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KEY TO CURBING IMPACT
OF OBESITY ON COMP / PAGE 3**

**WILLIS INVESTIGATING
EMPLOYEE BENEFITS UNIT
AFTER FRAUD FOUND / PAGE 3**

**SUPPLY CHAIN EXPOSURES
RAISE COMPLEX QUESTIONS
ON COVERAGE / PAGE 4**

inBrief

CATASTROPHES

Violent start to tornado season

American Airlines opts to freeze pension plans

In a big change of position, American Airlines Inc. said it intends to freeze—not terminate—at least three of its four massively underfunded pension plans. If that happens, the federal Pension Benefit Guaranty Corp. will be spared from picking up the billions of dollars in pension benefits American has promised to the plans' 130,000 participants but not funded. American also would like to freeze the plan covering the airline's pilots if it can work out an issue affecting lump-sum benefits, on concerns that a high number of pilots would retire early to collect their lump sum payout if it freezes the plan.

See **IN BRIEF** page 21

Twisters arrive early, damage estimates range up to \$2B

By **MARK A. HOFMANN**

Tornado season arrived early this year with unusually active and violent weather that has resulted in up to \$2 billion in insured losses, but next year could be entirely different due to several factors, catastrophe modelers and other experts say.

The factors include incomplete data regarding past tornado activity and the fact that decades may be required to determine whether global climate change has any impact on tornado activity, experts say.

Although the peak of tornado activity usually doesn't happen until May, this year's season has begun early and destructively.

According to Oakland, Calif.-based EQECAT Inc., more than 150 tornadoes touched down in two distinct systems between Feb. 28 and March 3. Total activity for the year through March 4 was 272 tornadoes, more than double the 2005-2011 average of 123 per year through the same period.

Alabama, Indiana, Illinois, Ken-



AP PHOTO

An F4 tornado that leveled a home in Henryville, Ind., earlier this month was among a series of tornadoes in late February and early March that caused up to \$2 billion in insured losses.

tucky and Tennessee bore the brunt of the damage, according to EQECAT, which estimated that insured damage from the events could reach up to \$2 billion.

For individual states, Texas leads the pack with an average of 155 tornadoes a year (see chart,

page 20).

The tornadoes stemmed from a collision of warm, humid air from the Gulf of Mexico and colder, drier air from the west.

"It wasn't like a big heat wave going on," said Tim Doggett, principal scientist at Boston-based

catastrophe modeler AIR Worldwide.

The early March outbreak, which spawned more than 100 tornadoes, was caused by "a late winter jet stream pattern that gave

See **TORNADOES** page 20

SPOTLIGHT

Business Insurance 2012
INNOVATION AWARDS

Business Insurance profiles the winners of its 2012 Innovation Awards, which recognize innovative products and services created by insurance and risk management service providers. Profiles include product descriptions and interviews with executives from the companies that created them. **PAGE 9**

DIRECTORS & OFFICERS LIABILITY

D&O buyers increase coverage limits

Regulatory risks top list of concerns as range of exposures expands

By **MIKE TSIKOUidakis**

More companies are increasing the amount of directors and officers liability insurance they pur-

chase and more private companies than public companies have paid rate increases over the past year, according to an annual survey by Towers Watson & Co.

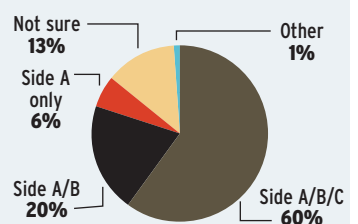
In addition, more risk managers say top executives at their companies have been asking about the scope of the organization's insurance coverage.

One-quarter of public companies and 14% of private/nonprofit organizations said they increased their D&O program's total limits in 2011, according to the survey the New York-based consultant released last week. That compares with 21% of all respondents in 2010, when Towers Watson did not separate responses from public and private companies.

The report, "Directors and Offi-

COVERAGE PURCHASED

Primary structure of directors and officers insurance programs purchased.



Source: Towers Watson & Co.'s "Directors and Officers Liability: 2011 Survey of Insurance Purchasing Trends"

cers Liability: 2011 Survey of Insurance Purchasing Trends," surveyed 401 organizations that

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LAST WEEK'S TOP STORIES
www.BusinessInsurance.com/BI10

1. Willis puts employees on leave during fees investigation
2. GALLERY: The worldwide growth in captives
3. Liberty Mutual's 2011 net income down 78%
4. Couple admits \$450,000 from AIG, Deutsche went to horse farm
5. Professional liability rates for architects, engineers to rise
6. P/C insurance rates rise 2% in February: MarketScout
7. Allied World makes changes to executive management team
8. Marsh & McLennan CFO Wittman leaving for Google
9. \$450M AIG comp class action settlement gets formal approval
10. Superbug enters U.S. hospitals through front door: CDC

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gallery

DISASTER IN JAPAN: March 11 marks the one-year anniversary of the magnitude-9 earthquake and devastating tsunami in northeast Japan. View a retrospective gallery at www.BusinessInsurance.com/photos.



DATA BREACH HELP: Learn how to limit damage during a live March 20 webinar. www.BusinessInsurance.com/webinars

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WORKERS COMPENSATION

Body mass data aids treatment of obese workers

Up-front knowledge allows intervention that cuts comp costs

By **ROBERTO CENICEROS**

Learning early that a workers compensation claimant is obese can help mitigate related health conditions and achieve a successful return to work for the employee.

Despite the fact that one in three U.S. adults is obese, claims adjusters often do not ask claimants about their height and weight during the initial intake process of a claim, employers and

consultants say.

Such information can help make an early determination of the appropriate treatment for an injured employee who is obese and likely to suffer from related comorbid conditions that often exacerbate claims costs and injury durations.

The goal is to help claimants become healthy and get back to work, said Charles F. Martin, managing director in the risk consulting practice at Marsh USA Inc. in Norwalk, Conn.

Helping them achieve that, though, requires learning about the injured worker's health conditions "up front," because the claims management and medical

BESTING OBESITY

Data and proactive steps are essential to achieving quick resolution of workers compensation claims involving obese employees.

- NCCI Holdings Inc. says insurers can help manage the cost of workers compensation claims by collecting information on claimants' height and weight early during the claim.
- Other observers say such data should be collected as soon as possible to help determine whether claimants need additional case management services.
- While programs that try to improve lifestyle choices, such as improving nutrition and fitness, may help fight obesity, NCCI says individuals ultimately must take responsibility for their own health.

treatment patterns likely differ for an obese person suffering from related comorbid medical conditions, such as diabetes, Mr. Martin said.

"When you have an obese person, you have to pay more attention to the situation because the healing is going to be slower, the cost of the claim is going to be more expensive," Mr. Martin said. "The more you know, the better you can deal with it if you do have a problem. But if you don't know about the problem

for six months, you have just exacerbated the whole thing."

Apart from addressing related health problems as early as possible, few options may exist to mitigate additional expenses that accompany such claims, several sources said.

According to Boca Raton, Fla.-based NCCI Holdings Inc., injuries sustained by obese workers are more likely to be permanent disabilities. In addition, the

See **OBESITY** page 20

RETIREMENT BENEFITS

Lawmakers working on pension funding relief measure

Employers hope for changes to cut plan contributions

By **JERRY GEISEL**

WASHINGTON—Congressional negotiators are trying to hammer out an agreement that would temporarily allow employers to use higher interest rates in valuing pension liabilities, cutting employers' plan contributions by billions of dollars over the next few years.



Pension funding relief provisions may be attached to a highway funding bill that the Senate could consider this week.

Washington observers say a final agreement could emerge as

early as this week, though they caution that such an agreement still is not certain.

"Both sides are trying very hard to reach an agreement. Everyone understands the huge negatives on employers and the economy resulting from the use of artificially low interest rates to value plan liabilities," said Lynn Dudley, senior vp-policy at the American Benefits Council in Washington.

If an agreement is reached, the pension interest rate provisions would be attached to a highway funding bill, S. 1813, that the full

Senate could consider this week.

It isn't clear yet—assuming the Senate passes the measure—if the House of Representatives would take it up or develop its own bill.

A key factor motivating congressional interest in the issue is revenue. If employers are able to reduce the amount of their pension plan contributions, which are tax-deductible, they would have higher taxable income.

Additionally, if companies can cut back on pension plan contributions, they would have more

See **PENSIONS** page 20

AGENTS & BROKERS

Willis probing benefits unit over pay fraud

Employees on leave after broker uncovers fee overstatements

By **MARK A. HOFMANN**

LONDON—Willis Group Holdings P.L.C. said it has discovered about \$28 million in fraudulent overstatements of commissions and fees since 2005, and that certain employees have been placed on administrative leave until an internal investigation is complete.

In a filing with the U.S. Securities and Exchange Commission, the London-based insurance broker said the matter was discovered earlier through its internal financial control process, but said it was not brought to management's attention until after Willis announced its annual earnings on Feb. 14.

The issue involves "an uncollectible accounts receivable balance of approximately \$28 million in a standalone business unit that appears to be due to fraudulent overstatements of commissions and fees from the years 2005 to 2011," Willis said in the filing.

Willis said an unnamed professional adviser is helping its internal investigation.

"Based on the results of the investigation to date, we believe that the overstatements resulted from the conduct of a few associates within or dealing with our employee benefits group who colluded to misapply certain current cash receipts to older outstanding accounts receivable balances," Willis said in its filing. "We have concluded that the overstatements we uncovered did not materially

See **WILLIS** page 21

MarketScout event seeks to foster innovation in insurance industry

Business Insurance has become the exclusive media partner and a sponsor of MarketScout's Entrepreneurial Insurance Symposium.

The annual symposium, which was launched six years ago, is designed to "put a focus on innovation and entrepreneurialism in the insurance sector, which is an area that has been lacking in the industry," said Richard Kerr, CEO of the Dallas-based electronic insurance exchange. "We're pushing folks to come up with new, innovative ways to facilitate distribution, underwriting or processing functions within the insurance industry."

"Although *Business Insurance* was an early supporter of the Entrepreneurial Insurance Symposium, our development of new tar-

geted content channels, including the Brokers & Insurers channel, means a stronger relationship with the symposium and its audience of innovators makes sense," said Paul Winston, associate publisher of *Business Insurance*.

One of the features of the 2012 symposium, which will take place Sept. 11-12 in Dallas, is a "shark tank" in which entrepreneurs seeking recognition for their insurance innovations apply for an opportunity to make a presentation of their concept before a panel of judges and symposium attendees, said Mr. Kerr.

The mission of the program, launched at last year's symposium, is "to foster the creation of new products, distribution channels and underwriting modules." The top

eight or nine submissions enter the shark tank, in which they have about eight minutes to make their presentations and then field questions from the judges for a few minutes, said Mr. Kerr.

Based on scores and audience input, the best ideas in underwriting, distribution and technology are named. Information on the 2011 award winners can be found at www.einsurancesymposium.com/eis12/insuranceawards.asp.

"It's a lot of fun and very educational," Mr. Kerr said. He noted that the group is accepting submissions now for the 2012 event. "The more, the better," he said.

Mr. Kerr said the symposium's audience consists largely of insurance company executives or agency owners.

"They're looking for success models," he said. Speakers at the event "tell us stories about themselves—why they were successful, what they did right, what they did wrong, and what they would do differently," said Mr. Kerr. There's "nothing better than listening to someone who's been bloodied and bruised and been in the trenches. You can learn from those who do, not those who teach."

He said the two-day session has been approved by the National Alliance for Insurance Education & Research as a full annual update for dues-paid CIC and CRM designations holders. In addition, most states have approved 12 to 16 hours of continuing education credit for attending the symposium, although some approvals are pending.

2012

RISK MANAGEMENT SUMMIT

SESSION COVERAGE

SUPPLY CHAIN RISKS

Supply chain disruptions often not covered

By JUDY GREENWALD

NEW YORK—Supply chain risks are increasingly not being covered by organizations' contingent business interruption coverage, said a speaker at *Business Insurance's* third annual Risk Management Summit® in New York.

The Iceland volcano, for instance, which disrupted European air travel in 2010, would not have been covered because it did not cause physical damage of the type that would have been insured either through direct business interruption coverage or the contingent coverage that covers suppliers, said John D. Dempsey, managing partner at Wilton, Conn.-based Dempsey Partners L.L.C..

Mr. Dempsey was among speakers on a panel on supply chain risk management at the Risk Management Summit this earlier month.

Similarly, an insect infestation that caused damage to crops in California's Central Valley probably would not trigger coverage because the destruction would not be considered physical damage, said Mr. Dempsey.

"One of the limitations of coverage" today is policy exclusions, Mr. Dempsey said. For instance, the Japanese quake last March "didn't cause that much damage" to the Fukushima nuclear power plant. But the subsequent tsunami caused a lot of damage to the facility. "What if a company in the affected region had quake damage, but not flood coverage?" he asked. There is a question of whether losses would be covered.

Furthermore, what if the flood caused a fire and explosion? "Is that covered?" he asked. There also is the question of coverage for disruption caused by roads damaged in the catas-

trophe.

Another issue that arises with respect to coverage is who is a customer and who is a supplier. While that may seem a simple question, in fact it has become a focus of litigation in the U.S., and in the "real world" there is "disagreement about that," said Mr. Dempsey. Words defining "supplier" and "customer" often are modified in a policy. Some policies also will apply only to the first-tier supplier, but not further down the chain. Others, though, have language that would provide this coverage, he said.

Another coverage issue is that of a supplier who is not damaged but is not producing because a supplier of one of its components is not delivering. "Where does that fit into the policies as they're constructed today?" asked Mr.

See **SUPPLY** page 18



MICHAEL MARGOTTE

Mr. Dempsey

CYBER LIABILITY

Raise security bar to mitigate risks of cyber attacks

By MATT DUNNING

NEW YORK—While there is no way for companies to completely eliminate the risk of data breaches and cyber attacks, there are several steps they can take to reduce their potential financial and reputational losses.

"The fact is that you're going to be attacked. That's the reality," said Alan Brill, senior managing director of secure information services for New York-based Kroll Inc. A well-crafted cyber risk management program need not be wildly expensive or complex, Mr. Brill said, but should at least strive for "commercially reasonable levels" based on company size and industry.

He was speaking as part of a panel of experts at the third annual *Business Insurance* Risk Management Summit® held Feb. 29-March 1 in New York.

"There are things you can do that aren't terribly expensive or terribly difficult that can raise the bar in terms of your security," Mr. Brill said. "It's not going to amount to a 100% perfect security, but you won't be the weakest firm



MICHAEL MARGOTTE

Mr. Brill

on the block—and that's a good start."

Above all, cyber liability cannot be addressed in a vacuum. When contemplating any significant actions or policy implementations, a company would be well-advised to involve leaders from all of its major administrative divisions to assess any potential impacts to its data holdings.

Discussions should include the department heads in information technology, risk management, legal, finance, human resources, marketing or public relations, procurement, operational units and, when possible, third-party business partners and vendors, experts said.

"When you have companies that involve leadership from various departments within the company in

See **CYBER** page 18

CAPTIVE INSURERS

Creative use of captives realizes goals

By MATT DUNNING

NEW YORK—More and more U.S.-based firms are discovering their captive insurance company's potential beyond providing a viable alternative means of transferring risk.

Through innovative program structuring, newly developed risk management tools, and cooperation among C-suite executives and managers, many companies are not only able to self-finance numerous liability exposures, they also can use elements of their captive programs to address strategic goals such as customer retention, global expansion and profit generation.

"Captive owners can get very creative, and—it being the alternative risk financing market—

you expect them to get very creative," said David Provost, deputy commissioner in the captive insurance division of the Vermont Department of Banking, Insurance, Securities and Health Care Administration.

He was speaking as part of a panel of captives experts at the *Business Insurance* Risk Management Summit® in New York.

For example, the practice of electronics makers and other manufacturers using captive programs to insure extended warranty offers is nothing new.

"What is new is the pace at which technology is changing," said Bruce Abrams, the New York-based director of Chartist Inc.'s international risk management group.

By coupling low-cost product upgrade offers and extended warranties, companies are using that high rate of product turnover in concert with their captive-backed programs to drive greater customer retention.

"They're assessing, from an actuarial standpoint, the proportion of the products



'Captive owners can get very creative, and—it being the alternative risk financing market—you expect them to get very creative.'

David Provost, Vermont Department of Banking, Insurance, Securities and Health Care Administration

that are going to be returned to them, and they're using a captive to remove the volatility," Mr. Abrams said. "It has the impact of binding the customer to that client, and that's something that CFOs really treasure."

In order to capitalize on what they called the "advanced benefits" of captive insurance programs, experts said companies should be acutely aware of the financial, cultural and regulatory demands associated

See **CAPTIVES** page 19

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Mid-Market EXECUTIVE

Helping C-level executives at midsize firms overcome critical risk and benefits challenges

Drug program targets costs

Paying for generics reduces Rx expenses for some employers

By JOANNE WOJCIK

A maintenance medication wrap-around program gaining ground among some self-funded middle-market employers demonstrates that when it comes to health benefits, sometimes it costs less to pay a bigger share.

Under the program, employers that pay 100% of the cost of 90-day prescriptions of generic maintenance medications filled by Clarendon Hills, Ill.-based mail order pharmacy EBC Rx L.L.C.'s Rx 'n Go program are slashing their pharmacy benefit costs by 10% to 25%.

By removing cost as a barrier, employers are seeing medication compliance rates improve for plan members with chronic conditions, which they hope translate into longer-term cost savings.

However, critics say some pharmacy benefit manager contracts prohibit working through another provider, and there are instances when generic drugs bought at retail cost less than the mail-order program.

Rx 'n Go was introduced to the self-funded midsize employer market in 2010 by health benefits industry veteran Robert Gilmore and investment banker Mort Jorgensen after they purchased the firm, which originally was established to serve the uninsured and underinsured markets.

"It was originally started as a direct-to-consumer business. We saw the application for the midsize self-funded employer market. It's a way of addressing three key areas—cost, choice and compliance," said Mr. Gilmore.

"We don't try to replace their current PBM. We wrap around what they're doing now. The member makes the decision as to what works for them. They can go retail, but then they pay the plan rate. If they go to Rx 'n Go, they get it free, but they must go mail-order. Then we invoice the employer \$25, \$50, \$75 or \$100, depending on the medication," Mr. Gilmore said.

Savings accrue to the employer through increased use of generic drugs, which cost significantly less than brand-name drugs, and through Rx 'n Go's lower prices, which are derived from bulk purchasing.

Orlando Neal, assistant vp and director of pharmacy analytics at Kansas City, Mo.-based Lockton Cos. L.L.C., said he has been studying Rx 'n Go's program to determine whether it is a viable option for some of his clients.

"Is there a true savings when using this type of model? There could be. They

do have leverage with getting drugs cheaper from the pharmaceutical makers. A small boutique like Rx 'n Go can probably save 15% off the cost of drugs because they don't have the PBM overhead," he said.

After being introduced to the company by a new middle-market client, Fred Garfield, principal and senior vp of benefits at Orland Park, Ill.-based Horton Group Inc., has brought the idea to other employer clients.

"It's an added perk for the plan members, plus you get claims data, which you don't always get when people go to Walmart to get their prescriptions filled. Those claims don't run through the system," he said, explaining that discount pharmacies generally don't transmit prescription data to PBMs if the cost is less than a plan member's copayment.

Rx 'n Go's billing statements provide a breakdown of drug utilization to the employer. The company also can pro-

gram to track utilization, not just prescription fill rates, to make sure that plan members actually take the medications designed to manage chronic conditions and prevent longer-term health issues.

"Most of the literature suggests that making medications available will improve compliance, but even when you eliminate the obstacles, you can't force them to take it," said Dr. Atman Singh, chief medical officer at Willis North America in Phoenix. "You have to build in other incentives" to ensure that plan members are taking care of their chronic conditions, he said.

Felicia Wilhelm, CEO of Chicago-based TPA Prairie States Enterprises Inc., said "it's easier to measure prescription drug utilization than whether plan members are getting recommended screenings and other aspects of care."

Stephanie Ward, vp of account management at Corporate Synergies Group L.L.C. in Mount Laurel, N.J., said one

'Most of the literature suggests that making medications available will improve compliance, but even when you eliminate the obstacles, you can't force them to take it.'

Dr. Atman Singh, Willis North America



vide data to the employer's third-party administrator or PBM to combine with other metrics used to track overall health benefit utilization.

"When you factor in that there is no additional cost to employees and a great savings opportunity for the employer, it is truly a win-win scenario we are encouraging all of our clients to review," said Michael Booth, vp of Westmont, Ill.-based benefit consultant Mid American Group Inc.

However, some health benefits experts expressed reservations about Rx 'n Go's program.

"PBM contracts usually have exclusivity provisions that prohibit employers from doing this," said Guy Morrison, senior vp of employee benefits at the Marsh & McLennan Agency L.L.C. in Atlanta. The discounted pricing contained in PBM contracts "is predicated on their getting a certain amount of generic mail-order business, which is highly profitable for the PBM."

Hitesh Patel, vp at Aon Hewitt in Chicago, said many drugs on Rx 'n Go's list may be available at discount retail pharmacies for less than the provider's lowest tier of \$25 for a 90-day fill.

Other health benefit experts advise that employers use the Rx 'n Go pro-

reason many insurers want to keep pharmacy management in-house is that it can provide an early warning if plan members are not in compliance.

"For example, if a patient is diagnosed with a heart condition and they obviously aren't filling their maintenance medication, the health plan may intervene and do outreach," Ms. Ward said.

Dr. A. Mark Fendrick, co-director of the Center for Value-Based Insurance Design at the University of Michigan in Ann Arbor, also criticized Rx 'n Go's focus on generics.

"While I applaud programs that attempt to increase the medication possession rates of pharmaceuticals, my strong preference would be not just to make generic drugs free, but to lower copayments on the high-valued, evidence-based drugs that we know are substantially underutilized," he said.

"Anything that saves employers money, employers are going to look at. But at the end of the day, it's not just saving money on the cost of drugs. It's all about getting people healthier and lowering total medical costs because people are taking the drugs," concluded Larry Boress, president and CEO of the Midwest Business Group on Health in Chicago.

How one employer cut drug costs 11%

By JOANNE WOJCIK

Style Crest Enterprises Inc., a Fremont, Ohio-based manufacturer and distributor of building products, has reduced its pharmacy benefit costs by 11% over the past 12 months even after picking up the entire tab for generic maintenance medications for its 350 employees.

Style Crest offers ECB L.L.C.'s Rx 'n Go program as a voluntary benefit alongside Style Crest's other pharmacy benefit program, which is administered by Cigna Corp., said Jennifer Kranz, director of human resources.

Under the Cigna program, employees are required to pay \$15 or 15% of the cost of generic drugs up to a \$75 cap, or \$30 or 30% of the cost of brand-name drugs up to a \$150 cap. Style Crest also requires employees to fill maintenance medications via mail-order after three fills at the pharmacy. Otherwise, they pay 70% of the cost of the drug.

By contrast, under the Rx 'n Go program, employees can receive 90-day supplies of up to 1,200 generic drugs at no cost to them.

Ms. Kranz said Style Crest already had a higher-than-average generic utilization rate of approximately 78%, compared with the rest of Cigna's book of business, which has a generic utilization rate averaging 69%.

But Style Crest is paying less for generics purchased from Rx 'n Go than it was paying via Cigna's pharmacy benefit manager, resulting in a \$50,000 savings last year alone.

Prior to implementing the Rx 'n Go program two years ago, "we did an analysis of the generic maintenance drugs, how many scripts, how much we paid. We knew that we wouldn't move everybody, but we saw the potential for a 50% savings on our generic drug spend," Ms. Kranz said.

To persuade employees taking brand-name drugs to switch to generics via Rx 'n Go, Style Crest provided employees with price comparisons showing how much they would save by getting generic equivalents for free via Rx 'n Go's mail-order service vs. copayments for brand-name drugs either at the pharmacy or via Cigna's mail-order service.

Prior to implementing the program, Ms. Kranz said Style Crest made sure that Cigna was aware of it.

"We were just moving to Cigna the year that we put Rx 'n Go in, so in our contract conversations we made Cigna aware of it," she said, adding that they did not object since "the Cigna drug spend is still substantially more than the Rx 'n Go spend."

In fact, "they are so good about it that if an employee sends their prescription to Cigna by mistake and calls to inquire about why they had to make a copayment, Cigna refers them to Rx 'n Go," Ms. Kranz said.

Cigna declined to comment.

Where there's a risk,
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WAY.**

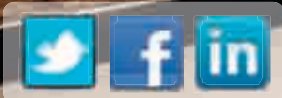


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Opinions

EDITORIAL

Pensions reversal was right move

AMERICAN AIRLINES Inc.'s decision to freeze, rather than terminate, at least three of its pension plans is a victory for the nation's pension insurance system.

As we reported, American Airlines reversed its decision to fold the underfunded plans and dump onto the Pension Benefit Guaranty Corp. billions of dollars of benefits American promised to its employees and retirees but did not come close to funding.

Parent AMR Corp. told American Airlines employees that it will freeze at least three of the plans and will work with the PBGC and others to avoid termination of the pension plan covering the airline's pilots.

Why the change of heart? The airline has not directly addressed that, saying only that it will seek new capital "at the appropriate time" to cover the cost of maintaining the plans.

Our view is that American became increasingly less certain about its ability to prove that pension plan termination would be necessary for it to successfully reorganize and emerge from bankruptcy. According to the PBGC, the airline has more than \$4 billion in cash.

The airline likely would have faced a bruising court battle with the PBGC, which was skeptical that American could not reorganize without folding the plans.

The PBGC cited the case of Delta Air Lines Inc., which emerged in 2007 from bankruptcy protection and whose pension plan costs are substantially higher than American Airlines'. The PBGC took over one Delta pension plan, but the airline froze a second. It also sponsors three frozen pension plans covering employees and retirees of Northwest Airlines Inc., which Delta acquired in 2008.

We applaud the PBGC for resisting American's move to terminate its plans. There is very much a role for the PBGC and its insurance program, which is funded by employer premiums: to take over pension plans when companies truly no longer can afford to sponsor them, and not just to reduce benefit costs.

Any deviation from that role will mean even greater losses for the agency and the need to boost premiums even more, leading more employers to stop sponsoring plans to avoid escalating premiums. And that is a scenario that regulators and lawmakers should do their utmost to prevent from developing.

LETTERS

Business Insurance welcomes letters to the editor.

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

Please send your letters to:

Letters to the Editor, *Business Insurance*,
150 N. Michigan Ave., Chicago, Ill. 60601-7524

Fax: 312-280-3174; email: gsouter@businessinsurance.com

SCHILLERSTROM



COMMENTARY

U.S. exporting construction safety

I was surprised to learn when visiting Vietnam with my wife in November that construction safety is a key U.S. export to the country we once warred with.

There is a high-rise building boom under way in Vietnam, with numerous construction cranes towering over the country's cities accompanied by indications that international contractors had brought their aggressive safety programs with them.

One Ho Chi Minh City hotel development site, for instance, had a massive "safety first" banner draped across the construction project. The English-language banner raised my curiosity while I was passing by the site in a cab.

So later, while on foot, I elbowed my way onto a Japanese Embassy building site where all the workers wore hard hats and reflective vests, signaling consistent safety enforcement across the entire construction project.

It wasn't long before I was standing before a friendly Vietnamese safety engineer who barely spoke English but was able to explain that all workers on the site must attend daily and weekly safety briefings.

Vacation over and back at work, I called Richard King, senior vp of construction in Denver for global engineering and construction company Black & Veatch Corp., and a highly regarded member of the American Society of Safety Engineers, to discuss union involvement in U.S. workplace safety programs.

But I learned that Mr. King's employer is building a coal-fired power plant in Vietnam, so we digressed. "It's been a philosophy of our company that when

we go abroad to do construction, whether it's Vietnam or Indonesia, Thailand, Africa or wherever, we always export our safety programs," he said. "The disruption of a serious accident on a job, besides (the loss of) life and limb, has the same financial impacts."

It also has become "fashionable" for overseas construction-site owners to demand safety programs that incorporate formal U.S. or British standards, so more foreign construction request for proposal documents require them, Mr. King said.

"They demand that that technology be exported, and Vietnam isn't any different," Mr. King said.

The overseas construction project owners also prefer to place many of their safety engineers on job sites so they learn those safety standards from Americans and other foreign counterparts.

That means U.S. safety programs are helping our companies compete overseas with an export that not only helps deliver a profit, but also keeps workers worldwide out of harm's way so they, too, can go home injury-free at the end of their workday.

There is also a bit of irony to this construction trend in Vietnam.

Decades ago, we went to war under the Domino Theory, a belief that if we didn't stop communism in Vietnam it would spread to the rest of Southeast Asia and then the world beyond.

Now we are helping former opponents spread some market-driven practices across their country.

Contact: rceniceros@businessinsurance.com



ROBERTO CENICEROS
SENIOR EDITOR



Business Insurance 2012
INNOVATION AWARDS

MICHAEL MARCOTTE

Michael Joiner, associate director of enterprise risk management at Aon Global Risk Consulting in Atlanta, and other 2012 Innovation Awards winners present their winning entries to an audience of risk managers at *Business Insurance's* Risk Management Summit®, held Feb. 29-March 1 in New York.

Innovative risk solutions recognized

Products and services ranging from an international insurance information database to a book on financial risk management have been recognized with 2012 Innovation Awards from *Business Insurance*.

The awards, which recognize innovation by insurance and risk management service providers, were presented during the *Business Insurance* Risk Management Summit®, which was held Feb. 29-March 1 in New York.

The winning entries were selected by an independent panel of judges who are all risk management professionals. The 2012 judges were Julie A. Bean, risk manager at The Duchossois Group Inc.; Ron Cooley, director of risk management at W.W. Grainger Inc.; Amy Templeton, risk manager at Komatsu America Corp.; Stephan Upshaw, vp of risk management at Equity Residential; and Richard Rabs, vp of claims and risk management at Veolia Transportation Inc.

In the following section, we profile all the winning entries and interview executives from the winning organizations.

This is the third year *Business Insurance* has presented the Innovation Awards. For the 2013 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.



MICHAEL MARCOTTE

Anna Nilsson, U.K. manager for environmental impairment liability at Chartis Europe Ltd., and Simon Housego of Chartis Europe receive the award for Chartis' Environmental Insurance Programme from *BI* Publisher Mark Stach, center.

Innovation Awards

SPOTLIGHT

THE WINNERS, 2012

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American Management Assn.

AMA Handbook of Financial Risk Management
www.amacombooks.org

Published in April 2011 by the American Management Assn., The AMA Handbook of Financial Risk Management gives risk managers tools and models they can use to help address the various financial exposures their organizations face.

In doing so, it also helps them elevate their role in their organizations, allowing them to involve themselves in their organizations' financial decision-making, according to the book's author, John J. Hampton, professor of business at St. Peter's College in Jersey City, N.J., principal in the Princeton Consulting Group and former executive director of the Risk & Insurance Management Society Inc.

The handbook, which won a 2012 Innovation Award from *Business Insurance*, has tools and models to enable risk managers to categorize financial risks, reduce risks associated with cash flow and budget exposures, analyze operating risks, understand the risk/return relationship, manage capital investment risks, determine the value of common stock, and optimize debt in the

organization's capital structure. Mr. Hampton said that this book follows another he wrote for the AMA that was published in 2009.

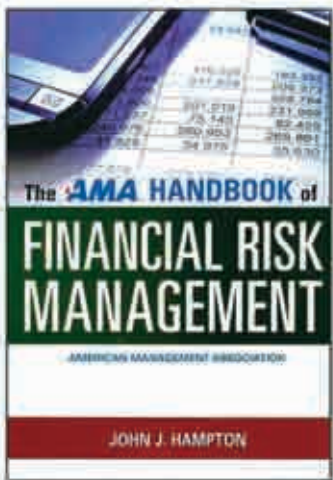
"Five years ago, I really began writing in the area of enterprise risk management," Mr. Hampton said. He wrote columns on the topic for *Business Insurance* between 2006 and 2010, and "that led to a book called Fundamentals of Enterprise Risk Management," he said. After that book was published, AMACOM Books asked Mr. Hampton to consider developing a book that would help risk managers make the move into financial risk management.

The 303-page handbook is intended to provide clear explanations and straightforward guidance to risk managers looking to manage financial exposures. It begins with categorizing financial risks in an enterprise risk management program and builds an understanding of how financial risks can be identified from financial statements, cash flows and operating budgets.

The book covers risks in short, medium and long-term financ-



Mr. Hampton



ing, and provides models for making risk retention, transfer and mitigation decisions that also apply to making decisions regarding the formation of captive insurance companies.

Going further, the handbook provides a variety of models for creating Microsoft Excel spreadsheets readers can apply to their own exposures. "The book is actually accompanied by spreadsheets," said Mr. Hampton.

The handbook has gotten a good response from readers, Mr. Hampton said. "We had a nice initial sale on it," he said.

Mr. Hampton said it's essential that risk managers looking to get involved in assisting their organizations' top management in decision-making understand financial risks.

"You can't move from being an insurance risk manager to a full risk manager if you don't know the finance," he said.

—By Rodd Zolkos



Aon Corp.

Aon Risk Maturity Index
www.aon.com/riskmaturityindex

With its Aon Risk Maturity Index, Chicago-based Aon Corp. proved a long-held hypothesis among risk and finance professionals: There is a direct correlation between how an organization handles risk and its financial performance.

Developed by Aon Risk Solutions and Aon Global Risk Consulting, along with the Wharton School of the University of Pennsylvania, the Aon Risk Maturity Index provides risk and finance leaders a tool to objectively self-assess an organization's risk framework across 10 primary risk characteristics broken down into 125 specific questions.

Completing the questionnaire takes about a half hour, according to Aon, and produces an immediate Risk Maturity Rating along with commentary on how the organization can improve its handling of risk.

After analysis by the Aon Center for Innovation and Analytics and consultants from AGRC's Enterprise Risk Management Practice, participants receive a complimentary confidential six-to-eight-page rating report about two to three weeks after completing the questionnaire.

The Risk Maturity Index evaluation is free, and organizations don't have to be an Aon client to participate.

The effort to develop the Risk Maturity Index, which earned a 2012 Innovation Award from *Business Insurance*, stemmed from Aon seeing a need as clients sought to better understand their risk management frameworks and processes in the face of new scrutiny and questions from stockholders, regulators and rating agencies, said Michael Joiner, associate director of enterprise risk management at AGRC in Atlanta.

"We knew it was going to be a big task," Mr. Joiner said, adding that Aon wanted the index to be global, providing a tool for business leaders across all regions and industries.

"We weren't so concerned about what specific risks they were taking, but how they build their organization to face risk," he said.

The Aon Risk Maturity Index was introduced in the U.S. in April 2011 and since has been rolled out worldwide. Aon is in the process of seeking a patent for the index as work continues on refining the tool, said Mr. Joiner.

"This is a multiyear process," he said. "As we learn more about our clients' capabilities through the responses...it's definitely an evolution." Among other things, Aon is considering how the index can be customized for different industries and regions, Mr. Joiner said.

The Wharton School modeled index responses against financial performance database information and found a statistically significant relationship between organizations' risk maturity ratings and their financial performance. "We think it is a tremendous insight and we think it validates what we as risk and financial professionals had always thought," Mr. Joiner said.

Not only does the Aon Risk Maturity Index show companies where they are in terms of their risk management efforts, it helps guide their future course, Mr. Joiner said. "It's also given them some pointers on where to go, the next step," he said. "It provides an initial roadmap in terms of 'Where do we need to go next in (enterprise risk management)?"

—By Rodd Zolkos



Mr. Joiner

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Awareity Inc.

TIPS
www.awareity.com

After tragedies like the recent shooting rampage on an Ohio high school campus, authorities often discover that there are warning signs preceding the event. But without a system for collecting, storing and disseminating such information to authorities, it's difficult, if not impossible, to intervene before such tragedies strike.

TIPS—Threat Assessment, Incident Management and Prevention Services—is an online platform created to serve as that centralized incident reporting tool and repository. The tool, which earned a 2012 Innovation Award from *Business Insurance*, is designed to equip risk managers, threat assessment teams, mental health professionals and others with the ability to securely share infor-



Mr. Shaw

mation and communicate so they can take appropriate preemptive action.

Rick Shaw, CEO and founder of Lincoln, Neb.-based Awareity Inc., came up with the idea for TIPS when the shootings at Columbine High School and Virginia Polytechnic Institute and State University occurred during his "lunch dates" with his daughter while she was attending grade school.

"It was intriguing to me," he said, "that there were warning signs before incidents like Columbine and Virginia Tech" that weren't discovered until after the fact. But campus communities are not equipped "to connect the dots" and proactively intervene in such situations.



In particular, the students that perpetrated the 1999 shooting at Columbine High School in Littleton, Colo., had been subjected to bullying, but there was no central location for these incidents to be reported, stored and shared among teachers and school officials, Mr. Shaw said. "So we started looking into all of these different tragedies to try to determine where the gaps and disconnects were."

TIPS is accessed via the Internet connection and can be added to a school, government or corporate website as a button icon. Individuals who click on the TIPS button are taken to a template where they can report information that could be useful in conducting threat

assessments.

The TIPS platform includes an information sharing "dashboard" accessible by multiple threat assessment teams who can prioritize the information using color coding similar to that employed by the U.S. Department of Homeland Security, with red being the

highest priority.

"It also allows them to connect the dots. A teacher, student or counselor may have filed a complaint about a student. But those reports get siloed and aren't connected. With TIPS, you could do a search and find out how many reports were filed and whether there is an escalation of aggression that needs to be watched," Mr. Shaw said.

"We've made training documents, checklists, policies and procedures—whatever team members need so they can make decisions quickly—easily accessible when they are needed," Mr. Shaw said.

—By Joanne Wojcik



As a proud supporter of the Spencer Educational Foundation Business Insurance.

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Chartis Inc.

Investigation Edge
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Chartis Inc.'s Investigation Edge insurance policy is a response to a significant problem facing companies: The daunting costs, which can easily amount to millions of dollars, associated with being the target of securities investigations, whether it be by the U.S. Securities and Exchange Commission, the Department of Justice, the FBI or other regulatory authorities.

"It's generally well-known" that while entities could get coverage for securities claims, "investigations coverage was something that was just not available in the marketplace" before Investigation Edge's introduction, said Rob Yellen, New York-based chief underwriting officer for Chartis financial lines in the U.S. and Canada.

The product's value in filling this need has earned it a 2012 Innovation Award from *Business Insurance*.

According to Chartis, Investigation Edge, which was introduced last March, is the only stand-alone product designed to cover an entity's costs associated with responding to informal inquiries and investigations by securities regulators. Directors and officers liability coverage does not extend to cover these costs.

The product was developed in response to recommendations from Chartis' advisory board of risk managers, its expert securities panel counsel advisers, and its broker partners, according to the insurer.

With Investigation Edge, "all it takes in the first instance is a call from the SEC and you retain panel counsel to trigger coverage," Mr. Yellen said. The company does not have to be identified as a target, be charged with wrongful acts, or have had a specif-



ic person identified.

Furthermore, coverage kicks in even if the company self-reports suspected violations to a regulatory authority, he said. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, if a company fails to self-report suspected violations, whistle-blowers may be able to collect monetary rewards of between 10% and 30% of the monetary sanctions the SEC subsequently collects, provided the action results in monetary sanctions of \$1 million or more.

Mr. Yellen said there is a minimum retention of \$500,000 for the annual policy, which can go higher "for somebody who is price conscious." There is a 15% co-insurance, and up to \$25 million of limits is available. Chartis does not disclose premiums.

One of the advantages of the policy is that it is a relatively concise eight pages long, which reflects Chartis' approach with other coverage forms as well, said Mr. Yellen.

"We have endeavored to apply a minimalist approach," he said. This makes it easier for risk managers "to confirm they got what they thought they were getting" and brings efficiency to the process, Mr. Yellen said.

The response, which has included articles in the media, has been positive, Mr. Yellen said. There has been a lot of interest by risk managers, who recognize the "value proposition" Investigation Edge presents, he said.

"We expect that this product will continue to be a solution that people will look to for securities investigation costs, and as time moves on, we think it's something that companies more and more will adopt as a regular part of their risk management program," said Mr. Yellen.

—By Judy Greenwald

'We have endeavored to apply a minimalist approach.'

Rob Yellen, Chartis, Inc.

Chartis Europe Ltd.

Environmental Insurance Programme
www.chartisinsurance.com/uk/envcii

An accredited environmental insurance training program developed by Chartis Europe Ltd. is helping risk managers navigate the United Kingdom's complex environmental liability laws and insurance market.



'We saw the need to explain how environmental legislation has evolved, how it is enforced, and the gaps that can occur in insurance like general liability coverage.'

Anna Nilsson, Chartis Europe Ltd.

Launched July 7, 2011, the five-module Web-based Environmental Insurance Programme, which is being recognized with one of *Business Insurance's* 2012 Innovation Awards, is free to all market participants through Chartis' website. The course is accredited by the London-based Chartered Insurance Institute, and completion of units is rewarded with continuing professional development credits.

The five modules cover environmental legislation, enforcement, risk management, insurance basics, and insurance issues.

The program was developed to raise awareness of environmental liability and insurance among U.K. risk managers, brokers and insurers, said Anna Nilsson, U.K. manager for environmental impairment liability at Chartis Europe in London.

Environmental legislation and enforcement activity in the United Kingdom has grown, in particular with the implementation of European directives such as Environmental Liability Directive 2004, which introduced a strict liability rule for pollution damage in the European Union.

"We saw the need to explain how environmental legislation has evolved, how it is enforced, and the gaps that can occur in insurance like general liability coverage," said Ms. Nilsson.

"The program is about making risk managers aware of what insurance can do and giving them the tools to make the right decisions," said Ms. Nilsson.

Since the training program's launch, some 1,800 people have taken at least one unit, while some 300 of these have completed the entire program. In feedback surveys, 97% of participants graded the program as excellent, while 94% said it had helped them discuss environmental liability with insurers.

One of the first to complete the program was a risk manager with a major U.K.-based multinational firm that was in the process of purchasing a global environmental insurance program. However, brokers also are an important target audience, said Ms. Nilsson.

Most risk managers place their insurance through a broker, but there is a general lack of knowledge of environmental liability and insurance among brokers in the market, said Ms. Nilsson. "Only the big four brokers have specialist environmental liability teams. But there is room for more specialists, and this program should help other brokers develop that expertise," she said.

The program will be continually reviewed and updated, said Ms. Nilsson. "Environmental legislation is evolving at such a pace that

we may have to review the training or add modules to keep it relevant," she said.

—By Stuart Collins



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Ingo Zimmermann, Head of EADS Corporate Insurance Risk Management

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CS Stars L.L.C.

Risk Response

www.csstars.com

CS Stars L.L.C.'s Risk Response automates the process of monitoring and assessing external risks such as weather, fires and earthquakes, allowing risk managers to quickly determine whether an event impacts a specific property or asset.

Stars, a Chicago-based unit of insurance brokerage Marsh & McLennan Cos. Inc., developed the system over two years and made it available to risk managers in November 2011.

Risk Response, a 2012 *Business Insurance* Innovation Award winner, is part of Stars' risk and claims management information system and is accessible through a community cloud infrastructure.

The system monitors U.S. weather events as they are published from the National

Oceanic and Atmospheric Administration and the United States Geological Survey. Once an event occurs near an organization's property, the system sends a notification to an assigned manager.

"Risk Response is all about capturing external data—something that is not normally captured in (risk management information) systems," said Jim Carbone, Chicago-based manager of research and development for Stars.

Typical users of Stars' RMIS monitor internal risks such as locations, claims and incidents,



Mr. Carbone

Mr. Carbone.

"We started sensing for external risk factors like earthquakes and weather events. We bring that information into the system



so they can relate what is going on at a particular location, bringing an external context to their data," he said.

For example, if a magnitude 5 earthquake occurs within 75 miles of an organization's property, Risk Response automatically will generate a notification to the facility manager, Mr. Carbone said.

"That relation is made and logged in our system. Now we can react to it," he said.

The system then can automatically generate an audit assessment, which notifies, for example, a structural engineer within the

company to assess any potential damage in the event that an earthquake has occurred.

"Risk response is about that reaction," Mr. Carbone said, noting that a risk manager who oversees multiple locations across the United States can monitor weather-related risks from a single location.

"There are a lot of events that occur on a daily basis," he said.

Risk Response also allows risk managers to identify context around their internal risk data to better understand how to mitigate risks, Mr. Carbone said. For example, if an organization noticed an unexplained spike in claims over a couple of weeks, its risk managers may be able to use intuition only to identify the anomaly, he said.

"However, when you cross-reference that with weather data, you may be able to see that that spike in claims was related to some icy weather during that time," he said. "Rather than going off of gut feelings on how to mitigate risk, you're actually bringing data into the equation, and you can make better decisions."

—By Mike Tsikoudakis



Liberty Mutual Agency Corp.

Onboard Advisor

www.onboardadvisor.com

Global positioning systems used to help guide corporate fleet drivers on their routes also can provide direction for companies looking to save on insurance and fuel costs.

Liberty Mutual Agency Corp. launched its Onboard Advisor program early last year for the commercial auto insurance market. The program uses data from standard GPS and telematics systems to measure and analyze driver performance.

From there, company supervisors can view Onboard Advisor data online and use weekly and monthly reports to identify potentially problematic driver behavior, such as speeding.

By reducing bad driving habits, companies can boost their fleet safety and fuel efficiency, said Chris Carver, Seattle-based program manager for Liberty Mutual.

"The more you can empower the immediate supervisor with that real-time information, the more that you can dramatically improve the driving behavior," said Mr. Carver, who calls the program a "safety-driven insurance" service.

Clients sign up for Onboard Advisor, which won a 2012 Innovation Award presented by *Business Insurance*, through insurance agents authorized to sell Liberty Mutual insurance products, though clients are not required to be insured through Liberty Mutual or its affiliated companies. The program is available to businesses that use specific telematics providers, such as Teletrac or Telenav.

Onboard Advisor is offered at no

cost for two years and for \$100 per year afterward for clients who do not buy a Liberty Mutual-affiliated policy. Companies that insure their fleets through Liberty Mutual can see a 15% initial premium discount when they use Onboard Advisor.

The service has about 2,000 users in 22 states. One client—a heating and cooling company—has used the system to track employees and prevent them from using company vehicles after hours, which has saved more than \$5,000 in monthly fuel costs, Mr. Carver said.

Onboard Advisor has helped other companies steer employees away from habits that could lead to accidents and poor fuel economy, such as turning corners too quickly or hitting the brakes too hard.

"If you know, for instance, how long it's taken for that vehicle to go from Point A to Point B, we can determine were they traveling above the safe speed for that particular road, or did they brake aggressively on that particular road?" Mr. Carver said.

Such analysis led to a 40% reduction in problematic driving behaviors among users during the program's first six months, according to Liberty Mutual.

Mr. Carver said Onboard Advisor is geared primarily toward small and midsize companies that have fleets with fewer than 100 vehicles.

"You don't need to have a big organization and a big safety department in order to implement a tool like Onboard Advisor," he said.

—By Sheena Harrison

Liberty Mutual Insurance Co.

Next Generation Predictive Model

www.libertymutual.com

When Boston-based Liberty Mutual Insurance Co. launched its first workers compensation predictive model in 2004, the technology was limited to simply correlating reported injuries with high claim costs.

That's useful information, said George Neale, executive vp and general manager of commercial claims for Liberty Mutual, but it falls short of addressing a critical problem facing workers comp benefits managers: claims that begin as relatively minor injuries or illnesses but become high-cost problems over time, largely because of other undiagnosed or untreated medical conditions.

"You have issues with claims that come through the door that are not immediately evident at the time of the first report," Mr. Neale said. As a result, benefits managers, insurers and third-party administrators aren't able to effectively plan for the potential impact of seemingly unrelated conditions or health risks on a claim's long-term cost.

"It's very easy to have issues hidden within that information," Mr. Neale said.

Liberty Mutual's Next Generation Predictive Model, which earned a 2012 *Business Insurance* Innovation Award, launched in August 2011, seeks to illuminate those issues by analyzing lost-time claims and individual medical bills, patient history and internal research. Designers said the new predictive model can provide not only greater clarity as to the medical and nonmedical conditions that can prolong workers comp claims, but an opportunity to mitigate those conditions early on.

"It puts us in a much stronger position to focus on that small subset of cases that have the greatest opportunity to become high-cost claims," said Maureen McCarthy, senior vp of workers compensation and managed care at Liberty Mutual.

Ms. McCarthy said the model—which is offered free of charge to all Liberty Mutual



Mr. Neale



Ms. McCarthy

workers comp insurance customers—compares an incoming workers comp claim and the medical history of the injured worker to the more than 825,000 lost-time claims Liberty Mutual has on file. Depending on the type of injury and the number of identifiable ancillary risk factors, the program can produce a probable estimate of a claim's total cost and duration less than 30 days from the initial filing date.

Ms. McCarthy said she often cites the case of a mechanic who suffered a joint laceration to the pinky finger on his dominant hand. Liberty Mutual ran the injured employee's workers comp claim and medical history through the Next Generation predictive model and discovered that he had an above-average risk of developing diabetes.

Subsequent meetings with the worker, his employer, his treating physician and Liberty Mutual's case manager revealed that the worker already had developed diabetes and hypertension, and was obese and a heavy smoker, Ms. McCarthy said.

"Based on all of that information, we all decided together to postpone the surgery until those risk factors were under control," Ms. McCarthy said. "It ended up being a very successful claim, but you never know what would have happened if he had gone ahead and done the surgery without managing those risk factors."

—By Matt Dunning



PRIUM

Qualified Medical Intervention
www.prium.net

Qualified Medical Intervention is a product developed by PRIUM to help risk managers and workers compensation managers mitigate the risk of injured workers becoming addicted to narcotic medications.



'What we are trying to do is impact treatment for the patient, so we are looking for doctors (who will not) look down their nose at the treating physician.'

Michael Gavin, PRIUM

Overprescribing addictive narcotics to injured workers is a significant concern among employers, insurers and other claims payers looking to control pharmaceutical costs while the nation's widespread use of opioid pain medications reaches epidemic levels.

In response, PRIUM created its QMI suite.

Duluth, Ga.-based PRIUM is a medical cost management company and a 2012 *Business Insurance* Innovation Award winner for its QMI product, which relies on peer-to-peer discussions with prescribing physicians.

It also relies on nurses who follow up and ensure that the treating doctors comply with modified treatment plans agreed to during the physician-to-physician discussions.

But PRIUM's approach is different from typical utilization management and peer-to-peer practices, said Michael Gavin, the company's chief marketing officer.

First, PRIUM prioritizes its doctors' discussions with treating physicians by going beyond the usual number of phone calls it will make to reach the claimants' doctors to engage them in discussions focusing on evidence-based medical practices, Mr. Gavin said.

"We will make 10, 20, 30 phone calls to the physician's office until we can get someone on the phone who will talk to us about the case, preferably the prescriber," Mr. Gavin said. "That has led to a discussion rate of about 89% of cases over last year."

About 70% of those discussions result in the prescribing doctors agreeing with the recommendations made by PRIUM's review doctors to modify the claimant's medication regimen, according to PRIUM.

PRIUM trains its doctors to engage only in "collegial discussions" when presenting their case for applying evidence-based disability and medical guidelines, Mr. Gavin said.

"What we are trying to do is impact treatment for the patient, so we are looking for doctors (who will not) look down their nose at the treating physician," Mr. Gavin said.

Then PRIUM's nurses contact the doctor's office before and after an injured worker's office visit. The oversight nurses are assertive to assure treating doctors follow the agreed treatment plan, Mr. Gavin added.

In their oversight role, the nurses also monitor daily prescription fill records for red flags. Claims

adjusters and treating physicians are contacted quickly if the nurses find a written prescription that was not agreed on.

The entire process begins, however, with PRIUM identifying claims that need further investigation based on triggers that often

are discovered by analyzing a payer's claim system or data from their pharmacy benefit manager's system.

PRIUM says its QMI process has resulted in \$6 in savings for every

\$1 payers invest. But it's not just about helping employers—QMI also helps save workers from the devastating problem of addiction, Mr. Gavin said.

—By Roberto Cenicerros

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Zurich Multinational Insurance Application
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Sometimes an innovation designed for internal use ends up paying unexpected dividends for external users. That is the case with Zurich Financial Services Ltd.'s Multinational Insurance Application, or MIA, which the insurer made available to risk managers through their brokers in June 2011.

MIA, which earned one of *Business Insurance's* 2012 Innovation Awards, allows customers to enjoy greater certainty that insurance programs will comply with out-of-territory insurance and premium tax regulations. This is no easy task, particularly when some countries allow nonadmitted insurers and others do not. And it is also no trivial matter—failure to comply with various out-of-territory requirements can void coverage, lead to fines, and delay or even disqualify claims.

With MIA, "we provided a little more clarity on issues of compliance and licensing" to customers, said Mike Kerner, New York-based CEO of Zurich Global Corporate in North America.

He said MIA began about six years ago as an internal tool used by Zurich underwriters. Mr. Kerner said MIA incorporates information from the more than 180 jurisdictions in which Zurich operates around the world.

Mr. Kerner said Zurich came to the "conclusion that we had a lot of very valuable information" in MIA, information that was as valuable to customers and their brokers as it was to the insurer's own underwriters.

According to Zurich, MIA views the regulatory and tax information from the uniform



view of a nonadmitted insurer where the risk is located. That gives the user the applicable local requirements that have to be satisfied.

The user's program is run through five scenarios. One addresses nonadmitted insurance covering the exposures in the country of risk. The second relates to use of difference-in-conditions/difference-in-limits insurance added to the local insurance. The third focuses on nonadmitted excess layers added to the local primary layer. The fourth considers a situation where only a risk, not an entity, exists in another country. The fifth deals with an entity in one country concluding a policy with a customer in another country.

The scenarios and variations encompass up to 41 lines of business typically purchased by international program customers.

The MIA data is updated as needed. It is maintained by lawyers, a global tax adviser and an internal team at Zurich.

Mr. Kerner said MIA drives rules and regulations down "to very practical business use."

—By Mark A. Hofmann



Mr. Kerner



UP COMINGS & GOINGS CLOSE

KENDALL D. HUNTER

NEW JOB TITLE: Rockville, Md.-based senior vp, health insurance exchange operations for Kaiser Permanente

PREVIOUS POSITION: Denver-based chief operating officer, Mid-Atlantic States, Kaiser Permanente

LOOKING FORWARD TO: Working with state and federal policymakers on implementing major change in U.S. health policy.

GOALS FOR NEW POSITION: Internally, working across Kaiser Permanente to integrate our operational approach to insurance exchanges. Externally, articulating the promise of the new insurance exchanges and Kaiser Permanente's views on how they should be established and operated.

CHALLENGES FACING INDUSTRY: Major changes to the way we do business, with much uncertainty around the rules and regulations governing how we operate.

INDUSTRY OUTLOOK: The Patient Protection and Affordable Care Act provides us with a rare opportunity to serve millions of new patients through the insurance exchanges and the expansion of Medicaid.

FIRST EXPERIENCE IN JOB MARKET: I started out at Kaiser Permanente Colorado in the pricing and revenue forecasting areas.

COLLEGE MAJOR: Economics (as an) undergraduate.

ADVICE: Do a great job, with a positive attitude, on whatever assignment you are given.

SOMEONE ONCE TOLD ME: Life and your career go fast, so enjoy the journey.

OUTSIDE THE INDUSTRY, A DREAM JOB: Something in health policy.

HOBBIES: Golf, gardening, hiking, cooking.

MOST PASSIONATE ABOUT: My family.

FAVORITE BOOK: Anything by Robert Caro; the Lyndon Johnson series; "The Power Broker."

CAN'T-MISS TELEVISION SHOW: The major golf tournaments.

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Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

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- Ironshore Inc.
- Beazely P.L.C.

BROKERS

- Preferred Concepts L.L.C.
- Higginbotham & Associates Inc.
- Frank Crystal & Co.

REINSURANCE

- Guy Carpenter & Co. L.L.C.

OTHER

- Broadspire Services Inc.
- Assurant Solutions
- Aon Hewitt
- Mercer L.L.C.

Products & Services

Liberty disability offering targets midsize employers

BOSTON—Liberty Mutual Insurance Co. has rolled out a line of group disability products for cost-conscious midsize employers.

Called Benefits Select, the line offers short-term disability through an administrative-services-only contract as well as fully insured long-term disability.

"We offer the same level of case management as in our high-end customized products," Jean Scarrow, chief operating officer of the group benefits unit, said in a statement. "Benefits Select offers solid group disability products, balanced with a standard plan design that allows a lower price point."

For more information, send questions to GroupBenefits@LibertyMutual.com.

Beazley offers D&O cover for multinational firms

NEW YORK—Beazley P.L.C. has announced a new product focused on complicated directors and offi-

cers coverage for multinational corporations.

Underwritten by the Beazley syndicates at Lloyd's of London, Beazley Bridge provides simplified standard coverage for executives abroad through one contract that covers more than 65 countries. The coverage can be added to existing plans and eliminates the need for translating forms from different languages.

"The old solutions were very time-consuming," said Marc London, the New York-based head of Beazley's U.S. management liability team.

The policy limit goes up to \$20 million. There is no deductible, though premiums will vary by country.

For more information, contact Mr. London at 646-378-4012 or marc.london@beazley.com.

Starr, Pro Financial launch executive disability plan

NEW YORK—Starr Indemnity & Liability Co. and Pro Financial Services L.L.C. have launched a dis-

ability insurance plan for white-collar executives.

The high-limit disability insurance product is intended for high-net-worth individuals and their employers who need additional coverage, said Jamie Burns, vp at Pro Financial Services. The coverage includes personal income protection, buyout agreements, company revenue protection, key person insurance, business overhead coverage and contractual obligation coverage.

Monthly benefits range from \$5,000 to \$250,000. Lump-sum benefits, which are available separately or in addition to monthly benefits, begin at \$250,000. The program will be underwritten by Starr Indemnity's accident and health division.

For more information contact Ms. Burns at jmburns@pfsins.com.

Latest edition published of executive liability text

AUSTIN, Texas—National Alliance Research Academy has released the fifth edition of "Executive Liability Insurance."

At 93 pages, the new edition covers directors and officers liability exposures and insurance, employment practices liability exposures and insurance, and fiduciary liability exposures and insurance. An appendix includes four white papers and four comprehensive articles covering topics

such as the Bermuda insurance markets, coverage for nonprofits and alternatives to D&O liability insurance.

The author, Richard G. Clarke, is senior vp at West Point, Ga.-based brokerage J. Smith Lanier & Co.

The new edition costs \$45 for a print copy or \$35 for a digital copy. To buy "Executive Liability Insurance," visit www.scic.com/store or call 800-633-2165.

For more information, contact Jim Cuprisin, research director at the National Alliance Research Academy, at 512-349-6114 or jcuprisin@scic.com.

Lexington covers tuition lost due to catastrophes

BOSTON—Lexington Insurance Co., a unit of Chartis Inc., has launched insurance coverage for colleges and universities that reimburses the loss of tuition-related income when an international student withdraws from the school due to a catastrophic event in the student's home country.

According to the Institute of International Education Inc., more than 700,000 international students enrolled at U.S. colleges and universities during the 2010-2011 academic year, Boston-based Lexington said in a statement.

"These students typically pay premium tuition rates and receive

little to no funding from the college or university," said Erik Nikodem, senior vp and property division executive at Lexington, in the statement. "If a catastrophe event in their country causes these students to withdraw, the financial impact to the college or university could be substantial."

The coverage is triggered by a catastrophic event such as a flood or earthquake in a foreign country and reimburses colleges or universities for the financial exposure as they recruit and admit foreign students from catastrophe-prone regions, the company said.

The program, HELP-International Catastrophe, is part of the insurer's Higher Education Loss Protection suite of coverages and is available by endorsement to Lexington's property insurance policy, according to the statement.

For more information, contact Valerie Turpin, higher educational property product line manager for Lexington, at 212-458-3947 or valerie.turpin@chartisinsurance.com.

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BI's Products & Services column reports on new product offerings. Please send Product & Services news to Anna Gaynor, 360 N. Michigan Ave., Chicago, Ill. 60601 or email agaynor@businessinsurance.com.

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Supply: Disruptions often not covered

CONTINUED FROM PAGE 4

Dempsey. "Read your policies," he said, and if the language applicable to your supply chain is narrow and could be broadened, "I recommend you do it," he said.

While some contingent business interruption endorsements have the broadest coverage, others have "absolutely terrible, narrow" coverage, he said. "Read what you have," he said.

Mr. Dempsey said many companies are offering stand-alone supply chain coverage. "That's a good thing," he said. Furthermore, he said, some London syndicates are offering trade disruption insurance, which does not require physical damage, just a trade disruption to trigger coverage, for example, when the Mississippi River rises and is closed to barge traffic.

Mr. Dempsey said there has

been a lot of talk in the past few months about data, and the amount of data risk managers provide to underwriters. "The carriers are now indicating in order to provide sufficient limits to make it meaningful, they're going to need more data or they're going to get out. We don't know if that's going to happen—if it's an idle threat, or if they're serious about it," he said.

Mr. Dempsey said given the "breadth and complexity of our supply chain risks, we should carefully examine the triggering events" that could lead to a significant profit loss. Risk managers should take a "serious look" at extending or supplementing coverage for the supply chain risk, he said.

Patrice M. Knight, vp of operations global supply for IBM Corp. in Hopewell Junction, N.Y., presented a case study at the supply chain session. It is a "very com-

plex business problem," she said. One of the things that is different from 15 years ago is a greater awareness by supply chain professionals as to how factors can affect the supply chain. When you do business in as many countries as does IBM, you need to think about factors including political stability, labor issues and natural catastrophes, she said.

"It is in the sight of the C-suite for any large organization," said Ms. Knight.

"A supply chain can be shut down in an instant," said Ms. Knight. "You can't eliminate all risk. What you have to do is put the systems and processes in place...so that you are aware of the potential of it as early as possible," focus on the highest-risk items, "and mitigate it faster than anyone else can."

Think about reducing risk and how it helps a company act profitably, she said. Adding money when there is a disruption "can't be the way to solve it." Think about time to recover and how to improve the supply chain's overall performance, she said.

"The whole area of event management is really a growth opportunity" that can help monitor disruptions and see them earlier, she said.

Speaking during the panel, David J. Closs, a professor in the Department of Supply Chain Management at the Eli Broad Graduate School of Management at Michigan State University in East Lansing, Mich., said companies historically looked at supply and demand in considering supply chain management. That is no longer good enough, and compa-



MICHAEL MARCOTTE

A panel of experts at the third-annual Business Insurance Risk Management Summit in New York discuss ways to mitigate supply chain risks.

nies must focus more on balancing the dimensions of risk and security as well, Mr. Closs said.

He said there are many instances where one small component coming into the food supply chain can kill animals and even people.

Some say they are safe because they work with big suppliers, not realizing that in fact they are a conglomeration of small suppliers. "How do we make sure with reasonable confidence that each part of the supply chain works well?" he asked.

Mr. Closs said firms are looking for more of a balance between scale and reliability. Infrastructure congestion is becoming increasingly problematic, while increased energy costs will shift supply chain design and increase the importance of "quantifying the value proposition." He pointed to the damage caused by the tsunami in Japan, where there was centralized production because of

economies of scale.

Panelist Edward D. Erickson, vp of product and business development at Intrapoint AS, said that the supply chain is critical to most organizations, but the key is for supply chain leaders to build bridges with other parts of the organization and "lead by example." Mr. Erickson, who previously served as director of global safety, security and business resiliency for Cisco Systems Inc., explained that such a holistic approach to risk is crucial to ensuring business resiliency.

Also speaking was Anita Househam, policy and legal adviser, issue manager-supply chain sustainability at the United Nations Global Compact Office in New York. Ms. Househam discussed the goals of that project and how it is aiding organizations that are working to embed sustainability principles into their supply chains, in part to address risk factors.

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LEGAL NOTICE

IN THE MATTER OF THE CONSERVATION OF THE TRUST FUNDS OF UNITED CAPITOL INSURANCE COMPANY
Supreme Court of the State of New York
County of New York
Index No.: 401784/02
NOTICE

Pursuant to an order of the Supreme Court of the State of New York, County of New York ("Court"), entered June 14, 2002 ("Conservation Order"), the then-Superintendent of Insurance of the State of New York and his successors in office were appointed as conservator ("Conservator") of a certain trust fund ("Trust Fund") of United Capitol Insurance Company ("United Capitol") and, as such, has been directed to conserve funds in the Trust Fund 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 Conservator of United Capitol. The Conservator has, pursuant to Insurance Law Article 74, appointed Jonathan L. Bing, Special Deputy Superintendent ("Special Deputy"), as his agent to carry out the responsibilities of the Conservator, through the New York Liquidation Bureau ("Bureau"), 110 William Street, New York, New York 10038. The Conservator, by the Special Deputy, has submitted to the Court a verified petition ("Verified Petition") seeking an order: (a) approving the conservation agreement ("Conservation Agreement") executed on October 14, 2011, a copy of which is annexed to the Verified Petition as Exhibit 1, by and between Andrew R. Stoffi, Acting Director of Insurance of the State of Illinois, as liquidator ("Liquidator") of United Capitol and the Conservator; (b) authorizing the Conservator to distribute the Trust Fund to the Liquidator in accordance with the terms of the Conservation Agreement; (c) releasing and discharging, upon distribution of the assets in accordance with the terms of the Conservation Agreement and the filing of a final report, the Conservator, his predecessors and successors in office, their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with this proceeding; (d) authorizing the Conservator to take further actions which he, in his discretion, deems advisable for the protection of creditors and of the assets in his possession and for the termination of this proceeding; and (e) providing for such other and further relief as this Court.

A hearing is scheduled on the Verified Petition on the 5th day of April, 2012, at 2:30 p.m., before the Honorable Joan A. Madden, JSC, New York Supreme Court at the Courthouse, IAS Part 11, Room 351, 60 Centre Street, New York, New York 10007. 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 Conservator and Clerk of the Court, at least fifteen business days prior to the hearing. Service on the Conservator shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York as Conservator of United Capitol Insurance Company
110 William Street
New York, New York 10038
Attention: John Pearson Kelly
General Counsel

By filing the Verified Petition, the Conservator is seeking the approval of the Conservation Agreement from the Court. The Verified Petition and supporting papers 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 Bureau's Legal Division at (212) 341-6755.

Benjamin M. Lawsky
Superintendent of Financial Services of the State of New York as Conservator of United Capitol Insurance Company

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Cyber: Raise security bar to mitigate risks of attacks

CONTINUED FROM PAGE 4

decisions regarding cyber liability issues, the results are so much better," said Lori Nugent, a Chicago-based partner with Wilson Elser Moskowitz Edelman & Dicker L.L.P.

"All of those different stakeholders will have valuable input that can help you minimize your risk," said Richard Santalesa, New York-based senior counsel at the Information Law Group.

The level of care with which a company has organized and regularly updated a comprehensive data breach response plan—including a clearly delineated set of individual and team responsibilities—will not only play a deciding role in the overall effectiveness of any mitigation efforts in the event of a breach, it will likely factor significantly in an insurer's appraisal of a policyholder, experts said.

"A critical part of our evaluation of a potential insured is that pre-

paredness of your teams to respond quickly," said Daniel Riordan, New York-based president of specialty products for Zurich North America Commercial.

"A data breach can't be an ad-hoc event. It has to be something you're prepared for ahead of time," he said.

In terms of pre-emptive risk management, Mr. Brill said companies can go a long way toward reducing their exposure to significant losses resulting from a security breach by putting themselves on a "data diet."

"Ask yourself if you actually need to collect the information you're collecting," Mr. Brill said. "There is an enormous amount of information that we never use but we never get rid of. It's 100% risk and 0% value. As a risk manager, that's the scariest equation you're ever going to hear."

One key element to successfully navigating a cyber attack or data breach that experts say many

companies overlook is the establishment of a clear breach management plan and a breach response team designated to execute that plan.

"The thing that we see most often are companies that are unclear as to what the firm's management and the board of directors expect of them, who's responsible for what specific tasks and who has the authority to do what," Ms. Nugent said.

When crafting a response plan, panelists said companies should place particular emphasis on public relations, as reputational harm often can prove more costly over time than any direct financial losses.

"There are few things that can impact your brand more than a data breach," Ms. Nugent said, adding that a well-prepared company could enhance its brand depending on its response to a security breach.

"Folks expect attacks to happen, and they know that security is not perfect," Ms. Nugent said. "What they learn when you respond to a breach tells them a lot about what kind of company you are and whether they want to do business with you."

Captives: Creative use realizes goals

CONTINUED FROM PAGE 4

with setting up a captive insurance subsidiary.

Most captive domiciles tend to be fairly lenient in their review of new or augmented risk management strategies, experts said. Above all, parent firms seeking to open their own captive insurance company must be able to demonstrate the financial and cultural commitment necessary to sustain an underwriting subsidiary.

In Vermont, Mr. Provost said the state will sometimes revise its statutory framework in cases where a company's proposal for a captive insurance risk transfer plan doesn't meet regulatory requirements.

However, he said, a domicile also must consider its own reputational risk and the wishes of its other captive owners, Mr. Provost said. "What we don't want to do is

lower our standards."

Captive insurance proposals also will need to pass muster with certain federal regulatory agencies, in particular the Internal Revenue Service. Charles J. Lavelle, a partner and federal tax attorney with Bingham Greenebaum Doll L.L.P., said captive programs offer the potential for significant tax savings, but only if they meet a series of IRS requirements (see box).

One key requirement with which Mr. Lavelle said prospective captive owners could struggle is

the IRS' rule on demonstrable risk distribution. The agency requires that the total captive premium be shared among several insured entities. Those entities can include parent-owned operating subsidiaries or third-party insured companies, Mr. Lavelle said.

"You don't actually need any unrelated business to participate in the captive," Mr. Lavelle said. "As long as you've got an insurance subsidiary and enough operating subsidiaries that don't own any stock in the insurer, then you don't need any outside entities

sharing the risk."

Captive owners don't have to use complex structures to make better use of their captives, said William Motherway, executive vp at Tishman Construction Corp. Using a captive conventionally but aggressively, can achieve significant results, he said.

Tishman uses its captive, Vermont-domiciled TRIMCO Insurance Co., to cover terrorism property exposures as well as a wide range of liability risks. The captive produces \$2 million to \$3 million in annual net proceeds for its parent.

More than anything, Mr. Motherway said, Tishman's success with its captive programs is owed

to its culture of self-reliance.

Through TRIMCO, Tishman internalized several operations that otherwise might have required a third-party administrator or consultant for the construction and hotel/real estate companies, including safety management, actuarial and regulatory review, selection of legal counsel and claims management, he said.

Having those capabilities in-house lowers the aggregate cost of managing risk and provides services that are tailored to Tishman's operational standards and priorities, Mr. Motherway said.

"We think that by doing it that way, it's going to get done right," he said.

AVOIDING LITIGATION, FINES

Charles J. Lavelle, a partner and federal tax attorney with Bingham Greenebaum Doll L.L.P., says there are ways to avoid litigation or fines brought by the Internal Revenue Service. To do so, U.S.-domiciled captive insurance programs must be able to demonstrate:

- A valid nontax business purpose for forming the captive, such as transferring risks.
- That the captive operates in the same manner as a traditional insurance company and includes "common notions of insurance."
- That the captive has been established to address an insurance-related risk, as opposed to a business risk or a financial risk.
- That risk has been transferred from one party to another.
- That the risk has been distributed among a sufficient number of separate entities.



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Obesity: Data aids treatment of workers

CONTINUED FROM PAGE 3

range of medical treatments and costs generally are greater for obese claimants.

For example, an NCCI case study comparing an obese with a nonobese worker, both of whom suffer from similar lumbar disc displacement injuries as well as spinal cord disorders, revealed that the final treatment for the nonobese claimant occurred about one year after the injury date. The claimant also received about 100 treatments.

In contrast, the obese claimant received treatments more than four years after the injury date and about 400 treatments in total, including complex surgeries, drugs and physical therapy.

To help injured workers and control costs, insurers could collect claimant height and weight data, NCCI suggested in a 2010 research brief.

"If the data is available, insurers

could be aware up front if obesity is likely to be an issue and try to improve the outcome for the injured worker and their family by keeping the claim from becoming a permanent injury and...reducing duration," NCCI said. "Depending on the added costs in terms of managing these claims, it may also reduce overall claims costs."

NCCI said insurers could help with programs that improve lifestyle choices in areas such as nutrition and fitness.

While referring obese claimants to employer-sponsored wellness or disease management programs may help some employees lose weight and mitigate their comorbid conditions, such programs are most helpful before an injury occurs and only when employees are motivated to improve their health, sources said.

"Post-injury, there is very little we can do," said Peggy Crook, director of global claims risk management services for Hilton

Worldwide Inc. "You take the injured employee as you find them."

Workers comp boards in various states have required Hilton to pay for programs that are necessary before an injured employee can undergo surgery for certain workplace injuries, she said.

"There are instances where they can't have the surgery because of the weight," Ms. Crook added. "So you wind up with a different kind of injury, one that can't be fixed."

She said she has not yet studied the cost impact of obesity on claims by Hilton employees, in part because other workers comp cost drivers are taking priority.

In addition, Hilton's third-party administrator's claims handlers do not consistently ask about claimants' height and weight during the intake process, Ms. Crook said. Nor do the claims handlers consistently input height and weight information into a claims system when the information is

provided in medical reports.

Sedgwick Claims Management Services Inc. asks for an employee's height and weight during the claims intake process when employers request that service, said Teresa Bartlett, the TPA's medical director in Troy, Mich.

Height and weight are used to calculate a claimant's body mass index. When employers don't ask for the data during the intake process, nurse case managers obtain it later from the physician's medical notes, she said.

An employer's first indication that a claimant is obese often comes from the doctor's first report, which may not be available until several weeks into the claim process, said William Zachry, vp-risk management at Safeway Inc. in Pleasanton, Calif. Even then, height and weight may not be included, he said.

Yet that information is essential to assess whether a worker might benefit from services such as nutritional counseling, closer collaboration between a nurse case manager and their physician, or physical therapy, sources said.

Tornadoes: Violent start to season

CONTINUED FROM PAGE 1

us the right conditions for the thunderstorms to develop rotations," he said. "Because the jet stream was so strong, when the storms formed, they traveled very quickly and so they had very long tracks."

Some tornadoes in the recent outbreak had tracks 30 miles long.

"For this year and even last year, La Niña was partly to blame," said Matt Nielsen, senior product manager at modeler Risk Management Solutions Inc. in Newark, Calif. "What we've seen even going back to 2008 is an increase in the amount of moisture coming up from the Gulf and the interaction with the storm systems increasing."

But "I don't think we really can read very much into the timing of this particular outbreak," said AIR's Mr. Doggett. "In 2006, we had a very similar strong start, but May and June were very quiet, so we actually ended that season below normal," he said.

"2010 was very slow until May and June, and it ended up being very normal despite the slow start," he said.

Tony Del Genio, research physical scientist at the National Aeronautic and Space Administration's Goddard Institute for Space Studies in New York, which is part of the National Aeronautic and Space Administration, cautioned against linking tornado activity with potential climate change. He said that predicting tornadoes is more difficult than predicting other forms of severe weather.

"The problem with climate change and tornadoes is we don't know enough about them to make those projections," said Mr.

TORNADO-PRONE STATES

States that are likely to have an average of more than 50 tornadoes a year

STATE	TORNADOES
Texas	155
Kansas	96
Florida	66
Oklahoma	62
Nebraska	57
Illinois	54
Colorado	53
Iowa	51

Source: National Oceanic and Atmospheric Administration

Del Genio.

"It's tempting to look at some unusual, severe early season weather and wonder if it had something to do with climate change, but we wouldn't have enough data," he said. "There's no way to say" whether this is just luck of the draw or whether it's part of something larger.

"There isn't an increase in tornado activity that's been scientifically proven, said Jose Miranda, EQE-CAT's Hackensack, N.J.-based director of client advocacy. "Scientifically, there has not been an increase in tornadoes over 60 years."

Instead, "bad luck of the draw" with tornadoes hitting metropolitan areas has occurred, with increased insured damage and loss of life, he said. He added that information about tornado activity has improved as well. Fifty years ago, there were not as many storm spotters and technology was less advanced, he said.

RMS' Mr. Nielsen pointed out that as activity shifted east in the recent outbreak, losses were higher than would have been the case in "Tornado Alley" farther west because of higher population density to the east.

Pensions: Funding relief measure in works

CONTINUED FROM PAGE 3

money to make investments, for example in new equipment and facilities, which in turn would boost the economy, observers note.

Details in the legislation could change, but employers would continue to value plan liabilities based on interest rates averaged over 24 months on top-rated corporate bonds for three different segments. Segments refer to when benefits are paid to plan participants.

Under this methodology, interest rates on bonds with maturities of up to five years are used to value pension benefits that will be paid within the next five years, while interest rates on bonds with longer maturities are used to value pension benefits paid over the next five to 20 years, and benefits paid beyond 20 years.

The actual interest rate for each segment though, would have to be within 10% of the average of such segment rates for the 25-year period preceding the current year, at least temporarily.

Because interest rates years ago were much higher—especially on short-term bonds—such a change would result in the use of a much higher interest rate to value liabilities. That would reduce the value of the liabilities and the amount employers would have to contribute to their plans.

Using this methodology could push up the interest rate used to value benefits

paid over the next five years by roughly three percentage points, with smaller, though still significant, percentage increases for benefits paid out beyond five years, experts say. That, in turn, would dramatically reduce the value of liabilities and required contributions.

Substantial boosts

Employers already have had to substantially boost contributions to their pension plans during the past few years, due at least in part to low interest rates. Towers Watson & Co. estimated that employers this year will contribute more than \$190 billion to their pension plans, more than double the amount they contributed in 2010.

Low interest rates are requiring employers to contribute far more into the plans than is necessary, experts say. "The liabilities are way overstated," said Alan Glickstein, a senior Towers Watson retirement consultant in Dallas.

"The impact of lower interest rates has been felt by all," said Steve McGivney, a principal with PricewaterhouseCoopers L.L.P. in New York.

"Plan sponsors are being punished by incredibly low interest rates," said Heidi Rackley, a partner with Mercer L.L.C. in Seattle.

And the money that is flowing into pension plans means companies have less cash to invest in their operations and facilities, said Eric Keener, a partner with Aon Hewitt in Norwalk, Conn.

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D&O: Buyers increasing size of coverage limits

CONTINUED FROM PAGE 1

buy D&O liability insurance. The group includes public, private and nonprofit companies.

"Particularly in the public space, it just shows the level of concern they have in terms of the broad range of potential constituents that can bring a claim," said Larry Racioppo, executive liability practice leader at Towers Watson in Stamford, Conn.

"We've seen that it's no longer the traditional shareholder class action claim," he said. "It's much broader than that." A larger pool of claimants exists in terms of regulatory-related claims, breach of fiduciary claims involving mergers and acquisitions, and derivative claims, among others, he said.

Within the past 12 months, 69% of respondents' directors and officers asked about the scope of the organization's D&O coverage, up 12 percentage points from the 2010 survey.

Seventy-seven percent of public company risk managers or D&O purchasers received an inquiry regarding the scope of D&O coverage in 2011 compared with about 58% for private companies, Mr. Racioppo said.

The increase in scope-of-coverage "shows the level of concern (directors and officers) have in ensuring that their personal assets are protected," he said.

The average policy limits for all survey participants was \$86.9 million in 2011, up from \$80.4 million in 2010. Public and private companies reported average limits of \$126.8 million and \$36.3 million, respectively. That compares with \$118.3 million for public companies and \$34 million for private companies in 2010.

Sixty-two percent of public companies and 35% of private companies were able to achieve lower D&O pricing, according to the survey. But 18% of private organizations had higher premiums vs. 14% of public companies.

Willis: Benefits unit probed over pay fraud

CONTINUED FROM PAGE 3

affect our previously issued financial statements for any of the prior periods."

Willis said for the year ended Dec. 31, 2011, it has corrected the misstatement of commissions and fees from prior periods "by recognizing a \$22 million charge to other operating expenses to write off the uncollectible receivable at Jan. 1, 2011, and by reversing the \$6 million balance of commissions and fees which

TOP CONCERNS

The types of directors and officers claims that are of greatest concern to organizations.

REGULATORY

2011	81%				
2010	78%				

DIRECT SHAREHOLDER/INVESTOR LAWSUIT

2011	68%				
2010	68%				

DERIVATIVE SHAREHOLDER/INVESTOR LAWSUIT

2011	58%				
2010	53%				

FIDUCIARY

2011	49%				
2010	50%				

EMPLOYMENT-RELATED

2011	44%				
2010	51%				

Source: Towers Watson & Co.'s survey "Directors and Officers Liability: 2011 Survey of Insurance Purchasing Trends"

The state of the insurance market at the time of the survey was competitive and arguably still is, Mr. Racioppo said. "You had a lot of insurers chasing fewer clients," he said.

While the public sector still may be showing signs of competitiveness, Towers Watson is seeing a "real hardening" in the private sector, Mr. Racioppo said, noting that increased litigation and legal defense costs may have contributed to higher private company D&O rates.

Consistent with last year's results, 60% of respondents indicated their primary D&O pro-

gram structure included Sides A, B and C coverage. Six percent reported maintaining Side A-only coverage (see chart, page 1).

Side A coverage protects directors and officers from liabilities that cannot be indemnified by the company.

D&O protection and reimbursement for the company typically is provided through Side B coverage.

In addition, the survey found that the larger the company, the more likely it was to buy a local D&O policy in a foreign jurisdiction.

Sixty-three percent of companies with \$10 billion or more in assets said they purchased local policies, while 35% of companies with \$250 million to \$999 million in assets did so in 2011. No companies with less than \$250 million in assets purchased local policies, according to the survey.

Mr. Racioppo said that one part of the continuing trend to purchase local coverage has been an uptick in Foreign Corrupt Practices Act-related claims.

"Anytime you get outside of the United States, indemnification has the potential to become difficult," Mr. Racioppo said. "I think this is evidence of the fact that organizations understand the complexities involved and are taking the appropriate measures."

While the policy limits increased, 66% of the respondents said they did not have any claims against their D&O policy in the past 10 years. Of organizations with claims during that time, most continued to come from shareholders, with direct shareholder lawsuits cited by 45% and derivative shareholder lawsuits cited by 42%.

Eighty-one percent of the survey respondents again said regulatory-related claims were among their top three D&O concerns, compared with 78% in 2010 (see related chart).

"That speaks to while historically the regulatory piece may not have been among the type of claims we've seen, I think that's changing, Mr. Racioppo said. "Directors and officers are concerned about it," Mr. Racioppo said.

the results of our investigation to date, we do not believe that any client or carrier funds were misappropriated or that any other business units were affected."

Willis said it has taken steps to enhance internal controls concerning the unidentified unit.

A spokeswoman for Willis declined to comment.

Willis said last month when it announced its results that it would again accept contingent commissions on some benefits business.

The spokeswoman said the decision to "begin accepting contingent commission in our (employee benefit) business is completely unrelated to the disclosure" in the filing.

inBrief

CONTINUED FROM PAGE 1

P/C insurance rates rise 2% in February

Signs of change in the commercial property/casualty insurance market continue with rates rising by an average of 2% in February over those of the same month a year earlier, according to MarketScout. Workers compensation and commercial property coverage experienced the greatest increases at 3%. General liability, umbrella/excess and business owners' policies each rose by an average of 2%. All other lines surveyed increased by 1% except fiduciary and surety coverages, which remained flat.

Insurers need flexibility on Volcker rule: SEC head

The U.S. Securities and Exchange Commission is trying to be flexible in how it applies the Volcker rule to insurers, the head of the agency told a panel of the U.S. House of Representatives. The rule—Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act—provides for a statutory exemption for an insurance company acting on behalf of its general account. However, insurance companies have expressed concern that the exemption is too narrow because it does not extend to covered funds.

AIG workers comp settlement gets OK

A \$450 million settlement of a class action suit brought against American International Group Inc. for its alleged underreporting of workers compensation premiums has been formally approved. U.S. District Court Judge Robert Gettleman approved the settlement in an order and memorandum on Feb. 28. The money is to be paid by AIG to 1,300 other commercial insurers. The insurers had alleged that they paid states more than their fair share of residual market assessments because AIG was assigned an improperly small share of high-risk workers comp policies.

Wal-Mart seeks dismissal of Texas bias lawsuit

Wal-Mart Stores Inc. has asked a federal judge to dismiss a gender discrimination case filed against it last year in Texas, arguing that the suit was filed too late. This is the latest development in a case originally filed in 2001, where plaintiffs had alleged that Wal-Mart promoted and paid female employees less than men, even when female workers had higher performance ratings and more seniority. Last June, the U.S. Supreme Court ruled against a proposed class of some 1.5 million

members nationwide in *Betty Dukes et al. vs. Wal-Mart Stores Inc.*, deciding that the class of plaintiffs did not have enough in common to pursue the lawsuit. The Texas case, *Stephanie Odle et al. vs. Wal-Mart Stores Inc.*, originally was filed in federal court in Dallas in October, and an expanded amended complaint was filed in January.

Luxembourg becomes 22nd member of FERMA

Professionals in Risk Management, the risk management association in Luxembourg, has joined the Federation of European Risk Management Assns., FERMA said. PRIM, founded in 1997, focuses largely on risk management functions within Luxembourg's financial sectors, such as banking, insurance, auditing and consulting.

Liability rates may rise for architects, engineers

Most of the major insurers that provide architects and engineers professional liability insurance expect to raise rates this year, continuing a trend that began last year, according to a survey by Ames & Gough. Of 10 leading insurers in this market, 70% expect to raise professional liability rates during 2012 for architects and engineers, 20% expect rates to remain flat, and 10% expect them to decrease.

Noted

QBE Insurance Group Ltd. is consolidating its worldwide reinsurance operations under the brand QBE Re. Comprising the company's current Lloyd's of London syndicate 566, QBE Re (Europe), Secura N.V. and QBE Re (Americas) businesses, the combined group will have a gross written premium of more than \$1.5 billion....**Allied World Assurance Co. Holdings A.G.** has announced changes to its executive management team. David Bell, chief operating officer, will leave effective May 1 to pursue other interests. John J. McElroy, previously the president-professional lines for Allied World U.S., has been appointed as the new chief operating officer. Wesley D. Dupont oversees the company's global claims and human resources functions, a responsibility traditionally belonging to the chief operating officer. He will continue as executive vp, general counsel and corporate secretary. John Bender has assumed responsibility of Allied World's global reinsurance operations and will continue to act under the title of president and chief operating officer....Vanessa A. Wittman has resigned as executive vp and chief financial officer of **Marsh & McLennan Cos. Inc.** to work for Google Inc., Marsh said in a filing with the U.S. Securities and Exchange Commission. The filing said J. Michael Bischoff, Marsh & McLennan's vp of corporate finance, will assume the role of principal financial officer on an interim basis until a new principal financial officer is appointed.

Silver Screen snacks require silver spoon

A movie-going Michigan man is mad as hell and not going to pay movie theater concession prices anymore.

Joshua Thompson of Livonia, Mich., reportedly filed a class action lawsuit this week against American Multi-Cinema Inc. for excessive snack prices.

Mr. Thompson, who would bring his own beverages and snacks to the theater until AMC posted a sign disallowing outside concessions, filed the suit after paying \$8 for a beverage and a package of candy in December—three times the amount he would pay for the same items at a local convenience store, the suit reportedly said.

“He got tired of being taken advantage of,” said Mr. Thompson’s attorney, Kerry Morgan of Pentiuik Couvreur & Kobiljak P.C., in a news report. “It’s hard to justify prices that are three and four times higher than anywhere else.”

AMC reportedly declined to comment on the suit.

The suit, which accused AMC theaters of violating the Michigan Consumer Protection Act, was filed in



Wayne County Circuit Court in Detroit and seeks refunds for overcharged patrons and a civil penalty against the Kansas City, Mo.-based theater group, according to media reports.

CONTRIBUTING: Roberto Cenicerros, Matt Dunning, Mike Tsikoudakis

End Page



AP PHOTOS

Canadian progressive-rock band Rush has said Rush Limbaugh no longer can play its songs on the air during his radio program.

Rush says songs not in spirit of radio show

Call it *Rush vs. Rush*.

Advertisers aren’t the only ones in a hurry to distance themselves from conservative radio host Rush Limbaugh in the wake of the Sandra Fluke scandal; rock bands are getting into the act as well.

Last week, Canadian progressive-rock veterans Rush sent Mr. Limbaugh a cease-and-desist letter through their attorney barring him from using the band’s music during his broadcasts. Band members apparently were unaware of Mr. Limbaugh’s frequent use of their music until a Huffington Post reporter asked them how they felt about being associated with the controversial host, according to a report.

“The public performance of Rush’s music is not licensed for political purposes, and any such use is in breach of public performance licenses and constitutes copyright infringement,” Robert Farmer, the band’s attorney, wrote in his letter. “In addition, the use of Rush’s music in this manner implies an endorsement of the views expressed and products advertised on the show, and is in breach of not only copyright

and trademark rights, but also of the New York Civil Rights Law.”

Rush’s “The Spirit of Radio” was playing in the background during the March 1 segment in which Mr. Limbaugh hurled a barrage of verbal assaults at Ms. Fluke, a Georgetown University graduate student, going as far as to call her a “slut” and a “prostitute.” Ms. Fluke first made headlines in late February when she was denied a chance to address Congress on the merits of a provision of the Patient Protection and Affordable Care Act that requires employers to provide health insurance coverage for birth control prescriptions.

Since his March 1 broadcast, Mr. Limbaugh’s program has lost as many as 40 of its sponsors and was dropped by at least two radio stations, according to media reports.

Rush is not the first musical act to bar Mr. Limbaugh from playing their songs. After finding out that his hit “Sledgehammer” was a frequent feature on the show, a spokesperson for singer Peter Gabriel posted a note to his Facebook page indicating a move to block Mr. Limbaugh from playing his music on the air.

THE NEXT SUIT TO COME INTO FASHION?

Talk about a teachable moment: A symposium on fashion trademark and copyright law hosted by the Philadelphia-based University of Pennsylvania Law School has itself been accused of infringement by a major design house.

Late last month, attorneys for the New York-based luxury designer Louis Vuitton Malletier lobbied a cease-and-desist order at the school’s intellectual property group, which had used an altered version of the designer’s signature brown-and-gold pattern in promotional materials for the March 20 symposium.

In its Feb. 29 letter to Penn administrators, Louis Vuitton scolded the school for using the augmented design—in place of the company’s “LV” monogram and clover, the school used the emblems for copyright and trademark—and expressed concern that it was misleading its students as to the nature of intellectual property rights.

“This egregious action is not only a serious and willful infringement and knowingly dilutes the (Louis Vuitton) trademarks, but also may mislead others into thinking that this type of unlawful activity is somehow ‘legal’ or constitutes ‘fair use’ because the Penn Intellectual Property Group is sponsoring a seminar on fashion law and ‘must be experts,’” Louis Vuitton’s attorney, Michael Pantaloney wrote in the letter.

Two days later, Penn’s associate general counsel, Robert Firestone, said he had no plans of advising the symposium’s organizers to stop using the altered logo in posters and invitations to the event, negating a promise previously made by the school’s associate dean of communications to remove the offending artwork.

“Now that we have had the time to consider your letter and investigate the facts and the law, I will be advising the students otherwise,” Mr. Firestone wrote. “The poster and invitation are clear that Louis Vuitton is not a sponsor of the symposium, and no reasonable person would be confused or deceived as to sponsorship, affiliation, connection or association...merely because of the clever artwork parody.”

NO SUCH THING AS A FREE LUNCH GOFER

Employers may be abandoning unpaid internships—or perhaps considering the option of compensating interns who previously toiled for free in return for practical work experience.

Two recent lawsuits claiming interns should have been paid, along with U.S. Department of Labor guidance, may be behind the trend, according to a report.

In April 2010, DOL’s Wage and Hour Division released a fact sheet titled “Internship Programs Under The Fair Labor Standards Act,” which provided employers with information to help determine whether interns must be paid a minimum wage and overtime. To avoid paying interns, for example, internship programs must benefit the intern, not the employer. They also must provide training, and interns must work under staff supervision and not displace regular employees.

Reports say that, during the recession, employers helped balance their budgets by staffing up with unpaid interns. But in a recent high-profile lawsuit, an unpaid intern for Harper’s Bazaar sued the magazine’s parent company, Hearst Corp., for allegedly violating such requirements. The intern claims she carried out menial tasks, such as transporting fashion samples.



In a similar lawsuit, two interns who worked on the movie “Black Swan” are suing Fox Searchlight Pictures. They claim they handled menial paperwork that did not provide them any educational training. One concern is that employers may overreact by eliminating legitimate programs that provide opportunities for students.

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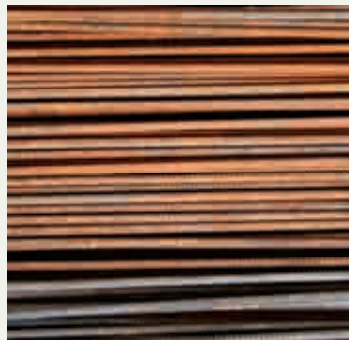
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