

EMERGENCY RESPONDERS

Emergency service organizations would be required to take several actions under a proposal the U.S. Occupational Safety and Health Administration is planning to consider, including:

- Implementing a health and fitness program, including exercise training and fitness assessments of emergency responders at least every three years.
- Providing access to wellness, behavioral and mental health programs to address problems that affect work-related performance.
- Keeping health files on all emergency responders, including medical evaluations, occupational illnesses and injuries, and exposure to hazardous materials.

SAFETY

OSHA targets emergency responders

New safety regulations could raise costs

BY GLORIA GONZALEZ

The U.S. Occupational Safety and Health Administration is facing significant backlash about costs, uneven applicability and whether it has the authority to develop a new emergency responder standard beyond the federal level in the wake of the deadly and destructive West, Texas, fertilizer plant explosion.

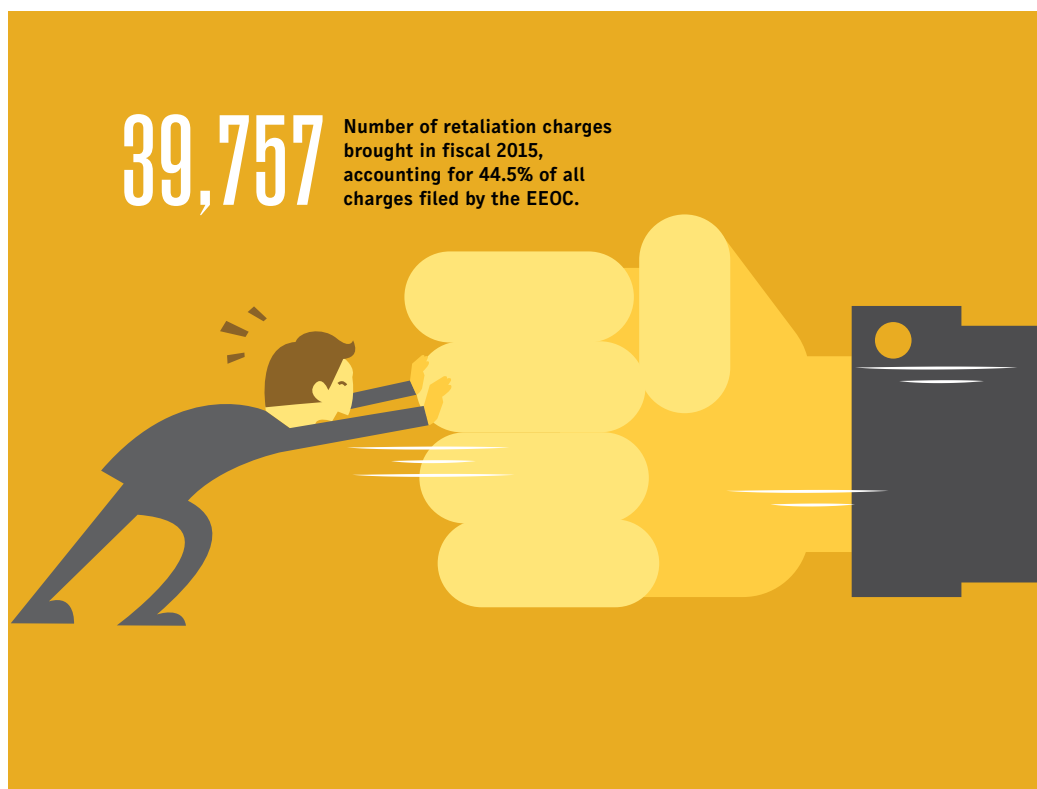
The April 2013 blast at West Fertilizer Co. killed 15 people, including 12 emergency responders, injured dozens and leveled large portions of the town, resulting in losses of \$230 million.

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EMPLOYMENT PRACTICES

EEOC RAISES THE STAKES WITH RETALIATION RULE UPDATE

Heavier burden expected for employers



BY JUDY GREENWALD

The U.S. Equal Employment Opportunity Commission's proposed update of its "woefully outdated" guidance on workplace retaliation would put a greater burden on employers to disprove such allegations.

Retaliation already is a major issue for employers, with the 39,757 charges brought in fiscal 2015 accounting for 44.5% of all charges filed by

the EEOC. As recently as 2007, retaliation charges accounted for just one-third of all charges filed.

Although the guidance has not been finalized, legal experts say they expect the final advice to closely resemble the 73-page proposal that the EEOC issued in January.

Carol R. Miaskoff, Washington-based acting associate legal counsel at the EEOC, said the

See **RETALIATION** page 25

HEALTH BENEFITS

High court ruling may cut health care tax

Vermont law runs afoul of ERISA pre-emption

BY JERRY GEISEL

The U.S. Supreme Court's invalidation of a Vermont law that required employers to hand over health claims information to state regulators already is being felt in Michigan and the state's 1% tax on paid health care claims.

In addition, observers say they hope the high court ruling keeps other states from trying to impose similar taxes and results in a reversal by a federal appeals court of its earlier decision upholding the Michigan tax.

In a March 1 ruling in *Alfred Gobeille v. Liberty Mutual Insurance Co.*, a suit that the insurer brought as an employer, the nation's highest court ruled that Vermont's law on providing health claim information to the state is invalidated by a provision in the Employee Retirement Income Security Act, which pre-empts state and local laws and regulations that relate to employee benefit plans.

"The fact that reporting is a principal and essential feature of ERISA demonstrates that Congress intended to pre-empt state reporting laws like Vermont's," Justice Anthony Kennedy wrote for the 6-2 court.

One week later, the Supreme Court cited *Gobeille v. Liberty*

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Q&A: BRONEK MASOJADA

Chief executive of Hiscox Ltd. discusses the state of the insurance market

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A slight change may turn a manageable risk into something quite different — and difficult

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AIG strikes reinsurance deal with Swiss Re; Gen Re shuts several offices

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INNOVATION AWARDS 2016

The 2016 *Business Insurance* Innovation Awards recognize the best new products and services rolled out over the past year for risk managers. Winning entries range from cyber products to risk assessment tools. Read profiles of all the winners, which were assessed and rated by a panel of risk managers.

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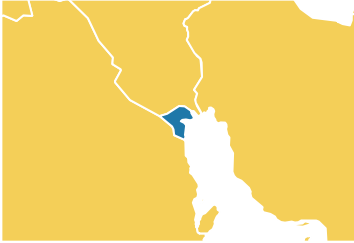
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Profile: Kuwait

Despite Kuwait's outsized wealth tied to oil production, growth in its property/casualty market is expected to remain modest. **8**

PERSPECTIVES

Mind D&O coverage gap when facing enforcement actions

As the federal government gets more determined about prosecuting books and records and internal controls violations, gaps in directors and officers liability cover become apparent. Rodger Laurite, Mark Weintraub and Grady Kellogg of Lockton Financial Services discuss the regulatory trend. **11**

OFF BEAT



Rocker insures whiskers

Billy Gibbons of bearded rockers ZZ Top says that his beard is insured at Lloyd's but would not divulge for how much. **26**

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NEWS

RISK MANAGEMENT

FLOOD INSURANCE REFORM PASSES FIRST HURDLE

Bipartisan support raises hope for Senate consideration

BY MARK A. HOFMANN

Supporters of federal flood insurance legislation look for Congress to follow a House panel's lead and approve a bill that would put private insurers on an even footing with the National Flood Insurance Program.

The House Financial Services Committee earlier this month unanimously approved the Flood Insurance Market Parity and Modernization Act.

The measure, sponsored by Reps. Dennis Ross, R-Fla., and Patrick Murphy, D-Fla., holds that people who try to get a mortgage should receive the same treatment if they buy flood insurance from the private market as those who buy it through the National Flood Insurance Program.

"There is no doubt the National Flood Insurance Program is badly in need of reform," House Financial Services Committee Chairman Jeb Hensarling, R-Texas, said in support of H.R. 2901 before the vote.

"It is \$23 billion in debt to taxpayers, it is unsustainable, and it hinders the development of a competitive private flood insurance market, which would give homeowners more choices, lower costs and protect hardworking taxpayers from more bailouts," he said in a



A car sits in floodwater in Hammond, Louisiana, March 11 after four days of heavy rains inundated the area.

AP PHOTO

statement.

The bill, which was sent to the full House, enjoys wide support from the property/casualty insurance industry.

A similar bill, which like H.R. 2901 would apply primarily to homeowners since private insurance already exists for commercial buyers, has been introduced in the Senate. But S. 1679 has not yet received a hearing.

Advocates of privatization of flood insurance believe the House committee vote could spur Senate action.

"House actions are seldom a predictor of Senate priorities," said Joel Wood, senior vice president of the Council of Insurance Agents and Brokers in Washington. Still, "the unanimous bipartisan support of Ross-Murphy in the Financial Services Committee bodes well."

Mr. Wood noted that "a truncated presidential election year is a challenge." In addition, the "fact that any one senator can gum up the works is always a problem

See FLOOD page 23

WORKERS COMPENSATION

TPAs, insurers tripped up by California rules

Independent medical reviews stack up

BY SHEENA HARRISON

Several third-party administrators and insurers facing fines from California insurance regulators say they're cooperating with the state to resolve complaints of delayed medical record submissions for independent medical reviews.

The California Department of Industrial Relations quietly issued "orders to show cause" last June and August with proposed fines totaling nearly \$8.3 million for violating its rules, according to filings provided to *Business Insurance* last week.

The companies the California regulator proposes fining are Amtrust North America, the California State Compensation Insurance Fund, the County of Los Angeles, CorVel Corp., Gallagher Bassett Services Inc., Sedgwick Claims Management Services Inc. and Zurich North America.

A California Department of Industrial Relations spokeswoman said in an emailed statement last week that prehearing conferences and evidentiary hearings are being set with each company. She also said the TPAs and insurers all have filed responses to the state agency's filings.

2012 reforms

Under workers compensation reforms passed in 2012, injured workers in California can request independent medical reviews to dispute treatment that was modified or denied under utilization reviews, which are requested by employers and insurers. Insurers and employers pay for independent medical reviews.

Records show that Broadspire was assessed administrative penalties of \$3.53 million for allegedly failing to provide medical records for 705 independent medical reviews within 15 calendar days of receiving notice from Reston, Virginia-based Maximus Federal Services Inc., which conducts independent medical reviews.

The penalties proposed against other TPAs and insurers, according to the filings, are:

Gallagher Bassett, \$1.21 million

See IMR page 23

BENEFITS MANAGEMENT

Corporate wellness efforts adapt as firms pursue 'culture of health'

BY SHELBY LIVINGSTON

Company health and wellness programs have the greatest success when those companies have an underlying culture of health.

The current buzz in the benefits business, a culture of health is the "secret sauce" that drives engagement in company wellness programs, said Seth Serxner, San Francisco-based chief health officer at Optum Inc., UnitedHealth Group Inc.'s health care services and analytics subsidiary in Eden Prairie, Minnesota.

Developing a "culture of health is part of an overall engagement strategy that includes incentives, communications ... and a whole set of programs and services," Mr. Serxner said. "If we do everything else right, but we have a poor culture, people aren't going to change their behavior."

"It's viewed as more of an underlying success factor or something that enables a really effective workplace health improvement program," said LuAnn Heinen,

See CULTURE page 23



ELEMENTS OF A HEALTHY CULTURE

A February study in the *Journal of Occupational and Environmental Medicine* pinpointed key workplace characteristics of a culture of health. They are:

- Physical environment (fitness center, healthy food)
- Social environment (leadership, peer support)
- Employee input on program design
- Tailored, responsive health communications

ONLINE
FEATURES

GALLERY

Flood insurance
payouts



These states saw big benefits from the National Flood Insurance Program in 2014.

www.BusinessInsurance.com/
FloodPayouts

VIDEO



In Focus: Effective ergonomics

Everyone benefits when work spaces are designed to fit employees.

www.BusinessInsurance.com/
InFocus

GALLERY

Week in pictures

A visual tour of the latest big stories.

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RESEARCH

2016 Captive Managers & Domiciles Rankings & Directory



Trends, analyses, captive manager and domicile listings, and more in our 2016 comprehensive guide to the captive

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NEWS

WORKERS COMPENSATION

YOGA, ACUPUNCTURE MAY HELP
WORKERS AVOID OPIOIDS

But few comp payers cover alternative therapies

BY STEPHANIE GOLDBERG

Workers compensation payers have resisted covering complementary and alternative medicine, but such treatments can lessen injured workers' pain and improve their function while decreasing the use of powerful opioids.

Therapies such as dietary supplements, chiropractic treatment, acupuncture and yoga, either alone or in conjunction with painkillers, were used by about one-third of U.S. adults in 2012, according to the Department of Health and Human Services. Sources said that number has likely increased since 2012, but state workers comp systems differ on whether to pay for such treatments.

"There's a small but significant percentage of injured workers that are interested in complementary and alternative treatment," said Dr. Robert Goldberg, San Francisco-based chief medical officer at Healthsystems, a medical cost management firm and pharmacy benefit manager.

Dietary supplements, deep-breathing exercises and yoga/tai chi/qi gong were the top three complementary approaches used in 2012, according to the latest HHS data available.

"In California, it's probably more



commonly sought or requested than in other states," Dr. Goldberg said. "People in California are generally more inclined to look for nontraditional complementary nonpharmacologic treatment."

Other states would be more likely to cover certain complementary and alternative treatments if more studies proving their efficacy were available rather than just anecdotal evidence, sources said.

Unlike California, acupuncture isn't covered under comp in Washington state, said Dr. Gary Franklin, medical director of the Washington State Department of Labor and Industries, the state's monopoly workers comp insurer.

"We're looking at the evidence

See **ALTERNATIVE** page 22

ALTERNATIVES

Complementary treatments are those outside standard medicine, which often relies on prescription drugs to treat injuries. The top complementary treatments used in 2012 among nearly 89,000 U.S. adults were:

Treatment type	Percent using
Dietary supplements	17.7%
Deep-breathing exercises	10.9%
Yoga/tai chi/qi gong	10.1%
Chiropractic/osteopathic	8.4%
Meditation	8.0%
Massage therapy	6.9%
Special diets	3.0%
Homeopathic treatment	2.2%
Progressive relaxation	2.1%
Guided imagery	1.7%

Source: U.S. Department of Health and Human Services 2015 analysis

PRESCRIPTION DRUG MANAGEMENT

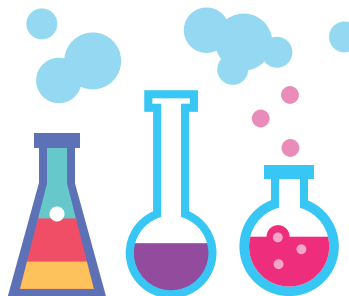
Stream of pricey cancer drugs to hit employer costs

BY SHELBY LIVINGSTON

PALM SPRINGS, Calif. — Expensive specialty drugs, one-third of which are for cancer, give patients greater hope, but insurers, pharmacy benefit managers and employers need to find innovative ways to deal with the escalating costs.

"If you look at the drug pipeline, it is more robust than any time in my 35 years of health care," said Dr. Steve Miller, chief medical officer of St. Louis-based Express Scripts Holding Co.

More than 7,000 drugs are in development, and most are specialty medications, he said. And



while all won't make it to market, the U.S. Food and Drug Administration is approving a record number of drugs.

While this means "tremendous hope for many unmet medical needs," Dr. Miller said if payers "don't have solutions on how to

manage specialty patients going forward, we're going to get crushed."

According to health care analytics firm IMS Health Inc., prescription drug spending reached \$373.9 billion in 2014, up 13.1% from 2013 for the fastest growth rate since 2001. Specialty drugs to treat hepatitis C, cancer and multiple sclerosis drove much of that growth and accounted for one-third of total prescription drug spending, Danbury, Connecticut-based IMS Health said in a report last year.

Specialty drugs are "obviously the topic that PBMs and payers are

See **PBMI** page 22

P/C INSURERS

Dublin loses
allure for
some insurers

XL Catlin, Beazley plan
to switch domiciles

BY SARAH VEYSEY

XL Catlin and Beazley Group P.L.C. both say their recently announced plans to change their domicile from Dublin relate to regulatory changes at the domiciles they are moving to rather than other considerations such as tax rates.

While taxation remains an important part of a company's decision on where to locate, sources said the quality of regulation, capital rules and avoiding reputational risks are higher on insurers' and reinsurers' list when choosing where to locate their home tax base.

In a survey last October, London-based accounting firm Grant Thornton Singapore Pte. Ltd. said 20% of insurers and reinsurers reported that their board was reviewing the location of their domicile.

In the moves announced in February, XL Catlin, the marketing name for XL Group P.L.C., said it would move its domicile to Bermuda from Dublin subject to regulatory approval, and Dublin-based Beazley said it would move its management and holding company to London.

Following its acquisition last year by Hamilton, Bermuda-based Catlin Group Ltd., officials at what now is XL Catlin described the move to Bermuda as a natural step.

"XL has had a presence in Bermuda since 1986, which grew significantly following the transformative transaction with Bermuda-based Catlin last year," XL CEO Michael S. McGavick said in a statement.

"Following the Catlin transaction, and with the recent determination of full Solvency II equivalence for Bermuda, it has been concluded that the (Bermuda Monetary Authority) is best situated to serve as XL's groupwide supervisor and to approve XL's internal capital model," he said.

Solvency II, Europe's risk-based capital regime for insurers and reinsurers, went into effect Jan. 1.

In filings with the U.S. Securities and Exchange Commission, XL said it had "numerous discus-

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Captives enter IRS crosshairs after some cover 'implausible risks'

Change in tax rule for premiums revives audits

BY DONNA MAHONEY

SCOTTSDALE, Ariz. — A new law governing microcaptives is increasing the risk that the Internal Revenue Service will order an audit of the captive's parent company or the captive manager overseeing the company-owned insurer.

The use of the microcaptives, or those electing to be taxed under Section 831(b) of the U.S. Tax Code, has increased during the past five years, experts said.

The Protecting America from Tax Hikes Act of 2015, which was enacted last year, changed the limits and the rules governing those microcaptives.

Under the new law effective in 2017, 831(b) captives can avoid federal taxes on up to \$2.2 million in annual premium income, which is up from the current limit of \$1.2 million.

The higher limit is an opportunity for captive owners to place more risks in their captives, such as cyber; earthquake, wind and flood; pollution liability and cleanup; property mold; and difference in limits/difference in conditions risks, experts said during the Captive Insurance Companies Association's 2016 International

Conference in Scottsdale, Arizona, earlier this month.

While the new law increases the premium income that is exempt from taxation, it also imposes stricter rules on the ownership structures of 831(b) captives, which are often used by family-run companies, to be eligible for that exemption.

"The IRS records their interviews in the hopes of getting someone to say the captive was put together for tax purposes," rather than for legitimate insurance purposes.

Tim Tarter, Woolston & Tarter P.C.

"The IRS scrutinizes small captives very closely," said Daniel Kusaila, a Hartford, Connecticut-based tax partner at law firm Crowe Horwath L.L.P.

Captive parents that try to "massage" their premium income "need to be very careful because they are putting their tax election at risk" as well as potentially putting "the

captive in jeopardy," he said.

Mr. Kusaila said the changes for microcaptives, which the Internal Revenue Service has put on its "Dirty Dozen" list of tax scams for the past two years, will only increase the IRS' scrutiny.

Some microcaptives are "stretching the limits" of the tax laws, said Anne Marie Towle, a vice president and senior captive consultant at Willis Towers Watson P.L.C. in Chicago.

The IRS said in its most recent "Dirty Dozen" commentary that it has been examining microcaptives covering "esoteric implausible risks" for "exorbitant premiums," which often are double or triple the price of traditional insurance.

However, captives "by nature, contain esoteric risks because traditional insurers won't cover those risks," said Tim Tarter, Phoenix-based captive insurance tax audit and litigation defense lawyer at Woolston & Tarter P.C. and a former IRS senior attorney. "It's a reason to have a captive."

In addition, the IRS is investigating some captive managers to determine if they are promoting tax shelters, Mr. Tarter said.

The investigations include audits usually involving extensive inter-



Under a new law effective in 2017, microcaptives can avoid federal taxes on up to \$2.2 million in annual premium income. The higher limit is an opportunity for captive owners to place risks, such as pollution liability and cleanup, in their captives.

views and comprehensive information requests, he said.

The IRS looks at the pricing of premiums, how the captive's assets are invested and the operating company's risk management program. They also will inquire about the commercial insurance in place and gaps in that coverage, he said.

"The IRS records their interviews in the hopes of getting someone to say the captive was put together for tax purposes," rather than for legitimate insurance purposes, Mr. Tarter said.

Audits of captives also include requests for all emails, marketing materials from the inception of the captive, even if it precedes the years under audit, he said.

When the IRS asks about the background of the captive and the advice given by captive managers, "one of the problems" is that "they are going well beyond the year of

the audit," Mr. Tarter said.

One problem is the lack of a definition from the IRS or the Treasury Department of what constitutes an insurance company or a contract, "which is why courts will get involved," Ms. Towle said.

Mr. Kusaila recommends getting sound guidance in structuring a captive to avoid IRS questioning.

"These should be set up as insurance first, insurance second and insurance third," he said.

In 18 months of examinations at the IRS, Mr. Tarter said the stance he saw most often was disallowing premiums at the audit level.

"We see penalties regardless of the facts," he said.

"The good news is that we are getting some gray matter applied in IRS appeals, and as these cases are decided by courts, there will be more open-mindedness because everyone is just on autopilot right now at the exam," Mr. Tarter said.

More talk than action on using captives to cover cyber risks

BY DONNA MAHONEY

SCOTTSDALE, Ariz. — Although cyber attacks are being launched in almost every industry, an expert says only a small percentage of clients are placing cyber liability in their captive insurer.

"There is a lot of conversation on cyber risk," said Peter Mullen, CEO of captive and insurance management at Aon Global Risk Consulting in Pembroke, Bermuda. "But there is not a 'gold rush' of clients putting cyber into their captive."

Mr. Mullen said of roughly 1,100 clients, about 1% put cyber risks in their captive 18 months ago, a rate that rose to 2% in a recent Aon survey.

While it's increasing, that remains a small percentage, he said during the Captive Insurance Companies Association's 2016 International Conference.

"A lot say they are considering buying it," Mr. Mullen said of the most recent survey results on putting cyber insurance in a captive.

Trying to define a cyber risk is one of the most challenging tasks, said Michael Douglas, Philadelphia-based captive insurance director of business at Aon Risk Solutions. "We have very little data — the industry differentials are huge in cyber."

Adequately assessing the risk and underwriting it is difficult since the risk varies from industry to industry, said Stephanie Snyder Tomlinson, Chicago-based senior vice president and national sales leader of cyber insurance at Aon Professional Risk Solutions' financial services group.

"Cyber is a gap policy; it's addressing a lot of different areas of risk that traditional insurance does not currently make available," she said. with increased regulation,



"more companies are being required to have cyber by contract."

"This is where a captive comes in, for the gap in coverage," Mr. Mullen said. "We say incubate that risk in your captive. It's such a difficult risk to quantify that we don't know how to underwrite for it, we don't have a scientific way of pricing the premium."

But Mr. Mullen also said he expects pricing and underwriting to "become more

defined over the next three to five years."

"Insurers are looking at aggregating the risk around different products and trying to figure out how they can underwrite it and ultimately charge for it," said Alec Cramsie, technology, media and business services focus group leader at London-based Beazley Group Ltd.

About 60 insurance markets currently provide about an equal number of policy forms for cyber coverage, Ms. Tomlinson said.

"We see a great amount of variation in exclusions and triggers. It takes the keen eye of a broker that lives and breathes this so that you have a contract that does perform when it needs to perform," she said.

The cyber market has seen hardening in some industries such as in financial institutions and retail, "but it's better to get in now than to wait because your industry could be next," Ms. Tomlinson said.

AIIG to reinsure U.S. casualty through Swiss Re agreement

■ American International Group Inc. has entered into a two-year reinsurance arrangement with Swiss Re Ltd., under which a share of AIG's new and renewal U.S. casualty portfolio will be ceded to the reinsurer as part of its strategy to become a more profitable insurer. In a statement announcing the deal, AIG said the move is "consistent with the plans announced" by AIG in its Jan. 26 strategic update to investors, when AIG said it would "expand current utilization of reinsurance and other risk-mitigating strategies to further enhance capital efficiencies." The insurer has been under pressure from investor Carl Icahn and others to break into three separate companies — life, mortgage insurance and property/casualty — in order to enhance shareholder value and be removed from the federal government's list of systemically important financial institutions, which are subject to heightened federal oversight. "The reinsurance arrangement is an important step in AIG's strategy to improve its commercial insurance diversification and return on equity, and it highlights AIG's focus on capital efficiency," AIG said in the announcement.

General Re closing 6 offices in restructuring move

■ Berkshire Hathaway Inc.'s General Reinsurance Corp. unit will close six of its smaller offices as part of a reorganization of its direct global property/casualty operations, Stamford, Connecticut-based Gen Re announced. The six offices are Charlotte, North Carolina; St. Paul, Minnesota; and Seattle in the United States, as well as Hong Kong; Riga, Latvia; and Melbourne, Australia. In a statement announcing the move, Gen Re said that the operations will be integrated into teams at larger offices "to facilitate a more robust delivery of services to our clients." In addition, Gen Re will reorganize its European treaty underwriting resources into five line-of-business teams to support the entire region, Gen Re said. The five lines of business are property/engineering risk, property/engineering catastrophe, marine, liability and motor.

OSHA to propose safety guidelines specific to construction sector

■ The U.S. Occupational Safety and Health Administration will craft a separate set of safety and health program management guidelines for the construction industry, based on feed-

back on a proposed update to its voluntary guidelines. The agency is revising its proposed update to its voluntary guidelines, first published in 1989, to help employers establish health and safety management plans at their workplaces. A final version is scheduled for release in June. "One of the issues that was identified as a result of the public comments was that both employers and workers in the construction industry said to us that what we're planning on doing is not going to work for them," Andy Levinson, deputy director of OSHA's Directorate of Standards & Guidance, said at a public comment meeting in Washington. "We are very, very serious and very committed to getting out a parallel set of construction safety and health guidelines on something very close to the timeline for this document as well."

More employers charging extra for spousal health coverage

■ The number of employers using spousal surcharges to contain health plan costs is expected to more than double by 2018, according to the 2015 Willis Towers Watson/National Business Group on Health "Best Practices in Health Care Employer Survey." In 2015, 27% of employers surveyed reported using spousal surcharges for health care coverage when other employer-provided health insurance is available. That number is expected to grow to 56% in the next two years, according to the survey of 487 employers with at least 1,000 employees conducted in June and July of last year. The survey found that the average spousal surcharge across all employers surveyed is \$1,200 per year. Total health care costs for the employer and employee reached \$12,041 per employee per year in 2015 and are expected to rise nearly 5% to \$12,643 in 2016, the survey showed.

Former AIG executive Doyle lands in new Marsh position

■ John Q. Doyle, a former senior executive at American International Group Inc., has been named to the newly created position of president of Marsh L.L.C. Mr. Doyle, who headed AIG's commercial property/casualty business, was one of the highest ranking AIG executives who left the insurer last December as AIG attempted to cut costs by reducing its top management ranks by more than 20%. Mr. Doyle is scheduled to start at Marsh on April 15 and report to Peter Zaffino, CEO of Marsh and chairman of risk and insurance services. In his new role, Mr. Doyle will oversee Marsh's global brokerage businesses. He will be based in New York and will join Marsh's executive committee as well as the executive committee of par-

ent company Marsh & McLennan Cos. Inc. In his previous role as CEO of AIG's commercial insurance businesses worldwide, Mr. Doyle was responsible for AIG's property/casualty business, financial lines, specialty lines, institutional markets, and mortgage guaranty products and services.

Insurers asked to submit data on terrorism program participation

■ The U.S. Department of the Treasury's Federal Insurance Office is requesting that insurers voluntarily submit information about their participation in the federal government's Terrorism Risk Insurance Program. The request came in a notice published in the Federal Register. Insurers must report data by April 30. The report is supposed to be issued by FIO no later than June 30. The Terrorism Risk Insurance Program Reauthorization Act of 2015 — which extended the government's terrorism insurance backstop through 2020 — "requires the secretary of the Treasury to require insurers to submit information about their participation in TRIP and to submit a report to Congress addressing the overall effectiveness of TRIP," according to a statement from Treasury. But for this initial collection of information under the law, "FIO is requesting, and not requiring," that insurers submit data in order to assist with the development of the report, according to Treasury.

FAA taps experts to write rules for flying drones over people

■ A task force of manufacturers, aviation industry associations and others who have a vested interest in small unmanned aircraft systems are meeting to determine an acceptable risk level when drones fly above people. The Federal Aviation Administration said Feb. 24 that the aviation rulemaking committee, comprising 26 entities including AT&T Technologies, Intel Corp. and GoogleX, has until the end of March to come up with recommendations for safely operating certain unmanned aircraft systems when flying over people or under a covered structure. "Based on the comments about a 'micro' classification submitted as part of the small UAS proposed rule, the FAA will pursue a flexible, performance-based regulatory framework that addresses potential hazards instead of a classification defined primarily by weight and speed," FAA Administrator Michael Huerta said in the statement. Nearly 300,000 owners registered their drones within the first 30 days after the FAA's online registration went live. That system is only for hobbyists, but the agency is working to open it to commercial operators by March 21.

BI hires diversity program staffer

Antoinette Dean has joined the *Business Insurance* Diversity and Inclusion Institute as community manager.

Based in New York, Ms. Dean will manage the various parts of the recently launched institute, working with internal teams and external partners on events, research and content initiatives that will be rolled out later this year.

Ms. Dean, who received a bachelor's degree in marketing from Howard University in Washington and a master's in journalism from Temple University in Philadelphia, spent much of her career in

television. She began as editorial assistant at "PBS NewsHour," formerly "The NewsHour with Jim Lehrer," in Arlington, Virginia. She later was a production manager at ABC News' "Good Morning America."

In 2015, Ms. Dean switched career paths, freelancing at major New York trade shows and conferences, including work with the Specialty Food Association and Pensions & Investments, a sister publication of *Business Insurance*.

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Political risks decreasing

More countries saw reductions in political risk than increases for this year, according to Aon P.L.C.'s Political Risk Map 2016. Eight countries — China, Ethiopia, Haiti, Iran, Jamaica, Nepal, Pakistan and Serbia — saw their political risk reduce over the course of the past year, while four — Cape Verde, Micronesia, Philippines and Suriname — saw their political risk worsen, according to the map. China saw its political risk level improve to “medium” from “medium high,” as anti-corruption measures contributed to the reduction of political risk in China. The impact of oil prices on oil-dependent countries such as Iraq, Libya, Russia and Venezuela, is the biggest risk facing emerging market investors in 2016, according to the map, which analyzes 168 emerging markets.

Berkshire taps Lloyd's Tom Bolt

Berkshire Hathaway International Insurance Ltd. has named Lloyd's of London veteran Tom Bolt to head a specialty insurance operation in Europe. Mr. Bolt, who will be based in London, will assume the position of president and CEO of the U.K. and Southern Europe effective June 1. The unit of Omaha, Nebraska-based Berkshire Hathaway Inc. said it is launching a specialty insurance “solution” with its affiliate, Berkshire Hathaway Specialty Insurance Co., subject to regulatory approval. In addition, Gregor Koehler, who will be based in Cologne, Germany, has been named president of Northern Europe, effective immediately. He most recently was president and CEO of Leverkusen, Germany-based Pallas Versicherung A.G., the global insurance division of Bayer Group. Both men will become members of Berkshire Hathaway International's board of directors, also subject to regulatory approval, the insurer said.

Zurich cut pay for top execs

Zurich Insurance Group Ltd. cut 2015 pay for its top management by more than half after they failed to meet major performance targets, the Swiss insurer said in its annual report. Total 2015 pay for the 13 members of Zurich's top management team was \$22.6 million, a big drop from the \$55.4 million received by 12 executives in 2014. Zurich's shares fell 17% last

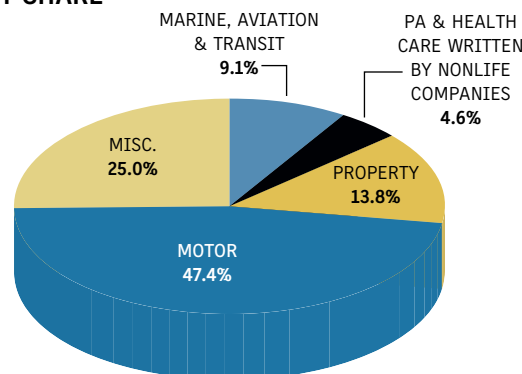
PROFILE: KUWAIT

\$646.6
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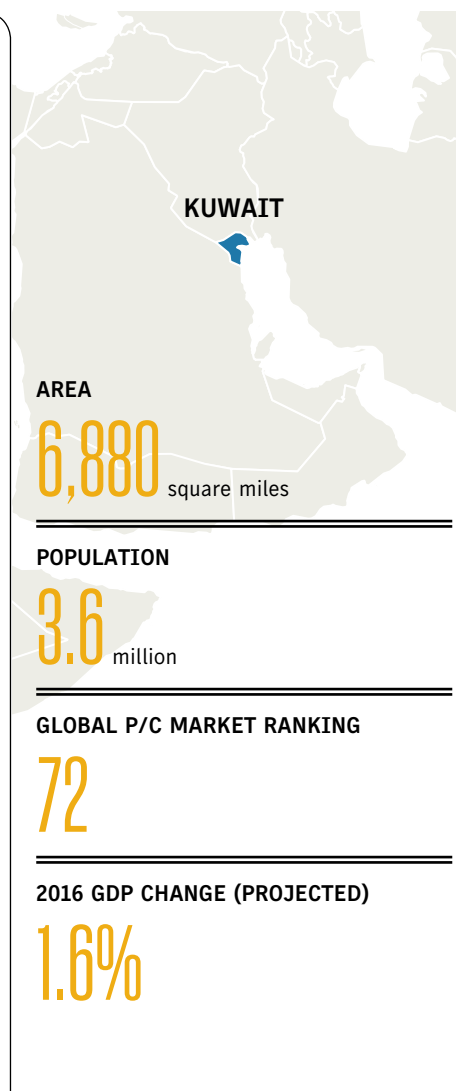
Kuwait's insurance market, one of the smallest in the Gulf Cooperation Council, relies heavily on motor vehicle and energy cover. Despite the country's outsized wealth tied to oil production, growth in its property/casualty market is expected to remain modest, around 10% this year, driven by government infrastructure projects. This highlights the need for updated, risk-based supervisory regulation in the loosely organized sector. Flooding is the main natural threat in Kuwait, but not much of one.

◀ 2014 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



MARKET DEVELOPMENTS

UPDATED
SEPTEMBER 2015

- Foreign insurers and reinsurers operating in Kuwait are exempt from capital and operating requirements that apply to local companies, according to an April 2015 decision by the finance minister.
- The latest attempt to coordinate insurance industry legislation and regulation throughout the GCC, proposed in May 2015 by the United Arab Emirates, is awaiting legal and industry input.
- The Kuwait Insurance Federation, an association of local insurers, has formed.
- A March 2015 resolution sets new minimum capital requirements for insurance brokers.

COMPULSORY INSURANCE

- Third-party liability for motor vehicles and pleasure craft
- Workers compensation for private sector
- Professional liability for insurance consultants
- Health insurance for expatriates
- Shipowners liability against marine oil pollution

NONADMITTED

Unauthorized insurers cannot carry on insurance activity in Kuwait, though nothing in the law requires insurance to be bought from locally authorized insurers except for real estate and property cover.

INTERMEDIARIES

Agents and brokers have to be authorized by the insurance supervisor to do business in Kuwait. Registered brokers can place business with nonadmitted insurers except for real estate and property cover. Brokers involved in nonadmitted placements do not have to warn buyers that their insurer is not subject to local supervision.

MARKET PRACTICE

Most insurance is placed with locally licensed companies, though fronting is acceptable. In some cases, policies are placed directly in the international market, though most business is placed with conventional companies and takaful, Islamic-based risk cooperatives. A breach can cost an insurer its license.

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

year, the stock's worst performance since 2008, in response to a sluggish performance in its flagship general insurance business and back-to-back quarterly profit warnings. Zurich said in its annual report that the key metric in connection with the managers' pay was net income attributable to shareholders, which fell 53% in 2015.

Reuters

U.K. terrorism pool increases coverage

Pool Reinsurance Co. Ltd., the U.K. government-backed terrorism insurance pool, is renewing its commercial reinsurance cover for three years and adding an additional layer, increasing the coverage to £1.95 billion from the £1.8 billion (to \$2.71 billion from \$2.50 billion) it bought last year. In a state-

ment announcing the move, Pool Re said the two-layer program was placed with a “highly secure panel of reinsurers (which includes global reinsurers as well as its members)” led by Munich Reinsurance Co. and brokered by Guy Carpenter & Co. L.L.C. The renewed program “mirrors the cover currently provided to Pool Re members, including chemical, biological, radioactive and nuclear risks,” Pool Re said in the statement.

Generali wins approval for Solvency II model

Assicurazioni Generali S.p.A. has received authorization from the Italian insurance regulator to use a partial internal model to calculate its Solvency II capital requirements. The Istituto per la Vigilanza sulle Assicurazioni granted its approval for Generali

to use the model to calculate its solvency capital requirements for the group as well as its main Italian and German insurance companies, its French nonlife companies and its Czech company, Ceska Pojistovna A.S., the insurer said. The approval is retroactively effective to Jan. 1, the effective date for Solvency II, the risk-based capital regulatory regime for insurers and reinsurers in Europe.

U.K. seeks input on ILS platform

The U.K. government is asking how it can make the London market an onshore domicile for insurance-linked securities business. Interested parties have until April 29 to respond to a consultation paper that asks questions about the design of a trading platform that would meet the market's

needs. Among other things, the paper asks respondents to comment on whether ILS investments should be restricted to sophisticated investors, whether a secondary trading platform will be needed to facilitate the growth of an ILS market in the United Kingdom, and whether protected cell company mechanisms would help develop an ILS market. The paper notes that in 2014, a report by the London Market Group, which represents insurers, reinsurers and brokers in the Lloyd's of London and London company insurance market, had highlighted the rising use of alternative risk transfer as a threat to the London market's position as a specialist insurance and reinsurance hub. Last year, U.K. Chancellor George Osborne announced that the government would explore ways to create a competitive corporate and tax environment to encourage an ILS market in London.

HISCOX CHIEF TARGETS U.S. FOR REVENUE GROWTH

Q Where does Hiscox see growth opportunities in the next year?

A Hiscox is two parts — one out of Lloyd’s (of London) and Bermuda, and retail business in the United States, the U.K. and Europe. Given the market conditions, we see opportunities in the United States in our professional lines and in our small business proposition, which we do direct and with partners.

In the U.K. and Europe, the primary focus is on small commercial and high-net-worth accounts. We expect more competitive conditions in Lloyd’s and Bermuda in reinsurance and big-ticket business.

Q Do you expect current property/casualty market conditions to continue in 2016?

A Yes. We are in a flat to softening trend, and given the absence of large natural catastrophe losses, we don’t see that changing. There’s a lot of capital. Our assumption is when we talk about the market, we mean the

Q&A

whole market, property and casualty.

Q Hiscox recently opened an office in Dallas. What made the area attractive to Hiscox, which already has a presence in Atlanta?

A Texas is huge economy, notwithstanding the troubles in the oil patch. When you’re building a business, you can’t be too distracted by the short term ups and downs. It’s sort of a natural evolution to go from east to west and north to south.

Q What are your customers’ biggest concerns?

A Am I going to get sued? Is my building going to burn down? Customer concern in cyber is going up. We have launched a new cyber coverage here in the United States.

We’re the leader in insuring against terrorism. We have more capacity available, but it is an existing product.

We recently announced that we have enhanced our stand-alone terrorism portfolio, adding new products to cover property damage due to malicious attacks utilizing nuclear, chemical, biological and radiological devices. There’s no doubt that the world is a more tense place now after events such as the recent attacks in Paris, and there’s no doubt there’s more interest in the product.

Q What emerging risks is Hiscox targeting?

A We service effectively all folks in white-collar firms. We just carry on doing that with



BRONEK MASOJADA

HISCOX LTD.

Bronek Masojada has been chief executive of Hamilton, Bermuda-based Hiscox Ltd. since 2000. Mr. Masojada joined Hiscox in 1993, after a stint at management consulting firm McKinsey & Co. In addition, he served as a deputy chairman of Lloyd’s of London. He recently spoke with *Business Insurance* Senior Editor Mark A. Hofmann about Hiscox’s plans, the state of the commercial property/casualty insurance

market and the concerns of the underwriter’s clients. Edited excerpts follow.

good products and a continued focus on good service.

Q Do you expect the unusual level of merger and acquisition activity of 2015 continuing into 2016, and what does it mean for insurance buyers?

A I read in the newspapers that analysts and bankers think the M&A trend will continue, and why wouldn’t they? That’s what they get paid for.

There’s a lot of focus on the customer, and as more M&A activity continues, that creates opportunities for smaller firms like Hiscox.

Q Where do you see Hiscox five years from now?

A We will continue to grow from a small business. Our revenues reached \$450 million in the United States. Our goal is to double that in the next five years.

COMINGS & GOINGS

UP CLOSE: GREG WINTER

DENVER-BASED EMPLOYEE BENEFITS PRODUCER FOR THE MOUNTAIN WEST REGION

Lockton Cos. L.L.C.

PREVIOUS POSITION: Denver-based sales representative for Assurant Employee Benefits, Assurant Inc.

GOALS FOR NEW POSITION: Becoming that resource for my clients ... to make sure there are no gaps in their risk management strategy.

CHALLENGES FACING INDUSTRY: The Affordable Care Act. Insurance is very complex, and with the ACA coming into play, it’s made it even more difficult for employers and employees and consultants.

FIRST INDUSTRY JOB: Sales representative for Assurant Employee Benefits.

WHAT SURPRISED ME: The amount of options and complexity in insurance. I didn’t know how many variables there were.

ADVICE: It’s one from Colin Powell: “There are no secrets to success. It is the result of preparation, hard



work and learning from failure.”

OUTSIDE THE INDUSTRY, A DREAM JOB: An activities director in a tropical destination. It’s helping people have fun while you are having fun.

HOBBIES: I have a 16-month-old son. My hobbies have changed a bit. Spending time with my son Oliver and my wife Merissa. If I am not doing that, I enjoy skiing, golfing and fishing.

THING MOST PEOPLE DON’T KNOW ABOUT ME: One of my hobbies is fishing. I really enjoy fly fishing.

FAVORITE MEAL: If I had to pick it would be rack of lamb, French fries and asparagus.

FAVORITE BOOK: I have a favorite author. Tom Wolfe. “A Man in Full” is a favorite of his.

CAN’T-MISS TELEVISION SHOW: “Suits.”

BEST CITY: I live in it. Denver.

Professional Moves & Promotions

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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: Joyce Famakinwa, *Business Insurance*, 150 N. Michigan Ave., Chicago, Ill. 60601-7524. jfamakinwa@businessinsurance.com.

EDITORIAL

CAPTIVE LAW REQUIRES ADJUSTMENT

Decades after captive insurers became a widely utilized risk management tool, the captive industry continues to expand. One form of that expansion: Employers and their advisers are finding new ways for captives to be used to cover corporate exposures. For example, employers increasingly are expanding their captives to fund risks, such as cyber liability and medical stop-loss, that years ago would have been unheard of.

Another positive development is the interest of state lawmakers in passing legislation to allow the formation of captives in their states or improve existing captive laws.

Those actions clearly are bearing fruit. States such as North Carolina and Texas that have passed legislation during the last few years allowing captive formations have seen a surge of new captives.

Similarly, states such as Georgia and Tennessee that have updated their captive statutes are seeing a big spurt in captives being set up.

In addition, long-established domiciles including Vermont and Montana continue to fine-tune their laws to attract new captives as well as keep current ones.

Federal lawmakers are doing their part too. Last year, Congress passed legislation effective in 2017 that makes a long-overdue increase in the amount of premium income so-called microcaptives can generate and still be exempt from federal taxes.

As welcome as these and other legislative changes are, lawmakers need to make still others.

High on our list of needed and long-overdue changes involve multiple-owner captives, known as risk retention groups.

Under legislation passed nearly three decades ago, RRGs can be used to fund member-owners' casualty risks after meeting the licensing requirements of one state. Nearly 240 RRGs now operate and cover a wide range of casualty exposures for their policyholders.

Still, there is a glaring and totally unjustified exclusion in the federal law of one policyholder risk that RRGs can't cover: property.

That exclusion makes no sense to us. RRGs have been successfully used for decades to fund a broad range of casualty risks. We see no reason why RRGs are barred from providing property coverage.

We hope lawmakers take action soon to remove that unjustified exclusion.

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

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SCHILLERSTROM



COMMENTARY

NATURAL CATASTROPHES EVOLVE IN TO COMPLEX WEB OF RISKS

Every risk manager knows that risk is not static. Even the most predictable risk can mutate. A slight change in technology or weather may turn what looks like a perfectly manageable risk into something quite different — and difficult.

Such a sequence of events is playing out now, as a recent summit sponsored by Lloyd's of London and Washington-based risk management consultant Risk Cooperative underscored. Although the summit was designed in part to discuss the implications of Lloyd's 2015-2025 City Risk Index, some of the participants examined risk's nature in a different context — one that risk managers will increasingly have to consider

That is context of the nexus of man-made and natural risk. At first it would seem to be almost a no-brainer that man-made and natural risk would intersect and affect one another. It's happened since the beginning of recorded history. Somebody builds a fragile structure — a man-made risk — athwart an earthquake fault, which is a natural risk. The quake happens and the building crumbles.

What's happening, though, is that the interaction between the two types of risk is growing ever more complex due to changes in the scope of both.

The impact of hurricanes provides an example. Hurricanes are not surprises. Their destructiveness has been recorded for centuries. But in recent decades, the potential effect of these natural risks has increased. Why?

In the United States, at least, more and more people want to live close to the ocean. That's understandable, but more people mean more buildings, and more buildings mean more exposed property.



MARK HOFMANN
SENIOR EDITOR

Now factor in evidence that the sea level is rising. Sea levels have risen and fallen for millions of years. The increase doesn't have to be spectacular to have an impact as more water washes across lower land. That can mean more destruction when a hurricane makes landfall.

Now factor in yet another variable: government actions that can create

moral hazards even though the intentions of the policies are benign. If you encourage people to build in hurricane-exposed areas by providing them with insurance that's priced artificially low for political reasons, they will build. If you rebuild structures on ravaged shores just as they were before the storm struck, with no requirement for more wind- and water-resistant construction or other enhanced loss control, you're inevitably going to pay again.

Fortunately Congress — of all institutions — has taken a first step toward addressing this issue. The House of Representatives approved the FEMA Disaster Assistance Reform Act last month, which calls for a comprehensive study through the National Advisory Council on disaster costs and losses for the federal government and how to mitigate them.

It may just be a study, but it recognizes that the collision of natural and man-made risks exists. And for a governmental body in the current political environment, that's a good start indeed.

Mind the D&O coverage gap when facing enforcement actions

As the federal government gets more determined about prosecuting books and records and internal controls violations, gaps in directors and officers liability cover become apparent. Rodger Laurite, Mark Weintraub and Grady Kellogg of Lockton Financial Services discuss the regulatory trend and how companies can guard against it.

The U.S. Securities and Exchange Commission, like other regulators, has become increasingly aggressive in the past few years. One aspect of that has involved the prosecution of “books and records” and “internal controls” violations to assess costly fines when companies are found liable.

According to section 13(b) of the Securities Exchange Act of 1934, every issuer must:

- Keep “books, records and accounts” that accurately and fairly reflect the transactions and dispositions of the issuer’s assets.

- Maintain and devise a system of internal accounting controls to provide reasonable assurance that transactions and assets are adequately recorded and in accord with management’s authorization.

As straightforward as these requirements seem, they contain two critical components that expand liability that’s not readily apparent from the section’s language — the broad scope of what constitutes “books and records” and the low level of fault needed to be found liable.

On top of this, most companies subject to SEC oversight mistakenly believe such enforcement actions are covered by their directors and officers liability insurance, which protects directors and executives from suits arising from mistakes made in good faith but not criminal actions.

Books and records

When section 13(b) was passed in the late 1970s, it made sense: to assure that financial disclosures are correct, books and records supporting those disclosures also must be correct. But what constitutes “books and records” has gone far beyond accounting files to include a wide variety of documents including invoices, third-party contracts, meeting minutes and even general business correspondence.

Courts, apparently reluctant to curb regulatory power, treat books and records as if they were discovery, the pretrial fact-finding process, and fair game no matter how remote the relationship to financial reporting.

It should also be noted that SEC “books and records” violations should not be confused with Section 220 of the Delaware General Corporation Law “books and records” demands made by corporate shareholders, often as a precursor to an investor lawsuit. Section 220 demands are either

typically not covered by a D&O policy or typically subject to a low sublimit of \$250,000.

Blame threshold

The level of fault needed to violate section 13(b) borders on strict liability. *Scienter* (the intent or knowledge of wrongdoing) is not required; nor is there any materiality threshold. This means that any noncompliance, no matter how small, violates the law.

Indeed, companies are frequently subjected to the SEC’s second-guessing that controls are adequate. These problems were on stark display in a BHP Billiton Ltd. enforcement action in 2015.

BHP instituted a promotional program that hosted customers, including representatives of state-owned enterprises, at the 2008 Olympics in Beijing. As part of that permissible program, BHP used internal application forms to invite these individuals.

The SEC did not allege any bribery occurred or was even contemplated, but found that the use of this form violated section 13(b) because it did not contain the necessary detail to ensure compliance with the Foreign Corrupt Practices Act.

The level of fault needed to violate section 13(b) borders on strict liability. Scienter (the intent or knowledge of wrongdoing) is not required; nor is there any materiality threshold. This means that any noncompliance, no matter how small, violates the law.



Because the SEC didn’t allege intent to violate the FCPA or say how this internal form affected BHP’s accounts or financial statements, BHP was fined \$25 million, in essence, for imperfect draftsmanship of an internal document that had no bearing on its financial reporting.

And BHP is only one example of the SEC using section 13(b) aggressively.

On average, approximately half the FCPA cases brought by the SEC since 2011 have found companies violated section 13(b), though no bribery or quid-pro-quo behavior was alleged or found.

Section 13(b) violations are not limited to FCPA matters. Because of the flexibility of section 13(b) and its near-strict liability nature, it’s an important weapon in the SEC’s arsenal. The SEC frequently asserts it when alleging accounting fraud, even when well-grounded accounting positions result in a books and records or internal controls-based enforcement action. For example, the SEC is investigating a Boeing Co. accounting position as potentially violating section 13(b) and has penalized other public companies for alleged accounting wrongs.

And the SEC is not alone in such actions. The U.S. Department of Justice recently appointed Hui Chen, its in-house compliance expert, to help its Fraud Section test the effectiveness of compliance programs and determine whether they are “paper programs” or enforceable.

Current coverage

Because books and records and internal controls violations are prosecuted by the SEC, policyholders generally believe that they are covered for such enforcement actions, but policy wording varies and often leaves out such claims. Many policies limit entity coverage for regulatory proceedings to only those actions also naming an individual.

While the SEC has recently emphasized holding officers and directors more accountable, such language can leave the entity uncovered until a specific individual is named, which often does not happen. Most insurers also restrict coverage for the entity to claims involving a purchase or sale of the company’s securities.

In other words, if the alleged securities violation does not concern the buying or selling of the entity’s own stock, there is no coverage. As demonstrated, section 13(b) violations can arise from circumstances far beyond a sale of securities.

Now more than ever, policyholders must understand the breadth of their D&O coverage, as enhancements to forgo coverage restrictions are not always achievable or may come with additional premium. But as insureds continually work with their advisers and brokers to design and perfect their insurance programs, they will gain a deeper understanding of their exposures and be in a better position to avoid unpleasant surprises when faced with a claim.



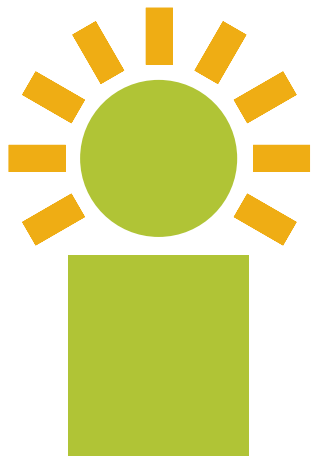
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INNOVATION AWARDS 2016

The 2016 *Business Insurance* Innovation Awards recognize the best new products and services for risk managers launched over the past year. The awards program, which started in 2010, was established to showcase innovative solutions that service providers are offering to solve problems faced by risk managers.

All of the nominations were reviewed by an independent panel of judges composed of professional risk managers, and the 10 highest-scoring nominations were selected for the 2016 Innovation Awards, which will be presented during

the *Business Insurance* Risk Management Summit, to be held March 22-23 in New York.

The winning entries range from insurance coverage for data breach risks to robotics to apps and dashboards to help manage and assess property risks.

The nomination process for the 2017 Innovation Awards will begin in the fall.

For more information about the Innovation Awards and other awards programs sponsored by *BI*, visit www.businessinsurance.com or email *Business Insurance* Editor Gavin Souter at gsouter@businessinsurance.com.

THE WINNERS

Allied World Assurance Co.

Allied World//FrameWRX
PAGE 12

American International Group Inc.

Investment in K2 Intelligence and Expansion of CyberEdge Suite of Loss Prevention and Mitigation Services
PAGE 14

Carrington Risk Consulting L.L.C.

SnapCAT
PAGE 14

EigenRisk Inc.

EigenPrism
PAGE 16

FM Global

MyRisk
PAGE 16

Lexington Insurance Co.

Robotics Shield
PAGE 17

Liberty Mutual Insurance Co.

Managing Vital Driving Performance
PAGE 18

Origami Risk L.L.C.

Origami Risk/ODG Integration
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PivotPoint Risk Analytics

CyVaR
PAGE 19

XS Reserve Ltd.

XS Reserve
PAGE 19

Allied World Assurance Co.

ALLIED WORLD//FRAMEWRX

privacy403.com

New York-based Allied World Assurance Co.'s FrameWRX is a platform that provides a set of cyber risk management solutions to its cyber insurance policyholders, enabling them to become proactive participants in their own data security.

Allied World//FrameWRX offers a series of cyber security-related services to policyholders of Allied World's suite of Privacy//403 Specified Response Vendor Solution cyber liability policies. Policyholders are automatically enrolled in the framework at no additional charge.

Participation begins within a week after policies are bound, as the team at Allied World Assurance, a unit of Allied World Assurance Co. Holdings A.G., works with clients to familiarize them with the process and schedule their first service.

"One of the bigger obstacles to overcome is keeping (policyholders) on the phone long enough to understand it's not a sales call,"

said Joshua M. Ladeau, Farmington, Connecticut-based vice president and practice lead for privacy and network security for Allied World.

From there, the team tracks engagement in, and completion of, subsequent services and interacts with breach response specialist vendors on behalf of clients as needed.

Services that FrameWRX offers include access to the Allied World Assurance eRiskHub Portal; compliance, training and awareness online risk management resources; an anomaly monitoring service, which is a software tool that helps clients identify anomalous activity or behavior on their network; and payment card industry education.

Also offered is a guided online cyber risk self-assessment portal, an on-site visit to address cyber risk management concerns and strategies for boards and senior-level management, and a table top exercise.

The framework has earned Allied World Assurance a 2016 Innovation Award from *Business Insurance*.

Research and development was implemented in 2010 and, following revisions, was ultimately launched in July 2015, Mr. Ladeau said.

Mr. Ladeau said the platform grew out of an understanding of the need for a "holistic approach to cyber risk management."

"One of the big issues, historically, has been getting folks to engage" in the cyber risk management process, he said. With FrameWRX, direct contact is maintained throughout the policy period, so the client is engaged in each segment in depth before moving on to the next, which culminates in the table top exercise, Mr. Ladeau said.

With the table top exercise, clients receive a mock privacy incident fact set and are asked to respond in real time. It enables Allied World Assurance to provide a cyber security readiness report at the end of a policy period, so that going into the next policy period the policyholder can build further on the services the framework provides, using



Mr. Ladeau

the first year as a baseline, he said.

Response to the program has been positive, said Mr. Ladeau. "It's certainly a significant uptick to what we've experienced historically ... just in terms of the raw engagement numbers," he said.

According to Allied World Assurance, since launching the platform the insurer has gone from no engagement in its prior risk management offering over a five-year period to having one out of every five privacy and network security policyholders engaging in FrameWRX within six months of launch.

By Judy Greenwald

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Robotics Shield

AIG is recognized for the 7th consecutive year with two innovation awards by *Business Insurance*.

AIG is proud to be recognized as an industry innovator for the seventh consecutive year. In the 2016 *Business Insurance* Innovation Awards, AIG and Lexington Insurance have been honored twice: AIG for expansion in its CyberEdge suite and investment in K2 Intelligence, and Lexington Insurance for its Robotics Shield. Let us put our award-winning products and services to work for you.

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American International Group Inc.

INVESTMENT IN K2 INTELLIGENCE AND EXPANSION OF CYBEREDGE SUITE OF LOSS PREVENTION AND MITIGATION SERVICES

www.aig.com/_1247_412514.html

Partnership is key to American International Group Inc.'s approach to cyber coverage, and the ongoing expansion of partnerships with outside vendors to enhance its CyberEdge suite of loss prevention and mitigation services helped win the New York-based insurer a 2016 *Business Insurance* Innovation Award.

AIG has been offering cyber coverage since the late 1990s and currently has 22,000 clients worldwide, said Tracie Grella, AIG's New York-based global head of cyber. The insurer began introducing cyber loss mitigation services in 2013 with two vendors, but launched a major expansion last year, creating "a more robust offering," Ms. Grella said.

One key aspect of this expansion was AIG's decision to obtain a minority stake in cyber investigation firm K2 Intelligence, which was announced last April, with plans to co-develop products and services with the company.

K2, which is based in New York and has global operations in London, Madrid and Tel Aviv, Israel, acts as an adviser to governments,



CyberEdge®
End-to-End Cyber Risk Management Solutions

companies, corporate boards and individuals. Its expertise centers on cyber investigations and defense, anti-money laundering and regulatory compliance, complex investigations and disputes, data analytics and visualization, and integrity monitoring and compliance, AIG said at the time of the agreement.

The program currently has 14 vendors including K2, each of which targets a different area, said Ms. Grella. Broadly speaking, the areas include cyber breach coaches — legal counsel who specialize in data breach law, and experts in forensics and investigation — who assist in remediation, such as determining the facts around a



Ms. Grella

data breach incident and understanding the extent of the event.

Clients of CyberEdge are able to access these vendors through AIG, said Ms. Grella. "Some services are complimentary to clients of CyberEdge products, others are offered at a discount," she said.

And the expansion of the offering will not end with the additions made in 2015.

"We are adding more" vendors, said Ms. Grella. "We are going to

"There are so many vendors in this space, and a lot of these are small startup companies. A lot of our clients don't have access to these vendors."

Tracie Grella, American International Group Inc.

continue to build out our service platform and consulting capabilities for our clients."

Additionally, "We are offering services in areas" where clients can use some additional cyber security expertise, she said.

"There are so many vendors in this space, and a lot of these are small startup companies," said Ms. Grella. "A lot of our clients don't have access to these vendors."

By Mark A. Hofmann

Carrington Risk Consulting L.L.C.

SNAPCAT

www.carringtonrisk.com/snaprisk-suite.html

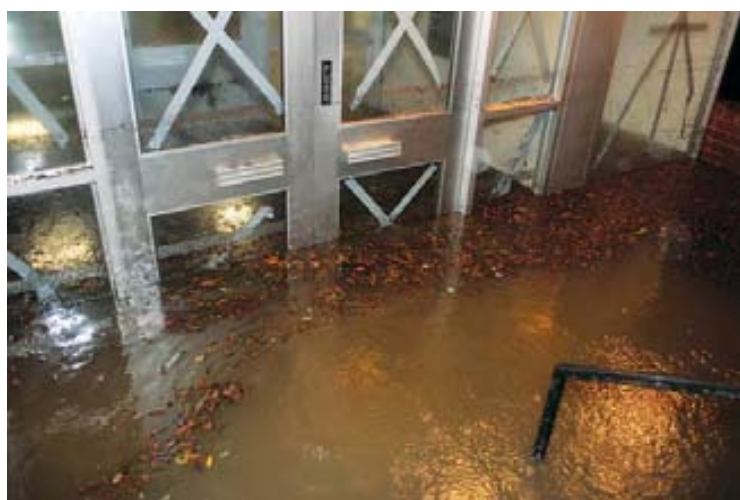


Ms. Carrington

Longtime risk expert Kristin Carrington remembers conducting field surveys to gather data about a property's exposures: First it was pen and paper, then revisions, then one or two revisits of a site to take a photo and assess something one may have missed, and then, when the data was collected, it was off to the typist. Days later, there would be a report.

Today Ms. Carrington, who founded Fort Myers Beach, Florida-based Carrington Risk Consulting L.L.C., a property risk consulting firm, can assert to current and future clients: There's an app for that.

SnapCAT is a mobile application for smartphones that enables field engineers or consultants to gather and document windstorm, earthquake and flood primary and secondary exposures. The application consists of a series of data entry points and drop-down menus that makes creating reports for risk managers, brokers and insurers as easy as a few swipes and presses. Property location is assessed via satellite. Photographs or video, taken with the handheld device, can be attached to the reports and



SnapCAT is a mobile application that enables field engineers or consultants to gather and document windstorm, earthquake and flood exposures.

generated and distributed. Revisions to reports are simple, as is data storage, Ms. Carrington said.

SnapCAT "ties it all together," said Ms. Carrington, who provides a webinar on the app, showing how prompts can help formulate a detailed report much faster in a document or file that can be sent to another person with a mobile device or email address. "Right as you're walking out of the building, you can email or text a (report)."

Risk managers receive a color report, paper or electronic, that contains all the data for a property, addressing four areas of the risk management process: risk identification, risk assessment and analysis, risk control and risk financing.

All of this capability earned SnapCAT a 2016 *Business Insurance* Innovation Award.

Ms. Carrington's product and company, which she operates with

the help of one employee, not only simplifies the process of data collection and analysis, it also saves companies money, she said. With its fill-in-the-blank questionnaire format, SnapCAT provides detailed reports on building modifications that can help mitigate exposures and lower premiums for property owners. For example, if a building in a hurricane-prone area has its rooftop heating and air conditioning components strapped down with certain materials, the property could see a dip in premiums.

If a client has good to excellent building construction, the effect on premiums can be substantial if this information is gathered, proven and utilized, according to Ms. Carrington. In Florida alone, a SnapCAT field survey of 40 large department stores led to \$2 million in premium savings in one year, she said. Similarly, a small restaurant chain saved \$1 million in premiums after a thorough SnapCAT assessment.

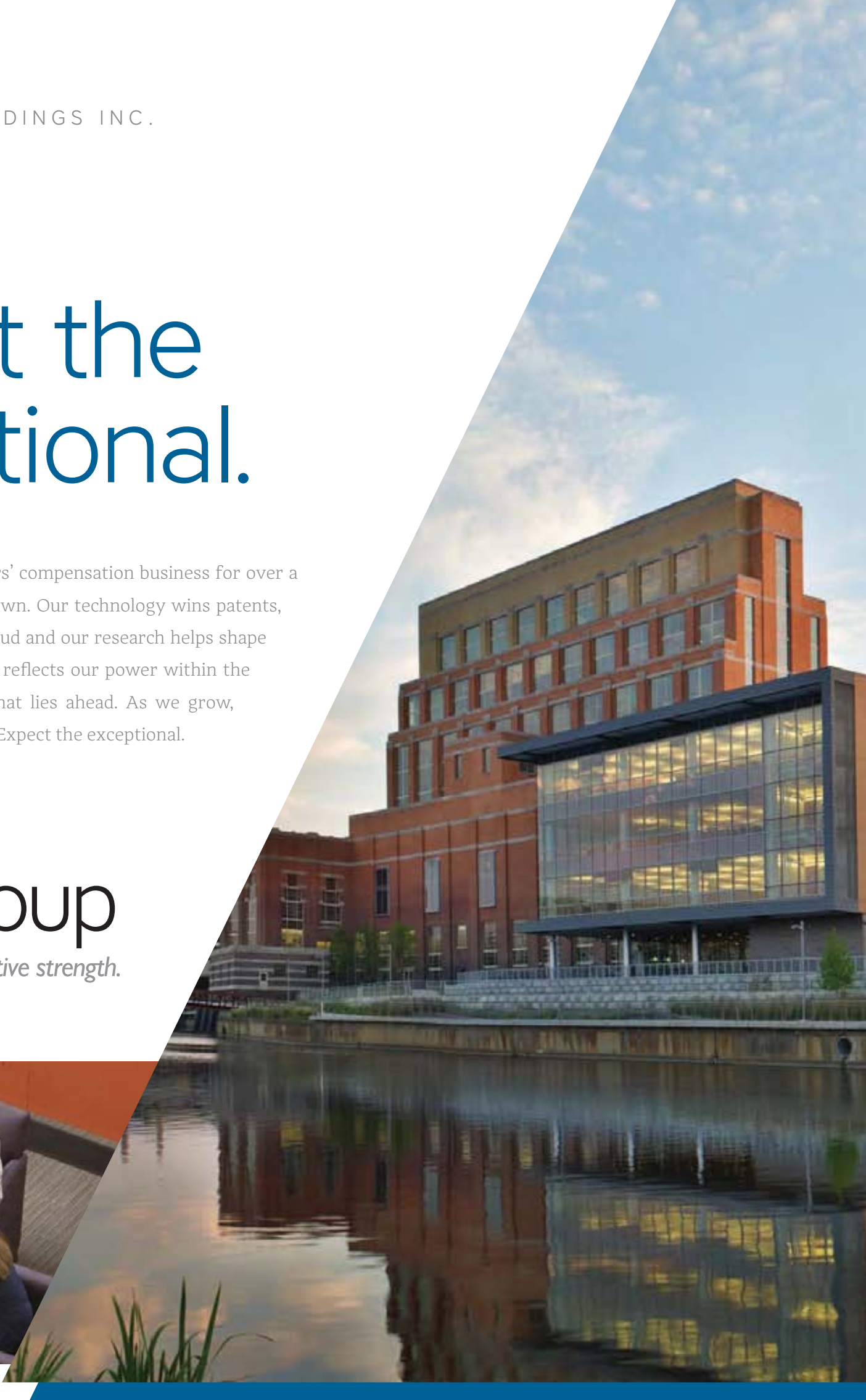
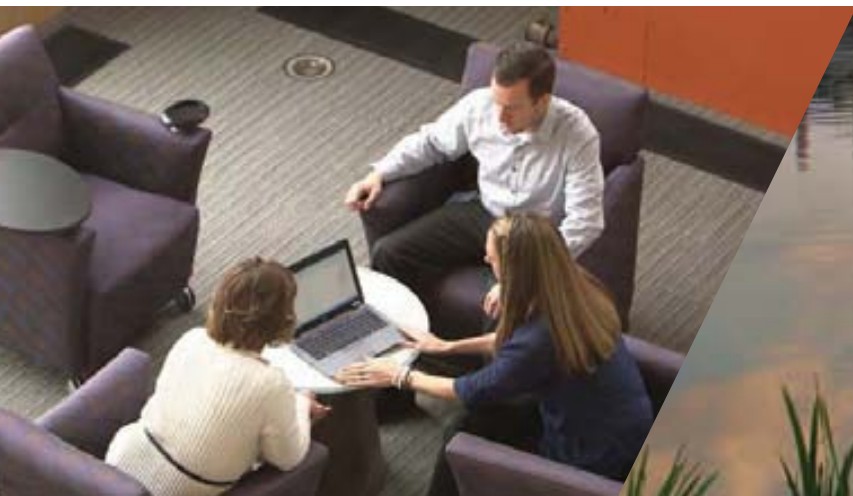
So far, Ms. Carrington's clients and partners include Macy's Inc., Aon P.L.C. and Marsh USA Inc.

By Louise Esola

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EIGENPRISM

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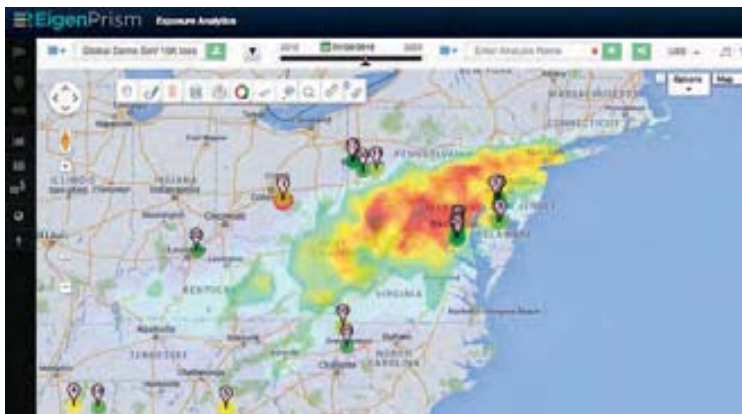
By arming risk managers with advanced analytics technology that typically has been reserved for underwriters, the team at EigenRisk Inc. aims to help corporate risk managers make informed, data-driven decisions when it comes to protecting their assets from natural catastrophe losses.

This capability has earned EigenPrism a 2016 *Business Insurance* Innovation Award.

Ann Arbor, Michigan-based EigenRisk's technology platform, EigenPrism, "essentially levels the playing field" between risk managers and brokers or underwriters by giving risk managers insight into their exposures that they can use in pricing negotiations, said Eduardo Hernandez, the firm's Miami-based co-founder and head of business development.

The analytics and risk modeling platform, launched in August 2015, unearths data typically buried in Excel spreadsheets and displays it so the risk manager can see which assets are exposed in the event of a natural catastrophe. The tool is also available to brokers and underwriters.

"When there's an event that's happening that makes the news — there's a big tropical storm or there's a major earthquake — risk managers want to know, 'Does it affect me or not?' and we help



EigenRisk Inc.'s EigenPrism

them to get the right answers," said Deepak Badoni, Toledo, Ohio-based co-founder and president of EigenRisk.

In addition, the game-like technology — the creators say clients have said it's "fun" to use — allows risk managers to run what-if scenarios by dragging historical catastrophes, such as hurricanes or earthquakes, across a map and imposing them over the firm's assets to predict the risk exposure and, in turn, make better decisions.

"Today, the risk management discipline is more reactive, where when anything happens, people rush to figure out, 'Where are my losses going to be?'" Mr. Badoni said. "We're turning this around on its side" by allowing them to model risk beforehand.

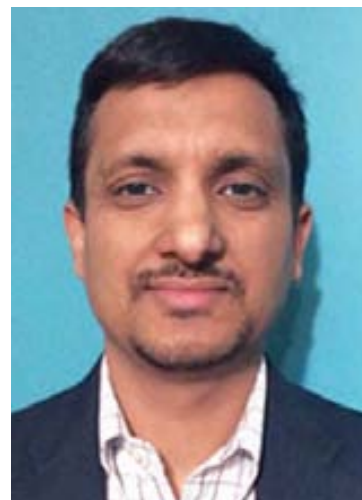
Mr. Badoni said the platform

answers questions that risk managers want to know, such as, "What are my worst-case scenarios? What should I plan for? What should I buy insurance for? Do I have the right limits? Do I have the right deductibles?"

These answers arrive in seconds with EigenPrism, whereas without the technology, "it might take them days or weeks to get those answers," he said.

"As a risk manager, having that real-time data and that intelligence will make them look smarter in front of the board when they're making decisions on how much risk to retain and manage and to purchase," Mr. Hernandez said.

For example, one of EigenRisk's clients, Miami-Dade County Public Schools, used the tool for its property renewal and discovered that



Mr. Badoni

20% of the school's locations were plotted incorrectly when using traditional modeling.

"They were in the water," said Michael Fox, Miami-based district director of risk and benefits management with Miami-Dade County Public Schools.

Using EigenPrism, the school system modeled 1992 Hurricane Andrew as a worst-case scenario and found that the ground-up loss was \$622 million, compared with the \$826 million traditional models had calculated, Mr. Fox said.

"When you utilize EigenPrism's capabilities ... it's a valuable tool to help shape our view of risk," Mr. Fox said.

By Shelby Livingston



Mr. Hernandez

"As a risk manager, having that real-time data and that intelligence will make them look smarter in front of the board when they're making decisions on how much risk to retain and manage and to purchase."

Eduardo Hernandez,
EigenRisk Inc.

FM Global

MYRISK

www.fmglobal.com/page.aspx?id=03030400

A natural disaster is approaching, and a company's CEO asks the risk manager for an assessment of the threats the disaster will pose to the company's operations.

If that risk manager has access to FM Global's MyRisk website, that assessment can be delivered in real-time, even if the risk manager is not sitting at his or her desk.

MyRisk, a *Business Insurance* 2016 Innovation Award winner, provides risk managers a comprehensive overview of their entire property profiles — information that can be downloaded via a mobile application by on-the-go risk managers.

For time-crunched or resource-challenged risk managers, the product gives them the ability to compartmentalize a great deal of information and data in a user-friendly format to help them make quick decisions, said Bret Ahnell,



Mr. Ahnell

FM Global's Johnston, Rhode Island-based executive vice president and manager of staff operations who led development of the product.

"They can find out most anything they want to know about

"They can access all their policy information (and) claims information to really be able to do all the things they would be able to do if they were sitting at their desks, wherever their corporate headquarters are."

Bret Ahnell, FM Global

their property-related risks all around the world so they can really manage those threats they may be exposed to," he said. "They can access all their policy information (and) claims information to really be able to do all the things they

would be able to do if they were sitting at their desks, wherever their corporate headquarters are."

For example, the MyRisk Map Center allows risk managers to assess the impact of natural hazards on their locations in real time, allowing them to examine specific details about their facilities such as critical engineering documents and the facilities' RiskMark scores, which are generated via a 100-point risk quality scale where high scores represent high-quality, well-managed risk with a lower chance of loss.

The website contains information on more than 490,000 FM Global client locations worldwide, some of which is gathered by the company's 1,200-plus field engineers making site visits, Mr. Ahnell said. Risk managers have access to more than 355,000 recommendations that identify and mitigate risk, more than 200,000 of which

have been implemented since the website debuted in October.

These recommendations help risk managers decide where they should be focusing their risk-improvement investment dollars, Mr. Ahnell said.

"It gives them that ability to look across all those locations and then to make informed decisions based on the importance of those facilities to their business and to their clients, and also to look at the current quality of those locations," he said.

"They can run 'what if' scenarios. They can look at some of their critical locations and say, 'If I do these recommendations, how will that improve my overall RiskMark score?' which gives them more confidence that that location is going to fare better if exposed to a natural disaster, a fire risk or explosion or anything else."

By Gloria Gonzalez

Lexington Insurance Co.

ROBOTICS SHIELD

www.aig.com/innovationawards

The widespread use of robotics technology in many industries has created much confusion and ambiguity when an accident or incident occurs: Is it the result of an error arising from the manufacturer of the robotics hardware, firmware, software or artificial intelligence architecture? Is it a professional liability error or general liability loss?

"We've been in contact with various broker partners about their concerns regarding the robotics industry ... There is a gray area at the intersection of product liability and professional liability," said David Kennedy, a Boston-based product development manager for Lexington Insurance Co., which created Robotics Shield as a way to streamline underwriting for the robotics industry and companies that use robotics.

The product has earned a 2016 *Business Insurance* Innovation Award.

According to Lexington Insurance, a subsidiary of American International Group Inc., advanced robotics and artificial intelligence systems are being deployed in a variety of industries, including health care, construction, energy, retail and hospitality, to name a few. By 2020, the field is expected to grow to \$82.7 billion, according to Portland, Oregon-based Allied Market Research.

With that growth comes exposures.

According to Mr. Kennedy, as the robotics industry continues to grow, so too do claims involving bodily injury, property damage and financial loss. For example, in the situation of a "cobot," a robot working alongside a human operator, there is the potential for a negative incident to create confusion about whether the loss would fall under traditional product liability or professional liability.

"We are really striving to eliminate that gray area at the intersection of those coverages and help eliminate disputes in the event of a claim," Mr. Kennedy added. "This is a more holistic approach that combines exposures."

Prior to Robotics Shield, underwriters would use a miscellaneous errors and omissions form with a technology endorsement, said Jeanmarie Giordano, New York-based chief underwriting officer for professional liability and financial lines at AIG.

"It wasn't specific to the robotics industry," said Ms. Giordano. Policyholders "could potentially purchase other products (because) there wasn't a holistic approach to the exposure from any one market."

Specifically, Robotics Shield brings together general liability and products liability insurance,

robotics errors and omissions insurance and specialized risk management services, all specifically tailored to the robotics industry. Robotics Shield also provides single-point access to a claims team, streamlining the claims handling process.

To enhance its offerings, Lexington Insurance also has partnered with San Francisco-based Littler

Mendelson P.C., a global law firm that houses its own practice group specializing in robotics technology and applications, to assist clients with complex robotics liability needs and to address the ongoing updates and information about the ever-changing nature of risk of that technology, according to Mr. Kennedy.

By Louise Esola



Mr. Kennedy



Ms. Giordano

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Liberty Mutual Insurance Co.

MANAGING VITAL DRIVING PERFORMANCE

liber-web06.inetuhosted.net/CI/RiskControl/OOAs/fleet_safety.pdf

Commercial transportation companies collect tons of data on the performance of their drivers and fleet vehicles, but figuring out how to use it to improve driver safety had been challenging until Liberty Mutual Insurance Co. found a way to do that.

The Managing Vital Driving Performance program is a method transportation policyholders that use telematics data can use to improve driver safety.

The program, a winner of the 2016 *Business Insurance* Innovation Awards, came from the collaborative effort of two Liberty Mutual leaders: Peter R.

VanDyne, Milwaukee-based technical director of risk control services; and Jennifer Weiler, Seattle-based director of product management of commercial insurance telematics.

Mr. VanDyne said he thought policyholders could use telematics, a wireless technology used in vehicles that collects performance data for fleet organizations, as a risk management tool to pinpoint drivers with driving performance

that needed corrective action.

Initially, he said, policyholders had been overwhelmed with the quantity of the data. Telematics vendors produce “a mountain of data” for their commercial fleets, he said, such as alerts when a driver drives over the speed limit. “One client was seeing 400 driving alerts a week,” Mr. VanDyne said. “We needed to be able to find a process to get through that data.”

Although companies had telematics technology installed in their vehicles years ago, it’s only recently that they have felt comfortable using the data and sharing it, said Ms. Weiler.

Now they wanted to find innovative ways to use the data to benefit their business.

“Our fleet customers already had telematics but wanted to know how to interpret the data so they could have meaningful conversations with their drivers about their driving,” she said. “Customers were starting to come to us asking for this, to help them manage their risk,” she said.

In a pilot test involving over 180



Mr. VanDyne



Ms. Weiler

vehicles, there were less aggressive driving event incidents involving acceleration, braking and speeding after the introduction of the Managing Vital Driving Performance program, a company spokesman said.

In the program, risk experts analyze the collected data to find drivers who are performing below the norm. The next step is focusing on remedial efforts for those particular drivers. In the past, train-

ing played a big role in that effort, but it wasn’t always effective, Mr. VanDyne said.

“We wanted to get away from training as a solution for aggressive drivers because people drive like they do because of behaviors,” he said. Instead, they identify trends over time and look at root causes of the behavior to learn why it is happening. “Maybe they hired someone with a history of these types of events or perhaps

“Our fleet customers already had telematics but wanted to know how to interpret the data so they could have meaningful conversations with their drivers about their driving.”

Jennifer Weiler,
Liberty Mutual Insurance

management has a compensation system that encourages their drivers to drive aggressively to make more money,” he said.

After the root cause is discovered, Liberty Mutual’s transportation risk control experts work with policyholders to find solutions.

“We are taking this one step further than any insurer has on the personal or commercial side,” Ms. Weiler said.

By Donna Mahoney

Origami Risk L.L.C.

ORIGAMI RISK PLATFORM/ODG INTEGRATION

www.origamirisk.com



Mr. Bentley

Origami Risk L.L.C. hopes to help clients cut workers compensation costs and reduce lost work time for injured workers by including some of the comp industry’s leading medical treatment and return-to-work standards in a risk management information system.

Chicago-based Origami Risk integrated the Official Disability Guidelines into its data platform in September, earning it a 2016 *Business Insurance* Innovation Award.

The ODG guidelines, which include evidence-based medical care and return-to-work standards for injured workers, are published by the Encinitas, California-based Work Loss Data Institute.

While clients can access the ODG guidelines by using the Work Loss Data Institute’s data platform, Origami Risk incorporated the ODG data directly into its model.

The combination has made the RMIS system a one-stop shop for employers who want to see whether their injured workers are receiving medical care proven to be effective for their injuries, or whether those workers need addi-



While clients can access the ODG guidelines by using the Work Loss Data Institute’s data platform, Origami Risk incorporated the ODG data directly into its model.

tional medical assistance to help them return to work.

The integration compares individual claims with the ODG data based on criteria that could elevate the cost of a workers comp claim, such as the worker’s medical diagnosis, whether the worker has comorbid health conditions such as diabetes, or whether the worker has legal representation, said Earne Bentley, Atlanta-based sales lead for Origami Risk, who spearheaded the integration effort.

The model is “identifying claims up front that might need extra

attention or intervention before you might typically figure out this claim could be a problem,” Mr. Bentley said.

Mr. Bentley said it’s too early to quantify how effective the integration has been at reducing workers comp claim costs or return-to-work times.

However, Origami Risk cites statistics from the Work Loss Data Institute showing that the ODG guidelines are helpful in resolving workers comp claims when used by other companies.

The institute estimates that enti-

ties that use the ODG guidelines for benchmarking see a 34% to 66% reduction in average disability durations and medical cost savings of 25% to 60%, depending on factors such as which state a claim is in and which insurers or third-party administrator is handling the claim.

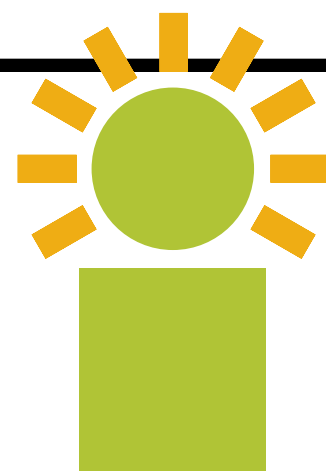
The ODG data “indicates which treatments are proven to work as indicated in peer-reviewed scientific studies. So it ensures that patients are receiving effective treatments and it also can prevent the use of ineffective or potentially harmful treatments,” said Ingrid O’Keefe, senior account executive with the Work Loss Data Institute.

Ms. O’Keefe assisted Mr. Bentley and Origami Risk in licensing and integrating the ODG guidelines into the data platform.

Mr. Bentley said Origami Risk has received some early feedback from clients about the ODG integration and plans to update the model in the near future based on client requests.

“We’re always looking for more and more ways that we can better serve our clients,” he said.

By Sheena Harrison



Mr. Martin



Mr. Washington



Mr. Hayslip

PivotPoint Risk Analytics

CYVAR

www.pivotpointra.com

Data breaches are among the top concerns for any organization these days, with incidents reaching near catastrophic levels as personal and private business information is stolen, warehoused, sold and distributed. Their effects are far-reaching and expensive.

How expensive?

That's one question Baltimore-based PivotPoint Risk Analytics hopes to provide answers for with its new data breach risk assessment tool, CyVaR.

Tracy Martin, Baltimore-based director of product management for PivotPoint, was one of the original developers of the product, which came out in 2015. He said CyVaR grew out of the need for risk managers to understand how

much is at stake if an incident — a systemwide infection by malware, for example — were to occur. It wasn't a question being answered in risk circles, he said.

According to Chris Washington, Herndon, Virginia-based vice president of engineering and head of product development for PivotPoint, traditional security has always zeroed in on incident-prevention technology.

"We are more risk-based, (focusing on) how to best protect the critical assets," Mr. Washington said. "That's the difference between this product and what has been traditionally offered."

That difference is what helped CyVaR earn a 2016 *Business Insurance* Innovation Award.

According to Mr. Martin, the program is set up like a computer wizard, such as TurboTax, and collects inputs on the organization's industry, its size, gross revenue, number of employees and other data. The program identifies the most critical business applications that drive revenue and tallies exposure of valuation of those assets. PivotPoint then studies the organization's defensive posture — practices in place to mitigate an incident. An analysis of threat data, historical data and incident rates across the industry is also considered.

"We put all of this together and run a simulation," said Ms. Martin. "You can then come up with a dollar value of your risk."

For the City of San Diego, that figure was \$4.5 million, according to Gary Hayslip, the city's chief information security officer and deputy director in the information technology department. He used a CyVaR report in a budget presentation in November to help justify higher expenditure in the IT budget.

According to Mr. Hayslip, the city — which houses information including residents' tax bills, permits, arrest and police records, and medical and personal information for 11,000 employees — hasn't updated its technology enough to avoid a breach.

He said that as a result of a complete CyVaR study, the data risk security budget for the city now takes up 6% of the IT budget at just over \$3 million, up from a bare-bones 1%.

"This actually gave us a dollar amount to our risk and the risk of using nonupdated programs," Mr. Hayslip said. "It gives you an idea that if you have a breach, how much you can expect it to be and (offers) some recommendations that you should put in place to reduce your risk. Those recommendations become projects that are easily justifiable when you have a dollar amount to remove off your risk profile."

Mr. Washington said CyVaR offers a one-time, periodic look at an organization's risk and that PivotPoint is working on an improvement that would constantly monitor risk.

"One of the trends that I have noticed in the industry is that many of the best programs have led to the delivery of the next program," he said. "That's the next direction I want to take this product."

By Louise Esola

XS Reserve Ltd.

XS RESERVE

www.xsreserve.com

Alastair Malcolm, founder and CEO of Faversham, England-based XS Reserve Ltd., is no stranger to innovation, having been at the forefront of the development of excess-of-loss credit insurance coverage some 30 years ago.

And Mr. Malcolm, who once built and flew his own plane and has an invention currently awaiting patent, recently created a new methodology for developing reserves for trade credit risk.

His product, XS Reserve, is a winner of 2016 *Business Insurance* Innovation Award.

XS Reserve enables buyers to make monthly payments into an account on the buyer's own books to build up reserves, but the underwriters — currently American International Group Inc. — will agree to pay the full agreed sum in the event of a defined loss from day one.

The full value of the reserve is available from the outset of the policy to be used as contingent liquidity supported by a rated insurance com-

pany, Mr. Malcolm said.

The buyer funds payments over an agreed period of up to three years, he said, and XS Reserve guarantees the funding of that reserve.

The coverage is sold as part of an excess-of-loss trade credit insurance cover and enables risk managers to transfer a risk that otherwise would be wholly self-insured, Mr. Malcolm said.

The risk is ideally suited to be handled via a captive insurance program, Mr. Malcolm said, and the XS Reserve product can help to establish and operate such a program.

The idea for the product was sparked in part because of the restrictions that banking rules, such as Basel III, place upon banks issuing credit with security.

XS Reserve enables the credit risk to be

passed onto insurers — which are the risk takers, Mr. Malcolm said.

He said that, for example, a U.K. minerals company with receivables funded by a panel of banks used the product to give the banks security.

"The need for credit insurance is vital."

Alastair Malcolm,
XS Reserve Ltd.

"The need for credit insurance is vital," said Mr. Malcolm, and risk managers are becoming more involved in trade credit.

Every company carries the risk of bad debt impairment, Mr. Malcolm said, and most currently self-insure that risk though few currently use their captives for that, he said.

Mr. Malcolm said he hopes that XS Reserve will go some way to changing that.

Mr. Malcolm set up XS Reserve with David McKibbin who has had a 25-year career in insurance and reinsurance underwriting.

By Sarah Veysey

PANEL OF JUDGES

The entries for the 2016 *Business Insurance*

Innovation Awards were reviewed by an independent panel of judges, all of whom are risk management professionals.

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

The judges scored each entry, and the 10 highest-scoring entries were selected as the 2016 Innovation Awards winners.

THE 2016 JUDGES

Julie Bean

Risk manager

The Chamberlain Group Inc.

Barbara Devine

Assistant director of risk management

Astellas U.S. L.L.C.

Brian Sammons

Assistant vice president of risk management

Equity Residential

Terry Sampson

Director of risk management

The Art Institute of Chicago

Carlos A. Sintes

Claims manager

Fortune Brands Home & Security Inc.

XL Catlin doubles terrorism cover limits

XL Catlin said its crisis management business has doubled its limits for stand-alone terrorism coverage to \$200 million.

The company is also introducing active assailant coverage, a company statement said.

XL Catlin, the marketing name of XL Group P.L.C., has increased available liability limits for its stand-alone terrorism insurance policy to \$200 million, double the original \$100 million when the policy was first introduced in 2014.

“A string of attacks in cities, and schools worldwide has prompted many companies and communities to reconsider the type of events to which they could be exposed and what the repercussions could be for them,” Ben Tucker, XL Catlin’s head of U.S. terrorism and political violence, said in the statement.

“They are taking additional precautions and are looking for more financial protection to properly handle such events, and we’re making available insurance protection that is relevant to the evolving risk environment,” Mr. Tucker said.

The active assailant coverage has liability limits up to \$35 million to address the shortfall in the Terrorism Risk Insurance Program Reauthorization Act of 2015 and to enhance the company’s current stand-alone terrorism property policies, the statement said.

As well as providing standard property damage coverage, active assailant coverage also provides coverage for time element, including a determination by authorities that the policyholder’s operations have to cease at their current location, the statement said.

Lloyd’s underwriter ups M&A insurance capacity

International managing general underwriter ANV Global Services Ltd. said it will increase its Lloyd’s of London underwriting capacity for mergers and acquisitions insurance.

With a 10 million increase in each denomination, ANV offers a limit of 30 million (\$32.8 million) and \$30 million per risk, ANV said in a statement.

ANV’s mergers and acquisitions team primarily focuses on customized warranties and indemnities insurance for commercial and financial clients in the U.K., according to the statement.

ANV Global Services is the international managing general underwriter segment of specialty insurance group ANV Holdings B.V.

Allianz launches aviation comp unit

Allianz S.E.’s specialist corporate insurer, Allianz Global Corporate & Specialty S.E., has launched a U.S. aviation workers compensation department led by a group of former QBE North America comp specialists.

Allianz Global Corporate & Specialty in a statement said it will serve as the underwriter for this broker-driven pro-

PRODUCTS & SERVICES

QBE offers E&O cover for agents, brokers

QBE North America announced it has a program underwriting agreement with specialist professional liability managing general underwriter RPS/Plus Cos. to provide professional liability insurance to insurance agents and brokers.

The coverage provided through QBE North America is on both an admitted and nonadmitted basis. The coverages include disciplinary actions, loss of earnings, and pre-claims assistance, QBE North America said in a statement.

Coverage limits up to \$5 million are available, according to a QBE North America spokeswoman.

“We are pleased to join forces with RPS/Plus Companies and its experienced professional liability insurance programs practice, as this provides us with new opportunities to expand our business and bring QBE Specialty Lines’ innovative solutions to the insurance market,” Donald Allard, senior vice president, specialty programs, QBE North America, a unit of QBE Insurance Group Ltd., said in the statement.

gram and has entered into an agreement with the National Air Transportation Association.

Charles Couch will lead the department. Previously, Mr. Couch was vice president of underwriting and head of distribution for aviation at QBE North America.

“Launching into the workers compensation business brings new capabilities and rounds out our aviation product line, providing a more cost-effective solution for clients,” Jon Downey, head of aviation for the U.S., said in the statement.

Berkshire creates medical stop-loss division

Berkshire Hathaway Specialty Insurance Co. has established a medical stop-loss division based in Irvine, California.

John Snyder will lead the division, David Friedly has been named head of underwriting, and Glenn Funk will serve as actuary for medical stop-loss, Boston-based BHSI said in a statement.

Mr. Snyder most recently was president and CEO of medical excess at American International Group Inc., according

to the statement. Mr. Friedly previously was head of underwriting at AIG Benefits Solutions, and Mr. Funk was vice president and actuary at AIG Benefits Solutions, according to a Berkshire Hathaway spokeswoman.

“We are pleased to have the talent and experience of John, David and Glenn fueling our move into medical stop-loss and building out our team for this product line,” Sanjay Godhwani, executive vice president at BHSI, said in the statement. “Their deep expertise, coupled with BHSI’s strong balance sheet, will allow buyers to make their medical stop-loss choice with confidence.”

All three executives are based in Irvine.

Prescription management offered for comp providers

Genex Services L.L.C. has launched a customized and integrated approach to prescription drug management in workers compensation.

Medication Safety 2.0 includes oversight and coordination for medication alerts, medication safety programs and field case management, among other things, the Wayne, Pennsylvania-based managed care services provider said in a statement.

A key component of the program includes one-on-one counseling in a meeting between a prescriber and a field case manager to ensure health care providers are prescribing medications in accordance with clinically supported guidelines, rather than relying on phone calls or letters, the statement said.

“Increasingly, our customers are asking us to work with their PBM to design a network that meets their needs in a program designed to help their injured workers and promote savings and best outcomes,” Ron Skrocki, vice president of product management and development for Genex, said in the statement.

“Our focus is on medication safety, utilization review from trained nurses and physicians, adherence to guidelines and optimal network utilization,” he added.

Travelers enhances contractors coverage

Travelers Cos. Inc. has combined its professional liability and pollution liability coverage for contractors.

The coverage provides additional protection against environmental damage caused by design errors. It will also provide access to the risk control and claim professionals at Travelers.

Coverage limits are available up to \$10 million, according to a Travelers spokeswoman.

“We streamlined our contractors liability policies to deliver a more efficient and robust product,” Adrienne Atwell, New York-based chief underwriting officer for Travelers’ environmental and contractors professional practice, said in the statement. “By updating our coverage, we have reduced financial exposure to costly pollution or professional liabilities by addressing potential gaps that can exist when contractors purchase these liability coverages separately.”

DEALS & MOVES

IBM expands scope with purchase of cyber security firm

IBM Security plans to acquire private cyber security firm Resilient Systems Inc. as part of a move to expand its role in the incident response market.

Terms of the deal were not disclosed. The acquisition is expected to close later this year subject to regulatory review.

IBM said it intends to retain the roughly 100 employees working at Resilient Systems, including CEO John Bruce, a former vice president at Symantec, and Chief Technology Officer Bruce Schneier, a cryptographer, security blogger and author.

Known as Co3 Systems when it was founded in 2010, Resilient Systems helps private and government customers prepare for, detect and mitigate cyber breaches, said Jon Oltsik, senior principal analyst at Enterprise Strategy Group.

Reuters

Marsh & McLennan Agency acquires aviation brokerage

Marsh & McLennan Agency L.L.C., the middle market agency subsidiary of Marsh L.L.C., has acquired Lee’s Summit, Missouri-based Aviation Solutions L.L.C.

Terms of the transaction were not disclosed.

Aviation Solutions is an aviation risk adviser and insurance broker that offers aviation risk insurance programs for individual, corporate, and commercial clients across the U.S.

Aviation Solutions will operate out of Marsh & McLennan Agency’s Overland Park, Kansas, office, Marsh & McLennan Agency said in a statement. According to a company spokeswoman, Aviation Solutions will keep its name and change to Marsh & McLennan Agency within a year or so.

Hub International buys specialty broker BenefitsMart

Hub International Ltd. has acquired the assets of BenefitsMart L.L.C.

Terms of the deal were not disclosed.

Wilmington, Massachusetts-based BenefitsMart provides employee benefits, insurance, compliance, wellness and benefits administration, Hub said in a statement.

Jean Russell, founder and president of BenefitsMart, will join Hub. BenefitsMart will operate under a cobranded name, according to a Hub spokeswoman.

Moody’s acquires Toronto actuarial software firm

Moody’s Corp., New York, has acquired Toronto-based actuarial software provider GGY.

Terms of the deal were not disclosed. GGY had revenue of about \$28 million in 2015, Moody’s said in a statement.

GGY provides actuarial software for the life insurance industry, and its AXIS Actuarial System is used by global life insurers, reinsurers and consultants for pricing, reserving, asset liability management financial modeling, capital calculations and hedging.

GGY will operate under the name GGY, a unit of Moody’s Analytics and will remain in Toronto.

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WHAT MATTERS MOST



LEGAL NOTICE

NOTICE OF SANCTION AND EFFECTIVE DATE OF AMENDING SCHEME OF ARRANGEMENT
 Claim Nos. 5812 and 5813 of 2014
IN THE HIGH COURT OF JUSTICE (IN ENGLAND AND WALES)
CHANCERY DIVISION
COMPANIES COURT

IN THE MATTERS OF
OIC RUN-OFF LIMITED
 (formerly Ralli Brothers Insurance Company Limited and The Orion Insurance Company plc)

— and —
THE LONDON AND OVERSEAS INSURANCE COMPANY LIMITED
 (formerly Hull Underwriters' Association Limited and The London and Overseas Insurance Company plc) (both subject to a scheme of arrangement)

IN THE MATTER OF THE COMPANIES ACT 2006
 NOTICE IS HEREBY GIVEN that, by an order dated 29 October 2015 made in the above matters (the "Order"), the High Court of Justice of England and Wales (the "Court") has sanctioned an amending scheme of arrangement proposed to be made between the above companies (the "Companies") and their respective Scheme Creditors pursuant to Part 26 of the Companies Act 2006 (the "Amending Scheme"), which was voted on and approved by Scheme Creditors during six meetings held on 11 December 2014. Unless otherwise defined in this notice, all capitalised terms used in this notice have the same meaning as given to them in the Amending Scheme.

On 11 January 2016, the United States Bankruptcy Court issued an order under Chapter 15 of the United States Bankruptcy Code (the "US Bankruptcy Code") granting recognition to and enforcing the Amending Scheme under the US Bankruptcy Code from 11 January 2016 (the "US Order").

Following the issuance of the US Order, a copy of the Order sanctioning the Amending Scheme was delivered to the Registrar of Companies in England and Wales for registration on 14 January 2016. The Amending Scheme became effective for the Companies on that date. All Scheme Creditors are therefore now bound by the provisions of the Amending Scheme.

Claim Forms may be submitted to the Companies either via the Website at www.oicrun-offtd.com or, upon request by the Scheme Creditor, by completing and returning a hard copy of the Claim Form by post. The Website contains important information and guidelines explaining the process for the submission of Claim Forms.

Scheme Creditors are required to provide full details of their claim(s) against the Companies, including any Notified Outstanding Liabilities and IBNR Liabilities, together with all Supporting Information, by completing and submitting a Claim Form, either electronically or (on request by the Scheme Creditor) by post, so as to be received by the Companies **by no later than midnight (English time) on 12 September 2016** (the "Bar Date").

The requirement to submit a Claim Form before the Bar Date applies to all Scheme Creditors other than NNOPIC, Opt Out Qualifying ILU Policyholders, Protected Policyholders, Potentially Protected Policyholders, No Notice Individual Creditors and those Qualifying ILU Policyholders who may, in certain very limited circumstances, bring a claim against the Companies after the Bar Date under the terms of the Amending Scheme.

Any Scheme Creditor to whom the Bar Date applies and who does not return a Claim Form so as to be received by the Companies before the

Bar Date, and who has not elected to have its voting and proxy form or any other form that it has submitted (as the case may be) treated as its Claim Form, will be deemed to have accepted the details of its claims (net of any Security Interest and Offset Amount) set out in the Claim Form made available to the Scheme Creditor by the Companies on the Website. Scheme Creditors who have additional Scheme Liabilities (including any Notified Outstanding Liabilities and/or IBNR Liabilities): (i) which are not shown on their Claim Form; or (ii) who do not have a Claim Form, and who, in each case, do not submit details of their claims on their Claim Form before the Bar Date, will receive no payment in respect of those additional claims under the Amending Scheme.

The Companies will make available on the Website a Claim Form for each Scheme Creditor whom the Companies believe has or may have a claim against either or both of the Companies. The Claim Form will include, to the extent known by the Companies details of:

- certain policies held by that Scheme Creditor;
- the Scheme Creditor's Established Liabilities; and
- the Scheme Creditor's Agreed Liabilities.

Each Scheme Creditor will be provided with an individual Website login ID and password, which will enable that Scheme Creditor to access the secure area of the Website containing their Claim Form as prepared by the Companies. Alternatively, Scheme Creditors may request a hard copy version of the Claim Form by post from the Run-off Company.

Any Qualifying ILU Policyholder who wishes (in respect of all Qualifying ILU Policies held by that Qualifying ILU Policyholder) to opt out of the crystallisation and payment provisions of the Amending Scheme must submit an Opt Out Form, either electronically or (upon request by the Qualifying ILU Policyholder) by post, so as to be received by the Companies by no later than the Bar Date.

Any Scheme Creditor which has any questions concerning this notice or the action that it is required to take, or which requires assistance in completing its Claim Form, should contact the Run-off Company using the contact details set out below. Any person who is, or who considers itself to be a Scheme Creditor, and who has not received by post a copy of this notice, an Opt Out Form, a Postal Service Request or a schedule with its individual Website login ID and password, should also contact the Run-off Company using the contact details set out below.

Copies of the Amending Scheme documents can be downloaded from the Website at www.oicrun-offtd.com. Alternatively, hard copies can be obtained, free of charge, by sending a request to the Run-off Company using the contact details below. Further information may be obtained from the Website or upon request from the Run-off Company. The contact details for the Run-off Company are as follows:

By post: Armour Risk Management Limited, 4th Floor, 20 Old Broad Street, London, EC2N 1DP, United Kingdom

By email: Disclosurehelpdesk@armourrisk.com

By phone: +44 (0) 20 7382 2020

By fax: +44 (0) 20 7382 2001

Date 15 February 2016

Hogan Lovells International LLP

Atlantic House

50 Holborn Viaduct

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Tel: +44 (0) 20 7296 2000

Fax: +44 (0) 20 7296 2001

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Solicitors to the Scheme Administrators

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Humble Independent School District welcomes inquiries from interested insurance carriers for the July 1, 2016 renewal of the following coverages: Property, Storage, Tank Pollution Liability, Commercial Crime, Student Blanket, Professional, Student Blanket Accident, Student Accident Catastrophe Coverage. Humble ISD serves over 41,000 students in the Humble, Texas area with an annual operating budget of \$348,830,286. See www.humbleisd.net. To receive information on the insurance submission requirements, contact: Shelley.Vineyard@humble.k12.tx.us (281-641-8989) no later than April 1, 2016. **Please note, this is not a request for insurance brokerage services.**

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NEUROMETRIX INC.

NeuroMetrix Inc.'s Quell device emits vibrations that stimulate the wearer's nerves to decrease the perception of pain.

ALTERNATIVE

Continued from page 4

right now," he said. We are open to reconsidering it based on good evidence."

"If workers comp insurers want doctors to use less opioids, they're going to have to cover alternatives to opioids that are effective," Dr. Franklin said.

Chiropractic treatment is one "highly mainstream" alternative the state does allow, and injured

workers who see a chiropractor at the beginning of a case are less likely to go on long-term disability, he said.

"For the most part, chiropractors are responsible, and they don't prescribe opioids," Dr. Franklin said. "They have been extremely effective."

Given that cognitive behavioral therapy, which most states now cover, once was considered an alternative treatment, it's clear the industry is open to new therapies.

Medical technology company

NeuroMetrix Inc. is counting on that. Its Quell device, approved by the U.S. Food and Drug Administration, is worn on the upper calf and emits vibrations that stimulate the wearer's nerves to decrease the perception of pain, said Dr. Shai Gozani, CEO of the Waltham, Massachusetts-based firm.

The device, available since June, with an upgraded model put out March 1, has yet to make its way into the workers comp industry, but "we're starting to get interest from insurers and self-insured employers," Dr. Gozani said.

"Every now and then, we'll get some things that are approved that are not supported," such as aromatherapy, said Dr. Joel E. Mata, San Diego-based medical director of third-party administrator and managed care services provider CorVel Corp. "So long as the person can demonstrate an increased ability to function objectively, then it seems fair that the person should continue to have authorization for continual treatment, up to a reasonable amount."

Dr. Mata said activity-based treatments such as yoga are more likely to be covered under comp since occupational health guidelines tend to support active treat-

ments over passive treatments, such as massage therapy, that provide only temporary relief.

Despite evidence that yoga is a successful pain management tool for some, not all workers comp professionals see the value in covering it, said Mark Pew, senior vice president at Duluth, Georgia-based medical management company Prium.

In addition, "a gym membership isn't a bad investment," since it gets an injured worker moving and encourages socialization, which "is a key point they lose when they don't go to work everyday," Mr. Pew said.

Massage therapy might still be beneficial periodically if it helps loosen tight muscles, Mr. Pew said, but payers could argue that "rigorous stretching exercises or a more active lifestyle might do the same thing."

If alternative treatments increase function and quality of life, decrease prescription drug reliance and help someone to achieve "true management of pain, not sedation ... whatever the modality is, whatever works, that's what we should pay for," Mr. Pew said.

"What that means is that (workers comp payers) might need to experiment with different things," he added.

REDOMESTICATE

Continued from page 4

sions" with the Central Bank of Ireland, the Irish insurance regulator, before deciding to move to Bermuda.

XL said the change is expected to have no material impact on its financial results, including its global effective tax rate.

A spokeswoman for XL Catlin said that the company pays tax in many jurisdictions around the world where it operates and where losses occur.

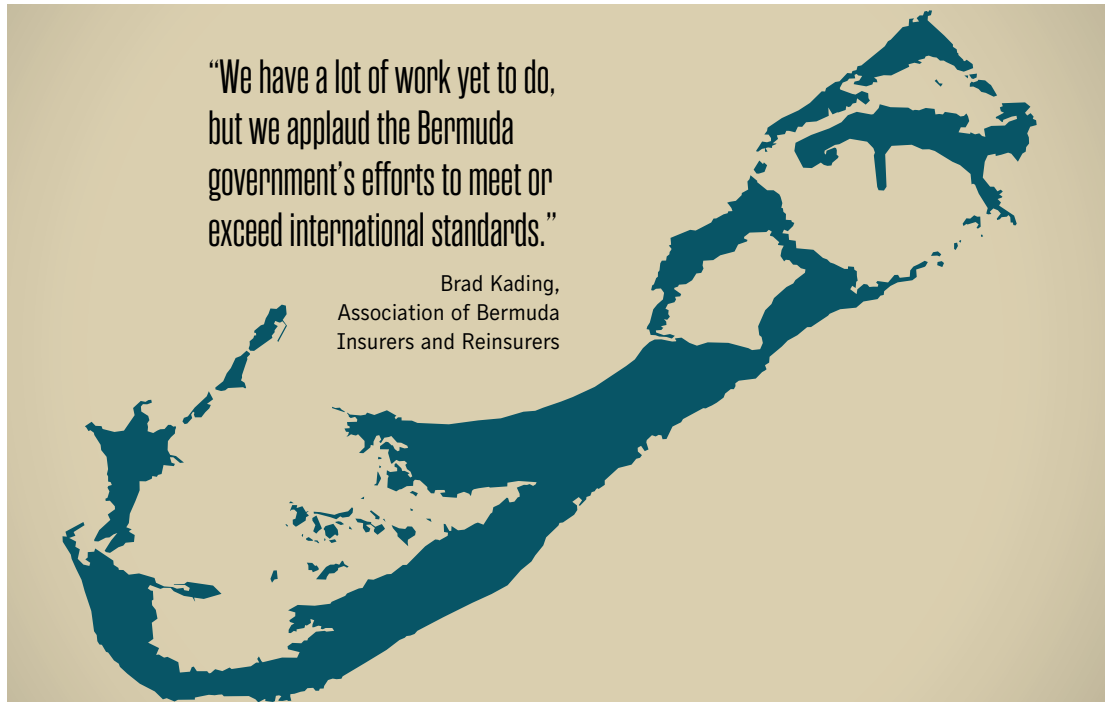
"This is not even remotely about trying to chase the lowest tax dollar," said a source who asked not to be named.

Its original move to Dublin was in part due to reputational concerns.

In its recent SEC filing, XL stated that: The move to Dublin came about after a reviewing several factors, "including reputational, political and other risks because of negative publicity regarding companies that were incorporated in jurisdictions such as the Cayman Islands at the time and the concomitant potential risks" on XL's global business platforms.

The latest move to Bermuda is a holding company matter and will not materially affect the company's shareholders, employees or clients, a source said.

XL's domicile move to Bermuda "is a signal that Bermuda's insurance regulation meets critical international and bilateral reg-



ulatory standards," Brad Kading, president of the Association of Bermuda Insurers and Reinsurers, said in a statement.

Achieving Solvency II equivalence will reap dividends for the domicile, he said.

"We have a lot of work yet to do, but we applaud the Bermuda government's efforts to meet or exceed international standards, not only on financial market regulation, but also with the ever-evolving standards on tax law transparency, cooperation and enforcement," Mr. Kading said.

"We underwrite here, we pool global risk here, and we make business decisions here," he said. "If you want to operate an insurer with a Post Office box, you

don't do it here," Mr. Kading said in the statement.

Beazley, which became incorporated in Jersey and a tax resident in Ireland in 2009, said at the time that it was doing so to take advantage of a more favorable tax regime.

But of its recent decision to return to London, Beazley said it would "simplify the management and decision-making of the group and allow shareholders access to a U.K. dividend stream."

"Following legislative changes in the (U.K) Finance Act 2012 relating to controlled foreign companies, the directors anticipate that there will be no material change in the group's reported tax rate, or taxation paid as a

result of the change in the group's tax residence," Beazley said in a statement.

When choosing a domicile, 95% of insurers and reinsurers participating in the Grant Thornton study said easy access to markets and simple, clear regulation were the biggest drivers of their choice of domicile.

Seventy percent cited simple, clear regulation; about 58% cited realistic capital adequacy requirements; 55%, English as the language of business; 50%, easy access to markets; 45%, a respected, credible regulator; 40%, a low corporate tax rate; 25%, a plentiful talent pool; and nearly 11%, attractive living and working conditions.

focused on, and we don't think it's going away," said George Hill, New York-based equity research analyst at Deutsche Bank A.G.

Buzz surrounding drug price sticker shock has focused largely on hepatitis C drugs such as Sovaldi, introduced in 2013 with a cost of about \$84,000 per course of treatment; and successor Harvoni, which debuted in 2014 at an even higher \$94,500 per course.

But the biggest issue for employers and other payers is a pipeline of cancer drugs hitting the market, several experts said during the Pharmacy Benefit Management Institute's Feb. 29-March 2 conference in Palm Springs, California.

"Enormous numbers of drugs are coming out (for) cancer and they are coming out at price points we have never seen before," Dr. Miller said. "We talk about the average chemotherapy now costing over \$100,000 a year, 14 million patients with cancer — you can do the math. We're talking about an enormous spend for cancer."

But experts say it's hard to contain costs when it comes to cancer.

"Most oncology drugs are covered under the medical benefit, where there is less oversight," Mr. Hill said. "It's hard to get very aggressive in cost containment in oncology without looking terrible."

"Cancer was an area in benefit design that, not so many years ago, no one would touch with a 10-foot pole. You were afraid to say no," said Sharon Frazee, vice president of research and education at Plano, Texas-based PBMI.

Still, she said, employers and other payers are "less afraid, more willing to say, 'Let's make reasoned choices; let's work together to do this,' and to explain to people why this drug is preferred over that drug," she said, adding there's always an appeals process for patients with a medical necessity.

Employers and other payers are using cost-sharing tiers and formulary exclusions to control specialty drug costs, experts said.

Express Scripts is poised to tackle cancer drug prices using indication-based pricing, which means it will pay more for a drug when it's used for more effective treatment. For example, the PBM will reimburse the drugmaker at a higher rate when Tarceva is used to fight lung cancer versus pancreatic cancer, because the drug is more effective in treating lung cancer, Dr. Miller said.

"It's basically disincentivizing the overuse of drugs that have very little impact on survival," Ms. Frazee said.

Yet the conversation about high drug prices may help ultimately lower them, Mr. Hill said.

"Even the Republicans are talking about drug pricing and drug price control," he said. "If you continue to gouge the system, you will draw the ire of regulators on both sides."



ness challenges, and gives employees who enroll a Garmin wearable fitness device as well as up to \$300 for completing fitness goals.

“We need employees to be safe at work, and if they are having heart issues or diabetes issues or asthma issues, they are not going to be capable of giving their 100%,” Ms. Swam said. “Tying all of that in to executive support and really linking it back to safety I think made us successful.”

Company leadership also is essential to Fairfield, Connecticut-based industrial firm General Electric’s culture of health, which it has honed for the past seven to eight years under the banner Health-Ahead.

The multifaceted program focuses on everything from fitness to stress management, and nutrition to reducing health-related absences. Leadership involvement, preventive health programs, worksite safety initiatives and encouraging health care consumerism also are part of the effort, said Dr. Ben Hoffman, the company’s chief medical officer.

For General Electric, building that culture is not so much about reducing health costs or a return on investment; it is about value and business performance, he said.

“For us to be successful ... the people need to be healthy, because if they’re not healthy, they can’t be productive and innovative, and GE is built on a history of innovation,” Dr. Hoffman said. “A culture of health is not the only element of our ‘secret sauce’ that has made us successful over 100 years, but it’s certainly a very important element of that.”

There is a business case to be made for having a culture of health, recent studies show. In a January study in the *Journal of Occupational and Environmental Medicine*, researchers evaluated the stock performance of 45 publicly traded companies that scored high on a workplace health and well-being scorecard from the Health Enhancement Research Organization and Mercer L.L.C.

“The high-scoring portfolio of publicly traded companies appreciated 235%, compared with the S&P 500 portfolio appreciation of 159%, over a trading period of 2009 through 2014,” according to the study.

CULTURE

Continued from page 3

vice president of workforce well-being, productivity and human capital at the Washington-based National Business Group on Health.

It’s not a one-off wellness program or an isolated perk; rather, it’s an atmosphere that permeates an organization encouraging workers to be healthy and happy, sources said.

Companies such as General Electric Co. and LafargeHolcim understand that building such a culture can help improve worker engagement and productivity and business performance, as well as reduce absences and health costs.

Still, “the culture piece is very difficult to pin down,” Ms. Heinen said.

It’s also something that does not yet exist for most employers. According to a study earlier this year by the NBSG and Aon Hewitt, just 29% of employees characterized their work environment as having a strong culture of health, up from 24% in 2014.

In companies that have achieved strong cultures of health, leadership is fully engaged with the health initiatives, said Optum’s Mr. Serxner. Such companies’ health policies go beyond smoking-cessation, such as providing healthy cafeteria and catered food options. They also may add stand-

“We need employees to be safe at work, and if they are having heart issues or diabetes issues or asthma issues, they are not going to be capable of giving their 100%.”

Philia Swam, LafargeHolcim

ing desks or make stairways more accessible, he said.

“The culture piece is where the employee feels supported and enabled. So the food is healthy, there’s access to the gym and things enable the employee to do what they want to do — to do what they can do to support their health,” Ms. Heinen said.

Dave Ratcliffe, Washington-based principal at consultant Xerox HR Services, said the process starts with mining the health and business data to find out what can be improved.

For Chicago-based building material manufacturer LafargeHolcim, known as Lafarge North America Inc. before parent Lafarge S.A. merged last year with Holcim Ltd., building a culture of health began in 2004.

The legacy Lafarge was plagued by double-digit health cost increases because employees weren’t getting preventive health exams, so heart disease and cancer were already advanced when discovered, said Philia Swam, Herndon, Virginia-based manager of health and wellness at LafargeHolcim.

So in 2006, Lafarge made all preventive care for employees and spouses free of cost when in-network. Financial incentives encouraged employees to complete online health risk assessments. The firm also developed a value-based formulary to promote drug compliance. In 2008, it launched free onsite health screenings to make it easier for workers to access care.

The company also promotes fit-

that bodes very well, said Nat Wiencke, senior vice president of the Property Casualty Insurers Association of America’s Washington office.

“We’re optimistic this bill will be considered under suspension of the rules, which is reserved for noncontroversial measures. We’re hopeful there will be time on the calendar as Congress figures out the budget and appropriations process that there will be time to bring this bill up in short order,” he said.

“If the House has an overwhelming vote, that makes the senate process that much easier to go through,” he said

pretty good as long as we have a bipartisan bill going forward, which is what we have today,” he said.

“It’s pretty remarkable a committee of Congress has unanimously passed a bipartisan bill, and that’s to be commended,” said Frank Nutter, Washington-based president of the Reinsurance Association of America.

It reflects a desire on the part of Democrats and Republicans to encourage and create incentive for a private market for flood insurance.

“Anytime you have a vote coming unanimously out of committee,

“It’s pretty remarkable a committee of Congress has unanimously passed a bipartisan bill, and that’s to be commended.”

Frank Nutter,
Reinsurance Association
of America

for 242 alleged violations; Zurich North America, \$1.1 million for 220 alleged violations;

Sedgwick, \$940,000 for 188 alleged violations;

SCIF, \$510,000 for 102 alleged violations;

Los Angeles County, \$370,000 for 74 alleged violations;

Amtrust, \$340,000 for 68 alleged violations; and

CorVel, \$255,000 for 51 alleged violations.

California law allows the state to assess penalties of up to \$5,000 per violation for failing to provide information within 15 calendar days for independent medical reviews.

A spokeswoman for SCIF said the workers comp insurer was ordered to provide information concerning independent medical review requests between 2013 and 2015, which Maximus said it failed to receive a timely response from SCIF.

Those requests were among 47,744 workers comp claims administered by SCIF during that time, the spokeswoman said.

“Our research into the matter revealed that we responded timely to 31 of the cases, but did not respond or responded late in 71 cases,” the spokeswoman said in an emailed statement.

She noted that SCIF’s case is being reviewed by the California Department of Workers Compensation.

“State Fund is committed to making sure that we respond timely to every Maximus request for information that we receive to ensure that IMR works as quickly as possible for the injured employees we serve,” the spokeswoman said in the statement.

“In addition to strengthening our regional oversight of IMR requests, we have enhanced our procedures for managing the manifests we receive from Maximus as well our scan/index process. These measures have improved our performance, and today we are current on IMR requests,” she said.

A spokeswoman for Broadspire’s parent company, Atlanta-based Crawford & Co., declined comment on the proposed fines, but said in a statement that the TPA is “still in active discussions” with the California workers comp department.

A spokeswoman for Zurich said in a statement that the insurer “has and will continue to fully cooperate with” the California workers comp division and “will not be sharing any additional information.”

Other companies facing fines could not be reached for comment.

FLOODS

Continued from page 3

when you’re trying to get something enacted.”

“We feel momentum, and we’re going to work it hard,” Mr. Wood said.

“Hopefully, the vote in the House could create some momentum for the Senate to act,” said Tom Santos, a vice president at the American Insurance Association in Washington.

If the full House follows the committee’s lead, “I think the odds are

RESPONDERS

Continued from page 1

Ironically, OSHA's safety proposal would not apply to the town and situation that sparked the proposal.

At OSHA's request, a subcommittee of the National Advisory Committee for Occupational Safety and Health drafted the proposed standard. It would require emergency service organizations to write and implement a comprehensive risk management plan covering risks associated with administration, facilities, training, vehicle operations, protective clothing and equipment, emergency and nonemergency incidents and related activities.

It also would include hazard identification and risk evaluation, control techniques and monitoring, among other actions.

The draft is directly aimed at addressing a key vulnerability for emergency services organizations, particularly in responding to incidents at facilities housing hazardous materials.

A January report by the U.S. Chemical Safety and Hazard Investigation Board about the 2013 Texas blast concluded that the local volunteer fire department likely was unaware of and unprepared for the detonation of ammonium nitrate materials at



AP PHOTO

A West, Texas, apartment building sustained major damage from an explosion in a nearby fertilizer plant in 2013.

the facility.

"The reason we're here now is because of the incident in the city of West, Texas," Rick Ingram, health and safety adviser at BP P.L.C. in Goliad, Texas, and co-chair of the subcommittee, said during a subcommittee meeting in Washington last month. "What was missing there was the risk management plan."

But some provisions of the OSHA plan have sparked controversy, including a ban on iconic fire station poles in new construction, effective two years after a final rule is published, to address serious injuries and even fatalities.

"The poles are a traditional

thing," but they are fraught with injuries, said Patrick Morrison, assistant to the general president for occupational health, safety and medicine at the International Association of Fire Fighters in Washington and a member of the subcommittee. "They're dangerous."

In addition, the draft proposal would require emergency responders to undergo thorough medical evaluations each year, but experts say that would significantly strain the resources of state and local emergency services organizations.

"I'm just concerned that this is so specific that this would force a lot of my rural fire departments out of

business," said Bill Warren, director of the Arizona Division of Occupational Safety and Health in Phoenix and a subcommittee member.

The proposals would have limited impact because many emergency responders — primarily state, county and municipal employers — do not fall under OSHA's jurisdiction. The Occupational Safety and Health Act covers most private employees, but not state and local governmental workers unless they are in a state that has an OSHA-approved state plan. This means that the proposed rule would apply in the 26 states such as Oregon and Washington that have OSHA-approved state plans, but not in the 24 states including Texas and Pennsylvania that do not have OSHA-approved state plans.

"No matter how good the rule is that eventually might get adopted, more than half of the country won't have to comply," said Anne Soiza, assistant director of the Washington Division of Occupational Safety and Health in Olympia and chair of the OSHA advisory committee.

Given the limitations on OSHA's authority, the proposal would apply only to an estimated 10% to 25% of employers and employees at emergency services organizations in the 24 states without an OSHA-approved state plan, said Michael Wood, administrator of

the Oregon Occupational Safety and Health Division of the Department of Consumer and Business Services in Salem and a past chair of the Occupational Safety and Health Plan Association.

The association objected to OSHA's intent to develop the standard, in part because it is "particularly inappropriate" for OSHA to attempt to regulate state and local government emergency response — an area where it has no jurisdiction, experience or expertise, according to a letter the association sent last month to Assistant Secretary for Occupational Safety and Health David Michaels. Although the association supports OSHA's information-gathering activities in the wake of the West Fertilizer disaster, "this rule would have no regulatory impact on the fire department in West, Texas," Mr. Wood said.

"That concern isn't because we disagree that there is a significant safety and health issue or that we don't share a deep awareness of the particular risks faced by firefighters and by folks more broadly involved in emergency response," he said. "Our concern really has to do with the notion that federal OSHA is in this rule-making crafting a rule that it will, in a broad sense, not need to live with because across-the-board federal OSHA does not have authority over state and local government."

ERISA

Continued from page 1

Mutual in ordering the 6th U.S. Circuit Court of Appeals to reconsider its 2014 ruling that upheld a 2011 Michigan law imposing a 1% tax on employers' paid health care claims. Lawmakers later lowered the tax to its current 0.75% rate.

The tax, which generates several hundred million dollars a year to help fund Michigan's Medicaid program, was imposed on health insurers with fully insured plans and on third-party claims administrators for self-insured plans.

The Self-Insurance Institute of America sued to overturn the tax, arguing ERISA pre-empted the state law due to its imposition of administrative burdens on self-insured plans.

But a federal judge and the 6th Circuit rejected that argument.

"In reality, the act does not require a plan administrator to change how it administers the plan at all, and, thus, this argument fails," Judge Karen Wilson Moore wrote for the appeals court in its 2014 unanimous ruling.

The SIIA then turned to the Supreme Court, which last week sent the case back to the 6th Circuit to reconsider its ruling in *Self-Insurance Institute of America v. Rick Snyder et al.*

In a one-paragraph statement, the high court returned the case to the appeals court "for further

SELF-FUNDING

The larger the employer, the more likely it is to self-fund its health plans*, a percentage that has held nearly steady since 2010.

Workforce size	2015	2014	2013	2012	2011	2010
10-499 employees	15%	15%	11%	14%	11%	12%
500-999 employees	60%	55%	55%	63%	57%	57%
1,000-4,999 employees	80%	83%	79%	80%	80%	77%
5,000 or more employees	94%	93%	93%	93%	93%	91%

*2014-2015 data based on the employer's largest medical plan of any type; 2010-2013 data based on the most prevalent preferred provider organization plan. Source: Mercer L.L.C.

reconsideration" in light of its ruling in *Liberty Mutual*.

Some observers are optimistic that the 6th Circuit will overturn Michigan's 1% tax on paid health claims.

"We believe there is a reasonable expectation that the 6th Circuit will reverse its original ruling because it relied on a very narrow interpretation of ERISA pre-emption," said Mike Ferguson, president and CEO of the Simpsonville, South Carolina-based SIIA.

Others are less certain.

"The 6th Circuit will continue to see the Michigan law as a tax law, not pre-empted by ERISA," said Nancy Ross, a partner at Mayer

Brown L.L.P. in Chicago. "The 6th Circuit already analyzed the Vermont law in another case and found ways to distinguish it from the Michigan law."

The short-term impact of the Supreme Court's decision to send the Michigan health care claims tax case back to the appeals court, observers say, is that it will likely discourage other states from passing similar health claim taxes — at least until the Michigan case is resolved.

"Hopefully, this will give pause to other states who are considering doing something similar," said Steve Wojcik, vice president of public policy at the National

Business Group on Health in Washington.

At least one state — Illinois — has introduced legislation virtually identical to the Michigan law. The proposal to impose a 1% tax on paid health claims is part of H.B. 5750, which has been sent to a committee.

Regardless of how the 6th Circuit rules, the losing party is likely to appeal.

"You have to figure the case will be back one day before the Supreme Court," said Joseph Ronan, senior counsel at Morgan, Lewis & Bockius L.L.P. in Philadelphia.

Several observers are optimistic

the high court would overturn the Michigan law.

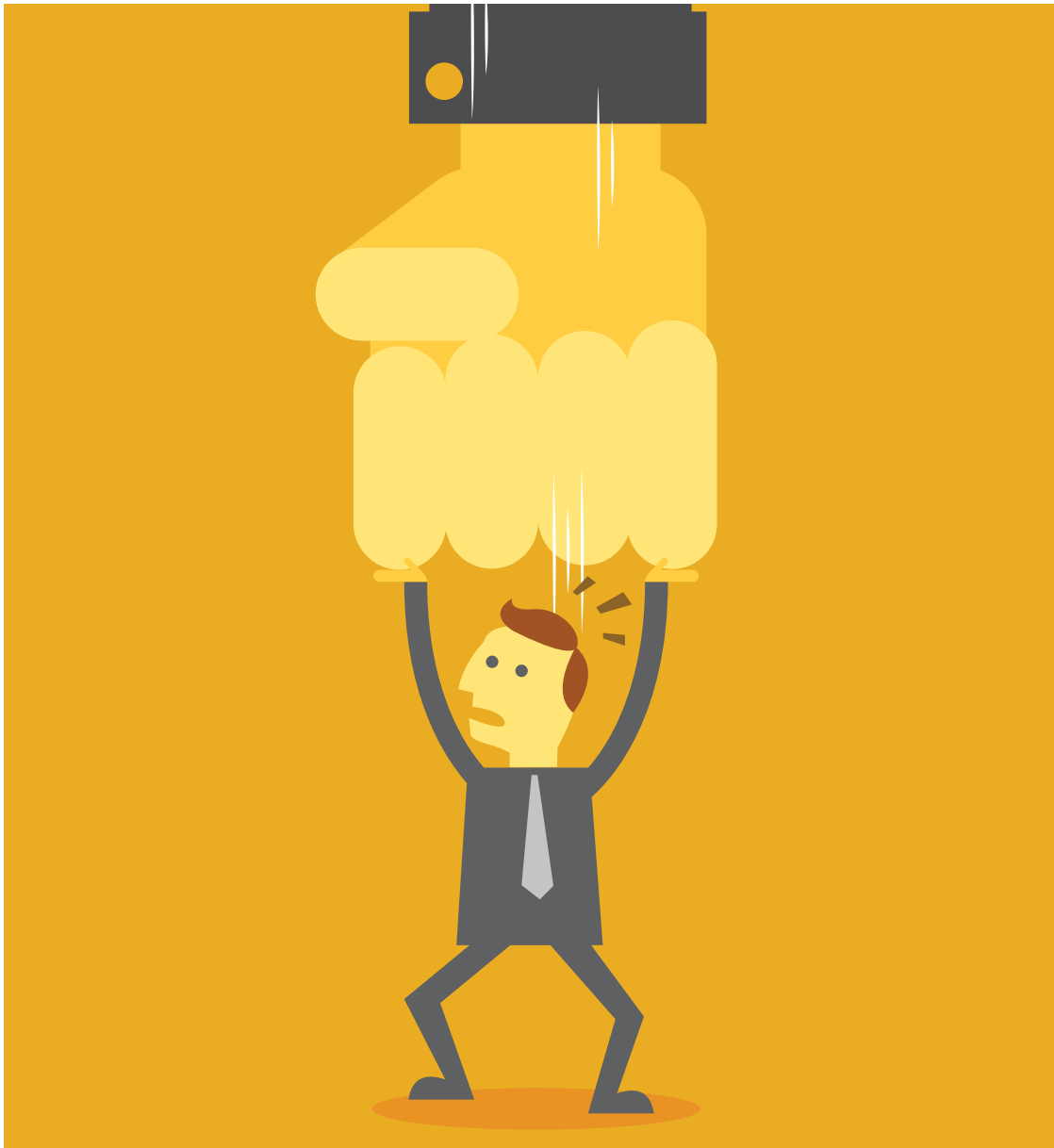
If the Supreme Court didn't think the Michigan health care claims tax was not pre-empted by ERISA, "I am not sure why they would have sent the case back to the appeals court," said Gretchen Young, senior vice president of health policy at the ERISA Industry Committee in Washington.

Employers will be watching the case closely, particularly those with operations across the country, should the Michigan law be upheld and other states moved to pass comparable measures.

"We are very concerned about these kind of laws, which can impose considerable burdens on multistate employers," said Kathryn Wilber, senior counsel of health policy at the American Benefits Council in Washington.



Visit *Business Insurance's* multimedia Web page to hear Mike Ferguson of the Simpsonville, South Carolina-based Self-Insurance Institute of America discuss Michigan's 1% tax on paid health claims with *Business Insurance* Editor-at-Large Jerry Geisel.



RETALIATION

Continued from page 1

retaliation advice was last updated in 1998 and that seven Supreme Court decisions since then have made “our old guidance woefully outdated.”

These rulings have further developed the law on retaliation under EEOC-enforced laws, such as by holding that oral complaints are sufficient to support retaliation cases under the federal Fair Labor Standards Act, as in 2011’s *Kasten v. Saint-Gobain Performance Plastics Corp.*

The proposal analyzes and discusses the three elements of a retaliation claim — protected activity, adverse job actions and the causal connection between the two — and suggests best practices to avoid such claims.

But legal experts say the EEOC’s proposal stretches the current interpretation of the law. For instance, it says lodging an internal complaint is protected activity even in the absence of a parallel EEOC charge, which observers say is contrary to rulings by several courts.

The guidance is “obviously an indication by the EEOC that they’re going to take the most expansive view possible” of the issue, said Kristin E. Michaels, a partner at McDermott Will & Emery L.L.P. in Chicago.

“The EEOC is creating a narrative as to what it thinks the retaliation regulations should say, not what they currently say,” said Kevin M. Kraham, a shareholder at Littler Mendelson P.C. in Washington. “It effectively shifts the burden of proof in retaliation cases to employers to disprove a retaliatory motive ... it’s difficult, if not impossible, to disprove a negative.”

“It more and more moves the employer

away from at-will employment, and is going to require more documentation as to the reasons for termination,” said Nathaniel Glasser, a partner at Epstein Becker & Green P.C. in Washington.

“The agency is using this guidance to try and set the tone for the unsettled areas of the law,” said Meredith C. Swartz, an associate at Ballard Spahr L.L.P. in Philadelphia.

The degree to which the courts are likely to give the EEOC deference on the issue will vary, observers say.

While the guidance is not binding, “it’s going to vary court to court, circuit to circuit,”

“We essentially consider all the public input, and then the commission decides what kind of changes it wants to make, if any, and then they will vote on a final version of the document.”

Carol R. Miaskoff, U.S. Equal Employment Opportunity Commission

“Even if the circuit in which the complaint is raised doesn’t ultimately agree with the EEOC guidance, the employer might be stuck in a position where the (EEOC) investigator isn’t aware that that’s how the circuit,” said H. Bernard Tisdale, office managing shareholder at Ogletree, Deakins, Nash, Smoak & Stewart P.C. in Charlotte, North Carolina. “It’s also going to depend on the facts of each particular situation. I don’t see a wholesale change across the country just simply based on this guidance.”

Mr. Glasser said that still would pose challenges for employers trying to defend themselves.

“Even if the circuit in which the complaint is raised doesn’t ultimately agree with the EEOC guidance, the employer might be stuck in a position where the (EEOC) investigator isn’t aware that that’s how the circuit

views that issue, or doesn’t care,” requiring the employer to mount a defense, he said.

Some observers believe the guidance could lead to more retaliation claims filed against employers.

However, Harris M. Mufson, senior counsel at Proskauer Rose L.L.P. in New York, said, “This will just change the manner in which the EEOC investigates and pursues retaliation claims.”

The EEOC’s Ms. Miaskoff said no date has been set to issue the final guidance.

“We essentially consider all the public input, and then the commission decides what kind of changes it wants to make, if any, and then they will vote on a final version of the document,” she said.

In the interim, employers should “take every complaint very seriously, they should investigate, and obviously to the extent there is a situation that arises where you need to take an adverse employment action ... just make sure the circumstances justify it and there are legitimate, nonretaliatory reasons for taking it,” said Christopher G. Gegwich, a partner at Nixon Peabody L.L.P. in Jericho, New York.

“Ultimately, what the guidance will do is require employers to be much more adept at documenting negative performance issues or other problems by an employee in the workplace, so they can make sure that after the fact, when an adverse decision is made,” they can show it was not based on conduct such as participating in an internal investigation, Mr. Glasser said.

“In the end, you’re throwing it in front of a jury, and the jury is not going to be concerned about due process,” said Mr. Tisdale. The jury’s concern will be, “Was the employer fair? That’s going to be the ultimate arbiter in that situation. Don’t rely on legalese,” he said.

Key elements of retaliation claims

There are three elements of a retaliation claim, according to the “Proposed Enforcement Guidance on Retaliation and Related Issues” released by the U.S. Equal Employment Opportunity Commission in January. They are:

Protected activity: Protected activity encompasses workers who have made internal complaints even before a discrimination charge is filed with the EEOC.

“As courts have observed, these terms are broad, unqualified and not expressly limited to investigations conducted by the EEOC,” says the proposed guidance. Opposition to an employer’s stance need only be based on a “reasonable good faith belief,” and it is reasonable opposition to inform an employer of discrimination or harassment even if it has not risen to the level of being “severe or pervasive,” the EEOC said.

Employer adverse action: “An action need not be materially adverse standing alone, as long as the employer’s retaliatory conduct, considered as a whole, would deter protected activity,” says the guidance.

Even something outside the workplace can be considered an adverse action, such as terminating a provider contract with an employee’s husband, said H. Bernard Tisdale, office managing shareholder at Ogletree, Deakins, Nash, Smoak & Stewart P.C. in Charlotte, North Carolina.

Causal connection: “Unlawful retaliation is established when it proves that the employer took the adverse action because the charging party engaged in protected activity,” says the proposal. In a section frequently cited by defense attorneys, the guidance says an employer’s explanation may be discredited if the employee can describe a “convincing mosaic” of circumstantial evidence that “would support the inference of retaliatory animus.”

This provision “invites confusion, abuse and the potential waste of the commission’s limited resources,” said Kevin M. Kraham, a shareholder at Littler Mendelson P.C. in Washington.

“How does one cobble together a convincing mosaic out of circumstantial evidence?” This “would appear to attempt to make the job easier for a charging party to prevail,” he said.

By Judy Greenwald



Packing heat at insurance agency

Employees of a Georgia aviation insurance company are now required to remain locked and loaded at work — a policy that the owner feels is right on target.

After employees get their weapons license, Lance Toland, owner of Lance Toland Associates Ltd., gives each employee a .410 revolver known as the “Judge.”

It’s a policy Mr. Toland implemented over the past six months in response to violent crime in Atlanta and local break-ins near one of his offices, according to reports.

“Everybody has one of these in their drawer or on their person. I would not want to come into one of my facilities,” Mr. Toland told WSB-TV station in Atlanta.

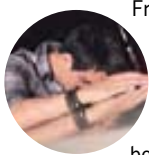
Mr. Toland owns offices in Atlanta, Griffin, Georgia, and St. Simons Island, Georgia, and sells aviation insurance worldwide, according to his website.

He said his 12 employees, most of whom are women, got their gun licenses three to four weeks after he implemented the policy, according to media reports.

Mr. Toland told media outlets that so far, no employee has had to pull the trigger.

Bachelor party antics don’t fly with airline

Probably not the best idea to mix international flights and drunken bachelor parties but one bridegroom and 11 of his pals thought otherwise. The group boarded a jet on a recent



Friday night in London heading to Bratislava, Slovakia, while overly intoxicated, according to news reports.

Barely able to stand, the lads became belligerent when the cabin crew refused to serve them more alcohol. The Ryanair plane’s captain decided to make an unscheduled landing in Berlin’s Schönefeld Airport 30 minutes after takeoff, to avoid the risk of the party members inflicting harm to other passengers, news reports said.

German police escorted six of the drunken dozen from Southampton, England off the plane after the pilot made the Berlin stop, putting an end to the stag party — which by then had mostly downgraded to an in the aisle drunken fist fight between two of the groomsmen. The groom-to-be was one of the six escorted off by police, and the remainder of the party continued on to their destination without him.

ZZ TOP LEADER COVERS ASSETS WITH LLOYD’S



TDC PHOTOGRAPHY/SHUTTERSTOCK.COM

Billy Gibbons of ZZ Top says his famous beard is insured.

Lloyd’s of London is famed for insuring the weird and the wonderful, and one of the world’s most iconic beard-wearers recently confirmed that his facial furniture is insured by the more-than-300-year-old insurance market. Billy Gibbons of bearded rockers ZZ Top told Fox 411 that his beard is insured at Lloyd’s but would not divulge for how much.

It isn’t the first time that Lloyd’s has underwritten risks to facial hair.

Years before today’s hipsters began stroking their beards while sipping craft beers, 40 members of a “whiskers club” in Derbyshire, England, insured their beards against fire and theft, according to Lloyd’s website.

And former Aussie cricketer Merv Hughes insured his splendid moustache at Lloyd’s.

But underwriters concerned about the risk of aggregation of facial hair losses may take some comfort in the contention by a British academic that we have reached “peak beard.”

Last year, medical historian Alun Withey from the University of Exeter, England, launched a three-year study entitled “Do Beards Matter?”

Mr. Withey told the Daily Mail newspaper that beards were beginning to face a backlash caused, in part, by the emergence of a new social tribe known as Yuccies — young urban creatives — which prefers a clean-shaven look.

Business Insurance isn’t all business all the time, and we know you’re not either. So visit www.businessinsurance.com for more Off Beat stories and monthly photo galleries featuring the best of the weirdest news about insurance, fraud, liability issues and related topics that make people and companies do funny, silly and strange things.

Pedicure scam trips up podiatrist

Putting your feet up and enjoying a nice pedicure can be just what the doctor ordered — except when it’s your actual doctor giving the pedicure.

Greenwich, Connecticut-based podiatrist Dr. Amira Mantoura on Monday received her sentence for submitting more than \$200,000 in false claims to Medicare, the Old Greenwich, Connecticut-based Greenwich Time news website reported.



“Between January 2009 and August 2013, Dr. Mantoura knowingly submitted materially false claims to the Medicare

program and to private insurance companies to obtain payment for a nail avulsion when she knew that she had not performed a nail avulsion. Rather than perform a nail avulsion, in most of these instances Dr. Mantoura had merely provided her patients with routine foot care including clipping the patients’ toenails,” Connecticut U.S. Attorney Deirdre M. Daly said in a statement.

A nail avulsion is a surgical procedure to treat an ingrown toenail. Dr. Mantoura performed little more than pedicures.

She was paid \$206,000 from the false claims she submitted to Medicare and Medicaid programs and private insurers, Greenwich Time reports.



U.K. bank execs promotion averse

It used to be the case that banking was among the most ambitious of professions.

But new U.K. rules to hold bosses accountable for wrongdoing at banks is deterring some from taking on senior roles and is even prompting senior executives to play down their own importance, according to Reuters.

The Senior Managers Regime, which came into force last week, is aimed at addressing public anger that few bankers were held to account after the 2008 financial crisis and scandals such as LIBOR and currency-market rigging, the newswire said.

The rules allow regulators to assign blame to named individuals rather than just firms.

And bankers deemed to exert “significant managerial influence” must sign up to a legal duty of responsibility and demonstrate what reasonable steps they took to prevent rulebreaking.

This, legal and compliance experts told Reuters, is prompting some firms to “juniorize” positions.

What's in your coffee?



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