

STRATEGIES

Workforce changes employers are making to limit growth in full-time employees eligible for health insurance

Percent using	Strategy
10%	Have, or will have by 2015, fewer employees working 30 or more hours per week
14%	Have made, or will make by 2015, other change in workforce strategy
76%	No changes planned

Source: Mercer L.L.C.

LIABILITY & LITIGATION

PROFESSIONAL SERVICES FIRMS FACE DILEMMA WITH POT CLIENTS

Insurers wary of offering professional liability cover



AP PHOTO

Workers trimmed marijuana at a dispensary and grow operation. Professionals serving the sector face liability issues.

BY JOANNE WOJCIK

Marijuana remains an illegal substance under federal law, leaving accounting, legal and other professionals who advise and serve the state-authorized medical and recreational marijuana industries doing so at their own risk.

Some lawyers who have served medical marijuana business clients in Colorado and Washington, the two states that legalized recreational marijuana use as of Jan. 1, have received cancellation notices from their professional liability insurers as their affiliation with those businesses became known.

Still, at least one California-based managing general agent not only continues providing professional liability coverage to accountants, lawyers and others with clients involved in cannabis businesses, the coverage will even pay legal defense

See MARIJUANA page 32

EMPLOYMENT PRACTICES

Whistle-blower rules expand to private firms

High court ruling extends protection to contractors

BY JUDY GREENWALD

Private companies that contract with publicly held firms can be held liable for violating the Sarbanes-Oxley Act of 2002 if they retaliate against employees that act as whistle-blowers against the public firms, the U.S. Supreme Court said in a ruling that expands many observers' understanding of the law.

Observers note, however, that ambiguity remains as to who within a privately held contractor or subcontractor working for a public company would be subject to Sarbanes-Oxley, and expect further litigation and, perhaps, new regulations on the issue.

"Given Congress' concern about contractor conduct of the kind that contributed to Enron's collapse, we regard with suspicion construction of (Sarbanes-Oxley's whistle-blower provision) to protect whistle-blowers only when they are employed by a public company, and not when they work for the public company's contractor," Justice Ruth Bader Ginsburg wrote for the 6-3 majority in *Jackie Hosang Lawson et al. v. FMR L.L.C. et al.* (see story, page 31).

The ruling overturned a February 2012 decision by a panel of the 1st U.S. Circuit Court of Appeals in Boston, which held that employees

See SOX page 31

HEALTH CARE REFORM

Employers react to reform law's 30-hour rule

BY JERRY GEISEL

Reducing the maximum number of hours part-time employees work each week was the only decision the Lawrence County, Pa., Board of Commissioners felt they could make to avoid huge costs imposed by the health care reform law.

Sixty to 65 of the western Pennsylvania county's 400 employees, including correctional officers and 911 call center dispatchers, are part-time. Working up to 32 hours a week, they were not eligible for health insurance coverage offered to full-time employees.

Under the Patient Protection and Affordable Care Act, employers such as Lawrence County will be required to offer health insurance to employees working an average of 30 hours a week starting in 2015

See PART-TIME page 31



Q&A: MANUEL LÓPEZ

Marsh's surety leader discusses how the business fits into the brokerage's growth strategy

PAGE 26



BENEFITS MANAGEMENT

Employers are linking wellness to their long-term disability plans to reduce premium costs

PAGE 8



INNOVATION AWARDS

Recognizing leadership and innovation in the design of new products for risk managers

PAGE 13



CAPTIVE TRENDS & PROFILES

More captive domiciles emerge as captive insurer formations continue to grow worldwide. Captive owners' concerns include the renewal of the U.S. Terrorism Risk Insurance Program Reauthorization Act.

PAGE 19

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*Balance sheets as of 9/30/2013 for the National Indemnity group of companies.
Financial information for the group may be found at www.nationalindemnity.com.

CONTENTS

FEATURES

MID-MARKET



Beyond intellectual property

Companies often safeguard patents and trademarks but fail to protect other valuable trade secrets and confidential information. 6

COMMENTARY

Making last wishes known



Advance care planning can reduce costs for end-of-life care, which accounts for about 25% of the Medicare

budget. Employers should urge workers to have "the conversation" with their families. 12

OFF BEAT



Wig guru sues Nicki Minaj

A spurned hair stylist is accusing Nicki Minaj of attempting to sweep their collective plans for a line of designer wigs under the rug. 34

SECTIONS

INTERNATIONAL 10

OPINIONS 12

RESEARCH & DATA 24

MARKET PULSE 25

PEOPLE 26

OFF BEAT 34

NEWS

WORKERS COMPENSATION

CHANGING COMP MARKET SEES INSURER REALIGNMENT

Liberty Mutual cedes No. 1 spot as it cuts exposure

BY SHEENA HARRISON

While Liberty Mutual Holding Co. Inc. is reducing its workers compensation exposure to avoid what its top executive called "severely underpriced" risks, the market is seeing reduced losses and increased premiums amid an uptick in employer hiring.

Liberty Mutual's move was evident in rankings released earlier this month by the National Association of Insurance Commissioners, which showed the Boston-based company now is the nation's second-largest workers comp insurer with \$3.6 billion in direct written comp premiums in 2013, down 14.2% from 2012.

At the same time, Travelers Cos. Inc. posted an 8.8% gain with \$4.14 billion in direct written comp premiums in 2013, taking the No. 1 spot Liberty Mutual had held for at least five years, according to the NAIC.

Travelers' "premiums went up by about the amount you'd expect if they were primarily maintaining their policy-in-force base and then getting market rate increases and organic growth from underlying payrolls and hiring," said Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Securities Inc. in Richmond,

Va. "Their share increase was pretty small, so I don't think taking business from (Liberty Mutual) had much to do with it."

Jim Wucherpfennig, vice president of workers compensation for Travelers, said the insurer has invested in programs and tools to help control its expenses.

"Medical costs currently make

man and CEO David H. Long said the insurer's workers comp exposure fell 26% in 2013 compared with 2012. That exposure is expected to decrease further with its pending sale of Summit Holdings Southeast Inc. to Cincinnati-based American Financial Group Inc., he said of the \$250 million deal expected to close by midyear.

TOP FIVE

The five largest workers compensation insurers in 2013, ranked by direct premiums written

Insurer	2013 premiums	% change	Loss ratio
Travelers Cos. Inc.	\$4.14 billion	8.8%	60%
Liberty Mutual Holding Co. Inc.	\$3.6 billion	(14.2%)	76.3%
Hartford Financial Services Group Inc.	\$3.3 billion	1.8%	61.8%
American International Group Inc.	\$2.8 billion	(3.5%)	61.1%
Zurich Insurance Group Ltd.	\$2.5 billion	(8.5%)	64.4%

Source: National Association of Insurance Commissioners

up 60% of workers compensation claim costs and are forecasted to account for nearly 70% of costs by 2020," Mr. Wucherpfennig said in an email. "The investments we have made put us in a position to effectively manage the medical costs associated with our customers' workers compensation claims in the years ahead."

In Liberty Mutual's fourth-quarter earnings conference call, Chair-

"The decline in workers comp leaves us with a better overall business mix in both commercial insurance and at the group level, where workers comp is now just 7.5% of group premiums," Mr. Long said during the conference call.

"We were prepared to lose a lot of business, in particular in workers compensation, that we thought

See COMP page 30

CAPTIVES

Captive owners buoyed by Tax Court decision

BY JOANNE WOJCIK

SCOTTSDALE, Ariz. — A U.S. Tax Court decision that allows a federal income tax deduction for premium payments by subsidiaries of Rent-A-Center Inc. to the company's Bermuda captive was not a "game changer" for captive owners.

"But it is maybe the first inning of what could become a nine-inning game, and it came out favorably for the taxpayer," said

Thomas M. Jones, a partner at law firm McDermott Will & Emery L.L.P.

In *Rent-A-Center Inc. v. Commissioner*, the Internal Revenue Service argued that the company's captive was a sham entity established to generate federal income tax benefits. But the court found that Rent-A-Center's Bermuda-based Legacy Insurance Co. Ltd. captive is a genuine insurance company providing real risk transfer for the subsidiaries.

"It's a little bit frustrating for our clients, because they say 'tell us the new rules,'" Mr. Jones said. But despite the court's Jan. 14 ruling, the advice that he and P. Bruce Wright, a partner at the Sutherland Asbill & Brennan L.L.P., would give clients in similar situations is it all comes down to individual "facts and circumstances," Mr. Jones said.

Their comments came during a

See CICA page 30

CORRECTION

In "Demand Surges for Terror Risk Coverage," published in the March 3 edition of *Business Insurance*, the names of Talbot Underwriting Ltd. and Validus Holdings Ltd. were incorrectly stated.

P/C LEGISLATION

TRIA debate turns to security issues

BY MARK A. HOFMANN

A recent RAND Corp. report linking reauthorization of the federal government's terrorism insurance program with national security is a compelling argument for extending the program, according to its backers.

They point to the fact that enhancing national security was one of the original reasons Congress approved the program by passing the Terrorism Risk Insurance Act of 2002. However, opponents of the program say the link between the backstop and national security is weak and that the property/casualty insurance industry has had time to develop a private market response to terrorism. Indeed, the program's very existence may have delayed the maturation of a private terrorism insurance market, according to one opponent of reauthorization.

The program, which was reauthorized in 2005 and 2007, is slated to expire Dec. 31.

The RAND study, "National Security Perspectives on Terrorism Risk Insurance in the United States," held that terrorism remains a threat to the United States. "Our study finds that if the act expires and the takeup rate for terrorism insurance falls, then our country would be less resilient to future terrorist attacks," said Henry Willis, lead author of the study and director of the Homeland Security and Defense Center at RAND, in a statement accompanying release of the report.

Backstop extension advocates hailed the report, which was issued the same day that a report by the Democratic Governors Association called for immediate reauthorization of the program.

"I think the RAND survey confirms what we've said all along in regard to TRIA — that TRIA itself plays an important role in the country's homeland security efforts," said Martin DePoy, steering committee coordinator of the Coalition to Insure Against Terrorism, a Washington-based business group that supports the terrorism insurance program.

"The reason is the program puts in place a mechanism for the orderly payout of claims in the event of a major terrorist strike," he said. "Because of that

See BACKSTOP page 30

ONLINE
FEATURES

AWARD

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VIDEO



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WHITE PAPER

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NEWS

ENERGY RISKS

Boom in oil production
causes concerns for insurers

Risks evolve around extraction developments

BY BILL KENEALY

HOUSTON — Few markets present the insurance industry with such a rapidly changing risk profile as the energy sector.

While the upswing in domestic energy production in recent years has generated an accompanying demand for insurance, the nature of the risk is evolving as energy companies employ extraction technologies in new ways and economic conditions impel them to access new geographies for drilling.

John Keely, Houston-based managing director and global upstream sector leader for Aon Risk Solutions, noted that the amount of crude oil transported by rail has jumped markedly in the past few years as energy producers switch to oil extraction in the face of falling natural gas prices.

“Just to give you a sense of the growth of crude movement by rail, from the fourth quarter of 2012 to the fourth quarter of 2013, we’ve gone from 40,000 rails cars of crude a day to 120,000 per day,” he said. “That’s a staggering number and likely to continue to grow.”

While underwriters have a long history dealing with energy industry issues, there are mounting concerns about loss frequency and severity as the industry grows, said Annemarie Tobin, Hamilton,



AP PHOTO

The volume of rail cars carrying crude oil increased threefold in 2013. Energy underwriters’ are growing more concerned about the exposure.

Bermuda-based vice president with Canopus Underwriting Bermuda Ltd.

“Energy does things that go boom,” she said. “You have to worry about leakage and spillage and contractors and subcontractors that may be doing things that are out of your control. We understand those things, and we have dealt with them for a long time. What we don’t have a handle on yet is the increase in large losses we have seen recently.”

These observations on whether the rapid growth and evolution of the energy industry was advisable

from a risk management perspective were made during a panel discussion held at the International Risk Management Institute Inc.’s Energy Risk and Insurance Conference March 4-6 in Houston.

The uptick in claims is likely due to the rapid growth in the industry outstripping existing resources, Ms. Tobin said. “People are doing things much more rapidly than in the past,” she said. “We also have an aging infrastructure that we are working with. With so much more crude moving, we have to

See IRMI page 29

WELLNESS

Managing workforce health helps bottom line

BY MATT DUNNING

SAN FRANCISCO — A growing body of evidence suggests that employers’ motivations for improving the overall health of their employees should extend far beyond the need to control the inflation of their medical costs.

Poor workforce health management costs employers an estimated \$576 billion a year, only 40% of which is attributable to medical costs, according to the San Francisco-based Integrated Benefits Institute. The remaining 60% of those costs represents lost productivity and wage replacement expenses driven by short- and long-term disability and workers



compensation claims resulting from untreated or undertreated chronic conditions.

“Employers always bear the financial burden of lost work time, no matter how they finance health care,” IBI President and CEO

Thomas Parry said. “Health management interventions, including worksite wellness programs, can reduce medical costs, employee absences and lost productivity,

See IBI page 29

EXCESS & SURPLUS LINES

High capacity,
consolidation
press market

BY JUDY GREENWALD

SCOTTSDALE, Ariz. — A continued soft market, particularly in property lines, driven by an overabundance of capacity is expected to continue for the foreseeable future.

Also expected to continue is ongoing consolidation in the excess and surplus lines market.

The significant amount of capacity is “probably the most dominant issue that exists in the market right now,” said Davis D. Moore, Los Angeles-based chairman and CEO of Worldwide Facilities Inc.

When insurers are asked how much growth they anticipate from rates in 2014, their responses range “anywhere from not seeing rate increases to seeing things in the low single digits,” said Ronald S. Austin, Worldwide president and chief operating officer.

“We’re not seeing rate slides, but we’re not seeing any real hardening in any one particular area,” said NAPSLO President Kevin Westrope, who is Kansas City, Mo.-based managing director of R-T Specialty Group L.L.C. He was speaking during the National Association of Professional Surplus Lines Offices Ltd.’s 2014 Mid-Year Leadership Forum earlier this month in Scottsdale, Ariz.

“There continue to be discussions about pricing and rate deterioration in the property market,” however, with price declines of about 5% to 10% depending upon the specifics of the account, said James Drinkwater, New York-based president of AmWINS Brokerage, a division of AmWINS Group Inc.

“On the property insurance side, the E&S market is very competitive and getting more competitive,” said Evan D. Bull, New York-based national property practice leader for Burns & Wilcox Brokerage, a unit of Burns & Wilcox Ltd. that was formed last year.

However, in the rest of the market, “exposure bases are going up, so premiums are up,” said Denis Brady, Burns & Wilcox Brokerage’s San Francisco-based president.

Alan J. Kaufman, Farmington Hills, Mich.-based chairman, president and chief executive officer of H.W. Kaufman Financial Group and Burns & Wilcox Ltd. said while overcapacity is a problem, business is good because “some of the standard companies have

See NAPSLO page 29

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TRADE SECRETS, CONFIDENTIAL DATA OFTEN POORLY PROTECTED

Employees pose greatest risk to company-specific intellectual property

BY MATT DUNNING

Mid-market companies often safeguard their federally registered intellectual property such as patents, trademarks and copyrighted materials, but fail to protect their often equally valuable trade secrets and confidential corporate information.

The emphasis on registered intellectual properties, particularly those directly driving revenue, among small and midsize firms is hardly surprising, given their substantial development and maintenance costs and the rising frequency of federal infringement lawsuits, several intellectual property attorneys and risk management experts say.

Unfortunately, experts noted, that focus often comes at the expense of efforts to protect the wide range of valuable trade secrets and confidential corporate information that can be every bit as critical to smaller companies.

“It might not be as sexy a topic as big, headline-grabbing issues like patent and copyright infringement, but trade secrets and other types of confidential information are often the most important intellectual assets that a mid-market company has,” said Wayne Sobon, president of the Arlington, Va.-based American Intellectual Property Law Association.

Most states define trade secrets as technical information that provides an actual or potential economic

advantage over competitors, including formulas, recipes or design patterns, as well as manufacturing or service processes or techniques. Confidential information includes sensitive, nontechnical data pertinent to a company’s business strategy and operations, such as financial records, employment contract terms, compensation structures, internal market research and customer lists.

In civil suits alleging theft of trade secrets or confidential information, U.S. courts have defaulted to the definitions in state versions of the Uniform Trade Secrets Act, a template law developed in 1979 by a nonprofit trade group and adopted by 47 states. While federal law does not protect ownership of trade secrets in the same way as registered trademarks and patents, companies may be able bring civil lawsuits for trade secret misappropriation against individuals or competitors — depending on the specifics of the case — under federal laws that include the Economic Espionage Act and the Computer Fraud and Abuse Act.

“If companies aren’t tracking ... intellectual property, and many smaller companies likely are not, there’s a good chance that those materials are being appropriated or shared by other entities, which ultimately dilutes their value,” said Michael Born, a Kansas City, Mo.-based vice president of Lockton Cos. L.L.C.’s global technology and privacy practice.

In both instances, companies’ ability to assert their legal right to exclusive control of trade secrets or confidential information depends primarily on reasonable measures being taken to prevent it from being disseminated.

Many small and mid-market companies recognize that they have “quite a bit of valuable proprietary information, but they do tend to be a little lax in protecting that information,” said Adam Bialek, a New York-based partner and chair of Wilson Elser Moskowitz Edelman & Dicker L.L.P.’s intellectual property group.

While the long-term cost of losing exclusive ownership or use of a trade secret can be difficult to estimate, the cost of going to court to protect it is more concrete.

The median cost of litigating a



LITIGATION COSTS

The median cost of intellectual property-related litigation in 2013 compared with 2011, by category

Category	Cost	% change
Patent infringement ¹	\$2.6 million	4%
Patent infringement ²	\$5.5 million	10%
Trademark infringement ¹	\$800,000	3%
Trademark infringement ²	\$1.5 million	Flat
Copyright infringement ¹	\$788,000	13%
Copyright infringement ²	\$1.6 million	18%
Trade secret misappropriation ¹	\$1.2 million	15%
Trade secret misappropriation ²	\$3.0 million	18%

¹ Up to \$25 million at risk. ² More than \$25 million at risk.
Source: American Intellectual Property Law Association

trade secret misappropriation lawsuit posted double-digit gains in 2013, outpacing the growth rate for patent, trademark and copyright infringement lawsuits, according American Intellectual Property Law Association data (see chart).

Studies show the greatest potential threat to the security of a company’s trade secrets and confidential information is its own workforce. In an analysis of 358 trade secret misappropriation suits tried in state appeals courts from 1995 through 2009, attorneys at Los Angeles-based O’Melveny & Myers L.L.P. found that 78% of the defendants were current or former employees. Twenty percent of the cases targeted third-party contractors and service providers.

Experts said there are several steps small and midsize companies can take to prevent misappropriation of trade secrets and confidential information. To start, companies should include in all employ-

ment and contracting agreements information security policies that have nondisclosure clauses on sensitive or proprietary information.

Companies also should provide regular employee training.

“Even if you only do it once a year, it’s well worth it,” said Jura Zibas, a New York-based partner at Wilson Elser. “Reminding your workforce about company policies regarding intellectual property and their obligations as employees will help foster a culture of responsibility for protecting that information.”

Another measure that experts said can reduce the risk of trade secret misappropriation or theft is naming an internal point person to identify, collect, catalog and monitor all written materials, media files and other documents produced for internal use. Additionally, companies should limit dissemination of potentially valuable information on a need-to-know basis, experts said.

How one firm keeps its secrets

Mid-market companies in need of instructive examples of robust intellectual property protection strategies can learn from their peers in the information technology industry.

At Lighthouse Networks Inc., a Tempe, Ariz.-based software developer with 511 employees and approximately \$173 million in annual revenue, the company’s patents, trademarks, trade secrets and other intangible assets are overseen by its senior intellectual property corporate counsel, Dion Messer.

“That probably does make us a bit unusual, because it’s not often that a company this small has its own IP counsel in-house,” Ms. Messer said.

To safeguard the company’s intellectual assets, she said Lighthouse Networks requires employees to sign nondisclosure agreements covering a range of information and materials, including financial records, sales and marketing plans, source coding and customer-related information.

“I think that’s our strongest protection measure,” Ms. Messer said, though she said that merely having a policy in place is unlikely to prevent employees from misappropriating trade secrets and confidential information.

“You have to provide continual training to remind them of what they’ve agreed to in their employment contracts, and we do that,” she said.

The company conducts yearly training sessions with its software development staff focusing on registered and unregistered intellectual property, and holds regular educational meetings with employees about their obligations under the company’s information security policies, which she updates annually.

“We also protect our trade secrets by limiting access to that kind of information to just the employees that need to know about it,” Ms. Messer said. “It’s not disseminated throughout the company, or available on any drives or databases that anyone in the company can access.”

By Matt Dunning



Who insures you doesn't matter. Until it does.

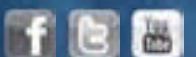


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FIRMS LINK WELLNESS TO DISABILITY BENEFITS

Getting employees back to work faster and cutting disability premiums drive integration trend

BY SHEENA HARRISON

Some employers are linking wellness and health coaching to their long-term disability plans to reduce premium costs and help employees return to work faster.

The trend is limited to early adopters, said Rich Fuerstenberg, Princeton, N.J.-based national specialty practice leader for Mercer L.L.C.'s group benefits practice. However, he said, more companies are asking about ways to leverage wellness benefits that they've seen in the group health arena.

"We're seeing more and more employers recognize that you can't build a wall between what you're doing on the health management side and what you're doing on the disability side," Mr. Fuerstenberg said.

Certain employers are linking the amount of disability benefits that an employee can receive to his or her participation in health risk assessments, chronic disease management programs, or consultations with case managers and health advocates, he said.

"We're ... seeing some employers dabbling with (providing employees) 100% short-term disability benefits, but if you're disabled and you don't work with a health coach in addition to your disability manager, maybe that benefit gets cut back to 80%," Mr. Fuerstenberg said.

Jon Trevisan, Boston-based senior vice president and director of placement at Willis North America Inc.'s national human capital practice, described the addition of well-

ness components to disability insurance as an "emerging trend." He also said coordination of wellness strategies can help insurers capture data that can inform their disability insurance underwriting.

Insurers are asking how they can "capitalize on the information that may be available ... by virtue of some of the more robust integrated health management or wellness programs that are out there, and how can (they) take that information and recognize that in determining what the cost for an employer and the employees will be," Mr. Trevisan said.

Chronic disease management and wellness initiatives are part of a "cutting-edge" movement to integrate disability leave with managing workers comp and health programs — all of which aim to keep employees healthy or get them back to work, said Gary Anderberg, New Hope, Pa.-based senior vice president of claim analytics for Gallagher Bassett Services Inc.

"If an employee has a back strain claim, whether it's occupational or nonoccupational, why wouldn't you take that opportunity to make sure that they're enrolled in your well-back program?" Mr. Anderberg said. "It's kind of odd not to."

Such integration is happening as the insurance industry waits to see how federal health care reform will affect the disability insurance market. Experts say that the U.S. Patient Protection and Affordable Care Act could have advantages and drawbacks for employer disability coverage.

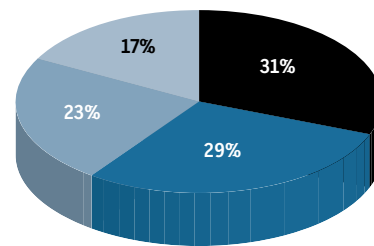
Elizabeth Incze, director of strategy and product for group insurance at Aetna Inc. in South Portland, Maine, said health care reform could help reduce employers' disability costs.

"The ACA's focus on preventive care, wellness, value-based health plans and the trend toward employees becoming more accountable for their own health could positively

FUNDING AND ADMINISTRATION

Primary approaches in administering and funding short-term disability plans

- Fully insured
- Self-insured, with administrative services only by an insurer or third-party administrator
- Self-insured, with advice-to-pay services only by insurer or TPA
- Self-insured and self-administered, with no insurer or TPA



Source: Mercer L.L.C. 2013

impact the disability business," Ms. Incze said in a statement to *Business Insurance*. "If the goals of the ACA are realized, the industry should expect fewer disabilities, shorter durations and more stay-at-work opportunities with accommodations."

However, some employers anticipate bumps in the road as health care reform continues rolling out. Privacy reforms and an influx of previously uninsured patients could delay disability patients' ability to get treated, said Darryl Hammann, executive vice president of disability operations at Sedgwick Claims Management Services Inc. in Eden Prairie, Minn.

"It may be more challenging to get medical information from doctors. We may see claimants who have more trouble getting an

appointment with a doctor," Mr. Hammann said.

Despite uncertainty about the health care reform law, experts said employers seem determined to continue providing disability coverage to their employees.

Willis' Mr. Trevisan and Mercer's Mr. Fuerstenberg said some employers are contributing less toward disability premiums and giving employees the option to pay more for additional coverage.

"I think that a lot of employees, when it's communicated and positioned appropriately, are willing to buy up because they recognize the importance of making sure that they have the financial means to address the impact of a disability," Mr. Trevisan said.

Still, sources said there is no overall movement to reduce disability offerings.

Aetna's Ms. Incze said the insurer has not seen "a meaningful shift" in employers choosing to move to lower-cost disability insurance plans.

Recent data from Mercer seems to support that. In a survey of more than 300 employers, 81% pay the entire short-term disability premium for salaried employees, and 74% do so for hourly workers.

On average, employer disability plans replace about 64% of employee income during short-term disability leaves, according to Mercer's survey.

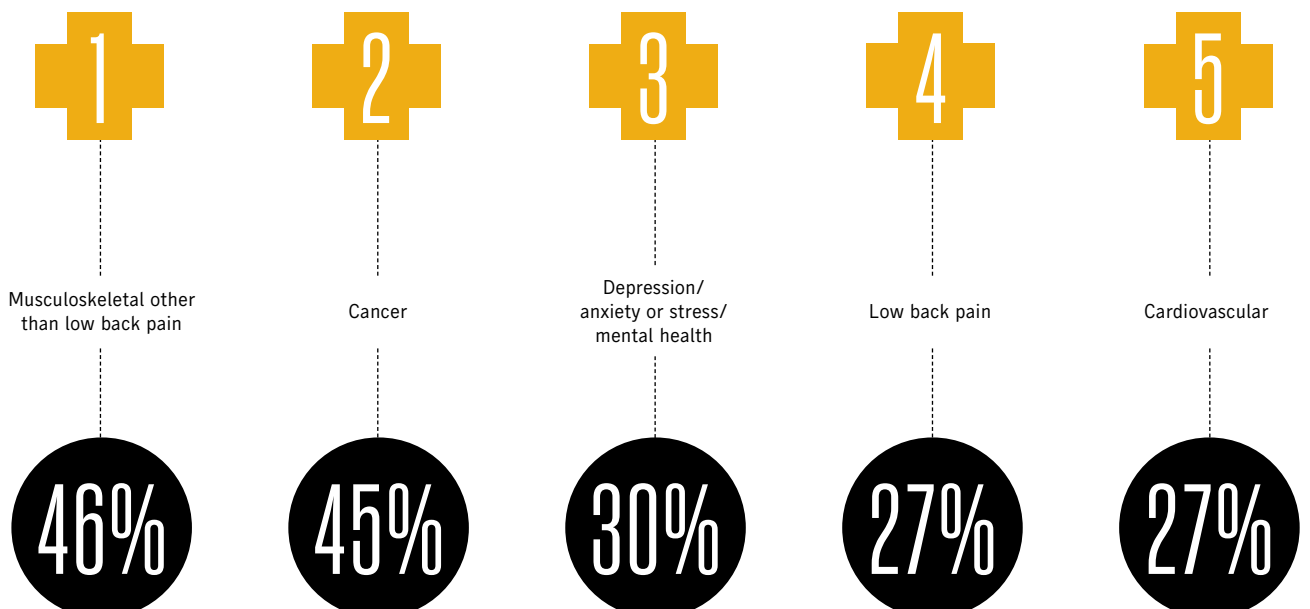
For long-term disability, 80% of surveyed employers pay the entire premium for salaried employees, and 78% do so for hourly employees. Employers in the Mercer survey said their basic long-term coverage provides an average of 59% of employee pay, while employees can buy additional coverage that increases their average benefit to 63% of pay.

Employers "feel an obligation to provide some sort of a safety net benefit," said Mercer's Mr. Fuerstenberg, who said the survey found a slight increase in employer-sponsored disability coverage.



COSTLIEST CONDITIONS

Top five short-term disability conditions, in terms of total costs



Source: Mercer L.L.C. 2013

CANCER, MUSCULOSKELETAL INJURIES PUT MOST PRESSURE ON DISABILITY COSTS

Cancer and mental health conditions are the fastest-growing conditions affecting disability insurance costs, while musculoskeletal conditions and cancer are the biggest cost drivers for such plans, according to a report released earlier this month by Mercer L.L.C.

In a survey of more than 300 employers, 22% said they see cancer-related

claims increasing in frequency and costs, while 20% said they see increased frequency and costs for depression, anxiety and other mental health-related concerns.

Lower back pain claims are becoming more frequent and costlier, according to 13% of employers surveyed by Mercer, while 14% of companies say they're see-

ing increased frequency and severity for all other types of musculoskeletal claims.

Musculoskeletal conditions that don't involve lower back pain are one of the costliest ailments represented among short-term disability claims, according to 46% of employers in the Mercer survey. Cancer also is a significant disability cost driver, according to 45% of respondents.

Only 29% of employers surveyed said they have return-to-work policies for short-term disability claims, while 24% said they have return-to-work programs for long-term disability absences.

About 66% of respondents said they do not have a formal return-to-work program for disability-related absences.

By Sheena Harrison

MANAGING LEAVE AND DISABILITY PROGRAMS TIED

While linking disability programs to wellness and health coaching programs is in its infancy among employers, integrating the administration of disability claims with other employee leave programs, such as the Family Medical Leave Act and workers compensation, is well underway.

In a recent survey of 407 employers by the San Diego-based Disability Management Employer Coalition and Boston-based Spring Consulting Group L.L.C., 83% of employers said they integrated management of short-term disability claims with other employee leave programs in 2013. That compares with 46% in 2012 and 47% in 2011.

83%

Percentage of employers that said they had integrated management of short-term disability claims with other employee leave programs in 2013.

For long-term disability, 77% of employers said they integrated claims management with other employee leave programs in 2013. That compares with 47% who did so in 2012 and 45% in 2011.

Spring Consulting and DMEC said employers have turned to outside providers to manage disability claims as they struggle with certain aspects of FMLA administration, as well as determining how employee leave will be affected by the U.S. Supreme Court decision to strike down the Defense of Marriage Act.

The changing landscape of how families are defined under federal law, as well as state-by-state differences in how families are defined, has prompted many companies to work with service providers specializing in FMLA and other leave laws in various jurisdictions, said Gary Anderberg, New Hope, Pa.-based senior vice president of claim analytics for Gallagher Bassett Services Inc.

"You can see a number of employers saying compliance is just going to be very complicated ... (and) I'll hire somebody else to worry about that," he said.

By Sheena Harrison

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Russia, Ukraine unrest slows underwriting

Concerns over the political unrest and country credit rating in Ukraine and the threat of potential sanctions against Russia has caused some insurers to effectively stop underwriting political risk insurance in those countries, Marsh L.L.C. said in a briefing last week. It will be difficult for companies looking to conduct new business in Russia to get coverage, and insurers have effectively stopped offering coverage for any new credit or political risk exposures in Ukraine, Marsh said. Policyholders with exposure in Ukraine and Russia might face premium rate increases when they try to renew their policies. Marsh is advising companies with business in Ukraine and Russia to review all insurance policies and clearly understand their limits and sublimits, deductibles, loss-reporting requirements, covered perils and other restrictions.

Swiss Re denies talks with Agnelli family

Swiss Re Ltd. last week denied it was in discussions with the Agnelli family about the Italian dynasty taking a stake in the reinsurer. "Contrary to market speculation, Swiss Re is not in discussion with the Agnelli family or any of its investment vehicles regarding the possible acquisition of a stake in Swiss Re," the reinsurer said in a statement. Swiss Re's shares had risen 6% early Wednesday after speculation that a trust controlled by the Agnelli family was looking to buy a stake in the reinsurer. The Agnelli family, which founded Italian auto company Fiat S.p.A. among other firms, represents the largest holdings on the Italian stock exchange.

Allianz leads coverage for missing Malaysian jet

Malaysia Airlines has more than \$100 million in hull and liability coverage led by Munich-based Allianz S.E. for the jet that went missing March 8, according to sources. Willis Group Holdings P.L.C. placed the hull and liability package. The Boeing 777 aircraft carrying 227 passengers and 12 crew members went missing 40 minutes into a flight from Kuala Lumpur, Malaysia, to Beijing. The majority of the passengers were Chinese. There were three U.S. citizens on board the flight, according to information from Malaysia Airlines. Last week, Malaysia's civil aviation chief, Azharuddin Abdul

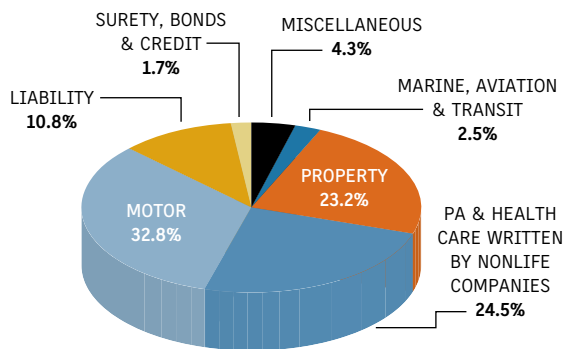
PROFILE: SWITZERLAND

\$14.3 BILLION

The Swiss insurance market remained soft for most lines in 2014 due to ample capacity and insurers' good results. Competition remains fierce in commercial property/casualty lines. Gross premiums increased 2.8% in 2012, the latest year for which figures are available. The Swiss market is the 14th-largest in the world, and its per capita annual insurance spend of \$7,604 is second only to the Cayman Islands.

◀ 2012 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

COMPULSORY INSURANCE

Several lines of insurance are compulsory, including:

- Auto third-party liability
- Fire and elemental perils for buildings
- Third-party liability for doctors, lawyers and insurance brokers
- Third-party liability for hunters, water skiers and boats
- Aviation liability
- Railway operators liability

NONADMITTED

Unauthorized insurers cannot carry out insurance activity in Switzerland. With some exceptions, there is nothing in the law that prevents a Swiss national from concluding an insurance contract with a nonadmitted insurer. However, any insurer underwriting a risk based in Switzerland would be contravening insurance law unless the insurer is supervised in Switzerland.

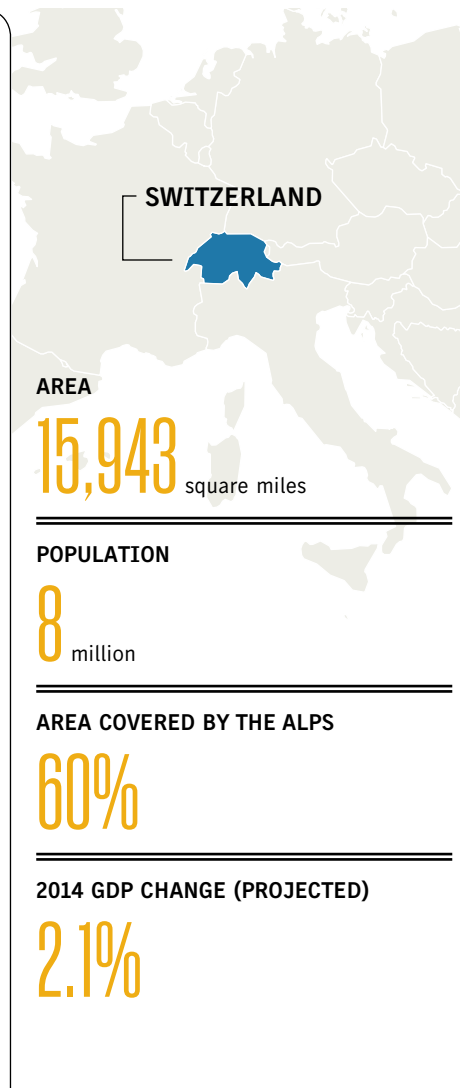
INTERMEDIARIES

Independent intermediaries — all intermediaries not tied to an insurer — have to register with regulators. Tied intermediaries also may register, but it is not compulsory. Brokers involved in nonadmitted placements do not have to warn buyers that their insurer is not subject to local supervision.

MARKET PRACTICE

General market practice in Switzerland is to follow the regulatory position. Several international insurers have opened offices in Switzerland in the past few years. The process is said to be simple, and the size of the market makes the moves viable.

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



MARKET DEVELOPMENTS

UPDATED JANUARY 2014

- In September 2013, it was announced that Swiss financial institutions will have to implement the U.S. Foreign Account Tax Compliance Act of 2010 by July 1, 2014.
- Interested parties have been working on a complete revision of the Insurance Contract Act of 2008. One of the main issues under discussion is proposed consumer protection measures, which in the draft revision did not distinguish between personal and commercial policyholders.
- The Insurance Insolvency Regulation became effective Jan. 1, 2013. The regulation clearly defines the insolvency process in order to ensure the protection of policyholders' rights.
- Federal courts have ruled in favor of two cantonal insurers that branched out beyond their traditionally defined monopolies into the commercial market. Insurers say that the cantonal insurers have an unfair competitive advantage due to separate supervision, detailed databases and overlapping personnel.

Rahman, said the fate of the aircraft remained "a mystery." The company said search and rescue teams from Australia, China, the Philippines, Singapore, Thailand and the United States helped with efforts to recover the jet, which had not been found at press time.

Zurich to cut 800 jobs by the end of 2015

Zurich Insurance Group Ltd. will cut 800 jobs by the end of 2015 as part of a move to make annual cost savings of about \$250 million, the Swiss insurer said. Zurich said it would remove management layers between the group level and business units, adding that "customer-facing activities" would not be affected by the job cuts. Zurich currently employs more than 55,000 people worldwide. The changes are subject to consulta-

tion with employees and their representatives, Zurich said.

\$1B in insured losses caused by severe winter

Severe winter weather caused more than \$1 billion in insured damage globally in February, according to an analysis by Aon Benfield Group Ltd. The monthly "Global Catastrophe Recap" report noted that parts of Japan sustained record snowfall last month, and that insurers predict total claims payouts will reach about 60 billion yen (\$585 million). Storms packing high winds and heavy rains affected western and central Europe in February as well. The most significant of these storms — Windstorm Tini — caused an estimated 500 million (\$685 million) in insured losses in Ireland and the United Kingdom,

according to the report. Mid-February's winter storm in the United States wrought insured damage of more than \$250 million, according to the analysis.

JLT establishes Argentina reinsurance brokerage

Jardine Lloyd Thompson Group P.L.C. has established a reinsurance brokerage in Argentina and has recruited Matias Rosales, previously head of rival Cooper Gay Argentina S.A. will be based in Buenos Aires, Argentina, and will work closely with JLT operations in Brazil, Chile, Peru and Colombia, the London-based broker said in a statement. "I am very confident that the expertise in the local team, combined with the breadth and depth of JLT Group, will allow us to make a strong impact in the

local and regional market," Mr. Rosales said in the statement.

Ontario health workers' pension funded at 114%

Aided by strong investment results, the Healthcare of Ontario Pension Plan, which provides coverage to health care workers in Ontario, Canada, reported that its funded ratio hit 114% in 2013, up from 104% in 2012. The plan racked up investment gains of 8.5% in 2013, boosting plan assets to a record 51.6 billion Canadian dollars (\$57.1 billion) up from CA\$47.4 billion (\$52.5 billion) at the end of 2012. The plan provides coverage to about 286,000 active or retired health care workers in Ontario who currently or previously worked for 470 health care organizations. Last year, the plan paid out about CA\$1.9 billion (\$2.1 billion) in benefits.



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EDITORIAL

RETHINK DEFINITION OF FULL-TIME

How many hours do employees have to work before they are considered full-time and eligible for health insurance plans offered by their employers? While there is not a one-size-fits-all-employers answer, the health care reform law's 30 hours per week definition has little if any correlation with real-world practices, where a 35- to 40-hour workweek requirement is common.

That congressional staffers got it so wrong when drafting the Patient Protection and Affordable Care Act is no small matter to employers and their employees.

That is because of the law's penalty on employers that do not comply with the 30-hour requirement.

Starting in 2015, employers that do not offer coverage to at least 70% of full-time employees — those working an average of 30 hours a week or more — will be liable for a penalty of \$2,000 per full-time employee. In 2016 and succeeding years, the penalty will be triggered if fewer than 95% of full-time employees are not offered coverage.

Given this penalty and limits to corporate and public entities' budgets, the employer response to this requirement, as we report on page 1, is not surprising: They are reducing hours worked by employees they consider part-time and, as a result, do not or will not offer coverage to employees working less than 30 hours per week to avoid the penalty.

Indeed, a Mercer L.L.C. survey reports that 10% of employers have, or will by 2015, reduce the number of employees working 30 or more hours.

Why employers are reducing employees' hours is obvious. At a time when group health care plan costs average more than \$10,000 per employee, employers can't afford to extend coverage to employees they consider part-time, nor can they afford to pay the PPACA penalties.

Fortunately, this is a problem for which there is an easy solution — if for once lawmakers can act on a bipartisan basis: change the health care reform law's definition of a full-time employee to one that more closely meshes with the real world.

While a 40-hour workweek standard proposed in legislation before the House of Representatives may be too high, a 35-hour workweek standard strikes us as fair and reasonable. We urge lawmakers to make such a change as soon as possible.

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

Please send your letters to:
Letters to the Editor, *Business Insurance*,
150 N. Michigan Ave., Chicago, Ill. 60601-7524

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SCHILLERSTROM



COMMENTARY

EARLY CONVERSATION EASES END-OF-LIFE CHALLENGES

In 1991, when my older brother sent me a copy of his living will, I was a little bit surprised since he was only 43 and in good health. Perhaps anticipating how I might react, he included a note that said: "Don't go goofy, this is just in case. Put it in a safe place." So I filed it away with all of my other important papers, such as my birth certificate and diplomas, not really giving it another thought.

Twenty-one years later, my brother suffered a fatal heart attack after disembarking from a plane in Denver. He had flown in from Chicago to attend our niece's graduation from the University of Colorado in Boulder, but instead ended up in the cardiac intensive care unit at the university's hospital in Aurora. When I arrived at the facility, I was asked if he had an advanced directive, a question that revealed the severity of his condition. I called my husband who was at home, directing him to the file where I kept Chuck's living will.

I was in shock, operating on autopilot, but I knew exactly what I was supposed to do because I had had "the conversation" with my brother.

Journalist Ellen Goodman started The Conversation Project in 2010, after she and a group of colleagues gathered to share stories of "good deaths" and "bad deaths" involving their loved ones. The objective was to encourage people to talk about death and make their last wishes known, while they are still of sound mind and body. Although more than 90% of Americans think it's important to talk about end-of-life care, less than 30% actually have had that conversation,



**JOANNE
WOJCIK**

SENIOR EDITOR

according to a survey conducted by the organization.

The National Business Group on Health provides resources to employers to help them encourage their employees to address end-of-life issues such as caregiving, serious illness, bereavement and advance care planning to help ease the transition, while maintaining employee productivity and well-being.

Advance care planning also is essential to resolving the health care crisis since it reduces costs for end-of-life care, which accounts for about 25% of the Medicare budget.

The "death panel" debate may have killed a provision in the U.S. Patient Protection and Affordable Care Act that would have provided payment to physicians for end-of-life consultations, but as health care costs continue to climb, end-of-life policymaking soon will become as inevitable as death itself.

As we approach National Healthcare Decisions Day on April 16, now is a good time for employers to urge employees to have "the conversation" with their families. April 16, the day after the deadline for filing income tax returns, was chosen in acknowledgment that only two things in life are certain: death and taxes.



THE WINNERS

2014

American International Group Inc.
AIG MULTINATIONAL PROGRAM
DESIGN TOOL

PAGE 14

Aon P.L.C.
AON INTERACTIVE
POLITICAL RISK MAP

PAGE 14

CorVel Corp.
CAREMC PHARMACY CLINICAL
MODELING

PAGE 14

FM Global
FM GLOBAL SIMZONE

PAGE 15

The Institutes
ENTERPRISE RISK MANAGEMENT
TEXTBOOK

PAGE 16

Marsh USA
MARSH WAGE AND HOUR
PREFERRED SOLUTION

PAGE 16

PartnerRe Ltd.
PARTNERRESEARCH APP.

PAGE 16

Sedgwick Claims Management
Services Inc.
VIAONE EXPRESS MOBILE APP
AND PUSH TECHNOLOGY

PAGE 17

XL Group P.L.C.
XL GAPS MOBILE FIELD APP

PAGE 18

Zurich Insurance Group Ltd.
WHAT IF? GRADING APP

PAGE 18



DOUG GOODMAN

Industry experts discussed issues ranging from terrorism to cyber crime to social media risks during last week's *Business Insurance Risk Management Summit* in New York, during which the 2014 *Business Insurance Innovation Awards* were presented.

AWARDS RECOGNIZE INNOVATIVE SOLUTIONS

Risk managers select winning entries

The *Business Insurance* Innovation Awards recognize leadership and innovation in the design of new products and services for risk managers. The insurance sector has a long history of developing and adapting products to meet the changing needs of risk managers. This awards program, which began in 2010, recognizes the most innovative new products and services released in the previous year.

All of the nominations were reviewed by an independent judging panel composed of professional risk managers (see story, page 18), and the 10 highest-scoring nominations were selected for 2014 Innovation Awards, which were presented during the *Business Insurance Risk Management Summit* held March 11-12 in New York.

The winning entries range from a training facility that provides simulated risk management scenarios to a predictive risk analytics tool for prescription treatments.

Many of the winning entries this year take advantage of new technologies, in particular mobile apps, to deliver products and services to a wider audience.

The nomination process for the 2015 Innovation Awards will begin in the fall. For more information, visit www.businessinsurance.com or email *Business Insurance* Editor Gavin Souter at gsouter@businessinsurance.com.





American International Group Inc.

AIG MULTINATIONAL PROGRAM DESIGN TOOL

www.aig.com/multinational/pdt

A fundamental question confronting risk managers operating in a multinational environment is: When is a local policy the right way to go?

Traditionally, the decision to use a locally admitted insurance policy has been driven solely by regulatory issues. But “while regulations are important, they are not the only consideration,” said Mark DeMartine, AIG’s president of global markets who spearheaded the development of the AIG Multinational Program Design Tool.

The AIG Multinational Program Design Tool has been recognized with a 2014 *Business Insurance* Innovation Award.

Mr. DeMartine described the tool as “an interactive Web-based tool that addresses customers’ fundamental question when designing a multinational program: ‘Where do I need a local policy?’”

There was little in the marketplace to meet those needs, he said, so AIG multinational operation came out with a brief-

ing paper on the issue about a year ago. That led to the development of the interactive tool. After about a year of development, the tool was launched in Europe at the Federation of European Risk Management Associations conference last October, Mr. DeMartine said.

The tool has users answer a series of questions to systematically assess complex issues that arise when risk managers consider whether to decide to insure locally. “It combines considerations on compliance, exposures, tax and capital, claims, coverage, and proof of insurance with the user’s understanding of their organization in the country,” said Mr. DeMartine. “It takes the mystique out of this multinational world, and that’s what’s unique about it.”

The program covers more than 200 countries, he said. When launched, the tool dealt with four product lines: property, general liability, directors and officers liability and marine liability. AIG has since added accident and health, and plans to expand the tool to deal



Mr. DeMartine



with environmental and trade credit coverage.

Mr. DeMartine said the tool is currently available in English, Chinese and Japanese and will soon be available in Spanish.

“If it makes sense and we need another language, we’ll do it,” he said.

Once the assessment is complete, users receive a customized, downloadable summary report. The AIG Multinational Program Design Tool is available for free to everybody at www.aig.com/multinational/pdt.

“[The tool] empowers risk managers with a framework of thought and a structured way to aggregate this information,” Mr. DeMartine said.

By Mark A. Hofmann

Aon P.L.C.

AON INTERACTIVE POLITICAL RISK MAP 2013

www.aon.com/2013politicalriskmap/index.html

Aon P.L.C. has been producing the print version of its political risk map for more than two decades, but with an online interactive version launched in 2013, Aon provided a tool for examining changes in political risk over time and to provide risk managers greater insight into their own unique political risk exposures.

“We’ve been publishing the map in a printed format now for over 20 years,” said Matthew Shires, executive director and head of political risk at Aon Risk Solutions in London. “There’s always a demand for it.” When the printed maps are distributed at conferences or other events, they “fly off the tables like absolute hotcakes,” Mr. Shires said.

The move to bring the political map into an online interactive format started with thinking about the years of political risk data gathered on an annual basis for the printed map.

“We thought one of the things we had, of course, was data that has been captured that we actually had done nothing

with,” Mr. Shires said. Another factor was examining the existing universe of resources to help risk managers fashion a high level view of how political risk affects their enterprises. “The answer was it’s pretty limited,” Mr. Shires said.

The interactive map allows risk managers and the finance community to look at 15 years’ worth of historical political risk data and instantly generate more than 100 different maps. The interactive map also allows risk managers to compare different countries’ risk profiles with one another, as well as calculate their own organizations’ political risk exposures in various countries and track them over time.

Like the print map, the interactive political risk map rates countries based on six core perils or “risk icons”: exchange transfer risk, legal and regulatory risk, political interference risk, risk of political violence, risk of sovereign nonpayment and supply chain disruption risk. In 2013, Aon added three additional risk icons —



Mr. Shires



risks to doing business, banking sector vulnerability and risks to fiscal stimulus — though those aren’t included in country ratings.

While the printed map is updated annually, the free online interactive version is updated quarterly.

A March update will include new features as well as the availability of an Aon Interactive Political Risk Map app for mobile devices.

While Aon hasn’t actively promoted the Interactive Political Risk Map, registrations have been brisk, Mr. Shires said, with approximately 3,000 registered users currently and an average of 100 new registrants per month.

By Rodd Zolkos

CorVel Corp.

CAREMC PHARMACY CLINICAL MODELING

www.corvel.com

Applying predictive analytics to pharmacy utilization can give employers and insurers a more proactive means of combating systemic risks and cost drivers associated with prescription treatments for ill and injured workers, CorVel Corp. says.

In June 2013, the Irvine, Calif.-based company developed and built a predictive risk analysis platform into its CareMC health care and workers compensation claims management system. The platform, called Pharmacy Clinical Modeling, is designed to predict potentially catastrophic patient cases by monitoring claim activity for specified risk indicators and usage thresholds, including high use of narcotic medications, multiple prescribers and particular combinations of medicines.

When indicators or usage thresholds are triggered, risk managers and claims adjusters using the program are sent task alerts containing guidance on claim review and possible treatment interventions, such as drug testing to ensure prescription adherence, pain questionnaires, physical therapy and additional case management measures.

CorVel’s CareMC Pharmacy Clinical Modeling program was among the insurance and risk management products honored with *Business Insurance*’s 2014 Innovation Awards.

The company’s goal in incorporating predictive analytics was to expand the scope of employers’ and insurers’ pharmacy benefit claim management strategy beyond a myopic focus on the dollar value of claims or opioid use, said David Lupinsky, a Sacramento, Calif.-based vice president at CorVel and product manager for the Pharmacy Clinical Modeling platform.

“What we saw as we were looking at a lot of these patient cases in more detail was that we had so much data at the back end, there ought to be something we can do on the front end to try and intervene appropriately before a case reaches these high dollar amounts,” Mr. Lupinsky said.

By compiling pharmacy utilization and bill review data from employers, insurers, third-party administrators and providers into a single platform, Mr. Lupinsky said the Pharmacy Clinical Modeling feature provides risk managers and claims adjusters with a composite risk score for every patient case that includes prescription treatment.

The program is also designed to monitor for comorbidities that might stall a patient’s recovery, including degenerative conditions, poor conditioning and overall health status.

“We had to start looking past the opioids themselves and identify the other common risk factors among these patients early enough in the claim that we can get out in front of them before it becomes a problem,” Mr. Lupinsky said. “It helps to identify what we call the creeping catastrophic claim, where you have a claim that starts off with low severity but seems to get worse and worse over time.”

By Matt Dunning



Mr. Lupinsky

FM Global

FM GLOBAL SIMZONE

www.fmglobal.com/simzone

Pilots acquire and hone the skills they need with the help of flight simulators, and now risk management professionals can do the same thanks to the FM Global SimZone.

When it comes to mastering a specific skill set, there is no substitute for real-life experience. That tenet inspired the concept behind and creation of the FM Global SimZone, a 12,000-square-foot state-of-the-art risk management training facility located in Norwood, Mass.

Inside the SimZone, FM Global clients experience and learn from replicated real-world property risks such as fires, ignitable liquid perils, equipment malfunctions, and construction and electrical hazards.

Karen Freedman, Providence, R.I.-based vice president and manager of enterprise learning for FM Global, said the core value of the SimZone is that it allows clients

and engineers to experience property risk management training scenarios in a 3-D hands-on way that is not offered anywhere else — including FM Global's property loss prevention research and product testing facility in West Gloucester, R.I.

"You can go in there and touch things that you can't touch at your own facility," Ms. Freedman said. "Being able to take apart a fire pump, or see different roofing systems, or stand inside a transformer, or inside a boiler, allows you to see things you can't see in your own facility."

Its offerings have resulted in the FM Global SimZone being named a 2014 Innovation Award winner by *Business Insurance*.

SimZone has several specialized laboratories, including: a construction assemblies lab, a steam and industrial heating lab, an electrical lab, an ignitable liquid lab, a fire



The FM Global SimZone hands-on training facility in Norwood, Mass., has several specialized laboratories, including an electrical laboratory (left) and a fire pump room (right).



Ms. Freedman

pump room, a water supply testing and fire sprinkler wet lab, a sprinkler system riser lab and a property protection playground.

Since opening in 2013, more than 100 clients have been trained in the facility.

FM Global expects more than double that number of clients to sign up for training this year, Ms. Freedman said, as the SimZone currently has a client waiting list that is more than twice the size of

its list last year.

In addition, FM Global trains 150 to 200 of its property risk engineers in the SimZone every year.

"There is only so much of the SimZone to go around, and we put (client and engineer students) into small groups of seven in order to keep the experience hands-on," Ms. Freedman said.

Given the SimZone's success and popularity, Ms. Freedman said FM Global is looking into expanding

the existing compound, which cost \$5 million to build, and developing comparable facilities in other locations.

"We are strategizing and considering the benefits of having a similar facility in Asia, Latin America or in Europe," Ms. Freedman said. "It would be a little different than the one in the U.S. because we would need to tailor it to be realistic for their specific needs."

By Aranya Tomseth



A fruit fly measuring only 2 to 4 millimeters can sink the value of an entire ship's cargo.

Catlin underwriters don't just recognize potential risk. They anticipate it. Catlin's Ocean Marine underwriters spend every workday focused solely on Ocean Marine risks. Both large and small. Then use their expertise to provide your client the best coverage. Combine that with our drive for transparency and superior claim service and you have every reason to talk to a Catlin underwriter with the expertise you need in any of our wide array of product offerings.

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The Institutes

ENTERPRISE RISK MANAGEMENT TEXTBOOK
www.theinstitutes.org/course/enterprise-risk-management

A new textbook published last fall by The Institutes is helping risk managers to apply enterprise risk management concepts to their organizations.

The Institutes, the operating name of the Insurance Institute of America and the American Institute for Chartered Property Casualty Underwriters, published the first edition of its Enterprise Risk Management textbook late last year.

The organization spent more than a year conducting research and working with ERM practitioners and academics to compile the textbook, which helps students apply ERM concepts to practical situations, said Michael Elliott, senior director of knowledge resources for the Malvern, Pa.-based organization.

The textbook's extensive subject matter, as well as its ease of use, has earned The Institutes a 2014 Innovation Award from *Business Insurance*.

Risk managers "can benefit from

expanding their knowledge into other areas of risk within their companies," said Mr. Elliott, who curated the content included in the textbook. "The Institutes developed this as an extra course for our associate risk management program to expand the knowledge of risk managers (and) to allow them to look at all the various types of risks in their organizations."



Mr. Elliott

Mr. Elliott said The Institutes gathered input and course materials from members of several risk management organizations, including the Risk & Insurance Management Society Inc., the Public Risk Management Association and the Federation of European Risk Management Associations.

As a result of such wide input, Mr. Elliott said the Enterprise Risk Management textbook teaches risk managers how to apply ERM practices in settings around the globe. For example, it

includes an exercise on how the United Kingdom's Corporate Governance Code can affect risk management practices.

Risk managers who want to learn more about ERM can purchase print or digital editions of the Enterprise Risk Management textbook, and study the course materials at their own pace. The textbook costs \$200, but it can be purchased at a discount through contributing organizations such as RIMS.

Students who learn concepts in the textbook and complete an exam through The Institutes can earn associate in risk management enterprise risk management designation known as an ARM-E.

Mr. Elliott said he believes the textbook will be an important teaching tool for risk managers as more strive to apply ERM principles in their workplaces.

"We're really happy with this product, and we think it will help the industry and help risk managers understand the big picture of enterprise risk management," Mr. Elliott said.

By Sheena Harrison

Marsh USA

MARSH WAGE AND HOUR PREFERRED SOLUTION

<http://usa.marsh.com/ProductsServices/MarshSolutions/ID/28195/Wage-and-Hour-Preferred-Solution.aspx>

Marsh USA launched its Wage and Hour Preferred Solution in January 2013, but the story of its origin goes back much further than that.

"Actually, the genesis of this started with my coming to Marsh from an employment practices liability insurance law firm in 2007," said Adeola Adele, New York-based employment practices liability insurance product leader for Marsh.

Asking herself, "What can we do to improve coverage for the client," Ms. Adele said Marsh started looking into the product as a stand-alone offering in 2009 and began talking to domestic markets to gauge interest.

The result was the Marsh Wage and Hour Preferred Solution, which won Marsh USA a 2014 *Business Insurance* Innovation Award and is available nationwide to Marsh clients.

Wage and hour disputes range from employees classified as exempt from overtime to those considered independent contractors to how restaurant tips are divided in violation of federal and

state laws.

The Marsh offering is designed to cover wage and hour risks typically excluded under traditional employment practices liability insurance policies.

Limits up to \$100 million are available.

The coverage is aimed at any industry in which companies have a large number of employees, such as retail, food and beverage, hospitality, technology, financial institutions, services, manufacturing, and companies with large numbers of exempt employees, hourly employees, and/or independent contractors

The process "really kicked into gear" during 2010, said Ms. Adele, and Marsh drafted a policy in 2011 and started meeting with insurers in Bermuda to develop a product.

The first policy was bound in July 2013, Ms. Adele said.

Part of the success of the product has been in response to insurers altering employment practices liability coverage to make claims more restrictive, said Mark Simons, Hamilton, Bermuda-based senior vice president of Bowring



Ms. Adele

Marsh, which is a unit of Marsh.

Markel Corp.'s Markel Global Insurance of Bermuda is the lead underwriter for the new employment practices liability policies.

"This is partially in response to carriers adding endorsements to EPLI coverage to make wage and hour claims more restricted," said Mr. Simons.

It originally was aimed at clients with more than 4,000 employees, but "now we are at a point where clients with 1,000 employees are interested in the product," said Ms. Adele.

The Marsh Wage and Hour Preferred Solution draws interest from businesses in California, New York, New Jersey, Illinois and Florida, due to the states' more comprehensive employment laws.

About 40% of such wage and hourly claims losses come from California, Ms. Adele said.

In fact, in addition to insurers' narrowing of coverage, legislation can also be a driver of the product's growth as states pass employment legislation that could give rise to new claims.

"New legislation can help drive this product's evolution," said Ms. Adele.

By Matthew Lerner



PartnerRe's app is designed to demonstrate the exposure and frequency of storm hazards.

PartnerRe Ltd.

PARTNERRESEARCH APP

www.partnerre.com/research/partnerresearch.aspx

It is a real-world issue that corporate risk managers confront frequently: Their organizations are considering construction of a new corporate facility, and top management wants to know the building's storm exposure.

Now, using an app developed by Pembroke, Bermuda-based reinsurer PartnerRe Ltd., available as a free iPad download from Apple Inc.'s App Store, members of the insurance industry, buyers and individuals can access information about more than 1,100 historical windstorms across the North Atlantic basin and Europe in the past 100 years.

The app shows "the exposure and frequency of storm hazards," said Brian Secrett, PartnerRe's head of catastrophe reinsurance in Zurich. "This is about conveying knowledge about what has happened. From that, you can derive the likelihood of a meaningful event."



Mr. Secrett

By typing in "Katrina," a map of much of the United States, the Caribbean and part of South America pops up. It shows Hurricane Katrina's path in 2005, with colors denoting the intensity of the storm, ranging from Category 1 to Category 5.

By typing in a year, a viewer can see all windstorms that occurred during that year, including their names and strength. By clicking on the storm name, the viewer can track the storm's path.

Yet another approach is to type in a location. For example, by typing in "Miami," the years in which storms occurred affecting the city are listed at the bottom with color-coded intensity levels. Then by clicking on the year, storm information pops up. In the Miami example, after typing in 1992, information about Hurricane Andrew comes up, including its path and its intensity along that path, as well as its starting and ending date.

The app has not gone unnoticed. Since it was released last September, it has been downloaded by hundreds of users in 38 countries. Individual storm footprints have been downloaded more than 3,000 times.

The app's features have earned it a 2014 Innovation Award from *Business Insurance*.

An upcoming update will include 2013 storms, as well as adding Asia-Pacific wind fields, enabling a comprehensive world view, according to PartnerRe.

By Jerry Geisel

Sedgwick Claims Management Services Inc.

VIAONE® EXPRESS MOBILE APP AND PUSH TECHNOLOGY

www.sedgwick.com/resources/Pages/mobile.aspx

By enabling employees who receive workers compensation, disability or leave benefits to keep tabs on their claims via the Internet or their smartphones, Sedgwick's viaOne® Express Mobile App and Push Technology aims to eliminate some frustration that leads injured workers to seek legal representation.



Mr. Magan

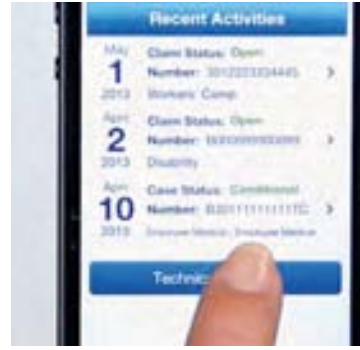
Use of viaOne® Express Mobil App and Push Technology is a component of Sedgwick's claims and disability management offerings and is included in the employer's package pricing at no additional charge to the employer or employee,

said Mr. Magan.

The app is especially popular among employers with younger workforces, Mr. Magan said.

"We know in terms of technology adoption, that it does trend younger. One of our larger clients was very open to the technology and did a strong push for using it, and have seen 90% adoption rates within that employer's population," he said.

By Joanne Wojcik



Employees can use both a mobile app and push technology that sends alerts to their phones via text, email or recorded voicemail message.

"We know that many work comp claimants become represented by an attorney because they feel disconnected or want to know more about what's happening with their claim. With this, they can go online (or use their smartphones) to check the status of their claim. We think this will have a positive impact on litigation rates for our clients," said Jarrod Magan, Memphis, Tenn.-based vice president of client technology services at Sedgwick Claims Management Services Inc.

This app, a winner in the 2014 *Business Insurance* Innovation Awards, enables employees to view claim and case information either online via a secure Internet portal or with their smartphones. Employees can use both a mobile app and push technology that sends alerts to their phones via text, email or recorded voicemail message.

The app, rolled out in phases for various platforms from May 1 to Aug. 1, 2013, is synchronized so employees can access updated details on their claim's status, view the payment history, submit questions, update their claims representative about a medical appointment or return-to-work date, or contact support resources for technical assistance, Mr. Magan said.

"When an employee files a claim, they are given their claim number and can self-register" to use the app that can be downloaded via the Internet, the App Store for iOS devices or Google Play for Android devices, he said.

In addition, employees can set their own "push" preferences from either online or via the app.

It can take years to develop a great idea, but only moments to lose one.

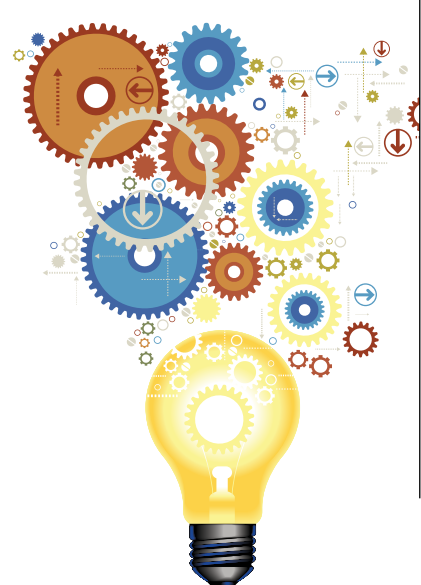
We know how deeply you value your ideas—the care and concern with which you've helped them grow. Which is why we dedicate ourselves to safeguarding your intellectual property.

**Your job is to have ideas.
Ours is to preserve them.**



cozen.com

 COZEN
O'CONNOR





XL Group P.L.C.

XL GAPS MOBILE FIELD APP

<http://xlgroup.com/insurance/insurance-coverage/property-risk-engineering>

When creating the XL GAPS Mobile Field App, necessity was indeed the mother of invention.

Tim Heinze, Hartford, Conn.-based managing director senior vice president and head of XL Group P.L.C.'s global asset protection services unit, said the impetus for the new mobile-enabled risk engineering platform was the need for better data collection and customer service in the field.

Mr. Heinze, who has led the unit since it was created in 2007 when XL Group



The XL GAPS platform was designed for flexibility and to interact with XL's online customer-facing portal, MyAnalysis.

acquired the loss prevention consulting service of Swiss Re Ltd., said that while the field tools that underwriters use in evaluating risk have improved steadily in the past few decades, the advent of mobile technology convinced him there was a chance to vastly improve on-site risk analysis and collaboration with clients.

"I have been thinking about this for a long time," he said. "We've had a couple iterations of tools, but handheld technology has come so far."

Accordingly, Mr. Heinze approached XL's Stamford, Conn.-based technology innovation team, which is tasked with improving XL's customer and colleague experience. The technology team subsequently created the mobile platform alongside Teaneck, N.J.-based technology infrastructure consultant Cognizant Technology Solutions Corp. and received guidance from risk engineers and underwriters, the people who would use the tool the most, Mr. Heinze said.

"It really was field people that developed this tool alongside the technology team," he said.

Launched in September 2013, the XL GAPS Mobile Field App runs currently on iPad only and leverages many of the tablet's abilities, including cameras, voice recognition and handwriting recognition, to help users remotely access, capture, and analyze

data. Freed from carrying extra equipment and performing onerous paperwork onsite, XL's engineers and underwriters can spend more time listening to and interacting with clients, Mr. Heinze said.

"Now when a person goes out to do a survey, all they do is sign on and it will automatically download their work form, customer information and any reference materials they need such as National Fire Protection Association guidelines," Mr. Heinze said. "It's all at their fingertips."

The app also automatically enters data from fire pump tests and quickly produces a graph that can show whether a pump is performing to expectations. "Before, we had to go home, crunch the numbers and wait days for the report," he said. "Now, we do it all on-site."

The app is also available to clients on a subscription basis, Mr. Heinze said, noting that the platform was designed for flexibility and to interact with XL's online customer-facing portal, MyAnalysis.

"If we continue to put this in the hands of people in the field and management puts in a framework where new ideas can be heard, then the product will continue to evolve," he said. "We also want customer input and have a process set up to incorporate that feedback. That's where this will get exciting."

By Bill Kenealy



Mr. Heinze

RISK MANAGERS ASSESS ENTRIES, FOR INNOVATION

All of the entries for the 2014 *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: The entry demonstrates originality in serving the needs of professional risk managers; the product or service is relevant to the core concerns of risk managers; the entry's 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 2014 Innovation Awards winners.

THE 2014 JUDGES

Julie A. Bean
risk manager

The Duchossois Group Inc.

Ron Cooley
director of risk management
W.W. Grainger Inc.

Richard Rabs
vice president of insurance and risk
Veolia Environnement North America

Terry Sampson
director of risk management
The Art Institute of Chicago

Stephan Upshaw
vice president of risk management
Equity Residential

Zurich Insurance Group Ltd.

WHAT IF...? RISK GRADING APP

www.zurich.com/productsservices/corporations/riskengineering/risk-grading-app.htm

The "What if...?" Risk Grading App was developed to help Zurich Insurance Group Ltd.'s customers better understand their existing risks and to help the company's risk engineers present often-complex information in a format that's easy to understand.

Ian McNeil, London-based head of customer management for risk engineering at Zurich, said that the application was developed in part to help maintain the face-to-face relationships that Zurich's 900 risk engineers across the globe have with clients.

The app is intended to help those clients understand the factors that go into grading their risks to help them better manage those risks and their risk budgets, he said. It also enables users to study the impact that risk improvements would have

on their grading — and therefore the price of their insurance coverage.

Zurich's risk engineers have contact with clients about 60,000 times a year performing risk assessments, Mr. McNeil said. Those assessments take into account 30 or so individual factors that are then considered together to create an overall risk score that enables underwriters to grade the risk and underwrite accordingly, he said.

The app has an intuitive interface, and each assessment criterion is graded using a visual linear tool.

The app also generates multiple scenarios that demonstrate the impact of certain risk improvements on that graded score, Mr. McNeil said.

The company wanted to find a way to articulate to risk managers and plant man-

agers why their risks were being graded the way they were and what changes they might be able to make to improve their risk profiles, he said.

The app, which is available for iPad and iPhone download from the App Store, helps to manage customer expectations and build up better rapport, he said.

Zurich's risk engineers have iPads that they take with them on site visits to demonstrate the app to customers, Mr. McNeil said, and the app was downloaded more than 2,000 times last year. The end result is that customers receive an interactive risk report in place of 40-odd pages of paper, Mr. McNeil said.

The app can be used to demonstrate risk grades for liability exposures as well as property risks, he said. The next release will be this spring and will take on-board comments from users, he said.

By Sarah Veysey



Mr. McNeil



SPECIAL REPORT

Captive Trends & Profiles

Captive owners eye TRIA renewal efforts
PAGE 21

Cell structures provide risk firewall
PAGE 22

Higher returns sought on investments
PAGE 23

Largest captive managers, rankings
PAGE 24



Captive options pile up

Some emerging domiciles see significant growth as formations rise

BY RODD ZOLKOS

Captive insurer formations continue to grow worldwide, as do the number of captive domiciles. Medical stop-loss coverage is one active area of captive use, while issues facing captive owners range from regulatory and tax concerns (see story, next page) to the potential of renewing the U.S. Terrorism Risk Insurance Program Reauthorization Act, set to expire at the end of the year.

With all the emerging captive domiciles come concerns about the regulatory wherewithal of some jurisdictions and their long-term commitment to captive insurance.

Worldwide, the number of licensed captive insurers increased to 6,342 in 2013 from 6,125 in 2012, according to a *Business Insurance* survey of captive domiciles (see Research & Data, page 24).

The top four captive domiciles in 2013 were Bermuda with 831 captives, the Cayman Islands with 759, Vermont with 588 and Guernsey with 344, retaining their respective rankings from 2012. Meanwhile, two U.S. domiciles moved up the rankings: Utah, with 342 captives, was No. 5 in 2013 vs. No. 6 in 2012; and Delaware, with 298 captives, moved up to No. 6 last year from No. 10 in 2012.

New players entering the captive domicile scene was a noteworthy trend last year.

“As recently as 10 years ago, most captives were located in five domiciles that had sophisticated teams of regulators,” said Phillip England, chair of law firm Anderson Kill P.C.’s captive insurance group in New York.

The initial U.S. domiciles, launched as far back as 1972, replicated what offshore captive pioneers such as Bermuda had done by investing in talent and a strong regulatory system, Mr. England said. As the number of U.S. jurisdictions that have or plan a captive regime nears 40, today “you have a mixed bag, actually,” he said.

“There is a fear among consultants who advise captives that some of these jurisdictions are really Johnny-come-latelies,” he said. “Do they have the staying power? Is it a date or a real romance?”

“It’s easy to pass the legislation,” said Les Boughner, executive vice president and managing director of Willis Group Holding’s P.L.C.’s North American captive and consulting practice in Burlington, Vt. “The hard part is regulating the captive.”

For example, Mr. Boughner said, states that lack sufficient captive regulatory expertise or staff

“There is a fear among consultants who advise captives that some of these jurisdictions are really Johnny-come-latelies. Do they have the staying power? Is it a date or a real romance?”

Phillip England,
Anderson Kill P.C.

See CAPTIVES next page

COUNTING CAPTIVES

Ranked by number of captive licences at year-end 2013

Rank	Domicile	2013	2012
1	Bermuda	831	856
2	Cayman Islands	759	740 ¹
3	Vermont	588	586
4	Guernsey	344	333
5	Utah	342	287
6	Delaware	298	212 ¹
7	Anguilla	295	291
8	Nevis	276	203
9	Barbados	264	261
10	Luxembourg	225	238
11	Hawaii	184	178 ¹
12	District of Columbia	172	167 ¹
13	Montana	150	114
14	Nevada	148	133
15	British Virgin Islands	147	157
16	South Carolina	145	149
17	Dublin/Ireland	142 ²	141 ²
18	Kentucky	128	139
19	Isle of Man	125	125
20	Arizona	106	101
20	Puerto Rico	106	29
22	Turks & Caicos Islands	88	83
23	Bahamas	81	51 ¹
24	Singapore	62	62 ¹
25	New York	48 ³	50
25	Sweden	48	47 ¹
27	Labuan	40	41
28	Missouri	35	28
29	Switzerland	34	35 ¹
30	British Columbia	32	31
30	Tennessee	32	9
32	Alabama	27	23
33	Gibraltar	16	16
34	New Jersey	15	5
35	Georgia	13	13
35	St. Lucia	13	12
35	Germany	13	13
35	Denmark	13	12
39	Malta	12	12
39	Netherlands Antilles	12 ³	12
39	Panama	12	12
39	Micronesia	12	9
43	Oklahoma	11	5
43	Liechtenstein	11	12
43	Norway	11 ³	11
46	New Zealand	10	11
46	Vanuatu	10	10
48	South Dakota	9	4
49	Finland	8	8
49	U.S. Virgin Islands	8	8
51	Michigan	7	6
51	Australia	7	7
53	Colorado	4	5
53	North Carolina	4	0
53	Connecticut	4	2
56	Guam	3	3
56	Maine	3	3
58	Dubai	2 ³	2
58	Jersey	2	2
58	London	2 ³	2
58	Nebraska	2	2
58	Arkansas	2	1
58	Hong Kong	2	1
64	Illinois	1	1
64	Kansas	1	1
64	West Virginia	1	1
64	Bahrain	1	1

¹ Restated. ² Combines Dublin and Ireland. ³ BI estimate.

Source: BI survey

CAPTIVES

Continued from previous page

typically outsource captive examinations to independent accounting firms, which can cost the captive three to five times as much as a state conducting the exam.

Some newer players among captive domiciles are establishing themselves, however.

“Tennessee’s getting traction. New Jersey’s getting traction. Texas and Oklahoma are getting some; they’re in the game,” said Brady Young, president and CEO of captive manager Strategic Risk Solutions Inc. in Concord, Mass.

While agreeing that not all of the new domiciles are going to be long-term players, Michael A. Corbett, director of the Captive Insurance Section of the Tennessee Department of Commerce and Insurance in Nashville, Tenn., said he expects the state, which rewrote its captive law in 2011 to reinvigorate the domicile, to be one that is built to last.

New formations in Tennessee, which had 32 captives in 2013, were “quite active,” Mr. Corbett said. “The captive managers have increasing comfort that not only is my department there for the long term, but the commissioner’s commitment is steady, it’s consistent, and so is the governor’s.”

“I think when we started in 2011, we saw a little bit of everything. Now, after 2½ years have gone by, there seems to be a consistent focus in the health care arena,” Mr. Corbett said. That is partly driven by the concentration of health care-related companies in the Nashville area, he said.

“I’m not going to count on a lot of redomestications of companies from the Caymans, but we do have a lot of health care companies with captives down there,” Mr. Corbett said.

Utah, which is home to many of the small so-called 831(b) captives — those that earn no more than \$1.2 million in annual written premiums and, consequently, are eligible for the Internal Revenue Code’s 831(b) election not to be taxed on those premiums — opted early on to focus on smaller, similar captives as it grew a regulatory operation suited for large more complex captives, said Ross C. Elliott, captive insurance director in the Utah Insurance Department in Salt Lake City.

“We had fairly large growth last year in manufacturing and health care industries,” said Mr. Elliott. “We’ve had a reputation for being the king of the small-captive world. (In 2013) we saw a number of larger companies, household names.”

Utah started its captive operations “small and simple” while building its staff, Mr. Elliott said. “We are very aware of the reputation issues domiciles face. So we wanted to make sure we had the knowledge and the wherewithal.” Now with a staff of nine, “we’ve been very fortunate to get some very knowledgeable staff here,” he said.

The number of new domiciles may be affecting a long-established domicile such as Vermont, but David F. Provost, deputy commissioner of the Captive Insurance Division in the Vermont Department of Financial Regulation, said he thinks that tends to even out.

“We’re not the only game in town anymore,” said Mr. Provost, who is based in Montpelier, Vt. But Vermont is still putting up good numbers, licensing 29 new captives in 2013, so “there appears to be plenty to go around,” he said.

Despite domicile growth onshore, prospective captive parents continue to look offshore as well.

“There are a lot of clients where there are still very good reasons to go offshore. We’re setting up new captives in Bermuda and Cayman,” said Mr. Young. “I think generally, clients are going for the well-established offshore domiciles.”

“All of our domiciles are busy,” said Mr. Boughner.

“Cayman continues to do a great job for U.S. health care, particularly nonprofit. (In) Bermuda, you’re seeing a lot of (insurance-linked securities) activity, which is fundamentally captives. That’s replacing a lot of their new formations. They’ve done a good job of finding a niche opportunity.”

Medical stop-loss coverage also continues as an area of interest. It typically is used by companies with self-insured health plans to pay claims — either of individuals or the group — above a certain threshold.

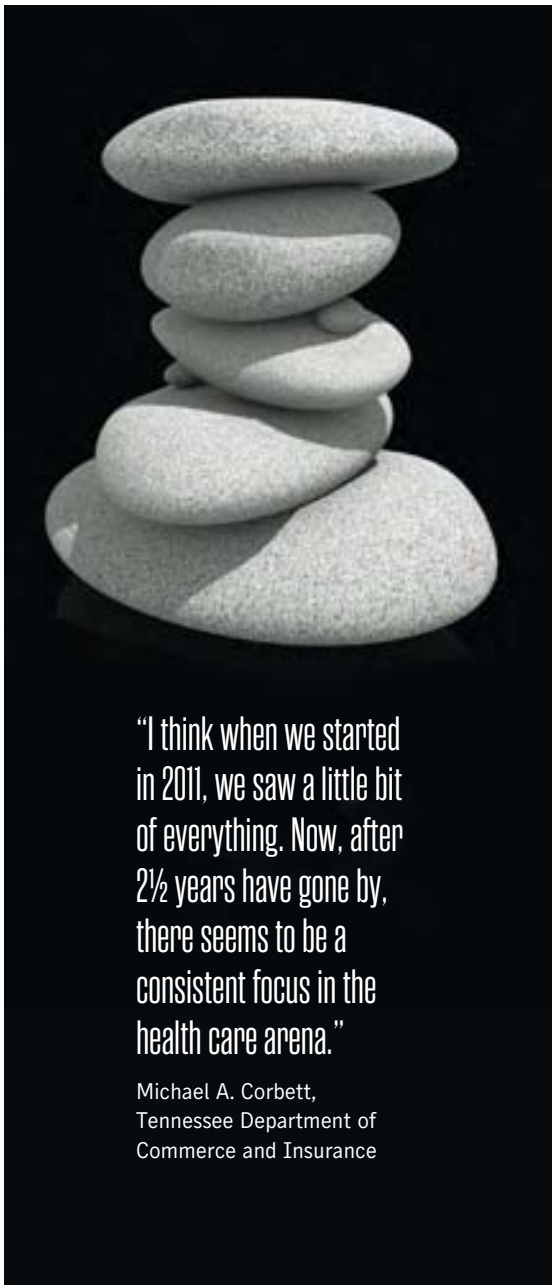
“We’re doing three major feasibility studies right now that involve medical stop-loss,” said Mr. Boughner.

“The use of captives for employee benefits, particularly stop-loss, is becoming more mainstream,” said Mr. Young. “It’s not a fad. I think it’s a long-term trend.”

Mr. Provost said that while he’s seen medical stop-loss programs in Vermont captives, it remains somewhat limited, with a mixed experience among such captives.

“We’ve done a few,” he said. “Quite a few of our large Fortune 500 captives have done med stop for a number of years. We’ve seen some groups. Some of them are doing well; some of them are not doing so well. It’s a little different business to figure out.”

And with uncertainty about the future of the federal terrorism insurance backstop, “the big thing that a lot of people are thinking about is (the backstop) and terrorism,” said Richard Rabs, vice president of insurance and risk at Veolia Environnement North America in Chicago. “You use your captive for those risks that are difficult to insure or insurance is unavailable.”



“I think when we started in 2011, we saw a little bit of everything. Now, after 2½ years have gone by, there seems to be a consistent focus in the health care arena.”

Michael A. Corbett,
Tennessee Department of
Commerce and Insurance

Regulatory, tax issues
increase uncertainty

While the landscape for captive insurers is generally stable, regulatory and tax issues have the industry’s attention.

“We still have a lot of regulatory concerns,” said Les Boughner, executive vice president and managing director of Willis Group Holding’s P.L.C.’s North American captive and consulting practice in Burlington, Vt. “The more additional costs, the less a captive becomes feasible.”

One issue is some states’ interpretation of the Nonadmitted and Reinsurance Reform Act of the Dodd-Frank Wall Street Reform and Consumer Protection Act concerning self-procurement taxes on premiums paid to captives domiciled elsewhere, which could result in some companies paying more taxes on coverage placed in their captives.

“I think for some clients, that is a factor in thinking about where they want to put their captive and whether they want to redomicile to their home state,” said Brady Young, president and CEO of captive manager Strategic Risk Solutions Inc. in Concord, Mass.

Texas is one state interpreting Dodd-Frank as allowing application of the self-procurement tax. “I am aware of one large Texas-based company that is in the process of moving their captive to Texas,” Mr. Young said.

Choosing a domicile

Mr. Boughner said he sees Dodd-Frank and the self-procurement tax issue “resulting more in branch captives than the movement of captives.”

The best planning is “to have a conservative structure, choose the domicile that makes sense ... taking into account Dodd-Frank and self-procurement taxes, but not just running from one state to another without taking into account whether they really understand captives,” said Phillip England, chair of Anderson Kill P.C.’s captive insurance group in New York.

Another concern, Mr. Boughner said, emerges from

corporate tax reform proposals in New York Gov. Andrew Cuomo’s current budget, which would move taxation of New York companies to a full unitary basis, including captive companies in the combined group, again increasing captive parents’ taxes.

IRS ramps up audits

In addition, increased Internal Revenue Service scrutiny of captives is a concern for many, even after a January victory in a long-awaited U.S. Tax Court ruling that held that subsidiaries of Rent-A-Center Inc. are entitled to deduct premiums paid to the company’s captive insurer from federal taxes.

“The IRS is very active on audits, and we’ll see how that plays out,” said Charles J. Lavelle, a partner at Bingham Greenebaum Doll L.L.P. in Louisville, Ky. “There are more cases in court than there have been for 10 years.”

The increased IRS focus includes looking at 831(b) “micro-captives,” Mr. Lavelle said. “I’d put those in the general context of the IRS being more active in audits. They’re auditing big companies as well as little companies.”

Mr. Boughner said he hopes the IRS does examine 831(b) captives that are formed for tax reasons rather than a legitimate insurance purpose.

“We’ve made a 180-degree switch on 831(b)s. We went from where we said we didn’t do them until we realized we did quite a few,” he said. “And every single one that we did had a very strong, sustainable business plan.”

“If the election ever went away, our client base would smile and say, ‘It was nice while it lasted, but we’re happy with the captive,’” despite not being able to avoid federal tax on its premiums, Mr. Boughner said.

Of captives formed simply for tax purposes, “The IRS is the barking dog in the captive business, and the IRS will certainly keep an eye out for that type of captive,” Mr. England said.

By Rodd Zolkos

CAPTIVES USED FOR TERRORISM RISKS WOULD BE STYMIED BY TRIA EXPIRATION

Even revisions to the federal backstop will make captive arrangement less appealing

BY JOANNE WOJCIK

Captive insurance companies formed solely to access reinsurance under the U.S. terrorism insurance backstop will have no business purpose if the federal program is allowed to expire at the end of the year, industry experts warn.

While such captives may continue to provide some terrorism coverage if the program first authorized in 2002 under the Terrorism Risk Insurance Act is scaled back, the captives likely will be subject to higher coinsurance, deductibles and trigger points, experts said.

TRIA was enacted in response to the Sept. 11, 2001, terrorist attacks and was extended in 2005 and 2007, but it is due to expire on Dec. 31.

To prepare for the possibility that TRIA coverage may end or be significantly reduced, some captive experts recommend captive owners start exploring the stand-alone terrorism insurance market, which has grown since 2002.

Commercial insurance buyers can purchase up to \$3 billion in limits from U.S. and London-based insurers, according to a report that Aon Risk Solutions, a unit of London-based Aon P.L.C., published in September.

In addition, experts recommend that captives formed to access TRIA be diversified to write other business risks so they could continue operating even if the backstop lapses or is changed. Some companies already are taking such steps.

While no precise figures are publicly available to determine how many U.S.-owned captive insurers currently access the coverage, industry experts estimate up to half do so to provide a collective \$200 billion to \$300 billion in terrorism risk coverage.

“TRIA backstops up to 85% of the risk; but before it gets there, it is subject to a bunch of deductibles and triggers,” said Wendy Peters, senior vice president and terrorism practice leader at Willis North America Inc. in Radnor, Pa. “For an act to be considered counting toward TRIA, it must cause at least \$5 million in damage. Then there has to be at least \$100 million in terrorism losses in a year. So, essentially, the captive is on the hook for any loss that’s less than \$100 million. Then TRIA backstops you to 85% of the loss, subject to a deductible of 20% of the premium paid to the captive.”

“A lot of our captive clients are obviously quite concerned with whether the backstop will be

extended and, if so, in what form,” said Aaron Davis, a managing director in Aon’s national property practice in New York.

To hedge against a possible TRIA expiration or reduction, Aon offers its captive clients three products: TRIA Captive Flip Cover, which would essentially convert any commercial reinsurance policy into direct coverage; a contingent capital product, in which captive owners “reserve capacity” for a commitment fee ranging from 5% to 20% of the premiums that would be charged for commercial coverage purchased after TRIA expires; and a North American Structured Portfolio Solution providing up to \$500 million in stand-alone terrorism insurance coverage.

Marsh L.L.C. and Willis Group Holdings P.L.C. provide access to similar programs, but they have not been branded as extensively as Aon’s.

William D. Riley, a principal of the Burlington, Vt., law firm Paul, Frank & Collins P.C., said many clients have been “developing contingency plans for replacing the captive coverage with whatever traditional insurance can be had. The market has gotten better over the last couple of years.”

But Art Koritzinsky, managing

director at Marsh’s captive solutions group in Norwalk, Conn., is concerned that capacity could dry up if the federal backstop disappears.

“There is plenty of capacity for property catastrophe risk. I’m not sure a terrorism coverage market would develop overnight” without the backstop, he said. “The whole U.S. terrorism market has devel-



oped around TRIA; and if it’s suddenly gone, there will be a lot of tumult in the marketplace.”

The end of the backstop also could prompt captives formed solely to access the federal backstop to close up shop, said Brady Young, Atlanta-based president and CEO of captive consultant Strategic Risk Solutions Inc.

“We have two TRIA captives that would shut down if TRIA is

not renewed,” he said.

“If it expires completely, a lot of these captives will have no business purpose,” said Aidan Kelly, senior vice president and chief operations and compliance officer in the global captive practice at Willis in Atlanta. “We’ve been advising our clients to diversify their portfolios to provide other coverage in addition to terrorism so they have a life and a purpose after this year.”

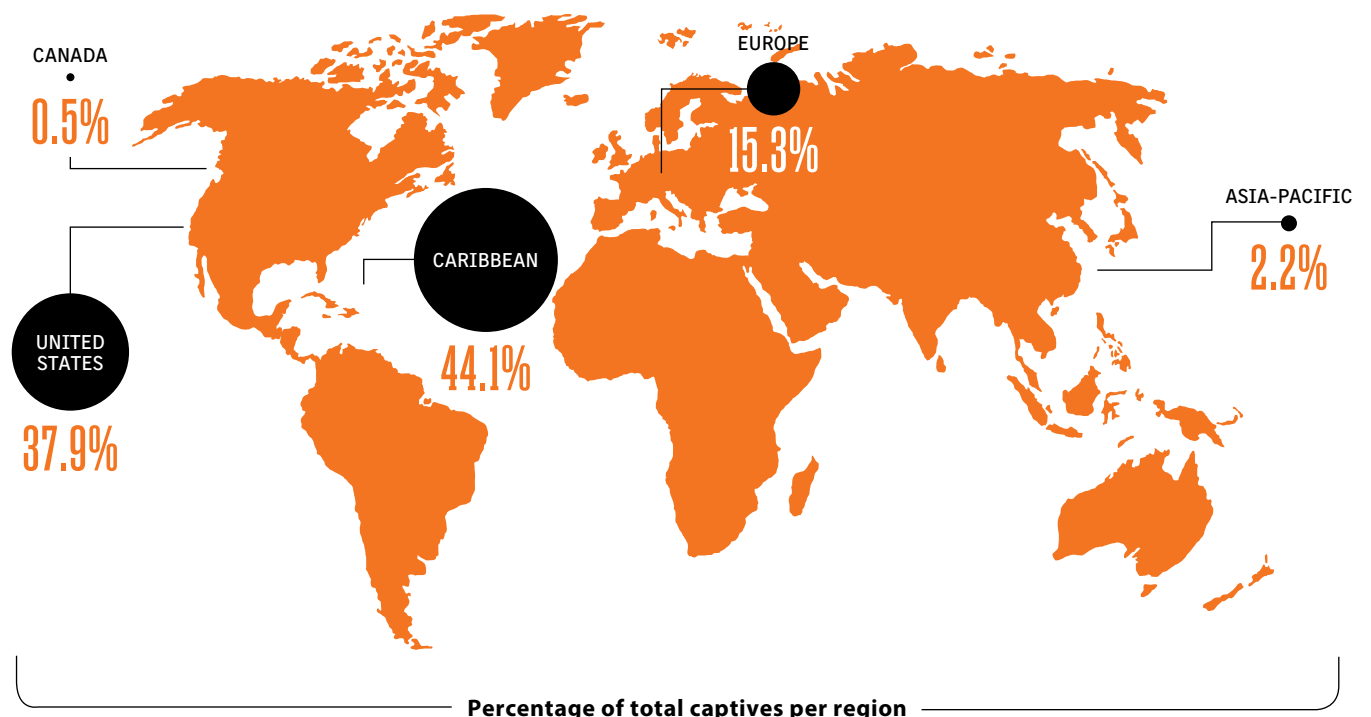
Mark Steddon, global head of terrorism crisis management at JLT Re Ltd. in London, also advises clients “to run other lines through their captives. I’m certainly of the opinion that (the backstop is) going to be extended, but there will be larger retentions, deductibles and a higher loss trigger. I’ve heard it could go up to \$500 million, which would make the captive concept less appealing” for self-insuring terrorism risks.

Pleasanton, Calif.-based Safeway Inc., which formed a captive in Hawaii four years ago to access the backstop, is preparing for that possibility, said Ward Ching, vice president of risk management operations.

“We have other potential uses for the captive,” he said, declining to elaborate.

ONSHORE/ OFFSHORE BY THE NUMBERS

There were 6,342 captives worldwide in 2013, a 3.5% increase compared with 2012.





INCREASED VARIETY OF CELL CAPTIVES OFFERS OWNERS CHOICE OF STRUCTURES

New programs provide more protection from liabilities of other members

BY BILL KENEALY

Potential economic, legal and business benefits are helping spur the use of captive cell structures.

Mark Smith, Hamilton, Bermuda-based principal at Deloitte Bermuda, said he is seeing increased use of captive cells, which are legally separated units with a captive insurer, over stand-alone captives.

Where a traditional captive has one corporate owner, a segregated cell structure can have several owners share a common superstructure, but still be legally bulwarked from liabilities of the other owners.

From the perspective of a potential captive owner, a captive cell has an existing management and administrative structure that lessens the time necessary for a new participant to become operational and saves money as administrative costs are spread across the various cells comprising a cell captive, Mr. Smith said.

Steve Kinion, Wilmington, Del.-based director of the Bureau of Captive and Financial Insurance Products for the Delaware Department of Insurance, likens cells to “captives on training wheels.”

In addition to the relative ease with which they can be made operational, primary benefits of captive cells include provisions to segregate and firewall risks of the various member cells, said Kieran O’Mahony, Grand Cayman-based deputy managing director at Aon Insurance Managers (Cayman) Ltd.

“If you are not looking for risk-sharing, a cell company gives you a lot of advantages of a captive without exposure to credit loss from other programs and other members,” he said. “It’s akin to owning a condominium as opposed to your own home: You share a common superstructure, but have additional limitations.”

One innovation that may make cells more attractive is the advent of incorporated cell captives.

Tim Faries, a partner in the insurance group at Appleby Global Group Services Ltd., a Hamilton, Bermuda-based financial services firm that advises companies on forming captives, said by incorporating, these protected cell structures are treated as a separate legal entity, thus separating any potential liabilities, and have their own boards or directors.

“From a legal perspective, the introduction of incorporated cells as alternative to typical

“If you are not looking for risk-sharing, a cell company gives you a lot of advantages of a captive without exposure to credit loss from other programs and other members.”

Kieran O’Mahony,
Aon Insurance Managers (Cayman) Ltd.

cell captive structure over the last couple of years has been an interesting development,” Mr. Faries said. “From a captive perspective, incorporated cells give owners even more autonomy and more complete firewalling from other cells.”

Mr. Kinion said Delaware law differs from other jurisdictions in that it gives captive cell participants the option to be “series business units,” which affords them more flexibility in how they define their governance mechanisms and liability arrangements. Currently, there are 612 series captives licensed in Delaware, he said.

“What we have found is that a series (busi-

ness unit) under a Delaware limited liability company is a great gateway to the captive insurance world,” Mr. Kinion said. “Series under Delaware law are easy to form and dissolve, because there is no filing with the Secretary of State’s office as you do in other jurisdictions. You can just amend the limited liability corporation agreement.”

As for which companies and organizations are establishing cell captives, Mr. O’Mahony said he has seen some large U.S. corporations that suffered a significant loss and subsequently were unable to find sufficient insurance market capacity establish a captive cell as a way to tap reinsurance capacity.

“These companies have created a cell or (series business captive) to issue paper for gaps in their program and then reinsure it to 100% capacity,” he said. “So cells can help flesh out missing capacity.”

Small or medium-size companies in areas such as agriculture, forestry and energy are more interested in cells, he said.

“People are willing to join a group cell and knowingly share risk amongst them if they see they are in a peer group that is well-managed from an insurance perspective and with like-minded risks,” Mr. O’Mahony said. “This way, they pay a premium more appropriate to their risk exposure and history; and if there are any underwriting profits, they retain them instead of transferring them to the traditional market.”

Elsewhere, Mr. Kinion said he sees an upswing in cell establishment by smaller companies for financial and tax reasons. U.S. Internal Revenue Code section 831(b) exempts from federal income tax all operating income from captive insurance companies that qualify under the tax law.

“We are seeing a lot of growth in mid-market or micro captives that make an 831(b) election under federal tax law,” he said.

TYPES OF CAPTIVES

There are nine types of captives that provide various types of insurance coverage for their parent companies and, in some cases, for outside organizations.

Pure captive: Also known as a single-parent captive, it has only one corporate owner.

Agency captive: Formed by an agency or brokerage, it reinsures third party risks.

Association captive: Often formed by trade associations to insure organizations with similar risks.

Branch captive: Functions as an onshore unit of an existing offshore captive.

Industrial insured captive: A captive that provides insurance to affiliates of its parent company.

Risk retention group: Offers coverage for organizations with related liability exposures.

Sponsored captive: Also known as a rent-a-captive, participants use an existing legal entity and management structure for coverage.

Special-purpose captive or series captive: Similar to rent-a-captive, but incorporated and has more governance options.

Special-purpose financial captive: Often formed by traditional insurance companies to segregate risk and better manage the balance sheet.

Source: Delaware Captive Insurance Association

Captives hurt by low interest rates; domiciles won't reduce capital rules to push growth

BY RODD ZOLKOS

While captives tend to be conservative investors, low interest rates have some looking at loans to their corporate parents or alternative investment structures to better use their capital while staying in line with solvency requirements.

Typically, captives invest heavily in fixed-income instruments, which for most captive parents has meant limited returns because of low bond yields.

"They'd all love to enhance their investment returns," said Les Boughner, executive vice president and managing director of Willis Group Holdings P.L.C.'s North American captive and consulting practice in Burlington, Vt. "Companies are either using a dividend or a loan-back" arrangement in the face of low interest rates, he said.

As captives consider their investment alternatives, there have been "a few inquiries by companies who are just making sure they know the rules," said David F. Provost, deputy commissioner of the Captive Insurance Division in the Vermont Department of Financial

Regulation.

"With pure captives, there are no rules," Mr. Provost said of single-parent captives. "The only rules are I can restrict things if they appear too crazy and look like they'll threaten the solvency of the company."

In this low-interest-rate environment, making a loan to the parent "does make sense for the company, and it does make sense for the captive," the Vermont regulator said.

In Vermont, the parent must have at least \$100 million in equity and an investment-grade credit rating. In the event the parent has no debt and consequently is unrated, the captive division will work with the company to account for that, he said.

"Every company's different," Mr. Provost said of such proposals, which are evaluated individually.

Many captive owners were shocked last year by their investment returns because of low bond yields, said Carl E. Terzer, principal and founder of CapVisor Associates L.L.C. in Chatham, N.J.

For example, the 10-year Treasury rate was about 1.9% on Jan. 2, 2013, and about 3% on Dec. 31, 2013,

both well below the long-term average of 6.5%.

"I think they're concerned with a disproportionate amount of the portfolio in bonds they're not going to get the return that they forecast," Mr. Terzer said, leading them to ask, "Can we move out of bonds and, if so, to what?"

With bonds projected to post returns well below historic norms, "they're asking where can we get a return and is it prudent to reduce our bond holdings," Mr. Terzer said.

The answer depends on where a captive is in its life cycle, he said. "There's no one-size-fits-all investment plan, obviously."

"There are all these different investment classes that lie between the two ends of the spec-

trum," with investment-grade bonds at one end and stocks at the other, Mr. Terzer said.

For larger, more mature captives with strong solvency, possible investment vehicles could include master limited partnerships, Mr. Terzer said.

With the current U.S. energy boom, the energy-oriented investment vehicles are "a pretty solid play, I think, for at least the next three years," he said. "I would say the average return was somewhere between 28% and 42%."

The master limited partnerships offer a current-income component and an appreciation component, and add diversity in a portfolio, Mr. Terzer said.

Other potential investments include real estate investment

trusts and hedge funds.

"That would be for the companies that already have a reserve portfolio that is serving as a sound foundation for their claims-paying ability," Mr. Terzer said.

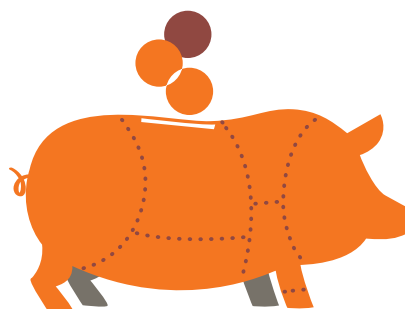
While forming a captive requires a significant commitment of capital, there's no sign that captive domiciles are trying to reduce their capital requirements to drive growth.

"The minimums (on states' capital requirements) are pretty much the same and, in most cases, the minimums don't come into play," said Brady Young, president and CEO of captive manager Strategic Risk Solutions Inc. in Concord, Mass.

Mr. Boughner offered a similar view. "I think it's pretty standard across the board," he said. "I think there's an accepted way of doing things."

One benefit of low interest rates has been a greater focus by many captives on their assets, Mr. Terzer said.

"It appears there is an increased interest in the asset side of the balance sheet for a change," he said. "Not only that, both sides need to be correlated."



TYPICAL CAPTIVE INVESTMENTS

- U.S. Treasury bonds and notes
- State-issued bonds
- High-grade corporate bonds
- Intercompany loans
- A small amount in stocks

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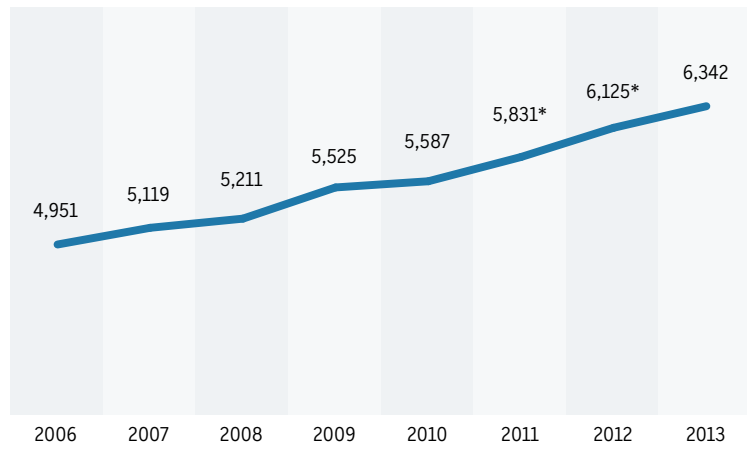
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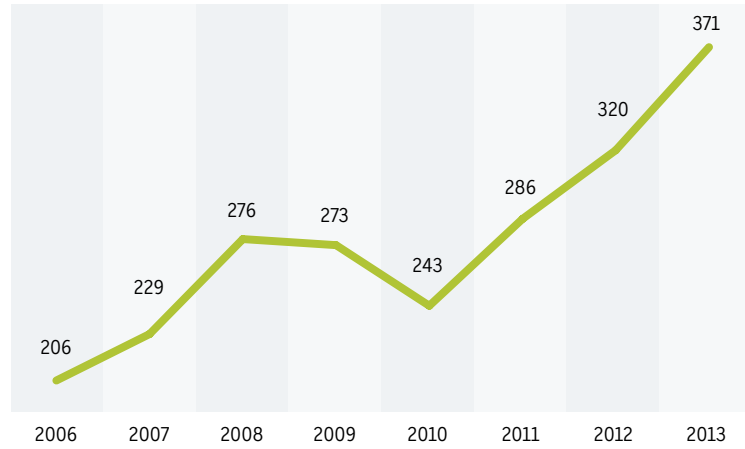
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TOTAL CAPTIVES WORLDWIDE

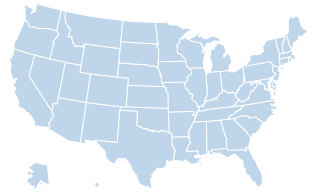


*Restated
Source: BI survey

PROTECTED CELL CAPTIVES WORLDWIDE



Source: BI survey



LARGEST U.S. CAPTIVE DOMICILES

Ranked by number of captives at year-end 2013

Rank	State	2013	2012
1	Vermont	588	586
2	Utah	342	287
3	Delaware	298	212*
4	Hawaii	184	178*
5	District of Columbia	172	167*
6	Montana	150	114
7	Nevada	148	133
8	South Carolina	145	149
9	Kentucky	128	139
10	Arizona	106	101

*Restated.
Source: BI survey

TOP 10 CAPTIVE MANAGERS

Ranked by captives managed worldwide in 2013*

Rank	Company/address	Phone/website	2013 total captives	2013 captive premium volume**	Domiciles	Captives formed***	Total staff	Principal officers
1	Marsh Captive Solutions, 1166 Ave. of the Americas, 39th Floor, New York, N.Y. 10036	212-345-7769 www.marshcaptive.com	1,249	\$39,899,709,074	42	N/A	453	Jill Husbands, Julie Boucher and Ian Clancy, managing directors
2	Aon Captive & Insurance Management, 8 Devonshire Square, London, England EC2M 4PL	44-2076-235-500 www.aon.com	1,073	\$25,000,000,000	26	N/A	463	Peter Mullen, CEO
3	Willis Global Captive Management, The Willis Building, 11th floor, 51 Lime St., London, England EC3M 7DQ	44-2031-246-000 www.willis.com	340	N/A	30	20	166	Paul Owens, CEO-Willis Global Captive Practice
4	USA Risk Group, 2386 Airport Road, Barre, Vt. 05641	800-872-7475 www.usarisk.com	261	\$2,685,762,412	20	26	71	Gary Osborne, president
5	Strategic Risk Solutions, 2352 Main St., Concord, Mass. 01742	781-487-9800 www.strategicrisks.com	207	\$2,332,000,000	16	21	60	Brady Young, president
6	Kane Group Ltd., Noble House, Queens Road, St. Peter Port, Guernsey G1Y 1PT	44-1481-729-957 www.kane-group.com	196	\$3,099,253,909	11	20	97	Simon Hinshelwood, group CEO
7	AMS Insurance Management Services Ltd., Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands VG1110	284-494-4078 www.amsbvi.com	148	N/A	4	25	10	Derek Lloyd, director
8	JLT Insurance Management, Cedar House, 41 Cedar Ave., Hamilton, Bermuda HM HX	441-292-4364 www.jltcaptives.com	146	\$2,434,444,679	11	17	64	Steve Arrowsmith, executive chairman; Kilian Whelan, CEO
9	Beecher Carlson Insurance Services L.L.C., 8390 E. Crescent Parkway, Suite 200, Denver, Colo. 80111	303-996-5408 www.beechercarlson.com	98	\$5,675,227,000	12	3	33	Jason Flaxbeard, senior managing director
10	R&Q Captive Holdings Ltd., 110 Fenchurch St., London, England EC3M 5JT	44-2077-805-850 www.rqih.com	95	N/A	14	95	39	Nicholas S. Dove, chairman

*Captives electing to operate under Section 831(b) of the Internal Revenue Code are not included. **Premium volume includes total gross premium volume of captives managed by the company or on its behalf. ***Captives and protected/segregated cell companies formed in 2013. Source: BI survey



LARGEST EUROPEAN CAPTIVE DOMICILES

Ranked by number of captives at year-end 2013

Rank	Domicile	2013	2012
1	Guernsey	344	333
2	Luxembourg	225	238
3	Dublin/Ireland	142*	141*
4	Isle of Man	125	125
5	Sweden	48	47**
6	Switzerland	34	35**
7	Gibraltar	16	16
8	Germany	13	13
8	Denmark	13	12
10	Malta	12	12

*Dublin and Ireland captives combined. **Restated. Source: BI survey

CyberSelect protection covers data breaches

Beecher Carlson Insurance Services L.L.C. has launched CyberSelect, a new cyber liability and data breach response coverage.

The policy offers enhancements that previously were not available, the Atlanta-based broker said in a statement.

“Data breaches are becoming more and more prevalent, and the size and associated costs can be staggering,” John Kerns, executive managing director of Beecher Carlson, said in the statement. “CyberSelect offers comprehensive coverage with primary limits available up to \$50 million so companies will not have to question whether their policy fully or partially responds.”

It eliminates the need to gain consent from the insurer to hire legal experts, forensic accountants and public relations consultants and can provide full policy limits for costs arising out of any regulatory investigation by a regulatory agency or the Payment Card Industry Security Standards Council, according to the statement.

The coverage is supported by Lloyd’s of London and other European markets, a Beecher Carlson spokeswoman said.

Hiscox threat protection targets smaller companies

Hiscox Ltd. has launched insurance coverage to address growing domestic exposures and security risks for small and midsize companies.

The coverage offers threat assessment and protection with limits ranging from \$500,000 to \$65 million, with premiums starting at \$900 annually, the New York-based specialist insurer said in a statement.

“The best way to deal with threats to your organization is by following expert advice from people who have experienced these before,” Bert Spunberg, senior vice president and practice leader for executive risk at Hiscox, said in the statement.

“Hiscox clients get the expert advice they need from our exclusive response partner, Control Risks, to reduce risks and manage potentially dangerous incidents,” he said.

Aon Benfield to model European windstorms

Aon Benfield Group Ltd. has launched a catastrophe model for European windstorm risk.

The model is open, unencrypted and customizable for users, enabling them to create a bespoke view of their own risk, according to the company. The Impact Forecasting catastrophe modeling team at Aon Benfield began developing the model in 2008, said Adam Podlaha, the head of that team.

Windstorm is the biggest peril in Europe, Mr. Podlaha said at a news conference, as evidenced by the recent large losses across much of the continent, and Aon Benfield wanted to develop a model that would enable users — risk man-

PRODUCTS & SERVICES



Laurus offers consulting on health exchanges

* Laurus Strategies, a Chicago-based employee benefits consultant, has launched a private health insurance exchange consulting practice.

Dozens of national and regional employee benefit brokers, consultants, online insurance agencies and health care information technology providers have entered the private exchange marketplace in the past 18 months, and Laurus’ consulting practice is designed to respond to growing demand among employers for objective guidance in evaluating exchange-based group health benefit programs, Laurus Strategies executives said.

“The first decision an employer needs to make is not which exchange to participate in — it’s whether or not an exchange-based model is even right for them,” Nancy Scola Lombaer, a Chicago-based partner at Laurus Strategies, said in an interview.

“Our process enables employers to complete an impartial assessment of all available options so they can confidently decide on what their best course of action should be,” Scott Carter, president of Laurus Strategies, said in a statement.

Ms. Lombaer said Laurus Strategies researched the rapid expansion of the private health insurance exchange marketplace nearly two years ago. While it considered the possibility of launching its own exchange product, it ultimately decided to focus on offering independent consulting services.

The company began building a database of third-party exchange products last fall.

agers, insurers and reinsurers — to develop their own view of that risk.

The model was developed in coordination with the institute of geophysics and meteorology at the University of Cologne in Germany.

It uses data generated by global climate model, a mathematical simulator that uses equations to describe climatic factors such as the dynamics of the atmosphere, to model that effects of clusters of storms, said Alexandros Georgiadis, a catastrophe model developer at Aon Benfield in London.

Capital Insurance adds EPLI policies for business

Capital Insurance Group has expanded its comprehensive employment practices liability insurance option to include policies for business owners.

The policies offer protection for organizations with up to 250 employees with a limit of \$1 million, the Monterey, Calif.-based insurer said in a statement.

Organizations with 50 employees or fewer can get a limit up to \$250,000, according to the statement.

The policies provide employers with protection against claims made by current, former or prospective employees and cover a wide span of employment-related allegations including wrongful termination, harassment and discrimination, according to the statement.

“Beyond the EPLI coverage itself, CIG provides access to free resources, like model employee handbooks, training modules and information documents on relevant, new legislation that help small businesses mitigate risk and utilize sound employment practices,” Mark Ohlstrom, Capital Insurance Group’s risk assessment and loss control manager, said in the statement.

RIMS digital platform aims to help risk managers

The Risk & Insurance Management Society Inc. unveiled a new digital platform aimed at better connecting risk managers with the tools and technology partners they need.

Dubbed RIMS Marketplace, the platform is intended to replace the RIMS Buyer’s Guide and features more than 350 technology company profiles that are organized into 225 searchable risk management categories.

“The risks our organizations face can change in an instant,” RIMS Executive Director Mary Roth said in a statement. “Knowing the right people or having the right network in place can be the difference between your organization successfully navigating a risk or falling to its consequences.”

The platform enables providers to continuously share news releases, presentations, videos and social media pages to better educate risk managers about their products and services.

Berkshire unit targets large medical providers

Berkshire Hathaway Specialty Insurance, a unit of Berkshire Hathaway Inc., has launched a health care umbrella policy.

The form is designed to address the exposures of large medical providers, the Boston-based insurer said in a statement.

The policy provides a definition of “insured” that includes new entities acquired or established by the named insured and provides business crisis and reputation protection benefits, according to the statement.

The policy’s contractual liability coverage section addresses accountable care organizations, the insurer said.

DEALS & MOVES

XL America acquires crop insurer Global Ag

XL Reinsurance America Inc., a subsidiary of XL Group P.L.C., has acquired Global Ag Insurance Services L.L.C., a Fresno, Calif.-based crop insurance provider.

By joining XL, Global Ag aims to build its teams of adjusters and underwriters and improve delivery of agricultural risk management services, Stamford, Conn.-based XL Reinsurance America said in a statement.

The companies have partnered since 2011 to provide crop insurance to U.S. West specialty crop producers and growers through the U.S. Department of Agriculture’s multiperil crop insurance program.

“Our partnership with XL has been instrumental in our success over the past few years. We’re excited about the opportunity to build on that success and drive continued growth by leveraging XL’s global platform, financial strength and proven track record in agricultural risk management,” Global Ag CEO Jordan Roach said in the statement.

“Taking this next step of bringing on board the Global Ag team fully fits with XL’s strategy of adding high-quality teams in attractive markets,” XL Reinsurance President and CEO John Welch said in the statement.

“We believe now is the time to accelerate growth by leveraging the strength of the XL platform and building upon the success of a regionally focused crop insurance model,” Mr. Welch said.

Terms of the acquisition were not disclosed.

Interactive Health expands reach with Health Solutions

Interactive Health Inc. said it has acquired Health Solutions, a provider of on-site comprehensive wellness services to U.S. and international organizations.

Interactive Health now will serve clients in every U.S. state, Canada, the United Kingdom and Turkey and plans to expand services into Poland and Mexico, the Schaumburg, Ill.-based health management solutions provider said in statement.

Terms of the deal were not disclosed. Existing staff will remain in their current roles and locations throughout the company, an Interactive Health spokeswoman said.

New Equity Risk practice to aid health care industry

Equity Risk Partners Inc. has established a health care practice, Healthcare Risk, to offer specialized services to the health care and related industries.

The new practice will help private equity firms, their portfolio companies and traditional health care industry operations develop and implement competitive and cost-effective risk management and employee benefit programs, the San Francisco-based broker and risk management and employee benefits consultant said in a statement.

The Chicago-based practice is led by Scott Pachtman, senior vice president.

Among its offerings are dedicated risk management products and services, proprietary insurance brokerage access to specialty insurers and a claims advocacy group with dedicated health care experience, the company said in the statement.

MARSH TARGETS SURETY FOR BANK SECTOR GROWTH

Q What excites you most about your new position?

A I'm most excited about the unique opportunity to create new solutions and applications of surety products to help our clients be more successful. For banks, surety products can help free up existing guarantee limits and reduce regulatory capital consumption, thus increasing a bank's overall risk appetite on single deals and enabling new and larger deal flow on other bank products with a higher return. This is also a great opportunity for surety companies to use their capacity to participate in deals that they may not have had access to in the past. Marsh's new surety bank syndication desk, which provides the platform for banks to transfer risks to highly rated and regulated surety companies, could potentially become a game changer for all parties involved.

In addition, I find the cultural aspects of my work incredibly interesting and intellectually rewarding. Having been raised as a Spaniard in Germany and spend-

Q&A

ing decades in Italy and the United Kingdom gives me a different perspective when dealing with different corporate cultures in banks, insurers and corporates in different locations. Understanding their needs, requirements and challenges is crucial when creating new solutions for them.

Q What are the primary challenges you anticipate as you grow the unit?

A Using surety capacity to free up guarantee facilities and capital is a new concept for many banks;

therefore, our challenge is to effectively communicate that value proposition and adapt it to the respective audiences' backgrounds, expertise and goals.

Q How is the evolving regulatory climate affecting the surety market?

A Under Basel III, banks are required to allocate more capital in their core lending business, including guarantee facilities. Since globally banks issue 70% to 80% of all performance guarantees, banks and surety companies have an alignment of interest when sharing risks on these guarantee facilities.

Q How does the global surety bank syndication desk fit in Marsh's broader vision of servicing global clients?

A It fits perfectly, as Marsh continually strives to provide industry-leading, innovative solutions to our clients on a global basis. Banks and sureties, and their respective clients and deals, are complex and



MANUEL LÓPEZ

MARSH L.L.C.

In October 2013, Marsh L.L.C. appointed banking industry veteran Manuel López to lead its newly established global surety bank syndication desk. Based in Düsseldorf, Germany, Mr. López has held senior roles at Deutsche Bank A.G. and WestLB A.G. and notes that surety bonds are becoming increasingly useful to financial institutions as regulatory changes prompt banks to allocate more

capital in their lending business. Mr. López recently spoke with *Business Insurance* Associate Editor Bill Kenealy about how the surety business fits into Marsh's growth strategy. Edited excerpts follow.

Since globally banks issue 70% to 80% of all performance guarantees, banks and surety companies have an alignment of interest when sharing risks on these guarantee facilities.

cross-border by nature. As a result, they need a global service provider that not only understands their business and their

risks, but is also able to provide solutions on a global basis. Marsh is uniquely positioned to succeed in this role.

COMINGS & GOINGS

UP CLOSE: BRAD FOWLER

CAMERON, MO.-BASED CHIEF OPERATING OFFICER AND EXECUTIVE VICE PRESIDENT
Cameron Mutual Insurance Co.

PREVIOUS POSITION: Cameron, Mo.-based executive vice president for Cameron Mutual Insurance Co.

GOALS FOR NEW POSITION: Ensure a smooth and stable transition as our current CEO retires at year-end. We will continue to build on the solid organizational foundation put in place during his tenure.

CHALLENGES FACING INDUSTRY: A steady march of experience and expertise exiting our industry is underway. We have to find ways to institutionally preserve and apply all that experience and expertise so that it continues to serve the next wave of experts stepping up to fill key roles.

INDUSTRY OUTLOOK: The insurance industry has a long and distinguished history of making significant contributions to the economy and our society — often when the need is greatest. I have no doubt that will continue, and our industry should raise awareness of its vital role in our world.



FIRST INDUSTRY JOB: Field claims adjuster with Cameron Mutual.

WHAT SURPRISED ME: That I made insurance my life's work.

ADVICE: "Be kinder than is necessary." — J.M. Barrie.

OUTSIDE THE INDUSTRY, A DREAM JOB: Author (or) op-ed columnist.

CAN'T-MISS TELEVISION SHOW: "Deadliest Catch" reminds me that my job is never quite as difficult as it may seem.

FAVORITE BOOK: "Things Fall Apart" by Chinua Achebe. The author reminds us that cultural change ... requires thoughtfully compassionate management.

ON A SATURDAY AFTERNOON: I spend way too much time watching college football, college basketball, major league baseball, etc.

Professional Moves & Promotions

Visit www.businessinsurance.com/ComingsandGoings for a full list of this week's personnel moves and promotions. Check our website daily for additional postings and sign up for the weekly email.

BROKERS

BMS Associates Ltd.	Andrew Bustillo
Lockton Cos. L.L.C.	Scott Bradley
Miller Insurance Services L.L.P.	Charles Lane
Neace Lukens	Todd Stocksdale
Swett & Crawford Group Inc.	Robert Greenebaum
Willis Group Holdings P.L.C.	Andy Whitehouse

INSURERS

Ironshore Inc.	Kevin Finn
QBE North America	Phillip C. Giles
XL Group P.L.C.	Joseph A. Tocco

REINSURANCE

Maiden Insurance Co. Ltd.	Patrick Haveron
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OTHER

Crawford & Co.	David Falgoust
Curavita L.L.C.	Dave Biddle
York Risk Services Group Inc.	Francis Fey

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: Kate Shepherd, *Business Insurance*, 150 N. Michigan Ave., Chicago, Ill. 60601-7524. kshepherd@businessinsurance.com.



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We are  insured.

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It means businesses, families and individuals are protected by an AA- rated insurer, one of the largest and strongest in the world. The people of ACE truly understand our risks and go out of their way to help us. We can rest assured knowing ACE is there when we need them.

PUBLIC NOTICES

LEGAL NOTICE

**To all persons or entities interested in the affairs of
 PROFESSIONAL LIABILITY INSURANCE COMPANY OF AMERICA
 Notice is Hereby Given:**

Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, New York County ("Court"), entered February 10, 2014, as the liquidator (the "Liquidator") of Professional Liability Insurance Company of America ("PLICA") and, as such, has been: (i) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order; (ii) vested with title to PLICA's property, contracts, rights of action and all its books and records, wherever located, as of the date of entry of the Order; and (iii) directed to liquidate PLICA's business and affairs in accordance with Insurance Law Article 74. The Liquidator has, pursuant to Insurance Law Article 74, appointed Michael J. Casey, Acting Special Deputy Superintendent of Insurance (the "Acting Special Deputy") as his agent to carry out his duties as Liquidator. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau ("Bureau"), 110 William Street, New York, New York 10038. The Order provides:

- I. The rehabilitation proceeding of PLICA is converted to a liquidation proceeding.
 - II. The Liquidator may deal with the property of PLICA in its name or the name of the Liquidator.
 - III. PLICA is insolvent pursuant to Insurance Law §7432(a).
 - IV. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of PLICA and all other persons other than the Liquidator and his agents are permanently enjoined and restrained from: (i) transacting the business of PLICA, except as authorized by the Liquidator; (ii) wasting or disposing of or permitting to be done any act or thing that might waste or dispose of PLICA's property; (iii) interfering with the Liquidator in the possession, control and management of PLICA's property or in the discharge of his duties; and (iv) disclosing the name, address or contact information of PLICA's policyholders, or any other information that is proprietary to PLICA or not in the public domain, except as may be authorized by the Liquidator.
 - V. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against PLICA's assets or any part thereof.
 - VI. All parties are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings, or efforts to collect on debts or judgments, against PLICA, the Liquidator or the NYLB, the Liquidator's or the NYLB's present or former employees, attorneys or agents with respect to the liquidation proceeding or the discharge of their duties under Insurance Law Article 74.
 - VII. Any pending claims adjudication proceedings that were, or could have been, brought pursuant to the Court's Order Approving the Procedure for the Rehabilitator's Adjudication of Claims, filed August 17, 2011, are stayed.
 - VIII. All rights in PLICA's contracts and agreements, including all leases, tax agreements, insurance policies and employment contracts, however described, are vested with the Liquidator, unless the Liquidator expressly terminates such contracts or agreements, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of termination.
 - IX. Any bank, savings and loan association, other financial institution or any other entity or person, which has on deposit or in its possession, custody or control any of PLICA's funds, accounts or assets shall immediately, upon the Liquidator's request and direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator or his designees; (b) transfer title of such funds, accounts or assets to the Liquidator or his designees; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings and loan association or other financial institution to a bank, savings and loan association or other financial institution designated by the Liquidator; and/or (e) take any other action necessary for the proper conduct of the liquidation proceeding.
 - X. All persons and entities having any property and/or information, including, but not limited to, insurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to PLICA shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator.
 - XI. All persons and entities providing claims processing services, data processing services, electronic records retention services or other information technology services to PLICA shall maintain and preserve all information relating in any way to PLICA, wherever located, including but not limited to all documents, data, electronic files and records, computer equipment (e.g., servers and printers), software programs and software licenses owned by PLICA ("Information"), and are directed, upon the Liquidator's request, to promptly submit all such Information to the Liquidator or his designees for examination and copying.
 - XII. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds, or other securities and any real or other property of PLICA at market price or at the best price obtainable at private sale, at such times and upon such terms and conditions as, in his discretion, he deems is in the best interest of the creditors of PLICA, and to take such steps as may be necessary to effect and carry out such sales, transfers and assignments.
 - XIII. The Liquidator is authorized to pay the actual and necessary administrative costs and expenses of PLICA out of the assets of PLICA.
 - XIV. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74.
 - XV. In accordance with Insurance Law Section 7432(b) and subject to Insurance Law Section 7433(b), all claims against PLICA must be presented within four months of the date of entry of the Order.
 - XVI. The Liquidator may at any time make further application to the Court for such further and different relief as he sees fit.
 - XVII. The court shall retain jurisdiction over this matter for all purposes.
 - XVIII. All communications relating to PLICA and to the Liquidation Proceeding thereof should be addressed to: New York Liquidation Bureau, 110 William Street, 15th Floor, New York, New York 10038, (212) 341-6400.
- BENJAMIN M. LAWSKY** **MICHAEL J. CASEY**
 Superintendent of Financial Services of the State of New York as Liquidator Acting Special Deputy Superintendent of Professional Liability Insurance Company of America

LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE
 CHANCERY DIVISION, COMPANIES COURT, No 2078 of 2013
IN THE MATTERS OF
CAVELL INSURANCE COMPANY LIMITED and
FIELDMILL INSURANCE COMPANY LIMITED and
HILLCOT RE LIMITED and
LONGMYND INSURANCE COMPANY LIMITED and
UNIONE ITALIANA (UK) REINSURANCE COMPANY LIMITED and
RIVER THAMES INSURANCE COMPANY LIMITED and
IN THE MATTER OF PART VII OF THE FINANCIAL SERVICES AND MARKETS ACT 2000
TRANSFER OF BUSINESS

NOTICE IS HEREBY GIVEN that by an application dated 20 March 2013, Cavell Insurance Company Limited (Cavell), Fieldmill Insurance Company Limited (Fieldmill), Hillcot Re Limited (Hillcot), Longmynd Insurance Company Limited (Longmynd) and Unione Italiana (UK) Reinsurance Company Limited (Unione) (together, the **Transferees**) applied to the High Court of Justice of England and Wales, for (inter alia) an order under section 111 of the Financial Services and Markets Act 2000 (the Act) sanctioning an insurance business transfer (the **Transfer**) providing for the transfer of insurance business to River Thames Insurance Company Limited (River Thames) and for an order making provision under section 112 of the Act.

The business included in the Transfer consists of:

- (i) all insurance and reinsurance business effected and/or carried on by Cavell;
- (ii) all reinsurance business effected and/or carried on by Fieldmill;
- (iii) all insurance and reinsurance business effected and/or carried on by Hillcot;
- (iv) all reinsurance business effected and/or carried on by Longmynd; and
- (v) all insurance and reinsurance business effected and/or carried on by Unione.

Copies of a report on the terms of the Transfer prepared by an independent expert in accordance with section 109 of the Act (the **Transfer Report**) and copies of a statement setting out the terms of the Transfer and containing a summary of the Transfer Report may be obtained, free of charge, from Clyde & Co LLP, The St Botolph Building, 138 Houndsditch, London, United Kingdom tel: +44 (0)20 7876 5000, fax: +44 (0)20 7876 5111 Ref: GEQ/1204815/HND/SRB. Alternatively, copies of the documents can be downloaded from www.enstargroup.com/insurance-transfers-to-River-Thames.

The application will be heard on 17 June 2014, before the Applications Judge at the Royal Courts of Justice, Strand, London WC2A 2LL, United Kingdom. Any person who alleges that they would be adversely affected by the carrying out of the Transfer is entitled to:

- (a) appear at the hearing and make representations in person or by a representative; or
- (b) instruct a barrister or solicitor advocate to appear at the hearing and make representations on their behalf; or
- (c) make representations in writing.

If you intend to appear at the hearing in person or by representative, or to instruct someone to appear on your behalf, you are requested to give notice of your intention to do so and to send your representations:

- (a) in writing;
- (b) setting out the reasons why you would be adversely affected by the Transfer;
- (c) to the solicitors named at the address below;
- (d) to be received by close of business on 10 June 2014.

Administrative enquiries about the Transfer or its effect on your policy should be addressed to Clyde & Co LLP, The St Botolph Building, 138 Houndsditch, London, United Kingdom or call: +44 (0)20 7876 5000, or fax: +44 (0)20 7876 5111 Ref: GEQ/1204815/HND/SRB.

If the Transfer is sanctioned by the Court, it will result in the transfer of all the contracts, property, assets and liabilities within its scope to River Thames, notwithstanding any restriction such as a prohibition on transfer or a requirement to obtain consent to transfer from another party, or any right, such as a right to terminate a contract, that might otherwise arise as a result of such transfer. Any such restriction or right will only be enforceable to the extent permitted by the order of the Court sanctioning the Transfer. If you have any concerns in relation to the enforceability of such restrictions and rights, then you should make those concerns known to the Court, Clyde & Co LLP or the PRA.

Clyde & Co LLP, The St Botolph Building, 138 Houndsditch, London EC3A 7AR.
 Solicitors to the Transferees and Transferee (Ref: GEQ/1204815/HND/SRB).

REQUEST FOR PROPOSAL



The Sacramento Regional County Sanitation District (Regional San) is requesting proposals from insurance brokers to provide Insurance Brokerage and Administrative Services for an Owner Controlled Insurance Program (OCIP) for the Regional San EchoWater Project. Design of the EchoWater Project is currently underway in response to new NPDES permit requirements. Major modifications and additions to the existing Sacramento Regional Wastewater Treatment Plant must be in place by May 2023.

The successful Proposer shall provide qualified personnel to assist Regional San with establishing an OCIP Team with expertise in the following areas: Safety and Loss Controls, Purchase and Implementation of OCIP Risk Transfer Programs and Claims Administration. The goal of the OCIP Team is to successfully manage construction safety of the program to reduce the overall program insurance cost and expense. Proposers responding to this RFP must have proven expertise with OCIP management and extensive experience developing and managing an OCIP for complex capital improvement programs. The official Request for Proposal can be found on the Regional San website at <http://www.regionalsan.com/echowater-project-opportunities>. The title is "Insurance Brokerage and Administrative Services for an Owner Controlled Insurance Program".

Proposers are to direct all inquiries concerning information about this RFP or related topics to William Yu at yuw@sacsewer.com. All inquiries should include the title of this RFP in the subject line. Regional San will not be responsible for any information used to prepare a proposal that has not been provided by this RFP and addenda.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK
 IN RE PETITION OF DAN YORAM SCHWARZMANN
 AND MARK CHARLES BATTEN,
 AS PROVISIONAL LIQUIDATORS OF
INDEPENDENT INSURANCE COMPANY LIMITED,
 DEBTOR IN A FOREIGN PROCEEDING
 CASE NO. 01-13899 (SMB)

NOTICE IS HEREBY GIVEN THAT ON FEBRUARY 27, 2014, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON JULY 31, 2001. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED TO BE HELD ON JUNE 26, 2014 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE STUART M. BERNSTEIN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE STUART M. BERNSTEIN AND SERVED ON COUNSEL FOR THE PETITIONERS LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE PETITIONERS.

CHADBOURNE & PARKE LLP
 ATTORNEYS FOR THE PETITIONERS
 30 ROCKEFELLER PLAZA
 NEW YORK, NEW YORK 10112
 (212) 408-5100
 ATTN: HOWARD SEIFE, ESQ.
 FRANCISCO VAZQUEZ, ESQ.

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ANNOUNCEMENT

International Specialty Insurance Broker, Hugh Wood Inc. has made two high level appointments to their New York Marine and Fine Art teams. These recruitments are part of H W International Group's ongoing global initiative to strengthen and grow their already market leading teams in these specialty lines.

Gary Moore

Gary Moore has joined the Hugh Wood Inc. Marine team as an Executive Vice President. He will assist Richard Haverlin, Managing Director, expand the breadth of the team's practice. With his considerable international experience, he will complement the Blue Water, Brown Water and Cargo teams throughout the entire H W International Group.

Gary Moore can be reached by telephone at 212-425-2095 or by email at gmoore@hughwood.com

Jill Arnold

Jill Arnold has joined the Hugh Wood Inc. Fine Art and Collectibles team as a Senior Vice President. Ms. Arnold will manage the US Fine Art Department, working with Simon Codrington, who now takes the role of H W International Group practice leader. Ms. Arnold serves on the board of several museums and art advisory panels and is a frequent writer and lecturer.

Jill Arnold can be reached by telephone at 646-786-7466 or by email at jarnold@hughwood.com

About Hugh Wood Inc.

Hugh Wood Inc. is a member of the H W International Group, a leader in global insurance broking. Over the last 30 years, HWI has grown to include offices in major cities across the globe. In addition to Real Estate, Fine Art and Marine are core practices of the H W International group.

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- Denis Kessler Chairman and CEO, SCOR, France
- Barry Stowe Chief Executive, Prudential Corporation Asia, Hong Kong
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- Nikolaus von Bomhard Chairman of the Board of Management, Munich Re, Germany
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IRMI

Continued from page 4

worry about derailments. We also have the extension of pipelines, and a lot of the older pipeline will need to be replaced eventually.”

Likewise, many of the risks involving the energy industry are linked less to controversial practices such as hydraulic fracturing and horizontal drilling and more transporting oil and gas off-site, said Scott Cruce, Houston-based vice president of risk management for offshore drilling contractor Noble Corp. A company can use the most advanced drilling technology but still run into problems due to aged infrastructure or if the

conductor of a train transporting crude oil away from the extraction region is under the influence of drugs, he said.

“Often the risk is more of a transportation industry problem than an energy industry problem,” he said. “The rail infrastructure in parts of the country is very old.”

Another risk for the energy industry is a lack of qualified workers to fill positions ranging from rig operators, welders and drivers, said Jesse Thompson, a Houston-based business economist at the U.S. Federal Reserve Bank of Dallas. “The biggest question is where the labor is going to come from,” he said.

Given this complex set of risks, risk managers in the energy field can anticipate increasingly thor-

ough analysis from underwriters.

“When we underwrite energy, we analyze you to death,” Ms. Tobin said. “As we evaluate emerging risks going forward, we will rely on questionnaires that will help us understand the risk better.”

The energy sector is one that requires underwriters to form tight partnerships with an insurer’s risk engineering staff in order help clients lower their total cost of risk, said Matt Waters, Boston-based vice president and chief underwriting officer for Liberty Mutual Insurance Co.’s commercial insurance energy practice.

“We make use of analytics and historical data, but in energy you really have to surround yourself with experts,” Mr. Waters said.

IBI

Continued from page 4

particularly over the long term.” He was speaking at a panel discussion earlier this month at the 2014 IBI Annual Forum in San Francisco

By integrating their employee wellness and absence management programs, employers can more effectively reduce the prevalence of chronic health risks and conditions — including poor weight management and cardiovascular health, tobacco use and lack of exercise — that commonly drive medical and pharmacy benefit costs, as well as use data from health risk assessments and biometric screenings to predict and prevent lost work time due to disability and workers compensation claims, restricted duty accommodations and other impediments to the overall productivity of their workforce, panelists said.

“It’s important for employers and their employees to see productivity as a health outcome. In many cases, employees can improve their productivity before or while they’re improving their health conditions,” said Gary Fritsch, Pittsburgh-based wellness, absence and productivity analytics product manager at Cigna Corp. “You don’t have to wait

until they’re recovering from something before they can start addressing the impact that their health has on their productivity.”

Employers can also use the demonstrable link between poor employee health and occupational injuries and illnesses to strengthen the financial argument for investment in a cohesive workplace wellness and disability management program, panelists said. When Plano, Texas-based J.C. Penney Co. Inc. undertook a multiyear overhaul of both its employee health benefits and disability management programs, the company included a comprehensive workplace wellness program for which success would be measured not only in the dollars saved on its annual medical costs, but also the savings generated in its workers compensation and disability programs and its overall productivity.

“What we did was sit down with our workplace wellness partners and looked at where we were with some of these key conditions across our population, and figured out how bending the trend on those conditions would impact those costs,” said Matthew Harmon, Penney’s benefits delivery and retirement director and the 2013 *Business Insurance* Benefit Manager of the Year®.

Penney’s wellness program saved approximately \$7 million in productivity costs and \$2.8 million in workers comp and disability claim costs, Mr. Harmon said.

“If you can’t show results, it’s pretty hard to get a program off the ground with your board of directors or senior executives,” Mr. Harmon said. “Nothing speaks louder than actual hard dollars.”

A majority of employers still treat employee health and absence management as separate exercises, panelists at the conference said. According to Aon Hewitt’s “2013 Employee Health Benefits Survey,” only 25% of employers polled said they have integrated their employee health management and absence management programs, although 56% said they were considering doing so within the next three to five years.

“The employers that are standing on the sidelines of employee health management and wellness are usually the ones that are focusing heavily on the return on investment,” said Tom Carter, vice president and national practice leader at HealthWorks, the workforce health management consulting arm of Oakland, Calif.-based Kaiser Permanente. “They don’t realize that they’re already paying for these health risks in significant ways.”

NAPSLO

Continued from page 4

pulled back their writings in certain classes of business that they had stepped into that were traditionally gray areas,” which may have been written by the E&S market in the past. This is creating “more opportunities for a lot of us in the E&S business,” he said.

“The market still has not given us what we think of as a true hard market, but we’re clearly seeing pockets of business where admitted markets are pulling back, so E&S companies have begun to poke around and try to get more rate,” but this is “very spotty, very geographic specific,” said Letha E.

Heaton, vice president of marketing at Mount Laurel, N.J.-based Admiral Insurance Co.

“I don’t see a lot of change taking place” in the market, said Bryan Salvatore, New York-based president of specialty products for Zurich North America Commercial. However, he added, “One of the great things” he has found is the market’s discipline. “I don’t see as much volatility in the pricing as we have seen in the past,” he said.

The current situation will continue, said Mr. Drinkwater. “There’s plenty of capital in the market,” he said. “I’m not sure there’s going to be any type of hardening any time soon.”

“The key to the market in 2014 is going to be underwriting disci-

pline,” Mr. Davis said. “All of our underwriters have been charged with not cutting rates, but at the same time growing their books, so it’s going to be more of a challenge in 2014 than it was in 2013.”

Unless there is a major catastrophe, “the market will become a lot more competitive for the remainder of 2014 and going into 2015,” said Mr. Bull

Consolidation is expected to continue as well. “I do think consolidation is going to continue,” said Mr. Westrope, whose firm, Kansas City, Mo.-based Westrope, a wholesaler, merged with R-T last year. “More and more in this industry, scale will matter.”

However, said Mr. Davis, there is “an abundant supply of buyers and not an abundant supply of sellers.”

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CICA

Continued from page 3

session on complex tax issues during the Captive Insurance Cos. Association's 2014 International Conference, held March 9-11 in Scottsdale, Ariz.

Even so, it was significant that 15 of the 16 the Tax Court judges decided the case, Mr. Jones said. It also was the first full court review of a captive premium deductibility case involving the so-called "brother-sister theory" since the 1987 *Humana Inc. & Subs. v. Commissioner* case, Mr. Jones said.

In that case, the Tax Court did not allow Louisville, Ky.-based Humana to take a tax deduction for premiums paid to its captive, holding that risks that are either insured or reinsured by a related insurance company cannot be deducted from federal income taxes because the risk was not shifted from the policyholder. But the 6th U.S. Circuit Court of Appeals in Cincinnati overturned the decision in 1989.

Mr. Jones said part of the reason the full Tax Court decided to review *Rent-A-Center* was because the 5th U.S. Circuit Court of Appeals in New Orleans, not the 6th Circuit, would have decided any appeal.

"So the tax court got all the

judges together in a room to decide whether they thought that they were actually wrong back in 1987 and that Rent-A-Center should take advantage of brother-sister, or should they stick to their guns and say they were still right, which they could have done and rejected brother-sister," Mr. Jones said. "Or as one of the dissenting judges I think rather sarcastically said, they could have avoided the whole thing by saying the IRS issued a revenue rule that accepts brother-sister in certain circumstances."

In 2001, the IRS issued Revenue Ruling 2001-31 that reversed its longstanding position that premiums paid to captives are not deductible under the "economic family" theory.

"In any case, they tackled the hard thing. They admitted they were wrong," Mr. Jones said.

But because *Rent-A-Center* was not a unanimous decision and could easily have gone the other way," he said. "In other words this is not money in the bank, it's just what we think might be the beginning of a trend. The brother-sister theory is now accepted in Tax Court."

Also during the session, Mr. Wright addressed attempts by the IRS to tax reinsurance transactions multiple times, a process he called "cascading tax."

Under a 2008 IRS revenue ruling, "every time a U.S. risk is trans-

ferred from one insurer to another, that is another taxable transaction" subject to federal excise tax, Mr. Wright said. "So for example, if an insurer reinsures with a Bermuda company, it's 4%; if the Bermuda company reinsures with another Bermuda company, it's 1% on the next transaction, and on and on."

In response, Bermuda-based Validus Reinsurance Ltd. filed a refund suit in U.S. District Court for the District of Columbia in 2013 arguing that the excise tax did not apply to retrocessions. In February this year, the court ruled for Validus.

"The problem is, they may have won too much because the decision was based on retrocessions," Mr. Wright said. "Let's assume a U.S. insured insures with an insurance company in the U.S. and that company reinsures with another company in the U.S. and that company reinsures with a Bermuda company. Now, based on the decision in this case, there is no excise tax on that transaction ... because it's a retrocession transaction."

Mr. Wright said he expects the IRS to appeal, and recommended that captive owners pay the excise tax on reinsurance transactions to avoid an IRS audit.

The heavily attended session was part of the annual CICA conference that attracted more than 560 attendees and 49 exhibitors.

BACKSTOP

Continued from page 3

mechanism, it will minimize the economic dislocation from that attack. We think it's yet another piece of evidence that talks about the need for TRIA."

"The strongest critical reason for TRIA was as a part of our national security response," said Robert Gordon, who wrote the first draft of TRIA as a congressional staffer. "RAND has been involved extensively in the issue of terrorism and is highly respected in the national security community."

Mr. Gordon, who is now a senior vice president in the Property Casualty Insurers Association of America's Washington office, noted that the report lays out a series of themes, including that terrorism is an ongoing threat and that "you cannot accurately model, insure or predict terrorism."

The report also holds that "TRIA plays a major role in U.S. national security by helping with our country's economic resiliency and recovery against terrorism," he added, and would save the federal government significant money by having a plan in place to allocate primarily private sector money after a major terrorism event. In general, the federal backstop would not respond to terrorism-related losses until the insurance industry had sustained aggregate losses of at least \$27.5 billion.

Mr. Gordon called the national security link a "critical argument." He said he had recently met with House Intelligence Committee Chairman Mike Rogers, R-Mich., who "is in a better position to understand the kind of terrorism risk our country faces than almost anyone else. He clearly understands and highlights the need to have a terrorism insurance program like TRIA in place."

Mr. Gordon also called the DGA report "a strong, persuasive report."

"The recently released reports by RAND and the DGA confirm the vital role that TRIA plays in our national security and the recovering economies in states across the nation," said a spokesman for the American Insurance Association in Washington. "The program protects taxpayers while providing market stability and an orderly post-event recovery. These reports further illustrate why TRIA deserves prompt renewal by Congress."

But opponents of reauthorization do not find the national security argument compelling.

"My first reaction — and I have seen no evidence that it changes the probability of terrorism — to

their argument that this is a component of national security is 'How?'" said Mark Calabria, director for the financial regulations studies area at the libertarian Cato Institute and a former staffer on the Senate Banking Committee when TRIA was initially passed. "In no way does TRIA make us safer; it's simply about who bears the loss of an attack," he said.

The backstop's existence also raises some risk, he said, because "all types of insurance contain some degree of moral hazard, and so while this is likely to be a very small impact, if anything TRIA raises the expected costs of a terrorist attack."

The RAND report does "a good job of analyzing the issues surrounding how terrorism insurance works, how can that risk be priced," said David Inserra, national security and cyber security research assistant in the Douglas and Sarah Allison Center for Foreign and National Security Policy at the conservative Heritage Foundation and author of a new issue brief on the terrorism insurance program. "But they largely concluded that in many ways, TRIA does not contribute to national security. The one place they did argue it could contribute is in resilience, in making sure that communities are resilient."

He said that while the Heritage Foundation agrees that resiliency is an important objective, "we would still say that the private sector has had an opportunity to come up with solutions to still make sure that people who want insurance can still get it, although there might have to be some additional requirements or caps."

"Those options should have been developed," he said. "Part of the problem is that TRIA is still around and it is inhibiting the development of the industry because there is that government backstop. There's a moral hazard here we want this industry to develop, but by creating this backstop it's not actually maturing as much as it should."

"My first reaction — and I have seen no evidence that it changes the probability of terrorism — to their argument that this is a component of national security is 'How?'"

Mark Calabria, Cato Institute

COMP

Continued from page 3

was severely underpriced," Mr. Long said.

He said Liberty Mutual will push for higher rates and that it plans to grow its comp business among small accounts.

"We're going to price for the risk that we're taking; and if we can get our price, then we'll certainly take it," Mr. Long said. "And if we can't, we'll be prepared to let somebody else have it."

In general, employers are seeing insurers become more selective in their workers comp underwriting while pushing for moderate pricing increases, said Harry Shuford, chief economist for the National Council on Compensation Insurance Inc. in Boca Raton, Fla.

"In some instances, that may result in the employer moving to another insurer where they feel like they're getting a more competitive rate," Mr. Shuford said. "In some cases, it may actually result in the employer finding that they end up in the residual market."

Liberty Mutual's decision likely results from its high workers comp loss ratio, Mr. Dwelle said.

According to NAIC data, Liberty Mutual's loss ratio was down about 10 percentage points last year from the previous year, but still the highest among the 25 largest comp insurers.

"I expect they were repositioning that business by actively raising

prices and eliminating unprofitable accounts," Mr. Dwelle said in a statement to *Business Insurance*.

The top 25 U.S. workers comp insurers reported \$51.4 billion in direct written premiums in 2013, up 7% from 2012. Meanwhile, the industry's overall loss ratio fell to 60% in 2013, down from 68% the previous year, according to the NAIC.

Losses have decreased mainly due to price increases in the past couple of years, sources said.



7%

The top 25 U.S. workers comp insurers reported \$51.4 billion in direct written premiums in 2013, up 7% from 2012.

"Most of the industry has been raising pricing in workers compensation ... at around 10%," said Josh Stirling, New York-based insurance analyst at Sanford C. Bernstein & Co. L.L.C. "I think the general industry has felt as though it was underpricing workers comp for many years."

Limited investment income due to low interest rates has been a factor in the collective push for higher prices, and many comp insurers could push for additional rate increases of 10% to 20% in the future, Mr. Stirling said.

Additionally, losses have been mitigated by reduced prescribing

of opioid painkillers, which are costly and can cause injured workers to be disabled longer if they become addicted, as well as hiring lags in the manufacturing and construction industries, which tend to have costlier workers comp claims, the NAIC said in a statement to *Business Insurance*.

Still, the comp market overall remains unprofitable.

Workers comp combined ratios, which include claim losses and administrative expenses, were 110.3% in 2012, down nearly 7 per-

centage points from 2011 and the U.S. comp industry's first combined ratio decline since 2006, according to Oldwick, N.J.-based rating agency A.M. Best Co. Inc.

Mr. Shuford said the overall premium growth reflected in the NAIC's data was expected since the number of U.S. jobs has grown in recent years and insurers have been getting higher rates.

While Liberty Mutual is bearish on the comp market, Mr. Stirling said higher pricing, improved underwriting and using predictive analytics to affect claim outcomes and reserving is helping others be more optimistic about the sector.

ADVERTISER

INDEX

Issue of March 17

ADVERTISER	PAGE #
ACE	27
Berkshire Hathaway	2
Business Insurance	23, 35
Catlin	15
Chubb	7
Cozen O'Connor	17
Florida State University	29
Liberty Mutual	5
Prudential	9
QBE	36
XL Group Insurance / Cognizant	11

Continued from page 1

of private contractors working for public firms were not protected by the Sarbanes-Oxley whistle-blower anti-retaliation provision.

The ruling combined separate suits, brought by former employees of private contractors that advised and managed the Fidelity family of mutual funds operated by Boston-based FMR Corp.

One of the employees raised concerns about accounting issues and the other raised concerns about a draft securities filing.

Both plaintiffs lost their jobs with their privately held firms and charged they had been retaliated against for their whistle-blowing activities. They contend they are covered under Section 806 of Sarbanes-Oxley, which protects whistle-blowers against retaliation.

The ruling “expands coverage of the statute far beyond what most people who practice in this area ever thought it would be, and has significant implications for companies that are not publicly traded but that do business with publicly traded companies,” said Edward T. Ellis, a partner at law firm Littler Mendelson P.C. in Philadelphia, which submitted an amicus brief on behalf of the Alexandria, Va.-based Society for Human Resource Management in support of Fidelity’s stance.

“It’s obviously an expansive reading” of the law, and “the court

made it clear that companies can’t structure their way around these protections by using independent contractors or affiliates” or other privately held entities, said Thomas O. Gorman, a partner at Dorsey & Whitney L.L.P. in Washington.

The ruling “was clearly motivated by what the court perceived the statute as having tried to address, which was the previous lack of protection for security and financial fraud whistle-blowers,” said Geoffrey C. Rapp, a law professor at the University of Toledo School of Law in Ohio.

The ruling “is in line with a straight reading of the statute, and affords a whistle-blower protection as Congress intended,” said Rosanne Felicello, principal attorney at Felicello Law P.C. in New York, who represents whistle-blowers.

The court “found this case easy because the plaintiffs were accountants or auditors working for a publicly traded fund, and that sort of strikes at the core of what Sarbanes-Oxley was meant to remedy,” Mr. Ellis said. “But both the opinion and the dissent are full of examples of how a literal reading of the statute” could lead to what many would call an absurd result “unless the Department of Labor chooses to provide the limitations and the courts honor it.”

Observers say they expect the ruling to spark additional litigation over who is covered by the law.

Congress “didn’t think through some of the other examples” about

Court cites ‘Enron debacle’ in defense of contractor ruling

It is common ground that Congress installed whistle-blower protection in the Sarbanes-Oxley Act as one means to ward off another Enron (Corp.) debacle,” Supreme Court Justice Ruth Bader Ginsburg wrote for the majority in the U.S. Supreme Court’s ruling in *Jackie Hosang Lawson et al. v. FMR L.L.C. et al.*

“Also clear from the legislative record is Congress’ understanding that outside professionals bear significant responsibility for reporting fraud by the public companies with whom they contract, and that fear of retaliation was the primary deterrent to such reporting by the employees of Enron’s contractors,” the court ruled.

“In short, we cannot countenance the position advanced

by FMR (Corp.) and the dissent ... that Congress intended to leave these professionals vulnerable to discharge or other retaliatory action for complying with the law,” the court ruled in remanding two cases to the lower court.

The majority also described as “unwarranted” the fear in Justice Sonia Sotomayor’s dissent that household employees and others would pursue retaliation claims in response to the ruling, and that the Occupational Safety and Health Administration would find the claims to have merit.

“If we are wrong, however, Congress can easily fix the problem” by amending Sarbanes-Oxley to explicitly remove such employees “from the provisions’ reach,” Justice Ginsburg wrote.

By Judy Greenwald

who could be covered by the law’s whistle-blower provisions, but “creative lawyers” did, said Richard Moberly, a law professor at the University of Nebraska College of Law in Lincoln. Lower courts now are “going to have to deal with the limiting issues.”

With the ruling, nonpublic companies must not assume “that a technicality is going to keep you out of the reach of Sarbanes-Oxley,” said Nicholas De Baun, a partner at Seyfarth Shaw L.L.P. in New York.

Whistle-blower provisions of the

Dodd-Frank Wall Street Reform and Consumer Protection Act also are broadly written and cover “basically any type of fraud that is prohibited by federal law,” including securities, mail and wire fraud, said Eric D. McArthur, a partner at Sidley Austin L.L.P. in Washington. So it is “safe to say that any time an employee is reporting what could be construed as fraudulent conduct, employers need to take care to assure that no adverse employment action is taken against the employees because of their report.”

Privately held firms “need to make certain their policies cover the reporting of fraud” by their customers and clients, just as publicly held firms have had to do since Sarbanes-Oxley, said Connie N. Bertram, a partner at Proskauer Rose L.L.P. in Washington.

The ruling will require “many companies to create compliance systems and to train their human resources personnel to identify fraud problems, investigate them and protect whistle-blowers or would-be whistle-blowers,” Mr. Ellis said.

However, private companies should examine their risks before spending “a lot of money on compliance activities and initiatives that may or may not be required, depending on their level of activity with the companies they are working with,” said Jimmy Lin, vice president of product management and corporate development at Atlanta-based consulting firm The Network Inc.

PART-TIME

Continued from page 1

or pay a penalty of \$2,000 for each of their full-time employees.

Covering its part-time employees would have cost the county about \$900,000 a year, said Dan Vogler, chairman of the county board. That would have required a boost in property taxes, which already were being increased 7% to balance the county’s budget.

Raising property taxes even more is “not something the taxpayers of this county would have appreciated,” Mr. Vogler said.

To avoid the added costs and potential penalty for not offering coverage to workers considered full-time by the health care reform law, Lawrence County last year reduced the maximum hours that part-time employees can work each week to 28.

The city of Medina, Ohio, took a similar step.

Facing an estimated \$1 million in new costs or a substantial penalty under the Patient Protection and Affordable Care Act, the Ohio city last year reduced its 35-hour workweek for part-timers to 29 hours.

Extending coverage to part-timers was “something we could not afford,” said Medina Mayor Dennis Hanwell. “We were reluctant to do this, but felt” we had no

choice, he said.

Similarly, the University of Akron in Ohio, facing millions of dollars in additional costs while its overall budget had a projected deficit of \$30 million, last year reduced the maximum hours for about 400 part-time workers from 32 hours a week to less than 30, a

fewer employees working at least 30 hours a week by 2015 to manage the number of employees eligible for coverage under the law.

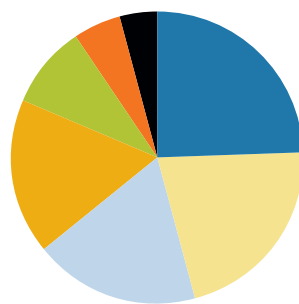
Still, a majority of employers have not taken steps to reduce part-time workers’ hours to less than the 30 the law considers to be full-time.

CUTTING BACK ON FULL-TIME WORKERS

Among 723 employers in seven major industries, higher education organizations have been the most likely to reduce or plan to reduce employees’ hours to less than 30 hours a week to avoid the health care reform law’s coverage mandate.

Industry	Percent reducing
Higher education	24%
Retail/wholesale	21%
Hospitality	18%
Government	17%
Health care services	9%
Manufacturing	5%
Financial services	4%

Source: Mercer L.L.C.



university spokesman said.

“Obviously, the looming budget deficit led to our decision to avoid the additional projected \$4 million in costs associated with providing health care benefits to the part-time faculty,” the spokesman said.

Those employers have company in taking such steps to avoid higher costs or penalties due to PPACA. A Mercer L.L.C. survey of 723 employers released last week found that 10% expect to have

“This is very employer-specific. Some will have to compete for talent and will extend coverage. In other cases in labor-rich markets, employers may feel they can cut hours,” said Ed Fensholt, senior vice president and director of compliance services at Lockton Benefit Group in Kansas City, Mo.

Employers that have reduced part-time workweeks to avoid the 30-hour standard have gotten Congress’ attention.

The House Ways and Means Committee last month approved legislation, H.R. 2575, that would change the definition of a full-time employee to one working an average of 40 hours a week.

Chief sponsor Rep. Todd Young, R-Ind., said prior to the Ways and Means Committee vote that the legislation would “restore the hours — and more importantly, protect the wages — of Americans who need them most.”

Observers say they expect the measure to be approved by the full House of Representatives, where Republicans are in control.

“We are quite optimistic that the bill will pass the House with a strong bipartisan majority,” said Neil Trautwein, a vice president at National Retail Federation in Washington.

The Democratic-controlled Senate is another matter.

“It looks like a very long shot in the Senate,” said Geoff Manville, a Mercer principal in Washington.

“It is unlikely that this proposal is headed for enactment,” said Gretchen Young, senior vice president for health policy with the ERISA Industry Committee in Washington.

Aside from the long-running congressional split, a recent Congressional Budget Office report offered another impediment. It estimated that changing the definition of a full-time employee to 40 hours a

week would drop the number of people receiving employment-based coverage by 1 million, with 500,000 more people getting coverage—many with federal premium subsidies—through public health insurance exchanges, as well as other public programs, such as Medicaid.

The “net budgetary cost to the federal government” would be \$73.7 billion for 2015 through 2024, the CBO said, much of that due to a reduction in health reform law mandated penalty payments by employers, as well as higher costs to the government since more individuals would be receiving federal premium subsidies to buy coverage in public exchanges.

Referring to the cost to the government of the Young bill, passage “is not something I see happening,” said James Klein, president of the American Benefits Council in Washington. “Democrats will say, ‘How will this be paid for?’”

“The revenue issue is a big obstacle,” said Drew Crouch, director of government relations in Washington for Buck Consultants L.L.C.

Still, Mr. Klein would not rule out a compromise, with some lawmakers working to come up with a new definition of a full-time employee.

“The odds of a compromise are not a complete zero,” Mr. Klein said, noting that some Democrats in the House and Senate already are in favor of such a change.



AP PHOTO

Licensed medical cannabis patient and grower Jennifer Solas in her grow room in Henderson, Nev. While medical marijuana is legal in many states and recreational marijuana is legal in two states, marijuana is still a controlled substance under federal law, which can create complications regarding liability and insurance.

MARIJUANA

Continued from page 1

costs arising from criminal actions filed against the professionals as long as they comply with state law (see story below)

“Certain (solo lawyers) have lost their malpractice insurance for practicing in this area, and in very surprising places,” said Hilary Bricken, lead attorney of the Canna Law Group, a practice area of Harris Moure P.L.L.C. in Seattle. “The criminal defense lawyer with whom we work very closely on a lot of these issues actually lost his insurance for defending medical marijuana patients, which was a shocker. I can actually think of much worse clients that would pose greater liability than medical marijuana patients.”

That Seattle-based attorney, who asked not to be identified, said he received a letter from Hanover Insurance Co. at the end of 2013 saying it would not renew his coverage because he worked in the medical marijuana industry.

“I wrote a letter back and said I don’t represent medical marijuana businesses unless they’ve been charged with a crime,” he said. When the insurer did not respond, he found coverage from another insurer, which he declined to identify.

“People need lawyers to navigate the complex regulatory system governing medical and recreational marijuana,” said Gabriel Plotkin, a partner at Miller Shkman & Beem L.L.C. in Chicago. “However, the ability to do so and get insurance is compromised by the federal government’s position.”

Ann Toney, a lawyer in private practice in Denver who said about half of her clients are involved in medical marijuana businesses, said she also was canceled by Hanover last year, but was able to obtain other coverage from

Schaumburg, Ill.-based Zurich North America.

A spokeswoman for Zurich said only that the insurer considers its clients’ needs “on an individual basis.”

Lloyd’s of London, which sources said provides professional liability coverage for the medical marijuana industry, declined comment.

“Our view is this is an underwriting issue, which as always, includes an evaluation of exposures presented by the areas in which a particular law firm provides coverage,” a Hanover spokeswoman said in an email. “At this time, there is a considerable amount of uncertainty in this practice area given the apparent differences between state and federal laws. Therefore, we would not write a new policy, or renew an existing one, for a firm if we knew they were engaged in the practice. However, we do not specifically

exclude coverage for the area of practice.”

Both attorneys said they never had a claim involving their medical marijuana clients.

However, Ms. Bricken said she could see some issues involving enforcement of contracts that accountants, lawyers and other professionals enter into with medical and recreational marijuana businesses since it is illegal to contract for illegal activity.

“I could see a judge making the logical leap that ... you are conspiring to violate the Controlled Substances Act,” she said.

Hank Levy, a certified public accountant in Oakland, Calif., said he has been subpoenaed in a case where federal authorities shut down a client following an Internal Revenue Service audit.

“We got subpoenaed for providing banking advice,” he said. However, “the case went away” after

prosecutors determined Mr. Levy’s firm had merely prepared the medical marijuana dispensary’s tax return. “Everybody’s got to file a tax return, even if you’re in an illegal business.”

However, Section 280E of the Internal Revenue Code disallows many business expenses associated with medical marijuana businesses, said Jim Marty, owner of Longmont, Colo.-based certified public accounting firm Jim Marty & Associates L.L.C., who has been involved in about a dozen audits involving medical marijuana businesses. “What is clearly deductible is the cost of goods sold, but the retail operation is not,” he said.

To avoid professional liability issues, Mr. Marty and others recommend that accountants, lawyers and other professionals make it clear to their medical marijuana business clients that while they may be operating legally under state law, they could still be charged with violating federal law.

“I remind them that ... even if it’s legal in the state of Washington, they’re still trafficking in a (Schedule I controlled) substance under federal law,” said Dean Guske, president of Bellevue, Wash.-based CPA Guske & Co.

To be extra cautious, Ms. Bricken advises professionals to “vet these people incredibly carefully because of the nature of the business and where the majority of them came from: the black market. Abiding by the law is not first-nature for these individuals. You’re dealing in all-cash. You’re dealing with people who don’t always tell the truth.”

Indeed, Mr. Guske said he has turned away clients that he didn’t think would comply with federal tax law or state laws governing medical marijuana.

Sarah Veysey contributed to this story.

STATE LAWS

U.S. states and jurisdictions that have legalized medical marijuana:

Alaska
Arizona
California
Colorado
Connecticut
Delaware
District of Columbia
Hawaii
Illinois
Maryland
Maine
Michigan
Montana
New Jersey
New Mexico
Nevada
Oregon
Rhode Island
Vermont
Washington

States that have legalized recreational marijuana:

Colorado
Washington

Source: National Conference of State Legislatures

Marijuana industry insurer enjoys low losses

While some insurers remain skittish over potential exposures created by the discrepancy between state and federal laws governing the sale and use of medical and recreational marijuana, others embrace covering the fledgling industry and the professionals who serve it.

Mike Aberle, vice president of marketing and sales and head of underwriting at Rancho Cordova, Calif.-based MMD Insurance Services, a unit of GP Insurance Brokers, developed a program specifically for the medical marijuana industry more than five years ago.

Since its inception, loss ratios have remained under 25%, he said.

“We saw some fire claims at the beginning because (growers) had higher-wattage bulbs than the facilities could accommodate,” Mr. Aberle said. However, “we have not seen any professional liability claims.”

The managing general agent provides up to \$2 million in occurrence-based limits for general liability, product liability and completed operations, he said.

For an additional premium, MMD Insurance will arrange another \$1 million each in employment prac-

tices liability, professional liability and cyber liability coverage. Insurance also covers hospitality events where marijuana is served.

Under a governmental action reimbursement endorsement, the policy will pay legal defense costs stemming from an arrest or charges filed as a result of “the possession, transporting, cultivating or sale of medical marijuana or any derivative of medical marijuana for which the named insured enters a plea of not guilty and for which the named insured believes they have a legal right to do so under state law.”

“If they are arrested and formally charged by a state agency or lesser, we will cover the defense costs if the insured pleads not guilty and is found not guilty,” Mr. Aberle said. However, “if the insured is found guilty, then we will deny the claim because we cannot insure an illegal action.”

Moreover, “any federal charges cannot be covered because it is illegal to insure an illegal action,” Mr. Aberle said.

By Joanne Wojcik

“We saw some fire claims at the beginning because (growers) had higher-wattage bulbs than the facilities could accommodate.”

Mike Aberle, MMD Insurance Services

AIG awards bonuses to top executives

■ Several senior executives at American International Group Inc. — including President and CEO Robert Benmosche — received handsome bonuses for 2013 for exceeding business targets, according to a filing AIG submitted to the U.S. Securities and Exchange Commission. Mr. Benmosche was granted a \$6 million bonus to complement his \$2 million base salary, according to the filing. The filing also said Jay Wintrob, executive vice president of life and retirement, was given a \$3.8 million bonus on top of a \$1.2 million base salary; Peter Hancock, executive vice president of property/casualty insurance, earned a \$3.5 million bonus and a \$1.35 million base salary; William Dooley, executive vice president of investments, got a \$2.4 million bonus in addition to his \$1 million salary; and David Herzog, chief financial officer, got a \$2.26 million bonus on top of his \$1 million salary.

McRaith backs hybrid system of insurance regulation

■ The Federal Insurance Office's report on insurance regulatory modernization is meant to address "the world as it is," FIO Director Michael McRaith said. The drafters of the report, issued in December, determined that the United States should build on the current hybrid system of state and federal insurance regulation. Speaking at Indiana State University's 10th annual Network Financial Institute insurance public policy summit, Mr. McRaith said even backers of state insurance regulation support the idea of some federal role in the issue. He cited legislation that would establish the National Association of Registered Agents and Brokers as an example of a "federal solution to a multistate problem." Mr. McRaith added that status reports and further work on insurance regulation will be forthcoming from FIO.

Senate votes to limit NFIP premium hikes

■ The Senate has followed the House of Representatives in approving legislation that would roll back some of the reforms made to the National Flood Insurance Program by the Biggert-Waters Flood Insurance Reform Act of 2012. The Senate voted 72-22 in favor of the Homeowner Flood Insurance Affordability Act of 2014, H.R. 3370. Among other things, the measure, approved by the House earlier this

month, would limit the annual increase in rates charged by the NFIP to 18% and provide subsidies for some policyholders. The Biggert-Waters bill had required the NFIP to phase in risk-based rates for policies issued under the program, which is currently about \$24 billion in debt. But policyholders hit with large increases complained to lawmakers.

Berkshire cuts U.S. catastrophe insurance business: Buffett

■ Berkshire Hathaway Inc. Chairman and CEO Warren Buffett said his firm had eliminated most of its catastrophe insurance business in the United States. Citing a decrease in interest rates, Mr. Buffett told cable television network CNBC on Friday: "We actually in the United States have almost eliminated our catastrophe insurance business." Mr. Buffett also said concerns over weaker economic growth in China and geopolitical tensions surrounding Russia and Ukraine were not a reason to sell assets.

Reuters

Bill to revive tax credit introduced in House

■ Individuals who have lost their jobs due to foreign competition, as well as retirees in failed pension plans, again would be eligible for federal health insurance premium subsidies under legislation introduced last week in the House of Representatives. The subsidy, known as the Health Coverage Tax Credit, expired at the end of 2013. It previously paid 72.5% of health care premiums for eligible beneficiaries: people who lost their jobs due to foreign competition and retirees at least age 55 whose pension plans were taken over by the Pension Benefit Guaranty Corp. The Trade Adjustment Assistance Act of 2014 — H.R. 4163 — introduced by Rep. Adam Smith, D-Wash., with more than 40 cosponsors, would restore that subsidy retroactive to Jan. 1, 2014, and boost the subsidy to 80%.

Allianz warns of risks from supersized ships

■ The rise of supersized container vessels poses one of the biggest new challenges to ships and their insurers, according to German insurer Allianz S.E., which flagged these emerging risks in its annual "Safety and Shipping" report. The company said increased use of these large cargo ships, such as the Maersk Triple E class, which is as long as four football fields, could

lead to potentially massive insurance claims. Additionally, new Arctic trading routes have opened due to melting sea ice; shipping casualties in the Arctic have increased to an average of 45 per year during 2009 to 2013, from only seven between 2002 and 2007, Allianz said. The insurer also pointed to increasing use of greener fuels such as liquefied natural gas to power ships as a potential hazard because of a lack of infrastructure in ports or expertise in handling it.

Reuters

Health care veteran to lead employer group coalition

■ Brian Klepper, a longtime health care analyst and entrepreneur, has been named CEO of the National Business Coalition on Health in Washington. Mr. Klepper, 61, has been involved in a wide range of health care activities. Most recently, he was a principal and chief development officer of WeCare TLC, a Lake Mary, Fla.-based worksite clinic and medical management firm. The nonprofit NBCH is comprised of 52 employer-led coalitions that are committed to an improvement in the value of health care provided through employer-sponsored plans.

Health care reform law ups security, privacy threats

■ The Patient Protection and Affordable Care Act is a contributing factor in new and expanded threats to the security and privacy of patient information in the U.S. health care system, according to the "Fourth Annual Benchmark Study on Patient Privacy & Data Security" conducted by Traverse City, Mich.-based Ponemon Institute L.L.C. and sponsored by Portland, Ore.-based ID Experts Corp. Websites with documented security issues as well as database and health information exchanges that are "highly vulnerable to insider and outsider threats" are among the factors, according to the study. More pressure is being put on stakeholders in the health care system as "millions more" people get health insurance, ID Experts President Rick Kam said. The study also found that the average economic impact on health care organizations over the past two years is \$2 million per data breach, a 17% decrease since last year; 69% of respondents believe the health care reform law increases or significantly increases the risk to patient privacy and security; and criminal attacks on health care organizations have increased 100% since 2010. Seventy-five percent of health care organizations say employee neglect is their biggest security risk.

New staff members join *Business Insurance*

Business Insurance has added to its marketing staff with the appointment of Mike Hernandez as marketing manager and Parijat Gandhi as director of demand generation services.

Most recently, Mr. Hernandez was an independent marketing and business development consultant in Chicago. Previously, he held senior marketing positions at various companies in the Chicago area, including Norvax Inc., Insuresoft L.L.C., the Wall Street Journal and Tribune Co.

Mr. Hernandez holds a bachelor's degree in marketing and business administration and a Master of Business Administration, both from DePaul University in Chicago.

He replaces Kathy Barnes, who recently was



Mr. Gandhi



Mr. Hernandez

named client services, project manager for *Business Insurance* and sister publication *Pensions & Investments*.

Mr. Hernandez is based in Chicago and can be reached at mhernandez@businessinsurance.com and 312-649-5340.

Mr. Gandhi most recently was director of marketing strategy at Thinkstock.com, a division of Getty Images, and prior to that held various marketing positions specializing in digital marketing at Nokia Corp. and The Walt Disney Co., among other companies.

He holds a bachelor's degree in science and a Master of Business Administration from the University of Michigan.

He replaces Steve Susina, who left to join Lyons Consulting Group Inc.

Mr. Gandhi is based in New York and can be reached at pgandhi@businessinsurance.com.

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Wig guru sues Nicki Minaj

Aspurned hair stylist has accused flamboyant singer Nicki Minaj of attempting to sweep their collective plans for a line of designer wigs under the rug.

Self-styled “wig guru” Terrence Davidson filed a \$30 million lawsuit in U.S. District Court in Atlanta earlier this month, accusing Ms. Minaj of cutting him out of the wig business.

In the suit, Mr. Davidson alleges he helped design several wigs, including the “Pink Upper Bun Wig” and the “Super-Bass Wig” that are hallmarks of the quirky singer’s personal style. Ms. Minaj sells a variety of wigs on her website.

“Nicki Minaj is reaping great success and financial bounty reward for Terrence’s creative expertise, and he is entitled to participate in that,” Christopher Chestnut, an attorney for Mr. Davidson, told CNN.

‘Top Gun’ tweeter told to stand down

Twitter user @555uhz has had its wings clipped: The Twitter account was grounded Feb. 25 at the request of Paramount Pictures Corp., which wanted to stop @555uhz from tweeting the 1986 hit movie “Top Gun” one frame at a time.

“Splash One.”
In a Digital Millennium Copyright Act notice sent to Twitter by Kilpatrick, Townsend & Stockton L.L.P., Paramount said it “is the owner of copyright and other intellectual property rights in and to the “Top Gun” motion picture (hereinafter referred to as “Top Gun”). No one is authorized to copy, reproduce, distribute or otherwise use Top Gun without the express written permission of Paramount.”

Posting just two or three frames per hour, there had been some speculation as to how long it would take @555uhz to complete the film via Twitter, if even possible.

The question, however, is now moot: Paramount has prevailed in the growing battle over cyberspace.



FRACKING PROTEST STICKS ROCK STARS’ OFFSPRING WITH FINE



AP PHOTO

Natalie Hynde, the daughter of former Kinks frontman Ray Davies and former Pretenders lead singer Chrissie Hynde, protests fracking in England.

The daughter of former Kinks frontman Ray Davies and former Pretenders frontwoman Chrissie Hynde has been fined by a British court for her sticky activities to protest fracking.

Natalie Hynde, 32, reportedly said during a recent Brighton, England, court hearing that she glued herself to fellow protester Simon Medhurst, 55, at a hydraulic fracturing test drilling site in Balcombe, England, last July to create a good photo opportunity.

She said during a hearing that the use of superglue to protest fracking did not go forward.

“I wanted to look peaceful with the hands around the gate, and superglue seemed fast,” Ms. Hynde reportedly said. “I knew it would last long enough to get a good photo, and knew there were press there.”

A judge was unimpressed, saying the pair “went beyond reasonable freedom of speech.”

Ms. Hynde was given a 12-month conditional discharge and ordered to pay costs of €400 (\$665) and a €15 (\$25) victim surcharge.

Mr. Medhurst was fined €200 (\$333) and told to pay an equal amount in costs plus a victim surcharge of €20 (\$33).

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Mob daughter targets Grand Theft Auto V

The daughter of a former Mafia boss turned informant is suing the makers of Grand Theft Auto V for at least \$40 million, alleging that the companies improperly used her likeness to inspire a character in the popular video game.

Take-Two Interactive Software Inc. and Rockstar Games released the newest installation of Grand Theft Auto in September, according to the lawsuit filed recently in New York Supreme Court. The game centers on players committing various crimes and heists in a fictionalized version of Southern California.

Plaintiff Karen Gravano is a former cast member on the VH1 reality show “Mob Wives” and is the daughter of Mafia informant Sammy “The Bull” Gravano, according to her bio on the network’s website. Mr. Gravano’s testimony was used to help convict notorious mobster John Gotti in 1992.

The lawsuit accuses the video game creators of violating Ms. Gravano’s privacy and failing to seek her permission to use her likeness in Grand Theft Auto V.

A Rockstar Games spokesman declined comment about the case to the Daily Mail.



Snarky post nixes daddy’s Settlement

A private school headmaster in Miami learned the hard way that sharing confidential information with a teenage girl is no way to keep it under wraps.

After Dana Snay, the daughter of Gulliver Preparatory School Headmaster Patrick Snay, boasted to her friends on Facebook that her father’s former employer was picking up the tab for a European vacation as part of a \$150,000 discrimination suit settlement, the school pulled the plug on the deal.

Dana’s daddy said he felt compelled to share the terms of the November 2011 settlement with his daughter because she was peripherally involved in the case, according to the Miami Herald.

Mr. Snay, now 69, sued after Gulliver declined to renew his contract, alleging age discrimination and retaliation that involved his daughter.



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