

GUARDING INTELLECTUAL PROPERTY

Create a culture of security by educating employees that taking confidential company data is wrong.

Make it clear to new employees not to use former employers' intellectual property.

Implement monitoring technology with automatic notification when data is inappropriately sent, copied or exposed.

Establish a whistle-blower hot line for employees to report suspected data, trade secret or other intellectual property theft.



SPECIALTY RISKS

Employees expose trade secrets

BY JOANNE WOJCIK

Whether it's a loss of client lists, source code or the recipe for a company's "secret sauce," the theft of intellectual property by employees is on the rise, costing U.S. businesses billions in lost income and profits, security experts estimate.

Moreover, this type of theft is rarely, if ever, covered by insurance because it involves loss of intangible property.

A cyber insurance policy might help a company defend against unlawful disclosure of personal information and cover the costs associated with notification of affected customers or beefing up information technology security, but crime and fidelity policies typically only cover theft of money,

See **INTELLECTUAL** page 30

RISK MANAGEMENT

GRAND FORKS A MODEL OF HISTORIC FLOOD RECOVERY

TEN-YEAR \$412 MILLION PROJECT HALTED THE RED RIVER



CITY OF GRAND FORKS

Some businesses closed up to a year due to April 1997 flooding in Grand Forks, N.D. The city's approach and management of a multifaceted flood-control revamp has been hailed as a model for disaster recovery.

BY MIKE TSIKOUDAKIS

Grand Forks, N.D., a community devastated in 1997 by floodwater from the Red River, today stands as a model for disaster preparedness and resiliency.

Working with federal and local governments and the community, Grand Forks completed its flood-protection project 10 years after the historic flood and now says it can withstand a 500-year

flood event.

In the wake of recent U.S. disasters such as Superstorm Sandy, such efforts are crucial for cities, public entities and municipalities as they look to meld federal, state, city and community resources to mitigate potential catastrophes.

Since completion of the major flood-protection project, the city has been tested numerous times,

See **GRAND FORKS** page 29

INTERNATIONAL

Guidance on stalled Solvency II rules

Insurance industry seeks governance focus

BY SARAH VEYSEY

The European insurance regulator is expected to publish guidelines this week on interim measures for companies preparing for Solvency II, the risk-based capital regulatory regime for insurers in Europe that is now likely delayed until 2016.

And while industry experts say that such measures will help keep the momentum of companies preparing for the upcoming regulatory change, they say the interim measures should focus more on governance areas of Solvency II rather than capital requirements.

The Frankfurt, Germany-based European Insurance and Occupational Pensions Authority this week is expected to publish for a public comment period a series of guidelines to help national regulators stay on track with preparations for Solvency II.

Solvency II, which had been slated for introduction in 2014, has stalled because of disagreements over the way life insurers' long-term guarantees will be treated. No official start date has been given for the regime change, but sources say it is unlikely to be before 2016 and may be even later.

Insurance Europe, the trade body that represents insurers and reinsurers in Europe, recently

See **SOLVENCY** page 30

INTERNATIONAL



Country profile of South Korea; Canopus posts profit, announces sale

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U.S. MID-MARKET



Midsized firms want brokers with cutting-edge benefits strategies

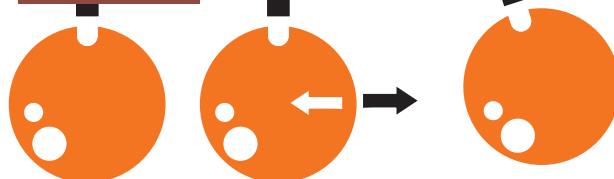
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SPECIAL REPORT



INDUSTRY FINANCIALS 2012 YEAR-END

Momentum builds for property/casualty insurers; brokers poised for favorable year; reinsurers profit despite Sandy; uncertainty looms for health insurers

PAGE 14

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NEWS

EMPLOYMENT PRACTICES

Supreme Court takes NLRB case involving Obama board appointments

Hundreds of prior rulings could be invalidated



BY JUDY GREENWALD

The U.S. Supreme Court is expected to consider a case affecting hundreds of National Labor Relations Board decisions that were called into question when an appeals court invalidated the appointments of three of five board members.

Legal experts say employers are watching the case closely. Many employers consider NLRB decisions — particularly those on social media and employee handbook language — to be overly broad and aggressive.

Even if the ruling by the U.S. Court of Appeals for the District of Columbia is upheld and the NLRB's rulings since at least January 2012 are invalidated, experts say a reconstituted NLRB likely would reinstate many if not all of the decisions. There are several rulings that are arguably against limiting employees' right of free speech (see box at right).

Meanwhile, attorneys are advising their clients to continue following existing NLRB guidelines until a ruling is made (see story, page 32).

See **NLRB** page 32

LABOR RULINGS

NLRB rulings affected by the appeals court ruling in *Noel Canning* include:

- An employer's ban on employee discussions regarding ongoing employee misconduct investigations was unlawful. *Banner Health System*, 358 NLRB No. 93 (July 30, 2012)
- An employer's electronic communication policy prohibiting postings that "damage the company, defame any individual or damage any person's reputation" unlawfully restricted employees' protected rights. *Costco Wholesale Corp.*, 358 NLRB No. 106 (Sept. 7, 2012)
- A nonunion employer's termination of employees for Facebook postings was unlawful under Section 7 of the National Labor Relations Act. *Hispanics United of Buffalo Inc.*, 359 NLRB No. 37 (Dec. 14, 2012)
- A nonunion employer's mandatory arbitration policy was invalid because it interfered with employees' Section 7 NLRA rights. *Supply Technologies L.L.C.*, 359 NLRB No. 38 (Dec. 14, 2012)

Source: Gonzalez Saggio & Harlan L.L.P.

REINSURANCE

Aon, Berkshire start sidecar for Lloyd's

Innovative deal offers guaranteed capacity

BY SARAH VEYSEY AND GAVIN SOUTER

A facility set up by Aon P.L.C. guaranteeing underwriting participation by Berkshire Hathaway International Insurance Ltd. on business the brokerage places involving Lloyd's of London has been called innovative on several fronts.

7.5%

The agreement calls for Berkshire Hathaway to accept 7.5% of Aon retail placements in the London market where there is Lloyd's participation.

Aon Risk Solutions and Berkshire Hathaway, which is rated AA+ by Standard & Poor's Corp., earlier this month launched the insurance facility offering guaranteed capacity for business in which Lloyd's participates.

The facility, which Aon characterizes as an insurance sidecar, is available to Aon clients globally and covers most industry segments, said Steve McGill, group president of Aon P.L.C. and chairman and CEO of Aon Risk Solutions.

Sidecars are underwriting vehicles that usually are associated with existing insurers or reinsurers, but are capitalized separately.

See **SIDECAR** page 32

CATASTROPHES

National catastrophe fund for homeowners hits headwind

BY MARK A. HOFMANN

Commercial insurer and reinsurer organizations oppose a bill that would establish a national catastrophe fund to protect homeowners.

The Homeowners and Taxpayers Protection Act of 2013 would establish a public-private partnership and include a privately funded national catastrophe fund designed to respond to large-scale natural catastrophes, according to an analysis on the website of sponsor Rep. Albio Sires, D-N.J.

"It would require prefunding —

exclusively private-sector financing — for catastrophe losses to construct a backstop of accessible funds for when such devastating events occur," Rep. Sires' website said in the analysis. "As a result, this legislation would drive down the cost of insuring all Americans, including those who live in areas with major catastrophe risk and encourage many more homeowners to be covered."

According to the text of the bill, "The private insurance market alone does not have sufficient capacity to efficiently address the timing risk presented by major

natural catastrophes, and there is no guarantee that the level of capacity that does exist will continue to be available from one year to the next or that consumers have the resources to adjust to significant price swings in the cost of the capital for available capacity."

A supporter of the bill who introduced similar catastrophe fund legislation in previous congresses said the frequency of large catastrophes has increased.

"It's no longer a one-in-100-year event," said former Rep. Ron

See **CATASTROPHE** page 32

H.R. 1101 HIGHLIGHTS

The Homeowners and Taxpayers Protection Act of 2013 would:

- Create a public-private partnership that includes a privately funded national catastrophe fund to respond to large-scale natural catastrophes.
- Require prefunding exclusively from the private sector to construct a backstop of accessible funds for catastrophe losses.
- Provide funds for mitigation efforts.

While the measure would apply only to personal lines, some commercial insurer groups oppose the plan.

Source: Library of Congress

3/25/13

ONLINE
FEATURES

SOLUTION ARC

How to maximize the benefits
of a captive insurer

Learn how to pick the right domicile and keep up with rule changes to get the most out of a captive program.

www.BusinessInsurance.com/CaptiveArc

VIDEO



Emerging markets

Learn about the numerous risks and opportunities that emerging markets offer firms and their risk managers.

www.BusinessInsurance.com/video

AWARDS

Benefit manager awards

Nominations are now open for *Business Insurance's* 2013 Benefit Manager of the Year® awards.

www.BusinessInsurance.com/BMOYnominate

DIRECTORY

Captive domiciles, managers



Business Insurance's Directory of Captive Managers and Directory of Captive Domiciles have been updated for 2013. A

premium edition combining both directories is available as well.

www.BusinessInsurance.com/directories

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NEWS

BENEFITS MANAGEMENT

New rules could add work
for Massachusetts employers

Updates change prescription drug expenses

BY JERRY GEISEL

Updated rules for Massachusetts' groundbreaking health care reform law could require extra work for self-insured employers and grandfathered plans that are exempt from certain similar requirements in the federal health care reform law.

Like previous rules, the new state rules that go into effect Jan. 1, 2014, require residents to be enrolled in plans in which the maximum annual deductible for in-network services can't exceed \$2,000 for single coverage and \$4,000 for family coverage. Otherwise, the residents are subject to financial penalties.

In a change, though, prescription drug expenses will be included in those overall deductibles. Currently, plans can have separate deductibles of \$250 for single coverage and \$500 for family coverage for prescription drug expenses under the state law passed in 2006.

In addition, the state's maximum annual out-of-pocket limits will be the same as those under federal rules for insurance plans linked to health savings accounts.

Like the rules already in effect, high-deductible health plans that

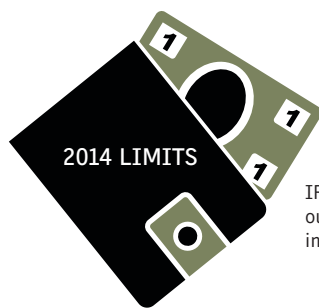
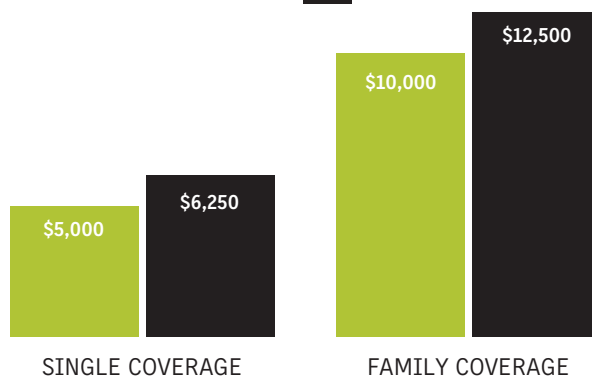
See **MASSACHUSETTS** page 28

OUT-OF-POCKET
LIMITS

Under new rules for Massachusetts' health care reform law that go into effect in 2014, the out-of-pocket limits for in-network services will be the same as federal rules set for insurance plans linked to health savings accounts.

CURRENT STATE LIMITS

CURRENT FEDERAL LIMITS



IRS expected to announce maximum out-of-pocket costs for HSA-linked plans in May.

ALTERNATIVE RISK TRANSFER/CAPTIVES

P/C premiums expected to rise in 2013

Experts at CICA conference say insurer profits are weighed down

BY SHEENA HARRISON

PALM SPRINGS, Calif. — Property/casualty insurance premiums increased 4.4% last year and are expected to climb through next year as insurance markets are hardening, speakers said during Captive Insurance Cos. Association's conference.

Thomas Holzheu, Armonk, N.Y.-based head of economic research and consulting in North America for Swiss Re America Holding Corp., said low interest rates and sluggish investment income have

hurt insurer profits. As a result, insurers have pushed for higher rates and exposure growth has backed up the hardening market, he said.

"There's momentum toward an increasing rate in pretty much all major lines of business," said Mr. Holzheu, who said he expects the trend to continue into 2014. "That's good news."

Reserve releases have supported insurers' performance in recent years, but their reserves are expected to be underfunded for future property/casualty claims,

Mr. Holzheu said. He cited a report from reinsurance brokerage Guy Carpenter & Co. L.L.C. that showed accident years from 2011 to today would have deficient reserves.

"It's not whether, but only when, it will turn to adverse development," he said in noting that the reserve trend likely will prompt rising reinsurance casualty rates.

Administering workers compensation claims for group captive funds was addressed in a separate session at the CICA conference in

See **CICA** page 28

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nominations
until April 15Award honors
benefit managers

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The award, created in 2005 to recognize excellence and innovation in employee benefit management, focuses on outstanding performance in the management or administration of group health, group life, retirement and pension, or work/life programs. Workers compensation will not be considered except as part of an integrated disability benefits management program.

The deadline for submitting nominations is April 15.

Submissions will be judged and scored by a panel of independent judges, and the benefit manager with the highest score will be selected as the Benefit Manager of the Year®. Other high-scoring candidates are eligible to be named to the Benefit Management Honor Roll®.

The 2013 winners will be profiled in the June 17 issue of *Business Insurance*.



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Helping executives at midsize firms and their brokers handle critical risks.

DON'T JUST LOOK AT THE NUMBERS WHEN ASSESSING A BROKER

Qualitative reviews of property/casualty brokers become more popular

BY MATT DUNNING

For mid-market risk managers, assessing the total value of their relationship with their property/casualty insurance broker is a calculation that encompasses far more than the cost of coverage purchased.

While quantitative, insurance-oriented metrics such as program costs, coverage components and exclusions, sublimits, deductibles and retentions typically are at the forefront of most risk managers' evaluations of their property/casualty broker's performance, experts say risk managers seeking a more comprehensive view of the services they receive are including qualitative measurements based on their specific risk management needs.

"Think of your broker as a professional service provider as opposed to simply a transactional service provider," said Richard S. Betterley, president of Sterling, Mass.-based Betterley Risk Consultants Inc.

Qualitative reviews are slowly gaining in popularity among mid-market risk managers, experts say, particularly as more midsize firms tap their brokers to provide supplemental, industry-specific services such as risk modeling and data analytics, actuarial services and preventive risk mitigation advice.

"Midsized corporations can't afford the large payrolls they would need to hire in-house experts in a lot of these fields," said Daniel Sielicki, director of risk management at Monroe, Ohio-based Baker Concrete Construction Inc. "We're all pinched budgetwise ... so we've got to look to the outside for someone who can deliver that robust expertise at a reasonable price."

When York, Pa.-based Wagman Cos. Inc. was shopping for a new property/casualty broker in 2010, the construction firm's request for proposals included qualitative selection criteria, includ-



"As a risk manager, I need to be a jack-of-all-trades, and it's essential that my brokers are experts in their respective disciplines."

Stephen Truono,
Starwood Hotels & Resorts Worldwide Inc.

ing candidates' ability to provide guidance on insurance and indemnity clauses in its project contracts, assistance with the internal allocation of premiums, loss-control advice, perspectives on relevant insurance market developments and estimates of future experience modifiers.

Edwin Jackson, vice president and general counsel at Wagman Cos., said that while the company does not necessarily evaluate its broker's services based on hard-and-fast "metrics," it does conduct annual stewardship meetings during which its broker reports its activities and accomplishments based on objectives established at the beginning of the year.

"Much of my evaluation of our broker's performance is admittedly more subjective than objective," Mr. Jackson said. "Timely and helpful responses to our frequent questions and assignments" are most important, he said.

For guidance on expanding the services they demand from their brokers and developing evaluative processes to gauge the effectiveness of those services, experts said mid-market risk managers can look to their counterparts at larger, more risk-sophisticated firms.

Stephen Truono, vice president of global risk management and insurance at Stamford, Conn.-based Starwood Hotels & Resorts Worldwide Inc., said aside from quantitative risk transfer metrics, his annual broker evaluations emphasize qualitative performance in areas such as thought leadership and industry expertise.

"I'm looking for my brokers to come to the table with ideas and suggestions in addition to those generated by my own team," Mr. Truono said. "If I get the sense that my broker is barely a page ahead of us in terms of identifying and managing our risks, that's when I get concerned. As a risk manager, I need to be a jack-of-all-trades, and it's essential that my brokers are experts in their respective disciplines."

Debbie Gramer, director of risk management at the Inverness, Colo.-based Arrow Electronics Inc., said she found most brokers "fairly equal in terms of capabilities, price and offerings" during the electronic components distributors' recent search for a new broker.

Aside from industry knowledge, "the distinguishing feature ... was who understood our business, knew our priorities and strategies, and focused on what could bring our shareholders value," she said. "Since our internal resources are lean, we needed a true risk management adviser" to navigate complex global exposures and identify risk opportunities.

BROKERS VALUE FEEDBACK

Several brokers that are active in the mid-market space discussed the ways they measure their performance in servicing their midsize property/casualty accounts, as well as the changing nature of evaluations and feedback they've received from those clients.

How have clients' expectations and evaluations over the past several years informed the brokerage industry in the services it provides and its perceived performance in delivering those services?

John Griffin, senior vice president, Aon Risk Solutions: "A client giving you feedback is a gift, whether it's in the form of an assessment, a survey or face to face. They're telling you what you're doing well and what you're not doing well, and it's a wonderful opportunity to address it."

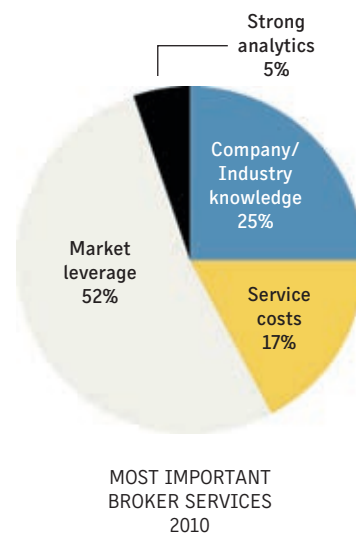
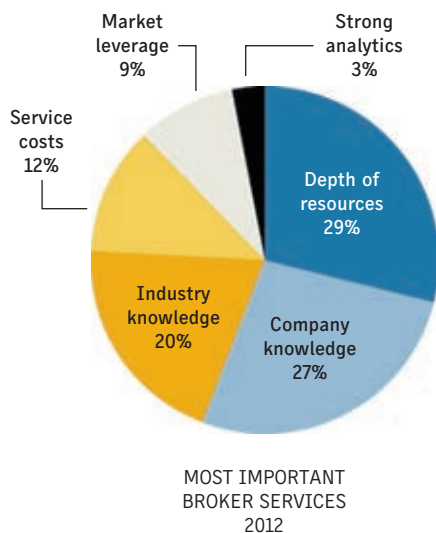
John Chaney, executive vice president, Hyland Group Inc.: "The work of an insurance broker can be measured financially based on a client's desired outcomes, whether daily services are rendered in a timely and accurate fashion, and then by ... whether we understand their business and we're tracking with them in more of an enterprise risk dialogue."

How have expectations changed among midsize property/casualty clients in terms of the scope of services requested and their evaluations of those services?

Eric Joost, chief executive of North American specialties, Willis Group Holdings P.L.C.: "Mid-market clients are leveraging these relationships more and more. It's more about whether the broker is able to become a deeper extension of what the client is already doing. Five or 10 years ago, it was more of a transactional relationship. Today ... I find that our advisory work is deeper, and the speed of the work has changed, and the expectations around that speed are very different."

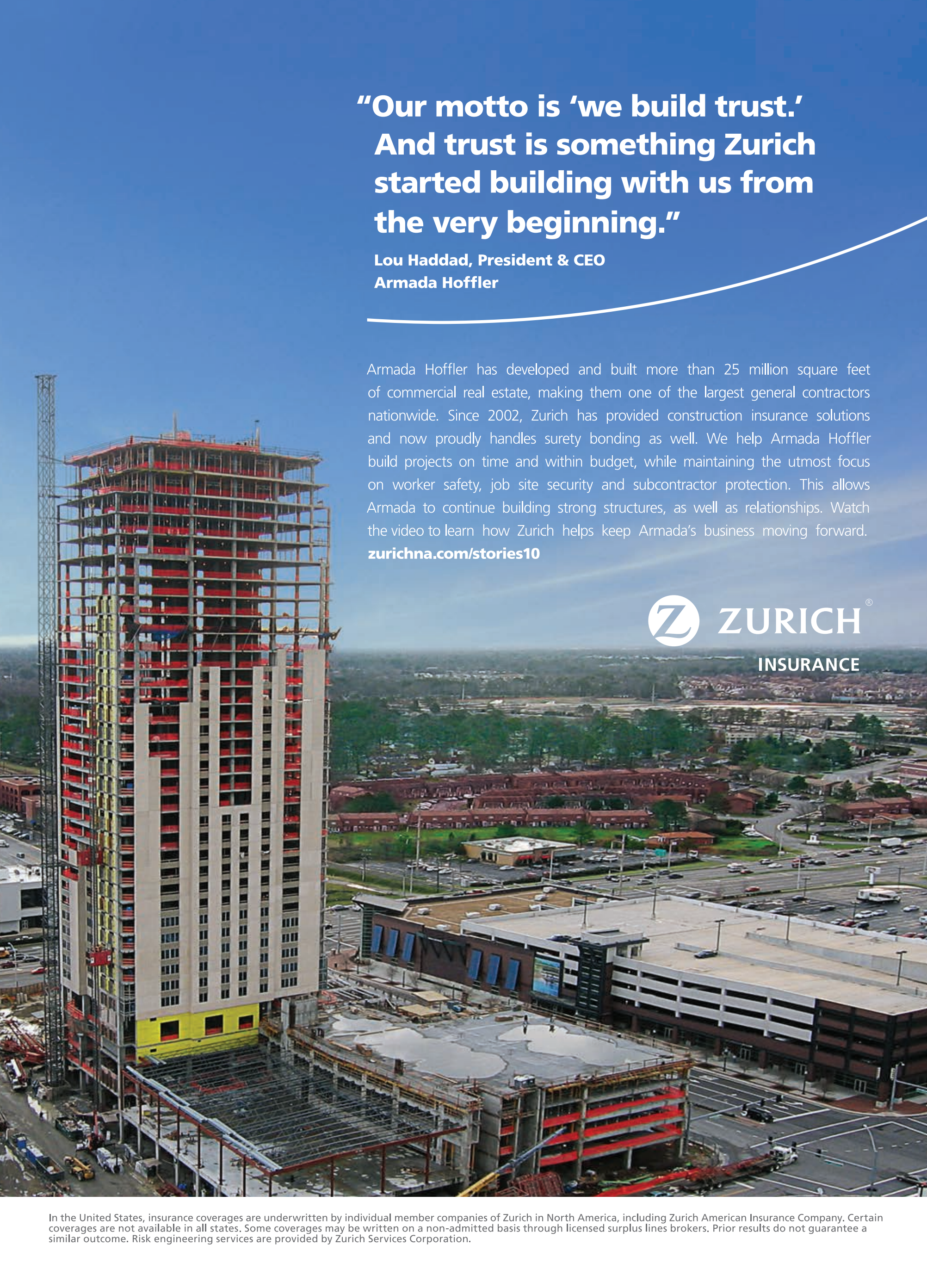
BROKER SERVICES

Risk managers' priorities in services provided by brokers have shifted dramatically since 2010, according to a Towers Watson & Co. analysis.



What advice would you offer a mid-market risk manager looking for a more comprehensive evaluation of their property/casualty broker?

Glenn Spencer, chief operating officer, Lockton Cos. L.L.C.: "Make sure your broker knows your business, meaning both your industry and your specific company. Tie your risk management objectives to your broader business objectives in a way that advances the company as a whole. ... Make sure the chemistry is right between your team and the broker's team. You'll do better work together if the teams mesh well ... That's a subjective measurement, but it's very important."



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

Midsized companies look to brokers for cutting-edge benefits solutions

Alternative strategies, augmented services in demand

BY JOANNE WOJCIK

Middle-market employers are finding greater need for outside expertise and access to innovative health care cost-containment solutions, making it essential that they find the right benefits brokerage partner.

But after failing to obtain the level of service and expertise it needed from the benefits brokerage community at large, Newtown, Pa.-based Johnson, Kendall & Johnson Inc. decided to create its own employee benefits consultancy.

A property/casualty insurance brokerage, JKJ until 1997 outsourced the placement of health care coverage for the approximately 50 employees it had at the time.

However, “we never felt we had any strategic input,” said John Wright, principal of JKJ. “We would get a fax two to three weeks before our policy expiration with the new premium rates. There was such a concentration among such a few insurers that it became a delivery process of ‘here’s chocolate and here’s vanilla.’”

“The genesis of our Johnson, Kendall & Johnson Benefits Inc. was to create a model of service that we felt we were not getting in the benefits brokerage community,” Mr. Wright said. “It’s a much more collaborative process, not centered around the price that you’re going to pay for benefits,

but takes three or four steps back and asks what you’re trying to accomplish as a business, starting six or eight months before” renewal time.

Loves Park, Ill.-based Acromatic Products Co. changed brokers in 2009 to gain access to a group stop-loss captive insurance program designed to help the manufacturer gain greater control over its self-funded health benefit costs, according to risk manager Jim Knutson.

“I had friends at Berkley (Accident & Health L.L.C.) whom I worked with on different health care projects. At one of the sessions, I said we really need to get off this individual stop-loss roller coaster. One of the people at Berkley said they had a division that was working on a group captive. They gave me the name of the broker they were working with,” Mr. Knutson said.

“In a small company, the depth of knowledge is not all that great. We don’t have enough exposure,” he said. “We needed a broker who would bring special knowledge and expertise.”

Indeed, said Frank Pennachio, co-founder of Tampa Bay, Fla.-based insurance brokerage consultant Oceanus Partners, middle-market employers increasingly are saying to benefits brokers seeking their business, “Don’t tell me what insurers you represent, how old your company is or how

many employees you have. Tell me about your ability to leverage technology and data analytics to devise strategies that will bend the health care trend.”

Among other things, Mr. Pennachio trains brokers catering to the middle-market clients.

Mr. Knutson said the one thing he did not like about his company’s previous broker, which he declined to name, was its “inability or unwillingness to embrace different options. For example, network formation: They would say, ‘Our discounts are as good as those of Blue Cross.’ But discounts only tell you part of the story.”

“A broker must be on the cutting edge, looking for alternative strategies that effectively bend the trend ... engaging with providers to mitigate as much as possible the flawed fee-for-service system,” Mr. Pennachio said.

For example, a benefits broker should have expertise in data analytics “to take an employer population’s claims data, upload it into a data warehouse, and analyze how the money is being spent, find the leaks and plug them,” he said.

And especially in today’s post-health-care-reform world, benefits brokers also should help middle-market employers decide whether to self-insure or to continue transferring their employees’ health care risks to an insurer either directly or via the public exchanges, he added.



Commissions disclosed

Reform law requires transparent compensation

By limiting the percentage of health insurance premiums that can be allocated to insurer overhead, minimum medical loss ratio requirements set by the Patient Protection and Affordable Care Act have shed light on broker compensation practices that had been largely invisible to employers.

Historically, commissions paid to insurance brokers placing group health business were embedded in premiums paid by employers and plan members. Because these commissions generally were a percentage of premiums paid, broker compensation grew with the increasing cost of health insurance.

By law, health insurers are required to furnish every employer with 100 or more employees with a Form 5500 that shows commissions and bonuses paid to the broker servicing the account. But many employers pay little attention to the information, sources say, and because employers with fewer than 100 employees and municipalities aren’t required to file Form 5500, they generally don’t know what their broker is paid unless they ask.

Employers in the middle market “often rely on brokers and other service providers to complete the 5500 Form for them and then they just sign it and send it in,” said David R. Marom, president of Marom Consulting in New York. “Shame on those employers for not paying more attention to what can be a large expense.”

Under PPACA, commissions are considered part of insurers’ administrative expenses, which are lim-

ited to 20% of premiums collected in the individual and under-50 group market and 15% of premiums collected in the midsize and large group markets. Though industry trade groups have been lobbying Congress to pass legislation that would exclude broker commissions from insurers’ administrative expenses, they have been unsuccessful so far.

In response to these new minimum MLR regulations, some insurers began breaking out commissions paid to brokers after Jan. 1, 2011, requiring the brokers to seek compensation directly from their clients. In many cases, benefits brokers are offering additional services to justify charging their clients fees in lieu of commissions, industry sources say.

“Most insurance companies have been offering a separate form showing how much an insurance broker is making and requiring a signature of acknowledgement. For old-fashioned transactional agents ... this has caused a whole new era of tap dancing,” said Thom Mangan, CEO of United Benefits Advisors L.L.C., an Indianapolis-based alliance of 140 independent benefits advisory firms located throughout the United States, Canada and the United Kingdom.

“However, for professional advisers, this has created a new opportunity as they have long been transparent (and) provided a high degree of intellectual capital as well as tools and services to help manage their clients’ benefit plans,” Mr. Mangan said.

By Joanne Wojcik

QUESTIONS TO ASK YOUR BENEFITS BROKER

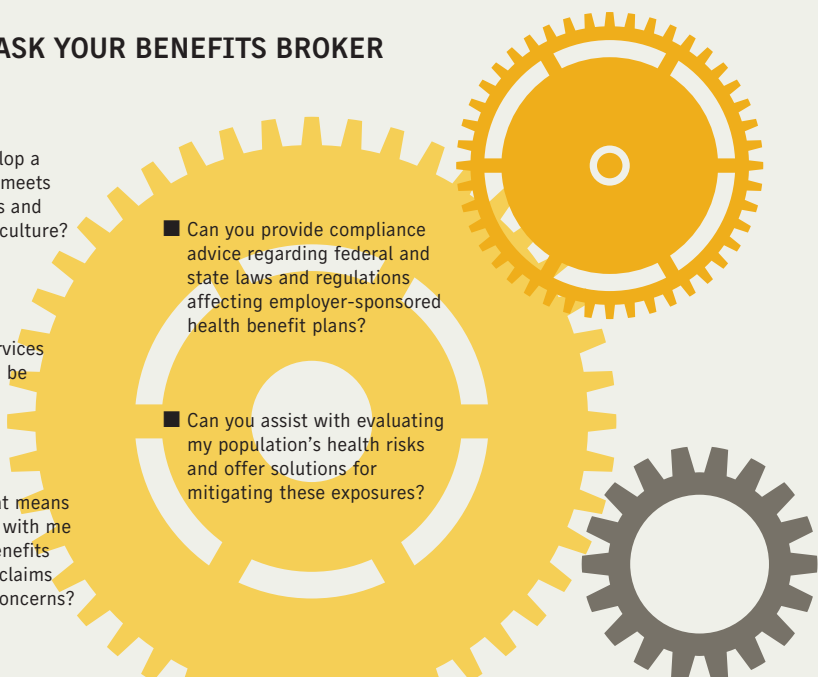
■ Can you help me develop a benefits strategy that meets my business objectives and reflects my corporate culture?

■ How much do your services cost, and how will you be compensated?

■ How often and by what means will you communicate with me on issues regarding benefits strategy, plan design, claims resolution and other concerns?

■ Can you provide compliance advice regarding federal and state laws and regulations affecting employer-sponsored health benefit plans?

■ Can you assist with evaluating my population’s health risks and offer solutions for mitigating these exposures?



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Scan the QR code and download the nomination form or go to www.businessinsurance.com/BMOY

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Canopus posts profit, announces sale

■ Canopus Group Ltd. posted a pretax profit of £49 million (\$79.6 million) for 2012, compared with a loss of £61 million (\$94.8 million) for 2011, the company announced. The privately held Guernsey-based insurer and reinsurer said its combined ratio was 95% for 2012 compared with 111% for the previous year. Canopus said its gross written premiums increased by 12% to £692 million (\$1.12 billion) in 2012. Meanwhile, Canopus announced the pricing of the sale of its Bermuda unit, Canopus Holdings Bermuda Ltd., to a number of institutional investors. Canopus said it would receive about \$216.7 million from the sale, which is expected to take place in conjunction with the merger of New York-based Tower Group Inc. and Canopus Bermuda that was announced last year. After the sale, Canopus said it had renamed Omega Specialty Insurance Ltd., its Bermuda-based reinsurance arm.

Munich Re aims to post \$3.9B in profit for 2013

■ Munich Reinsurance Co. is aiming to post profit of close to €3 billion (\$3.9 billion) for 2013, the company's CEO said. Munich Re in February reported profit of €3.2 billion (\$4.16 billion) for 2012. "Even though the consolidation of state finances and high unemployment will result in slower economic momentum in many industrialized countries, we remain optimistic for our business," Nikolaus von Bomhard told shareholders at the company's annual general meeting. Munich Re said it expected reinsurance rates overall to remain stable in 2013.

E.U. demands action to combat cyber attacks

■ Urgent action is needed by Europe's businesses and government organization to combat emerging cyber attack trends, said the European Union's security agency in a "flash note." The note from the European Network and Information Security Agency says that in recent weeks there have been a series of targeted cyber attacks directed at high-profile targets, including government and operators of critical infrastructure. Often the attacker uses the intelligence gathered to attack other victims or machines in the same organization. This technique is also used in target attacks aimed at financial fraud.

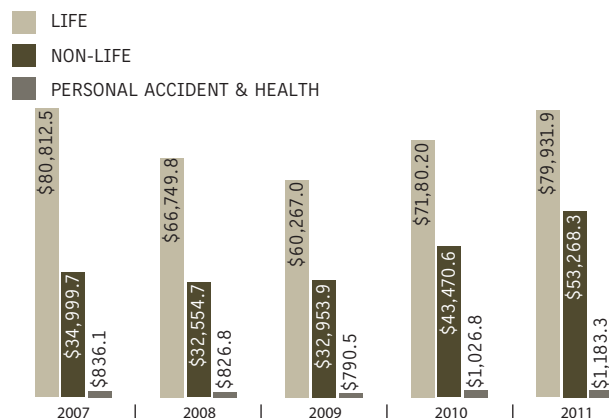
PROFILE: SOUTH KOREA

\$54.45
BILLION

The property/casualty market in South Korea has grown rapidly over the past five years, but much of the growth is related to savings and pensions policies, which can be written by property/casualty insurers in South Korea. Intense competition has limited growth in traditional property/casualty lines. Auto insurance is the dominant line of coverage, accounting for 64.5% of premiums. Property and liability accounted for 8.5% and 2.7% of premiums, respectively. Slowing economic growth will likely limit insurance market growth.

◀ 2012 property/casualty premiums

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South Korean law provides that insurance must be provided by locally authorized insurers. Exceptions to the prohibition on nonadmitted coverage include aviation, export and cargo, marine hull, travel insurance, long-term personal accident, insurance business not conducted in South Korea and business declined by at least three domestic insurers.

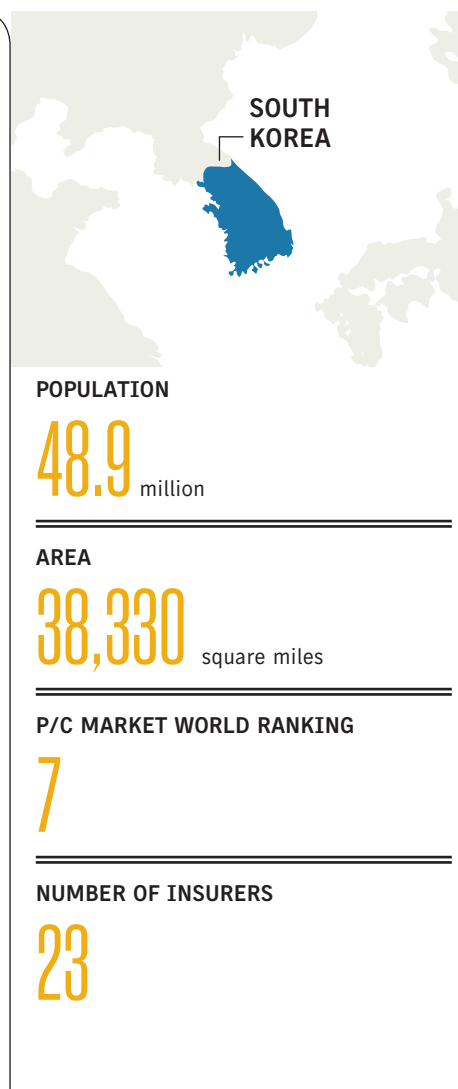
INTERMEDIARIES

Agents and brokers must be licensed by the Financial Services Commission. Korean intermediaries are not allowed to act on behalf of nonadmitted insurers even in circumstances when nonadmitted insurance is allowed. Foreign agents and brokers can sell permitted insurance products to South Korean residents providing they follow certain regulatory guidelines, including having professional indemnity insurance.

MARKET PENETRATION

South Korea is the third-largest market in Asia after Japan and China. Total market premium as a percentage of gross domestic product is 12%, and the total expenditure per capita is \$2,777 a year.

Information provided by Axco Insurance Information Services.
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MARKET DEVELOPMENTS

UPDATED
DECEMBER 2012

- The South Korean insurance industry is due to change its financial year-end from March 31 to calendar year-end in 2014.
- Since April 1, 2011, all insurers have been required to measure their solvency under a risk-based capital system. The Financial Supervisory Service, the country's insurance regulator, is phasing in more stringent capital loading requirements.
- Starting this year, each occupant in a multi-tenure building will be required to insure its liability for the spread of fire.
- A new regulation planned for 2013 will require brokers to obtain separate licenses for insurance and reinsurance broking, which will prevent brokers acting as insurance and reinsurance brokers on the same account.

Generali's CEO continues balance sheet cleanup

■ New Generali S.p.A. chief Mario Greco took decisive action to clean up the Italian insurer's balance sheet by taking €1.7 billion of write-downs on its assets, part of a turnaround plan to boost the group's profitability. The cleanup hit Generali's 2012 net profit, which fell to €90 million (\$116.7 million) from €856 million (\$1.11 billion) a year earlier, but the Trieste-based insurer's operating profit still managed to beat targets and its capital strength improved. The write-downs follow Mr. Greco's audit of Generali's assets started soon after he took over as CEO in August from long-standing boss Giovanni Perissinotto. The new CEO has promised a "revolution" at Italy's biggest insurer.

Reuters

FERMA urges fee disclosures for all buyers

■ The Federation of European Risk Management Associations has called upon the European Parliament to ensure that all insurance buyers are entitled to minimum levels of disclosure about the remuneration earned by their brokers. Brussels-based FERMA has sent a position paper to the European Parliament's Economic and Monetary Affairs Committee, which will vote on a revised directive on insurance mediation in July. Under the current draft of the revised Insurance Mediation Directive, only individual policyholders and small businesses automatically would be entitled to disclosure of their intermediary's remuneration. Corporate insurance buyers currently would have to rely on voluntary disclosure agreements,

FERMA said in a statement. The draft directive considers large buyers to be those that meet two of these three criteria: a balance sheet of more than €6.2 million (\$8.1 million); net turnover of more than €12.8 million (\$16.7 million); and an average number of 250 employees.

Asia to drive insurance premium volume growth

■ The Asia Pacific region will become the biggest driver of world insurance premium volume growth by 2020, according to a study by Munich Reinsurance Co.'s economic research department. About €1 trillion (\$1.308 trillion) in premium volume will be generated in the Asia Pacific region between now and 2020, according to the study, almost half of the €2.2 trillion (\$2.877 tril-

lion) of premium that will be generated worldwide. China likely will be the country with the biggest growth in insurance premiums, followed by the United States and Japan, according to Munich Re.

Hannover Re becomes Hannover Rück S.E.

■ Hannover Re has become a Societas Europaea and will now be known as Hannover Rück S.E. The Hanover, Germany-based reinsurer will continue to trade under the Hannover Re name, it said. "The new legal form underscores our international business operations and serves as a visible external expression of our corporate self-image as a European group with worldwide activities," Ulrich Wallin, the company's CEO, said in a statement.

Political risk exposures declining in 2013: Aon risk analysis

■ Certain emerging markets are experiencing reduced political risk exposures in 2013 compared with last year as the world's political risk landscape shows improvement, according to an analysis by Aon Risk Solutions.

Aon P.L.C.'s 2013 Political Risk Map measures political risk in 163 countries and territories to assess exchange transfers, supply chain disruptions, legal and regulatory regimes, political violence and ease of doing business, among others, London-based Aon said in a statement.

This year's analysis shows an increase in the number of countries with upgraded political risk ratings, where the overall risk is rated lower than the previous year.

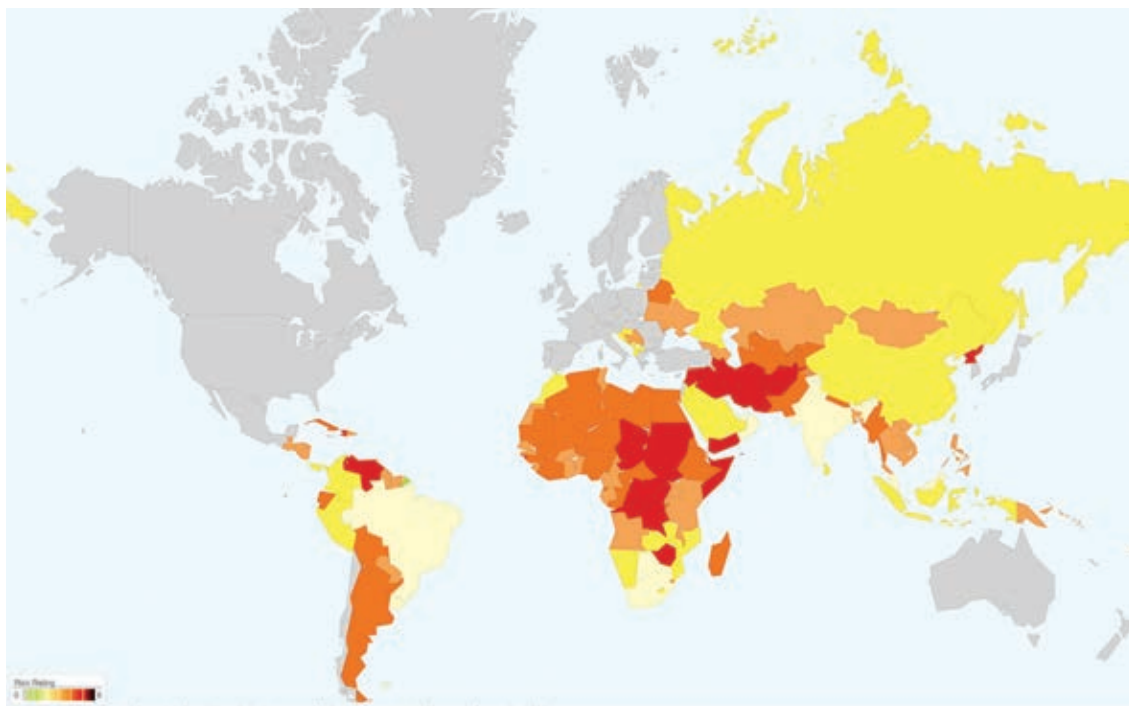
Thirteen countries were upgraded in 2013 compared with three in 2012.

Some of these countries include Bahrain, Guatemala, Oman, Pak-

istan, Thailand and the United Arab Emirates, among others. Upgrades for Bahrain, Oman, and the United Arab Emirates reflect a stabilization and differentiation of political risk in the Middle East and North Africa region, Aon said in the statement.

The annual map, which was developed in partnership with New York-based Roubini Global Economics L.L.C., also shows 12 downgraded countries where the overall risk rated higher than the previous year.

That compares with 21 downgraded countries in 2012. These countries include Algeria, Cameroon, Ethiopia, Mali, Panama, and Uzbekistan, among others. Countries like Algeria, Cameroon, Chad, and Mali pose greater political risks because of difficult regime changes in North Africa and heavy flows of weapons and insurgents across borders, according to the analysis.



AON P.L.C.

Thirteen countries were upgraded on Aon P.L.C.'s 2013 Political Risk Map, while 12 were downgraded. This year's analysis shows an increase in the number of countries with upgraded political risk ratings.

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EDITORIAL

RESPONSE TO FLOOD LOSS SETS STANDARD

Mitigation works. That is certainly the case in regard to Grand Forks, N.D., a community devastated in 1997 by floodwater from the Red River. After the flood, the city was estimated to have lost as much as 25% of its population. No aspect of life in the city went unaffected; some businesses stayed shuttered for a year.

The word “dire” only begins to describe the city’s situation as a result of the flood.

But as we report on page 1, observers now consider Grand Forks to be a model for disaster preparedness and resiliency. What changed?

The city committed itself to assuring that it would never experience that kind of devastation again. As a Grand Forks official said: “We found that we kind of had to write the book as we went along.”

And what a book they wrote.

The first chapter might be called “Safe, Sanitary and Secure,” after the three basic factors the Federal Emergency Management Agency considers in recovery efforts.

The city set up committees to address specific priorities such as housing and health. It also reached out to other communities to examine potential solutions to flood risk.

The city worked with private partners as well as governmental agencies to bolster its defenses against future floods. It wasn’t cheap, but the result was a project that can mitigate a 500-year flood event.

And the effort has paid off.

The city had to deal with major flooding since the big flood of 1997, notably in 2009 and 2011, but managed to get through the events without damage.

Grand Forks built mitigation into virtually every aspect of its recovery efforts.

The city’s experience amply underscores that effective mitigation is a cooperative effort built in part on public-private partnerships.

The city’s experience also underscores the importance of learning from other communities that are facing similar exposures.

Grand Forks learned well the lessons of mitigation. It is more than fitting that it should now be the teacher for other municipalities and enterprises seeking to make the most of their mitigation efforts.

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

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SCHILLERSTROM



COMMENTARY

Midsized employers should retain option to self-fund employee benefits

Because many small and midsized employers are turning to self-funding to control rising health costs, lawmakers in at least four states are considering legislation to dissuade employers from “opting out” of the commercial health insurance market.

Lawmakers in California, Rhode Island, Minnesota and Utah introduced legislation this year that would make self-funding less attractive by restricting sales of stop-loss insurance, a form of excess coverage that provides a financial backstop from catastrophic claims.

Though Minnesota’s bill was withdrawn in response to objections by local business groups, lawmakers are introducing similar legislation elsewhere.

The proposed laws in California, Rhode Island and Minnesota would preclude medical stop-loss insurers from selling policies to self-insured employers with specific deductibles less than \$60,000. While most large employers wouldn’t even blink at that deductible, requiring a 50- or 100-employee company to pay the first \$60,000 in medical claims for each plan member could be disastrous. The Utah bill is less onerous, setting the minimum specific deductible at \$10,000.

Because employers have been able to purchase medical stop-loss coverage with fairly low deductibles, the percentage of self-funded employers with less than 100 employees has grown more to 2.3% in 2012 from 1.5% in 2010, according to a recent survey by United Benefits Advisors L.L.C., an Indianapolis-based alliance of 140 independent benefits advisory firms. As such, 85% of self-funded employers with less than 100 employees buy specific stop-loss coverage, compared with just 68% of self-insured employers with 2,500 or more employees. The survey did not ask what deductible

levels were purchased.

Fortunately, some smaller and midsized employers have discovered a way around such restrictions. By banding together to form medical stop-loss captives, they can buy stop-loss coverage as a group with larger deductibles while keeping their individual stop-loss deductibles at comfortable levels. As a result, the medical stop-loss captive market



**JOANNE
WOJCIC**

SENIOR EDITOR

is booming and now includes more than 40 facilities domiciled offshore and in the United States.

This growth could be short-lived if the Obama administration is successful in establishing regulations to discourage small and midsized employers from self-funding, a practice it perceives as attempting to circumvent the Patient Protection and Affordable Care Act. “This practice, if widespread, could worsen the risk pool and increase premiums in the fully insured small group market,” the administration said in a recent notice in the Federal Register.

The Self-Insurance Institute of America is advocating for the right to self-fund, but it needs support from the self-funded community to educate lawmakers that self-funding health benefits is not dodging health care reform. Rather, it is a viable cost-containment strategy that will enable more employers to afford to offer health benefits to their employees without dumping them on the fully insured market.



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SPECIAL
REPORT

Industry Financials

2012 Year-End

Brokers poised
for another
favorable year

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Uncertainty
looms over
health insurers

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Reinsurers report
profitable year
despite Sandy

PAGE 19

MOMENTUM
BUILDING

BY BILL KENEALY

Incremental rate increases and a modestly improving economy offset catastrophe losses and weak investment returns as most of the largest U.S. commercial property/casualty insurers posted profits for 2012.

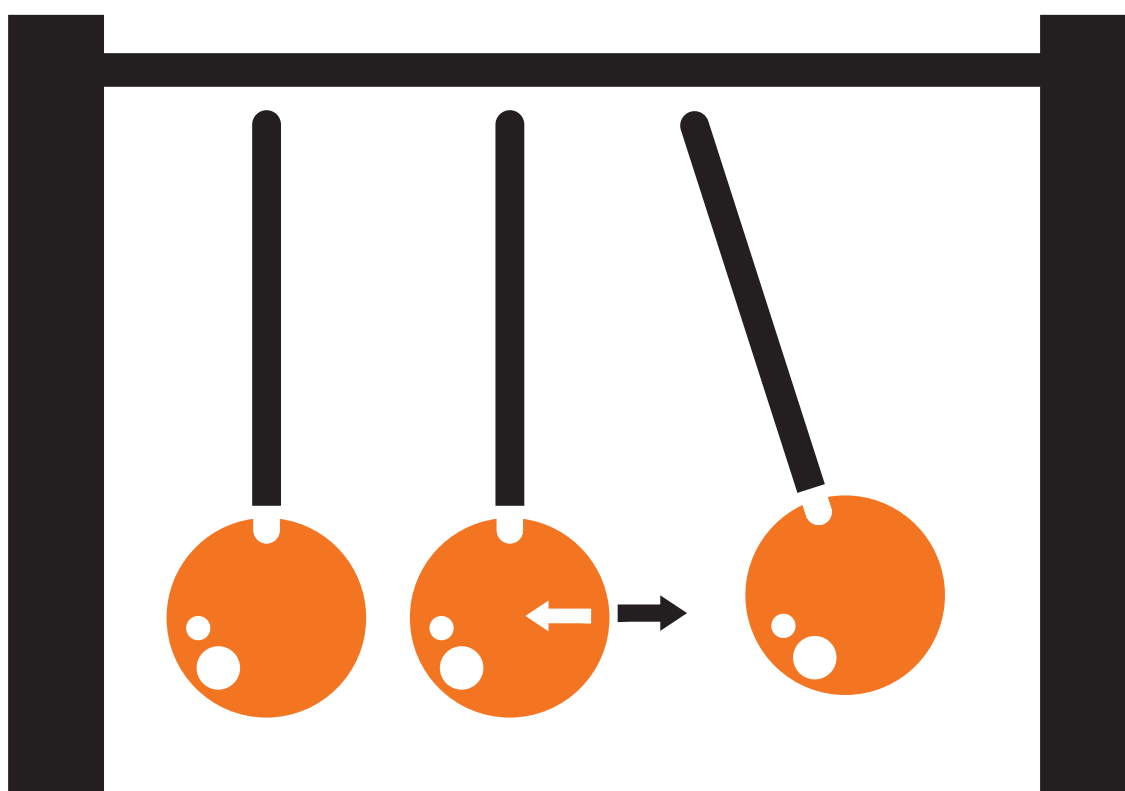
The 2012 results were a marked contrast to the 2011 results, which were ravaged by a string of catastrophe losses and years of declining rates.

Despite the continued modest rise in rates this year, however, the fragile economy, low bond yields and dwindling reserve redundancies may be a drag on insurer earnings in 2013, analysts say.

"The year was a story of building momentum," said Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Securities Inc. in Richmond, Va. "We saw improvement, both from a top line standpoint with rate increases and stronger premium flows and also from a bottom line perspective, as by the third and fourth quarters we saw that rate improvements were leading margin improvements and positively affecting earnings."

Mr. Dwelle said the rate increases were of the "Goldilocks" vari-

Rate increases, improving economy
create better outlook for insurers



ety: high enough to improve margins but not so high to cause frenzied competition where insurers undercut each other to gain market share.

Jim Auden, managing director of insurance for Fitch Ratings Inc. in Chicago, said the gradual rate increases in selected commercial lines and increased demand result-

ing from modest economic improvement were key factors in the industry's performance.

"Core underwriting results showed some improvement in

2012," Mr. Auden said. "The accumulation of improved pricing over time has led to some loss ratio improvement."

The industry's underwriting numbers for the year were also strong — that is until Superstorm Sandy hit the East Coast.

"It was a relatively benign year for three quarters, and then Sandy hit," Mr. Auden said. Commercial lines insurers absorbed a larger-than-usual percentage of the losses from Sandy given the degree of flooding witnessed in the business districts of Manhattan.

While the extent of the natural catastrophe losses the industry will endure in 2013 remains to be seen, slack demand from businesses affected by the still-weak economy likely will keep a lid on premium growth, said John Ward, CEO of Cincinnati Partners L.L.C., a Cincinnati-based private equity firm focused on the insurance industry.

"The challenge on premium growth is that the exposure portion of the equation, insurable risk, is very soft due to the soft economy," Mr. Ward said.

Observers differed, however, on whether the outlook for growth will lead to more mergers and acquisitions in the insurance sector (see related story, page 15).

Will slow growth, excess capital drive insurer consolidation?

Experts' opinions mixed on outlook for M&A activity

Opinions vary whether the property/casualty industry is poised for consolidation.

A March report by Deloitte L.L.P., "Top 10 Issues for Insurance M&A in 2013: Time for Mergers and Acquisitions to Take Off?" said market and economic conditions are favorable for deals.

"Entering 2013, the environment seems more conducive to accelerating M&A activity than a year ago: Organic growth opportunities appear limited; insurance companies and private equity firms are holding large amounts of excess capital that need to be deployed; and the stock market is doing well overall, which generates confidence," the report states.

However, John L. Ward, Cincinnati-based CEO of private equity firm Cincinnati Partners L.L.C., said successful M&As need to be a strategic fit.

"I don't see that there is a compelling reason for a lot of M&A activity," Mr. Ward said.

Meyer Shields, Baltimore-based managing director-equity research, property/casualty insurance for Keefe, Bruyette & Woods Inc., said that while deals often work out well for the company being acquired and for the industry, the results for the company

doing the buying are less certain.

"At the risk of generalizing, these deals can be bad for the acquirer," Mr. Shields said.

One reason is that economies of scale are harder to achieve for commercial lines insurers than in more homogenized lines such as personal lines auto. "If you are in

personal lines auto, scale helps, but if you are a top 10 insurer in specialty or commercial lines, I don't see much indication that economies of scale help," Mr. Shields said. "You are bigger but not necessarily better. You still have to underwrite every policy."

By Bill Kenealy

"If you are in personal lines auto, scale helps, but if you are a top 10 insurer in specialty or commercial lines, I don't see much indication that economies of scale help."

Meyer Shields, Keefe, Bruyette & Woods Inc.

Ongoing low interest rates will continue to hurt insurers' investment income, said Mr. Ward, noting that industrywide investment yields in 2012 were about 10% less than 2011. "Investment returns still look quite soft. When you look at the yield of new money coming in, it is earning about 150 basis points less than the overall portfolio yield. This new money dynamic will likely continue declining through 2013," Mr. Ward said.

What's more, the traditionally bond-heavy asset portfolios of insurers leave the industry ill-suited to capitalize on the recent surge in equity prices.

"Investment income is the black spot on the banana," RBC Capital Markets' Mr. Dwelle said. "It's bad and it is only getting worse."

Meyer Shields, Baltimore-based managing director-equity research, property/casualty insurance for Keefe, Bruyette & Woods Inc., said lagging investment income makes insurers depend more on prudent underwriting.

"This is a big deal because investment income has been historically less volatile," Mr. Shields said. "Having that greater riskiness in your earnings stream is one quibble I would have with the



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See **INSURERS** next page

Commercial lines insurers absorbed a larger-than-usual percentage of the losses from Sandy given the degree of flooding in the business districts of Manhattan.



BLOOMBERG

INSURERS

Continued from previous page

characterization that insurers had a strong year.”

Another ongoing industry trend — tapping prior-year reserves to boost current-year results — looks to continue this year, Mr. Auden said.

“We, like a number of folks, thought that reserves have been weakening for some time, but it’s not really showing through in what companies are reporting,” Mr. Auden said.

“We’re predicting that it will slow down, but we’ve been saying that for a while,” he said.

While reserve releases in 2012 actually were slightly higher than 2011, Mr. Auden said, “Most companies do try to leave a little margin for safety in those numbers. The surest way to be punished (by investors) is to have a reserve charge.”

Similarly, he said he expects the industry to chart a cautious course when it comes to capital management. While some commercial insurers in recent years took advantage of their flagging stock prices to mount share buybacks,

PROPERTY/CASUALTY INSURERS' 2012 RESULTS

Largest U.S.-based property/casualty insurers that report quarterly results. Ranked by net premiums written, in millions of dollars.

Insurer	Net premiums written 2012	% increase (decrease)	Net income 2012	% increase (decrease)	Combined ratio 2012
American International Group Inc.	\$34,436*	(1.2%)	\$3,700	(82.7%)	108.6%
Liberty Mutual Insurance Co.	\$32,165	6.8%	\$829	131.6%	104.7%
The Travelers Cos. Inc.	\$22,447	1.2%	\$2,473	73.4%	97.1%
Ace Ltd.	\$16,075	4.6%	\$2,706	75.7%	93.9%
Chubb Corp.	\$11,870	1.0%	\$1,545	(7.9%)	95.3%
The Hartford Financial Services Group Inc.	\$9,847	(0.1%)	(\$38)	(105.3%)	102.9%
CNA Financial Corp.	\$6,414	3.1%	\$628	2.6%	105.0%
W.R. Berkley Corp.	\$4,899	12.4%	\$511	30.7%	95.5%
The Hanover Insurance Group Inc.	\$4,368	21.6%	\$55.9	52.3%	104.4%
Cincinnati Financial Corp.	\$3,482	12.4%	\$421	156.7%	96.1%
Cumulative	\$146,003	3.3%	\$12,831	(54.6%)	100.3%

*Property/casualty only

Source: Company reports

the trend may wane as the industry shares gain value.

“Companies that have been buying back stock have continued to

do so, even though their stock prices continue to move up from where they were,” Mr. Auden said. “But at some point it becomes less

economic to continue buybacks because you eventually hit a point where there are better uses for that capital.”

Brokers poised for another favorable year

BY MARK A. HOFMANN

The forces that increased revenue for insurance brokerages in 2012 — higher rates and an improving economy — should favor brokers again this year, market observers say.

Revenue for the five largest publicly held brokers all increased in 2012, ranging from a 1% increase for Willis Group Holdings P.L.C. to 18.4% for Brown & Brown Inc. The five largest brokers — with the exception of Willis — also enjoyed increases in net income, led by Arthur J. Gallagher & Co. with a 35.3% jump. Willis proved to be the outlier because of a fourth-quarter goodwill impairment charge and a change in employee remuneration practices.

In general, brokers “did reasonably well,” said Paul Newsome, managing director and senior

Continued on next page

Continued from previous page

insurance analyst at Sandler O'Neill & Partners L.P. in Chicago. "It wasn't entirely a uniform improvement, but I think in general the brokers did OK."

"Obviously rates are going up for the industry — it's not just the property lines," said Gloria Vogel, senior vice president at Drexel Hamilton L.L.C. in New York. "That's good news for the brokers because commissions are up. It started gaining momentum last year."

"Economic growth and property/casualty pricing increases have helped the brokers," said Bruce Ballentine, vice president and senior credit officer for Moody's Investors Service in New York. "The brokers probably wish both could improve at a faster rate, but they're able to perform quite well even at these moderate growth levels. They have a bit of head wind from low interest rates, which constrains the earnings on funds that they hold, but again, that's a manageable head wind."

Mr. Newsome said the rate environment helped brokerages' performance, but it "probably was not as big a benefit as many would have hoped. The overall economy was an important consideration, both here and abroad."

From a stock perspective, brokers "all did very well," said Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Securities Inc. in Richmond, Va. "It was a sector investors flocked to as a way of getting exposure to the improving rate environment."

Mr. Dwelle said that from an operational standpoint, the two main drivers for brokers' 2012 performance were rising organic growth and improving margins. Still, there was "something of a split" between larger and smaller brokerages in the importance of each factor.

"The margin improvement part of the story was more important to large brokerages, whereas the organic growth improvement story was more fundamental to the smaller brokers," Mr. Dwelle said.

"Brokers continue to benefit from a valuable offering, steady cash flows, low capital expenditures and low balance sheet risk," said Moody's Mr. Ballentine. "As a result, we have a stable rating outlook for the sector. One challenge we highlight in this sector is the risk of errors and omissions inherent in professional services, but we think the industry leaders that we rate have a good handle on that exposure."

"Generally speaking, there was improvement last year, but it was very company-specific," said Mr. Newsome of the sector's operational performance. All three of the largest brokerages — Marsh & McLennan Cos. Inc., Aon P.L.C. and Willis — underwent some degree of restructuring; in Aon's case tied to acquisitions; in Willis, more a more broad-based effort to improve its cost structure."

Marsh also implemented restructuring

actions, though they were related mainly to its employee benefits business.

"Among the big three, Marsh & McLennan and Aon had fairly steady performances throughout the year. Willis had unusual items, particularly in the fourth quarter, where they took a goodwill write-down as well as special charges related to their compensation practices," said Mr. Ballentine.

"So their results took a little more interpreting in the final quarter of the year, but we affirmed their ratings in late December when those actions were announced and we cited that the actions they were taking," he said.

Arthur J. Gallagher & Co. had a

very strong year operationally, said Mr. Dwelle. "It's not that the others did poorly, but (Gallagher) really had a pretty strong year all the way around."

Looking ahead, analysts anticipated that brokerages will continue to perform in 2013 as they did in 2012.

"It's going to be little bit more of the same," said Mr. Dwelle. "The valuations by historic standpoints are a little on the high side." From an operating standpoint, he said he expects that the two themes of margin improvement and organic growth will continue to dominate.

"We see continued steady performance from this sector," said Moody's Mr. Ballentine.

2012 BROKER RESULTS

Results for the largest publicly traded insurance brokers, ranked by total revenue in millions of dollars.

Broker	2012 revenue	% increase (decrease)*	2012 net income ¹	% increase (decrease)
Marsh & McLennan Cos. Inc.	\$11,924	3.5%	\$1,176	18.4%
Aon Corp.	\$11,514	2.0%	\$993	1.4%
Willis Group Holdings P.L.C.	\$3,480	1.0%	(\$446)	NM
Arthur J. Gallagher & Co.	\$2,520	18.1%	\$195	35.3%
Brown & Brown Inc.	\$1,200	18.4%	\$184	12.2%

*Percentage change reflects unrounded figures.

¹ Includes the impact of acquisitions or discontinued operations. NM=Not meaningful.

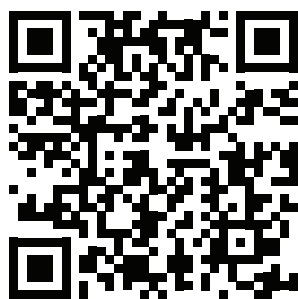
Source: Company reports.

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UNCERTAINTY LOOMS OVER HEALTH INSURERS

Health care reform leaves sectors' future performance unclear

BY MATT DUNNING

Health insurers performed reasonably well in 2012, but analysts say considerable uncertainty remains about the industry's readiness for the onset of key health care reform provisions in 2014.

Total revenues among the seven largest publicly traded U.S.-based managed care organizations grew by 8.6% in 2012, to \$302.6 billion from \$278.7 billion in 2011, according to *Business Insurance's* analysis of company reports. Enrollment among those same firms collectively grew by 9.2%, to 129.3 million members from 118.5 million in the prior year.

Net income growth among industry leaders was more erratic, as profits among the top seven health insurers grew collectively by just 1.7% in 2012, compared with 7.6% profit growth recorded in 2011.

Analysts said much of the growth in revenues and enrollments was attributable to leading insurers' continued pursuit of expansion opportunities for their Medicare Advantage and Medicaid portfolios, largely in anticipation of coverage mandates, the expansion of Medicaid and the rollout of public health insurance exchanges next year, which are projected to bring some 30 million new enrollees to insurers.

Expansion anticipated

"All eyes are on 2014 and what's going to happen, not just with the exchanges but the expansion of Medicaid," said Jennifer Lynch, a research analyst at New York-based BMO Capital Markets.

The managed care sector witnessed more than \$18.8 billion in mergers and acquisitions in 2012, according to data compiled by Norwalk, Conn.-based Irving Levin Associates Inc., including WellPoint Inc.'s purchase of Virginia Beach, Va.-based Amerigroup Inc.; Aetna Inc.'s purchase of Bethesda, Md.-based Coventry Health Care Inc.; and Cigna Corp.'s purchase of Nashville, Tenn.-based HealthSpring Inc.

"A lot of the deals that we saw last year were geared toward gaining exposure to government-sponsored models, especially in regions where these companies weren't previously major players," Ms. Lynch said.

Employer-sponsored group health plans continued to produce mixed results for insurers in 2012.

Aggregate commercial enrollments were essentially flat among the top seven health insurers, with four out of seven reporting membership losses between 2.0% and 9.7% from totals recorded in 2011. Commercial revenues performed slightly better, with five out of seven industry-leading insurers reporting year-over-year gains in 2012 compared with prior-year results.

"Going forward, companies need to be focused on preparing their platforms for the coming changes. Even if their platform looks no different when we get to 2014, the sand will be moving underneath them."

Jennifer Lynch, BMO Capital Markets

Analysts noted that anemic performance on commercial lines was most often tied to traditional risk-based commercial products, while insurers have found limited success responding to growing interest among employers in self-insuring their group health plans (see related story).

"That's probably going to be a trend moving forward, where you see a lot of the larger group plans

moving toward a self-funded model," said Vishnu Lekraj, a Chicago-based research analyst at Morningstar Inc.

Looking ahead, analysts' central concern remains the managed care industry's navigation of the myriad challenges imposed by specific provisions of the Patient Protection and Affordable Care Act due to take effect in 2014, including annual industry assessments, medical loss ratio thresholds for Medicare-related products, coverage requirements for individual and group-based insurance plans, and the introduction of public exchanges into the marketplace.

"2014 is an environment that includes a lot of inherent change to the market that's going to happen with or without these insurers," Ms. Lynch said. "Going forward, companies need to be focused on preparing their platforms for the coming changes. Even if their platform looks no different when we get to 2014, the sand will be moving underneath them."

Navigating changes

Exactly how insurers choose to navigate those changes could have a material impact on employers and individual consumers, analysts said. Beginning in 2014, health insurers will collectively be charged an annual nondeductible assessment of \$8 billion, increasing to \$14.3 billion by 2018. Insurers'

commercial products also will be charged a one-time temporary reinsurance assessment of \$25 billion, to be paid out over three years.

In its fourth-quarter 2012 financial statement, Minnetonka, Minn.-based UnitedHealth Group Inc. — the nation's largest health insurer — said it planned to offset the burden of those assessments through premium rate increases and/or reductions in benefits, though it also noted it remains to be seen how such proposed actions will be received by state and federal insurance regulators.

"If we are not able to secure approval for adequate premium increases to offset increases in our cost structure, or if consumers forgo coverage as a result of such premium increases, our margins, results of operations, financial position and cash flows could be materially and adversely affected," the company noted in its report.

"UnitedHealth has been talking about how they're going to try to pass a lot of these taxes and fees on to customers, but the big question mark is how much of those costs they'll be able to pass on," said Tom Mason, a Charlottesville, Va.-based senior financial analyst at SNL Financial L.C. "Every rate increase gets scrutinized by every individual state, so it might be that they're going to encounter some resistance from state insurance departments."

INSURERS ADJUST STRATEGIES

As self-funded health insurance plans grow more popular with employers, the commercial portfolios of some of the nation's largest health insurers have become increasingly weighted toward fee-based administrative services contracts.

"Commercial growth has been really hard to get these days," said Jennifer Lynch, a research analyst at New York-based BMO Capital Markets, citing pricing conditions in the fully insured commercial market, persistently slow employment and anemic new-business formation rates.

To offset attrition in their fully insured enrollments, some insurers are aggressively targeting administrative service-only contracts for self-insured employers. Minnetonka, Minn.-based UnitedHealth Group Inc. added 1.27 million members to its commercial ASO enrollments through conversions and new clients in 2012, while Cigna Corp. added more than 766,000 commercial ASO members.

"On the commercial side, you're likely to see the most growth in ASO products for self-funded employers," said Vishnu Lekraj, a Chicago-based research analyst at Morningstar Inc. "It'll be a theme going forward, but it's not going to be something that happens overnight."

In a February conference call with investors, Cigna President and CEO David Cordani noted that ASO products are projected to generate roughly 50% of the health insurer's new business in 2013. Mr. Cordani said the ASO products' growth has been driven largely by employers' demand for greater transparency and control of their group health costs.

"Employers see that transparency as an opportunity to align the incentives, to understand how their significant investment is performing, to be in a position to make changes throughout the course of the year and to be in position to communicate more effectively with their employees," Mr. Cordani said.

By Matt Dunning

MAJOR U.S. HEALTH INSURERS' 2012 RESULTS

Largest publicly traded U.S. health insurers ranked by reported revenue. Dollar figures and enrollment in millions.

Insurer	2012 revenue	% increase (decrease)*	2012 enrollment	% increase (decrease)*	2012 net income	% increase (decrease)*
UnitedHealth Group Inc.	\$110,618	8.6%	40.9	18.4%	\$5,526	7.5%
WellPoint Inc.	\$61,712	1.6%	36.1	5.5%	\$2,656	0.3%
Humana Inc.	\$39,126	6.2%	12.1	8.1%	\$1,222	(13.9%)
Aetna Inc.	\$36,596	8.3%	18.2	(1.2%)	\$1,658	(16.5%)
Cigna Corp.	\$29,119	33.2%	14.1	10.8%	\$1,624	28.8%
Coventry Health Care Inc.	\$14,113	15.8%	5.4	12.5%	\$487	(10.3%)
Health Net Inc.	\$11,289	(110.4%)	2.6	(1.1%)	\$122	69.4%

*Percentage change compared with 2011 reflects unrounded figures.

Source: Company reports



BLOOMBERG
Superstorm Sandy caused devastation in New Jersey and New York damaging commercial buildings, houses and marinas.

Reinsurers turn profit despite Sandy, drought

Pricing expected to remain stable in 2013

BY BILL KENEALY
Despite catastrophes and drought-related crop losses, the largest U.S. reinsurers posted double-digit gains in profit during 2012.

James Eck, New York-based vice president and senior credit officer at Moody's Investors Service, said that while the losses incurred by reinsurers in 2012 pale in comparison to those seen in 2011, they were still high above historical averages for insured catastrophe losses.

"Superstorm Sandy is neck and neck with Hurricane Andrew for being the second-worst hurricane loss in history," Mr. Eck said. "You also had large crop losses which made their way into the reinsurance sector in a number of ways, through both reinsurance written and primary coverages," he said.

Nonetheless, according to a March survey by the Reinsurance Association of America, the combined ratio for the 19 participating reinsurers improved to 96.2% for 2012 compared with 107.2% in 2011. Moreover, net written premiums for the group rose 11.7% in 2012.

"If you take a step back and look how the sector did, it did pretty well considering the severity of the natural catastrophe losses," Mr. Eck said.

In addition to the fairly strong combined ratios, returns on equity have generally been higher than recent years, said Dennis Sugrue, London-based director and reinsurance sector lead for EMEA at Standard & Poor's Corp. "One of the things we are seeing is that capital is strong."

However, while the capital influx is good for the market's financial strength, it may have a somewhat depressing effect on rate increases, which he said are necessary to

counteract the sector's dwindling investment income.

"Another challenge is that returns on investment were down in 2012 relative to 2011," Mr. Sugrue said. "We are not seeing any indication there may be a real turn in interest rates, and we think reinsurers' investment returns are going to continue to drop over the next few years. This will be a challenge for the sector, particularly long-tail players, as it puts a bigger

"Superstorm Sandy is neck and neck with Hurricane Andrew for being the second-worst hurricane loss in history. You also had large crop losses which made their way into the reinsurance sector in a number of ways, through both reinsurance written and primary coverages."

James Eck, Moody's Investors Service

focus on profitability in underwriting business."

Mr. Eck agreed that the incoming capital likely will inhibit large price increases.

"It doesn't look like pricing is headed up strongly after two back-to-back bad catastrophe years and that is largely a function of the industry continuing to generate capital, as well as increasing participation from alternative markets, such as catastrophe bonds and reinsurance sidecars," he said.

TOP U.S. REINSURERS' 2012 RESULTS

Ranked by net reinsurance premiums written, in millions of dollars.

Reinsurer	Net premiums written 2012	% increase (decrease)	Net income 2012	% increase (decrease)	Combined ratio 2012
National Indemnity Co. ¹	\$7,124	41.1%	\$5,281	10.7%	90.4%
QBE North America ²	\$3,204	45.7%	(\$49)	NM	106.9%
Transatlantic Reinsurance Co./FairCo	\$3,141	(9.3%)	\$410	NM	103.9%
Munich Re America Corp. ³	\$3,113	0.4%	\$411	(32.9%)	96.6%
Odyssey Reinsurance Group ⁴	\$2,273	17.5%	\$202	NM	87.0%
Berkley Insurance Co.	\$1,719	12.7%	\$294	26.5%	99.8%
Everest Reinsurance Co.	\$1,581	(4.4%)	\$360	NM	89.7%
Swiss Reinsurance America Corp. ⁵	\$1,439	(12.3%)	\$432	(28.1%)	74.6%
General Re Group ⁶	\$1,210	4.1%	\$318	(32.2%)	89.9%
Partner Reinsurance Co. ⁷	\$923	3.4%	\$183	69.1%	95.3%
Total for all 19 participating reinsurers	\$29,481	11.7%	\$7,984	19.4%	96.2%

1 Underwriting results exclude assumptions from affiliated General Re Group. 2 Effective Jan. 1, 2012, QBE Reinsurance Group entered into a intercompany reinsurance pooling agreement with NAU Country Insurance Co., Praetorian Insurance Co., General Casualty Co. of Wisconsin, Unigard Insurance Co., National Farmers Union Property & Casualty Co., Regent Insurance Co., Southern Guaranty Insurance Co., General Casualty Insurance Co., Hoosier Insurance Co., North Pointe Insurance Co., Unigard Indemnity Co., Southern Pilot Insurance Co., Blue Ridge Indemnity Co. and Southern Fire & Casualty Co. Underwriting operations of each company are transferred to and combined with QBE Insurance Corp., and the combined results are then reapportioned. 3 Includes results of Munich Reinsurance America Inc., American Alternative Insurance Corp. and The Princeton Excess & Surplus Lines Insurance Co. 4 Includes results of Odyssey Reinsurance Co., Clearwater Select Insurance Co., Hudson Insurance Co., Hudson Specialty Insurance Co. and Hudson Excess Insurance Co. 5 Includes results of Swiss Reinsurance America Corp., which is affected by significant affiliated transactions with other Swiss Re Group members. 6 Includes North American property/casualty segment of the General Re Group. Underwriting results exclude certain intercompany transactions, other adjustments, cessions to affiliated members of Berkshire Hathaway Group. 7 Figures consolidate Partner Reinsurance Co. of the U.S. and PartnerRe Insurance Co. of New York. NM=Not meaningful.

Source: Reinsurance Association of America

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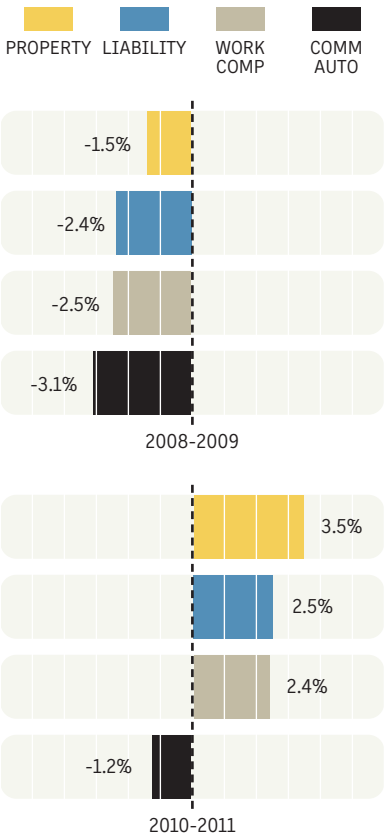
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EXPOSURE GROWTH*



Source: IntelliStance L.L.C., 2013-2015 projected.

COMMERCIAL INSURANCE RATE CHANGES

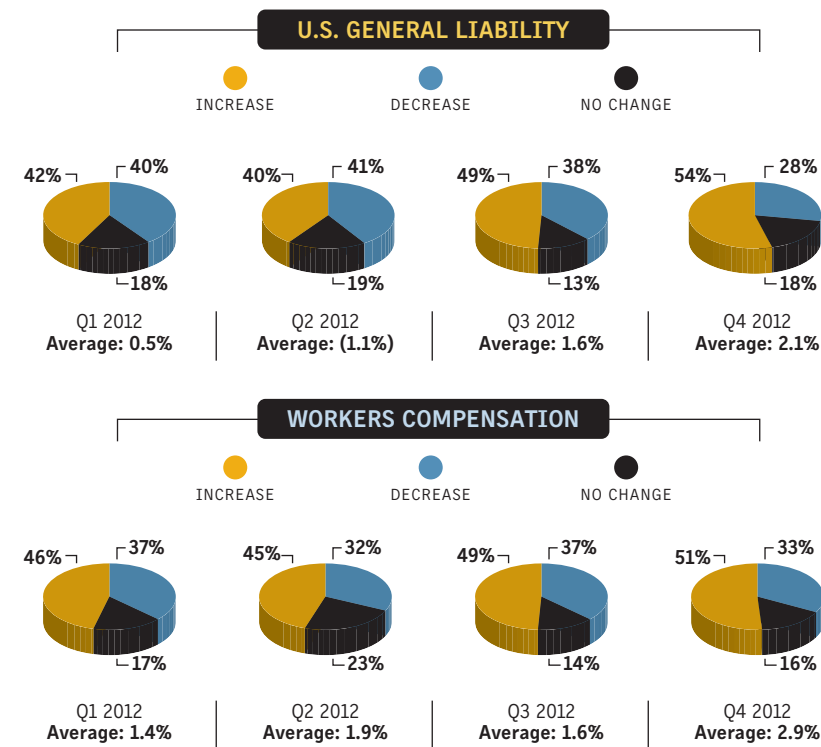
Rate changes since the fourth quarter of 2011 in selected classes of business.

	Q4 2011	Q1 2012	Q2 2012	Q3 2012	Q4 2012
Workers compensation	7.5%	7.4%	8.3%	8.1%	9.0%
Commercial property	5.7%	6.5%	7.2%	5.6%	5.7%
D&O liability	2.1%	3.6%	4.7%	5.0%	4.9%
Construction	2.7%	3.8%	5.1%	4.0%	4.4%
Umbrella	2.3%	3.3%	3.8%	3.1%	3.5%
Commercial auto	2.0%	3.1%	3.0%	3.3%	3.4%
General liability	2.2%	3.1%	4.1%	4.0%	3.3%
Business interruption	3.0%	4.0%	3.9%	3.4%	3.2%
Average	3.9%	4.7%	5.3%	4.8%	5.0%

Source: The Council of Insurance Agents & Brokers. Chart by Barclays Research.

CASUALTY RATES EDGING UPWARD

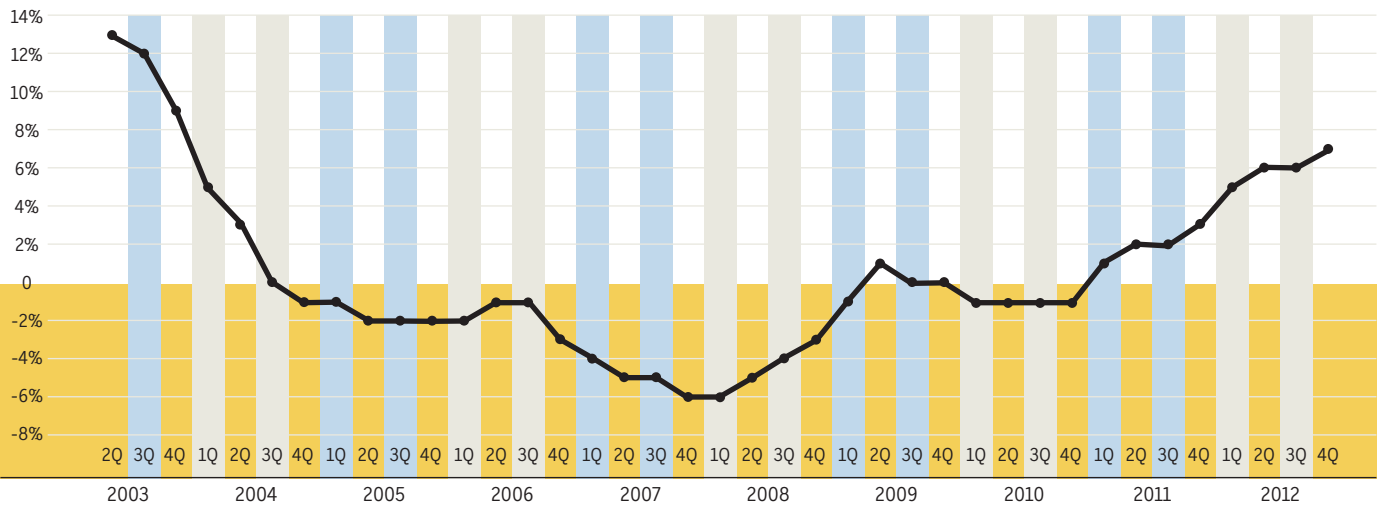
Percent with rate changes



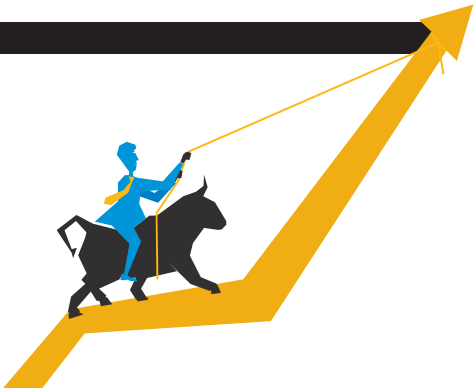
Source: "Benchmarking Trends: Casualty Rates Edging Upward," Marsh Inc. January 2013.

COMMERCIAL LINES PRICING

Change in price level compared with same quarter one year ago.



Source: "Surveying Commercial Insurance, Pricing and Profitability, 2012 Q4 Update," Towers Watson & Co., March 2013.



STOCK PERFORMANCE

Major U.S. property/casualty insurers and brokers, ranked by change in stock value as of March 15 compared with a year earlier.

INSURERS	March 15 closing price	% increase (decrease)
The Travelers Cos. Inc.	\$82.28	39.3%
American International Group Inc.	\$38.97	38.8%
Cincinnati Financial Corp.	\$46.57	29.4%
Chubb Corp.	\$85.52	24.6%
The Hartford Financial Services Group Inc.	\$26.30	21.3%
Ace Ltd.	\$88.26	20.3%
W.R. Berkley Corp.	\$43.03	20.0%
The Hanover Insurance Group Inc.	\$43.90	6.8%
BROKERS	March 15 closing price	% increase (decrease)
Brown & Brown Inc.	\$30.59	25.7%
Aon P.L.C.	\$59.90	22.2%
Marsh & McLennan Cos. Inc.	\$37.09	11.3%
Arthur J. Gallagher & Co.	\$39.64	9.3%
Willis Group Holdings P.L.C.	\$38.01	5.4%

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Gard expands coverage for cargo containers

Gard A.S. has introduced a property policy to cover damage to or loss of containers.

The new program also includes coverage for the containers' share of general average contribution, the Arendal, Norway-based insurer said in a statement.

"Liner operators offer transport and logistics services for high-value goods on a port-to-port, or even a door-to-door basis, sometimes taking on the role of a 'lead logistics provider,'" Andre Kroneberg, Gard vice president for product development, said in a statement. "As such, they take responsibility for the overall transport cost, time, delivery detail and quality of their clients' transport chains. This may mean that they have to manage a number of subcontractors to deliver the full scope of services." As a result they are increasingly exposed to a wide range of risks in connection with handling cargo, he said.

The program offers up to \$50 million per event from off-ship claims and \$30 million per event for on-ship claims. Other limits and deductibles are determined by agreement.

For additional information, contact Mr. Kroneberg at andre.kroneberg@gard.no.

Willis Programs offers cover for dairy operators

Willis Programs has rolled out an insurance program for dairy operators. Designed for dairy farms producing raw milk for bulk sale, DairyProtector includes coverage for livestock mortality, automobile, crime, property, inland marine, employee benefits and equipment breakdown, according to the unit of Willis Group Holdings P.L.C.

The program is available through independent agents and brokers in Arizona, Connecticut, Illinois, Indiana, Massachusetts, Maine, Michigan, North



Oil launches online training for risk managers

* Oil Insurance Ltd. has launched an online training course for energy company risk managers and their brokers.

The OIL Technical Accreditation course will enable better understanding of OIL's rating and premium plan, the Hamilton, Bermuda-based energy mutual insurer said.

"Today's energy clients expect their brokers to have the ability to discuss mutual insurance options as well as those provided by commercial markets," OIL Chief Operating Officer George Hutchings said in a statement.

"By acquiring an OIL Technical Accreditation, brokers will be in a position to deliver needed commercial market/mutual insurance value comparisons and a broader view of available risk management options," he said.

And risk managers can use the web-based tool to gain a better understanding of insurance options, Mr. Hutchings said.

Dakota, New Hampshire, Nevada, New York, Pennsylvania, Oregon, Rhode Island, Utah, Vermont, Washington, Wis-

consin and Wyoming.

"Our carrier partner for DairyProtector maintains strong capacity and flexibility in engineering coverage solutions, which we feel will position DairyProtector to become the premiere insurance solution for dairy risks," Matt Sailor, DairyProtector program manager, said in a statement.

For additional information, visit www.dairyprotector.com or contact Mr. Sailor at 720-931-2115 or Matt.Sailor@willis.com.

Hanover program for oral, maxillofacial surgeons

The Hanover Insurance Group Inc. has launched a new program for oral and maxillofacial surgeons insured by OMS National Insurance Co. RRG.

Available only through agents representing OMSNIC and Hanover, the new offerings include comprehensive property/casualty insurance products and service solutions for policyholders, announced Hanover in a statement.

Rosemont, Ill.-based OMSNIC provides professional liability insurance products and risk management tools to oral and maxillofacial surgeons.

"We are thrilled to announce our partnership with OMSNIC," Jack Roche, senior vice president, business insurance at Hanover, said in a statement. "Our program brings the best of both organizations, with an excellent professional liability solution and service coupled with specialized property and casualty insurance offerings."

The new program includes a worker's compensation group dividend program; increased electronic data, virus and hacking coverage; broad form water damage; and identity theft cost reimbursement. For details, contact Rusty Manzo, program manager at Hanover, at rmanzo@hanover.com or Judd Johnson, vice president, marketing, at OMSNIC, at judd.johnson@omsnic.com.

DEALS & MOVES

Applied Systems buys Ivans' property/casualty business

Software provider Applied Systems Inc. announced it will acquire the property/casualty business of Stamford, Conn.-based Ivans Inc.

Ivans was created in 1983 by a group of 21 insurance companies to create a standardized electronic data interchange technology for insurance companies and independent agents. University Park, Ill.-based Applied Systems said the combined entity will be better positioned to "deliver technical innovation, develop product enhancements and improve carrier-agency integration for the benefit of the entire P&C insurance industry."

In a statement announcing the transaction, Reid French, CEO of Applied Systems, said that the two companies have had a longstanding partnership and would continue working together to craft workflow efficiency enhancements for the insurance industry.

"All of us at Applied Systems are excited about the product innovation and growth opportunities that will be created by combining the businesses," Mr. French said. "We are committed to investing in the Ivans P&C solutions to drive additional workflow efficiencies for the benefit of our customers, partners and the P&C industry as a whole."

The company said in a statement that Jim Ochiltree, president of Ivans property/casualty, will stay on in his role, as will the entire existing senior management team.

The unit will operate as a separate business division of Applied Systems.

"This is an exciting and logical combination that will provide us greater technical expertise and development resources to drive product efficiencies for the benefit of our customers and partners," Mr. Ochiltree said in the statement. "As part of Applied Systems, we will become a stronger organization and can further our mission of supporting the industry through innovation in our data exchange and carrier interface technology solutions."

In a separate deal, Minneapolis-based health care technology company Ability Network Inc. said it would acquire the health care and retail businesses of Ivans.

W.R. Berkley launches fire, marine underwriting unit

W.R. Berkley Corp. has launched Berkley Fire & Marine Underwriters, a Chicago-based division focusing on inland marine and related property risks.

Distributed through independent agents and brokers, the new products will be underwritten on an admitted basis on behalf of Berkley Insurance Co. and other W.R. Berkley Corp. member insurance companies, the insurer said in a statement.

"The creation of Berkley Fire & Marine is another example of how we bring talented people together with capital and allow them to focus in areas where they have a particular expertise," William R. Berkley, chairman of the board and CEO of W. R. Berkley Corp., said in a statement.

"Berkley Fire & Marine will use its underwriting expertise in inland marine and related property products to become a leading nationwide market. It will provide W. R. Berkley Corp. with another excellent opportunity for profitable growth," Mr. Berkley said.

For additional information, contact John Geary, president of Berkley Fire & Marine, at jgeary@usic.com.

Robust RMIS analytics aid claims processes

TECHNOLOGY

HOW DOES IT WORK?



BILL KENEALY

While the marketplace for risk management information systems significantly overlaps with the universe of claims management systems, one clear distinction is the advanced analytic and query functionality found in modern RMIS.

And Russell Lindberg, vice president of sales and marketing for Kaysville, Utah-based MountainView Software, a unit of Gallagher Bassett Services Inc., said a risk manager using his company's RMIS module would be able to easily glean information about claims trends.

For example, a risk manager curious about all the workers compensation claims exceeding \$10,000 in Texas could find the answer in real time as opposed to having to compile the information manually from disparate spreadsheets and databases.



"We combine and consolidate data from a variety of sources," Mr. Lindberg said. "It's an extensive process, but once the data is all in one place, then the fun begins."

The real-time nature of the software enables users to change search parameters on the fly, and users can push the output into spreadsheets, predefined templates, charts and graphs, Mr. Lindberg said.

"You can do a loss triangle on a subset of claims," he said.

Advanced querying capability also can help risk managers with

regulatory compliance, said Tom Wimberly, vice president of product management and product marketing at Aon eSolutions, the technology solutions unit of London-based Aon P.L.C.

RMIS can be used to help make determinations about whether a firm is complying with U.S. Occupational Safety and Health Administration regulations by aggregating and analyzing the information coming from incident reports and alerting a risk manager through reports or dashboards, Mr. Wimberly said.

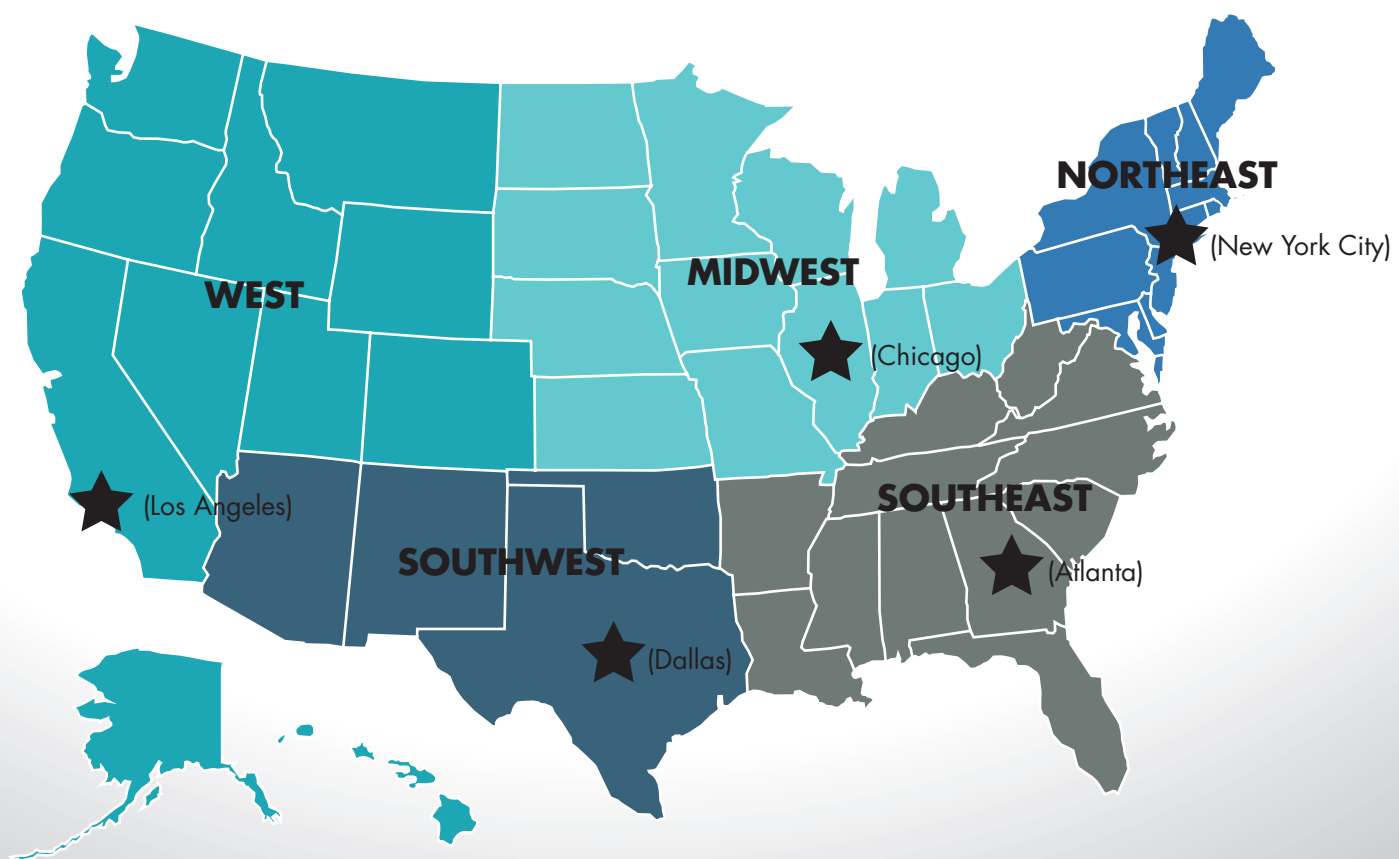
"With OSHA regulations, there is a lot of gray area about what needs to be collected," he said. "For some organizations, it's difficult to determine whether they are in or out of compliance. If your RMIS is an integral part of your incident claims reporting process, you have more control."

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SEDGWICK EXEC TALKS TECHNOLOGY

Q You've had a lot of different roles at Sedgwick. How will your background influence what you do as chief operating officer?

A Well, it's no secret that my roots are in technology, so that's a big influence on how I think about the future of Sedgwick. And my time in various operational roles gives me a unique perspective on the work our colleagues do every day. I want to maintain a clear focus finding ways we can use technology to make the work we do more valuable to our clients. At Sedgwick, we are always looking to evolve the role of the claims professional. I believe technology can help us to streamline our processes so our people are focused on delivering superior outcomes to our clients. We want to move beyond the perception that quality is just about checking the boxes. The more we can use automation to ensure the boxes are checked, the more time our claims professionals can spend on activities that actually drive better program performance, which will ultimately save our clients money and increase productivity for their organizations. The effect we are able to make on the business with technology is amazing and entire-

Q&A

ly necessary these days. Everybody has to do more with less.

Q How have Sedgwick's ongoing investments in technology affected your ability to service claims?

A Having proprietary technology has allowed us to constantly evolve our customer service capabilities at every level of the organization. Sedgwick is investing heavily in multiplatform push technology, giving claimants real-time information about the status of their claim. We believe this approach will provide a better experience for claimants, and the benefit to the client is the potential of reduced litigation and time

away from work. Technology also allows us to give employers current information — the kind that points them in the right direction. Claim program base-lining and improvement require integrated data management models built on the big data concept, replacing traditional reporting and warehousing techniques. Combine this with jurisdictional and regulatory knowledge, and employers can clearly identify opportunities and solutions to help them achieve the best possible outcomes.

Q Sedgwick has made several recent acquisitions. How is the company evolving to meet market needs?

A The acquisitions gave us a lot of new capabilities that can be delivered in an integrated manner to our clients. Again, this goes to a desire to provide solutions to the real-life challenges our clients face. Today, we are able to offer services in new areas like consumer and warranty, structured settlements, fraud avoidance and unemployment compensation. Sedgwick can provide the right services and expertise at the right time on every claim, while maintaining accountability for how these services effect the cost and duration of claims.



STEVEN E. PENMAN
CHIEF OPERATING OFFICER,
SEDGWICK CLAIMS
MANAGEMENT SERVICES INC.

Since joining Memphis, Tenn.-based Sedgwick Claims Management Services Inc. in 1978 on the technology side, Steven E. Penman has held a variety of roles. He transitioned to the business side in the late 1990s to hold key positions in the third-party administrator's casualty and specialty operations. In January, he was named chief operating officer. He recently spoke with *Business Insurance* Associate Editor Bill Kenealy about how technology informs what Sedgwick does. Edited excerpts follow.

This integrated approach reduces complexity and improves overall program performance for clients. Ultimately, the acquisitions strengthened our core by bringing a greater breadth of resources and expertise to our already established casualty and disability operations.

Q What are the primary challenges your clients are facing in 2013?

A I would say the primary challenge that universally affects our clients is an upswing in government regulation. Government as a

whole is underfunded, with many agencies at every level operating in deficit situations. In 2013, employers need to be ready for increased scrutiny from these agencies as they look for ways to raise revenues by charging fines to employers that are not in compliance with regulations, such as the Occupational Safety and Health Administration, the Americans with Disabilities Act, the Family and Medical Leave Act and Medicare. Now more than ever, employers need to ensure their exposure to fines and penalties is mitigated.

COMINGS & GOINGS

UP CLOSE: MARK NICHOLS

RICHMOND, VA.-BASED MANAGING EXECUTIVE OF PRODUCT DEVELOPMENT AND GENERAL AGENT PROGRAMS
Markel Specialty

PREVIOUS POSITION: Richmond, Va.-based managing executive of Markel Specialty's accident and health business.

LOOKING FORWARD TO: Developing new business relationships despite all of the technology that exists ... I think our business is still a relationship business.

GOALS FOR NEW POSITION: We have specific objectives, but in a nutshell it is to help create within Markel a reputation for being a reliable and dynamic product developer for both retail and program administrator channels.

CHALLENGES FACING INDUSTRY: The industry is old, frankly, and recruiting the next generation of leadership is a big challenge. I think also the industry has been slow relative to technology. Filling in the potential of technology in insurance is important, including social



media from a marketing perspective. Relative to market cycles, the challenge is continuing to attract and retain intelligent capital that can meet the emerging loss trends.

FIRST EXPERIENCE IN JOB MARKET: As a sales guy. Actually, I had worked as a golf professional out of college at private clubs. That gave me exposure to a lot of successful professionals in a lot of fields. That opened a lot of doors in insurance.

ADVICE: When you are young, you want to do things that would accelerate your success. You are impatient. Recognizing ... the limits of your knowledge will make a young person unique. ... At the same time, do everything you can to accumulate experience from those who are senior.

FAVORITE MEAL: My wife's spaghetti and meatballs.

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SELF-PROCUREMENT TAXES ARE A SEPARATE ISSUE THAT STILL NEEDS TO BE ANALYZED

NRRA captive debate frames tax issues



Mr. Byrne

BY MICHAEL BYRNE

The Nonadmitted and Reinsurance Reform Act, enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, has heightened awareness of state self-procurement premium taxes. Michael Byrne of Drinker Biddle & Reath L.L.P. discusses issues for captive owners and managers to consider with regard to the NRRA.

Those in the captive industry by now are probably aware of the various discussion threads about whether the Nonadmitted and Reinsurance Reform Act, enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, applies to nonadmitted insurance procured from a captive.

A number of commentators have expressed the view that the NRRA creates uncertainty regarding the application of state self-procurement premium taxes to nonadmitted insurance procured from a captive insurer and that clarification from Congress that the NRRA does not apply to captives would remove this uncertainty.

In fact, the outgoing chair of the Subcommittee on Insurance in the U.S. House of Representatives, former Rep. Judy Biggert, R-Ill., sought to provide such a clarification in a recent letter to the new chairman of the House Committee on Financial Services.

This article offers a different view.

The issue of applying state self-procurement tax statutes to captive insurance does not originate with the NRRA — these taxes long preceded the NRRA. However, the NRRA has triggered some heightened awareness of self-procurement taxes due to legislation enacted by the states in response to the NRRA, as well as the efforts of some states to persuade companies based in the state to “come home with your captive.” These events raise various issues and options for captive owners and managers to consider, as discussed below. However, none of these involves clarifying or amending the act.

By way of background, all U.S. jurisdictions generally prohibit a nonadmitted insurer, i.e. an insurer that is not licensed, from transacting insurance in the state — the “doing business” laws.

A captive insurer typically will be licensed to transact insurance in a single U.S. jurisdiction (its “domiciliary” state), and that state typically imposes on the captive itself a low, low gross receipts tax rate, often capped at, say, \$250,000.

In other jurisdictions where the captive insurer is not licensed, the insurer is considered “nonadmitted” and therefore is generally not permitted “by mail or otherwise” to transact the business of insurance, absent an applicable exemption.

Most states have one or more exemptions from their “doing business” law that permit a qualified insured to procure insurance

from any nonadmitted insurer, and these exemptions are used by captive owners to access their captive insurers domiciled in other jurisdictions.

These exemptions typically require the insured to report the transaction and pay premium tax to the insured’s home state ... and, prior to the NRRA, states other than the insured’s home state could — and did — assert jurisdiction to tax based on insured locations and/or exposures.

It is important to understand the state insurance regulatory framework for the taxation of nonadmitted insurance. Following are some points to keep in mind when assessing the connection between the NRRA and captive insurance.

Back to basics

1. The NRRA itself does not impose premium tax on nonadmitted insurance or insurance with captives. Nor does the NRRA require the states to impose such a tax or to regulate nonadmitted insurance in a certain manner (or even to recognize nonadmitted or surplus lines insurance in the first place). The NRRA simply provides that only the insured’s home state can impose premium tax on nonadmitted insurance. “Premium tax” is generally defined as any compensation given in consideration for a contract of “surplus lines or independently procured insurance.” “Independently procured insurance” under the NRRA means insurance procured directly by an insured from a nonadmitted insurer.

2. State laws govern self-procurement tax on nonadmitted insurance. Roughly two-thirds of U.S. states impose a self-procurement tax. The laws typically require an insured to pay tax on premium paid for any insurance procured directly from a nonadmitted insurer and report the transaction to the state. We are aware of only a couple of states that exempt captive insurance from this tax; otherwise, the self-procurement tax laws do not distinguish between insurance procured from captives and noncaptives.

Prior to the NRRA, with a few exceptions, all states that imposed self-procurement tax applied the tax based on the premium allocated to that particular state. States had not typically required payment of the tax based on 100% of the premium when the nonadmitted insurance was placed under their laws. (Some states coupled this allocation rule with a provision allocating any premium not actually reported to and taxed by another state to the state, which was the equivalent

of requiring tax on 100% of the premium in some fact patterns.) It was possible, and indeed common, for more than one state to assert the right to collect premium tax on its allocated share of the premium for a placement covering a multistate risk. Now, post-NRRA, nearly all states impose their self-



procurement tax on 100% of the premium paid by a home state insured.

3. The NRRA applies to nonadmitted insurance. The most important NRRA reform is the exclusive authority provided to the insured’s home state to tax and regulate nonadmitted insurance and pre-empting inconsistent state laws. The home-state rule was intended to simplify and streamline the payment of premium taxes on nonadmitted insurance covering multistate risks. Now, captive owners need only consult the laws of their home state regarding applicable exemptions and premium tax obligations.

It is true that the legislative history of the NRRA focuses on surplus lines insurance, and neither that history nor the NRRA itself addresses captives or self-procurement tax specifically. Still, the NRRA by its plain language applies broadly to all nonadmitted insurance placements and thus applies to nonadmitted insurance procured directly from any insurer, U.S. or non-U.S., that is not admitted in the insured’s home state, including a captive insurer.

4. Excluding captive insurance from the NRRA reforms may have negative unintended consequences for captives. If the NRRA did not apply to captive insurance, the NRRA’s home-state rule would not apply to such insurance. This would potentially

result in claims by multiple states to impose self-procurement tax on and regulate placements with captives. For example, an insured’s home state could impose a tax on 100% of the premium paid to the captive, and the NRRA would not prevent another state or states from also imposing a premium tax — for example, if that state’s self-procurement tax were not limited to insurance procured by home-state insureds, or if that state’s definition of “home state” yielded a different home state than under the NRRA definition.

In summary, self-procurement taxes are governed by state law and do not emanate from the NRRA, and therefore a clarification or an amendment to the NRRA would not resolve the issues regarding the application of self-procurement taxes to captive insurance. The NRRA streamlines the regulation and taxation of all nonadmitted insurance placements. Excluding captives from the NRRA would therefore deprive captive owners of the NRRA reforms and potentially increase their premium tax obligations. However, the NRRA has heightened awareness of self-procurement taxes and the related opportunities for alternatives to the traditional captive domiciles and other options.

What’s next?

Captives and captive managers may wish to consider the following options:

- Pay the self-procurement tax by applying the home state’s rate to 100% of the premium, as may be required by state law and as applicable;
- Pursue state legislation to exempt captive insurance from self-procurement tax;
- Pursue federal legislation providing exclusive authority to the captive insurer’s domicile to regulate and impose premium tax on captive insurance;
- Explore re-domestication of the captive, or formation of a new or branch captive, in the insured’s home state or other state where the insured maintains a substantial physical presence;
- Move the insured’s headquarters to, or establish a substantial physical presence in, the captive domicile.

Michael Byrne is a partner in the insurance practice group of Drinker Biddle & Reath L.L.P. Elda Feldman and Taylor Romigh assisted with this article. Mr. Byrne can be reached at michael.byrne@dbr.com.

Attorneys, law firms must be stringent in insurer compliance

Lawyers' professional liability could be affected by their actions

BY MIKE TSIKOUDAKIS

CHICAGO — Law firms and legal professionals put their own professional liability coverage in jeopardy unless they comply with insurers' requirements.

Voluntary payments to settle liability litigation against an attorney or firm, being a co-counsel in a case, and fraudulent payments to lawyers have been significant issues affecting lawyers' professional liability in the past year or two, panelists said during the 12th annual Legal Malpractice and Risk Management Conference in Chicago.

Law firms and legal professionals may violate the voluntary payment clause in a legal malpractice policy when making a settlement without the insurer's prior consent, said David A. Grossbaum, partner and leader of the insurance services practice group at law firm Hinshaw & Culbertson LLP in Boston, the firm that hosted the March 6-8 conference.

Quick settlements of liability

claims against law firms that are made under pressure may be too high, the panelists said.

Law firms need to inform insurers of such payments, said Christopher Piety, vice president at Aspen Insurance Holdings Ltd. in San Francisco.

If lawyers don't comply, "we consider that concealment," he said.

"Normally, quick-settlement offers don't turn out to be that way," Mr. Piety said.

Some law firms settle liability claims to avoid sullyng their reputation in the marketplace, said Sal Concu, managing director and counsel of bond and financial products professional liability claims for The Travelers Cos. Inc. in Jericho, N.Y.

Insurers are focused on potential losses and are less concerned about reputational risks facing a law firm, he said.

Law firms also can use hot lines and risk management advice offered through their insurer, Mr. Concu said, noting that most insurers offer preclaim assistance ser-

vices.

"A lot of carriers offer that and insureds should check their policies," he said.

Lawyers who are defrauded by being given fake cashier's checks

or who deal with "fake" Internet clients "mostly" have coverage available after a loss, Mr. Grossbaum said.

Such losses typically fall under professional errors and omissions

policies, Mr. Concu said. While some insurers have a "handling funds" exclusion, fidelity coverage most likely would cover such an exclusion.

In a separate session, attorneys serving as co-counsel could be held liable for errors and omissions claims even if they did not actively participate in the underlying action and knew little or nothing about the claims in the litigation, panelists said.

Lawyers can avoid such liability by carefully lending their name to pleadings and motions.

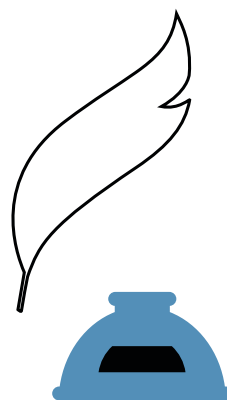
"Know thy brother," said David P. Hartnett, partner at Hinshaw & Culbertson in Coral Gables, Fla. "You need to be aware and watch out. It makes a lot of sense, but be careful what you put your name on."

More than 300 lawyers and insurance professionals attended the conference. Next year's conference will be held March 5-7, 2014, also at the Westin Chicago River North. For more information, visit www.lmr.com.



"Know thy brother. You need to be aware and watch out. It makes a lot of sense, but be careful what you put your name on."

David P. Hartnett, Hinshaw & Culbertson



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MASSACHUSETTS: Rules mean more work

Continued from page 4

are linked to HSAs automatically will comply with the state's "minimum creditable coverage" rules.

In addition, the state rules still bar deductibles for preventive services.

These requirements differ from those in the Patient Protection and Affordable Care Act. The federal law exempts self-insured and large group plans from deductible maximums. In addition, the federal law exempts grandfathered health care plans from providing full coverage of preventive services and exempts grandfathered plans from the cap on annual out-of-pocket expenses for in-network services.

In theory, employers' health care plans that meet federal requirements could flunk Massachusetts coverage requirements, exposing their employees to financial penalties that now exceed \$1,200 a year.

But under another Massachusetts rule, health care plans that don't strictly meet the minimum creditable coverage standards — such as a deductible that is too high — still will be considered in compliance with the rules, if their relative value is equivalent to what are known as bronze-level plans sold through the state's health insurance exchange.

"To address these types of issues, as well as other issues around large employers with employees in several states," Massachusetts will continue to operate

a process in which an employer or insurer can show that a plan it offers may not meet the technical letter of the law, but in the aggregate its coverage is equal to value of a connector bronze plan, said Kaitlyn Kenney, director of policy and research at the Massachusetts Health Connector in Boston.

That process "has historically proved successful in addressing those issues where a plan provides comprehensive coverage that aligns with the spirit of the regulations but fails the state standard due to a technical issue," Ms. Kenney said.

Still, that certification process, while vital, is not always smooth, experts say.

"The problem with that approach, though is that it can take several months for (Connector Authority officials) to review a plan, which complicates employer planning," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

In some cases, employers will offer at least one plan that meets the state's coverage requirements to avoid compliance issues, consultants say.

In theory, some experts say the state requirements could be challenged on grounds that they violate the Employee Retirement Income Security Act, which preempts state and local rules that relate to employee benefit plans.

But even though the Massachusetts' requirements have

been in place since 2009, no such challenge has been filed.

"I think ERISA pre-emption has always been available as a possible defense for self-insured employers in Massachusetts," said J.D. Piro, a senior vice president at Aon Hewitt in Norwalk, Conn. But such a challenge wasn't launched because the effect of the Massachusetts law was negligible on plan design, he said.

"As we begin to look at the impact of ACA implementation, this issue suggests that the Massachusetts requirement might have a more substantial impact with respect to the plan design. So an ERISA pre-emption (challenge) might be an alternative for self-insured employers," Mr. Piro said.

But Massachusetts regulators say ERISA pre-emption is not relevant in this case.

"In terms of the Massachusetts benefit rules, it is important to note that these rules are imposed on individuals, not employers. An individual must have a health insurance plan" that satisfies the state's coverage requirements, Ms. Kenney said.

Regulations that define coverage standards "are not directly imposed on employers or insurers. To that end, there is not an ERISA violation," Ms. Kenney said.

"If no one has challenged the requirements so far, I don't see why they would in the future," Mr. Stover said.

CICA: P/C premiums expected to rise

Continued from page 4

Palm Springs, Calif.

Ron Arthur, vice president and claims manager for American Contractors Insurance Group Inc. in Dallas, said the organization's captive has kept its workers comp costs down through "aggressive" claims management for its 40 construction industry members and by being selective about its membership.

The contractors group purposefully has kept its roster small in order to manage the risks taken on by the captive, which covers workers comp, auto and general liability coverage. Each of the captive's members has in-house staff that manage safety, claims and risk management, and the captive has internal staff who play similar roles for the contractor group's members.

"They're in our program because they want control of the claims," Mr. Arthur said of the captive members, which have an average experience modification rate of 0.63. "Particularly on the workers compensation side, they have very strong and proactive safety programs; and as a result of that, we minimize the overall number of claims."

The contractor group pays the

first \$5 million in losses and expenses on any comp, auto or liability claim, and members must have a minimum retention level of \$520,000 on losses and expenses. Those requirements have allowed 98% of the organization's claims to remain within the captive's retention levels, Mr. Arthur said.

Representatives from San Marcos, Calif.-based RehabWest Inc. explained how the managed care

"The opioids are meant to control pain early on very quickly, not for someone six weeks post-injury,"

Sharon Douglas,
RehabWest Inc.

firm has helped keep American Contractors' workers comp medical costs down through pharmacy management. Sharon Douglas, the CEO, said companies should watch for red flags that show opioids are being prescribed inappropriately to workers, resulting in high prescription costs.

Warning signs include ongoing opioid use without any functional improvement for the injured work-

er, excessive dosages that can result in accidental death and opioids that are prescribed after the acute phase of an injury.

"The opioids are meant to control pain early on very quickly, not for someone six weeks post-injury," Ms. Douglas said.

Ailene Dewar, vice president of sales and client services, said RehabWest has had success with reports showing how a patient's treatment has evolved to include dangerous prescriptions. The reports have been used to negotiate with claimant attorneys to guide the worker toward less dangerous treatments, and sometimes inspired claimants to seek a different course of medical care.

"In many cases, when the injured worker actually gets a copy of the report and reads it and finds out the detrimental effects to him or her, then they're more interested in talking about change," Ms. Dewar said. "Their physician hasn't been telling them what's going on in their case, and why all of their subsequent problems are from the opioids they're taking."

About 450 people attended the March 10-12 conference in Palm Springs, Calif. Next year's conference is set for March 9-11, 2014 in Scottsdale, Ariz. For more information, go to www.cicaworld.com.

GRAND FORKS

Continued from page 1

notably in 2009 and 2011, when Grand Forks experienced its third- and fourth-highest flooding, respectively, resulting in no flood damage, said Kevin Dean, public information officer for the city of Grand Forks.

After the Red River flooded in April 1997, it was estimated that the city of Grand Forks — which had a population of 52,500 before the flood — would lose 25% of its population, Mr. Dean said.

There were 1,300 insurance policies issued by the National Flood Insurance Program at the time of the flood, said Kirk Nestaval, president of insurance agency Vaaler Insurance Inc., in Grand Forks, N.D.

Vaaler placed approximately 1,000 such policies, of which about 800 were homeowners policies and the remaining commercial policies, he said.

“So there were a lot of uninsured people,” Mr. Nestaval said.

Vaaler saw more than 4,000 claims within a week after the

we were able to begin the process.”

City leaders created several committees that each dealt with specific priorities, such as housing, health and sanitation, and addressing needs of local businesses, among others, he said.

Because of these efforts, Grand Forks is a model for other communities when it comes to disaster recovery and preparedness, said Ed Conley, Denver-based external affairs officer for FEMA.

“Not just in terms of the specific projects that they did, but a model in terms of how they approach it and managed it — the leadership principles that they had in place,” Mr. Conley said, who managed the FEMA field office in Grand Forks during the 1997 flood.

The city focused on partnerships that extended throughout the community, involving elected leadership, the city council and major members of the private sector, Mr. Conley said.

“At the same time, they made flood protection a priority as well. They didn’t put it off,” he said, noting that Grand Forks planned its building decisions and infrastructure repairs around long-term flood protection.

The city also undertook a major study with consultants and architects, and visited other communities to examine potential flood mitigation solutions, considering flood walls, levies, and pump stations, among other solutions, at divergent channels.

“Most importantly, we looked at moving away from the river,”

Mr. Dean said.

Through a combination of FEMA, State of North Dakota and U.S. Department of Housing and Urban Development funding, Grand Forks spent \$40 million to acquire and remove 800 homes and 50 businesses in low-lying, high-risk flood areas.

“Some of the areas that were low-lying — that they just knew it would be difficult to protect, even with a real robust structural mitigation project — they went with the acquisition,” Mr. Conley said.

“It ultimately took our entire city limits out of the 100-year flood plain,” Mr. Dean said. “Anybody who had been required to carry NFIP (flood) coverage, no longer had to.”

In 2007, Grand Forks completed its \$412 million flood-protection project, which consists of flood walls 10 feet wide and levees that span eight miles standing at a river gauge of 60 feet.

The system, funded in part by federal and state governments and a special tax assessment, includes a warning system and contingency and evacuation plans.

During the floods, “the general population of Grand Forks didn’t notice any impact in their daily lives at all,” Mr. Dean said.

“We don’t fill any sandbags at all anymore. Sandbags are a thing of the past for us.”



MODEL OF RESILIENCY

APRIL 1997

The “Flood of the Century” hit Grand Forks on April 19 with the Red River cresting at 54.35 feet, forcing 90% of the city’s residents to evacuate. Eighty percent of the city’s homes and 60% of the city’s commercial buildings were damaged.

MAY 1997

Essential water and sewer services were restored; the city’s lone hospital reopened on May 8.

1997-1998

The city bought 800 homes and 50 businesses through a voluntary buyout program to remove structures from high-risk flood areas.

JUNE 2000

Construction started on a 2,220-acre greenway along the Red River. The greenway, designed for numerous recreational activities, also provides room for the river to expand during floods.

APRIL 2006

With the city’s flood-protection project nearly completed, Grand Forks saw its fifth-highest flood on record. It required no sandbagging, and the city sustained no damage.

JANUARY 2007

The \$412 million flood-protection project was finished, featuring first-of-its-kind floodwall designs in the United States.

Source and photos: City of Grand Forks, N.D.

ONLINE & TABLET GALLERIES

View more photos from Grand Forks at www.businessinsurance.com/photos or by downloading the *Business Insurance* app for your iPad at www.businessinsurance.com/ipad.



flood, most of which were for flooded automobiles and sewer backup claims, he said, noting that prior to the flood, local businesses did not purchase business interruption coverage.

Some businesses experienced down times of nearly one year, said Lonnie Hoffer, disaster recovery chief for the North Dakota Department of Emergency Services in Bismark, N.D.

Grand Forks residents and businesses anticipated that the city could withstand Red River flood water levels, “and they couldn’t,” he said. “They planned for one level of water, and it ended up being more than what they planned for.”

The city faced a multitude of immediate priorities, such as emergency housing and environmental and infrastructure concerns.

“Where do you start?” Mr. Dean said, recalling the 1997 natural disaster. “We found that we kind of had to write the book as we went along.”

That’s where the Federal Emergency Management Agency played a large role in Grand Forks’ recovery process, he said.

“We learned the terms ‘safe,’ ‘sanitary’ and ‘secure’ from FEMA,” Mr. Dean said. “They were interested in doing those three very basic things. By doing that,



SOLVENCY

Continued from page 1

wrote to the European insurance and pensions authority to say it welcomes discussion on how interim measures could be used to encourage companies to continue preparations for Solvency II.

But the group said it would be opposed to the introduction of compulsory quantitative reporting or Own Risk and Solvency Assessments based on the Pillar I requirements of Solvency II, which set capital adequacy requirements.

Imposing such measures could pre-empt the outcome of continuing negotiations about the final details of Solvency II, Olav Jones, director of economics and finance at Insurance Europe, said in the letter to Gabriel Bernardino, chairman of the authority.

"In all these interim measures, it is essential that regulators focus on limiting the cost of Solvency II to insurers and their policyholders, otherwise the costs of Solven-

cy II will become apparent long before the benefits, and there is a real risk that the project will fall into disrepute," the letter said.

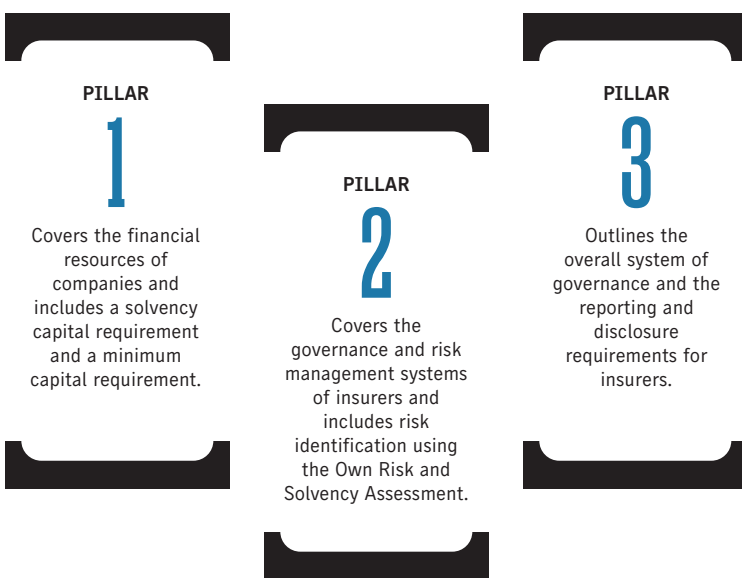
"Interim measures should not lead to a de-facto implementation of Solvency II before it becomes legally enforceable."

The effect of interim measures will vary widely depending on how prepared companies are for Solvency II, as well as their philosophy, said Paul Clarke, the global Solvency II leader at PricewaterhouseCoopers L.L.P. in London. While some companies are progressing well with preparations for Solvency II, the few that are resisting the move toward Europe-wide, risk-based regulation likely will not welcome interim measures aimed at keeping the Solvency II project on track, he said.

"It is clear that there is an appetite on behalf of the regulators that momentum is not lost," he said, so any interim measures likely will contain some of the key concepts of Solvency II.

But the authority appears to prefer that interim measures be con-

PILLARS OF SOLVENCY II



sistent across Europe, Mr. Clarke said. So the emphasis of the interim measures likely will be on elements of Pillar II, such as governance and processes and controls, rather than capital rules.

There is concern in the insurance industry that interim measures could lead to "Solvency II by the back door," he said. As there is still some disagreement around parts of of the Pillar I — capital — rules

under Solvency II, industry bodies hope that interim measures will not stray into that area, Mr. Clarke said.

Some national regulators already have begun to change their rules to progress to a regime that more closely resembles Solvency II, said David Prowse, senior director of insurance at Fitch Ratings Ltd. in London.

But there is unlikely to be true harmonization until Solvency II comes into effect, he said.

Insurance companies already can derive benefits from the work they have been doing to prepare for Solvency II despite the delays to the final rules, said Marc Bekkers, London-based head of Aon Benfield Analytics for the Europe, Middle East and Africa region.

In many areas, "it is work they should have been doing anyway," he said.

There are still elements of the final rules that need to be worked out, he said, particularly those concerning life insurers' assets, which have led to the delay in the rules becoming effective.

INTELLECTUAL: Theft of proprietary data affects many industries

Continued from page 1

securities or other types of tangible property such as parts and inventory.

Recognizing the growing incidence of trade secret theft is adversely affecting American competitiveness, the White House in February launched its Administration Strategy on Mitigating the Theft of U.S. Trade Secrets, a major initiative that addresses external threats as well as internal threats from employees and other insiders.

"There's a lot of hype, unfortunately, around cyber crime — that the problem isn't inside the company, it's outside," said Larry Ponemon, chairman and founder of the Traverse City, Mich.-based Ponemon Institute, which in February issued a report identifying the growing risk of malicious or criminal attacks perpetrated upon business or governmental organizations by employees, temporary employees and contractors.

Ponemon's "Risk of Insider Fraud: Second Annual Study" found that employee theft of data and other intellectual property remains high, but only 44% of organizations view the prevention of such insider fraud as a top security priority. Contributing to the insider risk is bring-your-own-device to work, employee access to enterprise systems from remote locations and lack of security protocols over "edge devices," including wireless routers and Bluetooth connections.

"Companies think the vetting and background checks they do on employees conclude that their people are good. They've been there a

while. They have families," Mr. Ponemon said. "They don't speak with a Russian accent. In reality, the big risk is on the inside as opposed to external."

Mr. Ponemon cited as an example a case he investigated in which a longtime employee of a high-tech firm who had access to critical company information had lost nearly a dozen laptop computers over the course of a year.

"The conclusion the company reached was that he was absent-minded," Mr. Ponemon said. "But

when we did a deep dive, we found out this was all about data theft. The laptops contained sensitive information."

In some cases, employees are deliberately taking confidential information with them when they leave to take a new job, according to another study on intellectual property theft conducted by Ponemon and commissioned by Mountain View, Calif.-based Symantec Corp.

"When people know they're going to leave their jobs, there is an uptick in copying of data to removable storage," said Robert Hamilton, director of product mar-

keting at Symantec. "People take information because they feel they have an ownership stake in it. They helped create the data, and therefore they think it's theirs."

But this type of intellectual property theft is not exclusive to the high-tech industry, experts say.

"Sales people take lists of customers. Customer service reps take information about company products and accounts with them. Product management people take confidential product plans with them," Mr. Hamilton said, referring to a 2009 lawsuit filed by Starwood Hotels & Resorts Worldwide Inc. against Hilton Worldwide in

connection with the theft by two company executives of more than 100,000 confidential company documents and electronic files related to the development of its hip hotel subbrand W.

In its suit, Starwood asserted that the stolen information provided Hilton "with the means to bring a competitive hotel chain to market expeditiously and without expending tens of millions of dollars and many years on development, thereby avoiding the inevitable and costly trial and error along the way," according to the lawsuit. "Instead, Hilton has been able to exploit the time and tens of millions of dollars that was invested by Starwood to create these materials."

The companies settled the suit in December 2010 for \$150 million in cash and hotel management contract payments and an injunction prohibiting Hilton from introducing any lifestyle hotels for a two-year period.

"You have to identify what trade secrets you have, what intellectual property you have that are really valuable and critical to the company; and if they fell in your competitors' hands, that would be a severe blow to you," said Richard Shea, a partner at Covington & Burling L.L.P., which held a seminar on employee trade secret theft on March 12 in New York. "It could be a formula, a customer list, an idea, a manufacturing process. Although a trade secret might be patentable (and some are), a company might choose not to seek a patent, because then everybody will know what the secret is. It's something that derives its value from the fact that you know it and nobody else does. And once you know what that is, you have to figure out how to protect it."

Insurance rarely covers 'intangible' losses

Trade secrets and other types of intellectual property often are considered "intangible property" by insurance underwriters, so employee theft of such property is rarely covered, experts say.

A fidelity bond or crime insurance policy will cover losses suffered when an employee is involved in stealing a tangible company asset, such as money or securities, said attorney Mari Luisa Gallozzi, a partner at Covington & Burling L.L.P. in Washington.

Employee theft of trade secrets, patents and ideas "happens with some frequency. However, the crime policies typically don't cover this," said Stephen Leggett, senior vice president in Willis North America Inc.'s FINEX North America division in New York.

"I've not seen any coverage in the last decade that would affirmatively cover your employee stealing your trade secret and indemnifying you for the loss of that trade secret," said Bob Parisi, network security and privacy practice leader at Marsh Inc. in New York.

Some cyber policies will pay for costs associat-

ed with data breaches caused by employees, including the cost of notifying affected individuals if personal information is exposed; forensics costs; legal costs; notification costs; credit monitoring; and public relations costs associated with an employee theft of personal client information stored on company computers, said Christopher Keegan, senior vice president of national resource errors and omissions and e-risk at Willis in New York.

"There is also coverage (in a cyber policy) that would indemnify in the event there is a lawsuit against the organization," such as when "victims seek damages if their (personal) information has been breached," said Eric Cernak, vice president at Hartford Steam Boiler Inspection & Insurance Co. in Hartford, Conn.

"As long as a policyholder can establish a direct connection between release of (intellectual property) and money lost, crime insurance should cover the loss because it is not intangible," said John Nevius, a shareholder at Anderson Kill & Olick P.C. in New York.

By Joanne Wojcik

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LEGAL NOTICE

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

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

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

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

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

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

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

Dated: February 26, 2013

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SIDECAR: Guaranteed capacity for Aon clients in Lloyd’s market

Continued from page 3

In most cases, the sidecars offer reinsurance or retrocessional reinsurance capacity.

While the Aon/Berkshire Hathaway facility is not capitalized separately, the agreement calls for Berkshire Hathaway to accept 7.5% of Aon retail placements in the London market where there is Lloyd’s participation, Mr. McGill said.

Berkshire Hathaway will follow terms and conditions of the lead underwriter. The condition that Lloyd’s be involved in the placement “is recognition and respect for Lloyd’s technical underwriting expertise,” Mr. McGill said.

The agreement that goes into

effect March 31 covers most lines of coverage, including property, liability, marine, energy, financial lines and professional lines. However, certain space and aviation business is not covered by the agreement. The facility will participate in about 90% of the business that Aon places in the London market, Mr. McGill said.

Aon Underwriting Managers, the London-based brokerage’s managing general agent, will manage the sidecar, which has been granted authority to bind coverage on behalf of Berkshire Hathaway.

“Providing highly rated capacity to all our clients is tremendously valuable for them. It gives them a high degree of certainty” in securing capacity and high-quality

claims services, Mr. McGill said.

Many large international programs use London to meet their capacity needs; the Berkshire Hathaway agreement will guarantee a set amount of capacity, he said.

The placement guaranteed, the broad scope of the risks covered “and the fact that (business) is placed with a single carrier is innovative,” said Stuart Shipperlee, a partner at Litmus Analysis in London.

In a sense, the facility is the “lead and follow” principal of the Lloyd’s subscription market taken to a logical conclusion, he said.

The Lloyd’s Franchise Board, which monitors the business plans of participants in the market, is

effectively “being used as the quality assurance for the underwriting by Berkshire,” Mr. Shipperlee said.

Several market sources said the facility is interesting because of its broad scope and it appears to be a less opportunistic form of sidecar than has been used to provide fresh capacity after catastrophe losses.

It also represents another way to attract capital to participate in the Lloyd’s market, sources said.

One source who asked not to be named said other brokers have used sidecars for certain lines of Lloyd’s business, but the Aon/Berkshire Hathaway facility differs in that it is for several categories of coverage.

Lloyd’s market participants said

they hoped the facility would complement capacity already provided by existing players.

“The deal will enable Berkshire Hathaway to access Aon’s business placed at Lloyd’s or involving any Lloyd’s placement. Aon currently supplies over 20% of all Lloyd’s business, and it will concern the market that some of this income will be hived off to Berkshire Hathaway,” Hampden Capital Ltd., which represents Lloyd’s private underwriting members known as names, said in a statement.

“Hopefully, this will in time be complementary to Lloyd’s and Aon will grow its income to Lloyd’s and it will not be competitive to the market’s many subscription players,” the statement said.

NLRB: High court case

Continued from page 3

In January, the appeals court held in *Noel Canning, a division of the Noel Corp. v. National Labor Relations Board* that President Barack Obama’s Jan. 4, 2012, appointment of three of the five NLRB members was invalid. Although portrayed as putative recess appointments, the Senate was not in recess when they were made, the appeals court ruled. It also held that the President can make recess appointments only for vacancies that occurred during a recess.

Earlier this month, the administration decided to appeal directly to the nation’s highest court rather than first seeking an en banc hearing by the appeals court.

The administration’s petition is due by April 25.

As a result of the appeals court ruling, “the 600 decisions that the board has rendered since the recess appointments occurred are all in jeopardy,” said James F. Hendricks Jr., a partner with law firm Lewis, Brisbois, Bisgaard & Smith L.L.P. in Chicago.

The ruling “effectively renders the NLRB powerless, so it’s an important issue to employers,”

said Phillip K. Miles III, an associate with law firm McQuaide Blasko Fleming & Faulkner Inc. in State College, Pa.

Legal experts say they expect the Supreme Court to accept the case because it presents a significant constitutional issue over which appeals courts have split.

“It does involve a unique and important interpretation of the Constitution with regard to the power of the chief executive,” said Mark A. Carter, a partner with Dinsmore & Shohl L.L.P. in Charleston, W. Va.

Meanwhile, the NLRB “is proceeding as though it’s business as usual,” said John T. Merrell, an associate with Ogletree, Deakins, Nash, Smoak & Stewart P.C. in Greenville, S.C.

Some experts say the Supreme Court is likely to rule in favor of *Noel Canning* over the timing of the President’s appointment of the board members. However, the high court’s decision also could be less sweeping, such as a ruling that the president is not confined to only fill vacancies that occur during a recess.

“There’s a wide stream of possibilities,” said Mark Theodore, a

Follow NLRB rulings, for now

Employers should continue to follow National Labor Relations Board rulings, while awaiting a possible U.S. Supreme Court decision on the validity of appointments of three NLRB members, legal experts say.

The January ruling by the U.S. Court of Appeals for the District of Columbia created considerable confusion and uncertainty for employers.

“This cloud over all of the NLRB’s work is very unsettling,” said Howard L. Bernstein, a partner at Neal, Gerber & Eisenberg L.L.P. in Chicago.

“We need to have some kind of stability with this agency,”

said Mark Theodore, a partner at Proskauer Rose L.L.P. in Los Angeles. The current uncertainty is not “good for anybody.”

For now, “we’re telling employers to take a wait-and-see approach and operate as if the existing board decisions will stay in place,” said Peter J. Felsenfeld, an associate at Barger & Wolen L.L.P. in San Francisco.

“The key right now is for employers not to get ahead of themselves and assume the decisions they don’t like will be invalidated,” Mr. Felsenfeld said.

By Judy Greenwald

“The key right now is for employers not to get ahead of themselves and assume the decisions they don’t like will be invalidated.”

Peter J. Felsenfeld, Barger & Wolen L.L.P.

CATASTROPHE

Continued from page 3

Klein, D-Fla., now a partner at Holland & Knight L.L.P.’s Fort Lauderdale, Fla., office. “You’re having Sandys and large hurricanes. The insurance companies are not willing to sell insurance to homeowners.”

There needs to be a “backstop when you have one of these big natural disasters,” Mr. Klein said.

“We need to recognize that citizens living in areas most likely to be affected by natural catastro-

phes are disproportionately those that can least afford it,” retired Adm. James Loy, co-chair of ProtectingAmerica.org., said in a statement. “This isn’t a beach house issue or a summer vacation issue; this is an issue of fiscal responsibility that concerns primary residence homeowners across America. We need a policy to help get more people insured, to prefund for these events, and to reduce the enormous costs of recovery after a catastrophe.”

But insurers and others disagree with the bill’s necessity and premise.

“The bill is another attempt at

risk transfer from the private sector to federal taxpayers, individuals and businesses with lower cat risk,” said Frank Nutter, president of the Reinsurance Association of America in Washington. “A federally created fund creates a federal obligation even if not specifically stated — à la Fannie Mae and Freddie Mac.”

The fund would involve the secretaries of federal agencies and “millions of federal dollars as startup seed money. The reinsurance sector is robust in capital and capacity notwithstanding recent major disasters,” Mr. Nutter said in arguing the legislation

is not necessary.

The program would “theoretically be voluntary, in the sense that any state can choose to join,” said R.J. Lehmann, a senior fellow at the Washington-based R Street Institute. Like the RAA, R Street belongs to SmarterSafer.org, a coalition of insurance, environmental and free-market-oriented groups that oppose the bill.

“Everybody’s on the hook as long as the Treasury is the backstop,” Mr. Lehmann said. “They could structure it as a fee only on homeowners, but if they do so, it because less attractive for homeowners.”

However, “At the end of the day, even if all of these cases are overturned, the board will eventually essentially rubber stamp the overwhelming majority of cases once a full quorum is properly installed,” said Joel S. Barras, counsel at Reed Smith L.L.P. in Philadelphia.

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Commercial insurance prices up 7% in fourth quarter

■ Commercial insurance prices in aggregate rose 7% during the fourth quarter of 2012 compared with the same period the previous year, marking the eighth straight quarter of rate increases, according to a Towers Watson & Co. survey. The increases also mark the fourth consecutive quarter in which prices increased across every line, with workers compensation and employment practice liability having the largest increases, approaching double digits, according to Towers Watson. All lines of business surveyed showed increases of at least 3%. Excluding catastrophes, historical loss changes in 2012 pointed to a 4% improvement in loss ratios compared with 2011 “as earned price increases continued to more than offset reported claim inflation,” Towers Watson said in a statement.

Lawmakers reintroduce agent licensing bill

■ Legislation that would streamline insurance agent licensing was introduced in both houses of Congress. The bipartisan National Association of Registered Agents and Brokers Reform Act of 2013 — or NARAB II — would formally create NARAB as a nonprofit, independent board comprising state insurance commissioners and insurance market representatives. After passing background checks in their home states, insurance agents could apply for NARAB membership, allowing them to sell insurance in other states. The bill was introduced in the Senate by Sens. Jon Tester, D-Mont., and Mike Johanns, R-Neb., and in the House of Representatives by Reps. Randy Neugebauer, R-Texas, and David Scott, D-Ga., with 14 co-sponsors in the Senate and 41 in the House.

Insurance industry M&As could see uptick: Deloitte

■ Market and economic conditions are favorable for increased mergers and acquisition activity within certain segments of the insurance industry, according to a report by Deloitte L.L.P. The report said a variety of factors are aligning that likely will trigger deal-making. “Entering 2013, the environment seems more conducive to accelerating M&A activity than a year ago: Organic growth opportunities appear limited; insurance companies and private equity firms are holding large amounts of excess capital that need to be deployed; and the stock market is doing well overall, which generates confidence,” the report said. Among insurance industry segments, the report places the property/casualty sector among the most likely to see increased deal activity.

Penn State sues insurer over nonpayment of victims’ claims

■ Pennsylvania State University has filed a lawsuit against its insurer, Pennsylvania Manufacturers’ Association Insurance Co., for refusing to cover claims made by 30 men in connection with the child sexual molestation abuse allegations against former football assistant coach Gerald A. Sandusky. The latest suit, filed in the Court of Common Pleas of Centre County in Bellefonte, Pa., alleges that PMA failed in

its obligations owed to the university under commercial general liability insurance policies to cover claims in lawsuits filed against the school regarding Mr. Sandusky’s misconduct. Penn State bought commercial general liability policies from PMA for consecutive 12-month periods for more than 50 years, according to the suit.

Architects and engineers rates expected to rise in 2013

■ Many architects and engineers can expect another year of increased rates, according to a broker survey. Of 13 insurers surveyed who account for more than 70% of the overall market for architects and engineers professional liability insurance in the United States, nine expect to obtain rate increases this year, while the remaining four expect rates to remain flat, according to a survey by Ames & Gough. Of those insurers that plan to seek rate hikes in 2013, 33% expect to seek increases of 6% to 10%, while 56% plan increases of 3% to 5%, and 11% expect to ask for hikes of zero to 2%, according to the survey.

Transactional risk insurance demand up 41% in 2012: Marsh

■ Demand for transactional risk insurance increased by 41% last year, according to a report by Marsh Inc. Marsh said it placed \$4 billion in policy limits around the world for coverage to protect large deals and cross-border acquisitions and sales, a 41% increase over the limits it placed in 2011. According to the report, the most pronounced increase in demand for transactional risk insurance came in North America, where there was an 86% increase in limits placed in 2012.

Employers’ use of auto-enroll for 401(k)s growing: Survey

■ Automatic enrollment, once an unusual feature in 401(k) plans, is now offered in a majority of the plans, according to a new survey. The survey by the American Benefits Institute, a unit of the American Benefits Council in Washington, and WorldatWork in Scottsdale, Ariz., found that 56% of respondents now include an automatic enrollment feature in their 401(k) plans. Automatic enrollment is aimed at those employees who don’t respond when asked by their employer if they would like to participate in the organization’s 401(k) plan.

New hires must receive health cover within 90 days

■ Newly hired employees will have to be offered health insurance coverage no later than 90 days after they begin work under newly proposed health care reform law regulations. The regulations, jointly issued by the Internal Revenue Service and the Departments of Labor and Health and Human Services, involve a provision in the Patient Protection and Affordable Care Act that, effective in 2014, will limit health insurance coverage waiting periods to 90 days. Regulators noted that several commenters on previous guidance said it has been “common practice” for coverage to become effective the first day of the month after the 90-day waiting period. But regulators said “due to the clear text of the

statute,” waiting periods may not extend beyond 90 days, with all calendar days, including weekends and holidays, counted.

Superstorm Sandy wiped out 2012 U.S. marine premiums

■ Superstorm Sandy’s estimated \$2.5 billion to \$3 billion cost to the global marine market effectively wipes out all U.S. marine premiums for 2012, the International Union of Marine Insurance said. In a statement, the Hamburg, Germany-based organization said its annual spring statistics, which cover the cargo, ocean hull and offshore energy sectors, “remain a litmus test for the marine insurance report, and the impact of Sandy will define 2012 in the eyes of the underwriters.” The statement said in the ocean hull class, the loss of the Costa Concordia “was the biggest event in a year where the level of losses remained at concerning levels.”

FIO reports to be released in summer: Director McRaith

■ Long-delayed reports from the Federal Insurance Office will be issued by summer, according to the head of the FIO. Speaking during a meeting of the Federal Advisory Committee on Insurance in Washington, FIO Director Michael McRaith said several reports mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act have yet to be released. One of the reports, which was supposed to be issued more than a year ago, will deal with insurance regulatory modernization; another, due last fall, will examine the reinsurance market.

D&O liability insurance pricing up: Towers Watson

■ The directors and officers liability market is firming, most notably with 41% of private and nonprofit organizations having experienced a premium increase last year, according to a Towers Watson & Co. in a survey. Towers Watson conducted its online survey of 325 organizations, most of whom held total assets and/or revenues of more than \$1 billion, from Oct. 23 through Dec. 7, 2012.

Health, medical clinics gain ground at worksites

■ Since the passage of the 2010 health care reform law, worksite health and medical clinics have seen modest but steady increases in popularity among large U.S. employers, according to a new study by Mercer L.L.C. The study indicated 37% of firms with 5,000 or more employees reported they offer occupational and/or primary care services through an on-site clinic, compared with 32% in 2010. Another 15% indicated they are considering installing a clinic within the next two years. On-site clinics were slightly less popular with midsize employers. Approximately 30% of employers with more than 500 employees said they offer on-site clinical services, while 9% said they may begin offering on-site occupational health services, and 15% said they are considering offering primary health care services by 2014. In a follow-up survey of 131 employers offering on-site clinical services, 82% of firms listed reducing lost employee productivity as a primary motivator for installing a worksite clinic.

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Brit caught in Bentley fraud

A Bentley-loving British businessman is out £10,000 (\$14,920) after pleading guilty to making a fraudulent insurance claim.

Peter Webb acknowledged in Ipswich, England, Crown Court recently that the Bentley Mark VI he had purchased in 2011 had not been stolen and the photos of the car he submitted to his insurance company were of a different car.

Mr. Webb purchased the “tatty and dull” Bentley for £3,700 (\$5,520) to use for his wedding chauffeur business. Claiming to have restored the Bentley to its former glory, he subsequently insured the car for £42,000 (\$62,660) with Groupama Insurance Co. Ltd., only to report the car stolen two months later. To complete the ruse, Mr. Webb took a similar, fully restored Bentley for a test drive, parked in the countryside and surreptitiously photographed it with his vehicle’s license plate affixed.

The early claim and the lack of supporting documentation confirming the vehicle’s restoration raised suspicions among Groupama’s fraud investigators, who referred the case to the authorities.

Benches are turned on Judge Judy

Judge Judy soon may find herself viewing a trial from the other side of the bench after being sued in a case involving some very expensive dishes and a messy divorce.

According to reports, the suit filed in Los Angeles Superior Court by the wife of one of the TV jurist’s producers claims that in purchasing the couple’s china and silverware from her husband, Judge Judy — real name Judith Sheindlin — paid only a fraction of the table service’s value.

The china and flatware was worth more than \$500,000, the suit claims, and its sale to Judge Judy for \$50,000 is alleged to be part of a fraudulent scheme by the producer intended to exact revenge against the plaintiff, whom he’s divorcing.

The suit asks for Judge Judy to return the china to the plaintiff or pay her \$514,421.14, plus punitive damages, according to reports.

Judge Judy told TMZ.com, which first reported the story, that she hadn’t seen the suit and that she owes the plaintiff nothing.

LLOYD’S SYNDICATES TARGET OF GAGA’S PRODUCTION COMPANY



S_BUKLEY/SHUTTERSTOCK.COM

Lady Gaga isn’t handing any awards to Lloyd’s syndicates in claims dispute.

Divided opinions about Lady Gaga are certainly nothing new, but the performer’s production company contends that what happened to her scheduled concert in Indonesia crossed the line between criticism and terrorism. In a lawsuit filed March 1 in the U.S. District Court for the Central District of California, Atom Factory Inc. — Lady Gaga’s management company — and two concert promoters accused three Lloyd’s of London syndicates of improperly denying their claim for losses from the cancellation of her June 2012 concert in Jakarta, Indonesia, due to threats by a local Islamic group.

According to court documents, authorities in Jakarta refused to let Lady Gaga perform after the Islamic Defenders Front publicly threatened “chaos” if the concert were permitted in the predominantly Muslim country.

The lawsuit names Beazley P.L.C.’s syndicates 623 and 2623 and Talbot Underwriting Ltd.’s syndicate 1183 as defendants.

LGTours L.L.C. and Mermaid Touring Inc. are co-plaintiffs.

Lady Gaga’s managers and the touring companies are seeking at least \$75,000 for losses they argue are covered under the terrorism risk policies they purchased through the Lloyd’s syndicates.

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Hewitt might cover her biggest assets

An insurance policy that underwriters may be eager to take on would provide coverage for actress Jennifer Love Hewitt’s breasts.

Ms. Love Hewitt showed interest in taking her breasts to market after a recent interview with USA Today when she said she’d consider insuring the pair for \$5 million.

“I need, like, an insurance invitation. If somebody was like, ‘Hey, you know what? We would like to insure your boobs for \$2.5 million,’ I’d be like, ‘Do it. Love it! Why not?’” the 34-year-old actress told the newspaper.

“Yeah, these things right here are worth \$5 million!” she reportedly said, pointing at her chest.

Ms. Love Hewitt stars in the Lifetime series “The Client List,” where she plays a wife who performs dirty deeds on various clients at her local day spa.

With such a role, it makes good business sense to take out such an insurance policy.

In 2011, reality show actress and ex-Hugh Hefner girlfriend Holly Madison insured her breasts for \$1 million through underwriters at Lloyd’s of London, according to media reports.



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Ms. Love Hewitt

Good Samaritan gets the boot

Sometimes it’s hard to tell the human sharks from the real thing. That seems to be the case for the employer of a British man who grappled with a six-foot-long shark off an Australian beach in January to save some children — then was fired by his bosses.

According to news reports, widely distributed footage captured by a TV crew that was filming nearby shows Paul Marshallsea grabbing the shark’s tail as it swam toward a group of children.

Mr. Marshallsea and his wife were on sick leave for work-related stress when they took a two-month holiday in Australia. Trustees for the couple’s employer of 10 years, the Pant and Dowlais Boys & Girls Club in Merthyr Tydfil, Wales, decided they had taken sick leave dishonestly and dismissed them.

According to the reports, the dismissal letter said, “Whilst unfit to work you were well enough to travel to Australia and ... you allegedly grabbed a shark by the tail and narrowly missed being bitten by quickly jumping out of the way.” The video caused a “breakdown of the trustees’ confidence and trust in you and your ability to perform.”

Mr. Marshallsea, who said he took the trip at his doctor’s advice, is understandably bitter. “You think being in charge and running a children’s charity, they would have patted me on the back and congratulated me,” he said.

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