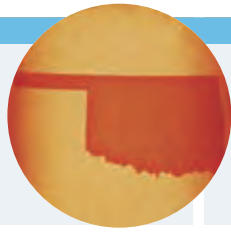


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HIDDEN TAXES DETER FIRMS FROM DITCHING HEALTH CARE BENEFITS / PAGE 6

inBrief

PROPERTY/CASUALTY INSURERS

Hartford to focus on P/C lines

Insurer yields to pressure to cut life, annuity business

By **MARK A. HOFMANN**

HARTFORD, Conn.—The Hartford Financial Services Group Inc.'s plan to exit the annuities and individual life businesses, among others, should have a long-term positive impact on its property/casualty business, industry observers say.

That's because the divestiture would allow the Hartford, Conn.-based insurer to focus more on its property/casualty business, which no longer would have to support less profitable operations.

However, observers caution the impact of the move will depend greatly on how the divestiture is handled and how the proceeds are deployed.

Most major rating agencies affirmed their ratings of Hartford's property/casualty operations after last week's announcement, which came amid pressure from John Paulson, presi-



AP PHOTO

Major shareholder John Paulson wants Hartford to take more steps to satisfy Wall Street.

dent of hedge fund manager Paulson & Co. and Hartford's largest shareholder, to break up the operation. Mr. Paulson has argued that such a move would boost shareholder value.

In a statement, Hartford said its property/casualty, group benefits and mutual fund businesses each have "a competitive market position, strong capital-generating ability

and lower sensitivity to capital markets." According to Hartford, a sharper focus on these businesses will allow it to "deliver superior performance and greater shareholder value."

Hartford said it will put its annuity business into runoff and is "pursuing sales or other strategic alternatives for individual life, Woodbury Financial Services (Inc.) and retirement plans." The decision resulted from a "rigorous evaluation of the company's strategy and business portfolio conducted over the past several quarters" by management and the board of directors, Hartford said in the statement.

In a conference call last week, Chairman, President and CEO Liam McGee said Hartford started looking at the issue in mid-2011.

The announcement, however, was not enough to satisfy Paulson & Co., which issued a statement saying that "while we appreciate the extensive work of the Hartford's board and management, we do not believe the positive actions announced today address the main problem with the Hartford's undervaluation:

See **HARTFORD** page 19

AI&G repays another \$1.5B to Treasury

American International Group Inc. has repaid \$1.5 billion to the U.S. Treasury Department for its stake in a special-purpose company holding the shares of American International Assurance Co. Ltd., another step in repaying the government's 2008 bailout. With the \$1.5 billion repayment to retire the government's interest in AIA Aurora L.L.C., the government's remaining stake in AIG is about \$45 billion.

P/C insurers poised for growth in 2012

After enduring large catastrophe losses, lower investment income and declining reserve margins that defined 2011, the property/casualty insurance industry is poised for growth in

See **IN BRIEF** page 21

HEALTH CARE REFORM

Employers split on health care reform

But few plan to drop health benefits cover

By **JERRY GEISEL**

Two years after Congress passed landmark health care reform legislation, employers are nearly evenly divided on whether the U.S. Supreme Court should repeal the law, according to a survey released today.

Forty percent of employers want the high court, which is hearing oral arguments this week on the constitutionality of the Patient Protection and Affordable Care Act, to strike down the 2010 law. But an even greater percent-

age of employers—43%—do not want the justices to reject the law, while the remaining 17% said they didn't know, according to the survey of 437 employers conducted by the Midwest Business Group on Health and co-sponsored by the National Business Coalition on Health, *Business Insurance* and sister publication *Workforce Management*.

That such a large percentage of employers want the law struck down isn't surprising, said Andrew Webber, president and CEO of the Washington-based NBCH.

"This is a new world for employers. Until now, they have had pretty much of a free ride in how they design their plans,"

STAYING IN THE GAME

Most employers say they will continue to offer coverage after key provisions go in effect in 2014.

71% Not very likely or unlikely to drop coverage

6% Likely or very likely to drop coverage

10% Don't know

12% Not applicable

Source: Midwest Business Group on Health survey, "The Health Reform Law's Impact on Employers' Health Benefits."

"There is no such thing as 'Obamacare,'" said Larry Boress, president and CEO of the Chicago-based MBGH, referring to the term some PPACA critics use when referring to the health care reform law.

Instead, the law has many different chapters. If it is repealed, provisions that many employers support and that have not cost very much—such as insurance market reforms, banning pre-existing medical condition exclusions and extending coverage to employees' adult children up to age 26—would be taken off the books, Mr. Boress said.

"Larger, more sophisticated employers are beginning to recognize that there are some positive provisions of ACA that advance reform of the health care delivery system," Mr. Webber said.

And there could be an element of pragmatism behind employers' opposition to a repeal of the reform law: concern that "what would replace it could end up being worse," he Pikelný said.

Regardless of their feelings about the law, the overwhelming majority of employers say they intend to keep their health care plans, contrary to the predictions

See **MBGH** page 19

SPOTLIGHT

INDUSTRY FINANCIALS

YEAR-END RESULTS REVENUE/PROFILES OF LEADING COMPANIES

Catastrophes losses hit insurers, reinsurers hard; rising prices boost profits for brokerages; lower utilization rates, medical costs aid results of health insurers. **PAGE 9**

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Business Insurance

Online features & highlights
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Business Insurance **BEST** places to work **2012**

NOMINATIONS OPEN: Do you know of a commercial insurance industry company that is a great place to work? *Business Insurance* is accepting nominations for its annual Best Places to Work in Insurance program. Deadline is June 8.
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LAST WEEK'S TOP STORIES

www.BusinessInsurance.com/BI10

1. Coca-Cola unit sued for alleged racial discrimination
2. Suggestions on contraception coverage 'unworkable': SIIA
3. Stanford-related suits against Willis, others revived
4. Hartford to shed individual life, retirement business
5. Martino resigns as CEO of third-party administrator Broadspire
6. Paulson to Hartford: Spinoff plan a good start, but not enough
7. Mo. governor vetoes workers comp exclusive remedy bill
8. High court won't hear appeal from ex-insurance exec Segal
9. Willkie Farr & Gallagher hires lawyers from Dewey & LeBoeuf
10. *Business Insurance* In FOCUS video: Cyber liability concerns

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WORKERS COMPENSATION

Oklahoma weighs comp opt-out bill

Backers cite savings achieved by Texas with similar law

By SHEENA HARRISON

OKLAHOMA CITY—A debate in Oklahoma over legislation that would let employers leave the state's workers compensation system could spill over to other states that are striving to contain insurance costs, sources say.

The issue is being led by large, multistate employers that have seen cost savings under Texas' nonsubscriber system for workers comp, and hope to achieve the same benefits in Oklahoma, said Bill Minick, president of PartnerSource, a Dallas division of Arthur J. Gallagher Risk Management Services Inc. that supports the Oklahoma bill.

"You've got many national employers who are saying this is working so well in Texas, with tremendous cost savings coupled with higher injured-employee satisfaction," said Mr. Minick, whose company implements benefit plans for employers opting out of Texas' comp system. "So why shouldn't we do this in other states?"

While insurers generally oppose the legislation, it seems to have a "real chance" of being approved, said Joe Woods, Austin, Texas-based vp of state government relations for the Property Casualty Insurers Assn. of America. "I suspect that if this passes in Oklahoma, there will be businesses pushing it in lots of other states."

Oklahoma H.B. 2155 and S.B. 1378 would establish an alternative workers comp system that

would allow certain employers to exempt themselves from the state system. The plan would require employers opting out to establish a substitute plan—including medical, disability and death benefits for injured workers—that meets Employee Retirement Income Security Act requirements.

Only "qualified employers" with 50 or more employees that have exceeded certain thresholds for workers comp losses would be exempted. Those include an experience modification greater than 1 or total annual incurred claims above \$50,000 in one of three preceding insurance policy years.

The legislation, if passed, would not affect workers comp advisory rates in the state, said Lori

Lovgren, division executive-state relations for Boca Raton, Fla.-based NCCI Holdings Inc.

If adopted, Oklahoma would be only the second state to allow companies to exempt themselves from the state workers comp system. Texas has allowed opt-outs, or "nonsubscription," since its comp system was established in 1913.

The plan is supported by companies such as Oklahoma City-based Hobby Lobby Stores Inc., Seattle-based Nordstrom Inc. and Mooresville, N.C.-based Lowe's Cos. Inc., according to the Oklahoma Injury Benefit Coalition, a group that backs the opt-out plan.

Becky Robinson, assistant vp, risk management, said Hobby Lobby backs the legislation because of results it has seen from the Texas nonsubscriber system. The retailer, which operates in 40 states, ranks Oklahoma in the top four costliest states for the company's workers comp costs, while Texas is in the bottom five.

Ms. Robinson said the Texas nonsubscriber system has made the Texas workers comp market more competitive, and hopes similar results can be achieved in Oklahoma.

"It would certainly put (Oklahoma) on the map and give us an economic advantage over many of the other states," she said.

Sources say Oklahoma has a costly dispute resolution and litigation process that is driving the current debate. It was No. 4 in the nation for workers comp premium rates, according to a 2010 Oregon Department of Consumer and Business Services study.

Mr. Minick of PartnerSource estimates the plan would save exempt employers 50% on their comp costs.

Although Oklahoma adopted workers comp reforms last year, Mr. Minick said many employers are unwilling to wait and see whether the changes will lower insurance costs.

"They want it now, and there's a proven model right across the Red River to deliver it," he said.

Insurer groups contend that the Oklahoma plan could limit benefits for injured workers and be less financially secure than traditional workers compensation insurance or self-insurance.

Mr. Woods of PCI said if large employers leave the state system under the alternative comp plan, the state would lose motivation to reform the current workers comp program.

Additionally, he argues that Oklahoma would be less competitive for insurers, because the market would be split between traditional comp business, the opt-out plan and CompSource Oklahoma, the state workers comp fund.

"It's not a very inviting scenario for a company to say, 'I'm going to set up the infrastructure to run a workers compensation program

in Oklahoma' when the market has become so small," Mr. Woods said.

Though there are parallels between Oklahoma's plan and the Texas nonsubscriber system, experts say there are key differences.

For instance, Texas does not require nonsubscribers to adopt an alternative benefit plan, and does not have an exclusive remedy provision for companies that opt out of workers comp. However, Oklahoma's bills would make ERISA-compliant plans the exclusive remedy for companies that leave the state program, preventing workers from suing their employers in state court.

That detail ultimately could push workplace injury lawsuits into federal courts under ERISA regulations, said Bruce Wood, Washington-based associate general counsel and director of workers compensation for the American Insurance Assn.

"All of this will translate into a level of uncertainty, and uncertainty breeds dispute," Mr. Wood said. "Uncertainty breeds litigation."

Advocates and opponents are watching the Oklahoma legislation closely as it advances. The state House and Senate passed their respective bills this month, and have exchanged them for further consideration.

Experts on both sides of the issue say they expect one of the bills to be approved during the current legislative session. The proposed effective date is Nov. 1.

Employers are hoping the bills will bring fast relief for their workers comp cost woes, Mr. Minick said.

"They're looking for saving opportunities after a multiyear recession, and see this as a win-win...for the company and for their employees," he said.



Mr. Kenealy

BI to extend tech coverage with new hire

Business Insurance is expanding its coverage of technology and has hired a reporter in Chicago to lead that coverage.

Bill Kenealy, who has joined *Business Insurance* as an associate editor, will develop *Business Insurance's* expanded coverage of technology issues affecting the insurance sector. As technology changes the way all companies do business, the publication will regularly update readers on the key technological developments affecting the industry and develop new editorial products focused on technology issues.

In addition, he will cover insurers, brokers and reinsurers for the Brokers & Insurers channel of www.BusinessInsurance.com.

Mr. Kenealy previously was a senior editor at Insurance Networking News in Chicago, where he covered insurance technology and regulatory issues, among other topics. Before that, he held editorial roles at a variety of business publications.

Mr. Kenealy has a bachelor's degree in magazine journalism from the University of Kansas in Lawrence.

He can be reached at bkenealy@businessinsurance.com and 312-649-5352.

PROPERTY/CASUALTY INSURERS

CNA to boost specialty focus, access Lloyd's with Hardy buy

By BILL KENEALY

HAMILTON, Bermuda—CNA Financial Corp.'s \$227 million purchase of Hardy Underwriting Bermuda Ltd. will further CNA's specialty lines focus and give it access to Lloyd's of London, experts say.

Implemented by way of a merger under the Bermuda Companies Act, Chicago-based CNA last week announced the deal to purchase Hardy, which was established in 1975 and has operations in Bahrain, Guernsey, Singapore and the United Kingdom.

Hardy's business has centered around its Lloyd's syndicate 382, which underwrites marine and aviation, nonmarine property, property treaty, and specialty business.

"Hardy is a specialist insurer and reinsurer with a respected brand and a long and distinguished history of disciplined underwriting in the Lloyd's market," CNA Financial

Chairman and CEO Thomas F. Motamed said in a statement. "The proposed Hardy acquisition significantly expands CNA's global capabilities and aligns well with our specialized underwriting focus."

The Hardy acquisition comes after several moves CNA made last year to reshape the scope of its business, including selling its ownership interest in First Insurance Co. of Hawaii and acquiring the minority shares of CNA Surety.

In a research note, Amit Kumar, vp and senior analyst of property/casualty insurance at New York-based Macquarie Capital (USA) Inc., said the deal makes sense in light of CNA's stated focus on key customer segments and specialized insurance products.

"CNA continues to make meaningful



Mr. Motamed

progress in its turnaround strategy, which has seen it put its non-P/C business in runoff, entered into a (loss portfolio transfer) with Berkshire Hathaway, reinstatement of common dividend, acquisition of remaining stake in CNA Surety, and sale of its Hawaii noncore P/C subsidiary," Mr. Kumar wrote. "This proposed acquisition now puts the company on a 'rebuilding its franchise' track."

Patricia Kwan, associate director at New York-based Standard & Poor's Corp., said the cash deal is relatively inexpensive and gives CNA access into the Lloyd's marketplace. "CNA won't be pouring a lot of extra capital into Hardy," she said. "It will be a stand-alone business."

In announcing the deal, Mr. Motamed

said Hardy's leadership, including CEO Barbara Merry and Director of Underwriting Patrick Gage, would remain in place.

While Hardy's recent financial results were marred by natural catastrophe losses, the Hardy franchise "is built on a strong foundation and has a bright future," Mr. Motamed said. Hardy reported a £42.1 million (\$65.4 million) pre-tax loss for 2011.

The deal also makes sense from Hardy's perspective, Ms. Kwan said. With higher capital requirements expected under the European Union's forthcoming Solvency II framework, many smaller companies active in the European markets are being forced to consider mergers and acquisitions.

Approved by the board of directors of both companies, the deal is still subject to the approval of shareholders and regulators, but is expected to be completed during the second quarter of 2012.

EMPLOYMENT PRACTICES

Severance deals fall under anti-bias law: Court

Ruling helps clarify rules for employers terminating positions

By JUDY GREENWALD

RICHMOND, Va.—An appeals court ruling that current and former employees can seek redress under Title VII of the Civil Rights Act of 1964 in a case involving a severance package is expected to be influential nationally.

The decision in *Karla Gerner vs. County of Chesterfield, Va.*, by the 4th U.S. Circuit Court of Appeals in Richmond, Va., also should remind firms that it is necessary to dispense benefits equitably, experts say (see story, page 18).

According to the March 16 rul-

ing, Ms. Gerner, who was the county's human resources director and had worked for the county since 1983, was told her position was being eliminated on Dec. 15, 2009.

She was asked to sign an agreement that offered her three months of pay and health benefits in exchange for her voluntary resignation and waiver of legal action against the county. Ms. Gerner rejected the offer a few days later and was terminated without severance pay or benefits.

She sued under Title VII, alleging disparate treatment on the basis of sex. She alleged the county did not offer her the same "sweetheart" severance package it offered similarly situated male colleagues when it sought to terminate their employment.

WHAT HAPPENED

The 4th U.S. Circuit Court of Appeals overturned a lower court's dismissal of a suit alleging bias in severance.

WHAT'S NEXT

The appeals court remanded the case for consideration of claims made by the former human resources director.

According to the ruling, Ms. Gerner alleged these men were transferred to positions with less responsibility at the same salary

and benefits or were kept on the payroll with benefits for six months or more to enhance their retirement benefits.

In unanimously overturning a lower court's dismissal of the case, a three-judge panel of the 4th Circuit ruled that Title VII "protects both current and former employees from discriminatory adverse employment actions. Title VII makes it an unlawful employment practice for an employer 'to discriminate against any individual' on the basis of membership in a protected class," the court said. "Courts have consistently interpreted this intentionally broad language to apply to potential, current and past employees."

The court also said the district court incorrectly held that severance benefits must be a "contract-

tual entitlement" to be the basis of an adverse employment action under Title VII.

Citing the U.S. Supreme Court's 1984 ruling in *Elizabeth Hishon vs. King & Spalding*, the appeals court said that ruling "forecloses a holding that an employment benefit must be a contractual right in order for its denial to provide the basis for a Title VII claim."

The case was remanded to the lower court for further proceedings.

Mark D. Dix, managing partner of Bucci & Dix L.L.C. in Chesterfield, Va., and the plaintiff's attorney in the case, said the ruling is "a game changer for employers—certainly in the 4th Circuit, if not the country—with respect to the

See **SEVERANCE** page 18

Business Insurance. **2012**
BEST places to work

Program to recognize top industry workplaces

Registration is open for *Business Insurance's* 2012 Best Places to Work in Insurance program.

The program identifies and recognizes high-quality workplaces in the commercial insurance industry.

As employers compete for talent and strive to be an employer of choice, companies that will be honored this year have created workplaces that do superior jobs of encouraging employees to thrive in a workplace they can love.

In the 2012 Best Places to Work in Insurance program, *Business Insurance* will recognize commercial insurance industry employers in several categories. With a registration deadline of June 8, we invite applications from employers from the following types of companies serving risk and benefits managers:

- Retail agents/brokers
 - Wholesale brokers/managing general agents
 - Reinsurance brokers
 - Property/casualty insurers
 - Group life/health insurers
 - Claims administrators
 - Benefits Brokers and consultants
 - Reinsurers
- Within each category,

companies are segmented by size for ranking purposes into three groups: small companies—those with 25 to 249 employees; medium-size companies—those with 250 to 999 employees; and large companies—those with 1,000 or more employees.

To make the Best Places to Work in Insurance list, each company must demonstrate that it meets or exceeds a minimum standard of excellence in a variety of employment-related metrics, measured against other employers in this industry as well as other companies nationwide. The information is drawn from a two-part survey conducted of all participating companies. One part of the survey evaluates employees' workplace experiences and company culture; the other gathers information on the employer's benefits, policies, practices and more.

Since 2009, *Business Insurance* has conducted the annual Best Places to Work in Insurance program in partnership with Best Companies Group, an independent workplace excellence research firm that manages numerous similar regional and industry programs in the United States and Canada.

To nominate a company, go to www.bestplacetoworkins.com.

CAPTIVES

Company size drives captives strategy

Obtaining coverage often main priority at mid-market firms

By ROBERTO CENICEROS

SCOTTSDALE, Ariz.—Captive facilities meet a wide range of business needs, from helping domestic middle-market companies arrange otherwise unobtainable insurance protection to providing large global entities with greater control over their worldwide benefits risks.

But while captive insurance arrangements can benefit companies across all industries, middle-market and global firms generally differ in their business

objectives for captive arrangements, speakers told the Captive Insurance Cos. Assn.'s 2012 International Conference, held March 11-13 in Scottsdale, Ariz.

"You would generally see a large global organization with a risk manager who is in charge of insurance transactions, (and) they are going to be focused on lowering their cost of risk," said Justin C. Mead, senior vp in Chicago for R&Q Quest Management Services USA L.L.C.

"Whereas in a middle-market company...their focus is not generally cost containment," Mr. Mead said. "It's either to transfer risk off the company's balance sheet or there are often wealth planning considerations" for the company owners.

Additionally, middle-market companies are often "looking to insure risks that are not presently covered rather than simply lowering the cost of risks that they are purchasing insurance for," Mr. Mead said. Risks not covered can include those described in insurance policy exclusions.

Considerations for companies weighing captive arrangements include whether to use an onshore or offshore domicile, said Patrick J. Haddad, an attorney with Kerr Russell & Weber P.L.C. in Detroit.

Whether a state maintains legislation that facilitates certain business objectives and insurance regulations that favor form-

See **CICA** page 20

RISK MANAGEMENT

Integrated risk audits key to ERM

By MIKE TSIKOUKAKIS

CHICAGO—Integrating risk identification efforts across various business units is an essential part of the process as organizations devise their enterprise risk management programs and define their strategic goals.

Risk identification is an integral part of ERM, Jennifer McCallister, consulting leader of the internal audit consulting group for Humana Inc. in Louisville, Ky., said during the annual Enterprise Risk Management Conference last week in Chicago.

"We refer to ERM as a process...that we apply when setting our strategy. Whether that's at the organizational level or the business level, it's designed to identify potential risks to meet or exceed those business objectives," she said during a session at the conference produced by the Marcus Evans Group.

Humana's internal audit group facilitates ERM

workshops, starting with a business unit examining its strategic objectives and then identifying risks associated with those objectives, Ms. McCallister said.

Humana also tapped existing risk-related information that had already been developed by its various business units.

"That's key. Don't recreate the wheel. Build on what you've already got in the process," she said, noting that risk identification included streamlining risks already identified by those various units.

Devising a risk framework or a risk catalog is another component of the risk identification process.

"What we use this for mainly is a thinking document or a brainstorming tool," which Ms. McCallister said has facilitated Humana's identification of strategic, operational, financial and compliance risks.

See **ERM** page 20



ERM: BI launches its ERM Solution Arc online. Go to www.businessinsurance.com.

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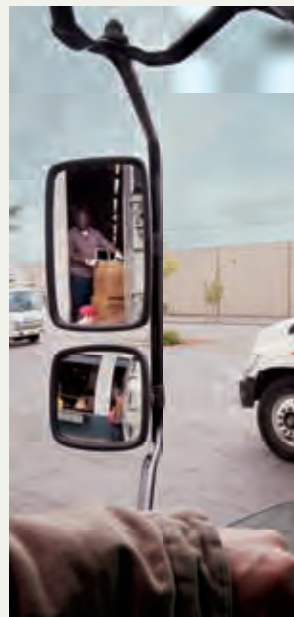
GENERAL LIABILITY

PROPERTY

WORKERS COMPENSATION

GROUP BENEFITS

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Mid-Market EXECUTIVE

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

Drop health cover? Not so fast

By JOANNE WOJCIK

Midsize employers considering “paying” rather than “playing” in response to the passage of federal health care reform legislation may be surprised at how much it will cost them, based on the outcomes of analyses being performed by their brokers and actuaries.

According to these analyses, because employer and employee health care benefit contributions are made on a pretax basis, it will cost employers considerably more than the \$2,000-per-employee fee for dropping coverage, if the law survives legal challenges being heard by the Supreme Court.

Employees’ contributions to the cost of health benefits—generally between 20% and 25% of the total cost of coverage—would become subject to federal, state and Federal Insurance Contribution Act taxes. Although the employee would be required to pay the additional federal and state taxes, employers

would be required to pay their share of FICA and Medicare taxes on those new “wages.”

These taxes would be even higher if employers decide to increase employee salaries to help defray the cost of buying health insurance through the state insurance exchanges that will be established under the Patient Protection and Affordable Care Act.

Employers thinking about converting even a portion of the cost of benefits to wages “have to look at the tax aspect from a corporate deductibility perspective, the FICA landscape and employee turnover,” said Karen Vines, Wichita, Kan.-based vp of benefits at insurance brokerage IMA Inc., which introduced its Play or Pay Analyzer tool this year.

Most employers should expect some change in enrollment in response to PPACA, especially if they have large numbers of part-time employees who are ineligible to enroll in their health care plans,

according to Brian Blalock, Walnut Creek, Calif.-based managing director and health actuary at retirement plan services provider Verisight Inc., which has devel-

oped PPACAcalc, an online tool available to employers, brokers and consultants.

The tool provides 2014 cost estimates for numerous scenarios under the key provisions, including if an employer terminates its plan and converts a portion of the amount paid for health care coverage into wages; if an employer scales back benefits to meet the 60% minimum actuarial value allowed under PPACA; or if an employer decides to stay the course and continue to provide benefits at current levels.

The tool also takes into consideration that the \$2,000-per-employee assessment is not tax-deductible, Mr. Blalock said. “In addition to migration and enrollment changes, the penalties that could be implemented in 2014 could be substantial, especially if an employer has a large proportion of employees who are low-wage or seasonal and is not paying any of those employees’ current health benefit costs.”

In addition, employers that terminate their health care plans can expect employee turnover to grow, especially if they are among the first in their industry to do so, said IMA’s Ms. Vines.

So, for example, if a 450-employee company has a turnover rate of 15%, with projected turnover costs of 20% of payroll, even a 2% increase would increase costs significantly, she said.

“We are giving financial decision-makers the opportunity to budget all options, even if they make no changes and keep benefits where they are,” said Tom Hutchinson, president and senior benefit consultant at Chicago-

based insurance broker Mid American Group Inc., which is using the Verisight PPACAcalc to evaluate its clients’ benefit plans.

For example, “for groups that do nothing and their 30-hour employees become eligible, they see their costs go up dramatically. But if they drop coverage, costs are higher also because of the loss of the tax deduction and increased salaries,” he said. Under PPACA, the \$2,000-per-employee penalty is triggered when an employer does not offer coverage to full-time workers, with full time defined as working at least 30 hours a week.

“It certainly was an eye-opener to understand the potential cost implications on our business starting in 2014, from a pay vs. play perspective,” said Paul Inson, vp of human resources at Denver-based Alpine Access Inc., a home-based call center provider that employs around 5,000 workers, after reviewing its report from IMA’s Play or Pay Analyzer.

“We have a lot of part-time workers and thousands of work-at-home employees who are on limited medical plans today,” he said. To comply with the minimum essential benefits requirements under PPACA, Alpine Access would have to increase benefits for workers now enrolled in its limited medical plans, Mr. Inson said. Conversely, “if we exit and pay the penalty, those are additional costs that we don’t have today,” he said.

In addition, the report included likely turnover costs if a large portion of Alpine Access’ employees opted to leave to work for a competitor that offered health care benefits. Conversely, by offering health benefits, the company could gain highly qualified employees from competitors that choose not to, he said.

“We certainly didn’t understand the nuances of that,” Mr. Inson said. “But once our brokers did the math, the report (that came) out was stunning, and it certainly caused us to pay attention.”

Mr. Inson said Alpine Access has not decided what course to take.

“We’re in a tough industry, with low margin and significant competitive pressures. But we want to be fair to our people, so at this point we’re weighing all of our options carefully,” he said.

After Mid American used the PPACAcalc tool on cost projections for Rosemont, Ill.-based Cole Taylor Bank, Linda Hammerton, the bank’s senior vp of total rewards, said she was surprised by how much the tax liability would increase for the bank and its employees, as well as how much cost-shifting would occur if the

PAY VS. PLAY REACTIONS

“IT CERTAINLY WAS an eye-opener to understand the potential cost implications on our business starting in 2014, both from a pay vs. play perspective.”

Paul Inson, vp of human resources,
Alpine Access Inc.

“NOT ONLY DOES that shift the cost to the person, it changes the benefit from being pretax to post-tax, so the government is collecting taxes on the value of health care benefits, which were always sheltered before.”

Linda Hammerton, senior vp of total rewards,
Cole Taylor Bank

“TO ME, IT’S MORE ABOUT HOW we design our plans moving forward, making sure we have the right plan options and the right coverage levels to minimize the impact of penalties while still maintaining coverage for our staff.”

Greta Jones, director of human resources,
Children’s Home and Aid Society of Illinois

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Continued on next page

CONTINUED FROM PREVIOUS PAGE

bank were to direct employees to state insurance exchanges to buy health care coverage.

Cole Taylor Bank, a unit of Taylor Capital Group Inc., has 650 employees in 20 states. Just over 100 of those employees in Michigan are enrolled in the bank's health benefits program, while 374 Illinois employees are enrolled in the bank's health benefit plans. The bank offers a choice of four plans, including two health maintenance organization plans, a preferred provider organization plan and a high-deductible health plan, all of which are self-funded and administered by Blue Cross & Blue Shield of Illinois.

Ms. Hammerton said she originally thought the \$2,000-per-employee penalty imposed under PPACA on employers that terminate their plans was low, and that it might persuade some employers to drop coverage. But after her broker ran the numbers, she saw that while it would lower the bank's benefit costs, the cost shift would be so great to employees that the bank would probably have to raise salaries for nonexecutive employees earning greater than 400% of the federal poverty level, thereby increasing costs and payroll taxes for the bank and its employees.

For purposes of doing the analysis, total household income was calculated at 150% of an employee's salary.

"I'd been thinking that the penalty is too low, and so I was assuming that if a company only had to pay the \$2,000 penalty to drop coverage, that most would consider that seriously," Ms. Hammerton said. "Not only does that shift the cost to the person, it changes the benefit from being pretax to post-tax, so the government is collecting taxes on the value of health care benefits, which were always sheltered before."

Ms. Hammerton said she is performing a strategic evaluation of plan costs to present to Cole Taylor Bank's top executives this summer. However, no changes to benefits are likely to occur until 2014, when PPACA takes effect.

Frank Poremski, chief financial officer at Children's Home and Aid Society of Illinois in Chicago, said the analytics helped him better understand PPACA's impact on the nonprofit's benefit costs, regardless of which path it eventually chooses to take. The organization has 900 mostly full-time employees, many of whom are low-income, which may make them eligible for federal premium subsidies if they purchase coverage via the insurance exchanges.

"To me, it's more about how we design our plans moving forward, making sure we have the right plan options and the right coverage levels to minimize the impact of penalties while still maintaining coverage for our staff," said Greta Jones, director of human resources at Children's Home and Aid. "This gives us a sense of direction instead of shooting at a dartboard in the dark. Now we know where the dartboard is located and the different circles on it, so we know where to aim."

Market Moves

Arch to buy Ariel Re's credit, surety business

HAMILTON, Bermuda—Arch Capital Group Ltd. will buy Ariel Reinsurance Co. Ltd.'s credit and surety reinsurance operations based in Zurich.

"Upon the closing of the transaction, Ariel Re's Zurich-based team will transfer to the Zurich

office of Arch Reinsurance Europe Underwriting Ltd. (Arch Re Europe) and will be fully operational with immediate effect, ensuring a seamless transition for service to both clients and intermediaries," said Ariel Re in a statement announcing the transaction. "Ariel Re's existing trade credit and surety portfolio will be reinsured by Arch Reinsurance Ltd."

The transaction is subject to regulatory approval and other customary closing conditions.

USI buys Euclid's retail P/C, employee benefits arms

BRIARCLIFF MANOR, N.Y.—USI Insurance Services L.L.C. has acquired the retail property/casualty and employee benefits divisions of Itasca, Ill.-based Euclid Insurance Services Inc. for an undisclosed amount.

Grouped together as the Euclid retail business division, the company's property/casualty and employee benefits segments are expected to contribute about \$7.3 million to USI's annual revenue, the Briarcliff Manor, N.Y.-based company said in a statement.

Euclid will retain its health and life general agency and its commercial managing general agency.

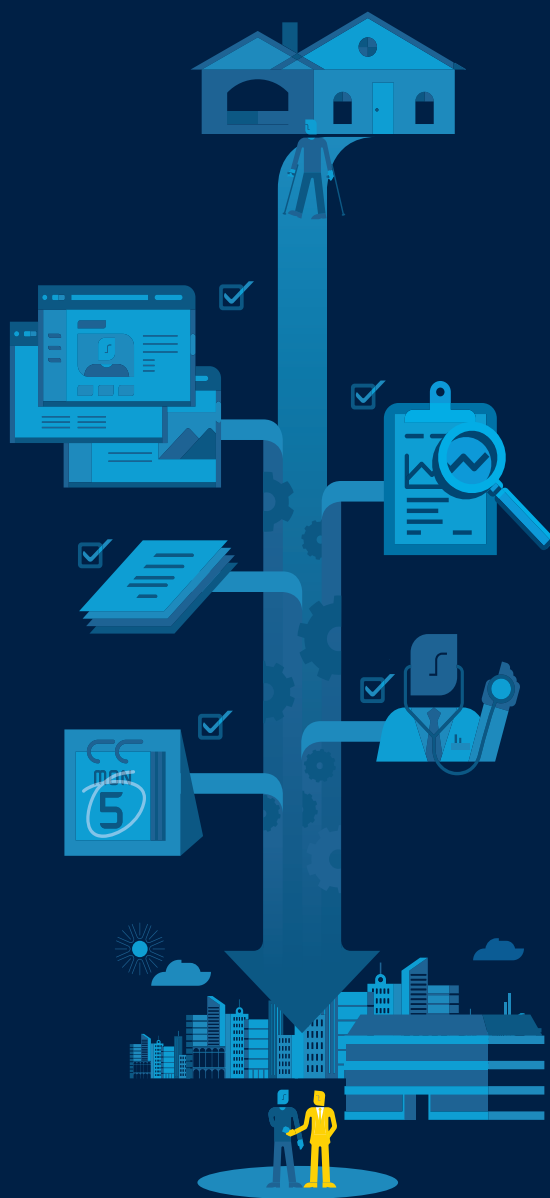
"Euclid retail business is a great complement to our existing presence in the greater Chicago area," Michael J. Sicard, USI's president and CEO, said the statement.

Marsh & McLennan Agency acquires benefits firm

GLEN ALLEN, Va.—Marsh & McLennan Agency L.L.C., a unit of New York-based insurance broker Marsh Inc., has acquired KSPH L.L.C., a middle-market employee benefits agency based in Glen Allen, Va. Terms of the deal were not disclosed.

KSPH will operate within Rutherford, an MMA subsidiary based in Richmond, Va.

KSPH provides employee benefits and retirement plan consulting and brokerage services to middle-market employers throughout Virginia. It generates \$5 million in annualized revenue, said a Rutherford spokeswoman.



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Opinions

EDITORIAL

Health cover works at work

A FINDING THAT STANDS OUT in a new Midwest Business Group on Health survey is the continuing strong commitment of employers to offer health care plans to their employees.

Plenty of pundits said the health care reform law—with provisions that set up state health insurance exchanges and federal premium subsidies for the low-income uninsured—would erode or kill employer-based plans. But, as we report on page 1, the MBGH survey shows no evidence of that.

In fact, only 6% of the survey's respondents say they are very likely or likely to terminate coverage in 2014 when the exchanges are supposed to be up and running and the premium subsidies are to be available.

That doesn't sound like the end of employer-based plans to us.

How does one explain the continuing commitment of employers to provide coverage? One reason is that, contrary to the pundits' assertions, the health care reform law generally doesn't make it financially attractive for employers to terminate their plans.

When adding everything up—paying a \$2,000 non-tax-deductible penalty for each full-time employee plus adding taxable cash to partially offset the premiums employees would pay for buying coverage in the exchanges—the cost to employers of dropping coverage in many cases will exceed the cost of maintaining their plans, many benefit consultants say.

Perhaps just as important is that employers can greatly influence and improve employees' health through plan design, such as wellness incentives. That, in turn, can lead to greater employee productivity.

We are dubious whether exchanges will have the resources and the desire to offer and successfully administer programs to improve enrollees' health.

But there are limits to employers' willingness to offer health care plans. Given that, the government should do everything in its power to encourage employers to continue to provide coverage to their employees and their dependents.

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SCHILLERSTROM



COMMENTARY

Health reform law a tax sneak attack?

The last time I visited my financial planner, he pressed me about whether what he had been hearing about the Patient Protection and Affordable Care Act from his conservative sources was true: That it's a backdoor attempt to create a single-payer health care system in this country.

I disagreed, asserting that it would cripple our economy if all of the jobs connected to the current employer-based health care system were to disappear.

Now, after reporting on the cost-benefit analyses that some middle-market employers are performing to determine whether to continue providing health insurance or pay the \$2,000-per-full-time-employee penalty imposed under PPACA, I'm starting to think there was another motivation behind health care reform. It may, in fact, be a subversive attack on working Americans' biggest tax shelter: employee benefits. If all U.S. employers were to cease providing health benefits and convert those contributions into wages, just think how much more the government would collect in income and payroll taxes.

About 60 million employees receive health insurance coverage for themselves and their dependents through their employers, and the cost of that coverage has been exempt from federal, state, local and Federal Insurance Contribution Act taxes. The average per-employee cost of coverage in 2011, according to a Mercer L.L.C. survey, was \$10,146. When you multiply 60 million by \$10,146, that comes to approximately \$608.76 billion in health benefit costs that currently are not taxed.

If employers decided to drop coverage and instead

pay that sum to employees so they could use it to buy coverage via health insurance exchanges, the federal government would collect more than \$120 billion in additional income taxes, based on an average 20% federal tax rate; and more than \$90 billion in additional FICA taxes, based on a 15% tax rate, split equally between employers and employees. In addition, that income would become subject to state and local taxes.

Add to that the \$2,000-per-employee penalty, and the federal government would get an additional \$120 billion in tax revenues. Altogether, this would contribute well over \$330 billion to federal coffers.

Even if employers dropping coverage didn't convert the cost of health benefits into wages, the portion of the tab—usually about 25% of the cost of coverage—that employees historically have contributed from their wages would become subject to federal, state and FICA taxes, as would their pretax contributions to flexible

spending accounts and health savings accounts. Several years ago, I heard a senator tell a group of employers that as the cost of health benefits has grown, so has Congress' awareness that it has eluded its taxing authority.

The next time I visit my financial planner, I'm going to tell him that lawmakers probably had a very different intent for the PPACA. If enough employers choose to opt out of the system, it will become one of the biggest tax increases in U.S. history.

Contact: jwojcik@businessinsurance.com



**JOANNE
WOJCIK**
SENIOR EDITOR

P/C insurers hit hard by catastrophes

Huge losses, weak investments limit profits across sector

By **MARK A. HOFMANN**

Commercial property/casualty insurers are not likely to remember 2011 fondly.

The year was marked by record global catastrophe losses totaling more than \$100 billion. At the same time, the industry had to cope with continued extremely low interest income, which put a damper on investment returns, though rates began to inch up at the end of the year, analysts noted.

A key question is whether rate increases can be sustained this year, say observers. And, of course, another key question is whether 2012 will be marked by anywhere near the level of catastrophe activity as last year.

Results for the 10 largest U.S.-based commercial property/casualty insurers that report quarterly results were fairly dismal, even though the cumulative net income for the group rose more than 15% to \$25.03 billion. But that increase was due solely to American International Group Inc.'s ability to claim tax benefits amounting to \$17.78 billion in the fourth quarter that allowed it to use past losses to offset future earnings. No other insurer in the group reported a gain in net income and, if AIG is removed from the results, net income for the rest of the group plunged 66.6% to \$7.23 billion in 2011 compared with that of a year earlier.

While the group as a whole reported a 7.5% increase in net written premiums, it also registered a deterioration in its cumulative combined ratio, which stood at 101.5% for the year compared with 96.0% in 2010.

"It was a pretty tough year, given the large level of catastrophe losses we saw in the market and the still-soft and very competitive market conditions in commercial lines," said James Auden, an analyst with Fitch Ratings Inc. in Chicago. "It was rare for companies to post an underwriting profit in 2011, but some did."

"Global catastrophe losses were the catalyst for the poor underwriting results that really hampered operating performance," said Neil Stein, a director at Standard & Poor's Corp. in

PROPERTY/CASUALTY INSURERS' 2011 RESULTS

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

Insurer	Net premiums written 2011	% increase (decrease)	Net income 2011	% increase (decrease)	Combined ratio 2011*
American International Group Inc.	\$34,840	10.2%	\$17,798	128.6%	109.0% ¹
Liberty Mutual Insurance Co.	\$31,183	6.8%	\$365	(78.2%)	107.4%
Travelers Cos. Inc.	\$22,187	2.6%	\$1,426	(55.7%)	105.1%
ACE Ltd.	\$15,372	12.1%	\$1,585	(49.0%)	94.6%
Chubb Corp.	\$11,758	4.5%	\$1,678	(22.8%)	95.3%
CNA Financial Corp.	\$6,222	5.5%	\$614	(11.0%)	98.4%
Hartford Financial Services Group Inc. ²	\$6,176	6.6%	\$662	(60.6%)	104.5%
W.R. Berkley Corp.	\$4,357	13.1%	\$395	(12.1%)	98.3%
Cincinnati Financial Corp.	\$3,098	4.6%	\$166	(56.0%)	109.2%
American Financial Group Inc. ³	\$2,770	15.0%	\$343	(28.4%)	93.4%
Cumulative	\$138,672	7.5%	\$25,032	15.7%	101.5

*Includes dividends. 1 Chartis Inc. combined ratio. 2 Commercial P/C only. 3 P/C only.

Source: Company reports

New York. "Declining investment income also contributes to weaker operating performance."

As a whole, commercial property/casualty insurers performed "pretty weakly" and did not live up to expectations, said Meyer Shields, director at Stifel Nicolaus & Co. in Baltimore. He said the disappointing performance stemmed primarily from global catastrophe losses. He said there also was a slowdown in prior-period reserve releases.

"It was a down year," said John Ward, CEO of Cincinnati Partners L.L.C. in Loveland, Ohio.

Weak investment results, low interest rates and concern about insurers' heavy allocation to municipal bonds in their investment portfolio all impacted performance, he said.

"I see continued pressure on investment results and I also see, because of the heavy cat losses in 2011, an increase in reinsurance renewal rates, which will be a negative for the industry," said Mr. Ward. "I do believe we are

in the early stages of a pricing cycle change, but I would expect that to be slow to develop because of the unusually strong capital position the industry currently enjoys."

"Earnings are going to be up, I would expect," said Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Dominion Securities Inc. in Richmond, Va. "You had a fairly low bar to clear. I don't expect earnings will get back to 2010 levels unless there is a particularly low level of catastrophes."

"We would expect results to improve a bit in 2012 if there's a return to more historical levels of catastrophe losses and if pricing improvements lead to a little better underwriting results," said Mr. Auden. "We have questions about sustainability of recent upward pricing trends, given that there's still a lot of capital in the market."

"We did start to see rates turn up, but it's a

See **INSURERS** next page

INDUSTRY FINANCIALS

P/C INSURERS

SECTOR ANALYSIS

New developments, emerging trends and the outlook for 2012



Paul Bauer
Moody's Investors Service Inc.
[on overall market]

"Generally, it was a decent year—the biggest drivers of results were catastrophes, which were at record levels. Reserve releases continued to decline, which is what we expect. We think that will probably continue to decline. From a capital standpoint, we think the industry had a good year."



Mark Dwelle
RBC Capital Markets
[on rate trends]

"From a reported results standpoint, things were probably as good as could be expected, given pressure from interest rates and the high level of catastrophes. Our sense is the more important factor is what was happening below the surface—some signs of improvement in rates and some efforts to get an improvement in terms and conditions."



John Ward
Cincinnati Partners L.L.C.
[on loss impact]

"For 2011, the results were off the mark and underperformed. The year could be characterized by modest growth in premiums and above-average cat losses. Cat losses in 2011 were roughly twice the normal annual cat load. Somewhat surprisingly, the industry continued to release reserves for the sixth straight year. I don't expect that trend to continue."

INDUSTRY FINANCIALS

RESULTS:

SECTOR-BY-SECTOR LOOK AT PERFORMANCE IN 2011

SPOTLIGHT

IN THIS SPECIAL REPORT,

Business Insurance examines the forces that shaped the 2011 results for property/casualty insurers, reinsurers (page 12), brokerages (page 14) and health insurers (page 16). In addition, each sector report includes a more detailed look at the best-performing company in 2011 and the factors behind its success. Companies were selected based on the views of analysts, among other considerations.

Global growth, investments in business benefit ACE in tough year

By MARK A. HOFMANN

In a bad year for property/casualty insurers, ACE Ltd.'s performance last year caught the eyes of industry analysts.

Zurich-based ACE was cited more than any other insurer as having outperformed its peers in an informal poll of analysts.

"They had reasonably strong results for the year," said Alan Murray, vp and senior credit officer at Moody's Investors Service Inc. in New York.

He noted that, like many of its peers, ACE suffered from significant catastrophe losses with about

\$860 million in catastrophe losses last year.

Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Dominion Securities Inc. in Richmond, Va., said ACE "managed its catastrophe exposures better than most. It did a good job integrating its various small acquisitions and managed to achieve good organic growth on a global basis."

"ACE had very good fourth-quarter and full-year results, particularly considering the environment, euro crisis, slow economic growth in developed markets, challenging insurance market condi-



Mr. Greenberg

tions and, of course, the costliest natural catastrophe on record for the industry," said ACE Chairman and CEO Evan G. Greenberg during a results conference call in February.

ACE's 2011 net income fell 49% to \$1.59 billion from that of 2010, the insurer announced last month. Gross written premiums for the year grew 6.8% to \$20.83 billion. Its combined ratio for 2011 stood at 94.6%, a deteriora-

tion from 2010's 90.2%.

During the conference call, Mr. Greenberg noted that while ACE's full-year operating income dropped 11% to nearly \$2.4 billion in 2011 compared with that of 2010, if the impact of the unusual level of cat losses was excluded, "operating income was actually up 5% compared with 2010.

"Both years included roughly the same amount of prior-period reserve development, so that underlying growth in income came from current accident-year results," predominantly from acquisitions, as well as ACE's accident and health business and

improved property/casualty portfolio management in the United States, Mr. Greenberg said.

Moody's Mr. Murray also noted ACE's favorable reserve development.

"They also did have favorable reserve development of business written in prior years," he said. "In general, these have been in casualty lines and, with a favorable claim trend and tort liability environment in recent years, we've seen continued favorable reserve development." But he also noted that ACE posted "significant realized investment losses."

Nonetheless, "ACE benefits from the fact that it does not own any meaningful levels of debt from countries that are under sovereign stress," said Mr. Murray. At year-end, ACE held no sovereign debt of Greece, Ireland or Portugal, he said.

"That has helped them have a strong capital base," he said.

He also noted that while other insurers have chosen to buy back their shares "to a greater extent than investing in growth in the underlying business. ACE has generally held the line and been spare in buying back its shares, instead deploying meaningful capital to acquisitions, particularly in Asia and the U.S. crop insurance sector."

Insurers: Down year reported

CONTINUED FROM PREVIOUS PAGE

long time before that can apply to renewal business," said Mr. Shields. "It will be another year before they fully flow into earned premium."

Paul Bauer, vp and senior credit officer with the U.S. property/casualty insurance team at Moody's Investors Service Inc. in New York, said some "red flags" are flying, notably some insurers reporting unexpected adverse workers compensation development, and "it's not clear what's driving that." Mr. Bauer also said another area to watch is directors and officers liability insurance, which "has seen some pretty dramatic rate decreases." But he also noted that the industry "had a good year with very little exposure to investment problem areas such as European sovereign debt."

"In September, we stabilized for the first time in three years the outlook for commercial insurance," said Alan Murray, also a vp and senior credit officer at Moody's. "We'd had a negative outlook since early 2009. Our move to 'stable' was not to say all is well, it was really more to say that we thought things were reasonably healthy in the sector, once we saw pricing start to gain traction," he said.

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Enormous losses batter reinsurers

Combined ratios soar after numerous costly catastrophes in 2011

By **BILL KENEALY**

Large losses from natural disasters weighed heavily on the reinsurance sector in 2011.

Insured losses from catastrophes including floods in Australia and Thailand, earthquakes in New Zealand, and a quake-initiated tsunami that devastated part of Japan were evident in a survey of U.S. reinsurers' results by the Washington-based Reinsurance Assn. of America.

In light of the catastrophe losses, combined ratios deteriorated for a majority of reinsurers in the group, with Bermuda-based Everest Reinsurance Co. posting a combined ratio of 133.1%—the highest among the 19 reinsurers participating in the RAA survey (see chart).

"In 2011, we saw the second-highest catastrophe losses in the history of the industry," said Gregory Locraft, executive director covering property/casualty insurance at New York-based Morgan

Stanley. "There were more \$1 billion loss events than any year in history, so it was just the frequency and severity of the catastrophes that is driving results."

Despite the conventional wisdom that geographic diversification lessens a reinsurer's risks, "if you were very diversified in your cat risk (during 2011), you may have come out worse than others," said Brian Schneider, senior director of insurance at New York-based Fitch Ratings Ltd.

James Eck, vp and senior credit officer at Moody's Investors Service, noted that while some reinsurers that were not exposed in Japan and Thailand fared better than others last year, none was unscathed.

"Most of the reinsurers are now global in their reach. So when something big happens, they are going to have some loss," Mr. Eck said. "It's just a question of how much. It's just a year where reinsurers got hit everywhere."

Adding to the financial headwinds for reinsurers was the ongoing challenge of low investment income.

"The drop in interest rates is a drag on earnings," Mr. Locraft said. "Investment yield is at a

TOP U.S. REINSURERS' 2011 RESULTS

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

Reinsurer	Net reinsurance premiums written 2011	% increase (decrease)	Net income (loss) 2011	% increase (decrease)	Combined ratio 2011
National Indemnity Co. ¹	\$5,048	29.0%	\$4,770	(19.7%)	113.6%
Transatlantic/Putnam Reinsurance	\$3,465	1.4%	(\$12)	(103.1%)	115.1%
Munich Re America Corp. ²	\$3,102	6.4%	\$613	3.9%	98.9%
QBE Reinsurance Group ³	\$2,199	107.8%	(\$7)	NM	91.5%
Odyssey Reinsurance Group ⁴	\$1,936	12.3%	(\$27)	(108.0%)	117.3%
Everest Reinsurance Co.	\$1,653	(2.9%)	(\$326)	NM	133.1%
Swiss Reinsurance America Corp. ⁵	\$1,641	3.5%	\$601	63.8%	84.4%
Berkley Insurance Co.	\$1,526	15.0%	\$233	(28.1%)	102.3%
General Re Group ⁶	\$1,162	(11.4%)	\$469	113.2%	86.0%
Partner Reinsurance Co. ⁷	\$893	41.1%	\$108	(28.5%)	99.9%
Total all 19 companies	\$26,391	13.2%	\$6,686	(26.6%)	106.7%

1 Results exclude assumptions from affiliated General Re Group. 2 Includes combined results of Munich Reinsurance America Inc., American Alternative Insurance Corp. and Princeton Excess & Surplus Lines Insurance Co. 3 Includes combined results of QBE Reinsurance Corp., QBE Insurance Corp. and QBE Specialty Insurance Co. 4 Combined results for 2011 include Odyssey Reinsurance Co., Clearwater Select Insurance Co., Hudson Insurance Co. and Hudson Specialty Insurance Co. 5 Includes results of Swiss Reinsurance America Corp., which is impacted by significant affiliated transactions with other Swiss Re Group members. 6 All data is the North American property/casualty segment of General Re Group. Results exclude certain intercompany transactions, other adjustments and cessions to certain affiliated members of Berkshire Hathaway Group. 7 Amounts consolidated for Partner Reinsurance Co. of the U.S. and PartnerRe Insurance Co. of New York.

NM=Not meaningful.

Source: Reinsurance Assn. of America. For further information, contact the RAA at www.reinsurance.org.

INDUSTRY FINANCIALS
REINSURERS

multidecade low, so the ability of insurers to earn money on the float has been badly damaged."

Amit Kumar, vp and senior analyst for property/casualty insurance at New York-based Macquarie Capital (USA) Inc., said reinsurers that were able to surmount the investment income challenge fared better than their counterparts.

"The driver for a positive net income for 2011 was investment income, which offset the underwriting loss stemming from an active catastrophe loss year," Mr. Kumar said. "With reinvestment rates remaining low and capital impacted from these losses, reinsurers are between a rock and a hard place."

Mr. Locraft said a route reinsurers could take to improve their financial performance is improving their risk selection, charging higher prices in disaster-prone areas or exiting a market if prices are insufficient.

"What you will see is a sharpening of the pen when it comes to risk exposure," he said. "In areas where big losses were taken, such as New Zealand and Japan, you are seeing capacity shrink."

In addition, Mr. Kumar noted that reinsurers will continue to push for higher prices as a way to improve results.

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SECTOR ANALYSIS



Amit Kumar
Macquarie Capital (USA) Inc.
[on rate trends]:

"There is no easy way out (for reinsurers) except to continue to attempt to drive pricing higher."



James Eck
Moody's Investors Service Inc.
[on catastrophe losses]:

"A lot of reinsurers were above 100 in combined ratio. If you have the type of cat losses we saw last year, it's very hard for reinsurers to make it up."

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Brokers boosted by price increases, better economy

By **BILL KENEALY**

Rising prices and improving economic conditions buoyed the collective fortunes of the largest publicly traded insurance brokers during 2011.

Marsh & McLennan Cos. Inc., Aon Corp., Willis Group Holdings P.L.C., Arthur J. Gallagher & Co. and Brown & Brown Inc. all posted higher revenue last year compared with 2010 (see chart). Willis and Gallagher, however, saw their 2011 profit decline compared with 2010.

MMC led the sector in terms of revenues, posting \$11.53 billion for the year (see related story).

Meyer Shields, director at St. Louis-based Stifel, Nicolaus & Co. Inc., said the improving economy and higher insurance rates are good news for brokers.

"It's not the strongest recovery we've ever seen. It's not the strongest rate cycle we've ever seen. But it's helping," Mr. Shields said.

The industry has realized that with limited investment income, boosting underwriting income is the only path to financial success, he said.

Bruce Ballentine, vp and senior credit officer at New York-based Moody's Investors Service, said that while brokers have been steady performers through the financial crisis and slow economic recovery, the insurance pricing

2011 BROKER RESULTS				
<i>Results for the largest publicly traded insurance brokers, ranked by total revenue. Figures in millions of dollars.</i>				
Broker	2011 revenue	% increase (decrease)	2011 net income ¹	% increase (decrease)
Marsh & McLennan Cos. Inc.	\$11,526	9.3%	\$993	16.1%
Aon Corp.	\$11,287	32.6%	\$979	38.7%
Willis Group Holdings P.L.C.	\$3,453	3.6%	\$219	(51.9%)
Arthur J. Gallagher & Co.	\$2,135	14.5%	\$144	(17.2%)
Brown & Brown Inc.	\$1,014	4.1%	\$164	1.2%

**Percentage change reflects unrounded figures.
¹ Includes the impact of acquisitions or discontinued operations.
 Source: Company reports*

change is welcome. "The tone of underwriters and brokers over the past few quarters has been that pricing has bottomed out and is even firming in some areas," Mr. Ballentine said.

While insurance price increases were modest and limited to certain lines of business, such as middle-market property/casualty and some specialty lines, the increases benefited brokers, Paul Newsome, managing director and senior insurance analyst at Sandler O'Neill & Partners L.P. in Chicago.

"Better prices hit brokers pretty

quickly because, unlike insurance companies, (brokers) don't earn their commissions over time," Mr. Newsome said.

During an analyst call, J. Patrick Gallagher, chairman, president and CEO of Gallagher, attributed the Itasca, Ill.-based brokerage's 5% uptick in organic growth more to adding new business than improving rates or the economy. "At the beginning of 2011, things still looked to be really tough out there; but during the year, we continued to build significant momentum that culminated with a very strong finish," Mr. Gal-

Continued on next page

INDUSTRY FINANCIALS
BROKERS

Global growth helps fuel gains at brokerage Marsh

By **BILL KENEALY**

Marsh & McLennan Cos. Inc. charted a 9.3% increase in revenue and a 16.1% increase in net income in 2011 as the brokerage reported growth in the United States and abroad.

MMC President and CEO Brian Duperreault described the growth as broad-based and cited gains in four business units: insurance brokerage and risk management unit Marsh Inc., reinsurance intermediary Guy Carpenter & Co. L.L.C., human resources consulting firm Mercer L.L.C. and management consultant Oliver Wyman Group.

"We generated organic growth and adjusted operating income of 12%," Mr. Duperreault said during a conference call. "We maintained low capital requirements and generated high levels of cash and made progress on lowering the company's risk profile." According to a 10-K filing with the Securities and Exchange Commission, New York-based MMC decided to sell its business process outsourcing unit in 2011.

"Marsh produced another year of excellent performance," he said. "In the fourth quarter, new business development and high retention rates drove underlying revenue growth across all geographies."

"Marsh is performing well at the ground level," said Adam Klauber, analyst at William Blair & Co. L.L.C.

Speaking during the Assn. of Insurance & Financial Analysts' conference in March, Marsh Inc. President and CEO Peter Zaffino said that while U.S. business accounted for 70% of revenue in 2001, it accounted for only 44% in 2011.

"Emerging markets are a key overall strategy and initiative for the organization," he said. "We had 4% organic growth for all of Marsh, but 6% for emerging markets."

Marsh's global revenue doubled in the past 10 years, fueled by growth in the Asia/Pacific region, the Middle East and Latin America. Mr. Zaffino cited India, which recorded 32% revenue growth since 2007, and the United Arab Emirates, which boosted revenue 27% during the period, as exemplars of the trend.

Mr. Zaffino said acquisitions were pivotal to fueling the growth, citing Marsh's acquisition of the brokerage opera-



'We don't believe that we are out of runway. There are opportunities to grow organically and expand margins.'

Peter Zaffino, Marsh Inc.

tions of Alexander Forbes Ltd. in Africa that was finalized in January.

"With a billion people, rich natural resources and a real opportunity for growth over time, having a footprint on the continent was very strategic for us. (With Alexander Forbes) we now have expertise and market share to expand on the footprint," he said.

Terming it the "index fund nature of revenue and earning," Mr. Zaffino said complementary businesses helped boost the company's growth. For example, Marsh Risk Consulting, which specializes in forensic accounting and forensic claims, saw greater demand after a series of natural catastrophes last year.

Marsh Business Analytics, which specializes in enterprise risk management, and Marsh Captive Solutions, which provides services to captives and self-insured programs, also aided overall growth, he said.

"We are pushing for 10% growth in operating income over the long term," Mr. Zaffino said. "We don't believe that we are out of runway. There are opportunities to grow organically and expand margins."

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lagher said.

Despite the improved organic growth, the company's net income fell due to acquisition and integration costs surrounding its purchase of London-based brokerage Heath Lambert Ltd.

At Willis, several factors contributed to a 51.9% drop in the brokerage's net income compared with the previous year.

Speaking to analysts, Willis Chairman and CEO Joe Plumeri said ongoing issues at its loan protector unit, which services the troubled mortgage-services industry, combined with declining North American commissions and fees to limit Willis' profit.

"Going in to 2011, we expected improvement in economic conditions, perhaps unjustly so," Mr. Plumeri said during the call. "Beyond the economic conditions, we definitely had a poor quarter. It wasn't just the economy."

Mr. Plumeri cited reduced demand in Willis' two largest sectors, employee benefits and construction, as well as lost business due to mergers and acquisitions by Willis clients as factors.

Willis' results likely were an aberration and not indicative of the sector's long-term prospects, Mr. Ballentine said.

Emerging-market growth was one factor that led to double-digit rises in revenue and income for Aon Corp., said President and CEO Greg Case.

"We saw growth in emerging markets and across Asia-Pacific, including double-digit growth in countries such as Thailand, China, Japan and Malaysia," Mr. Case said during an investor call, adding that there was evidence of firming pricing in catastrophe-exposed regions.

Citing better access to global insurance markets and more favorable tax rates, Aon early this year said it would relocate its corporate headquarters from Chicago to London.

The move makes sense, said Adam Klauber, an analyst at Chicago-based William Blair & Co. L.L.C. "In the long term, (international is) where the growth is," he said.

For most brokers, mergers and acquisitions are a necessary part of international expansion.

In August 2011, Marsh acquired the brokerage business of South Africa-based Alexander Forbes Ltd. In March of 2011, Gallagher said it would buy U.K.-based HLG Holdings Ltd. to expand its international brokerage operations.

Mr. Ballentine said he expects the M&A trend to continue.

"The rated brokers tend to be industry leaders with lots of experience making acquisitions," he said. "It's a core skill in this sector."

Interest in acquisitions—whether it be international or in North America—continues, said Mr. Shields.

"We're still seeing most of the brokers out there looking for small acquisitions—be it a locality, product line or even an individual producer," Mr. Shields said.

SECTOR ANALYSIS

New developments, emerging trends and the outlook for 2012



Meyer Shields
Stifel, Nicolaus & Co. Inc.
[on brokerage services]

"What we're seeing is that brokers that have more resources can offer better deals to their clients, and have more leverage with insurance companies when negotiating. When you look at brokers as the only pathway that insurers have to access business, then it's not surprising that bigger brokers that control more revenue are going to be compensated for it more generously."



Adam Klauber,
William Blair & Co. L.L.C.
[on M&A strategy]

"M&A is a nice, nuanced way of augmenting growth, because in most deals there's not much integration risk. The large companies got to be large through M&A."



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Health insurers' earnings improve on low utilization

Economic forces, cost-shifting efforts help drive trend

By MATT DUNNING

The nation's biggest publicly traded health insurers significantly outperformed market expectations in 2011, principally on the strength of lower-than-anticipated utilization rates and medical costs.

Collectively, total 2011 revenues for the seven largest U.S.-based managed care companies grew by 4.6% over results from 2010 to \$278.4 billion. Net income for the group increased 7.6% over the prior year to \$13.2 billion, while enrollment grew 3.2% over 2010 to 118.6 billion lives.

"Coming into the year, we expected earnings to be down for the most part, but instead they grew pretty robustly in most cases," said Matthew Coffina, an equity analyst at Chicago-based Morningstar Inc.

Insurers and analysts had expected utilization rates and medical costs to increase last year as the country's job market slowly began to improve, and had planned for significant regulatory pressure on earnings, particularly in the form of minimum loss ratio requirements built into the health care reform act.

Both predictions turned out to

be off the mark, analysts said.

Though some companies reported modest increases in utilization in the second half of 2011, medical claims on the whole remained depressed despite improvements in the job market.

Analysts attributed this to employees still contending with economic challenges, as well as longer-term shifts in health care management and cost-sharing trends.

"It's possible that we're reaching a tipping point in terms of health care affordability, both for employers and employees," Mr.

Coffina said, noting that employees are generally taking on more of the financial burden for their own health care expenses as employers look for

ways to mitigate the effect of rising treatment costs.

"That could keep utilization depressed more than you might otherwise expect," Mr. Coffina said.

Another factor potentially impacting utilization trends is an increased focus among employers and insurers on wellness, behavioral changes and preventive health management.

In a conference call with analysts and investors, Minnetonka, Minn.-based UnitedHealth Group Inc. President and CEO Stephen Hemsley said nearly a million of its members had enrolled since 2010 in the company's Personal Rewards programs, which offer

INDUSTRY FINANCIALS

HEALTH INSURERS

MAJOR U.S. HEALTH INSURERS' 2011 RESULTS

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

Insurer	2011 revenue	% increase (decrease)*	2011 enrollment	% increase (decrease)*	2011 net income	% increase (decrease)*
UnitedHealth Group Inc.	\$101,862	8.2%	34,570	4.9%	\$5,142	11.0%
WellPoint Inc.	\$59,865	3.7%	34,251	2.8%	\$2,646	(8.3%)
Humana Inc.	\$36,832	9.6%	11,185	8.7%	\$1,419	29.1%
Aetna Inc.	\$33,779	(1.4%)	18,230	(1.3%)	\$1,986	12.4%
CIGNA Corp.	\$21,998	3.5%	12,680	1.7%	\$1,428	11.8%
Coventry Health Care Inc.	\$12,187	5.2%	4,765	4.6%	\$543	23.7%
Health Net Inc.	\$11,901	(12.6%)	2,962	1.0%	\$72	(64.7%)

*Percentage change reflects unrounded figures.

Source: Company reports

financial incentives for certain "healthy actions."

"Consumer engagement is central to our health benefits value proposition because improving patients' decisions, whether related to lifestyle or access to care, is critical to their total health," Mr. Hemsley said.

Effects of MLR rule

Analysts said the industry also misjudged the degree to which the implementation of minimum loss ratios mandated by the Patient Protection and Affordable Care Act would affect earnings.

Given lingering uncertainty over exactly how the ratio floors—80% for small employer groups and individuals and, beginning in 2014, 85% for large employer groups—would be calculated, many companies implemented consolidated loss ratio minimums at a lower percentage than required and set aside retentions for premium rebates, ana-

lysts pointed out.

"Because the underwriting results were better than expected—although the MLR requirement changed the internal metrics for the companies, overall—there were wide enough profit margins that it didn't slow down growth," said David Shove, a BMO Capital Markets analyst in New York.

Among market leaders in the health care industry, analysts said Louisville, Ky.-based Humana Inc. submitted one of the more impressive year-end reports, owing largely to a business model weighted heavily toward Medicare Advantage (see story, page 17).

"Humana was a tremendous performer in 2011," said Jason Gurda, an analyst with New York-based Leerink Swann L.L.C. "It's mostly a product of their coordinated targeting of Medicare Advantage, which is an increasing focus of everyone in

the industry."

Humana in 2011 reported a 9.6% increase in revenues to \$36.8 billion, an 8.7% increase in enrollment to 11.2 billion lives and a 29.2% boost in net income to \$1.42 billion, leading the largest seven U.S. health insurers in all three categories.

In a conference call with analysts and investors, Humana Chairman and CEO Michael McCallister attributed the favorable results to a lower year-over-year consolidated benefit ratio in the company's retail segment, higher average Medicare membership, and higher earnings in the company's Health and Well-Being Services segment.

"Having completed 2011 with record earnings, revenues and health plan membership, we look forward eagerly to continuing our transformation from a product-focused health benefits company to a customer-focused health care company," Mr. McCallister said.

Eyes on Washington

In the coming year, analysts said much of the industry's attention likely will be focused on Washington, where the constitutionality of key elements of the health care reform law will be argued before the U.S. Supreme Court.

Additionally, just as it did last year, the ongoing congressional debate over deficit reductions is likely to include some discussion of a reduction in Medicare and Medicaid reimbursements.

However, analysts said, insurers' 2012 earnings are not likely to respond significantly one way or the other to political or legal developments.

Rather, they said, the industry's financial performance in 2012 will be generally favorable without a sharp uptick in hiring or abatement in recent pricing, cost-sharing and health management trends.

SECTOR ANALYSIS

New developments, emerging trends and the outlook for 2012



Matthew Coffina
Morningstar Inc.
[on industry performance]:

"Considering the regulatory headwinds and, in

particular, the minimum commercial loss ratios that took effect in 2011, I think that the companies did quite well."



Jason Gurda
Leerink Swann L.L.C.
[on low utilization drivers]:

"It's largely a combination of a lagging economic

recovery and the overall rise in cost-sharing for employees. As a result, we're seeing a movement toward a more evidence-based health care system, which ultimately leads to fewer claims."



Dave Shove
BMO Capital Markets
[on 2012 predictions]:

"Fundamentally, we think these companies will

continue to do well. All indications are that these companies have assumed costs will rise at more historic rates. So if they do, the companies will still be all right in terms of their earnings. But if we have a year like last year, they'll be even better than OK."

Cost management pays off for Humana

Strong advances across key metrics for health insurer

By **MATT DUNNING**

Even if Humana Inc. hadn't celebrated its 50th anniversary in 2011, it would have been a memorable year for the company's leaders.

Michael McCallister, the Louisville, Ky.-based health insurer's chairman and CEO, said Humana made gains in annual revenue, income and enrollment last year—the greatest such gains among U.S.-based managed health care companies that report quarterly results (see chart, page 16).

Humana's \$87.61 share price on the New York Stock Exchange at year-end also was a record for the health care insurer.

"Our 2011 results reflected strengths in key areas of strategic focus as well as unusually low commercial cost trends industry-wide," Mr. McCallister said in an email.

In the past five years, Humana has grown its annual revenue by 46.6%, to \$36.83 billion in 2011 from \$25.15 billion in 2007. Net income rose 70.1%, to \$1.41 billion last year from \$834 million in 2007, while its health plan enrollment—which contracted by 11.4% in 2010 from 2008, primarily in its retail medical segment—made significant strides last year toward recovering to levels it achieved before the recession hit.

"Humana has done extremely well," said David Shove, an analyst at BMO Capital Markets in New York.

Much of Humana's success in recent years is attributable to its steadfast investment in individual and group Medicare Advantage programs, he said.

"They're very good at that business," Mr. Shove said. "They've got great sales staff, and they're very adept at managing their costs."

Medicare Advantage

One way Humana has addressed cost management is by encouraging routine utilization among its Medicare Advantage members to prevent more expensive emergency claims in the long-term, he said.

Mr. McCallister said a greater number of retiring workers seem to prefer Medicare Advantage programs to traditional models.

"Seniors like the care coordination, the personal attention, the variety of choices and the provider accountability inherent in Medicare Advantage offerings," Mr. McCallister said. "In Humana's case, very few of our Medicare Advantage members ever choose to return to traditional Medicare."

Humana's Medicare Advantage stake dates to its 1987 acquisition of Miami-based health insurer

International Medical Centers Inc. Ten years later, when many insurers were shedding such business in the wake of the Balanced Budget Act of 1997, Humana kept its Medicare programs.

"That positioned us nicely to act upon the opportunities associated with the (Medicare Prescription Drug, Improvement and Modernization Act of 2003), given our intensive knowledge of the business and our senior customers," Mr. McCallister said. "The result has been substantial



REUTERS

'In Humana's case, very few of our Medicare Advantage members ever choose to return to traditional Medicare.'

Michael McCallister, Humana Inc.

growth across the nation, increasing our Medicare membership from about 560,000 in 2005 to

over 5 million today."

Humana's Medicare Advantage accounted for more than 57% of

the company's annual revenue in 2011, according to company reports.

Humana has forecast a relatively stable 2012. However, political and legal challenges to the Patient Protection and Affordable Care Act being could affect private Medicare programs in the years to follow. But Mr. McCallister said he believes Humana is adequately prepared for any regulatory turbulence that may arise.

"By quickly establishing appropriate processes in 2010, we have made good progress along a path that we believe will ensure a smooth ongoing transition for our members over the next few years," he said.



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Dr. Qixiang Sun, Dean of School of Economics, Director of CCISSR, Peking University, China

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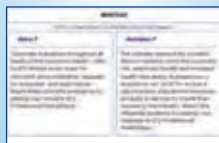
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Severance: Packages fall under anti-bias law

CONTINUED FROM PAGE 4

offering of severance benefits."

"This is the first clear enunciation that I could find in any federal appeals court stating that Title VII protects against disparate treatment in the offering of severance benefits, regardless of whether they're offered contractually, voluntarily or otherwise," Mr. Dix said.

The ruling also is important because it is "the first clear statement by this appeals circuit, the 4th Circuit, that Title VII protects against disparate treatment of former employees," he said.

Brian T. Chandler, a member of law firm Protorae Law P.L.L.C. in Vienna, Va., who was not involved in the case, said the ruling means that employers in the 4th Circuit "have to be cognizant of the various protected classes of Title VII, and be aware they may be potentially liable" if they offer different severance packages to those in the protected classes.

"Given the law that they've relied upon in the decision," said Eric A. Welter, president of Welter Law Firm P.C. in Herndon, Va., "I don't think it's an aggressive reach for them to come to that conclusion."

"As a lawyer that drafts severance packages, while I may disagree with the decision," it

is "helpful to be able to advise my clients as to where the boundaries are on treating people consistently when you're offering them severance packages," Mr. Welter said.

Robin E. Shea, a partner with Constangy, Brooks & Smith L.L.P. in Winston-Salem, N.C., said she did not find the decision to be remarkable. "It doesn't surprise me that an employer would be prohibited from granting even a discretionary benefit in a discriminatory way," she said in citing the U.S. Supreme Court's 1997 ruling in *Charles T. Robinson Sr. vs. Shell Oil Co.* and other cases.

In *Robinson*, which reversed a 4th Circuit decision, the nation's high court ruled that it is unlawful for companies to retaliate against former employees who file discrimination charges.

Other observers anticipate the ruling will be influential outside the 4th Circuit.

"I think it'll be an influential decision in that it clarifies that offering different severance packages to people in different protected classes" can result in a claim under Title VII, Mr. Welter said. "Certainly, there are other circuit courts around the country that will be willing to embrace that reasoning without hesitation."

Equality vital in setting severance packages

RICHMOND, Va.—At minimum, the 4th U.S. Circuit Court of Appeal's ruling in *Karla Gerner vs. County of Chesterfield, Va.*, should serve as a reminder to employers to treat all employees equally, observers say.

Severance packages are an issue "that employment lawyers and employers are dealing with all the time," said Randall E. Phillips, a member of Moore & Van Allen P.L.L.C. in Charlotte, N.C.

Employees who leave voluntarily or are terminated often are given agreements to sign. "Sometimes they sign them and sometimes they don't," so the case does not present an "unusual fact pattern," he said.

Robin E. Shea, a partner with Constangy, Brooks & Smith L.L.P. in Winston-Salem, N.C., said the rul-

ing tells employers "to make sure when they are offering severance packages to employees, they are consistent."

While she noted the case against Chesterfield County still has not been proven, "it does illustrate that it's important to be consistent in what you offer people, or at least offer similarly situated employees a similar deal," because not doing so "can be evidence of discrimination or possibly retaliation."

Maria Greco Danaher, a shareholder with Ogletree, Deakins, Nash, Smoak & Stewart P.C. in Pittsburgh, said employees that treat employees in protected categories inconsistently are "likely to wind up" in the same spot as Chesterfield County.

—By Judy Greenwald

UP COMINGS & GOINGS CLOSE



SCOTT ROUZER

NEW JOB TITLE: Vp of marketing for Chicago-based Hub International Ltd.

PREVIOUS POSITION: Chicago-based regional placement officer for the Midwest for New York-based Willis North America.

CHALLENGES FACING INDUSTRY: Attracting and keeping young, dynamic talent is a major challenge for us in the insurance industry. Another challenge is harnessing the power of technology.

INDUSTRY OUTLOOK: I see that we are a mature industry that has not fully embraced the fact that we need to utilize technology and communication tools we have available to be more effective in delivering products and service. I see we will be a bit challenged avoiding the pitfall that all insurance will be bought on a computer.

ADVICE: Specialize. To be successful in this industry, you have to pick a major, so to speak. You have to specialize in an industry and know it backward and forward.

OUTSIDE THE INDUSTRY, A DREAM JOB: The insurance industry is my dream job. But what would I do if I were not in insurance? It would be something to do with my three kids, something that holds their interest, whether it be in sports or music.

HOBBIES: Sports or snow skiing. Water skiing. Watching hockey or lacrosse. Music.

MOST PASSIONATE ABOUT: My family.

CAN'T-MISS TELEVISION SHOW: "The Big Bang Theory." The humor is enjoyable for my whole family, so we watch it together.

EMAIL OR PHONE, AND WHY: Telephone. It's quicker and much more efficient, and a better way to understand how your conversation and communication is being received.

Hartford: Focus on P/C

CONTINUED FROM PAGE 1

the lack of interest from property/casualty analysts and property/casualty investors in the Hartford's best-in-class P/C business due to its affiliation with unrelated, low-return and complex businesses."

While the divestiture probably would have little immediate effect on Hartford's property/casualty operations, it could have a long-term positive effect, analysts said.

"Our take would be in the short run, it's neutral for the property/casualty operations since just about all of the changes they're talking about are focused on the life side," said Paul Bauer, vp and senior credit officer at Moody's Investors Service Inc. in New York.

"In the long run, we would see it as positive for the property/casualty side," he said, "because today we penalize the property/casualty side of the Hartford somewhat to reflect the risk that it may be called upon to support the life group." The extent to which Hartford winds down or exits the life and annuity businesses "would reduce the risk that the property/casualty side of the house would be called on to support the life side."

"I think it's a generally limited impact," said Brian Schneider, senior director at Fitch Ratings Inc.

MBGH: Most keep cover

CONTINUED FROM PAGE 1

of some health care reform law critics who said employers would terminate coverage to reap potential savings.

In fact, just 2% of respondents said it was "very likely" they would terminate coverage in 2014 and only 4% said termination is "likely." By contrast, 71% said it is "not very likely" or "unlikely" they would fold their plans.

When employers do a cost/benefit analysis, many find the cost of ending coverage is likely to exceed the benefits, Mr. Pikelný said. Employers folding their plans will have to pay a nontax-deductible \$2,000 penalty for each employee working at least 30 hours a week. Also, increasing salaries to offset at least part of their cost of buying coverage in state insurance exchanges authorized by the law would increase employees' taxable income and employers' and employees' payroll taxes, which in many cases could be more costly than maintaining coverage.

Still, the health care reform law has boosted employers' costs and workload. Fifty-seven percent said the law has increased benefit costs, and 48% said the law has resulted in more work for them.

The cost increases for upgrading plans to comply with certain health care reform law mandates,

HARTFORD PROFITS	
<i>Net income generated by individual Hartford Financial Services Group Inc. operations in 2011, in millions of dollars.</i>	
Unit	2011 net income
Commercial property/casualty	\$528
Group benefits	\$90
Total commercial	\$618
Individual life	\$133
Mutual funds	\$98
Retirement plans	\$15
Individual annuity	(\$15)
Total wealth management	\$232

Source: Hartford Financial Services Group Inc. 10-K filing with the U.S. Securities & Exchange Commission.

in Chicago. "I think Hartford is going to continue to support the life company, particularly the annuity operations going into runoff. From an operational standpoint, it would be a positive for the property/casualty business, given that they can focus their resources more on the commercial business going forward," he said "There's still a bit of execution risk in looking to sell the businesses that they're looking to dispose of."

John Ward, CEO of Cincinnati Partners L.L.C. in Loveland,

Ohio, said he views the move as "a positive" for Hartford's property/casualty business. "It won't have the drag of life, but this may also help to shore up the capital base for the property/casualty operations."

Other analysts took more of a wait-and-see approach.

"It's indifferent," said Shellie Stoddard, a senior director, at Standard & Poor's Corp. in New York. "We affirmed the ratings, and they're stable. The reason it's not a positive is that Hartford hasn't disposed of anything yet."

"I can't see that much impact on the property/casualty business," said Meyer Shields, director at Stifel Nicolaus & Co. Inc. in Baltimore. "That life drag is a drag for shareholders, not for customers or employees of the property/casualty businesses."

Oldwick, N.J.-based A.M. Best Co. Inc. placed under review with developing implications the issuer credit rating and the debt ratings of Hartford as well as the issuer credit ratings and financial rating strength of the Hartford insurance pool that includes more than a dozen Hartford companies.

Best also placed under review with negative implications the financial strength rating of Hartford's key life/health insurance subsidiaries, saying there is "execution risk" associated with the proposal and possible "continued volatility related to the individual annuity business that will be retained."

SUPPORT OF REPEAL EFFORTS	
<i>How employer opposition to health care reform law provisions varies*</i>	
Provision	% supporting repeal
Capping FSA contributions at \$2,500 a year	66%
Ban on FSA reimbursement on over-the-counter drugs not prescribed by a doctor	62%
Reporting health insurance costs on W-2s	61%
Imposing an excise tax on the costliest health plans	60%
Imposing penalties on employers not offering coverage	44%
Imposing penalties on individuals not enrolled in a health plan	38%
Covering employees' adult children up to age 26	33%
Creation of state health insurance exchanges	21%
Banning annual and lifetime dollar limits on essential benefits	16%

*The remaining percentage of respondents for each provision support retention or modification of the provision.
Source: Midwest Business Group on Health survey, "The Health Reform Law's Impact on Employers' Health Benefits."

though, have been relatively modest. Sixty percent of employers said amending their plans to offer coverage to employees' adult children up to age 26 increased costs in 2011 by less than 2%.

Also among the survey findings, 58% of employers said their health care plans already have lost their "grandfathered" status, and only 3% think their plans will never lose grandfathered status. Grandfathered plans are exempt from certain health care reform law requirements, such as providing full coverage for preventive services. But to retain that status, plan sponsors are sharply restricted in how much they can boost employee copayments and

deductibles, among other things.

Finally, employer support for repeal of health care reform law provisions varies widely by provision. The most unpopular one—which 66% of respondents want repealed—will, effective in 2013, impose a \$2,500 cap on the pretax contributions employees can make to health care flexible spending accounts. Currently, there is no dollar limit. On the other hand, just 16% favor repeal on the ban of annual and lifetime dollar limits for essential health care benefits.

Summaries of the survey, "The Health Reform Law's Impact on Employers' Health Benefits," are available at www.mbgh.org.



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Business Insurance
INSIGHTS TODAY FOR THE RISKS OF TOMORROW

ERM: Integration vital

CONTINUED FROM PAGE 4

"It all gets down to decision-making—making sure the business is using this information to make good decisions. It's not all about reducing risk. It's not all about mitigating the risk. It's about optimizing the risk, and this is a key part of our ERM program," she said.

For example, Humana decided in 2003 that it would withdraw from certain Medicare markets as reimbursement rates were inadequate to cover costs in those areas. "It wasn't an ideal product line for us," Ms. McCallister said.

However, better reimbursement benefits from the Medicare Modernization Act opened a potential opportunity for Humana in 2005.

"So we had to make the decision," she said. "Do we continue with our original plan to exit the market or do we take the opportunity risk to get back into the Medicare line of business knowing that it is a very highly government-regulated business?"

"If we had not taken that opportunity risk, we would not have grown to the company we are today with \$38 billion in revenue," she said.

Ms. McCallister said Humana's ERM program has fostered an awareness of business objectives and relevant risks, increased management visibility into risks and mitigation efforts, enhanced risk management culture and validated top enterprise risks.

Other speakers at the conference stressed that risk identification needs to remain a function of

CONFERENCE FACTS

CHICAGO—The fifth annual Enterprise Risk Management Conference, held March 19-21, drew approximately 85 attendees to the Sutton Place Hotel in Chicago.

Topics discussed during the conference included risk governance, aligning ERM and business continuity planning, and integrating ERM with an organization's corporate strategy.

The conference was produced by the Marcus Evans Group.

Information about next year's conference will be available four months prior to the event, which is tentatively scheduled for March 2013, Marcus Evans said.

—By Mike Tsikoudakis

management, leaving the board of directors independent and able to act when situations arise (see box).

Identifying common risks across various business units can connect an organization's strategy to its ERM program, said Charles Westrin, director of ERM for Phoenix-based Apollo Group Inc., the parent company of the University of Phoenix.

When looking at the ERM and strategy processes, "we realized that there were a lot of common core elements that these processes have," Mr. Westrin said, noting that ownership of key strategic initiatives and risk areas often overlapped.

The result of that exercise was integrating common strategy and risk processes as well as allocating ownership and resources to address and monitor potential risks, he said.

Board independence needed in enterprise risk programs

CHICAGO—Risk identification and other enterprise risk management processes should remain a function of management and independent of an organization's board of directors, a speaker said during the annual Enterprise Risk Management Conference in Chicago.

Clearly defined expectations and responsibilities for an organization's stakeholders, board and management are essential to successfully managing risks and opportunities, said Kenneth Ledger, vp of enterprise risk management at Pason Systems Corp., a Calgary, Alberta, company that provides data management systems for land-based and offshore well drilling operations.

"The board of directors... needs to be an independent party. They're there to balance what management's self-interests are with the self-interest of the stakeholders," Mr. Ledger said during a session at last week's conference.

While CEOs, who typically are with a company for three to six years, may not have a long-term view of risk, the board needs to maintain a long-term view, he said.

While the board often seeks to understand the organization's risk appetite and risk tolerance, they often are inexperienced in risk management—something risk managers should expect, he said.

The board should ask risk managers about the organization's risks and, in turn, provide risk managers with a balanced view of what stakeholders expect and make critical decisions regarding warnings about various risks, he said.

"Keep the risks relevant to the board," he said, noting that organizations face hundreds of risks and boards of directors are concerned with those that may significantly alter the business or stakeholders' perceptions of the organization.

—By Mike Tsikoudakis

Under the process, Apollo was able to address numerous regulations targeting the for-profit proprietary university sector.

"ERM and strategy acted as the center of excellence that pulled in the data and did the qualitative

and quantitative analytics," making it possible to present to management operational concerns, the potential impact on students, and the impact to earnings per share, he said.

CICA: Strategies differ

CONTINUED FROM PAGE 4

ing an appropriate captive structure are key factors to assess when choosing a domestic domicile, Mr. Haddad said.

"From the insured's standpoint, factors to be assessed include capitalization requirements," Mr. Haddad said. "Typically in the offshore jurisdictions, you will find more flexible capitalization requirements than you will in the onshore jurisdictions, although in appropriate circumstances the regulators are known to work with one relative to the dynamics of a particular situation."

Captives can function as direct insurers, but most frequently they operate as reinsurers, meaning they reinsure policies provided by an admitted fronting insurer, Mr. Haddad said.

Results from a survey of 120 captive owners released at the CICA conference showed that 54% of the owners use fronting arrangements, while the remainder use their facilities only to write direct insurance policies.

Fronting arrangements may be required, for example, when insuring workers compensation benefits with a captive, because states

typically require the coverage to be written by an admitted insurer unless an employer qualifies as a self-insurer, Mr. Haddad said.

Large, global corporations, meanwhile, may use captives to fund employee benefits such as private medical insurance that supplements public health care provided by countries around the globe, said Kathleen Waslov, senior vp for captive consulting and multinational employee benefits in Boston for Willis Group Holdings P.L.C.

"We say 'private medical' because, except for the U.S., most other countries have social security systems that provide primary layers of medical financing for their citizens, and employers are coming in above that with supplemental medical, which is known as private medical" coverage, Ms. Waslov said.

Other benefits typically offered to employees around the world include death benefits, retiree plans, disability insurance, accidental death and dismemberment, business travel accident coverage and personal accident insurance, Ms. Waslov said.

"Typically these plans...are financed with insurance," she

CONFERENCE FACTS

SCOTTSDALE, Ariz.—About 500 people attended the Captive Insurance Cos. Assn.'s 2012 International Conference held March 11-13 at the Westin Kierland Resort & Spa in Scottsdale, Ariz.

Education session speakers discussed captive insurance issues ranging from regulations to taxation and insuring employee benefits. CICA also released its 12th annual "Captive Insurance Market Study" during the annual conference.

The "domicile-neutral" captive insurance association's 2013 International Conference will be held March 10-12 in Palm Springs, Calif. More information is available at www.cicaworld.com.

—By Roberto Cenicerros

said. "But like any other liability, you can finance them through different alternative risk methods, including captives."

To consider financing employee benefit plan liabilities the way property/casualty liabilities have been financed, evaluate the exposures first, Ms. Waslov said.

"Benefits departments don't always view their benefit plans as corporate liabilities, and they tend

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inBrief

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2012, according to a report by Moody's Investors Service Inc. The report says that in spite of the challenges, the industry retains strong credit fundamentals. Underlying this positive sentiment is evidence of rising prices across most lines of business.

Google gets OK to fund benefits via captive

Google Inc. has received final Labor Department authorization to fund several employee benefit risks through its Hawaii captive insurance company. It will use Imi Assurance Inc. to reinsure life, accidental death and dismemberment, and long-term disability policies written by Prudential Insurance Co. of America. Imi was licensed by Hawaii regulators in December 2010 and is authorized to write property/casualty coverage.

Public workers can't sue for FMLA leave denial

Public workers cannot sue their employers for damages if an employer refuses to grant leave for an employee's own serious health condition under the Family and Medical Leave Act, the U.S. Supreme Court has ruled. In a 5-4 decision, the nation's high court decided that states' sovereign immunity would apply in such cases, even though public employees are allowed to sue under the FMLA when workers are denied leave to care for their dependents.

Disability year decides LHWCA benefit amount

The U.S. Supreme Court sided with an employer, ruling that the year a worker first becomes disabled determines his Longshore and Harbor Workers'

Compensation Act benefit payment amount. Benefit award calculations are not determined by the year a judge orders their payment but by the year a worker becomes disabled, the high court found in clarifying the meaning of a phrase within the law.

Penn State D&O coverage may reimburse employees

Pennsylvania State University says its directors and officers insurance may reimburse legal fees incurred by employees subpoenaed by federal authorities in connection with child sexual abuse allegations against former Assistant Football Coach Gerald A. Sandusky. Last month, the subpoena sought

information about payments by trustees to Penn State and requested documentation about the reporting requirements of employees and staff relating to misconduct allegations by the staff or individuals associated with Penn State. The university said employees summoned by the subpoena should get their own attorneys, and costs incurred may be covered through its D&O liability insurer.

Med mal damages cap approved by House

The U.S. House of Representatives has approved medical liability reform legislation that would cap noneconomic and punitive damage

awards in medical malpractice cases. The measure would cap noneconomic and punitive damage awards in medical malpractice cases at \$250,000. It also would repeal the limited antitrust exemption provided by the McCarran-Ferguson Act for health insurers.

CMS sets deadline to use ERFP funds

Employers and other early retiree health care plan sponsors have until the end of 2014 to use federal government claims reimbursement funds authorized by the health care reform law, the Centers for Medicare and Medicaid Services said. While plan sponsors should use Early Retiree Reinsurance

Program funds "as soon as possible," they will have until Dec. 31, 2014, to use the money.

Compliance deadline set for benefits summary

Employers will receive additional flexibility, but they will not receive an extension to comply with rules dictated by the health care reform law that will require them to revamp how they communicate and explain their health care plans. The summary of benefits and coverage statement requirement will go into effect for plan years that begin on or after Sept. 23, 2012, according to the departments of Health and Human Services, Labor and Treasury.

Workplace Safety and the Aging Workforce

Theme issue: April 9 - Ad closing: March 28

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Bank picked wrong fraud investigator to foreclose on

Lynn Szymoniak's bank apparently had no idea with whom it was tangling when it moved to foreclose on her Florida home in 2008.

Ms. Szymoniak, in fact, had spent her career investigating insurance fraud—and used this experience to investigate banks in the mortgage lending business.

The upshot was that Ms. Szymoniak will be among six whistle-blowers who will pocket \$46.5 million as part of a \$25 billion national foreclosure settlement that state and federal officials reached with five banks, according to a news report.

Ms. Szymoniak's attorney in two whistle-blower cases, Richard Harpootlian, said: "When they did this to her, they picked the wrong person at the wrong time in the wrong place. They stuck their hand into the beehive."

According to the news report, Ms. Szymoniak's subsequent examination, in which she relied on her experience as an insurance-fraud investigator, led to claims against banks for submitting fraudulent documents to the federal government in which they asserted they owned loans insured by the Federal Housing Administration, she said.

The national foreclosure settlement with the five banks resolves claims of abusive foreclosure practices, gives mortgage relief to borrowers, pays \$1.5 billion to those who lost their homes to foreclosure, and sets standards for how the banks service mortgage loans.

Ms. Szymoniak, 63, said she stopped making mortgage payments in 2008, after a battle with cancer wiped out her savings and she cut back on work to care for her mother.

Ms. Szymoniak said she first was alerted to problems in the paperwork on her foreclosure when Deutsche Bank A.G. said it had acquired her mortgage note in October 2008, three months after the bank sued her over the loans.

She said, "I began doing what I've done for years—go out and investigate. It was pretty obvious to me that the paperwork was fraudulent."

Ms. Szymoniak said she's unsure what she'll do with her \$18 million award. Meanwhile, Deutsche Bank is proceeding with its foreclosure action against her home, said Ms. Szymoniak.



Stan Lee helped create some of the most iconic characters in comics.

AP PHOTO

Stan Lee vs. Stan Lee in comic-worthy battle

In the comic book world, it's not uncommon for characters to suddenly re-emerge after lying dormant for years and turn a storyline on its ear.

For Marvel Enterprises Inc. and legendary creator Stan Lee, a panel of 2nd U.S. Circuit Court of Appeals judges was disinclined this week to allow that sort of thing in a real-world battle over the copyrights to some of Mr. Lee's most recognizable characters, according to court documents.

Los Angeles-based Stan Lee Media Inc., an Internet-based production company that Mr. Lee co-founded after leaving Marvel, had hoped to vacate a 2005 settlement between Mr. Lee and Marvel Comics regarding the assignment of copyrights to several prominent characters, including the Incredible Hulk, Spider-Man, the X-Men and Iron Man, according to court documents.

SLMI argued twice before the U.S. District Court for the Southern District of New York—in 2009 and again in 2010—that it legally controlled Mr. Lee's copyright claim because his employment contract never was properly terminated when he left SLMI in 2001.

Both lawsuits were rejected on the grounds

that SLMI lacked standing to challenge the 2005 settlement, and that too much time had passed for it to assert a copyright claim.

In its unanimous March 21 decision, the 2nd Circuit upheld the lower court's decision to toss SLMI's claim.

"SLMI primarily argues that the fraud on the court here was that Mr. Lee and Marvel litigated and resolved (his) interest in the 10% stake of Marvel's television and movie profits without including SLMI," Chief Appellate Judge Dennis Jacobs wrote in the court's ruling. Even under SLMI's theory that it was entitled to money owed to Mr. Lee under the terms of his employment agreement with Marvel, that would not mean that he and Marvel had perpetrated a fraud on the court, which the court would require in order to set aside the settlement.

The judges also noted the exceptionally long stretch of time that had passed between the settlement and SLMI's lawsuit.

"SLMI did not seek to vacate this judgment until more than five years after final judgment," Judge Jacobs wrote. "Much shorter periods of time have been held unreasonable."



Orange suits, pink slips and blue workers

Has the Equal Employment Opportunity Commission considered issuing regulations forbidding discrimination on the basis of the color of workers' clothes? If they do, a group of former law firm employees just may have a case.

According to news reports, a group of employees at the Deerfield Beach, Fla.-based Law Offices of Elizabeth R. Wellborn P.A. wore orange on payday Fridays so they would look like a group when they went out for happy hour drinks later.

But apparently this was misinterpreted. Recently, a group of 14 workers wearing orange shirts were called into a conference room and told by an executive he understood there was a protest involving orange, the employees were wearing orange, and they all were fired.

The executive said anyone wearing orange for an innocent reason should speak up. But even after an employee explained the reason for the shirts, the terminations were upheld. A spokeswoman for the firm, which represents mortgage lenders, servicers and private investors, had no comment, according to reports.

Employment lawyers have pointed out that because Florida is an "at-will" state, employers there do not have to have good reason to fire a worker.

Perhaps ironically, though, as one blogger has pointed out, if the workers had been wearing orange to protest working conditions, they would have been protected under federal law.



INSURANCE HELPS BRING HOME BACON

Imagine having a taste for cured meat so refined it's considered an insurable asset.

That's exactly the position British master butcher Keith Fisher finds himself in, as a pork-centric trade group in central England for which he serves as a board member has taken out a \$1.5 million insurance policy on his taste buds, according to a BBC report.

Mr. Fisher is the head judge of a national bacon competition that was held last week.

According to the BBC, the policy will cover the 61-year-old's sense of taste, which can distinguish among more than 50,000 types of cured meat.

The policy was purchased by British Pig Executive, a U.K. trade association, according to the BBC.

"As a grand master butcher and the resident baconologist and head judge for Bacon Connoisseurs' Week, Keith's vast experience makes him the ideal person to lead the judging panel of tasters," a spokeswoman for BPEX told the BBC.

"As such, it was imperative that we protect his prize assets for the campaign," she said.



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