTOCK.COM

Aggies quarterback Johnny Manziel seeks to trademark 'Johnny Football.'

Hot college football player Johnny Manziel, aka "Johnny Football," is still an amateur athlete, but he nevertheless may have found a way to make some money out of his career as a star quarterback. According to news reports, the 21-year-old Mr. Manziel's corporation has filed a lawsuit against a man selling shirts that say "Keep Calm and Johnny Football."

Mr. Manziel is seeking to trademark the Johnny Football name with the U.S. Patent and Trademark Office.

Mr. Manziel, who plays for the Texas A&M Aggies and in December became the first freshman to win the Heisman Trophy, accuses defendant Eric Vaughn of trademark infringement and unfair competition, including right of publicity, with the shirts.

Observers say that while Mr. Manziel may not be able to really profit from his popularity until he ends his college eligibility, the National Collegiate Athletic Association has ruled that student-athletes can keep financial earnings as a result of a legal action.

But it seems unlikely the shirts alone will enable him to retire to a life of leisure after he graduates.

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Woman walks into lawsuit hurdle

A woman who is suing Cabela's Wholesale Inc. over a parking lot car crash has reportedly been accused of competing in a 20K walk in spite of her alleged injuries.

Erica Tamburin and her child were hurt in November 2009 when another woman hit Ms. Tamburin's truck in a Cabela's parking lot, according to Ms. Tamburin's 2011 complaint filed in West Virginia's Ohio County Circuit Court. Ms. Tamburin sued the other driver and Cabela's, claiming that her injuries were caused by the defendants' "careless and negligent acts."

Ms. Tamburin said she suffered injuries to her "head, neck, shoulders, back, chest, arms, legs, body chemistry and psyche," as well as "annoyance, inconvenience," pain and emotional anguish. Ms. Tamburin's child also suffered "a loss of the love, society, comfort, companionship and services" of Ms. Tamburin after the accident, her complaint said. However, Ms. Tamburin competed in a 20K walk during the Ogden Newspapers Half Marathon in May 2010, finishing 50th out of 173 walkers, according to a report from the West Virginia Record. The race results are expected to be submitted as evidence in Ms. Tamburin's case, which was remanded to a circuit court this month by a U.S. District Court judge, the paper said.

"I'm very pleased to hear that (Ms. Tamburin has) gotten better and has resumed her normal activities," said Thomas Buck, a defendant's attorney, to the West Virginia Record.

The caped crusader — of cricket?

A British intellectual property regulator apparently believes that the conceptual difference between a cricket player and a fictional vigilante crime fighter is a distinction too nuanced for most consumers to make.

London-based Adelphoi Music Ltd. has been told by an adjudicator of the U.K. Intellectual Property Office that it will not be permitted to roll out a planned line of cricket-related goods bearing the name Batsman, as it could "easily" be mistaken for products related to Batman, according to a report. Batsman is the name for a position on a cricket field.

IPO Judge Oliver Morris ruled in favor of New York-based DC Comics Inc.'s bid to protect the Batman trademark against the likelihood of confusion with Adelphoi's products, the report said.

In his decision, the judge acknowledged there was a conceptual dissonance between a batsman and Batman, presumably because one spends his days hitting small leather-bound balls with a flattened stick and the other spends his nights punching criminals in the face. But, he noted, "the marks look and sound so close that the difference in concept is likely to go unnoticed."



Dance gets miners fired over safety

Some miners Down Under have found themselves in a hole after a video of them performing the Harlem Shake, a popular Internet dance, got them fired.

The West Australian newspaper reports that 15 miners working in a mine near Agnew, Australia, lost their jobs after a YouTube video showing eight artistically inclined Aussies performing the dance on a work break went viral.

The operator of the mine, Barminto Ltd., said in a letter dismissing the workers that the grimy, gyration-heavy 30-second clip ran contrary to company's core values of "safety, integrity and excellence."

According to paper, some of the sacked miners were considering legal action in order to get their six-figure jobs back.

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