

ASKING JOB APPLICANTS FOR SOCIAL MEDIA ACCESS INVITES PROBLEMS / PAGE 3

CHARTIS CEO HANCOCK DISCUSSES CHANGES AT INSURER, MARKET / PAGE 3

AGGRESSIVE PROGRAMS TO PROMOTE WELLNESS MAY SPUR LAWSUITS / PAGE 6

inBrief

HEALTH CARE REFORM

Health reform hangs in balance

Starr asks to continue suit over AIG bailout

Starr International Co. Inc. has asked a federal judge to let it go forward with a lawsuit that seeks \$25 billion stemming from actions the government took in its 2008 rescue of American International Group Inc. In a filing with the U.S. Court of Federal Claims, Starr argued that—contrary to the government’s position—it has standing to seek compensation for losses suffered by AIG stockholders when the government took control of nearly 80% of AIG as the insurer approached collapse. Starr, headed by former AIG CEO Maurice R. Greenberg, filed the suit against the federal government in November. In the suit, Starr alleged that by taking control of nearly 80% of AIG in 2008, the government

See **IN BRIEF** page 21

Employers face choices if high court rejects all or part of 2010 law

By **JOANNE WOJCIK**

WASHINGTON—After months of anticipation, thousands of pages of briefs and more than six hours of oral arguments last week on the health care reform law, the U.S. Supreme Court cast more doubt on the fate of the individual mandate at the heart of the landmark reform law.

Observers are less certain, however, about whether the nation’s highest court also will decide that the rest of the law is so inextricably tied to the mandate—which requires U.S. residents to either buy health insurance or pay a penalty—that it, too, must go.

While the justices were expected to cast an initial vote on the case Friday, the nation must wait as long as late June for the court to issue its decision.

Observers expect the ultimate decision to be close, with conservative Justices Samuel Alito Jr., Antonin Scalia and Clarence Thomas lining up against the



BLOOMBERG

Supporters and opponents of the 2010 health care reform law gathered outside the Supreme Court Building last week as the justices heard arguments about the legality of certain aspects of the law.

Patient Protection and Affordable Care Act, and liberal Justices Stephen G. Breyer, Ruth Bader Ginsburg, Sonia Sotomayor and Elena Kagan all voting to uphold it. They say conservative Chief Justice John G. Roberts Jr. and Justice Anthony M. Kennedy are likely to be the “swing votes” that determine the law’s fate.

If the court finds that the individual mandate is unconstitutional and renders the entire law invalid, it would require lawmakers to start from scratch, a difficult endeavor in today’s polarized political climate in Congress, health care industry experts say.

Employers also would face some tough decisions, the biggest being

whether to roll back benefit plan design changes already implemented to comply with the law (see story, page 20).

Alternatively, if the court invalidates only the individual mandate and leaves the rest of the law intact, it could further drive up the cost of health insurance in the individual and group markets if insurers remain subject to community rating and guaranteed issue mandates without also enlarging the pool to include healthier individuals, industry experts warn (see story, page 20).

“I think that court watchers looking at this for some time have thought the vote would be very, very close,” said Ed Fensholt, senior vp and director of compliance services for Lockton Benefit Group in Kansas City, Mo. “You’ve got three or four pretty conservative, four pretty liberal (justices); and then you’ve got Justice Kennedy, who’s a middle-of-the-road guy.”

“What really shocked me was the tenor of the questions” during oral arguments on the severability and Medicaid expansion issues, he

See **HEALTH** page 20

PROPERTY/CASUALTY INSURERS

Catastrophes push Lloyd’s into \$819 million loss

By **MARK A. HOFMANN**

LONDON—Lloyd’s of London was hit hard by 2011 catastrophe losses, but the market is well-positioned to absorb the impact, observers and Lloyd’s say.

Analysts say Lloyd’s £516 million (\$818.8 million) loss for 2011, announced last week, was well within expectations, given a

series of natural disasters that included the earthquake and tsunami in Japan; an earthquake that destroyed portions of downtown Christchurch, New Zealand; months of flooding in Thailand; and tornadoes that wreaked havoc in the United States.

In fact, Lloyd’s loss is “not a bad result” in the context of record catastrophe losses, said Lloyd’s



Analysts say Lloyd’s 2011 loss of \$819 million was well within expectations.

CEO Richard Ward.

Lloyd’s reported that it incurred total net claims of £12.9 billion (\$20.5 billion) in 2011, including £4.6 billion (\$7.3 billion) in catas-

trophe losses.

Last year was “absolutely the costliest on record” for Lloyd’s in terms of catastrophe losses, but they still were less than 1% of Lloyd’s assets, Mr. Ward said.

“In the context of \$20 billion worth of losses, in the context of catastrophe claims of \$7.4 billion—to report a loss of \$800 million to the market is a pretty good result,” said Mr. Ward. “Not a bad result in the context of the major losses we had to deal with.”

He said Lloyd’s is well-capitalized. “We continued to build our capital strength throughout 2011. Members’ assets are sitting at near-record (levels). There will be no material impact on the Central Fund.”

Lloyd’s £516 million loss for

See **LOYD’S** page 21



SPOTLIGHT RIMS CONFERENCE PREVIEW

The Risk & Insurance Management Society Inc.’s conference theme of ‘No Boundaries’ reflects today’s varied challenges. **PAGE 9**

INDEX

Advertiser Index	19
Business Resources	18
Commentary	8
End Page	22
Opinions	8
Mid-Market Executive	6
Products & Services	7
Up Close	18

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2. GALLERY: Health reform in cartoons
3. Supreme Court justices divided if health care law can survive
4. SOLUTION ARC: Identifying and Measuring Enterprise Risks
5. Catastrophes lead to net loss for insurer FM Global
6. Justices ask tough questions on health care reform mandate
7. Insurers need to leverage analytic technology to compete
8. Health rule gives incentive for colleges to self-fund student plans
9. Legislation to privatize Maryland comp fund moves forward
10. Swiss Re issues cat bond combining risks of two entities

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Business Insurance (ISSN 0007-6864) Vol. 46, No. 14, is published weekly, except for combined issues the first and second week of July, the fourth and fifth week of August and no issue the last week of December, by Crain Communications Inc., 150 N. Michigan Ave., Chicago, Ill. 60601-7524. Periodicals postage is paid at Chicago and at additional mailing offices. POSTMASTER: Email address change to customerservice@businessinsurance.com or mail to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, Mich. 48207-2912. \$5 a copy and \$125 a year in the U.S., \$130 in Canada and Mexico (includes GST). All other countries, \$230 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850, GST No. 136760444, Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in U.S.A. Copyright © 2012 by Crain Communications Inc.

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QUESTIONS & ANSWERS



Peter Hancock became CEO of American International Group Inc.'s Chartis Inc. unit on March 31, 2011. He spoke with Business Insurance Senior Editor Mark A. Hofmann about a variety of issues, including how

Chartis has changed in the past year. A full version of the interview appears online at www.businessinsurance.com.

Chartis chief on changes, market

Q: How has Chartis changed since you took the helm?

I like to think that it has become more focused. So firstly, we've acknowledged that it is important to understand the needs of our commercial customers and our consumer customers, and they're very, very different constituencies. So organizing ourselves around our commercial customers' needs, which represent about 60% of our \$35 billion of premium, and our consumer customers, which represent the other 40%, was an organizational shift that we hope will better serve our customers by focusing on them, investing in the infrastructure and tools to efficiently meet their needs.

That's probably the most dramatic change. It has the added effect of truly globalizing the way we operate so that we have many more senior managers and middle managers with global accountability to deliver services and products in all the 90 countries that we operate in...Historically, there was something of a divide between our international operations—(American International Underwriters)—and our domestic.

Q: How does your background outside the P/C insurance industry affect how you manage Chartis?

I spent 20 years at a multinational bank so the whole global management challenge is something I have thoughts on. It was a bank that

See **HANCOCK** page 19

EMPLOYMENT PRACTICES

Seeking applicant passwords? You may be asking for trouble

As lawmakers mull bans, experts warn of lawsuits

By JUDY GREENWALD

WASHINGTON—Calls are growing for federal and state legislation that would bar employers from requiring access to job applicants' social media postings.

While experts say relatively few employers now ask applicants for such information, those that do may be increasing their chances of being sued under current law.

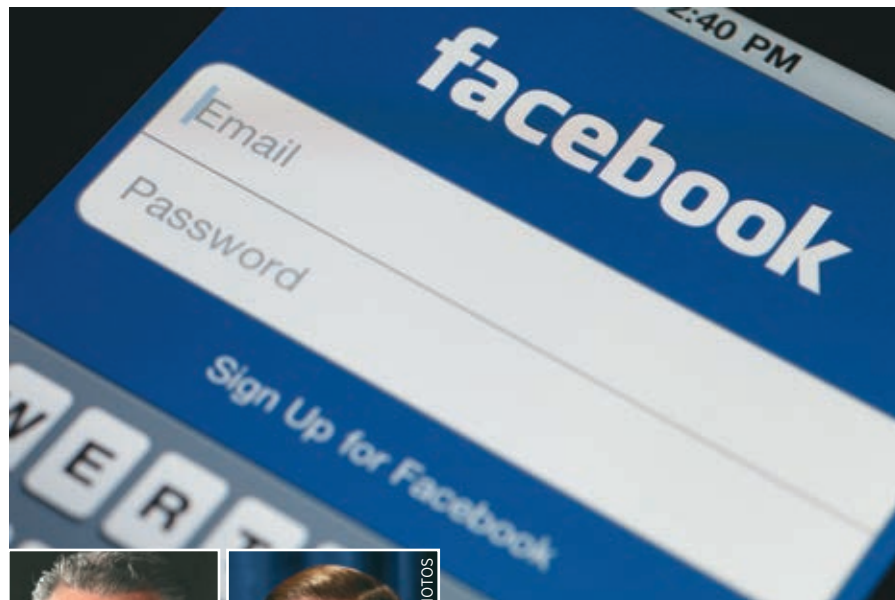
Sens. Richard Blumenthal, D-Conn., and Charles E. Schumer, D-N.Y., last week called on the Equal Employment Opportunity Commission and the Justice Department to launch an investigation into a "new, disturbing trend" of employers demanding that job applicants provide their usernames and passwords to social networking and email sites.

The senators said employers want access to information such as private photos, emails and biographical data "that is otherwise deemed private."

This "disturbing practice represents a grave intrusion into personal privacy that could set a dangerous precedent for personal privacy and online privacy, making it more difficult for Americans to get jobs, and expose employers to discrimination claims," the senators said in a statement.

"I am alarmed and outraged by rapidly and widely spreading employer practices seeking access to Facebook passwords or confidential information on other social networks," Sen. Blumenthal said. "A ban on these practices is necessary to stop unreasonable and unacceptable invasions of privacy."

In their letter to U.S. Attorney General Eric Holder, the senators said, "Two court decisions have found when supervisors request employee login credentials, and



Sen. Schumer

Sen. Blumenthal

access otherwise private information with those credentials, that those supervisors may be subject to civil liability" under the Stored Communications Act. Although the cases involve current employees, "the courts' reasoning does not clearly distinguish between employees and applicants."

In separate letters, the senators asked the Justice Department and the EEOC to issue a legal opinion on whether asking for passwords violates federal law.

A Justice Department spokesman declined to comment.

Carol Miaskoff, assistant legal counsel

for the EEOC, said the senators' letter is "going to get prompt attention."

Ms. Miaskoff said the EEOC is watching the issue "very closely." While the senators' letter is clearly "elevating (the issue) within the organization," it is too early to say how the EEOC will respond.

The senators also said they are drafting legislation that "would seek to fill any gaps in federal law" that allow employers to ask for personal login information from prospective employees.

State legislation that would prohibit this practice has already been introduced in California, Illinois and Maryland.

Beyond anecdotal information, however, the senators cited no statistical evidence on the subject. Ms. Miaskoff said she is unaware of data in this area, and other experts agree.

Legal experts say they believe relatively few employers ask for such information.

"I haven't seen any real scientific,

See **PASSWORDS** page 18

LIABILITY & LITIGATION

Risks from social media, ACOs complicate medical liability

By SHEENA HARRISON

CHICAGO—Insurers and health care organizations need to devise detailed policies on how they and their employees use social media to reduce their risks of violating medical privacy law and damaging their reputations, experts say.

Insurer use of social media was one of several topics covered during the Professional Liability Underwriting Society's annual Medical PL Symposium last week in Chicago.

During a panel discussion on social media, speakers said insurers and health care providers should give employees detailed

online procedures to help protect their organizations. That includes detailing the types of online posts, pictures and statements that are appropriate and inappropriate.

Devising such a plan provides a proactive risk mitigation approach rather than using the "head-in-the-sand" tactic of prohibiting employees from using social media during work hours, said Michael Carr, Chicago-based senior vp of errors and omissions underwriting for Argo Pro, a unit of Hamilton, Bermuda-based Argo Group International Holdings Ltd.

"You have to assume that you're going to be using these

tools and give them some rules about what is and what is not appropriate," Mr. Carr said.

Mr. Carr said health care providers should make certain their insurance protects them from accidental dissemination of private medical information via social media, or online statements made by outside providers that work with the health care firm.

ACO risks evolving

In a separate session, experts discussed various risks associated with forming accountable care organizations. ACOs, introduced as part of the Patient Protection and Affordable Care Act, are net-

works of health care providers—such as hospitals systems and independent physicians—that are held accountable for the overall care of health plan members in exchange for additional compensation to improve outcomes and reduce medical costs.

The structure of such models is likely to shift over time as providers and insurers become more accustomed to ACOs, said Kristin McMahon, Simsbury, Conn.-based chief claims officer for IronHealth, a unit of Hamilton, Bermuda-based Ironshore Inc.

"You'll see health systems and medical groups forming their own ACOs and, depending on how

successful they are, I think you're going to see more configurations where more self-insured employers are going to be forming their ACOs," Ms. McMahon said.

ACOs can face liability issues based on factors such as effective coordination of care between ACO partners or meeting accountability standards that measure treatment quality, said Ciara Ryan Frost, another panelist and Chicago-based partner with law firm Kerns Frost & Pearlman L.L.C.

Other potential liability claims can include disputes regarding

See **MEDICAL** page 19

AGENTS & BROKERS

Lockton strengthens global brokerage ties

New partnership formalizes broker's existing relationships

By **BILL KENEALY**

KANSAS CITY, Mo.—Lockton Cos. L.L.C. has formed a partnership with 30 privately held brokers in the Americas, Europe, Asia and Africa to better serve global clients, the Kansas City, Mo.-based brokerage announced today.

The partnership, Lockton Global L.L.P., formalizes longstanding relationships Lockton has had with brokers outside the United States and helps address clients' increasingly global business mod-



'We built a business plan around bringing these privately held businesses together under one banner.'

John Lumelleau,
Lockton Cos. L.L.C.

els, said Lockton President and CEO John Lumelleau.

"We had a large number of clients in the United States that had needs outside the United States; so over the last 20 years, we developed relationships with brokers in distant parts of the

world," Mr. Lumelleau said. The partnership cements those relationships and allows them to offer a more consistent array of services, he said.

Lockton Global, which will operate from Lockton's offices in Kansas City and London, comple-

ments the brokerage's existing operations in countries such as China, Thailand and Singapore.

Although the 45-year-old company historically built itself through organic growth, its foreign operations were obtained largely through buying the international insurance and risk management arm of insurance broker Alexander Forbes International Risk Services in 2006.

"When we acquired Alexander Forbes, we began to think about Lockton in a different way," Mr. Lumelleau said. "We wanted to formalize our non-owned relationships to complement our owned relationships around the world."

Work on Lockton Global began in earnest only two years ago, Mr. Lumelleau said.

"Like anything worth doing, it's worth doing it right; so we took our time," he said. "We built a business plan around bringing these privately held businesses together under one banner. The thought process began long ago, but we took the past 24 months to position ourselves."

In addition to Mr. Lumelleau, Lockton Global will be governed by a board including Barry F. Lorenzetti, president and CEO of Montreal-based BFL Canada Insurance Services Inc.; Jean-Paul Chapellier, director of Paris-based Diot S.A.; Ricardo J. Rosenthal, chairman of Buenos Aires, Argentina-based Makler S.A.; and Mark Leysen, CEO of Antwerp,

See **LOCKTON** page 21

RETIREMENT BENEFITS

Pension funding levels hit new low last year

Investment returns, interest rates fuel drop

By **JERRY GEISEL**

Pension plan funding levels among large, publicly held U.S. employers sank to a new low last year as falling interest rates fueled a rise in the value of plan liabilities while mediocre investment results held down plan asset growth, according to a Milliman Inc. survey released last week.

Defined benefit plans offered by 100 U.S. employers with the largest pension programs were, on average, 79.2% funded in 2011, down from 83.9% funded in 2010

and 81.7% in 2009.

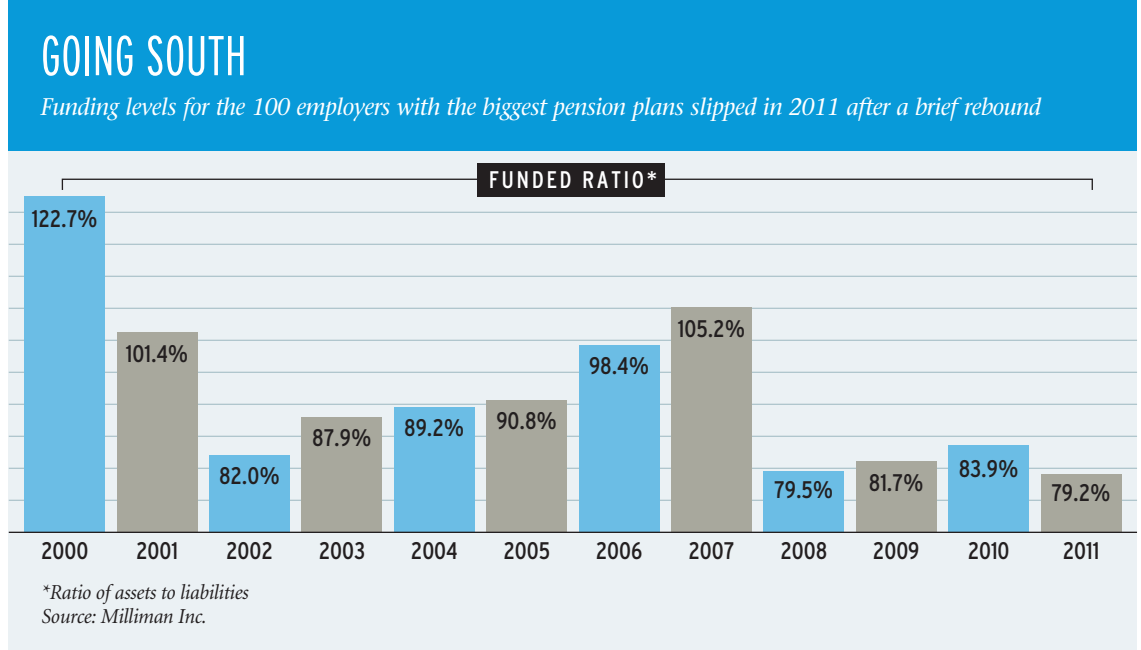
The previous lowest funding level was in 2008, when plans were an average of 79.5% funded, according to Milliman.

The plans' average earnings on assets fell to 5.9% last year, off from 12.8% in 2010 and 13.9% in 2009.

In all, the market value of pension plan assets increased about \$37 billion to about \$1.246 trillion in 2011. However, the value of plan liabilities grew about \$133 billion to about \$1.573 trillion.

The nearly \$327 billion funding deficit was the largest in the 12-year history of the Milliman survey.

Low "interest rates drove the



pension funding deficit to record levels, and the record deficit drove everything else," John Ehrhardt, a Milliman consulting actuary in

New York and co-author of the pension study, said in a statement.

While pension plan contribu-

tions declined slightly last year, contributions are expected to soar

See **MILLIMAN** page 18

CYBER RISKS

Companies may face uphill battle in cyber cover claims under CGL

By **JUDY GREENWALD**

As organizations assess the financial impact of data breaches, some are turning to their commercial general liability insurers to cover those costs.

But depending on their policy's language, they may not necessarily get the response they wish.

While disputes between policyholders and insurers over CGL coverage for cyber risks have not produced a glut of litigation, several cases have been heard by courts across the country, and more may follow.

But the need to look for coverage

under CGL policies may wane as specialized cyber insurance policies become more popular, experts say. Coverage disputes surrounding cyber coverage itself, however, may then emerge.

Litigation over cyber liability claims is still far less frequent than traditional liability claims, such as asbestos or latent injury claims, said Scott N. Godes, of counsel at law firm Dickstein Shapiro L.L.P. in Washington.

"But I think there will be a rise in the number of cases we see as companies face new types of cyber claims that are out there. I don't know if it's the calm before the

storm, but I think more cases will come about to the extent insureds want to take full advantage" of their policies while insurers "decide they don't want to pay on the policies they sold," he said.

One of the biggest cases over CGL coverage for cyber liabilities that is currently being litigated is *Zurich American Insurance Co. vs. Sony Corp. of America*, Mr. Godes said.

In July, Zurich sued a Sony Corp. unit alleging the insurer was not obligated to cover the media and electronics company for lawsuits and investigations related to hacking of its PlayStation Network in

April 2011.

Another major case involving a CGL policy is *Hartford Fire Insurance Co. vs. Euromarkets Designs Inc.*, which is a privacy case over the use of ZIP codes (see story, page 17).

CGL policies "were designed to provide a wide scope of coverage," including bodily injury and property damage, Mr. Godes said.

"They were not written in a fashion tied to a particular type of tort claim, and because of the elastic nature of these policies, they can provide coverage even for claims not envisioned at the time," he said.

Decisions that recognize there

may be such coverage include *Eyeblaster Inc. vs. Federal Insurance Co.* and *Netscape Communications Corp. vs. Federal Insurance Co.*, Mr. Godes said.

Kevin Kalinich, Chicago-based global network and cyber risk practice leader at Aon Risk Solutions, a unit of Aon Corp., said the issue of cyber coverage in CGL policies arises in cases "where the policies have just gotten renewed for 20 years and no one thought about putting in exclusions."

Insurers will be more successful in denying coverage in cases where

See **CYBER** page 17



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Take care with wellness plans

Aggressive programs can put companies at risk of lawsuits

By MATT DUNNING

As employers intensify their focus on wellness as a means of reducing health care costs, lawsuits filed by workers, regulators and unions are becoming more common, wellness compliance experts say.

Accusations against employers in recent years include discrimination, violation of medical privacy, violation of benefit reporting requirements and tax obligations, and breach of collective bargaining agreements.

"It's certainly a growing area of the law," said Ricki Roer, a New York-based partner with law firm Wilson Elser Moskowitz Edelman & Dicker L.L.P. "These types of programs are becoming more and more a part of our workplace environment. So these issues are going to continue to evolve."

Wellness programs that are entirely voluntary and education-based are the safest legal option for middle-market employers, Ms. Roer said.

However, experts say, such programs often produce little in the way of measurable benefits to employers or their workers. To boost returns, more employers are requiring workers to submit to health risk assessments and biometric screenings, offering financial incentives or penalties, and even administering certain medical care.

"Especially in the middle market, when our clients start talking to us about wellness programs, they usually start out with online coaching tools and lunch-and-learns," said Ed Fensholt, senior vp and director of compliance services at Lockton Cos. L.L.C. in Kansas City, Mo. "It's pretty benign stuff, but they rarely get the results that they want, which is ultimately a healthier workforce."

Programs on the more aggressive end of wellness and behavioral health management can be subject to provisions of several federal and state laws that can broaden an employer's potential liability, experts said (see box).

Among common compliance issues for middle-market employers is failing to meet federal anti-discrimination statutes under the Americans with Disabilities Act and the Health Insurance Portability and Accountability Act.

HIPAA requires that reasonable alterna-

tives or exceptions be made available for those who are unable to meet a requirement to receive an incentive, regardless of their disability or physical condition.

"In any given population, there may be some individuals who have cancer, a stroke or other serious problem, or who are blind, have no computer, have learning disabilities or have low literacy levels," said Bob Gorsky, president and senior consultant for health at HPN Worldwide Inc. in Elmhurst, Ill. Companies should examine "what

related to an employee's job description.

According to the ADA and informal guidance from the Equal Employment Opportunity Commission, ancillary requests for medical information—such as a wellness health risk assessment, biometric screening or blood test—must be completely voluntary.

Frustratingly, experts noted, few if any courts have directly addressed whether the separate wellness initiatives would qualify as voluntary programs.

"It's definitely something that, within the next 12 to 24 months, is probably going to come to a head," said Mike Demman, CEO of Omaha, Neb.-based SimplyWell L.L.C. "We see a lot of employers making (wellness participation) mandatory for access to the company's health insurance plan."

How employee medical data is utilized and maintained is another common source of wellness-related compliance difficulty, experts said. Aside from strict data protection standards and obligations, HIPAA and the ADA bar employers from terminating workers because of a disability or medical condition.

Considering this, "it's incredibly important to limit the data that you as the employer are receiving," said Sherri Bockhorst, a St. Louis-based principal of health and productivity for Buck Consultants L.L.C.

Generally, experts said, employers' access to workers' medical information should include only what is necessary to pay incentives or apply penalties to avoid even the appearance of taking an employment action based on the data.

"You definitely want to make sure that you're not using the data—or that it can't be alleged that you used the data—to make a hiring or firing decision, or something of that nature," Mr. Fensholt said.

To some extent, employers can limit compliance issues by hiring an outside third party to administer their wellness program. But that may not totally eliminate their potential liability, experts warn, particularly if they self-fund their health insurance plan.

"Outsourcing is helpful, but it wouldn't be the end of the inquiry," said Jay Kirschbaum, a practice leader for Willis North America's human capital practice in St. Louis. "If you have a self-funded plan, just farming it out isn't enough to insulate you. You've got to actively monitor the activities of your business partners under the self-funded model."

WELLNESS AND THE LAW

Primary laws that pertain to employer-offered wellness programs

- The Health Insurance Portability and Accountability Act limits incentives or penalties to 20% of an employee's total health care premium. It also requires reasonable alternatives to outcome-based incentive requirements for employees who are disabled or otherwise unable to meet the requirement.
- The Employee Retirement Income Security Act requires plan documentation for all wellness programs. It also could require extending benefits and incentives under COBRA continuing coverage provisions.
- The Americans with Disabilities Act restricts employer-mandated medical examinations of employees. It also prohibits discrimination and retaliation against disabled employees.
- The Genetic Information Nondiscrimination Act prohibits discrimination against employees based on genetic information, including family medical history.

guidelines for exceptions and reasonable alternatives are in place to help these people in ways that optimize a caring culture and goodwill."

Federal courts have differed in their rulings on the extent of an employee's right to privacy regarding wellness-related requests or requirements for medical information, experts say (see related story). Meanwhile, ADA rules prevent companies from making medical inquiries or conducting exams that are not directly

Legal environment remains unclear

By MATT DUNNING

One vexing aspect of wellness program planning is the murky relationship between health risk assessments and employee privacy rights.

Recent federal cases have added little clarity to the issue.

Last year, a federal judge in the U.S. District Court of Southern Florida dismissed former Broward County, Fla., employee Bradley Seff's lawsuit alleging the county illegally penalized workers who did not undergo a health risk assessment and provide a blood sample to determine glucose and cholesterol levels. The court ruled the penalty was permissible under an exemption in the Americans with Disabilities Act for administering "bona fide benefit plans" based on underwriting risks.

A suit filed in 2006 in a U.S. District Court of Eastern Michigan court resulted in a much different ruling. That court declared a fire department's mandatory blood test to determine cholesterol levels as part of its wellness program was illegal, citing unlawful search provisions of the Fourth Amendment.

Neither decision, experts noted, directly addressed voluntary submission to a health risk assessment, leaving employers and compliance to speculate how far the ADA rules extend to cover wellness programs.

"I think there's going to be some more latitude given to employers who are implementing a wellness program," said Mike Demman, CEO of Omaha, Neb.-based SimplyWell L.L.C. "Still, it's amazing to think that 10 years ago, we weren't talking about these laws and how they come into play with wellness programs at all."

Most recently, five employees of the Oregon Department of Corrections and Oregon State Police filed suit Feb. 14 in federal court in Eugene, Ore. In similar fashion to Mr. Seff's claim against Broward County, the Oregon workers allege a state-sponsored wellness program illegally assesses a penalty for refusing to submit to a health risk assessment. Employees who opted not to participate in the program were assessed a \$20 to \$35 monthly fee.

By charging a fee, the employees allege the state's wellness program effectively compels them to disclose private medical information. They are seeking class action status for the case, alleging 1,000 state employees were similarly affected by the program. A June 14 deadline has been set for discovery in the case.

'These types of programs are becoming more and more a part of our workplace environment. So these (legal) issues are going to continue to evolve.'

Ricki Roer, Wilson Elser Moskowitz Edelman & Dicker L.L.P.

Products & Services

Zurich launches captive credit line alternative

LONDON—Zurich Financial Services Ltd. has launched an alternative to lines of credit for captives.

Called eZ Trust, the service allows Zurich's U.K. clients to forgo letters of credit, instead giving Zurich control over a portion of the captive's investment portfolio.

The London-based program will not be a lien, but rather a trust arrangement in which an investment manager serves as the trustee over the assets in the trust fund, a Zurich spokeswoman said in an email.

The fund will act as collateral for captives when Zurich is the fronting insurer. During that time, the depositor also can earn income on the investments, Zurich said.

Other benefits include simplified legal agreements and less expensive setup costs compared with cash-backed letters of credit. The insurer has prenegotiated discounted bank fees and contracts with a panel of financial institutions.

The trust is evergreen, so no yearly renewals are necessary.

For more information, contact James Donald, global head of credit risk management, at james.donald@zurich.com; Veronique Meautte-Evans, head of captive services and alternative risk transfer, at veronique.meautte-evans@zurich.com; or Alex Wainwright, underwriter for captive services and alternative risk transfer, at alexander.wainwright@zurich.com.

Ironshore, HELPLINE team on EPLI support program

HAMILTON, Bermuda—Ironshore Inc. and The Workplace HELPLINE L.L.C. have partnered to provide employment practices liability program support for public entities via the telephone and online.

Called EPLI Helpline, the program allows clients to direct questions to specialized employment attorneys about more than 50 risk management, human resources, employment law and compliance issues.

Documented responses are returned within 24 hours.

"Employers confront continuously changing employment laws regarding compliance with federal and state regulations, hiring practices, workforce reduction protocols, harassment, discrimination and medical leave issues, such as the Family Medical Leave Act, that are among today's top human resource issues," Susan Kostro, senior vp of the specialty casualty division, said in a statement. The EPLI Helpline is intended to manage such exposures through their workplace employment policies and practices, she said.

The specialty division is working with Boston-based

HELPLINES' public entity group.

The service includes toll-free and website submission access, as well as access to anti-harassment training for supervisors and employees, a state-by-state employee handbook builder, and webinars and alerts approved by the Human Resource Certification Institute.

For additional information, contact Ms. Kostro at 617-391-6546 or susan.kostro@ironshore.com.

ACE provides captive reinsurance program

NEW YORK—ACE Risk Management, part of ACE USA, has rolled out an offering for multiple risk management buyers in need of a

single-captive reinsurer.

The Multiple-Insured Captive Reinsurance Alternative program includes primary casualty coverage for automobile liability, general liability and workers compensation.

"The challenge for multiple-insured captives is to access an underwriting team with extensive experience in captive programs and the flexibility to tailor coverage," Rick Wagner, senior vp of New York-based ACE Risk Management, said in a statement.

The service is intended for companies that have a captive insurer that is more than five years old with 20 or fewer insureds to also provide coverage for similar, relat-

ed or integrated organizations.

Up to \$5 million in coverage is available for general liability and automotive liability and workers compensation. It also will accommodate noncaptive primary casualty lines within the overall program.

The program requires captives with at least \$2.5 million in written premiums to have at least a \$250,000 retention.

For more information, contact Mr. Wagner at 415-547-4427 or rick.wagner@acegroup.com.

BB&T unit offers fiduciary services

GREENSBORO, N.C.—Stanley, Hunt, DuPree & Rhine Investment Advis-

ers Inc., a division of BB&T Corp., is offering fiduciary services to its retirement plan sponsors.

The employee benefits consulting and registered investment advisory firm started providing services to help plan sponsors comply with the Employee Retirement Income Security Act about five years ago, but recently expanded its offering to all of its sponsors.

The Greensboro, N.C.-based company will negotiate rates based on the sponsor and its needs. The service is intended for retirement plan sponsors with \$10 million to \$100 million in assets.

For more information, contact Jay Mullins, president of Stanley Hunt, at jfmullins@shdr.com.

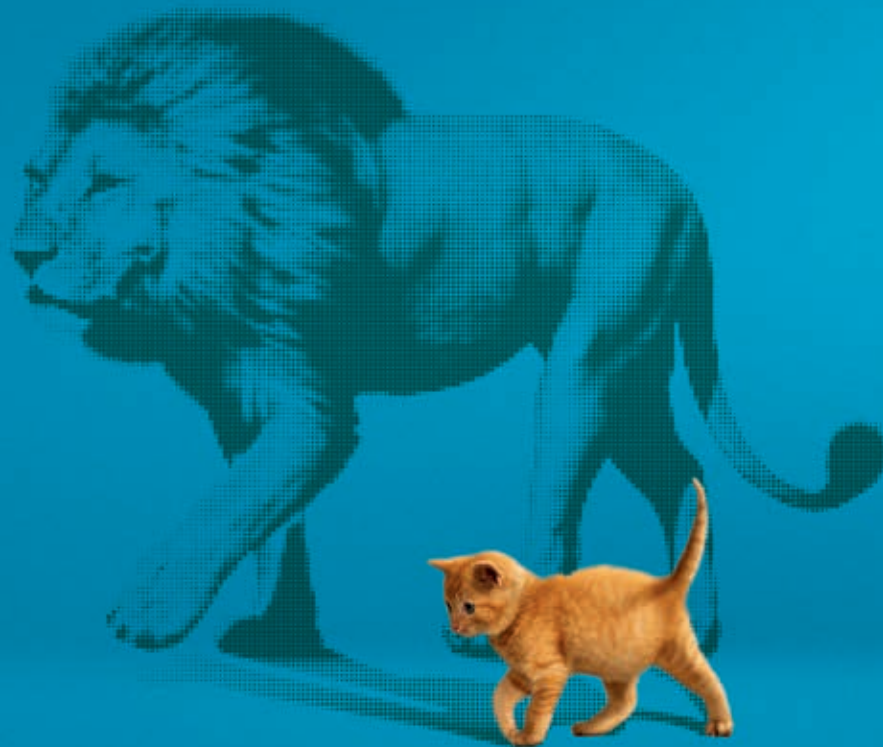
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Opinions

EDITORIAL

Fast resolution on reforms key

THE MOST SIGNIFICANT takeaway from last week's oral arguments on the health care reform law before the Supreme Court was a near-consensus among the justices that they should resolve the legal issues by the end of the court's current term in June.

Justices spanning a wide range of the ideological spectrum were openly skeptical of arguments presented by Robert Long, a court-appointed attorney, that an obscure 1867 law prevents the court from taking up the case until a tax has been paid—in this case the Patient Protection and Affordable Care Act's requirement that most U.S. residents either enroll in a qualified plan or pay a penalty.

The individual mandate doesn't take effect until 2014, with the penalty for those not enrolled in a plan due in 2015. If the justices had accepted Mr. Long's argument that it is too soon to hear the case—which we don't think they did—the result would have been years of uncertainty and potential chaos.

Consider the issue of prescription drug coverage that some employers offer to Medicare-eligible retirees. The health care reform law, effective next year, pares a big tax break Congress extended to employers as part of a 2003 law to encourage them to continue the drug plans.

In response to the dilution of the tax break, many employers are preparing to revamp or even eliminate the retiree drug plans.

What if the Supreme Court were to wait until 2015 to decide the future of the health care reform law and it then strikes down the entire law, which presumably would restore the prescription drug tax break? Employers, at least in some cases, would have changed their plans needlessly.

Of course, there are far bigger issues than that. By 2014, states are supposed to set up exchanges where millions of previously uninsured people will use their health care reform law premium subsidies to buy coverage. If the justices were to strike down the law in 2015, think of all the time and money the states would waste in establishing the exchanges.

Fortunately, if our reading of the justices' comments is right and a court ruling is handed down in June, those scenarios will not develop. And everyone should welcome a quick resolution of the law's future.

LETTERS

Business Insurance welcomes letters to the editor.

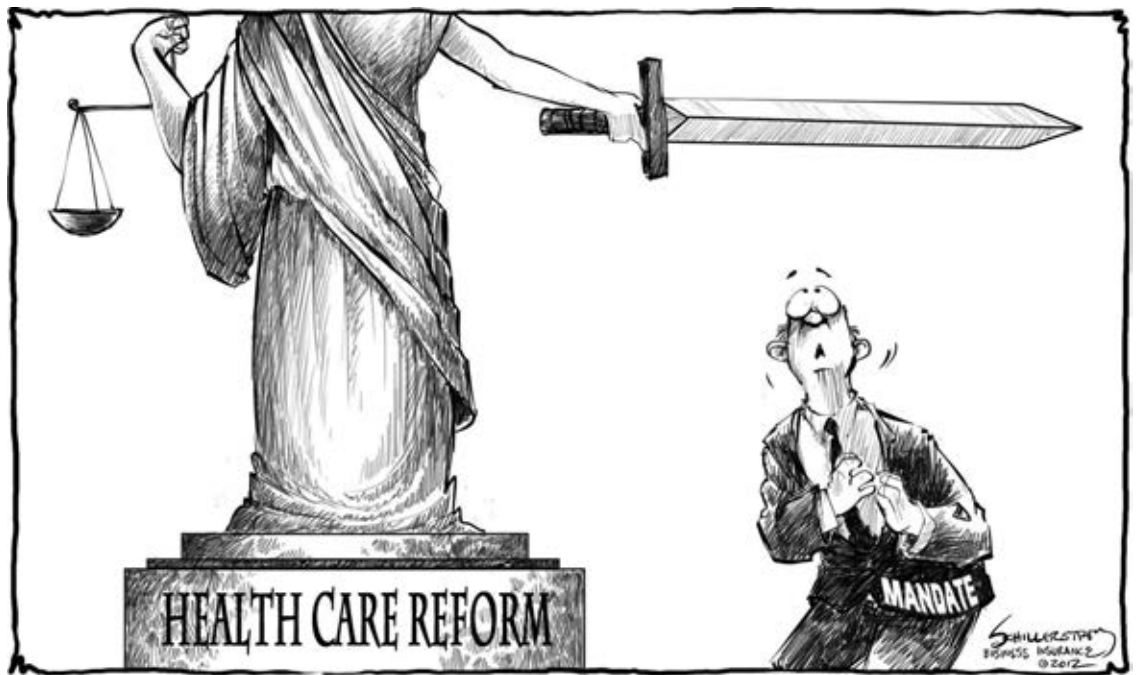
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SCHILLERSTROM



COMMENTARY

Managing your talent risk like a pro

To my mind, there are few things better than the intersection of risk management and baseball, at least when I have a column to write.

So, with the start of another baseball season upon us, I was pleased last week to find such an intersection in two seemingly diverse articles. The common element is talent risk.

The first was a piece published on the Wharton School of the University of Pennsylvania's Knowledge@Wharton site under the headline "Why External Hires Get Paid More, and Perform Worse, than Internal Staff."

The article examines the research of Wharton management professor Matthew Bidwell, whose work suggests reasons external hires are paid substantially more than employees promoted into the same job, even though they come with a significant risk of failure. Seeing a strong resume, some managers "get excited about playing 'Let's Make a Deal,' even when it's hard to know what weaknesses the external hires bring with them," Mr. Bidwell said in the article.

The second article at last week's intersection was from Major League Baseball's mlb.com website. Headlined "Early commitment a worthwhile risk if it pays off," the piece examined the phenomenon of baseball teams who sign talented young players to long-term contracts early in their careers. By signing those players before they become eligible for salary arbitration, the teams take the risk that they'll produce as hoped, but look to retain their services as they move into their most productive years.

The 1990s Cleveland Indians, who used such an approach with players like a young Jim Thome, among others, are an example of that strategy.

As in other businesses, in baseball it's probably easy for some managers to succumb to the desire to build around the flashy free agent, despite the cost and the potential that the outsider might fail to produce at historic levels, won't mesh with the team's style of play, or might disrupt clubhouse chemistry.

Unlike most other lines of business, though, one thing baseball has every year is an off season and a subsequent opening day. And, on opening day, hope springs eternal.

This year, opening day at Wrigley Field brings with it a host of changes in the Chicago Cubs organization, not least of which is a change from the organizational philosophy of recent years with the team apparently looking more at a homegrown-talent approach and less at crossed fingers and big-money free agent signings. The result is that this year is likely to be a struggle, but with hope for consistent success going forward.

So, come Thursday afternoon, my wife, Kathy, and I will be in our customary opening day spot—Section 430, Row 3, Seats 5 and 6 at Wrigley Field—our opening day hopes requiring a bit more of a long-term view this year, as well as faith that those plotting the organization's strategy are taking the right approach to managing talent risk.

Contact: rzolkos@businessinsurance.com



RODD ZOLKOS
SENIOR EDITOR

RIMS 2012

P H I L A D E L P H I A



Breaking down boundaries

Theme of 50th RIMS conference reflects varied challenges of today

By **RODD ZOLKOS**

PHILADELPHIA—With its theme of “No Boundaries,” this year’s 50th Anniversary Risk & Insurance Management Society Inc. Annual Conference & Exhibition speaks to the fact that risk isn’t confined to just one department in most organizations.

The theme acknowledges other aspects of today’s risk management profession as well, said Mary Roth, RIMS’ executive director.

Today’s risk managers face “fast-paced challenges in a constantly changing world,” she said. “Our member companies are operating globally, and things are changing globally.”

“And our risk professional members are called upon every day to stretch beyond the known and the familiar,” Ms. Roth said. “They’re identifying and measuring risks they’ve never encountered before, and they’re asked to take on new and more influential roles within their organizations. So there’s no boundary within their roles and responsibilities, even within their entities.”

Attendees at this year’s conference, set for April 15-18 at the Pennsylvania Convention Center in Philadelphia, also speak to that “No Boundaries” theme. The conference is expected to draw attendees from 53 countries outside the U.S. and Canada eager to tap the latest thinking on shaping successful risk management programs.

“Many of the risks our members face around the

See **CONFERENCE** next page

‘Our risk professional members are called upon every day to stretch beyond the known and the familiar.’

Mary Roth, Risk & Insurance Management Society Inc.

**RIMS
CONFERENCE
PREVIEW**

SPOTLIGHT

**RIMS ATTENDEES
SERVE COMMUNITY**
PAGE 10

**SPORTS EVENTS
RAISE FUNDS**
PAGE 11

**‘MONEYBALL’ GM
TO GIVE KEYNOTE**
PAGE 12

**JOBS’ BIOGRAPHER
ON TAKING RISKS**
PAGE 12

**PHILADELPHIA
DINING GUIDE**
PAGE 14

Conference: Eliminating boundaries

CONTINUED FROM PREVIOUS PAGE

world transcend their national boundaries," said Ms. Roth. "Bringing all these individuals together in one venue so that you can talk to your counterpart in another part of the world where you may be thinking about putting operations, or have operations where you might have had challenges, is worth the time spent at the annual conference."

Over the course of more than 120 educational sessions, hot topics and keynote presentations at this year's gathering, RIMS conference attendees will have the opportunity to hone their risk management skills and network with colleagues and industry experts.

Networking opportunities start with Sunday evening's opening reception, include Tuesday's "Lunch and Learn" roundtables, and run through Wednesday night's battle of the bands.

Attendees also will have the opportunity to hear general session keynote presentations from Billy Beane, general manager of Major League Baseball's Oakland Athletics and the subject of the book "Moneyball: The Art of Winning an Unfair Game," speaking April 16; and Walter Isaacson, president and CEO of the Aspen



J. FUSCO FOR GPTMC

RIMS says that attendance for this year's conference in Philadelphia already has surpassed totals for the 2011 conference in Vancouver and the 2010 conference in Boston.

Institute and bestselling biographer whose works include the recent "Steve Jobs," who will speak April 18 (see stories, page 12).

"We have a strong exhibit hall

as well this year," said Ms. Roth. Exhibit hall hours Monday, Tuesday and Wednesday will give conference attendees the opportunity to meet with hundreds of industry

service providers. And RIMS is offering a Wednesday-only exhibit hall pass for those who might be in Philadelphia to do business with others at the conference but don't have time to get to sessions or other conference events during the week.

The RIMS executive director said the society expects solid attendance numbers at this year's gathering.

"Attendance looks great. We're very pleased," she said. "We've exceeded our Boston 2010 numbers as well as our Vancouver 2011 attendance." And attendees include a strong student contingent, "the risk managers of tomorrow," Ms. Roth said.

"What we're also seeing in the conference is a change in the profile of the conference attendee," Ms. Roth said. "Individuals are coming from the (intellectual property) world, from audit, from supply chain, from other areas within our member companies."

As the risk manager's role has expanded, risk managers have been given an opportunity to be more integrated within their organizations, and RIMS is working to give them the tools and knowledge they need to take advantage of those opportunities, the RIMS executive director said.

"As I looked at the top six sessions at the conference as far as registered attendees for those sessions, three of them are in the (enterprise risk management) or (strategic risk management) track," Ms. Roth said. "Then there's the traditional sessions that people focus on as they are coming into this business, some

claims issues, as well as insurance and some loss control."

With the full schedule of events during the RIMS conference, planning is essential, Ms. Roth said. "There's not a waking moment that you're not doing something related to your business," she said. "I always tell people who are coming for the first time that you have to plan in advance and you have to schedule."

To help attendees navigate this year's conference, RIMS is offering a mobile app providing live event updates, interactive floor maps, exhibitor information and more.

Considering the fact that this is the 50th RIMS annual conference, Ms. Roth said, "A lot has changed, I gather, since 1963 in New Orleans."

"I think it just shows the evolution and the importance of this profession," she said. "Way back when, it may not have been a very recognizable profession, but I think over the 50 years of the conference that has changed considerably."

Since the first RIMS conference, the risk management profession has evolved from simply an insurance-buying function to a more prominent role increasingly integrated into organizations' strategies, Ms. Roth said.

"If you look at the content of the sessions over the years, you can see the evolution," she said, as RIMS sought to serve members looking to navigate a changing landscape and manage risks more effectively. And, Ms. Roth said, "I think the conference will continue to fulfill those obligations 50 years from now."

Community Service Day efforts to benefit Cradles to Crayons

Volunteers to pack bags with supplies for kids

By SHEENA HARRISON

With more than one-quarter of Philadelphia's residents living at or below the poverty level, Risk & Insurance Management Society Inc. members will work to aid the community while attending the 2012 conference.

Attendees will spend time volunteering with Cradles to Crayons during the RIMS Community Service Day on April 15. The nonprofit organization provides "everyday essentials" such as school supplies, diapers and clothing for children in the Philadelphia area who live in poverty.

Michal Smith, executive director of Cradles to Crayons, said RIMS volunteers will assist in creating "kid packs"—bags that include a week's worth of items for children from infants up to age 12. The packs are assembled based on requests from social workers, shelters, schools and other social service providers.

The need for such assistance is growing. Last year, Cradles to Crayons provided 19,000 kid packs and received requests for 23,500, compared with

10,000 packs provided in 2010. The increase in demand tracks estimates from the U.S. Census Bureau, which showed that that 26.7% of Philadelphia's residents were living at or below the poverty line in 2010.

The census also showed 31.3% of Philadelphia families with children under the age of 18 were living in poverty in 2010, up from 27.4% in 2009.

Ms. Smith said Cradles to Crayons hopes to assemble and provide 25,000 packs this year for children throughout the Philadelphia metropolitan area to meet the growing need.

"It's difficult enough to pay for groceries and rent and utilities and transportation to get to work, which means you can't afford clothing, kids' backpacks, baby equipment, a warm coat, books or toys," Ms. Smith said of the need for such assistance among Philadelphia-area families.

Cradles to Crayons was selected based on a recommendation from the United Way of Southeastern Pennsylvania, said Scott B. Clark, immediate past president of RIMS and the risk and benefits manager for Miami-Dade County Public Schools.

This year's community service event continues a tradition of service that

started with the 2007 RIMS conference in New Orleans, Mr. Clark said. Volunteering provides a chance for conference attendees to team up with each other while benefitting the conference's host city, he said.

"It's a great opportunity to give back," Mr. Clark said. "It's also a great opportunity for our risk managers to get to know each other outside of sitting in a class."

RIMS volunteers will meet for breakfast and a kickoff event at the Pennsylvania Convention Center and then will be transported to the Cradles to Crayons Giving Factory in West Conshohocken.

From there, volunteers will sort through donated items and use customized "shopping lists" to assemble kid packs, Ms. Smith said. While each pack includes some standard items—such as books and a week's worth of clothes—Cradles to Crayons encourages volunteers to put together packs that cater to a child's specific needs or interests.

For instance, a recently assembled bag contained Spider-Man items for a boy who is a fan of the comic book superhero. And children who have an upcoming birthday receive a new toy gift-wrapped with paper decorated by Cradles to Crayons volunteers.

"People get really engaged with fulfilling their shopping list with the highest quality products," Ms. Smith said.

Representatives from RIMS and Zurich North America—the event sponsor—visited Cradles to Crayons before selecting the charity for this year's Community Service Day. Jillian Walsh, Schaumburg, Ill.-based director of corporate giving and community relations for Zurich, called the Giving Factory a "well-oiled machine" that is helping to provide basic necessities for Philadelphia-area children.

"We really felt that they left no stone unturned in looking at what a child might need," she said.

RIMS plans to bring about 100 volunteers to Cradles to Crayons during the event. Clothing and supply donations for the organization also will be accepted during the conference.

While the work performed by Cradles to Crayons is serious, Ms. Smith said the volunteer experience at the Giving Factory is fun and fulfilling.

"People feel as though they've achieved meaningful work and they've had fun while they're doing it," Ms. Smith said. "The volunteer experience here is one where people feel as though they've validated their values."

Pucks, putts to benefit Spencer Foundation

By MALLORY GILLIKIN

PHILADELPHIA—Attendees at the 2012 Risk & Insurance Management Society Inc. Conference & Exhibition once again will hit the links and rinks to raise money to support students of risk management.

As in past years, the Spencer/Gallagher Golf Tournament and the NAPCO Spencer Cup hockey tournament will function as the “unofficial kickoff” for the conference.

Both events benefit the Spencer Educational Foundation Inc., a RIMS-affiliated charitable organization that awards scholarships and educational grants to students pursuing an education in risk management and related fields.

Adam Bergen, assistant vp at NAPCO L.L.C in Iselin, N.J., has organized the event for the past three years and expects this year’s event, which plays off the “Hockey Night in Canada” theme, to draw more spectators than ever.

“We’ll have games on two rinks going at once, but during the finals game, the other rink will be open for public skating,” said Mr. Bergen.

In addition to the action on the rinks, there will be a silent auction featuring sports memorabilia, a raffle, and a “Chuck a Puck” contest.

“Our fundraising goal for this year is between \$12,000 to \$15,000,” said Mr. Bergen. “We’ve already raised \$7,500,” he said last month. Last year, the NAPCO Spencer Cup raised more than \$10,000 for the Spencer Educational Foundation.

“Since it’s a free event, the overwhelming support comes from the players,” said Mr. Bergen. “Instead of charging a \$20 admission at the door, we’d rather everyone take advantage of the public skating or the silent auction.”

Spectators can reserve their spots at the event by registering at www.napcollc.com/spencercup. For more information, contact Adam Bergen at 732-603-5612 or abergen@napcollc.com.

Golf tournament

This year’s Spencer/Gallagher Golf Tournament, sponsored by

brokerage Arthur J. Gallagher & Co., will be held the morning of April 15 at the Ace Club, located in the Philadelphia suburb of Lafayette Hill, Pa.

Last year’s event in Vancouver, British Columbia, counted 64 players and 19 sponsoring firms, and raised more than \$32,000 for the Spencer Foundation.

This year’s event had received registrations from 105 players and 18 sponsoring firms at press time, said Lauren Cavanaugh, an account manager at Arthur J. Gallagher Risk Management Services

Inc. in Baton Rouge, La., and an organizer for the event.

“I think we’re seeing an increase (in registrations) as the economy gets a little better,” said Ms. Cavanaugh. “It’s very exciting.”

Transportation will be provided to the Ace Club, a 30-minute ride from downtown Philadelphia, Ms. Cavanaugh said. A shuttle will leave the Philadelphia Marriott Downtown, 1201 Market St., at 6:45 a.m. Sunday, she said.

A shotgun start will begin the tournament at 8 a.m. after a 7:15 a.m. continental breakfast.

After the tournament, prizes will be awarded for top finishers.

Registration for individual players has closed, but corporate tee sponsorships are available until April 4.

For more information on the golf tournament, visit the event website at www.ajgrms.com/spencergolf, or contact Ms. Cavanaugh at 225-906-0143 or lauren_cavanaugh@ajg.com.

The events will present their proceeds to the Spencer Educational Foundation during Spencer’s annual board meeting, held during RIMS.



MICHAEL MARCOTTE

Last year, the NAPCO Spencer Cup tournament at the RIMS conference in Vancouver raised more than \$10,000 for the Spencer Educational Foundation.



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Ingo Zimmermann, Head of EADS Corporate Insurance Risk Management

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COMPETITIVE SPIRIT

Sporting events that benefit the Spencer Educational Foundation Inc., a RIMS-affiliated charitable organization that awards scholarships and educational grants

- The NAPCO Spencer Cup hockey tournament will run from 6-10 p.m. April 14 at the Virtua Health Flyers Skate Zone in Pennsauken, N.J.
- The Spencer/Gallagher Golf Tournament, sponsored by brokerage Arthur J. Gallagher & Co., will be held the morning of April 15 at the Ace Club, located in the Philadelphia suburb of Lafayette Hill, Pa.

RIMS attendees to learn the rules of 'Moneyball'

Creative approach was key to Billy Beane's success story

By **MATT DUNNING**

PHILADELPHIA—When Billy Beane was named general manager of the Oakland Athletics in October 1997, the team was only weeks removed from finishing dead last in all of Major League Baseball that season. The A's total payroll that year, \$21.9 million, represented about 37% of the league-leading \$59.1 million payroll carried by New York Yankees.

Five years later, the A's and Yankees tied for the most wins in the league with 103, even though the gulf between the two teams' payrolls had actually widened—Oakland paid its players \$40 million to win the same number of games in 2002 for which New York had shelled out nearly \$126 million.

Exactly how Mr. Beane and the rest of the A's front office were able to prove wrong the prevailing wisdom in professional baseball that only the richest teams stood a legitimate chance of competing—and what lessons today's risk managers might extract from the team's turnaround—will be the subject of Mr. Beane's keynote address at the 2012 Risk & Insurance Management Society Inc. Conference & Exhibition in Philadelphia this month.

"Probably the main lesson is that no matter how scarce your resources, there is always a way to find creative solutions that can help your organization thrive," said Mary Roth, executive director of the New York-based RIMS.

In Mr. Beane's case—as was detailed in Michael Lewis' 2003 best-selling book

"Moneyball: The Art of Winning an Unfair Game" and, later, in the Academy Award-nominated film by the same name—the creative solution was a new approach to team building rooted heavily in an unorthodox way of looking at statistics.

By de-emphasizing some of the traditional metrics of player performance—batting average, stolen bases and runs batted in—in favor of rate-based and, importantly, undervalued statistics like on-base and slugging percentages, Athletics executives believed they could more accurately quantify a player's potential production on the field.

Those analyses began revealing value in players that the rest of the league had dismissed or greatly underutilized. The results spoke for themselves. From 2000 to 2006, Oakland won four division titles and qualified for the playoffs five times.

"The fact that Mr. Beane was able to use sophisticated metrics and statistical analysis to discover and exploit market inefficiencies to make his team successful can serve as an example for any risk manager who is trying to make do with an underfunded department," Ms. Roth said. "And given how many creative risk transfer methods are available today, there is a good chance that, like Mr. Beane, a risk manager that conducts some careful analysis might reveal some useful alternatives that might have been otherwise overlooked."

Not surprisingly, many other Major League teams have adopted similar strategies for their player evaluation and team-building operations since 2003. In his second year as general manager of the Boston Red Sox—a job that had been offered to Mr. Beane—Theo Epstein used elements of the "Moneyball" approach to guide the team to



AP PHOTO

Oakland A's General Manager Billy Beane will deliver a keynote address at the RIMS conference about the unorthodox, data-driven approach to team management and player development that led his team to success, as well as the larger lessons of that tale.

its first World Series win in 86 years in 2004.

In a somewhat ironic twist, several baseball analysts have argued that greater implementation of "Moneyball" principles likely is one of the reasons the Athletics have struggled to record a winning season since 2006. Still, when Mr. Beane addresses the RIMS 2012 audience on April 16, Ms. Roth said she expects attendees will appreciate the value of his contributions to profession-

al baseball and strategic risk management.

"Mr. Beane is an innovator who uses an unorthodox yet highly effective data-driven approach to selecting Major League Baseball players, and it has changed the game, impacting the way all teams evaluate players," Ms. Roth said. "As we encourage risk practitioners to assess their current risk management strategies, we felt his story was very relevant."

Steve Jobs' biographer to discuss innovation as risk

By **MATT DUNNING**

PHILADELPHIA—At its core, innovation is a risk.

The desire and ability innovate—to break from established theories and practices, be they political, scientific or commercial—is what led biographer and Aspen Institute President and CEO Walter Isaacson to his detailed studies of men like Henry Kissinger, Benjamin Franklin and Albert Einstein.

"I've always been fascinated with creative minds, and how they're able to take these imaginative leaps," Mr. Isaacson, a former chairman and CEO of the Cable News Network and former managing editor at Time Magazine, said. "What it is that allowed them and allows us to take these risks, these imaginative leaps, has been a theme in my biographies."

As a keynote speaker at the 2012 Risk & Insurance Management Society Inc. Conference & Exhibition, being held April 15-18 Philadelphia, Mr. Isaacson will discuss the main links between innovation and risk-taking, particularly through the prism of his most recent work, the best-selling



AP PHOTO

Walter Isaacson, author of a best-selling biography of Steve Jobs, will discuss the relationship between innovation and risk-taking during a presentation at the RIMS conference.

biography of Apple Inc. co-founder and CEO Steve Jobs.

"I think that having certain core principles that define how you're going to do your business helps you understand how to take risk, how to think outside of the box, and how to be imaginative in ways that are actually going to work," Mr. Isaacson said.

"We're often afraid to take risks, and it's partly because we're not confident in the data and the intuition we have relative to a new product or a new endeavor."

Mr. Isaacson said he plans to highlight elements of Mr. Jobs' business strategy and philosophy that could provide guidance for risk managers, including his knack for convincing others to embrace risk as an opportunity to surpass one's limitations, real or perceived.

"Steve had an ability to get people to do things they didn't even know they could do," Mr. Isaacson said. "They called it the reality distortion field. He was able to push his people into thinking they could accomplish what they thought was impossible."

Another key element of Mr. Jobs' success at Cupertino, Calif.-based Apple, especially since the beginning of the 21st century, was his emphasis on product simplicity and clarity of function, Mr. Isaacson said.

"Each of Steve's new products were what he called 'bet-the-company' risks," Mr. Isaacson said, noting in particular Apple's product expansion into the music industry, cellular phone and tablet computing mar-

kets, all of which had been unproven ground for computer manufacturers.

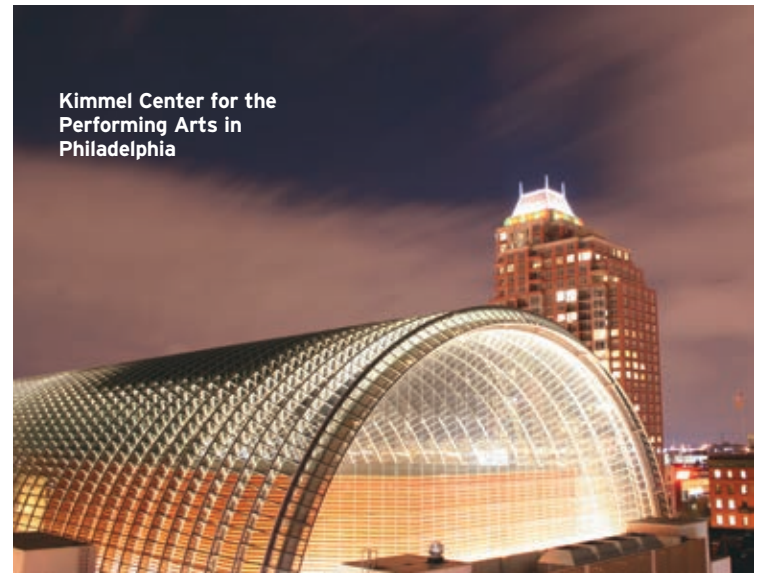
"Every time he went out into one of those areas, he was taking a big risk, but he did it based on a deep knowledge and intuition as far as the market's need for an imaginative solution to a new problem," Mr. Isaacson said. "He realized that simplicity doesn't just mean eliminating certain elements of a product, but rather really understanding what the core essence of the product actually is."

Mr. Isaacson's address is scheduled for April 18 during the RIMS Keynote Leadership Luncheon. Asked what led to Mr. Isaacson's selection as a keynote speaker for this year's conference, RIMS Executive Director Mary Roth said the author's biography subjects had distinguished themselves in their willingness to embrace risk in the pursuit of imagination and innovation.

"This is the same driving force that has allowed the risk management discipline to progress from insurance procurement to more complex processes like enterprise risk management and strategic risk management," Ms. Roth said. "Mr. Isaacson's familiarity with his subjects, in addition to his experience at CNN, Time Magazine and in the private sector, makes him not only eminently qualified to see these similarities, but to relate them to larger business concerns."

LOCAL PHILADELPHIA AUTHORITIES

PHILADELPHIA, THE HOST CITY for the 2012 Risk & Insurance Management Society Inc. Conference & Exhibition, offers a variety of interesting things to do and see—and eat. To give visitors the local perspective on the best sights, activities and dining spots in and around town, *Business Insurance* polled several risk and insurance professionals from the area. Each was asked about favorite restaurants, local attractions and quick getaways to nearby destinations. More information about the attractions, getaway destinations and restaurants mentioned below can be found on pages 14-16. [Compiled by Anna Gaynor]



Andrew Rosen

Principal-compensation,
Buck Consultants L.L.C.

DINING: Talula's Garden; The Farm and Fisherman



ATTRACTIONS: National Constitution Center; Pennsylvania Academy of the Fine Arts; Rittenhouse

Square; Philadelphia Museum of Art: "So if people are both into art and exercise, they can run up the steps."

GETAWAY: New Hope, Pa., in Bucks County

Art Boyle

Director, Delaware Valley Chapter of RIMS;
Vp of enterprise risk management,
Radian Group Inc.

DINING: Nodding Head Brewery & Restaurant

ATTRACTIONS: USS Olympia on Penn's Landing, Philadelphia, or USS New Jersey in Camden, N.J.

GETAWAY: Surf fishing at Avalon, N.J., and Stone Harbor, N.J.



Earl Varney

President, Delaware Valley Chapter of RIMS;
Manager of corporate insurance,
The Vanguard Group Inc.



DINING: White Dog Café

ATTRACTIONS: Kimmel Center for the Performing Arts; Peter Nero and the Philly Pops.

GETAWAY:

University of Pennsylvania: "I'm a little bit biased, because I went to school there."

Ed Lovelidge

Managing director,
PricewaterhouseCoopers L.L.P.

DINING: Osteria; any restaurant by Jose Garces. As for a Philly cheese steak? "It's almost a touristy thing."

ATTRACTIONS: Academy of



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LOCAL AUTHORITIES

CONTINUED FROM PREVIOUS PAGE

Natural Sciences of Drexel University; Avenue of the Arts.

GETAWAY: Lancaster County, Pa.: "You can literally drive on one road, and you're in Atlantic City."

Kevin Junod

Executive vp and health care practice leader, Lockton Cos. L.L.C.



DINING: Reading Terminal Market. "Nothing fancy here, just plenty of places for great food—from coffee or breakfast, to local haunts for lunch, to a cookie

or cannoli for dessert. Skip the chain restaurants and eat lunch here."

ATTRACTIONS: Philadelphia City Hall: "It has both wonderful architecture and history." Fireman's Hall Museum: "It captures the history and artifacts of the nation's oldest fire department, started by Ben Franklin in 1736."

GETAWAY: "I am a history buff, so I like Valley Forge National Park, the site of the 1777-78 winter encampment of the Continental Army."

Pamela Schultz

Director, Delaware Valley Chapter of RIMS; Assistant risk manager, Lincoln Financial Group



DINING: Buddakan

ATTRACTIONS: Philadelphia Phillies baseball game

GETAWAY: Rehoboth Beach, Del.

Robert Cartwright Jr.

Director, RIMS; Loss prevention manager, Bridgestone Retail Operations L.L.C.



DINING: Fogo de Chão; The Continental Mid-town: It's "a different kind of place."

ATTRACTIONS: Market Street; Ben Franklin

Parkway; South Street; Mütter Museum: "It's not for the faint of heart." Old City: "Everything is there—you've got all the history."

GETAWAY: Longwood Gardens

Robin Betza

Mid-Atlantic regional vp, The Navigators Group Inc.



DINING: Public House for a casual lunch; Marathon Grill: "It's a step up from fast food." Davio's Northern Italian Steakhouse for gluten-free pasta:

"You always get a good meal there."

ATTRACTIONS: Chestnut and Walnut streets. "Me? I like to shop."

GETAWAY: Jersey Shore

Sara Potter

Director, Delaware Valley Chapter of RIMS; Corporate director of insurance and risk management, Albert Einstein Healthcare Network

DINING: Vetri Ristorante

ATTRACTIONS: The Philadelphia Orchestra

GETAWAY: Winterthur (Del.) Museum, Garden and Library in Brandywine Valley; Chadds Ford, Pa.



Kenneth L. Ewell

President and chief operating officer, The Graham Co.



DINING: Capital Grille: "The Wagyu beef carpaccio is a must-have." Del Frisco's Double Eagle Steakhouse.

ATTRACTIONS: Dream Garden: "It is hailed as one of the major artistic collaborations in early 20th-century America."

GETAWAY: New Hope & Ivyland Railroad; Tyler Arboretum.

Scott Montgomery

Managing director, Arch Reinsurance Co.



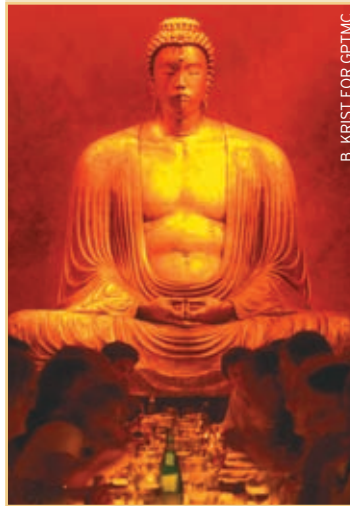
DINING: Devon Seafood Grill; Four Seasons Hotel: "Fantastic blue-collar cheesesteak in a wonderful white-collar setting."

ATTRACTIONS: Boathouse Row: "Just down the street from the Rocky statue."

GETAWAYS: Princeton, N.J.: "I like to walk around universities and colleges. There is usually great architecture to see."

DINING

Philadelphia has its own signature foods, but there are restaurants catering to all tastes. Here are some locals' favorite spots:



B. KRIST FOR GPTMC

Buddakan

Modern Asian

325 Chestnut St.; 215-574-9440

www.buddakan.com

Capital Grille

Steakhouse

1338 Chestnut St.; 215-545-9588

www.thecapitalgrille.com

The Continental Mid-town

New American

1801 Chestnut St.; 215-567-1800

www.continentalmidtown.com

Davio's Northern Italian

Steakhouse/Italian

111 South 17th St.; 215-563-4810

www.davios.com

Devon Seafood Grill

Seafood

225 S. 18th St.; 215-546-5940

www.devonseafood.com

Del Frisco's of Philadelphia

Steakhouse

1426 Chestnut St.; 215-246-0533

www.delfriscos.com

The Farm and Fisherman

New American

1120 Pine St.; 267-687-1555

www.thefarmandfisherman.com

Fogo de Chão

Brazilian steakhouse

1337 Chestnut St.; 215-636-9700

www.fogodechao.com

Garces Trading Co.

Café

1111 Locust St.; 215-574-1099

www.garcestadingcompany.com

Marathon Grill

American

121 S. 16th St., 215-569-3278; 1818 Market St., 215-561-1818; 1839 Spruce St., 215-731-0800 (All are roughly a mile or less away from the convention hall in different directions.)

eatmarathon.com

Nodding Head Brewery & Restaurant

American traditional/gastropub

1516 Sansom St.; 215-569-9525

www.noddinghead.com

Osteria

Italian

640 North Broad St.; 215-763-0920

www.osteriaphilly.com

Public House

American

2 Logan Square; 215-587-9040

www.publichousephilly.com



R. KENNEDY FOR GPTMC

Reading Terminal Market

Farmer's market

51 N. 12th St.; 215-922-2317

www.readingterminalmarket.org

Swann Lounge at the Four Seasons Hotel

American with French influence

1 Logan Square; 215-963-1500

www.fourseasons.com/philadelphia/dining/lounges/swann_lounge

Talula's Garden

Sustainable/New American

210 W. Washington Square; 215-592-7787

www.talulasgarden.com

Vetri Ristorante

Italian

1312 Spruce St.; 215-732-3478

www.vettristorante.com

White Dog Café

New American/sustainable

3420 Sansom St.; 215-386-9224

www.whitedog.com



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abergen@napcollc.com or visit the NAPCO site to register: www.napcollc.com/spencercup/

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Lafayette Hill, Pa., The ACE Club



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at 225-906-0143 or visit the Gallagher site to register: www.ajgrms.com/spencergolf/

Business Insurance
INSIGHTS TODAY FOR THE RISKS OF TOMORROW

ATTRACTIONS

The following are attractions in and around Philadelphia highlighted by local members of the risk management and insurance community.

Academy of Natural Sciences of Drexel University

Besides being the world's oldest natural history museum, the academy offers visitors a chance to walk among live butterflies as well as long-deceased dinosaurs.

Adult admission: \$12
www.ansp.org

Avenue of the Arts

Since 1993, Avenue of the Arts has been working to re-establish Broad Street as a hub for the arts. Now the area between Glenwood and Washington avenues is home to galleries, museums, restaurants and shopping.

www.avenueofthearts.org

Battleship New Jersey

This battleship originally launched in 1942, but today the USS New Jersey offers fun and educational tours showing the ups and downs of being a sailor.

Adult admission: \$18.50
www.battleshipnewjersey.org

Benjamin Franklin Parkway

Downloadable walking and biking tours start at the famous Love Park and show visitors Philadelphia's outdoor art and notable architecture.

www.parkwaymuseumsdistrictphiladelphia.org

Citizens Bank Park

The Philadelphia Phillies will host an afternoon game against the New York Mets on April 15.

philadelphia.phillies.mlb.com

Philadelphia City Hall

The largest municipal building in the United States—even bigger than the U.S. Capitol in Washington—also has one of the best views in Philly. Standing 548 feet tall, the tower allows a 360-degree view stretching 30 miles on a clear day.

www.phila.gov/virtualch

Dream Garden

Created by the studios of Louis Comfort Tiffany, this 100,000-piece mosaic measures 15 feet high by 49 feet long and is made of 24 panels.

www.visitphilly.com/music-art/philadelphia/dream-garden

Fireman's Hall Museum

Housed in a restored firehouse, this museum explores the history of Philadelphia firefighters and the equipment they used.

www.firemanshall.org

Kimmel Center for the Performing Arts

Home to the Philadelphia Orchestra and Peter Nero and the Philly Pops, the Kimmel Center will host

and even take a gander at Albert Einstein's brain.

Adult admission: \$15
www.collphyphil.org/site/mutter_museum.html

National Constitution Center

With more than 75,000 square feet of exhibit space, the National Constitution Center focuses on the people and ideas behind the U.S. Constitution rather than the artifacts themselves. Through May, an exhibit of Bruce Springsteen's music will be on display courtesy of the Rock and Roll Hall of Fame and Museum.

See **ATTRACTIONS** next page



B. KRIST FOR GPTMC

Pennsylvania Academy of the Fine Arts



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ATTRACTIONS

CONTINUED FROM PREVIOUS PAGE

Adult admission: \$14.50
www.constitutioncenter.org

Pennsylvania Academy of the Fine Arts

As the first museum and school of fine arts in the country, the academy has been home to a number of American artists, including Mary Cassatt and Henry O. Tanner, who is the focus of a retrospective running through April 15.

Adult admission: \$15
www.pafa.org

Philadelphia Museum of Art

While maybe best known for its relation to Rocky Balboa, the museum also is locally popular for its art, including a temporary Van Gogh exhibit.

Adult admission: \$16
www.philamuseum.org

South Street

Known for its eclectic offerings, South Street boasts more than 300 shops and restaurants. The program Arts on South gives unrented retail store space to community groups to show off their artwork.

www.southstreet.com

GETAWAYS

Following are a few nearby destinations, suggested by locals, for those seeking a change of pace from the conference and its host city.

New Hope & Ivyland Railroad

This fully restored steam passenger train runs weekends from New Hope, Pa., to Lahaska, Pa., and back.

First-class adult ticket: \$24.45
www.newhoperailroad.com

Lancaster County

Lancaster County is known for being home to the oldest Amish settlement in the country, but it also offers plenty of comfort food, historical tours and candy, thanks to the Hershey chocolate factory.

www.padutchcountry.com

Longwood Gardens

The outdoor grounds alone span 1,077 acres, and by mid-April the garden's colorful spring flowers are expected to be in full bloom. Longwood Gardens is located outside Kennett Square, Pa.

Adult admission: \$18
www.longwoodgardens.org

New Hope, Pa.

Settled in Bucks County, New Hope may seem like an unusual location for a thriving contemporary arts scene, but local galleries are building a community rich in visual, literary and performing arts.

www.newhopearts.org

Rehoboth Beach, Del.

Free to the public, Rehoboth Beach boasts a mile-long boardwalk filled with places to eat and shop.

www.rehoboth.com

Tyler Arboretum

What began as a private collection of trees and shrubs has turned into one of the oldest arboretums in the Northeast, occupying 650 acres.

www.tylerarboretum.org

Valley Forge National Park

Amateur historians pick their preferred method of touring the



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Longwood Gardens

Continental Army's 1777-78 campsite—with a guide, on a hike, in a trolley or simply by themselves.

www.valleyforge.org/visitors

Winterthur Museum, Garden and Library

This museum of decorative arts

and its 60-acre garden is located in the midst of Brandywine Valley, which spreads across Delaware and Pennsylvania. Visitors can take wine trails to local vineyards, main street trails to unique shops and restaurants, and even a covered bridge trail through the countryside.

www.winterthur.org

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Cyber: Policyholders struggle to win cover

CONTINUED FROM PAGE 4

the policy language specifically excludes intangible losses, unless additional enhancements have been negotiated to include some of these exposures, he said.

Insurers frequently argue that CGL policies cover only tangible assets, said Jon A. Neiditz, a partner with law firm Nelson Mullins Riley & Scarborough L.L.P. in Atlanta.

"Sometimes, one does obtain coverage under general (errors and omissions), CGL policies, but typically the position that carriers take with regard to those old coverages is they cover tangible assets rather than digital assets."

He added, "I think the combination of the wider availability of cyber insurance, the soft market for cyber insurance with soft pricing, makes it

more likely that insureds are going to purchase cyber risk insurance, and also probably more likely the carriers will view a cyber claim as not covered by traditional insurance."

The number of cases filed on the issue of coverage for cyber risks under CGL policies is likely to diminish as more policyholders obtain cyber coverage, said Mr. Godes of Dickstein Shapiro.

"I think as more insureds buy cyber policies, the cyber policies likely will pay first." But, he added, "to the extent claims are sizeable" and policyholders want full coverage for an event, "we will likely see a continuation of this type of litigation."

Meanwhile, litigation involving cyber policies is relatively rare, said Lori S. Nugent, a partner with Wilson Elser Moskowitz Edelman & Dicker L.L.P. in Chicago. "It's fairly

unusual for a claim not to be paid. Usually, the claims that are not paid involve material misrepresentation or a claim that is clearly not within the scope of coverage."

According to Ms. Nugent, the lack of disputes is because "many of the so-called cyber policies respond to both first-party and third-party exposures, and they do that because, early on, insurers understood that helping a policyholder respond to a breach appropriately and effectively significantly reduces the likelihood there would be a significant third-party claim.

"Insurers are doing a great job of helping their policyholders manage

the risk post-breach, so that for the most part significant claims are not emerging because breaches are handled well," although "obviously there are exceptions to that," Ms. Nugent said.

One significant issue that can lead to coverage litigation over cyber coverage is failure to notify, said Mr. Neiditz of Nelson Mullins.

"One of the issues that has created a lot of tension between insureds and insurers is that certain insurers have clearly defined resources that the insureds must use to obtain coverage during a breach, or they have processes that the insureds aren't invoking," he said.

"I get called about cases in which the insureds are already aligned with their breach response vendor,

and it isn't the vendor that their carrier has specified or one of the carrier vendors that their carrier permits, so there's been a lot of tension on that point," Mr. Neiditz said.

Mr. Neiditz suggested also that policyholders look at their policies carefully to see whether fines and penalties are covered.

Issues may arise over sublimits as well, he said, as "sometimes the expenses of lawyers or forensics resources" will exceed the sublimits for crisis management.

"Does the coverage clearly include the acts of your vendors?" he asked. "That's obviously a major issue." If firms are relying on their vendor's coverage, they should learn if they are a named insured on the policy, said Mr. Neiditz.

Insurers don't always prevail in coverage disputes

By JUDY GREENWALD

While there has not been a major surge of coverage litigation between insurers and policyholders over cyber insurance, one frequently cited case is *Zurich American Insurance Co. vs. Sony Corp. of America*.

In that case, the insurer is seeking a declaratory judgment that it is not obligated to provide insurance coverage for litigation in connection with hacking attacks in April 2011 on its gaming and entertainment networks, which reportedly was the second-largest online data breach in U.S. history. Zurich alleges in its suit that primary coverage for the data breach lies with Sony's other insurers, which are defendants in the lawsuit.

The complaint states that claims in class action complaints filed against the company "do not assert claims for 'bodily injury,' 'property damage' or 'personal and advertising injury,' which would entitle it to defense and/or indemnity under its primary policy." And even if these claims are alleged, the primary policy "includes certain exclusions that apply to exclude coverage from the claims asserted in the class action complaints." The litigation was filed in New York State Supreme Court in New York.

In another case, *Arch Insurance Co. vs. Michaels Stores Inc.*, filed Feb. 3 in U.S. District Court for the Northern District of Illinois, New York-based Arch is seeking a declaratory judgment that it has no duty to defend or indemnify New York-based Michaels under its commercial general liability policies in underlying putative class action suits that involve criminals who tampered with PIN pad terminals in Michaels Stores, allowing them to capture customers' credit and debit card information. The lawsuits charge Michaels with failure to safeguard the PIN pad terminals and provide "prompt and adequate notice" of the security breaches.

Arch's policies provide coverage of

bodily injury and property damage liability and for personal and advertising injury liability, according to court papers. "The underlying lawsuits do not allege claims with or potentially within the coverage of the policies," says the motion.

In *Hartford Fire Insurance Co. vs. Euromarket Designs Inc.*, which was filed in the same court as the *Arch* litigation in May, Hartford is seeking a declaratory judgment that it has no coverage obligations under its CGL policy with respect to Crate & Barrel, a unit of Northbrook, Ill.-based Euromarket Designs Inc. Four lawsuits have been filed against the chain charging it allegedly violated the Song-Beverly Act by intentionally requesting and then recording customer's ZIP code information during credit card transactions.

Two cases in which insureds successfully obtained coverage were *Eyeblaster Inc. vs. Federal Insurance Co.* and *Netscape Communications Corp. vs. Federal Insurance Co.* In *Eyeblaster*, a computer user sued the New York-based online marketing campaign management firm, charging it damaged his computer, software and data after he visited an Eyeblaster website.

In 2010, the 8th U.S. Circuit Court of Appeals in St. Louis reversed a lower court ruling and held that Federal, a unit of Warren, N.J.-based Chubb Corp., was obligated to provide coverage under its general liability and "information and network technology errors or omissions liability" policy.

In *Netscape*, St. Paul, Minn.-based St. Paul Mercury Insurance Co., a unit of Travelers Cos. Inc., denied coverage in four personal injury suits that charged interceptions of private electronic communications under its "general liability protection" policy. In 2009, the 9th U.S. Circuit Court of Appeals in San Francisco overturned a lower court ruling and held in favor of Netscape and its parent company, America Online Inc.



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Passwords: Employers risk increasing liability

CONTINUED FROM PAGE 3

expansive studies done on the statistics, but my sense is we're not talking about a large number of employers who are engaging in the practice at this point," said Michael C. Schmidt, a member of Cozen O'Connor P.C. in New York. "Not necessarily to minimize the concerns on the employee side of things, but I do think that the outrage and the perceived impact is overstated a little bit."

Martha J. Zackin, of counsel at Mintz Levin Cohn Ferris Glovsky & Popeo P.C. in Boston, agreed. "I do think it's a big hullabaloo over not a lot," she said.

However, Erin Egan, chief privacy officer for Palo Alto, Calif.-based Facebook Inc., had the opposite opinion.

"In recent months, we've seen a distressing increase in reports of employers or others seeking to gain inappropriate access to people's Facebook profiles or private information," Ms. Egan said in a

March 23 Web posting. "This practice undermines the privacy expectations and the security of both the user and the user's friends. It also potentially exposes the employer who seeks this access to unanticipated legal liability."

'Employers who obtain and use this information run the risk of being worse off, not better off.'

Susan W. Kline,
Faegre Baker Daniels L.L.P.

Ms. Miaskoff said that under current law, employers can expose themselves to EEOC charges—and potentially lawsuits—if they demand job applicants' passwords. This could occur in cases,

for instance, where the employer learns through that information that the job applicant is a member of a protected class and the applicant does not get the job, she said.

"It's really not a big leap to think, 'Now, gee, I didn't get the job because they knew about my religion.'" With an employer's access to Facebook, "it'll be easier than it sometimes is to otherwise challenge" a hiring decision, she said.

Employer attorneys agree that even without legislation banning it, asking for social media passwords is a bad idea.

"Employers who obtain and use this information run the risk of being worse off, not better off," said Susan W. Kline, a partner with Faegre Baker Daniels L.L.P. in Indianapolis. "It's just not really relevant to the hiring decision, and once you've become aware of that information, it's difficult to mentally set it aside as you should."

Ms. Zackin, who said she never recommends that employer clients try to get such information, also said she doubts the senators' proposal will become law.

In this political environment, "the chances are slim to none," she said.

Milliman: Pension funding

CONTINUED FROM PAGE 4

this year, which will be a "major contribution year for some of these companies. We're already seeing evidence of this, with several companies making high-profile

announcements about pension contributions in excess of \$1 billion," Mr. Ehrhardt said.

Among surveyed employers, Detroit-based General Motors Co. had the largest defined benefit program as measured by assets.

\$55.1B

Employer pension plan contributions declined to \$55.1 billion last year from \$60.3 billion in 2010.

Last year, the automaker had \$108.9 billion in plan assets. Its plans were 81.1% funded, down from 82.6% in 2010. The \$25.4 billion difference between its assets and liabilities was by far the greatest of any of the 100 employers in the study.

With \$86.6 billion in plan assets, Armonk, N.Y.-based IBM Corp. had the second-largest pension program in 2011. Its plans were 89.3% funded last year, down slightly from 91.6% a year earlier.

FPL Group Inc., a Juno, Fla.-based energy and utility company, had the highest funded ratio in 2011 at 147.1%, down from 162.1% in 2010. Atlanta-based Delta Air Lines Inc. had the lowest funded ratio of 40.4% in 2011, down from 47.1% a year earlier.

Ten employers had plans that were at least 100% funded last year, up from eight in 2010. On the other hand, 15 employers sponsored pension plans that were less than 70% funded last year, up from seven in 2010.

Employer plan contributions declined to \$55.1 billion last year, down from \$60.3 billion in 2010. By comparison, Milliman said annual plan contributions averaged \$39.1 billion over the prior five years.

In conducting the analysis, Seattle-based Milliman analyzed financial reports of publicly held companies sponsoring the 100 largest pension programs for which full-year data was available.

UP COMINGS & GOINGS CLOSE

BETSY GOOD



NEW JOB TITLE: Hunt Valley, Md.-based senior vp and director of strategy for Woodbury, N.Y.-based insurance broker Sterling & Sterling Inc.

PREVIOUS POSITION: Underwriting manager and director of new program development at Chevy Chase, Md.-based Victor O. Schinnerer & Co. Inc.

GOALS FOR NEW POSITION: I'll be wearing a few different hats, but some of the things I have been asked to do leverage the relationships that I have with insurance carriers already to bring in partnerships...so I will be starting up some new programs or changing partnerships as needed.

INDUSTRY OUTLOOK: I think in property and (workers compensation), you are starting to see a little hardening in the prices; the rest of the industry seems to be quite soft. There is a lot of capacity in the industry.

FIRST EXPERIENCE IN JOB MARKET: I started in 1986 straight out of college. Within weeks of graduating, I started working with Aetna (Inc.).

ADVICE: I think there is a huge need for a focus on coverage understanding. Someone new coming into the industry (should) spend the time reading through coverages and asking questions.

OUTSIDE THE INDUSTRY, A DREAM JOB: I would love to run a large home for underprivileged teenagers. I love kids, and I do really well with teenagers, which is a difficult age. I relate quite well to them. I raised three kids, my youngest is 21, and I have a little bit of empty-nest syndrome going on. Sometimes kids just need someone to believe in them and show interest in what they are doing.

HOBBIES: I like to travel. I went to Ireland and Costa Rica (recently) and am about to go to Italy.

MOST PASSIONATE ABOUT: From a personal standpoint, I am very family-oriented. I am very maternal. I believe in giving back, and I wish I could do more.

CAN'T-MISS TELEVISION SHOW: "How I Met Your Mother" is a great comic relief. I really enjoy that.

ON A SATURDAY AFTERNOON: Either walking or shopping.

EMAIL OR PHONE, AND WHY: I prefer phone. It is much more personal. I am an underwriter, and I document everything, so I will follow up with an email.

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Hancock: CEO on changes

CONTINUED FROM PAGE 3

in the period of time I was at—from 1980 to 2000—went through a business model transformation, so change management is something I'm very focused on and that I think has been helpful. And the area on which I was focused was very much the area of risk identification, risk quantification, risk mitigation—and at its essence, at its core, insurance is one of the most important tools to manage risk.

In the years that I was an entrepreneur, a lot of the strategic advice I provided to my customers then was about how to think strategically about risk and how to deal with strategic issues in a systematic fashion. I think that the strategic issues faced by AIG and by Chartis were ones that I think I felt I could apply a lot of my background to. The need to balance the three drivers of value that I think are fairly universal across industries—which are profitability, growth and risk—is very important as we try to create a sustainable value proposition for our customers where we can shoulder the risks they don't want cost-effectively with a capital structure that can honor the long-term promises that we make to them.

This sort of tension that exists between short-term profitability, long-term growth and having a risk appetite as a company that allows us to sustain ourselves is something that I've spent much of my career thinking deeply about, and I've found it's been a helpful organizing principle for Chartis and for AIG.

Q: Do you think we're in the midst of a market turn?

I think that there would appear to be some hardening. The rates we're seeing in the U.S. commercial space would back that up. I think we saw it in our book in the U.S., in different

lines to different degrees. But with about a 4.5% rate increase year on year, 2011 vs. 2012, I do not believe that would really constitute a turn, but a slight firming in a market that was still providing returns significantly below the cost of capital. There would appear to be significant overcapacity in the U.S. in particular, despite all of the cat activity last year. But there is still, I think, robust demand for capital in some of the faster-growing economies around the world. So I think we feel optimistic about the demand for our products, but we also feel that the market is increasingly characterized by microcycles.

Medical: New risks

CONTINUED FROM PAGE 3

treatment billing and employment practices among ACO members, she said.

"Generally speaking, ACO liability exposures are a mixed bag," Ms. Frost said. "They're as diverse as the ACO variations themselves. So it's very important when you're trying to value liability exposures to look at each particular risk."

In a panel focusing on liability exposures for health care executives, David N.T.

Watson, senior vp and chief financial officer of Chicago-based National Surgical Hospitals Inc., contended that ACOs have an "unclear" structure that raises questions on how future medical liability cases will play out.

"If the medical home is coordinating patient care, who's ultimately responsible for a malpractice incident—the ultimate provider (or) the provider that sent that patient for care? And how is that going to be insured—insured individually (or) by group?" Mr. Watson asked.

Event draws 400

CHICAGO—More than 400 people attended the annual Medical PL Symposium held last week at the Sheraton Chicago Hotel & Towers in Chicago.

Topics discussed during the conference included accountable care organizations, use of social media by insurance companies and enterprise risk management for health care organizations.

The conference was produced by the Professional Liability Underwriting Society.

Next year's conference is scheduled for April 10-11, 2013, at the Hyatt Regency Chicago hotel.

—By Sheena Harrison

ADVERTISER INDEX	
Issue of April 2	
ADVERTISER	PAGE #
Acord/Loma	19
Allianz	11
Aon Corporation	2
Arthur J. Gallagher	5
Aspen Insurance	15
Business Insurance	16, 21, 23
Chartis	24
FM Global	13
Old Republic Risk Management	17
Southern Insurance Underwriters Inc.	18
Spencer Educational Foundation	14
Swiss Re	7
UNICUS Claim Controls Inc.	18

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Health: Will reform law be rejected?

CONTINUED FROM PAGE 1

said. "I always thought the vote on the mandate would be close, but I really didn't think there was a chance the court would throw the entire law out. From the arguments (last Wednesday), it seemed like the five conservative justices thought as a bloc that the entire law has to go."

Jay Kirschbaum, St. Louis-based vp and practice leader for Willis Human Capital Practice, said he had been "pessimistic" that the Supreme Court might decide that the individual mandate was

unconstitutional.

"But after listening to the oral arguments, I'm more optimistic," he said.

"The entire law is in play," said Royal Oakes, a partner with insurance law firm Barger & Wolen L.L.P. in Los Angeles.

"The questions from the justices suggest they're likely to dump the individual mandate; but beyond that, the crystal ball gets murky. Justice Scalia would probably toss the whole thing, but the chief might try to cobble together a consensus to reject only those components that seem to make no sense without the individual mandate. If that happens, the employer mandate might be left standing," Mr. Oakes said.

However, the individual mandate and the employer mandate are directly related pieces, contained in a section in PPACA titled "shared responsibility," said Paul Dennett, senior vp-health care reform with the Washington-based American Benefits Council, which filed a brief in the case asserting that if the individual mandate is ruled unconstitutional, the employer mandate should be as well.

"The employer penalty is an assessment on employees who obtain coverage in the individual market through exchanges. In the absence of an individual mandate and the insurance reforms that support it, some of those employees won't qualify for coverage, but the employer would still be subject to a penalty," Mr. Dennett said.

"I don't think anyone felt that when the suit was filed that it was a constitutional law exercise and, instead, considered it to be a more political move," said Andy Anderson, a partner with Morgan Lewis & Bockius L.L.P. in Chicago. But after hearing the oral arguments, he said the possibility of the entire health care reform law being struck down "is far more probable than anyone anticipated."

"The government didn't make its case as strongly as it might and the plaintiffs did pretty well," said Paul Keckley, executive director of the Deloitte Center for Health Solutions in Washington. "I'm

Employers face decisions if court overturns entire law

WASHINGTON—There's good news and bad news for employers if the U.S. Supreme Court scraps the entire Patient Protection and Affordable Care Act, health benefits experts say.

While employers would regain their former flexibility in designing health benefits, they also would have to decide what to do with plan changes they've already made to comply with the law, such as extending coverage to employees' adult children—a move that benefit experts warn could be very unpopular.

Employers also would lose the opportunity to take advantage of provisions in the law that may have led to lower costs and improvements in care quality, such as research into treatment efficacy and outcomes.

"Once you provide a benefit, even if legally you can take it away, as a sense of company morale, it is every difficult to take it away; and this has been a very popular benefit," said Chantel Sheaks, a principal at Buck Consultants L.L.C. in Washington. "It's the same issue for companies that lost their grandfather status and gave preventive care without copayments. Human resource departments will be getting a lot of phone calls."

"If the law is invalid, it

returns flexibility to design benefits without worrying about compliance with the letter of the law as opposed to what makes sense for their employees," said Steve Wojcik, vp of public policy at the National Business Group on Health in Washington. But employers may have made physical workplace changes to—for example, accommodate nursing mothers—which he said may be difficult to take away.

"There are a lot of really innovative and cutting-edge system and payment reforms in the law that make up the bulk of the law. Losing that momentum would set us back years. We'd be going backwards instead of forward," said Shawn Nowicki, director of health policy at the Northeast Business Group on Health in New York.

"We think there are some very good provisions in the legislation, so if the whole thing were struck down, we would need to reconstruct the value-based purchasing provisions," said Andrew Webber, president and CEO of the National Business Coalition on Health in Washington.

"There are many elements of the legislation that employers support. But at the same time, employers don't like mandates and penalties and excise taxes," he said.

—By Joanne Wojcik

not ready to conclude that they are going to throw the whole thing under the bus," he said. However, "I could see them throw the mandate out and keep the law and throw it back to Congress."

Chief Justice "Roberts does not

want the court to be politicized, and he doesn't want the court to legislate. I still have a sense that Kennedy is going to support the law, but I wouldn't be surprised if he doesn't vote with Roberts," Mr. Keckley said.

Rejecting only individual mandate seen as worst outcome

WASHINGTON—Deciding that the individual mandate in the health care reform law is unconstitutional while keeping the rest of the law intact would be the "worst-case scenario" of possible Supreme Court actions on the law, most industry experts agree.

"It does not put us back to where we were prior to health care reform. It puts us in a place that is much worse than that," said Jim Napoli, senior counsel with Proskauer Rose L.L.P. in Washington.

He wrote an amicus brief on behalf of the Washington-based American Benefits Council suggesting that the court should strike the employer mandate if it decides the individual mandate is unconstitutional.

"It would cause employers to seriously consider whether to remain in the health

care game" because "for many employers, the cost of the penalty would be less than the cost to actually provide coverage," he said.

Moreover, "insurers may pull out of certain markets and not provide individual coverage. What does that do to the group market? Or what does it do the cost of health care in a more general sense? The employers that self-fund will still be impacted even if they're not purchasing an insured product because the cost of health care will go up. That's the negative consequence of it," Mr. Napoli said.

"The insurance industry will just increase the cost for everyone," said Larry Boress, president and CEO of the Midwest Business Group on Health in Chicago.

Of eight states that enacted guaranteed issue and community rating without an

individual mandate, "three went into the ditch and only five were left standing, but they are limping along," said Paul Keckley, executive director of the Deloitte Center for Health Solutions based in Washington.

Indeed, during oral arguments, Solicitor General Donald B. Verrilli Jr. told the court that when community rating and guaranteed issue were implemented in New Jersey, rates soared and the number of individuals covered plummeted from 180,000 to 80,000. "In Kentucky, virtually every insurer left the market," he added.

Ed Haislmaier, senior research fellow in the Center for Health Policy Studies at the Heritage Foundation, predicts that if PPACA is allowed to stand without the individual mandate "the whole thing goes south very quickly."

—By Joanne Wojcik

ONLINE POLL

We asked readers last week how the Supreme Court should rule on the health care reform law:

61% Strike down the individual mandate and the full law

30% Uphold the full law

9% Strike down the individual mandate but allow the broader law to stand

ONLINE FEATURES

For more on health reform, visit the Benefits Management channel of www.businessinsurance.com

- Audio/transcripts of the oral arguments
- A Solution Arc of the health care reform law
- A gallery of health care reform-related editorial cartoons

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Lockton: Global partners

CONTINUED FROM PAGE 4

Belgium-based Vanbreda Risk & Benefits N.V.

"By acting in partnership, we deal with each other because we want to, not because we have to," Mr. Leysen said in a statement. "We have mutually committed to treat every client as our own."

Mr. Lumelleau said the fact that all the participating members of the partnership are privately held also confers an edge with customers.

"We have felt for a long time that we can compete with any broker in the world at a high level," he

'We have mutually committed to treat every client as our own.'

Mark Leysen, Vanbreda Risk & Benefits N.V.

said. "We believe that being private and independent is a competitive advantage for us; and by bringing 30 of the most respected privately held firms in the world together under Lockton Global, we advance that advantage exponentially."

While he sees plenty of growth opportunities in developed economies, Mr. Lumelleau said the move reinforces the increasingly global nature of insurance and the importance of markets such as Brazil, Russia, India and China. "We see the BRIC nations playing a big part of Lockton's future in the coming decades," he said.

He also acknowledged that while the partners operate in 85 countries, there may be room for others to join.

"The geographic footprint today is pretty complete, but you never say never," he said.

Lloyd's: Despite disasters, market weathers storm

CONTINUED FROM PAGE 1

2011 compares with a profit of £2.20 billion (\$3.49 billion) for 2010. Its combined ratio deteriorated to 106.8% from 93.3% the previous year. Total resources of Lloyd's and its members at year-end stood at £58.87 billion (\$93.42 billion) vs. £55.23 billion (\$84.64 billion) a year earlier.

Mr. Ward noted that the global insurance industry had to pay out more than \$100 billion in catastrophe-related claims last year. "That capital has to be replaced, and the way you do that is to increase rates," he said.

"It would be nice over the next few months that we do see these green shoots of recovery in rates continue," said Mr. Ward. "The general commentary in the market is no one is surprised by these results. They're not bad results given the scale of the losses."

Analysts said the losses, though high, were expected.

"Despite record catastrophe losses and a pretax deficit, the capital strength of the Lloyd's market was maintained," said Catherine Thomas, director-analytics for

LLOYD'S RESULTS

While the Lloyd's of London market made a profit from 2007 through 2010, catastrophe losses pushed it into loss in 2011. Net income before taxes, in millions, was:

YEAR	NET INCOME
2011	(£516)
2010	£2,195
2009	£3,868
2008	£1,899
2007	£3,846

Source: Lloyd's of London

A.M. Best Europe Rating Services Ltd. in London. She noted that Lloyd's central assets reached a record £2.39 billion (\$3.79 billion).

"It is noteworthy that in 2011, the majority of loss activity occurred outside the U.S.," Ms. Thomas said. "Due to the nature of the events, many insurers struggled to estimate ultimate losses; and in the second half of 2011, there was material adverse development relating to the earthquakes in Japan and New Zealand."

"From a rating agency perspective, we'll be considering things in

a credit context," said Martyn Street, director with Fitch Ratings Ltd. in London. "The loss, though significant, given the year we've witnessed, it is reasonable they are within our expectation from the events that occurred last year."

"The market has the resilience to absorb losses," Mr. Street said.

"The results for 2011 are within our expectation and are not by any means an outlier for the market as whole," said Dennis Sugrue, a director at Standard & Poor's Rating Services in London.

"Obviously, there's going to be disparity a between the results of the separate syndicates," he said. "Of the ones we follow, I don't think there are any material outliers from a rating perspective. We talked to Lloyd's and I think they're comfortable with where all the syndicates stand. The market as a whole is still in a strong position from a resource perspective. The losses were within what Lloyd's had planned for."

Seventy percent to 80% of last year's cat losses were in Asia, Mr. Street said. "Some companies have been relatively unscathed, whereas others have endured quite significant losses."

He also noted that losses increased as actual data was tallied for some events. "We'll be looking for how the market responds to this," Mr. Street said.

inBrief

CONTINUED FROM PAGE 1

unconstitutionally took the property and rights of AIG's shareholders without compensation.

Duperreault named chair of federal advisory panel

Marsh & McLennan Cos. Inc. President and CEO Brian Duperreault has been named the first chairman of the Federal Advisory Committee on Insurance, MMC announced. Mr. Duperreault's appointment was confirmed by Federal Insurance Office Director Michael McRath at the committee's first meeting last week. The advisory panel was established by the Treasury Department to provide advice to the FIO.

U.K. court clarifies asbestos liability

The U.K. Supreme Court has rejected an appeal by four insurers to limit their liability in cases concerning asbestos exposure and mesothelioma. On a 4-1 vote, the court said the insurers are liable for claims by workers suffering from mesothelioma, a lung cancer that can take decades to develop after exposure to asbestos. The insurers had argued that the insurer on the coverage when the mesothelioma develops, rather than when the claimant was exposed to asbestos, should pay the claim. The justices rejected the argument, ruling that the coverage was triggered when employees were exposed to asbestos dust.

Mo. Senate overrides veto of work comp bill

Missouri's Senate voted to override Missouri Gov. Jay Nixon's veto of a bill that aims to reduce workers compensation liability in the state. The override measure has moved on to the Missouri House of Representatives for consideration. The bill would require occupational diseases to be covered solely by workers comp, except in cases of toxic exposure to chemicals, radiation and other substances caused by a third party, among other changes.

Insured cat losses total \$116 billion in 2011

By MARK A. HOFMANN

Insurers sustained \$116 billion in losses from natural catastrophes and man-made disasters last year, Zurich-based Swiss Re Ltd. reported.

Nevertheless, the insurance industry proved to be "highly effective" in dealing with the losses, which made 2011 the second-costliest year in insured losses. It was surpassed only by 2005, when a series of major hurricanes, including Katrina, battered the United States and added to estimated global insured losses totaling \$123 billion.

Swiss Re's sigma report on natural catastrophes and man-made disasters said the March 2011 earthquake in Japan resulted in \$35 billion in insured losses, making it the most expensive quake on record. Swiss Re noted that earthquake insurance penetration in Japan, particularly for commercial properties, is low. As a result, insurers will bear only 17% of total economic losses.

The February 2011 quake that destroyed parts of Christchurch, New Zealand, was the third-most expensive temblor in recorded history, causing about \$12 billion in insured losses.

Unlike Japan, quake insurance penetration is high in New Zealand, with insurers expected to cover 80% of the economic loss, Swiss Re said.

In addition, months of flooding in Thailand caused an estimated \$12 billion in insured losses, while flooding in Australia added more than \$2 billion more in insured damage to the year.

The United States was not spared catastrophe-related losses, either. A particularly violent tornado season resulted in insured losses of more than \$25 billion, according to Swiss Re. But despite Hurricane Irene, the U.S. hurricane season proved to be relatively mild and kept overall insured damages below those of 2005.

Still, "the insurance industry proved highly effective in weathering the extreme events of 2011," Swiss Re said. "Despite historic losses and a challenging financial environment, the industry played a key role in post-disaster recovery financing, bringing much-needed funds to affected populations, business and governments."

The report warned, however, that the events "revealed increasing risk accumulation, particularly in emerging markets."

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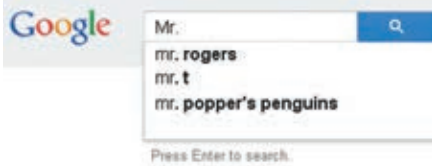


What's in a name? Ask Google

Google Inc. must modify its "autocomplete" search feature at the behest of a Japanese man who claims the site's automated search results for his name cost him his job several years ago and have prevented him from finding new work, according to news reports.

A Tokyo District Court last week ordered Mountain View, Calif.-based Google to delete certain terms from its autocomplete databanks related to the man's name, which was withheld from public release.

According to the report, the man petitioned the court



in October for an injunction after he discovered more than 10,000 search results linking his name to "criminal acts," with which he claims to be unfamiliar.

Reports say Google has refused to comply with the order on the grounds that the Japanese court does not hold jurisdiction over U.S.-based companies, and that the circumstances of the man's grievance with the results do not rise to its own in-house threshold for altering search results for privacy protection.

The March 19 decision by the Tokyo District Court is believed to be the first-ever judicial demand for removal of terms from an automated search function.

CONTRIBUTING: Matt Dunning, Judy Greenwald, Mike Tsikoudakis, Rodd Zolkos

End Page



Pet insurer eyes new trick for dogs

As pet insurance programs continue to gain popularity, a product under development in the United Kingdom may show the need for pet wellness efforts.

The Daily Mail reported last week on efforts to develop a £5,000 (\$7,934) doggy stair lift that would assist those pooches having trouble making it up stairs on their own four paws.

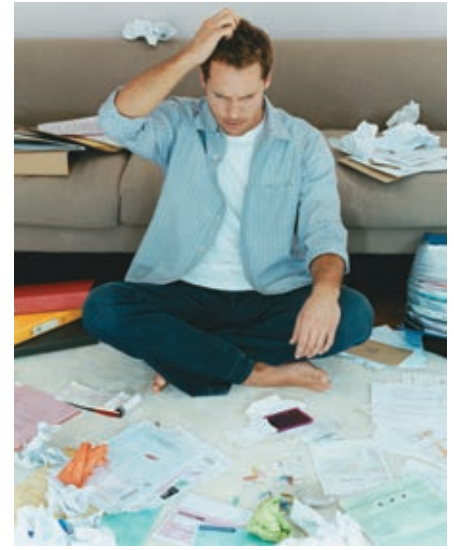
U.K. insurer More Than, a unit of Royal & Sun Alliance Insurance P.L.C., reportedly is looking for a manufacturer to produce its prototype. It includes a "paw push" start button and a plastic basket that carries the pet up the stairs.

The stair lift would benefit not only those pups whose trips up the stairs are

made more challenging by a few extra pounds, but also those suffering from arthritis or other conditions that make it difficult or impossible to go up and down stairs on their own.

Pet weight issues are serious business, with the Daily Mail piece including data suggesting that 35% of dogs and 37% of cats in the United Kingdom are considered overweight and that, at the current pace, 46% of dogs will be considered obese by 2016.

That extra weight can cause or contribute to health conditions in dogs that include back and hip problems, so tending to Fido's wellness today could go a long way toward putting off future need to invest in a doggy stair lift.



Sweet settlement for ID theft suit

Patrons of Des Moines, Iowa-based Palmer's Deli & Market would get a free soda with their \$5 order as part of a proposed settlement of a lawsuit alleging that Palmer's printed receipts that exposed customers to identity theft.

First, however, patrons would have to prove they were a customer of the deli chain between June 3, 2008, and May 30, 2011.

The lawsuit filed last June in Des Moines federal court reportedly alleges that Palmer's willfully broke a 2003 federal law that requires truncating credit card numbers and expiration dates on printed store receipts.

The suit accused the chain of exposing customers to possible identity theft by printing full card expiration dates on its receipts.

The U.S. Fair and Accurate Credit Transactions Act requires merchants to pay \$100 to \$1,000 for each "willful violation" of its rules.

The settlement proposal filed last week would avoid the need for plaintiffs attorneys to prove the violations were "willful," but also would avoid financial ruin for Palmer's, which processed nearly 754,000 credit and debit card transactions at its five locations during the relevant dates, according to court papers.

Among other terms of the proposed settlement, two plaintiff law firms would receive \$170,000.

But customers are going to have to decide whether a free soda is worth all the effort required to either dig up the original store receipt or find the credit card statement showing the transaction.

WILL THEY GET TO LIE IN BED THEY MADE?

A Connecticut father and son received an \$899 bed as payment for agreeing to set a woman's vehicle on fire for the insurance money, but from the looks of things, they won't be getting a good night's sleep anytime soon.

Robert Grem and his son, Christopher Grem, were arrested two weeks ago in an insurance fraud investigation on multiple charges, including accessory to insurance fraud and first-degree criminal mischief, according to news reports.

Ewa Rybitwa, owner of the "stolen" 2006 Ford Explorer, in March was arrested and charged with insurance fraud and for falsely reporting that her car was stolen, said reports, while Kyle Buracchi reportedly was charged as an accessory to insurance fraud and second-degree larceny.

According to reports, the father and son duo allegedly agreed in January to steal and set fire to Ms. Rybitwa's vehicle, on which she still owed \$21,600. They reportedly were paid with an \$899 Sleep Number bed.

The two then hired Anthony Stevenson for \$350 "to burn the vehicle for insurance purposes," according to reports. Mr. Stevenson, who after his arrest described to police the men who hired him, decided to keep the vehicle instead because he wasn't paid enough and didn't want arson charges against him.

Messrs. Grem, Ms. Rybitwa and Mr. Buracchi were arraigned last week at the Superior Court in Middletown, Conn. Their court dates have been scheduled in April and May.



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