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WHAT'S A SPLIT POINT?

Split points: The cutoff between primary losses, which reflect frequency, and excess losses, which reflect severity, that's used to calculate experience modification, a factor that determines how much employers pay for workers comp coverage.

$7,000: California's current split point, which will change to variable dollar figures based on company size on Jan. 1.

120,000: Number of California employers affected by the change. Employers that don't qualify for experience rating, such as those who self-insure, will not be affected.

Source: California Workers' Compensation Insurance Rating Bureau

WORKERS COMPENSATION

Employers get ready for comp changes

Variable split point could reward safety

BY STEPHANIE GOLDBERG

Employers in California could have a financial incentive to improve workplace safety when a proposed revamp of the state's experience rating formula for workers compensation claims is introduced.

California on Jan. 1, 2017, will move from a fixed $7,000 split point for comp claims to a variable split point that changes based on a company's size, according to the Workers' Compensation Insurance Rating Bureau.

The change will affect the roughly 120,000 employers in the state that are eligible for experience rating. Companies that self-insure

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REGULATION

METLIFE VICTORY GIVES HOPE TO OTHER 'TOO BIG TO FAIL' FIRMS

AIG looks on as court rules for life insurer

Within hours of last week's unsealing of the ruling by U.S. District of Columbia Court Judge Rosemary M. Collyer, Treasury Secretary Jack Lew promised a vigorous appeal.

AP PHOTO

BY MARK A. HOFMANN

A ruling that regulators were "arbitrary and capricious" in their decision to designate MetLife Inc. a systemically important financial institution is a major victory for insurers, but the battle continues.

Within hours of last week's unsealing of the ruling by U.S. District of Columbia Court Judge Rosemary M. Collyer, who late last month overturned the "fatally flawed" MetLife designation, Treasury Secretary Jack Lew promised a vigorous appeal.

MetLife was one of three insurers — the others being American International Group Inc. and Prudential Insurance Co. — that The Financial Stability Oversight Council designated as SIFIs, making them subject to heightened reporting and finan-

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SIFI DESIGNATION

The Financial Stability Oversight Council deigned MetLife Inc. as a systemically important financial institution, subjecting it to additional federal oversight and financial stress tests.

U.S. District of Columbia Court Judge Rosemary M. Collyer overturned MetLife's designation, saying FSOC failed to follow its own standards in determining MetLife is a systemic risk.

Two other insurers, American International Group Inc. and Prudential Financial Inc., also have been designated as SIFIs. Neither has challenged the designation so far.

P/C INSURERS

Reinsurers vie with insurers for business

Buyers' options grow as new entrants arrive

BY DOUGLAS McLEOD

Reinsurers are pushing to create or expand their specialty and other insurance operations as ongoing competition dampens growth prospects in traditional reinsurance lines.

While many reinsurers have offered insurance for years, several — including Everest Re Group Ltd., Berkshire Hathaway Inc. and Munich Reinsurance America Inc. — are looking more to insurance to grow and diversify.

"Generally speaking, returns and growth prospects are better for insurance at the current time given the more challenging conditions in reinsurance," said Tony Kuczinski, Munich Re America's president and CEO, who said he sees opportunity in both segments.

Some insurance units are new launches: Bermuda-based Watford Re Ltd. late last month received an A.M. Best Co. Inc. credit rating of A- for Watford Specialty Insurance Co., a new U.S. subsidiary focusing on small- to medium-size commercial casualty and non-catastrophe property programs written through managing general agents, Watford Re CEO John Rathgeber confirmed.

"We see this trend continuing in 2016," said Brian C. Schneider, senior director at Fitch Ratings

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Q&A: LAURIE SOLOMON

Ms. Solomon, the director of global risk management at The Coca-Cola Co. in Atlanta, will retire this week after 20 years with the world's largest soft drink company. Her accomplishments include fundamentally changing Coca-Cola's risk-taking strategies and using corporate captive insurance companies to fund employee benefit and other company risks.

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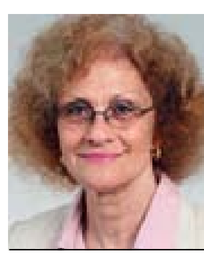

COMMENTARY

JUDY GREENWALD
SENIOR EDITOR

Charges last month against a pharmacuetical company's executives that they concealed FDA concerns about their signature cancer drug starkly illustrate that ultimately businesses must always place people before profits. But a new policy covering cyber bullying shows some businesses have their hearts in the right place.

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SAFETY

EMPLOYERS SET TO FIGHT OSHA OVER RETALIATION CLAIMS

Safety regulator takes aggressive stance in legal battle

BY GLORIA GONZALEZ

United States Steel Corp. faces legal action by the Labor Department over its decision to discipline two workers who failed to immediately report workplace injuries.

Employers have more to worry about given the Occupational Safety and Health Administration's ramp-up of litigation to protect whistleblowing employees as it targets common workplace safety policies as well as supervisors.

Two recent cases — one against Pittsburgh-based United States Steel Corp. and the other against Southfield, Michigan-based Lear Corp. — have raised several concerns.

In the U.S. Steel case, the Labor Department brought a suit in Wilmington, Delaware, federal court in mid-February seeking to reverse disciplinary actions against two employees for failing to immediately report workplace injuries in accordance with company policy, according to court records.

"I think there's no question the employer community at large should be alarmed and concerned by the position OSHA's taking," said Eric Hobbs, a partner at Michael Best & Friedrich L.L.P. in Milwaukee. "That's a case where the employer has no choice but to marshal all its resources and to fight the battle."

U.S. Steel declined comment, but those familiar with the company say OSHA is in for a fight.

"They're not going to back down on their requirement to immediately report injuries," said Jim Stanley, president of safety consulting firm FDRsafety L.L.C. in Franklin, Tennessee, and a former deputy assistant secretary of labor and vice president and corporate director of safety at AK Steel. "OSHA has no authority to do what they're doing. They can't just declare that it's illegal to require an employee to immediately report accidents."

Employer policies requiring

See **OSHA** page 48

REPORTING INJURIES, ILLNESSES

- Experts say it is a common practice to require employees to immediately report injuries or illnesses.
- In a lawsuit against United States Steel Corp. for suspending two workers, federal authorities want employees to have at least seven calendar days from the time they realize they are injured or ill to report it to the employer.
- In a lawsuit against Lear Corp., federal authorities also sued several managers in the suspension or firing of employees who reported workplace hazards.

CYBER LIABILITY

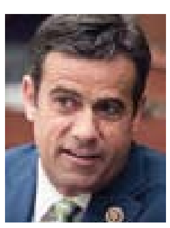
Cyber coverage seen as security incentive

BY MARK A. HOFMANN

Congressional interest in promoting cyber insurance as a market-based way to manage business and critical infrastructure risks is growing.

That was evident when a subcommittee of the House Homeland Security Committee, which does not oversee insurance issues, convened a hearing on the role of cyber insurance in risk management. At the outset, Rep. John Ratcliffe, R-Texas, said that while the cyber insurance market is in its infancy, "it's easy to envision its vast potential."

Rep. Ratcliff, also the chairman



Rep. Ratcliffe

of the Cybersecurity, Infrastructure Protection and Security Technologies Subcommittee, said insurers provide incentives to get homeowners to invest in locks, smoke detectors and other loss-control devices. "The same could be true for companies seeking to obtain cyber insurance," he said.

"We must explore market-driven methods for improving the security of the companies that store our personal information," Rep. Ratcliffe said. "I believe cyber insurance may be one such solution."

Just applying for and maintaining such coverage would require "entities to assess the security of their systems and examine their own weaknesses and vulnerabilities," he said

Tom Finan, a former Department of Homeland Security official who testified before the panel, said afterward that just holding the hearing about cyber security insurance shows members of Congress appear very interested in what the cyber insurance market can do.

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HEALTH CARE INSURERS

Public exchange profits remain challenging

Insurers hopeful new market can stabilize

BY SHELBY LIVINGSTON

The public health insurance exchange population likely will continue to be characterized by members who are sicker and costlier than those covered by group health plans or other individual policies, but most insurers are expected to remain in the exchange business.

A recent Blue Cross Blue Shield Association study billed as the first of its kind showed that individuals who enrolled in BCBS plans in 2014 and 2015 had more illnesses, used more medical services and had higher medical costs than those enrolled in BCBS plans before the public exchanges, established under the Affordable Care Act, took effect as well as those covered by employer-sponsored group health plans.

People who got health insurance in 2014 and 2015 have higher disease rates than those who were already enrolled in individual coverage or those in group health plans, according to the report. They also went to the hospital more frequently.

And medical costs for the newer public exchange enrollees were 18.7% higher than employer-based group plan members in 2014 and 22.3% higher in 2015, according to the Blues study.

That people who bought health coverage through the exchanges are sicker and costlier than those who already had coverage outside the exchanges is no surprise since they may have not had health insurance before, sources said.

As public exchanges continue to dent insurers' profits, observers question whether the high disease rates and heavy medical spending will ease.

"The question comes down to does this market ever stabilize in the long term to get to a point where it's either similar to employer-based coverage or at least not dramatically higher than some of the costs that you see in traditional group-based coverage?" said Chris Sloan, Washington-based senior manager at consultant Avalere Health.

"There's always going to be some movement of people who are

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NEWS

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ONLINE FEATURES

VIDEO

Innovation Awards

Coverage of the *Business Insurance* awards event honoring innovation in the risk management sector. To watch the video, go to ***www.BusinessInsurance.com***

VIDEO

In Focus: Sports Risk Management

Professional sports players can mitigate significant financial losses in the event of injury ***www.BusinessInsurance.com/InFocus***

GALLERY

Week in pictures

A visual tour of the latest big stories. ***www.BusinessInsurance.com/WeekInPicture***

RESEARCH

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AVIATION

SAFETY QUESTIONS REMAIN AS DRONES SPREAD THEIR WINGS

Insurers race to keep up with high-flying innovations

BY DONNA MAHONEY

The commercial drone industry has won a doubling of the space in which the unmanned aircraft systems can fly, while proposed rules for flight directly over people are currently under review, but insurance is not among the risk management requirements under federal rules, at least so far.

Little historical data to gauge the nature of the risks that drones pose is challenging the industry as well as insurers.

The Federal Aviation Administration in March doubled the ceiling for commercial drone flights, allowing them to fly as high as 400 feet in the air.

In March, a micro UAS aviation rulemaking committee discussed rules to safely fly drones above people. The group of manufacturers, aviation industry associations and other stakeholders gave their recommendations earlier this month to the FAA, which has projected the current 600,000 drones in the United States will grow to 2.7 million by 2020.

While safety experts before the committee provided several days of testimony on risk of serious injury and death that drones pose, Doug Marshall, Chicago-based aviation consultant at Antonelli Law Ltd., said the group was challenged to find hard data on the risk of being hit or the severity of the impact.

"This technology is the most disruptive and innovative that the commercial aviation industry has seen since the jet engine, and there are no existing standards on the components of the technology," said Mr. Marshall, who also is a member of the rulemaking committee.

"They don't fly like regular airplanes. They can take airspace that other aircraft can't get into. The entire parameter of manned aviation has been turned upside down," he said.

Chris Proudlove, chairman of the UAS Insurance Association, said insurers can assess the risks that drones pose the same way they did as standard aviation — changing them as the industry evolves.

"When the FAA originally wrote rules and regulations for air travel, it didn't contemplate multideck passenger aircraft, supersonic travel or helicopters landing on hospitals," said Mr. Proudlove, who also is the Mountain Lakes, New Jersey-based senior vice

See **DRONES** page 51

HEALTH CARE REFORM

Cadillac tax reform bill draws unexpected critics

BY JERRY GEISEL

Legislation introduced in the House of Representatives that would effectively give many employer health plans more time before they trigger the health care reform law's excise tax could do more harm than good.

The measure, H.R. 4832, introduced last month by Rep. Charles Boustany, R-La., would exclude pretax contributions made to employees' flexible spending accounts and health savings accounts when calculating whether group health plan premiums exceed the Affordable Care Act's excise tax trigger.

Under the law, a 40% excise tax is to be imposed starting in 2020 on the portion of health care plan premiums that exceeds $10,200 for single coverage and $27,500 for family coverage.

With the average 2016 FSA contribution of $1,500 per participant and an average HSA contribution of $1,458 per participant, according to Aon Hewitt, excluding those contributions would reduce the likelihood of group health plans triggering what is known as the Cadillac tax for at least several years.

But some benefit experts worry that excluding FSA and HSA contributions when calculating the excise tax could defuse congressional interest in an objective far more important to employers: repealing the tax altogether.

"We are concerned that if Congress or the Obama administration only addresses this issue, they will think they have taken care of the excise tax problem," said James Klein, president of the American Benefits Council in Washington.

"Fixing parts of the excise tax runs the risk of providing legitimacy to the remaining provisions," said Andy Anderson, a partner at Morgan, Lewis & Bockius L.L.P. in

See **CADILLAC** page 49

EMPLOYMENT PRACTICES

Ruling may trigger more overtime suits

Workers allowed to tap statistical evidence

BY JUDY GREENWALD

The U .S. Supreme Court's ruling that statistical evidence can be used to determine overtime wages points up the need for employers to keep records of how long it takes employees to change their work clothes.

Some say the high court's 6-2 ruling last month in *Tyson Foods Inc. v. Peg Bouaphakeo et al.*, over whether workers should be paid for overtime spent donning and doffing their work clothes in a pork processing plant, is narrowly written, but others say its impact could extend well beyond wage-and-hour claims.

Observers also say the high court did not address the critical issue of whether a class could be certified if it included workers who were not injured — in this case, those who did not work overtime while changing their work clothes — and therefore had no legal right to any damages.

The 3,344 workers in the case were employees of the kill, cut and retrim departments of the Storm Lake, Iowa, pork processing plant operated by Springdale, Arkansas-based Tyson.

The workers filed suit in Sioux City, Iowa, federal court in 2007 alleging violation of the Fair Labor Standards Act and the Iowa Wage Payment Collection Law.

The district court certified the litigation as a class action in 2008.

During the trial, evidence included a study including 744 videotaped observations by an industrial relations expert, Kenneth Mericle, who concluded that it took about 18 minutes a day for the cut and retrim departments to change cloths and 21.25 minutes for the kill department. A jury in September 2011 awarded the workers $2.9 million in overtime benefits.

An August 2014 ruling by the 8th U.S. Circuit Court of Appeals in St. Louis upheld the lower court, as did the Supreme Court.

In its ruling for the workers, the Supreme Court majority said that because the employer failed to keep proper records, "the representative evidence here was a permissible means" of showing the hours that had been worked.

See **OVERTIME** page 49

MARINE

WAVE OF NEW MEGASHIPS STOKES FEAR OF OUTSIZE LOSSES

Marine insurers voice safety concerns as vessels expand

BY SARAH VEYSEY

The increasing size of container and passenger ships and opening of new shipping routes present new risks for the maritime industry as well as exacerbate some longstanding perils.

So-called megaships heighten the risk of costly and difficult salvage operations if they ground, particularly in large sections of the oceans that have not been mapped to today's standards, and increase the chances of supply chain disruptions. Such ships have few ports that are large enough to handle them and an insufficient number of crews to salvage cargo should there be an accident, experts say.

Total marine losses were fairly steady at 85 in 2015 compared with 88 in 2014, but "the thirst for ever-larger container ships" also continued in 2015 and is among factors changing the industry's risks, Allianz Global Corporate & Specialty S.E., a unit of Allianz S.E., said in a March analysis.

The introduction of megaships has raised fears about the potential for large losses of as much as $1 billion should such a ship run into serious trouble, Allianz said.

The world's largest container ship, the MSC Oscar owned by the Swiss-based MSC Mediterranean Shipping Co., debuted last year. The ship's deck area is equivalent to four football fields and would be taller than the Empire State Building if stood upright, according to the report, which said even larger ships are being built.

"As well as demonstrating the remarkable innovation and growth of a maritime industry which has seen cargo-carrying capacity increase by over 70% during the past decade, the arrival of such 'megaships' also brings concerns about increasing risk, safety issues and salvage difficulties," Allianz said in the report.

The increasing size of vessels "truly is a systemic risk" that will test the capacity of ports, canals and crews, said Capt. Andrew Kinsey, senior risk consultant for marine at Allianz Global Corporate & Specialty in New York.

Megaships' grounding risks is an issue discussed frequently by members of the International Group of P&I Clubs, the world's 13 largest protection and indemnity clubs, said Joseph E.M. Hughes, chairman and CEO of the American P&I Club. And while the International Group does not consider megaships "an intrinsic risk" there are challenges that need to be considered, he said.

AP PHOTO

The world's largest container ship, the MSC Oscar owned by the Swiss-based MSC Mediterranean Shipping Co., debuted last year.

Other risks include larger containers and the difficulty of knowing precisely what is in a container at any one time, he said.

For example, China Shipping Container Lines' megaship the Indian Ocean was grounded in the river Elbe, Germany, for five days in February before a dozen tugboats freed it, according to the Allianz report.

Such groundings are a reminder of the risks that shippers face, including the need to properly manage cargo, said Michael Yarwood, claims executive and risk manager at London-based TT Club Mutual Insurance Ltd.

According to a blog by Houma, Louisiana-based Gaidry Law Group, the owners of megaships should "take proper steps to ensure that information regarding what various cargo containers weigh and contain is accurate and made available to the relevant peo-

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SHIPPING DEVELOPMENTS

The demand for larger container ships is driving other developments that promise to change the commercial maritime sector. Among them:

August 2015: The new Suez Canal opened, allowing more vessels (possibly up to double the previous maximum number) to transit in the Middle East each day. In January, 467 container ships plied the canal.

2016: New locks and deeper channels will open in the Panama Canal, similarly doubling its capacity. In 2015, 3,067 container ships passed through the canal.

Global warming is making summertime Arctic transits between Asia and Europe an increasingly attractive option.

Commercial cargo vessels, particularly container ships, have grown in maximum capacity in the last 25 years, to 20,000 TEU (20-foot equivalent units, the standard for measuring a vessel's capacity) for ships on order from about 5,000 TEU in 1990.

Sources: Marsh Ltd., Suez Canal Authority, Panama Canal Authority

ENERGY

Energy companies cut insurance spend in wake of tumbling oil prices

BY SARAH VEYSEY

Too much capacity and falling buyer demand due to soft oil prices may prompt some energy industry insurers to reduce how much they underwrite or even convince them leave the market.

Low oil prices have forced many buyers to slash their risk management budgets, and many companies now are retaining more risk and self-insuring, said Robin Somerville, an executive director in Willis Towers Watson P.L.C.'s natural resources department in London.

Energy risk capacity is ample, and rates for most types of coverage continue to fall, Mr. Somerville said last week. "There is overcapacity" in many sectors of the energy market, said Mr. Somerville, and rates have continued to fall.

According to Willis Towers Watson's Energy Market Review released last week, the upstream energy insurance market,

which covers the exploration and production phase, now has underwriting capacity of more than $7.5 billion, up from $7 billion last year and the 10th consecutive year that capacity has risen.

With new underwriters competing with established insurers for business, rates for upstream coverage are approaching levels not seen since the 1990s, Mr. Somerville said.

At least one traditional leader of upstream energy business has decided to scale back their underwriting, he said of the unnamed insurer.

For global downstream energy business — which covers energy operations after production and up to the point of sale but excludes Gulf of Mexico windstorm risk — theoretical market capacity stands at more than $6 billion, which Willis Towers Watson said is a record, although the maximum realistic program limit remains at about $4.5 billion.

Increased downstream business capacity has generated more competition among underwriters rather than prompting buyers to increase their program limits, according to the report.

Some composite insurers have increased their capacity for a given program to as much as $1 billion, Willis Towers Watson said.

Some leading insurers will consider writing an "all risks" policy form, which fell out of favor after the Sept. 11, 2001, U.S. terror attacks, which would include risks such as terrorism, Mr. Somerville said.

Some insurers are deleting cyber sublimits for downstream energy coverage, he said, effectively replacing coverage that had been excluded.

Rates for onshore construction energy business are likely to fall about 10% this year, and the market remains competitive, the brokerage said.

The international onshore liability market also has record capacity, about $3.1 billion, but larger buyers with a global footprint and complex operations that require "meaningful limits" have a more limited pool of capacity and rate decreases that are more muted than those seen for smaller buyers, according to the report.

For North America, the excess liability market has stable capacity at about $1.2 billion to $1.3 billion, Willis Towers Watson said.


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IN BRIEF

'Panama Papers' data leak details ties to insurance fraud

■ A case of insurance fraud involving a fatal boating accident in upstate New York is cited in the so-called "Panama Papers" that detail the use of offshore accounts and shell companies by politicians and others, some of whom are allegedly engaged in money laundering. The papers, which include more than 11 million leaked documents associated with the Panama City-based law firm Mossack Fonseca & Co., which specializes in setting up offshore companies, mention the sinking of the tour boat in 2005. "After the survivors and families of the dead sued, they learned the tour company had no insurance because fraudsters had sold it a fake policy," according to the Panama Papers. One of the individuals involved in the fraud, Malchus Irvin Boncamper, served as a nominee director for 30 companies created by the law firm. The law firm claims it was the victim of a hack from outside the company, and has filed a complaint with state prosecutors.

JLT pays more than $30 million to settle Willis poaching suit

■ Jardine Lloyd Thompson Group P.L.C. said it will pay about £22 million ($31.3 million) to settle a lawsuit filed in London in which Willis Towers Watson P.L.C. alleged that JLT had poached its fine art, jewelry and specie division employees. Willis filed the suit against JLT, JLT Specialty Ltd. and former Willis employee David Gordon over the unauthorized recruiting of Mr. Gordon and other Willis employees in 2015. "A provision of approximately £22 million will be charged as part of second-quarter results as a consequence of the settlement, relating to the settlement itself and associated costs, and is incremental to any previously raised litigation provisions," JLT said in a statement on its website, adding that terms of the settlement are "final and confidential."

Ex-CEO sentenced to prison for role in fatal mine blast

■ Former Massey Energy Co. CEO Don Blankenship was sentenced to a year in federal prison and ordered to pay a $250,000 fine for his role in the Upper Big Branch mine explosion in West Virginia that killed 29 miners in 2010. Mr. Blankenship was acquitted of all felony charges, but convicted of a misdemeanor conspiracy charge in December for willfully violating U.S. mine health and safety standards and received the maximum sentence and fine applicable under his conviction, according to news releases. "This sentence is a victory for workers and workplace safety," Acting United States Attorney Carol Casto for the Southern District of West Virginia said in a statement. "Putting the former chief executive officer of a major corporation in prison sends a message that violating mine safety laws is a serious crime, and those who break those laws will be held accountable."

California considers 5% cut for workers comp premiums

■ California employers could see an average 5% cut to the premiums paid for workers compensation coverage starting in July under a proposal announced by the state Workers' Compensation Insurance Rating Bureau. Lower-than-expected medical loss development and indemnity and medical severities led to the decision to propose a July 1 average advisory pure premium rate of $2.30 per $100 of payroll, the WCIRB said in a statement. The proposed reduction would be 10.4% lower than the corresponding industry average rate of $2.57 as of Jan. 1 of this year and 5% less than the California Insurance Commissioner's approved average Jan. 1 rate of $2.42. The recommendation must be considered by the commissioner.

Long-time Chubb executive retires as division chairman

■ Robert C. Cox, division chairman of Chubb Ltd.'s North America financial lines, will retire July 1 after 35 years with the insurer. Scott A. Meyer, division president of the North America professional lines, will take his place, Chubb said in a statement. Mr. Meyer, who will be based in New York, will report to John Lupica, vice chairman of Chubb and president of North America major accounts and specialty insurance. Mr. Cox joined Chubb as an underwriter in 1981.

Atlantic hurricane season forecast to be more active

■ Meteorologists are suggesting the 2016 Atlantic hurricane season will be more active than normal, partly because of the expected end of the El Niño weather pattern. MDA Weather Services, a unit of Canadian information technology company MacDonald, Dettwiler and Associates Ltd., forecast there would be more storms this year than normal, with 14 named storms and seven hurricanes, three of which will be major. Meteorologists at AccuWeather, a private weather forecaster based in Pennsylvania, also predicted more storms than normal, with an expected 14 named storms and eight hurricanes, four of which will be major. But Tropical Storm Risk, a British-based forecaster that predicts cyclone risk for insurers, forecast Atlantic hurricane activity would be about 20% below the 66-year (1950-2015) long-term average and 15% below the 10-year (2006-2015) average.

Reuters

Ex-UnitedHealth team leads startup health insurer

■ Former UnitedHealthcare CEO Bob Sheehy is heading Minneapolis-based health insurance startup Bright Health Inc., which will enter its first market in the 2017 plan year. The company said it has raised $80 million in funding, which will be used to support its nationwide rollout to the individual health insurance marketplace. Other co-founders include Kyle Rolfing, former CEO of UnitedHealth Group Inc.'s Definity Health Corp. and RedBrick Health Corp. units, serving as president; and Dr. Tom Valdivia, former chief health consumer officer of Definity Health, who is chief medical officer.

York taps industry veteran for risk management unit post

■ York Risk Services Group Inc. has hired industry veteran Patrick J. Walsh to be president of its risk management practices business and executive vice president of the parent company. Mr. Walsh has been in the business 30 years, most recently at Lansing, Michigan-based Accident Fund Holdings Inc.

BI promotes Harrison, hires reporter in NYC

Ms. Harrison

Mr. Lenihan

Business Insurance has promoted Sheena Harrison to assistant managing editor and hired Rob Lenihan as associate editor covering risk management for the magazine.

Ms. Harrison, who joined *Business Insurance* in 2011, previously was a senior editor covering workers compensation. In her new post, Ms. Harrison will oversee the magazine's online presence including daily online news, video production and special projects.

Prior to joining *Business Insurance*, Ms. Harrison was a business reporter at daily Ohio newspaper the Toledo Blade; a freelance writer at CNNMoney.com and other business media outlets; and was a reporter at Crain's Detroit Business, a sister publication of *Business Insurance*.

She has a Bachelor of Arts degree in journalism from Michigan State University.

Ms. Harrison can be reached at 312-649-5249 and at *smharrison@businessinsurance.com.*

She succeeds Aranya Tomseth, who left to join public relations firm Edelman in Chicago.

As associate editor, Mr. Lenihan will cover risk management issues for the magazine.

Previously, he was an editor and writer at Thomson Reuters' Accounting & Compliance Alert; a reporter at TheStreet.com covering the energy, airline and retail industries; a web editor at Goldman, Sachs & Co.; a business reporter at CNNfn.com; a staff writer at Adweek and Editor & Publisher; and a business reporter at the Waterbury, Connecticut, Republican-American newspaper.

Mr. Lenihan has a Bachelor of Arts degree from Hunter College of the City University of New York.

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BPA WORLDWIDE
AMERICAN BUSINESS MEDIA The Association of Business Media Companies

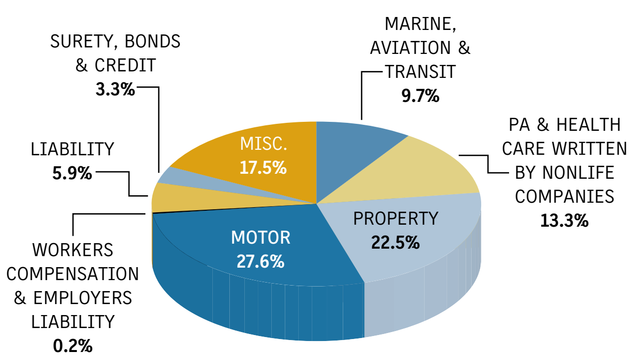
PROFILE: UKRAINE

$1.85 BILLION

Ukraine's property/casualty market remains underdeveloped with low penetration rates exacerbated by political corruption, high inflation and unemployment and conflicts with Russia, including its 2014 annexation of Crimea and fighting with separatists in Donetsk and Luhansk. The 2013 signing of the Association Agreement creates prospects for improvement through trade with Europe. A country of largely fertile steppes, flooding has become a major and usually uninsured problem.

◀ **2014 P/C gross premiums**

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

AREA

233,090 square miles

POPULATION

45 million

GLOBAL P/C MARKET RANKING

49

2015 GDP CHANGE (PROJECTED)

(6.5%)

MARKET DEVELOPMENTS

UPDATED NOVEMBER 2015

- An electronic commerce law, in effect since September 2015, describes procedures for transacting business and confirming signatures electronically.
- June 2015 amendments to licensing laws required industry regulators to pull the licenses of Allianz Ukraine TOV, Guta-Ukraine TOV and Garantia-Life for failing to eliminate Russian-controlled shareholders. Allianz has appealed.
- Foreign currency restrictions introduced by the National Bank of Ukraine in 2014 and running through March 4, 2016, are expected to be extended.
- A proposed restructuring of the National Commission for State Regulation of Financial Services Markets would transfer its responsibilities to the National Securities and Stock Market Commission and National Bank of Ukraine.
- Plans to create a financial ombudsman institute, announced in June 2015, were approved by the National Council of Reforms in an effort to improve consumer and investor protections as well as financial services transparency.

COMPULSORY INSURANCE

- Third-party liability for land vehicle owners, nuclear installation operators, certain investors, dog owners and weapons owners
- Personal insurance for medical and pharmaceutical workers in case of infection with HIV or other infectious diseases
- Insurance for upper-echelon athletes
- Life and health insurance for veterinarians
- Insurance in case of death or destruction of livestock

NONADMITTED

Unauthorized insurers cannot carry on insurance activity in Ukraine, except for marine, aviation, cargo and aerospace cover under provisions of Ukraine's 2008 entry into the World Trade Organization. Likewise, buyers cannot place their business abroad accept in these categories.

INTERMEDIARIES

Agents and brokers have to be registered to do business in Ukraine. Registered brokers are not allowed to place business with nonadmitted insurers, except for marine, aviation, cargo and aerospace. Brokers involved in nonadmitted placements have to warn buyers that their insurer is not subject to local supervision.

MARKET PRACTICE

Though some nonadmitted business has been allowed, required approvals from the regulatory commission and sector authorities make it administratively burdensome and expensive. Fines and penalties for violations can range from $53,034 to $106,069 plus forfeiture of premiums.

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

London market wary of E.U. secession

■ More than half of London market participants believe that a British exit from the European Union would be harmful for the Lloyd's of London market, with 57.1% saying that being outside the E.U. would hurt the Lloyd's market and 11.6% saying that being outside the E.U. would severely damage the Lloyd's market, according to a survey of 259 market practitioners by London-based public relations firm Haggie Partners L.L.P. in March. However, 25.1%, of London market participants said that the United Kingdom leaving the E.U. would have no effect on Lloyd's, while 4.3% said it would benefit the Lloyd's market and 1.9% said it would greatly benefit the Lloyd's market. The British electorate will vote in a binding referendum on June 23 to decide whether the United Kingdom should leave the European Union.

Solvency II tweaked to encourage investment

■ Changes to Solvency II, the risk-based capital regime for insurers in Europe, will make it easier for insurers to invest in infrastructure projects, according to the European Commission. An amendment that came into force April 2 has reduced the risk charges imposed on insurers' equity and debt investments in infrastructure. The European Commission said that the risk calibration for investment in unlisted equity shares of infrastructure projects had been changed to 30% from 49%, while the risk charges for investment in infrastructure debt had been reduced by up to 40%. "Insurers told us that some of the Solvency II rules were putting them off investing in infrastructure," said Jonathan Hill, commissioner for financial services, financial stability and markets union, in a statement, and "as from today they will find it easier and more attractive to invest in European infrastructure projects."

Fourth-quarter floods ding U.K. insurer profits

■ While a series of weather-related losses dented the profits of U.K. property/casualty insurers in 2015, those losses fell within annual budget expectations for such losses, according to Fitch's U.K. Non-Life Company Market Insurance Results Dashboard. U.K. insurers suffered losses after a series of flood events in the last quarter of 2015, but benign weather losses in the rest of the year meant that annual weather-related loss expectations were not exceeded in most cases. The investment incomes of many U.K. insurers were hit by lower yields in 2015, and this trend likely will continue in 2016, Fitch said. Most U.K. insurers reported strong Solvency II capital ratios at the end of 2015, according to the report.

Pool Re names nonexecutive chair

■ Pool Reinsurance Co. Ltd., the U.K. government-guaranteed terrorism backstop, has appointed Geoff Riddell as nonexecutive chairman. He will succeed Tony Latham, who is retiring. Mr. Riddell was appointed a director of Pool Re last year. He previously was CEO and chairman of the Zurich Global Corporate arm of Zurich Insurance Group Ltd.

Beazley acquires U.K. med mal business

■ Marketform Managing Agency Ltd. in London has sold its U.K. open market medical malpractice and U.K./international delegated authority insurance businesses to Beazley P.L.C. The team is led by Alex Wakeley and consists of underwriting and claims staff. They will join Beazley's specialty lines team in London, and Beazley will also assume claims handling responsibility for related policies issued by Marketform. The company will no longer underwrite medical malpractice insurance, Marketform said in a statement.

U.K.'s Flood Re open for business

■ Flood Re Ltd., the government-backed household insurance plan for homes in flood risk areas of the United Kingdom has been assigned an A- financial strength rating by Standard & Poor's Corp. upon its launch. Flood Re enables participating insurers to pass on the flood risk element of homeowners policies. Flood Re is funded by a levy of £180 million ($256.1 million) a year on U.K. household insurers. The size of the levy will be reviewed after five years. The London-based reinsurer is backed by the U.K, government and also has a £2.1 billion ($2.99 billion), three-year retrocessional program backed by international reinsurers. S&P said its A- rating of Flood Re reflected it opinion "of Flood Re's satisfactory business risk profile and strong financial risk profile."

Ontario presumes PTSD for first responders

■ Ontario has adopted the Supporting Ontario's First Responders Act, Bill 163, to create a presumption that post-traumatic stress disorder diagnosed in first responders is work-related, streamlining their ability to access workers compensation benefits. The presumption allows for faster access to Workplace Safety and Insurance Board benefits, resources and timely treatment, the province's Ministry of Labor said in a statement. Once a first responder is diagnosed with PTSD by either a psychiatrist or a psychologist, the claims process for workers comp benefits eligibility will be expedited, without the need to prove a causal link between PTSD and a workplace event. "The presumption is going to short cut the process of determining their initial entitlement," said Jodi Gallagher Healy, a London, Ontario-based partner with Hicks Morley Hamilton Stewart Storie L.L.P.

Tokio Millennium Re replaces CRO

■ Tokio Millennium Re A.G. has named Zurich-based Andreas Kull chief risk officer and member of its executive committee. Mr. Kull will succeed Akira Higuma, current chief risk officer, who after five years at the reinsurer will return to Japan as the group leader of the global risk management unit within the international business development department of Tokio Marine Holdings Inc., Tokio Millennium Re said in a statement. Previously, Mr. Kull was executive vice president of the group enterprise risk management team, according to the statement.

Allianz unit sells public liability business

■ Catalina Holdings (Bermuda) Ltd. said that its wholly owned London-based subsidiary Catalina Holdings UK Ltd. has signed a definitive agreement to acquire AGF Insurance Ltd. from Allianz S.E. unit AGF Holdings Ltd. Terms of the deal were not disclosed. AGF Insurance is a London-based regulated insurer that writes direct employers and public liability insurance in the U.K. It had £270 million ($381.7 million) in total assets at the end of last year, Catalina said in a statement.

Cat losses up; Tianjin weighs

■ Insured losses from natural catastrophes and man-made disasters totaled $37 billion in 2015, up slightly from $36 billion the previous year but well below the $62 billion 10-year annual average, Swiss Re Ltd. said in its latest sigma study. However, total economic losses from natural and man-made disasters dropped to $92 billion in 2015 compared with $113 billion the previous year. The biggest insured loss of the year, estimated at $2.5 billion to $3.5 billion, was a series of explosions at the port of Tianjin, China, last August, the reinsurer said. An earthquake centered in Nepal, which killed almost 9,000 people last April and caused economic losses of about $6 billion, including damage in Bangladesh, China and India, resulted in the largest loss of life, Swiss Re said.

Final European storm insured losses tallied

■ Windstorm Mike-Niklas, which hit parts of Western and Central Europe in late March and early April last year, caused insured property losses of about €816 million ($911.3 million), Perils A.G. said. The Zurich-based catastrophe insurance data firm has issued its final estimate of losses from the storm that hit Austria, Belgium, Germany, Netherlands, Switzerland and the United Kingdom. The final estimate is reduced from an estimate of €826 million ($922.5 million) issued in September.

Hartford expands cover for U.S. firms globally

■ The Hartford Financial Services Group Inc. has expanded its insurance capabilities for the international risks of U.S. businesses, teaming with Paris-based Axa Corporate Solutions S.A. to offer local insurance coverage in up to 150 countries. Products include: The Hartford Exporters Package Policy, designed for U.S. businesses that are engaged in international commerce but do not have permanent employees or physical worksites overseas; The Hartford's new Master Policy, which is designed for U.S. businesses that have a physical presence in one or more locations abroad; and The Hartford's new Controlled Master Program, which packages The Hartford's Master Policy with local policies offered through Axa Corporate Solutions' network in a single coordinated program for a U.S. firm's international risks.

Canadian pension plans' financial health down

■ The financial health of Canadian pension funds declined in the first quarter of 2016, affected by volatile currency markets, weakness in equity markets and lower bond yields, according to a quarterly survey of 449 Aon Hewitt-administered Canadian pension funds. The plans' measure of assets vs. liabilities showed overall pension solvency-funded ratios dropped by 4.5 percentage points through the quarter. The median solvency was 83.1%, compared with 87.6% at the end of the previous quarter. The survey highlighted the negative effect on the funds from the improved strength of the Canadian dollar, which staged a comeback to $0.77 in late March from $0.69 in mid-January and lowered pension funds' returns from non-Canadian assets, according to the Aon Hewitt survey.

Reuters

DEVELOPING A STRATEGY TO TACKLE COCA-COLA'S RISKS

LAURIE SOLOMON

THE COCA-COLA CO.

Laurie Solomon, director of global risk management at The Coca-Cola Co. in Atlanta, will retire this week after 20 years with the world's largest soft drink company. Her accomplishments have been many, including fundamentally changing Coca-Cola's risk-taking strategies and using corporate captive insurance companies to fund employee benefit and other company risks. In 2011, Ms. Solomon was named to *Business Insurance*'s Risk Management Honor Roll®. In an interview with *Business Insurance* Editor-at-Large Jerry Geisel, Ms. Solomon reflected on her career. Edited excerpts follow.

Q&A

Q What have been some of the major changes you have seen in corporate risk management during your 20 years with Coca-Cola?

A There are coverages, such as cyber insurance, in place now that didn't exist when I started. Some of the biggest changes are the speed of information flow and the global reach of just about any company — not just Coca Cola — with so many companies having global issues.

Interestingly enough, though, some of the basics of understanding risk, aligning risk-taking with corporate objectives, good clear communications, solid claims handling, loss prevention — those are still fundamentals to the success of a company in managing risk.

Q What have been your greatest accomplishments?

A One of the things that stands out certainly is the Coca-Cola acquisition that took place in 2010. This was the coming together of two very large Atlanta-based companies ... the North American operations of bottler Coca-Cola Enterprises Inc. that was purchased by The Coca-Cola Co. Bringing together the data, the people, the insurance program, all while saving nearly $14 million in actual hard insurance costs — that was a great achievement.

Then, there has been the development of my staff. I have seen people come in with no insurance background, no risk management background, who have taken on global risk management responsibilities. That has been very satisfying for me.

There also was the establishment of one of our captives, Red Re Inc., which became a vehicle to fund employee benefits and accelerate the deductibility of first-party premiums.

One of the most important successes has been, in my view, the establishment of exceptional credibility within the insurance marketplace. Many of us here have worked hard to nurture relationships with brokers and insurance companies and vendor partners, and I think this has served Coca-Cola very well.

Q What advice would you give someone starting out in corporate risk management?

A The key always is going to be really learning your company, and to reach out to individuals in the operations and functions to better understand what they do and how they do it.

Q Why did you decide to retire now?

A I've been at this for 30 years, between my time as an underwriter and my time here as a buyer. A brief hiatus sounds pretty good to me.

I know there are other chapters in my future, but a break now to re-energize and refocus sounds great.

I do see myself coming back. I really would like to be able to use what I see as my greatest asset: my experience ... in the areas of global risk management, negotiations, problem solving, analytics, judgment — all of these to solve other problems.

Q What did you enjoy most about working at the company?

A One of the things I enjoyed about being The Coca-Cola Co.'s risk manager — one of the things that kept me here as long as it has — was the variety of new challenges and ongoing need for problem solving. I loved being the face of Coca-Cola to the marketplace. I have always been very proud of the company and of the brand.

COMINGS & GOINGS

UP CLOSE: MATT TAYLOR

LONDON-BASED HEAD OF EMERGING RISK

CFC Underwriting Ltd.

PREVIOUS POSITION: London-based active underwriter and head of Non-Marine, Montpelier at Lloyd's of London

LOOKING FORWARD TO: I'm looking forward to working with the board as we embark upon a number of exciting new initiatives. ... We're confident (we) will see CFC achieve the next stage in its growth and expansion.

GOALS FOR NEW POSITION: My immediate focus is on the rollout of new initiatives in our newly created emerging risks division this year including transaction liability and crisis management, as well as continuing to grow our intellectual property rights proposition.

CHALLENGES FACING INDUSTRY: Technology has revolutionized the way we live, how we transact business, how we connect both personally and commercially. The pace of change is not reducing and so, from the perspective of someone focused on emerging risks, the challenge for insurers is simply keeping up with the new exposures our clients face and developing cover that is fit for purpose.

FIRST INDUSTRY JOB: Working for Tillinghast as an actuarial consultant. Please don't hold that against me.

ADVICE: The only dumb question is the one that doesn't get asked. Never stop asking.

OUTSIDE THE INDUSTRY, A DREAM JOB: I would have loved to have been a racing driver.

HOBBIES: Anything to do with cars.

FAVORITE MEAL: My mum's roast beef and Yorkshire pudding.

FAVORITE BOOK: "One Hundred Years of Solitude" by Gabriel Garcia Marquez. It really struck a chord while I was travelling in South America years ago.

CAN'T-MISS TELEVISION SHOW: "Grey's Anatomy."

BEST CITY: Hong Kong (because) it's a real melting pot of cultures.

Professional Moves & Promotions

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

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REINSURANCE

Tokio Millennium Re A.G.	Andreas Kull

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The Civil Justice Association of California	Mark Sektnan

OTHER

The American Equity Underwriters Inc.	Rob Stuardi
Crawford & Co.	James Kochinksi

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to: Joyce Famakinwa, *Business Insurance*, 150 N. Michigan Ave., Chicago, Ill. 60601-7524. ***jfamakinwa@businessinsurance.com***.

EDITORIAL

TOP TALENTS TACKLE RISKS

As risks evolve, it's clear that creativity is a core attribute of successful risk managers. Whether it's imagining new ways to mitigate and transfer risks, or taking a novel approach to old strategies, risk managers need to be both imaginative and resourceful when they tackle challenges.

Reviewing the achievements of all the risk management award winners we feature in this issue, it's striking just how much can be achieved when risk management professionals creatively apply their expertise — nurtured inside and outside the insurance and risk management field — to difficult problems.

Our Risk Manager of the Year®, Gus Fuldner, had a diverse career before he entered the field of insurance and risk management when he joined Uber Technologies Inc. only two years ago. That varied experience helped him approach in a new way some tough issues facing the ridesharing service. Faced with risks that few insurers and insurance regulators had dealt with before, Mr. Fuldner not only had to work on developing a risk management strategy, but crucially also had to engage with regulatory bodies globally to win their trust and buy-in for the solutions proposed.

Our Risk Management Honor Roll® winners also show ingenuity in their approaches to risk management.

Shari Natovitz joined Silverstein Properties Inc. only a few years after its most high-profile real estate holding, the World Trade Center, was destroyed in the Sept. 11, 2001, terrorist attacks. Faced with an employer that had long taken a simplistic approach to insurance buying, insurers that were understandably wary of the risk and an uncertain outlook for terrorism insurance coverage, Ms. Natovitz introduced sophisticated risk management to Silverstein, evolved strategies to convince underwriters to take on the company's risks and devised ways to cope with Congress' unpredictable action on federal terrorism coverage.

Our final honoree, Patrick Sterling, also brought a fresh approach to risk management when he joined Texas Roadhouse Inc. Instituting an enterprise risk management program for the restaurant chain, Mr. Sterling has saved the company millions of dollars. More importantly, by developing close working relationships with people throughout the organization and devising new ways to train managers and staff, he has created a safer working environment for Texas Roadhouse employees.

Congratulations to all our 2016 honorees. We hope you enjoy reading about their achievements in the following pages.

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

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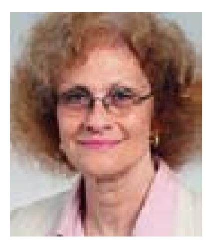
SCHILLERSTROM

COMMENTARY

WITH HUMAN LIVES ON THE LINE BOTTOM LINES SHOULD GIVE WAY



JUDY GREENWALD
SENIOR EDITOR

It is all very well and good to root for businesses' ability to make money and object to judicial or regulatory fiats that stand in their way, but the situation changes when the issue involves human lives.

That's my reaction to a U.S. Securities and Exchange Commission announcement last month of fraud charges against a biotech company and three former executives for misleading investors.

The SEC charged that Cambridge, Massachusetts-based Aveo Pharmaceuticals Inc. concealed the Federal Drug Administration's level of concern about its flagship development drug, Tivozanib, intended to treat an "extraordinarily deadly" type of kidney cancer. The company omitted the critical fact that FDA staff had recommended a second clinical trial to address concerns that patients taking the drug were dying sooner than patients taking another.

Aveo agreed to pay a $4 million penalty to settle the SEC's charges without admitting or denying guilt. The case continues against three of its former officers.

According to the complaint, Aveo and its officers understood the FDA's concerns were serious, but an additional clinical trial, which Aveo designed, is expensive and time consuming. Aveo did not respond to a request for comment.

All this is a reminder of another example of the pharmaceutical industry's tainted image, the situation with Montreal-based Valeant Pharmaceuticals Inc.

Its chairman and CEO, J. Michael Pearson, who had used mergers and acquisitions and drug price increases to drive double-digit profit growth for years, recently stepped down. The firm's strategy failed, according to news reports, when two state attorneys general opened investigations into its drug pricing.

On the other hand, there are ways for companies to make money and do some good. A new policy offered by Chubb Ltd. is relevant in this context.

Chubb last month added cyber bullying coverage to its U.S. Masterpiece Family Protection Policy.

It provides coverage of up to $60,000 for cyber-related expenses, including those associated with mental anguish or injury that leads to a client or family member's inability to attend school or work for more than a week.

The pain and distress cyber bullying can cause is well-known. It's to Chubb's credit that it has found a way to help reduce the financial pain associated with it, while also generating additional revenue.

On a lighter note, insurance and poetry are not often mentioned in the same breath. Nevertheless, here is a winning entry to the annual Coverage Haiku Contest conducted by Randy Maniloff, counsel with White & Williams L.L P. in Philadelphia and editor of the "Coverage Opinions" newsletter:

The insured did what?
Intentional on purpose!
Not an occurrence

Submitted by: Jessica E. Pollack, associate, Hawley Troxell, Boise, Idaho.

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PERSPECTIVES

Employee family matters expected to take center stage

It's a heady time for disability and absence managers with growing emphasis on cost containment through well-being initiatives and a focus on new regulations and their implications. Terri L. Rhodes, CEO of the Disability Management Employer Coalition, discusses these trends and opportunities.

The disability and absence management landscape continues to undergo rapid change, driven by legal and regulatory requirements and a millennial generation-led shift in social attitudes about work-life balance. And though it can be a challenge to keep up, these changes create opportunity for disability and absence management professionals to expand their skills and increase their value. With that in mind, here are five trends to watch in 2016:

Push for paid leave

If paid family and sick leave were big issues in 2015, they will be *the* issues of 2016. More large employers will follow the likes of Netflix Inc., Facebook Inc., Microsoft Corp., Adobe Systems Inc., Apple Inc. and Amazon.com Inc. to implement or expand leave policies. For example, last year Microsoft extended paid leave to 12 weeks, while those who have spent a year at Facebook can take up to 20 weeks of paid family leave.

And there are additional efforts to pass paid leave laws in cities and states, including Washington, D.C., and Maryland. California, Connecticut, Vermont and New York have leave laws, as do San Francisco; Seattle; Portland, Oregon; New York; Jersey City, New Jersey, and others.

Perhaps as important, Hillary Clinton and Sen. Bernie Sanders, I-Vt., have signaled their intentions to build on the Family Medical Leave Act, enacted in 1993 to give employees unpaid time off to handle various personal needs and make paid federal leave a significant campaign issue in the president election.

This would mean more complex process management, heightened compliance demands and increased public attention to organizations that come under legal or other scrutiny. That will make 2016 the year in which large numbers of disability and absence management professionals become leave law experts.

Assistance with ADA

As with FMLA, more employees are aware of their rights under the Americans with Disabilities Act, passed in 1990 to ensure equal employment opportunities and public access for people with disabilities. So growing numbers of employers will look to their short-term disability and long-term disability insurance and FMLA partners to help them manage the ADA process. Tools and resources to assist in this include software systems to help with accommodation requests and processes associated with the ADA. These tools are increasingly cost-effective, with software licensing costs falling dramatically. In fact, costs have fallen so far that even small businesses can now afford to automate their leave processes.

Workforce well-being

The Patient Protection and Affordable Care Act, enacted in 2010, has shifted the focus in workplace health initiatives from treatment to prevention. These programs reduce absence and/or disability. One 2012 review of 62 studies, published in the American Journal of Health Promotion, found 25 percent lower sick leave, health plan, workers compensation and disability insurance costs among companies that had wellness programs.

Wellness is being transformed from a nice perk of gym memberships to more comprehensive workforce well-being programs, with dedicated budgets and administrative staff that not only develop wellness programs, but also enable employees to participate without feeling like they're having to choose between their jobs and a healthy lifestyle. With these programs, embedded in workplace culture, prevention is a key tool in controlling health care costs. A 2014 Harvard Business Review study of 20 companies found an average annual health care cost increase of 1-2% for companies with comprehensive wellness programs, compared to the 7% national average. Disability and absence management professionals are being called on to play a larger role in designing and implementing these programs. That will accelerate in 2016.

In addition, there will be more workplace well-being emphasis on behavioral health. More disability and absence management professionals, as well as health practitioners, understand the connection between the mind and body in absence, disability and overall health. In a study, depressive disorders accounted for more than half of all medical plan dollars paid for mental health problems. The amount for treatment of these claims was close to the amount spent on treatment for heart disease.

Depression and other mental health issues are increasingly recognized as major concerns in employee well being. Attention to these areas reduces health-related costs, including those related to productivity. For example, a study conducted in Netherlands and published in the Journal of Occupational Health Psychology found that employees absent due to common mental health disorders returned to the job on average 65 days earlier and saved employers an average of $5,275 when provided work-focused cognitive behavioral therapy.

Professional opportunities

As leave and health care change, absence and disability professionals face significant new demands. They need to be aware of laws and regulations and new approaches to minimizing health care costs. In progressive companies, this translates into organization-wide cooperation that lets disability professionals collaborate across all departments.

It also gives professionals tremendous opportunities to expand their networks, skills and credentials, and 2016 will see at least one new professional designation. Certified Leave Management will join Certified Professional Disability Management and others available to those entering the field and those seeking to enhance their credentials. With it and the continued accumulation of skills, disability and absence management professionals will add more value to their organizations.

The result will be a new level of professional and personal rewards.

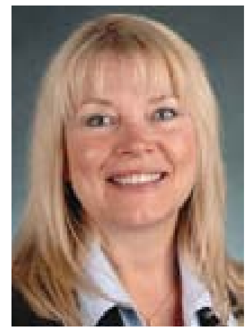
Increase in EEOC enforcement

The U.S. Equal Employment Opportunity Commission's interest has shifted from individual violations to systemic discrimination, with a new emphasis on pregnancy issues.

Systemic investigations and cases address workplace discrimination issues on a broad scale in an industry, profession, company or even geographic area.

With regard to maternity issues, the EEOC issued revised guidance on compliance with the Pregnancy Discrimination Act. In the new guidance, a response to the U.S. Supreme Court's criticism of the EEOC's guidance in *Young v. United Parcel Service Inc.*, the EEOC made clear it will broadly interpret cases when pregnancy-related conditions will be considered disabilities under the ADA.

So what does this mean for you in 2016? Employers will need to ensure they are paying attention to policies, practices and processes for employees taking leave, which has become a political and social issue and has thus caught the attention of increasing numbers of corporate executives.



Terri L. Rhodes is CEO of the Disability Management Employer Coalition. Contact her at *trhodes@dmec.org* or 800-789-3632, ext. 117

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R!SK PERSPECTIVES

Take control of risk by focusing on TCOR

Debbie Michel | Executive Vice President, National Insurance Casualty, Liberty Mutual Insurance

Managing the total cost of risk not only empowers businesses to reduce unnecessary expenses but it also enables them to make better decisions about the risks they undertake.

All businesses must take risks to achieve their objectives. Uncontrolled risk creates operational and financial burdens that make it more difficult and sometimes impossible to reach those objectives. That is why more organizations are looking at their total cost of risk, or TCOR, as a way to help better protect the public, employees, their brands and their bottom lines.

Risk control and claims management are among the best ways to make a positive impact on TCOR. In general, losses account for 85% of a business' total cost of risk, while the remaining 15% goes to excess premiums and claims-handling charges. Focusing on the 85% by reducing or preventing losses, and delivering superior outcomes when bad things happen, are two of the best ways of bringing down TCOR. But how should a business do that?

Stepping forward

One of the first steps in a TCOR approach is measurement. It's frequently said in business that you can't manage what you can't measure. Therefore, it's important to know your organization's cost of risk.

Another important step is to relate the cost of risk to the underlying business. In essence, the total cost of risk is translated into language that the chief executive officer, chief financial officer and other key decision-makers understand. The question to pose is, "What is our loss rate per a relevant unit of measure?" For example, if XYZ Co. makes custom steel I-beams, XYZ's risk manager could express TCOR as the number of tons of steel the company must produce to cover that expense. On specific types of risks, it makes sense to tailor the relationship to the business, such as:

- Workers compensation: how does TCOR relate to payroll?
- General liability: how does it relate to sales?
- Commercial automobile: how does it relate to miles driven?

When TCOR is framed in these contexts, it becomes apparent that managing the total cost of risk is a worthwhile effort for all stakeholders who want to help the business succeed.

Loss control is another critical step in managing TCOR. The best scenario for all concerned is preventing a loss in the first place. There isn't an organization anywhere that doesn't want to prevent accidents and the related financial losses. The challenge is in knowing what's preventable and what the trade-offs may be.

Benchmarking your loss rate against your peers also can be very helpful. Determining whether the trend is favorable or unfavorable can assist in setting priorities for loss control in your own organization.

The same holds true for claims management. Even the safest organizations have accidents and injuries that spark claims. The key is how they are managed. Benchmarking claim costs identifies how well your claims are managed and helps spot areas to improve both claim outcomes and costs.

> "One of the first steps in a TCOR approach is measurement."

Enterprisewide benefits

A TCOR approach offers an array of advantages. Saving money by better protecting the public and employees is certainly one of them, but managing the total cost of risk also improves decision making and can make a difference across the organization.

Among the benefits of TCOR are:

Allocation of resources. Businesses that manage their total cost of risk have a clear view of where they need to invest. In some cases, investments that reduce risks have the added benefit of improving the customer experience. For example, a large retailer was experiencing significant injury costs due to ladder-related accidents in its stores. Working with Liberty Mutual, the company redesigned the ladders and deployed them, at a cost of more than $500,000. That investment was a fraction of the amount the retailer was spending on injuries, and it ultimately freed up resources to better serve customers and improve its bottom line.

Reduction of direct and indirect costs. Studies suggest that for every $1 in direct costs, such as medical payments, settlements, etc., there are $2 in indirect costs, e.g. cost to hire temporary workers and overtime. In the context of total cost of risk, repercussions from a single incident can hit both direct and indirect costs. Here's an example: When an employee is injured on the job, the employer incurs the medical and lost-time losses, but also costs related to getting that employee's work done. And, loss of employee engagement can be another significant indirect cost, potentially resulting in turnover. Product or service quality may also suffer, which can injure the business' reputation and lead to the loss of customers. TCOR helps better manage both direct and indirect expenses.

Improved program structure. TCOR can quantify improvements in the overall risk management program, from creating a plan to tracking results to fine-tuning the risk-financing elements. Should the business consider a fully insured program, a large deductible, or self-insure and use a third-party administrator for claims? Aligning resources to the total cost of risk can help make decisions that are appropriate for the organization and its business plans.

The power of partnership

For risk management professionals, developing a partnership with their risk advisers and insurance companies is an effective approach to manage the total cost of risk. Brokers and insurers can provide data and analytics to identify loss drivers and areas for improvement both before and after a loss. They also have insight into benchmarks for peer industries and risk practices that have been used successfully in similar situations. Customers that partner with their brokers and insurers gain access to data, tools and experience that can drive down their cost of risk.

In future articles, Liberty Mutual experts will discuss in greater detail how risk professionals can prevent accidents and related costs through risk control, and how to efficiently produce the best outcomes in claims, through better management of both legal and medical costs.

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RISK MANAGER OF THE YEAR 2016

A quick study put Uber in the driver's seat

THOMAS BROENING

BY JUDY GREENWALD

When Uber Technologies Inc. needed someone to develop an insurance program for the pioneering ride-sharing company, it turned to a newcomer who was equally innovative to manage the company's risks.

Gus Fuldner, who joined the San Francisco-based firm as an insurance novice in 2014 following a venture capital career, helped break the auto insurance coverage mold by helping design a program based on miles driven rather than the traditional yearlong policy.

Uber's 34-year-old head of insurance worked closely with insurers, regulators and even other transportation network companies — the industry's term for the ride-sharing business — to develop a uniform standard for automobile liability insurance for Uber's part-time drivers.

Those with whom he has worked praise his attention to detail, quick uptake and retention of specifics of insurance risk management issues, and his ability to inspire and contribute to creative solutions to problems.

It is for these efforts and others during his tenure at Uber that Mr. Fuldner has been named *Business Insurance*'s Risk Manager of the Year®.

Thirty-three states, the District of Columbia and about 40 cities now have insurance requirements for ride-sharing drivers, and most also have regulatory frameworks, according to Uber. For instance, Uber operates in New York City, but not elsewhere in the state.

The ride-sharing company said it operates in 45 states, the District of Columbia and about 70 countries internationally.

"Gus is obviously a very impressive young man," said Oklahoma Insurance Commissioner John D. Doak, who is based in Tulsa and has worked with Mr. Fuldner. "He can comprehend a lot of regulatory information. When Gus is in the room, many times it takes other companies' five or six people to keep up" with him.

Karim Hirji, Toronto-based senior vice president of international and ventures at insurer Intact Financial Corp., who is working with Mr. Fuldner in Alberta, Ontario and Quebec, said Mr. Fuldner's "quite phenomenal" depth of knowledge is apparent "as soon as you walk into a room."

Mr. Fuldner said with its approach to insurance, Uber is "really changing two industries at once — both the transportation and the insurance industry — and that's a pretty unique opportunity."

"Insurance is a very core part of Uber," Mr. Fuldner said. To deliver people or goods, what's needed is a safe driver, a safe late-model vehicle and "a way to address insurance that has the appropriate coverage," he said. "You can summarize a lot of the regulation and other things down to these three issues."

Eighteen months ago, there was much discussion on the insurability of ride-share drivers, and a big debate among the taxi industry, the insurance industry and transportation network companies — each with a different view of how insurance should work for ride-sharing, he said.

"That really peaked in early 2015, when that was being discussed in state houses across

See **FULDNER** next page

UBER TECHNOLOGIES INC.

Business: Uber provides a smartphone app that connects people who need rides with those who provide them using their own vehicles. Beginning in the United States, it has expanded to 69 countries around the world.

Founded: 2009

Headquarters: San Francisco

Employees: More than 6,000

Did you know:

- The company's origins occurred on a snowy evening in 2008 when Travis Kalanick, now Uber's CEO and director, and Garrett Camp, now Uber's chairman, had trouble hailing a cab in Paris and came up with the idea of using an app.
- Uber's new UberEATS app was introduced in December 2014. Customers in Chicago, Houston, Los Angeles, San Francisco and Toronto can order food to go from local restaurants. Expansion of the program to more cities is planned.

UBER (OO-BER) VERB: TO ARRIVE AT A DESTINATION VIA RIDESHARING SERVICE

App-based transit company draws on varied industries to fine-tune insurance cover

BY JUDY GREENWALD

Gus Fuldner first encountered Uber Technologies Inc. as a user of the ride-sharing service.

"I got introduced to Uber ... as a customer in the very first month of its operation," said Mr. Fuldner, now head of insurance at the San Francisco-based company.

He was vice president of venture capital firm Benchmark Capital Partners in San Francisco then.

"We were investors in the company, and my background had been in payments, banking and financial services," he said. One thing Benchmark as a venture capital firm did was try to "support our portfolio on various issues, trying to be helpful to companies at their early stages.

"I supported Uber on some payment-related things," particularly as Uber expanded internationally.

Then came the day when Uber CEO Travis Kalanick called and said, "'Our insurance is becoming more complicated' " and said he was "looking for some help figuring it out," said Mr. Fuldner.

"Basically, my response was, 'That's a little different than banking. Insurance and banking are not the same thing," but Mr. Fuldner still listened to the problem "to see if I could be helpful."

After he addressed that, when the next insurance-related issue arose, the question was, " 'Hey, Gus, can you help us?'"

That ultimately turned into a job offer Mr. Fuldner accepted because of the opportunity it presented.

"I had seen how incredibly fast Uber was growing, how much consumers loved the product, how much drivers loved the product" and how much his own friends used it every day, he said.

"Uber was, at that point, I would say, becoming a verb, where people would say, 'I'm going to Uber to dinner,' ... and it's not very often that you get a chance to work at a company that's growing at this pace, that's changing, and is changing an industry like the transportation industry like Uber has," Mr. Fuldner said.

"We sort of operate at a huge scale, with hundreds of thousands of partner vehicles operating on our platform at a pace of growth that is something the insurance industry in general isn't used to."

Gus Fuldner, Uber Technologies Inc.

As an insurance novice, though, Mr. Fuldner had a steep learning curve as he tackled the coverage challenges facing the firm.

"What did it is a combination of things," said Mr. Fuldner. "One is sort of educating myself, learning the topic, and then, I think, the other part is sort of finding the solutions."

In finding those solutions, "there's a lot you can draw upon in analogous industries or solutions to analogous problems, and it's a question of figuring out what the right coverage or insurance solution is for the business that we're creating," he said.

"The concept of someone using their own personal auto, of course, in a business isn't really new. It's more a question of ... how you do it," he said.

For instance, pizza delivery workers, real estate brokers and newspaper distributors are "all using their personal autos in the hours of a business, and there's different insurance solutions for a pizza franchise or real estate brokerage to deal with insurance in those industries.

"What I think is different about Uber is two things: One is the scale," Mr. Fuldner said. "We sort of operate at a huge scale, with hundreds of thousands of partner vehicles operating on our platform at a pace of growth that is something the insurance industry in general isn't used to."

Then, there is "the intersection between the technology and startup world, that is about building things that are new, what's possible," and starting things "from a clean sheet of paper," he said.

The insurance industry "tends to value history," with an actuary looking at the prior loss experience of a particular category of business and trying to predict the costs, said Mr. Fuldner.

However, "we don't always have the luxury of being able to build years and years of history, because if you did wait for that, you could never build new products," Mr. Fuldner said.

"I spent a lot of time looking to other industries," said Mr. Fuldner, exploring "how is pizza delivery insured, how do real estate agents get insured, both in the U.S. and elsewhere," he said.

"There's a lot you can learn just from basic source materials, whether that's reading the California insurance code or reading a policy itself. Fundamentally, the insurance industry sells contracts" and "everything about that product should be specified in that contract," said Mr. Fuldner.

"As uninteresting as it may sound ... there's a lot you can learn in both reading what a contract says, but also thinking about what it doesn't say, or why it's written that way," he said. "A standard auto insurance policy today tends to be built up over time from mistakes ... insurers made over decades of different claims scenarios and built into policies. And if I ask why an exclusion exists or why a coverage was written this way, you can learn quite a bit from that."

Then he said he worked with brokers and attorneys focused on insurance to get "answers to more specific questions where needed."

In a matter of three years, with no background in insurance, Mr. Fuldner mastered the topic, said Randy Nomes, Chicago-based executive vice president at Aon Risk Solutions, Uber's broker, who met Mr. Fuldner during his venture capital career.

That effort has left Mr. Fuldner with a strong "understanding (of) regulations and understanding the very technical aspects, as well as the strategic aspects" involved, Mr. Nomes said.

He was an "incredibly quick study" in learning about insurance regulation, said John Clarke, senior vice president of marketing at Richmond, Virginia-based James River Insurance Co., Uber's surplus lines insurer. "He has the ability to grab a complicated issue and boil it down to its essence."

FULDNER

Continued from previous page

America. At one point, probably in February or March of last year, there were more than 100 active bills in different legislatures in the U.S. discussing the insurance of ride-sharing," Mr. Fuldner said.

"My team was flying around from state capital to capital to hearings on this topic," he said. There was "lots of misinformation and there was lots of confusion."

"It was really Gus who was driving the regulatory side of the development of the industry, because at that point nobody knew what to do with it," said John Clarke, senior vice president of marketing at Richmond, Virginia-based James River Insurance Co., a surplus lines insurer for Uber.

California, Colorado and Illinois were early adopters of ride-sharing legislation, each of which had some differences, he said.

So, Mr. Fuldner said, he met early last year with large insurers and trade associations "and came up with a piece of model legislation we could agree to that satisfied the needs or interests of personal auto insurers, of insurers that sell insurance to the (transportation network company) industry and (transportation network companies), and then address the sort of concerns that legislatures generally had about ensuring the public was protected."

Participating parties included San Francisco-based competitors Lyft Inc. and Sidecar Technologies Inc.; personal auto insurance firms; and major trade associations including the Property Casualty Insurers Association of America, the National Association of Mutual Insurance Cos. and the American Insurance Association. Last July, the Manasquan, New Jersey-based National Conference of Insurance Legislators endorsed the model legislation.

"Then we were basically able to say, 'Here's a framework'" and a "set of language we can agree on together, instead of arguing with one another," Mr. Fuldner said.

This led to meetings at the state legislatures "where we were literally sitting in a row and saying, 'Uber supports this, Lyft supports this, AIA supports this, Farmers supports this,'" said Mr. Fuldner. "Things passed much more easily that way" and the language is now part of most states' and cities laws on the topic, he said.

"There's an area of common interest among all players in the industry, and so I'm often finding myself speaking at regulatory conferences or on the same panel as someone from Lyft or those who are testifying at the same state Senate or statehouse hearing with them," he said.

Mr. Fuldner has been a major factor in Uber's success, said Randy Nomes, Chicago-based executive vice president at Aon Risk Solutions, a broker for Uber.

"If they didn't get some of the risk and insurance right, and really take the lead in building not only the insurance programs, but also building relationships with regulators ... it would certainly have slowed" the business's growth Mr. Nomes said.

Mr. Fuldner "was able to work with regulators like myself to develop a way that Uber could provide insurance coverage ... to protect consumers, rather than find ways around it," said Jim Stephens, chief deputy attorney at the Illinois Insurance Department in Chicago. "He found a way to make it work, and I admire his work on it. As a regulator, I don't often say that about people in his position."

"What I think is just amazing about Gus is his ability to kind of play at 30,000 feet, and then very quickly get into the weeds on an issue," such as policy language, then "get back to 30,000 feet," said Kristy Furrer, senior vice president a Woodruff-Sawyer & Co. in San Francisco, who runs the broker's property/casualty practice. "There are people who are good in one area or the other, and he's really stellar at both."

GUS FULDNER

DRIVING EXCELLENCE IN RISK MANAGEMENT AT UBER

Congratulations, Gus!

2016 Risk Manager of the Year

CRC Wholesale Group and James River Insurance Company have been honored to work with Gus Fuldner and Uber as partners in the development of an innovative new industry. We can speak first-hand to Gus's vision and tireless work in service of Uber and the entire burgeoning Transportation Network Company industry. Rarely do any of us get a chance to be at the vanguard of something entirely new, and we are honored to work with Gus and Uber on this endeavour.

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GLOBAL BUSINESS EXPANSION REVEALS A WORLD OF DIFFERENCE IN AUTO COVERAGE

Uber navigates path between private placement and government-run insurers

BY JUDY GREENWALD

With ride-sharing auto insurance regulations largely in place in the United States, Uber Technologies Inc.'s Gus Fuldner is paying more attention to the international scene.

This means that after a period of frequent visits to state capitals, Mr. Fuldner as Uber's head of insurance now spends much of his time traveling internationally, including a recent trip in which he visited nine countries in two weeks.

Uber, founded in 2009, operates in 69 countries.

"Auto insurance is very local, and the structure of typical insurance coverage as well as the sort of legal system around auto insurance liability varies country to country," said Mr. Fuldner.

"We spend a lot of time country-by-country, figuring out what is the system in that country and that's part of the reason" Uber has a substantial legal and regulatory team. The team works to understand each country's auto insurance system "and then build the solutions that enable our business in each country," he said.

Under China's compulsory auto insurance policy, for instance, there is more coverage for someone outside the vehicle than there is for the passenger inside, he said.

In China, Uber built an insurance program with Hong Kong-based China Taiping Insurance Group Ltd., a state-owned insurer.

"I lived in Hong Kong from 2006 to 2009, and can have a conversation in Chinese," although it is "not the most elegant," Mr. Fuldner confessed. However, it "was certainly useful in going over there and working with insurers."

"In contrast, in New Zealand, there is basically no liability for bodily injury arising from an auto accident," Mr. Fuldner said. New Zealand has a gas tax-funded government fund "that covers basically all auto injuries in the whole country."

As a result, "you can't sue someone in New Zealand for your bodily injury from an auto accident." So Uber "had to build coverage that was different," he said.

Karim Hirji, Toronto-based senior vice president for international and ventures with insurer Intact Financial Corp., is working with Mr. Fuldner to introduce ride-sharing coverage in three provinces: Alberta, where an implementation date has been set for July 1, and Ontario and Quebec, where discussions with regulators are ongoing.

Having Mr. Fuldner as a partner "makes it quite easy" because of the in-depth knowledge he contributes, said Mr. Hirji.

"I can't overemphasize how much our insurance is superlocal. That's something that I often have interesting conversations with senior executives and brokers about, because so many other lines of corporate insurance are very much global," he said. "It's very straightforward to build a global property insurance program," but "auto insurance and maybe workers comp are the two things that are very country-specific."

Some countries' insurance requirements are like New Zealand," but in other places "you're buying auto insurance from the government," as is the case in Melbourne, Australia, or Vancouver, British Columbia, said Mr. Fuldner.

"As much as insurers talk about having a global insurer value proposition, when you get down into the details, particularly in auto insurance, of individual countries," that solution does not work, Mr. Fuldner said. "You can buy global (directors and officers liability coverage), but in automobile insurance local details emerge and it's very, very difficult to create global consistency."

Furthermore, "there aren't that many people who have the scale or sort of global auto exposure that we do," he said. "Most trucking companies or postal carriers tend to be very local. The category of business we find is most similar in its local exposure nature is packaging and logistics companies. They have delivery trucks in as many countries as we have partner drivers."

When it comes to auto insurance, "the devil's in the details," said Mr. Fuldner.

While Uber's U.S. ride-sharing business is primarily insured through Richmond, Virginia-based James River Insurance Co., other risks may be insured with a captive, including auto insurance for different jurisdictions around the world.

The captive "doesn't insure the public. We use it as a way to basically share risk with insurers, to address the fact that we have a bunch of new and emerging risks and that often insurers are uncertain how to price that," said Mr. Fuldner, who declined to provide the captive's name, its domicile and further details.

AP PHOTO

In China, Uber built an insurance program with Hong Kong-based China Taiping Insurance Group Ltd., a state-owned insurer.

Mr. Fuldner said the challenge in talking to an insurer about ride-sharing risks, particularly when Uber was developing its program, is describing how the risks a part-time ride-sharing driver under Uber's business model differ from those of a taxi or limo driver.

Mr. Fuldner said he has often been in situations where an insurer was just told that Uber was new to a market, only to respond with, "Great, can you send us three or five years' of loss data?"

"That left us often with kind of this situation where it was difficult to get things moving and us being willing to share in the risk" via Uber's captive. The captive "makes the insurance company more comfortable" with a new business or a new business model "that they haven't written before," said Mr. Fuldner.

"We're using it to basically share in auto risks," he said of the captive. "I think of it basically as a way to help with (research and development) in that, because insurers don't have five, 10 years of loss history in the ride-sharing space, what we can do is make them more comfortable with experimenting in this space, because they know we're taking some of the risk."

The insurer provides coverage to protect the public, "and then we're in the background sharing in the risk with the insurance company" through the captive, Mr. Fuldner said.

Uber uses its captive selectively, he said. "If insurance is readily available in a market, we'll buy insurance in a more traditional way."

And "what we're seeing over time in some of the markets where we've been there for two getting on three years at this point ... (is) insurers getting much more comfortable with the risks, and saying they'd be willing to quote it without participation from our captive."

The challenge of doing international business goes beyond insurance, he said.

"We have offices around the world and employees around the world and insurance requirements around the world — not just for auto, but for general liability and property and other lines of business — that any large company could buy," he said.

Uber's general liability coverage is provided by Chicago-based Old Republic General Insurance Corp.

"As much as insurers talk about having a global insurer value proposition, when you get down into the details, particularly in auto insurance, of individual countries" that does not work.

Gus Fuldner,
Uber Technologies Inc.

WHERE A DRIVER'S PERSONAL COVERAGE LEAVES OFF AND UBER'S PICKS UP

The traditional real estate mantra of "location, location and location" also can be applied to Uber Technologies Inc.'s approach to insuring its drivers.

"We operate a whole bunch of different businesses in a whole bunch of different geographies and they each need their own solutions," said Gus Fuldner, head of insurance at the San Francisco-based firm.

"Every state has its own distinct compulsory auto insurance requirement. Essentially, every country has its own insurance requirements" and the requirements vary.

Just in the United States, California has a tort-based system, while Michigan has a no-fault system, which are "very, very different coverage structures," and "that's just ordinary auto insurance in the United States" before even considering Uber, Mr. Fuldner said.

"We operate under two main regulatory models in the United States," he said. "The first is either called the limousine or delivery model, and that's where we're contracting with or providing software to limousine or black car or livery drivers."

While terms vary by city, "those drivers are usually their own independent business" and "buy traditional commercial auto insurance," he said. "That model is pretty straightforward and standard."

The other model, for which Uber is better known, is where the driver operates his or her own car, generally on a part-time basis.

Uber's noncommercial driver insurance pays generously, Mr. Fuldner said.

While a typical automobile policy offers $50,000 per injury and $100,000 in the aggregate, Uber provides drivers on a trip with at least $1 million of liability insurance and $1 million of uninsured or underinsured motorist bodily injury coverage, which also covers a vehicle occupant, such as a passenger, said Mr. Fuldner.

Taxis are usually regulated at the municipal level, and in many cases Uber provides coverage for its drivers that is greater than or equal to a taxi in the same city.

"But in many cities in the U.S. that difference is quite significant," he said.

In Boston, for instance, required insurance is $20,000 per person and $40,000 in the aggregate; in Philadelphia, it is $30,000 per person and $60,000 in the aggregate. "So if you compare that to $1 million for coverage of the same accident, there's really a stark different between taxis and (Uber cars) in terms of protection for passengers, for the public generally, in that you have much higher limits."

"Our concern has really been on how to build coverage around, first and foremost, protecting the passenger, at a standard that's appropriate for for-hire transportation so a passenger can get into a vehicle and say, 'This is insured,' without having to study it further," said Mr. Fuldner.

"We principally buy insurance from third-party insurers," said Mr. Fuldner. Uber's U.S. ride-sharing insurance coverage, for instance, is insured primarily through Richmond, Virginia-based surplus lines insurer James River Insurance Co.

"We have made significant use of surplus lines insurance. One of the drivers of that is the surplus lines market is much more flexible than the admitted market to basically adapt to new policy forms and new structures and business models," Mr. Fuldner said. "I think it would be very difficult for us to have gotten to where we are today without the availability of the surplus lines market … in how they create coverages to deal with certain new and emerging risks."

Mr. Fuldner also has spent much of his time educating regulators.

"I think the insurance function here is a bit broader than your typical company focusing on protecting its own balance sheet, so we have spent an awful lot of time with regulators, mostly focusing on education about the ride-sharing model and how insurance works," he said.

"Regulators have a very appropriate interest in ensuring that consumers are protected and that passengers are protected, and they have questions about that," said Mr. Fuldner. "Myself or one of my colleagues has met with every insurance department in the United States to explain" how the ride-sharing model works.

With U.S. operations in 45 states and the District of Columbia, the holdout states — Alaska, Montana, South Dakota, West Virginia and Wyoming — have had different legislative calendars and legislative priorities, he said.

Since Mr. Fuldner spoke with *Business Insurance*, Uber announced that as of April 1 it changed its commercial auto provider in Texas from James River to United Financial Corp., a unit of Mayfield, Ohio-based Progressive Corp., marking the first commercial ride-share product offered by Progressive.

By Judy Greenwald

SIX QUESTIONS TO ASK YOUR CONSTRUCTION CLIENTS BEFORE THEY BEGIN USING DRONES.

By Tom Boudreau

Drones and Unmanned Aerial Vehicles (UAVs) have quickly become a pretty common sight on many construction sites in the United States – and for good reason. The benefits they can provide are vast – ranging from monitoring projects for employee safety reasons, surveying large sites, and inspecting difficult to reach locations, to ensuring quality on projects such as bridge construction. The relative ease of operating these devices, coupled with a fairly reasonable price tag for many models, makes it all too easy to get comfortable using them – perhaps, a little too comfortable

WITH NEW TECHNOLOGY COMES NEW RISK

The Federal Aviation Administration (FAA) continues to review commercial use of UAVs and drones. Currently, any UAV or drone that's being utilized for commercial purposes requires FAA approval (section 333 exemption).[1] To date, across all industries, more than 3,927 exemptions have been granted.

Do you have construction clients thinking of using UAVs or drones? MAKE SURE TO ASK THEM THESE QUESTIONS:

1. **Have you applied for and received your FAA approval?** You can be subject to fines without obtaining proper approval.
2. **Have you developed a plan on exactly how you intend to use drones or UAVs, including risk management and safety procedures?** Specific flight plans for usage on job sites will be an important component in improving risk management and safety.
3. **Have your operators passed the aeronautics test required for them to serve as a pilot?**
4. **Are you aware of the surroundings the drone will be operating in?** Currently, you cannot operate drones or UAVs over people who aren't involved with your project/flight. This is especially important in cities or congested areas where your project may be immediately adjacent to property not involved with your project, such as public parks/spaces and private residences.
5. **Have you considered the insurance implications for using UAVs or drones in your business?** Although insurance is becoming increasingly more available, don't assume you are covered for your drone/UAV activities. In fact, many policies specifically exclude the usage of them. ISO has recently availed new endorsements that help to better clarify coverage for the use of UAVs. The Unmanned Aircraft Exclusion (CG 21 09) and the Limited Coverage for Designated Unmanned Aircraft (CG 24 50) allow the market to definitively exclude or cover drone/UAV usage for bodily injury and property damage, as well as personal and advertising injury.
6. **Have you considered the reputational risk your firm could face if your drone/UAV was found operating too close to others' property, especially if you accidentally (or intentionally due to a rogue operator) film something that others didn't want taped and it was released to the public?**

It's exciting to see new technology being used in the construction industry. And it's important for many reasons: Productivity can be increased, worker safety enhanced, and the new technology will certainly help attract the next generation of construction workers, as it's well documented that this generation is technologically savvy. Drones and UAVs can also be utilized to help improve quality and reduce liability for construction defects when used to document a project as it's being built. But as is the case with any technology, there is risk. Mitigating that risk is imperative to fully gain the advantages it can provide.

About the Author

Tom Boudreau is Vice President of Specialty Construction at The Hartford. The Hartford is a premier provider of property and casualty insurance and risk management services for midsize and large construction companies, with a focus on heavy trade contractors, commercial builders and subcontractors.

[1] www.faa.gov/uas/legislative_programs/section_333

Ability to measure usage in miles not months leads to creation of new models

> "Insurers don't know how much the vehicles they're insuring are being driven or where or when or any of that detail. And to me, that's one of the advantages of coming to this as an outsider to the insurance industry."
>
> Gus Fuldner,
> Uber Technologies Inc.

Uber Technologies Inc.'s approach to obtaining insurance for its part-time drivers has led to the creation of new coverage models.

Before the ride-sharing models and its insurance solutions were in place, drivers in many jurisdictions had the choice of buying a personal auto policy or a taxi insurance policy at six times' the price of the personal coverage, said Gus Fuldner, the San Francisco-based firm's head of insurance.

In addition, a taxi often is driven by multiple drivers 24 hours a day, because a taxicab companies are essentially in the business of renting taxis.

In New York City, to take what he said is an extreme example, "the fixed costs of being a part-time driver were so high that if you were doing it 10 hours a week, you would be spending your entire time paying the fixed costs of the business."

While personal automobile insurance is based on time, generally one year, the model Uber has developed pays for ride-sharing coverage on a per-mile basis.

It has "changed the fixed cost of insurance and made it a variable cost," which has enabled the part-time Uber drivers to obtain affordable insurance coverage, said Mr. Fuldner.

People do not necessarily think about the price and rating structure of auto insurance as leading to growth in the ride-sharing business, "but in this case, it very much was," he said.

By simply changing insurance from being paid on a vehicle-per-year basis to an activity basis, "we changed the economics" to enable people to drive part-time, Mr. Fuldner said.

Historical perspective

Whether "largely for historical reasons or administrative reasons," auto insurance was paid on a vehicle-per-year basis, he said. "In 1950, that made sense. You had no ability to measure anything else. Now, we know exactly how much" vehicles are driven, and insurance for Uber drivers is paid on that basis, he said.

"It's kind of fascinating thinking about first principles" of how the business operates, Mr. Fuldner said. "Insurers don't know how much the vehicles they're insuring are being driven or where or when or any of that detail. And to me, that's one of the advantages of coming to this as an outsider to the insurance industry — to look at this from first principles and say, 'That's how it's being done. Is that how it needs to be done?'

"If you combine that fresh look with the team of actuaries pricing things and a team of regulatory lawyers" and challenge past approaches, the focus moves to "what is needed to be done from a legal perspective or, in some cases, change the law because the law didn't contemplate" the changes in transportation and insurance to cover it, he said.

"If we were having this conversation 18 months ago, there was an awful lot of public and legislative and regulatory discussion of insurance that you don't really see much in the U.S. anymore except for a few straggler states," said Mr. Fuldner.

"It's still a topic of discussion in other countries. As we educate policymakers and insurance companies in different parts of the world" about what was accomplished in the U.S., the ride-sharing model will move forward, he said.

By Judy Greenwald

MOBILE APP OPENS THREE ROUTES OF RISK: ON-DUTY, OFF-DUTY, CYBER

Ride-sharing insurance for drivers working with San Francisco-based Uber Technologies Inc. is essentially divided into three parts.

The first applies when the app that calls drivers to jobs is turned off, and the driver is covered by his or her personal auto insurer.

When a ride-sharing driver is available but between trips, most personal auto insurance will provide coverage. But if the driver does not have applicable coverage, Uber provides the driver liability insurance for bodily injury up to $50,000 per individual per accident, with a total of $100,000 per accident, and up to $25,000 for property damage.

From the moment a driver accepts a trip to its conclusion, Uber provides $1 million in liability coverage per incident.

The driver also has $1 million of uninsured/underinsured bodily injury coverage per incident: If another motorist causes an accident with a ride-sharing vehicle and does not carry adequate insurance, Uber's insurance covers bodily injury to all occupants in the ride-sharing vehicle.

Contingent comprehensive and collision insurance also is available. If a ride-sharing driver holds personal comprehensive and collision insurance, Uber's contingent insurance covers physical damage to the vehicle that occurs during a trip up to the actual cash value of the vehicle, for any reason, after a $1,000 deductible.

In addition, in jurisdictions where there is no-fault coverage, insurance is provided at similar levels as for limousines or taxis in those cities.

Surplus lines insurer James River Insurance Co. is the primary provider of Uber's coverage.

While Uber also does business with a captive insurer, it declined to provide details of the protection provided by the captive.

For its cyber issues, Uber focuses on prevention, said Gus Fuldner, its head of insurance.

"We have hired a very, very strong (information technology) security team, particularly over the last year or so, and so I think that's really the first defense," he said. "Beyond that, we do have cyber liability insurance, but are really focused on not having the breach to begin with, which is the first order of business."

American International Group Inc. is Uber's lead cyber insurer, according to Uber.

Uber has received some unwelcome publicity with respect to crimes committed by Uber drivers. In February in Kalamazoo, Michigan, for instance, Uber driver Jason Brian Dalton reportedly killed six people and injured two more in a nearly seven-hour shooting rampage.

"There's certainly unfortunate things that happen," said Mr. Fuldner. "We can do lots of background checks," but even with all the due diligence, "you can't prevent everything bad from happening."

Another area of controversy that has frequently landed Uber in the news is the question of whether its drivers are employees or independent contractors. Mr. Fuldner was reluctant to comment beyond saying "the impact on auto insurance coverage is very minimal. The auto insurance policy doesn't hinge on employment itself."

By Judy Greenwald

MIKE DOTTA/SHUTTERSTOCK.COM

When a ride-sharing driver is available but between trips, most personal auto insurance will provide coverage. But if the driver does not have applicable coverage, Uber provides the driver liability insurance for bodily injury up to $50,000 per individual per accident.

Actuaries, legislative liaisons, claims processors round out team

> Uber has "been very deliberate about whom they hire, and he's been able to bring in some incredibly top-notch people."
>
> Randy Nomes, Aon Risk Solutions

Gus Fuldner, head of insurance at San Francisco-based Uber Technologies Inc., attributes much of his success to his the staff of about 30.

"I have a substantial actuarial team," Mr. Fuldner said. "My second hire was a fairly senior actuary, Frank Chang," a fellow of the Arlington, Virginia-based Casualty Actuarial Society.

Mr. Chang, who most recently worked at Menlo Park, California-based Google Inc., also spent time at San Francisco-based Esurance Insurance Services Inc. and Novato, California-based Fireman's Fund Insurance Co.

Uber now has a four-member actuarial team that Mr. Fuldner plans to double this year. As Uber builds insurance products in an environment where there often is little loss history, it is very important "to have a really strong actuarial team that can produce estimates and analyses with relatively limited information," he said.

Another staff member focuses on public policy and meets with state legislators and regulators, said Mr. Fuldner.

"I then have a team of claims advocates, who basically help riders and drivers understand the process of making an insurance claim and gathering the information we have about their trip to help them make a claim with the appropriate insurance," he said.

Most of the claims advocates worked previously in personal lines insurance claims and "are very familiar with auto insurance," he said.

"They're not adjusting claims themselves," he said.

"What they're doing is helping gather the information in our systems about the trip and helping guide the rider and the driver to the correct place to make a claim and how to do that."

Third-party partners

Other staff members focus on "partnerships with third-party insurers that sell insurance to our drivers," Mr. Fuldner said. "In both the limo and black car model as well as the (transportation network company ride-sharing) model, our drivers are buying their own insurance, whether personal or commercial, depending on the model, and so we have relationships with these insurers that are building products and selling to that market," said Mr. Fuldner.

Mr. Fuldner also works with an insurance legal and regulatory team, which reports directly to the general counsel and includes three attorneys who focus solely on insurance regulatory law.

The legal/regulatory team drafts policies, reviews contracts, interacts with state insurance regulators and drafts legislation, Mr. Fuldner said.

Uber also has some outside attorneys who advise the firm.

Uber has "been very deliberate about whom they hire, and he's been able to bring in some incredibly top-notch people," said Randy Nomes, Chicago-based executive vice president of Aon Risk Solutions, who works with Mr. Fuldner in the U.S. and abroad as its broker.

The past year has seen the passage of several state laws covering ride-sharing insurance, and the legal/regulatory team has been actively involved in that process, he said.

Although the attorneys report to the general counsel, "I'm the internal client," Mr. Fuldner said.

Mr. Fuldner said his team is located primarily in San Francisco, except for one person in Singapore who covers the Asia-Pacific region and one person in London who covers Europe, the Middle East and Africa.

By Judy Greenwald

Driver star-rating system doubles as risk management tool

Gus Fuldner, head of insurance at Uber Technologies Inc., said for all the challenges that the ride-sharing model of transportation creates from an insurance perspective, there also are some positive aspects from a risk management perspective.

For one thing, people treat their own cars better than they would someone else's.

Also helpful is Uber's rating system, in which riders are asked to rate their trip from one to five stars.

"We get an extremely high response rate to that question because, basically, you can't immediately take another trip until you answer the survey, and so we're able to use that … to identify drivers with low ratings," Mr. Fuldner said.

Those drivers may be directed to an external training provider, he said.

Alternatively, if a driver has consistently bad ratings, is given warnings and a safety issue arises, their access to the Uber app is removed, Mr. Fuldner said.

"The other thing the rating system does that's even more powerful than screening out drivers is it changes driver behavior, because drivers are now being rated and so they want to provide good service," he said.

"Drivers take pride in a 4.8 or 4.9" out of a possible 5 in the Uber system, Mr. Fuldner said. So, they ask riders what route they want to take and are more careful about speeding "because they know the person in back of the car is rating the trip," Mr. Fuldner said.

"We're really sort of bundling these risk management tools and safety tools into the design of the app and the design of the overall process, and I think some of the carriers that we've been working with a couple of years have been pleasantly surprised by the loss performance, as they've really seen … that when you have people driving their own car, when you have people being rated and people knowing they're being rated, you end up with a pretty good risk," Mr. Fuldner said.

When there is an accident, it's handled expeditiously. Under the traditional model, the insurer sends out an adjuster to examine a car and then estimate the cost of the repair.

"Instead, most of that you can do just by visually inspecting the car," Mr. Fuldner said.

Under a system developed with Uber's surplus lines insurer, James River Insurance Co., the adjuster sends a link to the driver, who sends back photos that allow the adjuster to do a "desk appraisal" of the damage.

This way, "the damages and the estimate can be agreed upon in the body shop in a manner of hours, as opposed to waiting for someone to come out and inspect the vehicle, which can take days," and the driver can get back on the road more quickly, Mr. Fuldner said.

By Judy Greenwald

ANTONIO GRAVANTE/SHUTTERSTOCK.COM

A driver with consistently bad ratings is given warnings and if a safety issue arises, their access to the Uber app is removed.

THOMAS BROENING

Gus Fuldner won't reject a possible promotion for fear of the risks involved, or let one get bogged down in red tape.

KITTENS ON DEMAND AND OTHER SUCCESSFUL EXPERIMENTS

Fuldner cuts through liability concerns, red tape to advance promotions

BY JUDY GREENWALD

Gus Fuldner has been involved in getting insurance for certain one-off promotions for Uber Technologies Inc. in addition to the day-to-day insurance coverage it provides for its ride-sharing drivers.

It illustrates his approach to his job, which is to facilitate the company's growth without letting risk management get in the way.

Promotions have been as varied as providing on-demand ice cream since July 2012 in 144 cities across 38 countries on six continents, and coordinating the delivery of on-demand kittens — from shelters, for which the shelter charges applied — in more than 50 cities in one day last October.

"Often the mentality is, 'If you're delivering kittens, what if someone gets bitten?' and things like that," said Mr. Fuldner, Uber's head of insurance. "That can certainly happen, but if we operate our business focusing on those sorts of unlikely circumstances, we wouldn't be getting all the promotional value and (would be) stamping out the creativity of our marketing team."

When he first heard about the kitten promotion, Mr. Fuldner said he thought, "That's interesting." When it launched, the number of people who wanted on-demand kittens "was just stunning."

Mr. Fuldner said he doesn't turn down a possible promotion for fear of the risks involved, or let the matter get bogged down in red tape.

"I couldn't have told you whether it would be on-demand kittens or something else that would be super popular, but if we as risk managers said, 'No, you can't do that. It's too risky,' or, 'We need to do all this administrative stuff ... for a one-day promotion,' then we would never learn that kittens are a super popular promotion."

Helicopter shuttles

One of Uber's most popular promotions involves helicopters.

Using rented helicopters, Uber has designed an insurance program that covers one-time events ranging from transporting someone to the Cannes Film Festival in France or getting them from New York to the Hamptons for the Fourth of July.

Uber also has insurance in place for exotic cars.

Promoters of a product or service may "have a celebrity who will offer to do a ride-along," he said. "We'll have to rent an exotic car and set up an insurance program to cover exotic car rentals to enable these promotions when they occur."

"When a marketing manager comes up with a particular idea, we can enable that as quickly as possible," Mr. Fuldner said.

He said a variety of insurers cover the promotions.

These promotions illustrate Uber's approach to risk management, Mr. Fuldner said.

"One of the things we spend a lot of time on is how we put insurance in place to cover these, and have the flexibility to cover all these promotions without creating too much friction for the business internally," he said. That allows the marketing team to be creative, but "we still have to ensure we're being prudent."

"Uber is a company that values experimentation, and I think there are some companies, some risk management philosophies, that are focused certainly on minimizing risk to zero," Mr. Fuldner said. "Sometimes, that is at the expense of business opportunities, whether it's the kittens marketing promotion or the ability to enter a new market."

Mr. Fuldner said he thinks "about risk management as a way to allow our software engineers and product people and marketing folks to make insurance sort of a problem that's not in their way ... to then enable that," Mr. Fuldner said.

UNIQUE PROMOTIONS

Uber has provided insurance coverage for some unique on-demand promotions:

- In what has become an annual event since 2012, Uber helped provide on-demand ice cream in 144 cities across 38 countries on six continents in 2015.
- Uber has had brief promotions offering on-demand helicopters in many cities around the globe, including Cannes, France, for the Cannes Film Festival; Park City, Utah, for the Sundance Film Festival.
- Uber coordinated a one-day promotion last October offering on-demand kittens from shelters in more than 50 cities around the world.
- Uber has been involved in TV and movie promotions, including the "Game of Thrones" television series and the "Transformers" movie franchise.
- Uber has helped artists, including Brittany Spears, build hype around new albums or single releases.
- Uber coordinated the delivery of on-demand flu shots in 36 U.S. cities in November.

WINNING OVER RELUCTANT ALLIES

One of Gus Fuldner's accomplishments as head of insurance at San Francisco-based Uber Technologies Inc. has been turning insurers, who may have been initially wary of embracing the firm, into allies.

An example is Uber's partnerships with third-party insurers that sell insurance to its drivers for the times when they are not working for Uber and, thus, not covered under its policies.

"We support them in building those products on the actuarial side, giving them the data they need to create those products as well as making our drivers aware that those products exist," Mr. Fuldner said.

Insurers that have "stepped up"' and offered these products include Bloomington, Illinois-based State Farm Mutual Automobile Insurance Co.; San Antonio-based United Services Automobile Association; San Francisco-based Metromile Insurance Services L.L.C.; Madison, Wisconsin-based American Family Insurance Group; Mayfield, Ohio-based Progressive Corp.; and Northbrook, Illinois-based Allstate Corp.

"Gus approaches things from a different perspective," said Mariel Devesa, Los Angeles-based head of innovation at Farmers. "He's not coming from insurance, which I find very refreshing, and yet he's very bright in that he knows the ins and outs of the business extremely well."

The key factor, he said, is several personal auto insurers "are sort of embracing this market and seeing this as a market opportunity, whereas two years ago ... they weren't sure what to think of it. It was new and potentially scary just because it was something different and growing fast, and things don't change that often in auto insurance land."

Farmers, Progressive and USAA, for instance, each has issued policies that are "basically an extension or endorsement" under which Uber drivers "can buy their personal auto products in different states where, for a small incremental premium, you get coverage that recognizes your use of the vehicle in ride-sharing and includes in some cases a bunch of extra first-party coverages," Mr. Fuldner said. "It's basically personal auto insurance recognizing that you also use your vehicle on a part-time basis for ride-sharing."

By Judy Greenwald

Fuldner arrives at Uber via work at startups, consulting

People who work with Uber Technologies Inc.'s Gus Fuldner describe him as brilliant yet unassuming.

He is "a combination of high-tech consultant financial guy" meets laid-back Midwesterner, said Randy Nomes, Chicago-based executive vice president of Aon Risk Solutions, who works with Mr. Fuldner on insurance coverage in the United States and abroad.

Mr. Fuldner grew up in Milwaukee. His father, Henry, now deceased, was an attorney specializing in trusts. His mother, Barbara, is a homemaker. His brother, Carl, is working toward his doctorate in art history at the University of Chicago.

Mr. Fuldner attended Yale University in New Haven, Connecticut, where he studied economics and computer science and graduated cum laude in 2004.

After Yale, he was part of a startup team for a firm involved in payment technology for the higher education market, then worked at New York-based McKinsey & Co. from 2004 to 2009 doing payment consulting work, including a three-year stint in Hong Kong.

He entered the graduate school of business at Stanford University in Palo Alto, California, graduating in 2011, and was named an Arjay Miller scholar, a designation given to the top 10% of the class.

After receiving his MBA, Mr. Fuldner re-entered the startup world as vice president at venture capital firm Benchmark Capital Partners in San Francisco from 2011 to 2013. There, he focused on investing in consumer technology, including mobile apps, and financial technology.

Uber was "another investment I was involved in," he said.

The 34-year-old, who is single and lives in San Francisco, has little time for hobbies.

"These days, Uber is pretty all-encompassing," he said, though he said he traveled "all over the place" when based in Hong Kong.

"I spend a lot of time figuring out and purchasing insurance or building insurance programs in other parts of the world," Mr. Fuldner said. With one staff member each in Hong Kong and London, he is looking for a representative to cover Latin America. "So there's a lot of travel for that," he said.

"What's so interesting about insurance at Uber is it's so fast-paced," Mr. Fuldner said.

In addition, he still spends time on public policy and education issues, including speaking several times in the past two years at National Association of Insurance Commissioners meetings and giving a speech at last year's Risk & Insurance Management Society Inc. conference in New Orleans.

THOMAS BROENING

Gus Fuldner brings a range of past work experiences to his role at Uber.

"He's now an insurance celebrity, if there is such a thing," Mr. Nomes said. "Even two years ago, he could have walked into a room and nobody would know who he was. Now, at any large gathering of senior insurance executives, most people know Gus."

Mr. Fuldner is "just very intense, I would say in a good way," Mr. Nomes said. "He's always on task, I think just partly because there are so many things to accomplish, and he's very self-aware of what the priorities need to be."

Mr. Fuldner's work ethic "is pretty amazing. He does work, I'm convinced, 24 hours a day. It would not be uncommon to see an email from him" at 2 a.m. about a policy or regulation, Mr. Nomes said. "And then he'll discover the regulations in place are inconsistent with one another, where obviously the regulators have not comprehended what they've written."

John Clarke, senior vice president of marketing at Richmond, Virginia-based James River Insurance Co., Uber's primary surplus lines insurer, said Mr. Fuldner's "memory seems to be almost encyclopedic."

If asked about a particular insurer's livery exclusion, "he could probably quote it for you chapter and verse, straight out of his head," Mr. Clarke said.

"He's an absolute genius," said Curtis A. Scott, Uber's legal director of regulatory and insurance.

"I've never seen someone have the ability to take copious, copious amounts of information, process it in real time, make efficient, quick decisions and retain all of that almost photographically," Mr. Scott said.

That's "why he's been so effective on the regulatory side," because he bases what he says on the facts and "has the ability to grasp in great detail what's out there," Mr. Nomes said.

"Gus is one of those guys where he quietly goes about his business, and he's pretty unflappable," said Mr. Clarke.

By Judy Greenwald

Clockwise from top left: Laurent Barbagli, David G. Cammarata, Steve Denton, Robert E. Hoyt, John Lupica, Brian W. Merkley and Rick Roberts

INDEPENDENT PANEL OF JUDGES

Business Insurance created the Risk Manager of the Year® award in 1977 to increase recognition of the risk management profession and to recognize outstanding performance in the practice of risk management.

The Risk Management Honor Roll® was introduced in 1981.

Honorees are selected by an independent panel of judges that includes winners from the previous year, insurance industry executives, an academic and a representative of the Risk & Insurance Management Society Inc., which co-sponsors the awards.

Judges for the 2016 awards were:

Laurent Barbagli, CEO of Axa Matrix Risk Consultants, part of Axa S.A. in Paris. Mr. Barbagli was group risk and insurance manager at Paris-based Lafarge S.A. when he was named to the 2015 Risk Management Honor Roll®.

David G. Cammarata, assistant treasurer for risk management and insurance for Verizon Communications Inc. in New York and a member of the 2015 Risk Management Honor Roll®.

Steve Denton, CEO of Atlanta-based brokerage Beecher Carlson Holdings Inc. and regional vice president of Brown & Brown Inc., Beecher Carlson's parent company.

Robert E. Hoyt, Dudley L. Moore Jr. chair, professor of risk management and insurance and department head, insurance, legal studies and real estate at the Terry College of Business, University of Georgia.

John Lupica, vice chairman and president, North America major accounts and specialty insurance at Chubb Ltd. in New York.

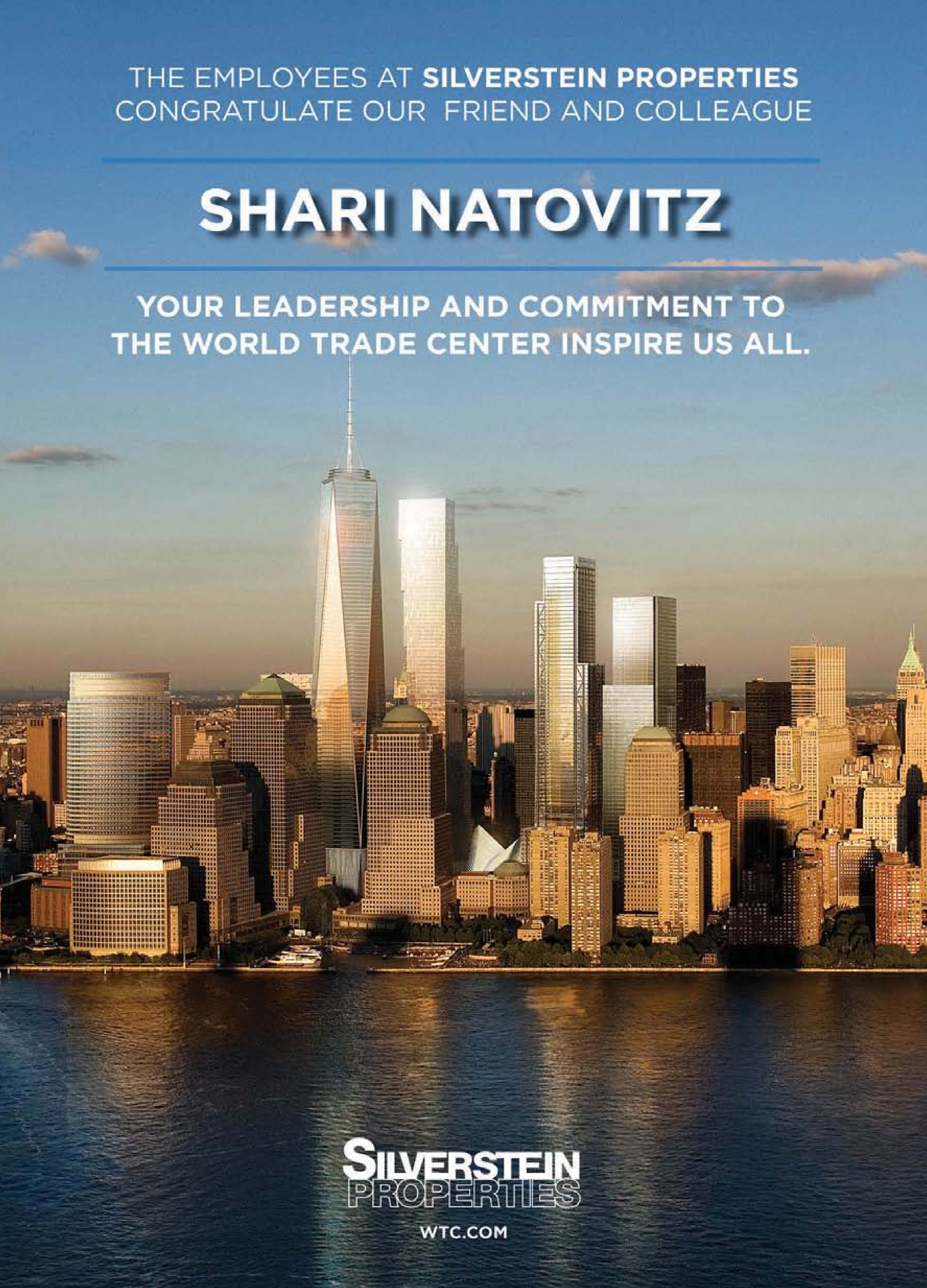
Brian W. Merkley, global director of corporate risk management with Salt Lake City-based Huntsman Corp. and a member of the 2015 Risk Management Honor Roll®.

Rick Roberts, director of risk management and employee benefits at Bickford Industries Inc. in Simsbury, Connecticut, and the immediate past-president of RIMS.

METHODOLOGY

The judges scored each nominee on a scale of 1 to 10, according to how well he or she:

- Established and implemented an effective risk management program within the organization.
- Tackled and solved one or more major problems for his or her organization.
- Innovatively applied the diverse tools of risk management and insurance.
- Creatively and effectively used risk financing/insurance to structure a risk financing and risk transfer program that served the needs of the organization.
- Established a workable intelligence system inside and outside the organization that culminated in a flow of information about events and activities that affect the organization's risk management and insurance.
- Skillfully performed the functions of management in the overall organization and within the risk management/insurance department.
- Achieved the most effective program at the optimum cost over the long term.
- Developed technical expertise in any or all of the broad categories included within risk management, leading to a better managerial grasp of the operations aspects of the job.
- Exhibited an attitude and performed activities fostering the advancement of the risk management profession.
- Developed his or her career.


THE EMPLOYEES AT **SILVERSTEIN PROPERTIES**
CONGRATULATE OUR FRIEND AND COLLEAGUE
SHARI NATOVITZ
YOUR LEADERSHIP AND COMMITMENT TO THE WORLD TRADE CENTER INSPIRE US ALL.
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From World Trade Center ashes arises a new approach

ARNOLD ADLER

SHARI NATOVITZ
SILVERSTEIN PROPERTIES INC.

SILVERSTEIN PROPERTIES INC.

Business: Real estate development, investment and management firm

Founded: 1957

Headquarters: New York

2015 revenue: Silverstein, a privately held company, does not disclose revenue

Employees: 356

Did you know:

- The company's first property was a Manhattan industrial loft building bought in 1957.
- 7 World Trade Center was the first LEED-certified property in New York.
- Silverstein properties have served as sets for television shows including "The Blacklist" and "Person of Interest."
- Silverstein has been named a "Best Place to Work in New York" by *Business Insurance* sister publication Crain's New York Business for eight consecutive years.

BY MARK A. HOFMANN

Building a risk management program and department from scratch is no easy task. But building one after your new employer has sustained one of the highest profile losses in U.S. history — the destruction of the World Trade Center towers during the terrorist attacks of Sept. 11, 2001 — presents additional challenges.

Larry Silverstein, chairman of New York-based Silverstein Properties Inc., vowed to rebuild on the WTC site on which he had signed a 99-year lease only six weeks before the attack. He contacted architects two weeks after the attack to begin discussing plans, which included building multiple structures on the site. He was soon involved in complex litigation over insurance coverage as well.

But the company did not have a formal risk management approach.

That led to the hiring of Shari Natovitz, now senior vice president and director of risk management at Silverstein Properties, in 2005. How Ms. Natovitz, who had spent much of her career on the brokerage side of the business, met those challenges has earned her a place on Business Insurance's 2016 Risk Management Honor Roll®.

"The initial and biggest challenge, which needed to be addressed before tackling the development of a risk management program for the World Trade Center, was creating a risk management department and getting the buy-in from the entire organization," said Ms. Natovitz, who had come to Silverstein Properties from USI Insurance Services L.L.C. "We needed to move from a transactional purchasing approach to a much more professional and procedural way to approach risk that included partnering with our broker and the markets."

The process "wasn't just buying insurance. It's getting everyone to understand that insurance is not the only risk mitigation tool, and the process would not be going to the 'Insurance Store' and buying off-the-shelf policies," she said. "This approach is an ongoing process, and it continues even 10 years later."

She also had to convince a skeptical insurance marketplace that it should welcome Silverstein's business. The markets simply didn't know Silverstein, she said, so she had to "reintroduce the company" to underwriters. Along the way, she built partnerships, which involved showing underwriters the steps Silverstein had taken to improve itself as a risk.

Her efforts have won her plaudits at her employer.

"She's brought an understanding that risk management isn't just about buying insurance," said Mickey Kupperman, vice chairman of Silverstein. "It's a much broader issue, and she sensitized us" to everything. "We have a very sophisticated continuity program, our construction sites have a very strict focus on safety, and she's basically opened our eyes to the real meaning of risk management."

Ms. Natovitz noted that Silverstein viewed risk management as just insurance purchasing, and that the company's lenders determined the purchases.

"The idea of proactively engaging and protecting the company was a new concept, but the concept gained traction department by department, or project by project as the department demonstrated value added," she said. "Our staff realized that engaging with the risk management department has positive results such as broader coverages, cost savings, and safety and loss prevention successes."

"She's a very skilled practitioner of the art," said Mr. Kupperman. "She makes sure we're well protected — things like cyber insurance and our Internet security."

Mr. Kupperman said Silverstein considers Ms. Natovitz an important part of its management team and said she has integrated the risk management way of thinking into everything the company does.

"When we have a kickoff meeting or project, Shari is part of the group that sits in on it. We are sensitized to the fact that she's got to be in the loop," Mr. Kupperman said.

"I think what I'm most impressed about with Shari is her commitment to making Silverstein successful," said Ray Blackton, executive vice president at Willis Towers Watson P.L.C. in New York and Ms. Natovitz's client advocate.

"She wants it to be a very quality response" that makes sure that Silverstein hasn't been exposed to something on her watch, Mr. Blackton said.

That was the case in 2014, as Congress wrestled with reauthorizing the federal government's terrorism insurance backstop created by the Terrorism Risk Insurance Act of 2002 in response to the attacks of Sept. 11, 2001. While many observers believed lawmakers would renew the program before its Dec. 31, 2014, sunset, Ms. Natovitz took no chances and worked out a contingency plan.

When Congress adjourned two weeks before the sunset. Ms. Natovitz and her brokers put together a program that extended Silverstein's coverage after TRIA's lapse and guaranteed protection until lawmakers took up reauthorization of the program as their first order of business in 2015.

Not all the risks that Ms. Natovitz confronts are as critical as terrorism, but she brings the same thorough approach to them. For example, Silverstein properties are often sought as production sets for movies or television programs, which raises Silverstein's profile and generates revenue. But Ms. Natovitz has to assure that those who create the risk — which often means independent contractors working for a production company — assume the risk as well.

As Ms. Natovitz sees it, risk management requires reinforcement.

"Like anything, the message needs to be repeated over time," she said.

PORTFOLIO OF LANDMARK BUILDINGS CREATES DIVERSE SET OF EXPOSURES

BY MARK A. HOFMANN

Silverstein Properties Inc.'s exposures might appear to be "straightforward and fairly common" on the surface, according to Shari Natovitz, the New York-based developer's senior vice president and director of risk management.

The company provides management services as part of its building ownership and develops major office, residential and mixed-used projects, she points out.

But the geographic location and size of the projects "propel these into far more difficult risks. Just as earthquake or coastal wind can be significant exposures and color the structure of a portfolio, we are challenged to address the exposures," Ms. Natovitz said.

For example, the challenges posed by physical hazards — flood, terrorism and other significant events — have the most potential to affect the company's physical assets.

"We address those through a combination of enhanced protection and security, a 'best in practice' building management/maintenance program, and our property and terrorism program wording and market partners," said Ms. Natovitz.

But because all of Silverstein's assets are located in New York and values range from $300 million to $2 billion, "we are often challenged by carrier aggregates impacting available capacity," she said.

She said that with support from Silverstein's broker, Willis Towers Watson P.L.C., she works to provide the underwriters as much information as possible about the company's buildings and what differentiates them.

Ms. Natovitz said this has been "especially challenging as respects the World Trade Center towers." 7 WTC and 4 WTC represent in excess of $2.5 billion in value, and 120 Broadway, about two blocks away, is an additional $1 billion, she said.

The WTC buildings don't fit the standard modeling for probable maximum loss or maximum foreseeable loss, she said. "These are the next generation of fire-resistive buildings using what should be measurably stronger concrete, fire-resistive steel and fire control redundancies that are not reflected in the standard models."

She said that Willis and Silverstein worked together to detail information that

See **EXPOSURES** next page

Effort to build insurance program starts at beginning: Who Silverstein Properties is and what it does

BY MARK A. HOFMANN

Shari Natovitz wasn't around to see the insurance market's reaction to Silverstein Properties Inc. in the immediate aftermath of the Sept. 11, 2001, terrorist attacks that destroyed the World Trade Center towers.

But, said Ms. Natovitz, who joined Silverstein in 2005 and who is now the company's senior vice president and director of risk management, "based on the programs I inherited and based on the response I got from the market at the time, I believe it was extremely difficult for Silverstein during the years immediately following 9/11 to secure markets that were enthusiastic about supporting Silverstein."

And it wasn't just 9/11 — it was a combination of that and "the way we were purchasing insurance, and the latter was a formula for failure," she said. "Silverstein needed to create an identity in the insurance marketplaces."

The company lacked a master insurance program, she said, and each building was treated independently. The insurance purchase was essentially framed by the agreement reached with the lenders, and the insurance buyer was not involved in the negotiation, Ms. Natovitz said.

"While the placements resembled each other with similar terms and carriers, the first named insured was the building ownership entity and there was no common expiration or group marketing," she said.

When she became responsible for the operational insurance in late 2005, she and her broker, Willis of New York Inc., "agreed that this needed to be a master program, a suggestion that had previously gotten no traction here."

"We needed to overcome some onerous wording in the lending agreements as respects use of a blanket limit or shared limit, and we did so by supplying the various lender groups — each was a consortium, so a single building might have five to 10 financial institutions that all needed to approve the change —with modeling of the catastrophic perils showing the overall impact of all the buildings in the portfolio in a single event," she said. "This process and the subsequent discussions with each lender's insurance consultant took almost a year to complete."

"The lack of a master program and a single identity in the market eliminated any opportunity for the markets to see what a significant buyer we were," she said.

"The markets didn't know us," she said. The underwriters she called congratulated her on the new position but said "basically they would never write anything for Silverstein. I knew if they knew us, other than through tabloid headlines or as courtroom adversaries, they would want to do business with us," she said.

"It became very clear in the first week or so after I took the job that relationships that I had assumed would become an integral part of the future World Trade Center program were not materializing without a significant change in the way we were doing business with the market," said Ms. Natovitz. "Nobody wanted to play with me."

The most critical function, she said, was reintroducing Silverstein to the marketplace, which she did with the help of her broker, Willis of New York Inc. This involved face-to-face interactions with insurers.

"We invited underwriters and senior management of carriers to 7 World Trade Center," she said. "We sent them an invitation that included two crucial things."

One was a video featuring Joseph J. Plumeri, who was then chairman of Willis Group Holdings P.L.C., and Silverstein's WTC division president as well as the company's heads of design and construction.

The second crucial element was an introduction to Silverstein with resumes of all the key people dedicated to the rebuilding.

"We showcased their experience on other major projects and presented our management process, which was an active hands-on approach with our staff, including qualified architects, engineers, project managers and estimators, to establish the experience and expertise we were investing as our commitment to a 'hands-on' approach to managing the projects," she said.

Inviting underwriters to 7 World Trade Center was also critical, said Ms. Natovitz. This not only allowed Silverstein to introduce its entire team, including Chairman Larry Silverstein and Janno Lieber, president of the World Trade Center Division, "but we could use 7 WTC to showcase the first completed tower and underline our ability to effectively deliver these towers," she said.

"We said nothing about insurance," said Ms. Natovitz. "We asked them to come meet with us so we could talk about the future of downtown and Silverstein's part in it."

She said Silverstein held meetings at 7 World Trade Center because "that gave us a very visual part of our presentation" and is the prototype for the other new World Trade Center buildings. "The building has all the same life safety and robust physical protections built into it."

Silverstein's enhanced life safety and other protections featured in the new buildings include a reinforced concrete core; beams, anchors and columns that are above building code requirements; multiple paths for egress and enhanced firefighter access; and enhanced security features such as bollards.

"We could take them on a tour and show them those features and show them we knew exactly what we were doing because we had already successfully built the first tower," she said. "We got an extremely positive response from that."

Silverstein took the approach a step further, saying the company would like to work with the underwriters in putting a program together but could not release information before its potential insurers signed confidentially agreements for technical reasons.

ARNOLD ADLER

Mickey Kupperman, Silverstein Properties Inc. vice chairman, and Shari Natovitz, director of risk management.

"That was to protect the information, and we felt if they took the time to read and sign the agreement, that would be a good measure of their interest in writing the program," said Ms. Natovitz.

The approach worked. More than 90% of the underwriters Silverstein spoke to said, "Let's continue on, let's have a discussion about this," said Ms. Natovitz.

"After receiving signed confidentiality agreements from all the markets, we sent them a technical submission about the project with information ranging from security to geotech surveys to safety programs to specific construction means and methods," she said.

"There was not going to be one single carrier," she said.

Silverstein needed two groups of underwriters: those writing the operations coverage and those writing the WTC coverage.

"In many cases, the same carriers participated on the construction coverages and also as part of the operational program, but typically there were different divisions and capacity involved," she said.

"Both required the same thing — the time to sit down with the senior leadership and talk about how we did business," she said. "Willis and I did that together. Willis created the access. We operated from a platform of transparency. We explained where we felt we were the 'best in practice' and where we were committed to becoming best in practice."

EXPOSURES

Continued from previous page

could make a difference, adjust the modeling where possible and invite the underwriters to see the actual building, its concrete core, protection redundancies and the company's staff, "which we believe helped to secure the capacity needed."

Business continuity is also an exposure.

"Since our focus is providing the best possible environment and services for our tenants, the potential exposure of having a significant loss shut down a building is always a concern," said Ms. Natovitz. Having the insurance to recover from a loss is important, but the company's primary concern is its reputation if it can't manage the properly, she added.

The company began upgrading its business continuity plan in early 2012, Ms. Natovitz said, working across departments including information technology and human resources.

"Our operations department had experience responding to a wide range of incidents, and I wanted to assure that we coordinated this with the backup systems IT had developed, and with our leasing and HR departments to assure the best possible response," she said.

Ms. Natovitz said those concerns extended to Silverstein's projects because timely completion is critical to the success of the building.

"We were still in 'draft' stage when Superstorm Sandy hit" in October of 2012, "but all the elements of continuity were exercised," said Ms. Natovitz. "Due to the efforts of our operations and development departments, along with the communications managed by leasing and HR, the two buildings affected were back in operation in less than 16 days."

In addition, the effective management of the remediation and repair, despite taking over 200,000 gallons of water, meant that construction on the new World Trade Center complex remained on schedule, and both operations and development made effective use of the advances provided by the company's insurers, which exceeded $100 million.

Not all exposures faced by Silverstein involve property, Ms. Natovitz said.

New York's "Scaffold Law" labor rule and horizontal exhaustion — whereby an excess policy is not triggered unless all applicable primary policies have been exhausted — "create a constant challenge as they both impact our building operations and our construction projects," said Ms. Natovitz.

Owners and general contractors are targets of labor law claims, and "they allow those doing construction to not only collect through the workers compensation system but also to sue the owner and general contractor," according to Ms. Natovitz. The law attaches strict liability and offers only a very narrow opportunity for defense.

"These verdicts are disproportionately high, and the legal environment has driven many carriers out of the New York construction and first excess markets and can also impact the real estate portfolio due to the ongoing repairs, upgrades and tenant fit-outs," she said. "This is further exacerbated by the New York courts' application of limits, oftentime regardless of contractual wording or intent."

Like virtually every other business, cyber is the unknown and undefined exposure.

"We have protections and protocols in place that are continually being reviewed and upgraded, and we are undertaking a review of all outstanding contracts with the objective of upgrading insurance requirements," according to Ms. Natovitz. "We take the Internet of Things very seriously as our buildings, like all modern buildings, rely on systems that include outside vendors, but our biggest exposure is the unknown.

"We all learn from each breach," she said. "However it is difficult to identify the potential exposures for us and one of the biggest challenges is internal education to assure that we learn about new or potential expansions of service and that legal and risk management are involved in the drafting of all contracts.

"But the underlying exposure and a major concern of the company is the reputation risk that can result in the aftermath of these or any losses or issues," said Ms. Natovitz. "We are very proud of the men and women of Silverstein Properties and believe that the culture based on the values of integrity, quality, partnership and community service are the cornerstones of our work and services and ultimately define our reputation."

VISIBILITY AND RISKS INCREASE WHEN THE CAMERA ROLLS

Silverstein Properties Inc. may be best known for its iconic New York buildings, so it's hardly surprising that production companies would like to use some of them as sets for television shows, movies and commercials.

Silverstein welcomes the opportunity to raise its profile and to generate revenue by putting unrented space to good use. But Shari Natovitz, the developer's senior vice president and director of risk management, said doing so can mean dealing with a situation involving the filming of a commercial featuring Arnold Schwarzenegger and 150 extras, as well as a pair of llamas.

Putting unused space to good use as a sound set also means making sure that Silverstein isn't taking on risk it doesn't want, Ms. Natovitz said.

"The issues include preinspection and consultation to assure thing are done in a safe manner to protect the people more than even the building," she said.

And contracts have to ensure that the parties actively creating the risk are also assuming the risk, she added.

That becomes a challenge in that while a commercial may be done for a major manufacturer or a movie may be coming out from a major studio, "they hire independent contractors and production companies to do those things for them, who have very minimal insurance.

"It's a challenge because I have a group that wants to do that, because it creates revenue because of the visibility," she said. "But I'm the tempering voice that says let's make sure we can do it safely so that revenue and that reputation don't get marred by an accident or anything else.

"We get requests all the time, and part of the challenge — because this is not the typical wheelhouse for a real estate development company — becomes making sure our company can both accommodate the parties that would like to use the properties and take advantage of the opportunities for revenue and visibility," she said.

But the company also has to ensure that it doesn't disrupt the operations of the buildings. "We work closely with our building management staff to ensure that and make sure it's being done safely," Ms. Natovitz said.

"In some instances, we had our safety person preinspect the area and discuss with the production company how the shots were going to be set up to make sure we recognized — and they recognized — all of the issues and made sure they were covered by contract," she said.

The use of Silverstein properties as production sets can also lead to a few surprises, Ms. Natovitz said.

For example, the movie "Annie" was filmed in 2013 at 4 World Trade Center, she said. Daddy Warbucks' penthouse was constructed on one of the empty floors on that building, and 7 World Trade Center was used for exterior and lobby shots for the movie.

"I came into work one day, and the Silverstein name was gone and replaced with another," she said. "It took a few moments to realize this was just the site of the movie. My first reaction was I thought we sold the building — who are these people?

"Because of where our buildings are and particularly because they're downtown, and large and very tall, during the time they were vacant we've had 'Law and Order' filmed here, 'The Blacklist,' and the last episode of 'Person of Interest' for this season will be filmed at 120 Broadway."

By Mark A. Hofmann

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Shari Natovitz is with Ray Blackton, her client advocate at broker Willis Towers Watson, at a Silverstein Properties World Trade Center building in the shadow of Freedom Tower in New York.

Filling the terror cover gap when Congress failed to act

BY MARK A. HOFMANN

Terrorism insurance is a key component of Silverstein Properties Inc.'s risk management program.

The company owned the original World Trade Center that fell in the terrorist attacks of Sept. 11, 2001. Not surprisingly, Silverstein has been a major advocate for the federal government's terrorism insurance backstop, which was created by the Terrorism Risk Insurance Act of 2002.

Shari Natovitz, Silverstein's senior vice president and director of risk management, said she and the company took an active role in working with Congress and others to extend the program — which is commonly known as TRIA — during its most recent reauthorization in 2015. The program was slated to expire on Dec. 31, 2014, unless specifically reauthorized.

"Everyone in our company was involved and aware of the potential impacts if TRIA was not reauthorized," said Ms. Natovitz. "We were committed to supporting our trade organizations, which were lobbying and educating Congress. We were working individually with our representatives. Our asset management department established an ongoing dialogue with investors and lenders."

She took steps to help ensure that Silverstein would not be caught in a bad position if lawmakers did not renew it by its scheduled sunset.

She said that in 2013, when Silverstein's property/casualty coverage renewed, the company expanded the terms to expire in September 2015 to make sure that it had reinsurance commitments.

Ms. Natovitz said that the company's broker — Willis of New York Inc., which is now Willis Towers Watson P.L.C. — "incorporated a provision for the reinsurance which had a 15% vertical limit at the time to flip and becomes 100% primary. Of course, there was a significant price tag with that."

She said that the company's reinsurance had cost anywhere from $2,500 per million dollars of limit purchased to $4,500 per million dollars of limit depending on the location. "When we flipped to direct primary, the cost ranged from $10,000 per million to $30,000 per million," she said.

"That was our pre-12/16 organization in terms of a strategy plan," said Ms. Natovitz, noting that Dec. 16, 2014, was the day the Senate adjourned without renewing the program. But as the end of the year — and the sunset for TRIA — approached, "we began to prepare for the possibility that we would have to purchase additional limits, so our next step was identifying in each of our lender agreements what our buying requirements were in regard to terrorism coverage. Sometimes they were capped by an individual limit; more often the agreement had a spending cap/requirement."

Although the Senate adjourned in mid-December 2014 without passing the reauthorization bill because a single senator — former Sen. Tom Coburn, R-Okla. — managed to block it, congressional leaders promised that passing the measure would be a top priority when Congress reconvened in January 2015.

Silverstein attempted to secure a 30-day waiver from its lenders before purchasing temporary additional limits, as "we all believed Congress would reauthorize TRIA," said Ms. Natovitz. But because of the complexity of many of the lending agreements, that wasn't always possible.

"After investing almost a week in attempting to get those waivers, we were receiving indications that capacity was being drawn out of the marketplace and on Dec. 28 made the decision that we would have to buy up to our spending caps to satisfy the lending agreement to secure as much coverage as was reasonably available in the market," she said. The buying process continued through Dec. 31.

As Ms. Natovitz puts it, her brokers don't remember much about Christmas and New Year's as they scrambled to ensure that Silverstein Properties would have adequate terrorism insurance cover in the absence of the federal guarantee.

"Willis was phenomenal," she said. "They did an extraordinary job.

"It was very complicated to put that together for all of the buildings," said Ms. Natovitz. "It wasn't just about the placement, it was about communicating with the investors, who would have to bear the cost, and lenders who were concerned about the actual insurance in place."

Although the 12 days in December cost Silverstein "several million dollars" because of minimum additional premium, Ms. Natovitz said the firm considers the efforts made to bridge the time period a success for Silverstein and risk management for two reasons.

"We satisfied our lenders and investors we were doing the most appropriate things for buildings that were under our management," Ms. Natovitz said. "Secondly, as a result, when TRIA was reinstated, we did not reinstate the two single property captives, we added them" to the Silverstein Properties Insurance Co. captive, which, she said, "created a much better coverage platform for those individual buildings and created cost efficiencies for all of the buildings."

And congressional leaders kept their word. Reauthorization of TRIA was the first item on the 2015 legislative calendar, and President Barack Obama signed the bill extending the program through 2020 into law on Jan. 12, 2015.

"When the program was reauthorized after a 12-day gap, we undid the temporary measures in place and reorganized our captives to ensure more robustness should this happen again," Ms. Natovitz said.

"We were relieved," she said, but the delay did cost Silverstein and Willis "days of manpower" as well as adding to Silverstein's insurance premium cost.

A single broker, many insurers recipe for peak performance

Partnership is key to Shari Natovitz's approach to risk management.

"It starts with mutual respect and a willingness to invest time, create access and be transparent," said Ms. Natovitz, senior vice president and director of risk management at New York-based Silverstein Properties Inc.

"We want you as our partner, not our vendor," she said. "We don't need to put you in a spreadsheet...We want you to know what we need on an ongoing basis."

When Ms. Natovitz joined the company in 2005, there was no risk management department. Instead, the company was an insurance purchaser. Yet the company was also risk-averse, she said.

"We are not a large corporation, and each of our assets has a different group of investors which necessitates a risk appetite that is focused on cost efficient (risk) transfer," Ms. Natovitz said.

As part of its effort to achieve the most efficient risk transfer possible, Ms. Natovitz uses a single broker, Willis Towers Watson P.L.C. in New York. But she also taps dozens of underwriters and uses single-parent captive insurers.

"We use one broker as the most efficient (for us) way to manage risk without duplication or additional internal administrative burden," she said. "The risk management department consists of myself and my assistant, and we need to maximize efficiency in distributing information"

Ray Blackton, executive vice president at Willis Towers Watson in New York and Ms. Natovitz's client advocate, got on the Silverstein account in 2006, shortly after Ms. Natovitz joined the company as its first risk manager.

"The account's really grown," said Mr. Blackton. "Before, they were an insurance buying organization rather than a risk management organization. She brought risk management to that.

"We did a blanket property program, we did a blanket casualty program, all in the early stages of her coming aboard," he said.

Ms. Natovitz said the use of one broker allows her to use a single point of contact to implement her program.

"The ability to have a single point of contact that I know will disseminate that information is important, and at the same time having at my discretion direct access to everyone on the account really works for us," she said. "I know the individual discipline lines meet with each other and share information, and my client advocate manages the overall team to ensure this efficiency."

But she adds that some circumstances could change the single-broker approach.

She said she continually evaluates her broker and the results and quality of the deliverables, as well as the consultative advice.

"If I found a deficiency, I would break it out of my program and incorporate a separate broker on the program," she said.

But if Silverstein approaches its brokering relationship with a single company, it spreads its underwriting business over a multitude.

The program involves about 60 underwriters, everybody "from Axis to Zurich," she said. Chief among them are American International Group Inc. and its Lexington Insurance Co. unit; Ace Ltd., which became Chubb Ltd. after its acquisition of Chubb Corp. earlier this year; and Munich Reinsurance Co., Swiss Re Ltd., Ironshore Inc. and Berkshire Hathaway Inc.

"Every one of them makes an important contribution to the program," Ms. Natovitz said. "Many of these underwriters have been with the program for a decade and have participated in the more difficult risks and at a lower level, closer to primary level."

The risk management department consists of only Ms. Natovitz and her assistant, Flora Dodin. Ms. Natovitz said she hopes to add more personnel later this year.

"On the property side, we have about $5 billion in existing property values for the properties we own and manage and $4 billion under construction with the expectation that pipeline is going to grow next year," Ms. Natovitz said.

Silverstein Properties has two captives — Greenwich Street Insurance Co. and Silverstein Properties Insurance Co., both domiciled in New York. Ms. Natovitz said the company had previously had two other captives, each of which was involved in insuring a single property, but they were rolled into Silverstein Properties Insurance Co.

The current two captives provide Silverstein Properties with terrorism insurance coverage. Greenwich insures the operational and construction exposures for World Trade Center 2, 3 and 4, while Silverstein insures all the other properties and 7 WTC.

"We're looking at property, we're exploring taking a portion of deductibles under our construction programs and moving them through the captives," she said.

By Mark A. Hofmann

Sports, rock music fan and accidental risk manager


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Shari Natovitz (left) and Flora Dodin make up the two-member risk management team at Silverstein Properties.

Like many other people, Shari Natovitz, senior vice president and director of risk management at New York-based Silverstein Properties Inc., entered the insurance industry "by mistake," she said.

She needed a job and found one at the bottom of the ladder in the rating department of an insurer. Her career progressed through stints as a broker at Johnson & Higgins, which was acquired by what was then Marsh Inc., and then as an independent consultant.

From there she moved into risk finance and construction leader for USI Insurance Services L.L.C., which brought her into contact with Silverstein Properties.


ARNOLD ADLER
Shari Natovitz says she entered the insurance industry "by mistake."

USI was one of many brokers that participated in a competition to become Silverstein Properties' broker, but it was ultimately deemed to be too small, she said.

In March 2005, shortly after Silverstein chose another broker for the World Trade Center project, it approached Ms. Natovitz about becoming the company's risk manager. She was hesitant because she lived in the Washington suburb of Germantown, Maryland, but Silverstein agreed to allow her to commute to New York.

Over the years, Ms. Natovitz has been active in the Risk & Insurance Management Society Inc. at both the local and national levels. She credits the New York RIMS chapter with helping her make the transition from broker to risk manager. At the national level, she was a member of RIMS' external affairs committee and its conference planning committee.

Among other things, Ms. Natovitz has been named Insurance Professional of the Year by the New York City Association of Insurance Women and was among *Business Insurance*'s 2009 Women to Watch.

Ms. Natovitz is also a booster of risk management and insurance education. She has served as risk manager in residence at three different universities — Troy University in Troy, Alabama; Ball State University in Muncie, Indiana; and Missouri State University in Springfield, Missouri.

"It comes across to the students not only that risk management can be fun, but 'I'm going to have a background in risk management and I can build layers on that to build a career,'" she said.

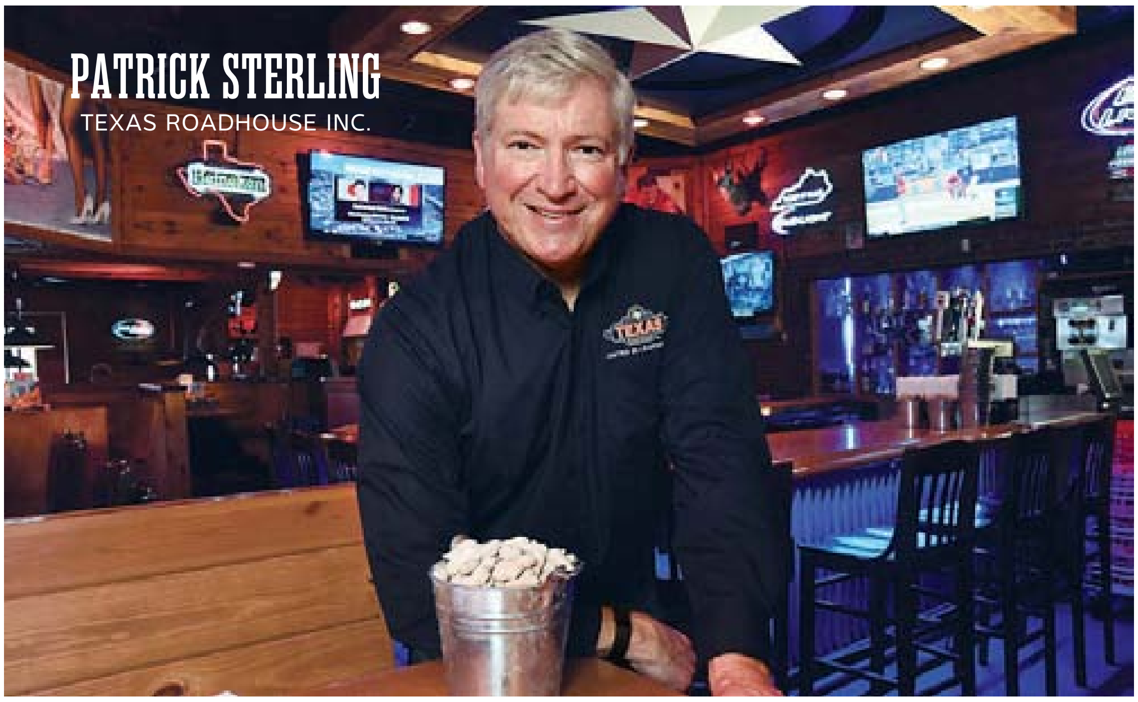
Outside of work, Ms. Natovitz, a New Jersey native, enjoys sports and follows the Mets and Yankees as well as the New York Giants.

She also enjoys rock music, adding, "I don't get to as many concerts as I would like." The Eagles and Rolling Stones are at the top of her list of favorite bands.

Ms. Natovitz, who attended George Washington University in Washington, lives with her husband, Miles, and their German shepherd rescue dogs, Duchess and Candy, in Germantown.

By Mark A. Hofmann

Serving up risk management family style at Texas Roadhouse



MICHAEL MARCOTTE

TEXAS ROADHOUSE INC.

Business: Casual restaurant chain

Year founded: 1993

Headquarters: Louisville, Kentucky

2015 revenue: $1.81 billion

Employees: 50,000 employees, about 60% of whom work part-time

Did you know:

- Texas Roadhouse Inc. has 483 restaurants in 49 states, Asia and the Middle East. The company has just completed a deal to open a restaurant in Mexico.
- Texas Roadhouse is working to open 30 restaurants a year, seven of which include a concept called Bubba's 33, a "family sports restaurant" featuring made-from-scratch pizza and burgers.
- Texas Roadhouse gave out $23 million in free bread and peanuts to restaurant guests last year.
- Steaks make up about 44% of the Texas Roadhouse menu, and the most popular menu item is the 6-ounce sirloin.

- Texas Roadhouse partnered with Shoes For Crews Corp., a West Palm Beach, Florida-based maker of slip-resistant footwear, to develop a line of slip-resistant cowboy boots that workers can wear in the company's restaurants.

BY SHEENA HARRISON

Family is the cornerstone of Patrick Sterling's approach to risk management within Texas Roadhouse Inc., a company that prides itself on treating its employees and customers with "care and concern."

Mr. Sterling became senior director of risk and legendary people for the Louisville, Kentucky-based casual restaurant chain in 2004 after being recruited by a close friend and college fraternity brother. A collage of pictures featuring Texas Roadhouse's 12-member risk management team hangs in Mr. Sterling's office directly next to a collage featuring his three daughters.

"The expectation is we're all a family, and we take care of family," said Britt Roarx, senior claims manager for Texas Roadhouse.

"I look up to him as a family man almost more than anything," said Kit Summers, the company's workers compensation administrator.

Operators of Texas Roadhouse's 483 restaurants worldwide say they have such a close relationship with Mr. Sterling that they can call him directly on his cellphone at any time, day or night.

"The same way he would treat his family at home ... is the same way he treats his partners in all the restaurants," said Jerry DiCroce, a Syracuse, New York-based market partner with Texas Roadhouse who oversees 11 restaurants in Vermont and upstate New York and is working to open three more.

Sources say Mr. Sterling's familial approach has helped Texas Roadhouse employees to buy into his corporate culture and risk management endeavors, which have led the company to reduce its insurance costs, save millions of dollars in workers compensation and general liability claims and promote a safety culture throughout the Texas Roadhouse chain.

His efforts to craft Texas Roadhouse's risk management strategy from scratch have earned him a place on the *Business Insurance* 2016 Risk Management Honor Roll®.

Although Texas Roadhouse sets expectations for how restaurants should perform, the company has thrived by bringing in experienced restaurant operators, training them in Texas Roadhouse culture and giving them operational autonomy, said Nora FitzGerald Meldrum, associate general counsel with Texas Roadhouse.

"All those guardrails allow us to have the flexibility to not be a company with ... corporate policies on every little thing because we trust our folks to do the right thing, and then we're there to help guide them and educate them," Ms. FitzGerald Meldrum said.

Texas Roadhouse, which was founded in 1993 and went public in 2004, has a corporate culture and structure that presents challenges and advantages.

While the vast majority of Texas Roadhouse's restaurants are corporate-owned, each was started by partners who invest $25,000 to $50,000 to open a location. The company works to create an entrepreneurial environment for those partners, whose compensation is based on a portion of annual profits for their restaurants.

Creating a cohesive risk management and safety culture among Texas Roadhouse restaurants is one of the company's top priorities, even though it gives its operators leeway on the commercial side of the business, Mr. Sterling said.

"We treat each restaurant like an independent business," Mr. Sterling said.

Decisions made by operators run the gamut from how to decorate parts of the restaurant interiors to choosing whether to use specific floor cleaning products from those selected by executives in the "support center," the company's preferred term for its headquarters.

Mr. Sterling was a restaurant industry veteran when he came to Texas Roadhouse — including a stint at Maryville, Tennessee-based Ruby Tuesday Inc. — but he had never worked on the risk management side of the food service industry (see related story, page 40).

Mr. DiCroce, who opened his first Texas Roadhouse restaurant in 2005, said he's watched Mr. Sterling build a risk management culture that has promoted safety while providing him and other restaurant operators with "a shoulder to lean on."

"We've done a lot of things over the years to really make prevention the biggest part of our culture, instead of reacting to problems when they pop up," Mr. DiCroce said.

Scott Colosi, president and chief financial officer of Texas Roadhouse, said Mr. Sterling has been a critical figure in the restaurant chain's business success.

"Patrick's been literally at the forefront of just about everything that's transpired in risk management at Texas Roadhouse over his tenure in the company," said Mr. Colosi, who joined Texas Roadhouse a couple of years prior to Mr. Sterling. He notes that Mr. Sterling spearheaded the implementation of Texas Roadhouse's enterprise risk management program, which has been instrumental in helping the company identify and curtail risks.

While Mr. Sterling's work has reduced risk exposures for Texas Roadhouse restaurants, he insists that his efforts are "not about the money." Rather, he said he believes that it has been more important to create a culture at Texas Roadhouse where employees treat each other as family and work to take care of each other.

"If the culture part of it's right, the financial part follows," Mr. Sterling said.

Mr. Sterling's care for Texas Roadhouse employees has benefitted the company as a whole, said Keith Humpich, senior director of internal audit for Texas Roadhouse who co-leads the company's risk committee with Mr. Sterling. For example, data shows that Texas Roadhouse's workers comp claim costs and employee safety have improved on Mr. Sterling's watch.

"You can just see in his mind that he has just such a tremendous passion for making sure we protect this company," Mr. Humpich said.

Mr. Colosi said he expects Mr. Sterling to continue finding ways to innovate within Texas Roadhouse as the company continues to expand worldwide.

"He's had a lot of victories, and I think he's still not satisfied with where we are," Mr. Colosi said.

COMPANY PARTNERS WITH RESTAURANT OPERATORS

For most of Texas Roadhouse Inc.'s 483 restaurants, the Louisville, Kentucky-based chain owns them entirely or has a majority share.

Those restaurants are operated by managing partners, market partners or regional market partners.

Managing partners operate one restaurant each, while market partners and regional market partners operate multiple restaurants.

Managing partners are required to make a deposit of $25,000 to open a Texas Roadhouse restaurant, and market partners deposit $50,000, according to filings with the U.S. Securities and Exchange Commission.

The deposits usually are refunded after five years of service. Partners also receive a base salary and a percentage of their restaurants' pretax profits.

Texas Roadhouse has 82 franchises, in which the company holds interests of 10% or less, according to SEC filings.

Those restaurants are run by franchisees who typically have paid $40,000 for each new location. Texas Roadhouse receives royalties from each franchise's gross sales and franchise renewal fees of up to $15,000.

By Sheena Harrison

'Competitive' nature and a drive to succeed required; restaurant experience a plus

BY SHEENA HARRISON

Before joining Texas Roadhouse Inc., Patrick Sterling spent 10 years in leadership roles at Maryville, Tennessee-based Ruby Tuesday Inc., including heading its human resources and sales functions, and running human resources and other functions for Baton Rouge, Louisiana-based Piccadilly Restaurants L.L.C.

Mr. Sterling says he fell into the restaurant business. He graduated from Louisiana State University in 1987 with a degree in international trade and finance and had planned to become a hedge fund manager.

"When I graduated, the economy was in the tank," Mr. Sterling said. "I had a family to support, and I had some friends who had done really well in the restaurant business, and the business appealed to me."

Mark Simpson, vice president of legendary people who handles human resources for Texas Roadhouse, recruited Mr. Sterling to in 2004 to head human resources and risk management for the chain, which was on the verge of going public at that time.

Mr. Simpson was one of Mr. Sterling's Sigma Nu fraternity brothers at Louisiana State and worked with Mr. Sterling at Piccadilly. He recruited Mr. Sterling to Texas Roadhouse because, he said, Mr. Sterling had a strong understanding of the restaurant industry, as well as the needs of restaurant workers and guests.

Mr. Simpson said he trusted Mr. Sterling to build Texas Roadhouse's risk management program from scratch because Mr. Sterling's "competitive" nature and drive to succeed would prompt him to become a risk management expert within a year.

Although he had never led risk management efforts at other firms, Mr. Sterling believes his background in restaurant operations gave him a leg up in developing Texas Roadhouse's risk management program.

"If you look at risk management, so much of that is getting people to have the right behaviors," he said. "If you understand what makes (restaurant employees and operators) tick, it certainly helps you have much more effective programs."

Upon arriving at Texas Roadhouse, Mr. Sterling said he focused on creating a short-term plan that would target the "low-hanging fruit" for risks that needed to be managed. That included establishing 24/7 workers comp and liability claim intake, reducing basic safety hazards such as slips and falls in the restaurants and shopping around for lower property/casualty insurance rates.

"You have to get really good at claims, really good at crisis response, really good at your insurance renewal process," Mr. Sterling said, before you can start thinking about things like enterprise risk management

Mr. Sterling said he learned risk management by reading and joining restaurant industry groups to study how major restaurant chains handled their risk management programs. He was mentored by Chris Duncan, then a managing director with Marsh Inc. in Atlanta and former chief risk officer for Delta Air Lines Inc. and risk management director for Frito-Lay Inc.

He joined restaurant industry groups to study how major restaurant chains, such as The Cheesecake Factory Inc., handled their risk management programs.

Since those early days, Mr. Sterling has expanded Texas Roadhouse's risk management program to a staff of 12 from a team of two and has added more complex insurance coverage and risk prevention strategies.

That includes buying cyber liability insurance, franchisor errors and omissions coverage for the chain's 83 franchised restaurants, and trade name restoration insurance, a Lloyd's of London product that would protect Texas Roadhouse profits in the event of a large-scale foodborne illness outbreak.

Mr. Sterling also brings all Texas Roadhouse's stakeholders into the risk management culture by establishing an enterprise risk management program that includes senior executives, Texas Roadhouse support center employees and restaurant operators.

'Shock and awe' training program cuts comp rates 70%

BY SHEENA HARRISON

MICHAEL MARCOTTE

Texas Roadhouse risk management staff (from left): Pat Cummings, Katie Vincent, Brandon Trent, Ellen Smith, Bethanie Clark, Greg Jenkins, Kathy Raymer, Kit Summers, Lisa Blevins, Patrick Sterling and Britt Roarx.

Safety presentations that appeal to the heart of restaurant operators and managers, as well as an "aggressive" return-to-work program for injured workers, have helped Texas Roadhouse Inc. keep workers compensation costs in check.

Patrick Sterling, senior director of risk and legendary people, developed a "shock and awe" safety presentation in 2011 that shows the graphic outcomes of accidents that can occur if restaurants don't use proper safety protocols and tells the stories of the employees that suffered those injuries. The presentation is part of training seminars for restaurant managers and operators who have invested in each restaurant's opening.

"It's centered around telling stories of times when our people were hurt, and what that meant and who they are as a person," Mr. Sterling said.

The 15-minute presentation, which can include photos of severed fingers and other severe injuries, was created to grab the attention of restaurant bosses who are responsible for building a safe working environment for their employees, Mr. Sterling said. Rather than create a boring safety talk, Mr. Sterling said he wanted to make sure that Texas Roadhouse employees would remember the presentation long after they leave training sessions at the Louisville, Kentucky, support center.

"A particular store may go a year without an accident or maybe just a couple (accidents), and so how do you get them to think every day about something that's not happening a lot?" Mr. Sterling said.

Mr. Sterling said he wants the presentation to show restaurant managers and operators that they always should be on guard to protect workers on their premises.

"You kind of get into their heart and their conscience," he said.

The "shock and awe" presentations are part of an overall effort to promote safety culture for Texas Roadhouse employees. Other initiatives include promoting the use of gloves that protect employees from cutting their hands while doing kitchen prep and creating financial incentives for restaurant workers to wear slip-resistant shoes to prevent falls.

"Our folks are going to do the right thing if they have the right education and the right support," Mr. Sterling said.

It's difficult to quantify how much any one initiative has contributed to Texas Roadhouse's workers comp savings, Mr. Sterling said. But company data appears to show that the efforts are working: Workers comp claim losses have dropped to $7.28 per $1,000 of payroll in 2011 from $11.58 per $1,000 in 2004.

The company buys workers comp coverage for most of its restaurants through Hartford Financial Services Group Inc., and self-insures in Ohio rather than buying coverage for restaurants there through the state's monopoly workers comp fund.

Mr. Sterling estimates that Texas Roadhouse's safety efforts have saved the company $4.91 million in workers comp costs between 2004 and 2014. And Texas Roadhouse's workers comp premium rates have fallen 70% since 2004.

About 16% of Texas Roadhouse workers comp claims include indemnity payments, compared with an industry average of 20%, Mr. Sterling said.

When employees are hurt on the job, he said Texas Roadhouse treats the injured workers like family and help them return to work as soon as possible.

"This whole thing is never about the money. We don't want people to be hurt in the first place," Mr. Sterling said.

Texas Roadhouse's workers comp program is headed by Kit Summers, who started at the company when she was 16 as a host and waitress for the restaurant just outside the company's Louisville support center.

After about seven years in the restaurant, Ms. Summers took a receptionist job at Texas Roadhouse's corporate offices, where she worked her way up and was recruited by Mr. Sterling to take charge of workers comp claims.

Ms. Summers' professional background helps her advocate for injured workers when Texas Roadhouse's third-party administrator, Irvine, California-based CorVel Corp., has questions about whether a claim is compensable.

"I can sort of be a voice for the employee and say, 'I can see how that could have happened,'" said Ms. Summers, who added that her experience has helped her identify potentially fraudulent claims.

Ms. Summers' restaurant experience has been a model for other members of the Texas Roadhouse risk management team. Mr. Sterling requires all risk management staff to spend at least one week working in various positions in the restaurant by the support center to better understand the conditions for employees.

Ms. Summers said Texas Roadhouse runs an "aggressive" return to work program that aims to accommodate nearly any type of injury. For instance, a worker with a hand injury may be given duties such as seating guests or divvying up pats of butter in the kitchen.

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Texas Roadhouse stresses independence with engagement

BY SHEENA HARRISON

Reducing risks at hundreds of independently operated restaurants has made it tricky at times to create a unified risk management culture within Texas Roadhouse, since the company doesn't mandate that its partners adopt any mitigation strategies, Patrick Sterling said.

"We like to get buy-in from our operators," said the senior director of risk and legendary people for the Louisville, Kentucky-based Texas Roadhouse Inc. "That's very important for us. So sometimes it's like a collection of 483 CEOs that you're trying to get buy-in from."

For instance, Texas Roadhouse has secured a service provider to clean kitchen exhaust hoods in the restaurants, since built-up grease on the hoods is a leading cause of kitchen fires. While restaurant operators can choose to hire the service provider, Texas Roadhouse will not require them to do so, Mr. Sterling said.

With operator independence in mind, Mr. Sterling creates a business case for each of the company's risk mitigation tactics and provides memorable training seminars that appeal to restaurant operators on an emotional level to get them on board with his risk management strategy.

The result is that restaurant operators have been largely supportive of Mr. Sterling's risk management style because they feel they are choosing to participate in Texas Roadhouse's risk culture.

"When they feel that it's their decision, there's going to be more buy-in," Mr. Sterling said. "It's a slower way to get things done, but when it is in place it's usually a lot better."

In the case of kitchen exhaust hood cleaning in the restaurants, Mr. Sterling's risk management team has trained operators on how to properly clean the hoods and reduce fire risks. Mr. Sterling also cuts property insurance premiums in half for restaurants that use Texas Roadhouse's preferred hood cleaning vendor.


MICHAEL MARCOTTE

Patrick Sterling (center) with Kristi Whistle and John C. Logan of Marsh USA Inc., a primary broker for Texas Roadhouse.

Meanwhile, operators of restaurants that have hood fires or other accidents have charges taken out of their profit-based compensation for each month.

Mr. Sterling's hood cleaning awareness campaign is credited with significantly reducing fire losses at Texas Roadhouse restaurants. The company's property loss ratio declined to 1% in 2015 from 188% in 2005, according to internal data. The reduction in hood fires has saved Texas Roadhouse $400,000 annually in property insurance premiums and more than $100,000 in retained property losses since 2014.

Creating an operator-centric risk model has helped Mr. Sterling to adopt ideas from the restaurant partners themselves, he said.

For instance, Texas Roadhouse created a mobile app and is developing an intranet site that allows restaurant operators to alert the company about potential workers compensation or liability claims, access crisis management information and look up legal information, such as wage and hour laws for each state, for their specific locations.

Mr. Sterling said placing such information online was based on a recommendation from one of Texas Roadhouse's operators.

Jerry DiCroce, a Syracuse, New York-based market partner with Texas Roadhouse, said Mr. Sterling has garnered favor with restaurant operators because he provides "common sense" strategies to keep restaurant employees and guests safe.

"He's one of the operators when he talks to the operators," Mr. DiCroce said. "I think that people respect him because he makes things very simple (and) easy to understand."

Mr. Sterling's collaborative risk management style has made him a go-to contact for restaurant operators who trust him to help them out, said Rick Kaskel, a Providence, Rhode Island-based regional market partner responsible for about 150 Texas Roadhouse restaurants in Maine, Wisconsin, Georgia and other states.

"He's been my right-hand man to make sure we contacted the right vendors to make sure that our people are safe, our product was safe and our guests were safe," Mr. Kaskel said.

Mr. Sterling said he prefers working in partnership with restaurant operators, rather than dictating what they should do.

"I get to be an educator, not a policeman. It's a lot more fun way to be," he said.

LIABILITY CLAIMS DOWN, CUSTOMER LOYALTY UP WITH SUCCESSFUL GIFT-CARD PROGRAM

BY SHEENA HARRISON

A decision in 2011 to bring general liability claims handling in-house, including a program that gives gift cards to potential litigants, has helped Texas Roadhouse Inc. save $1.2 million a year in liability claims costs.

The restaurant chain used a third-party administrator for seven years to handle its general liability claims, which often arose from situations such as when customers slip and fall at a restaurant. But Patrick Sterling, senior director of risk and legendary people, said he and his team realized that Texas Roadhouse employees would be better suited to handle claims and complaints from restaurant patrons.

"Our adjusters have a guest service mentality first," Mr. Sterling said. "How can we win that guest over and keep them as a guest? That is always our approach."

The decision is touted as one of the largest successes of Texas Roadhouse's 12-member risk management team. In addition to cutting liability costs, moving liability claims handling in-house has reduced the company's rate of new or pending liability litigation by 50% since 2011, according to company data.

General liability losses have fallen to $1.28 per $1,000 of revenue in 2011 from $3 per $1,000 of revenue in 2004, according to company data. The company estimates that it has saved $4.95 million in general liability costs in 2014 and 2015.


MICHAEL MARCOTTE

Front row, from left: Scott Colosi, president; Mark D. Simpson, vice president of Legendary People. Back row, from left: Kent Taylor, founder & chairman, chief executive officer; Patrick Sterling.

As a result, Texas Roadhouse's general liability insurance rates have fallen 67% since Mr. Sterling came to the company in 2004.

Mark Simpson, who is vice president of legendary people and handles human resources for Texas Roadhouse, said the in-house liability program has succeeded in part because Texas Roadhouse has worked to establish a "family" culture where employees — called "Roadies" — care about the company and their co-workers. Because of that, he believes Texas Roadhouse's liability claims team has a vested interest in making things right with unhappy customers.

"We have Roadies that are answering the phone with the Texas Roadhouse shirt on every day that love their jobs," Mr. Simpson said. "And when a guest calls in and has an issue in our restaurants, they're getting true care and concern from somebody who cares about the restaurant."

A highlight of Texas Roadhouse's general liability claims handling includes providing Texas Roadhouse gift cards to unhappy customers. The card amounts usually match the value of a patron's check at a restaurant, and can range from $25 to hundreds of dollars.

Texas Roadhouse does not require customers to sign a liability waiver to receive a gift card settlement, said Britt Roarx, senior claims manager for Texas Roadhouse. Instead, the company sees the settlements as a chance to make things right with customers who have often been loyal to the restaurant chain.

"That person is spending money in your restaurant, and you would want them back at some point in time to continue to be your guest," he said.

Nora FitzGerald Meldrum, associate general counsel with Texas Roadhouse, said the company is comfortable providing gift cards as a mea culpa for a customer's accident or poor restaurant service because it allows customers to feel that their concerns were heard.

"Fortunately, we've got great guests out there who love us," Ms. FitzGerald Meldrum said. "They're happy to give us a second chance if we've fallen down."

Customers who receive gift card settlements also tend to receive the "red carpet treatment" when they return to Texas Roadhouse after an incident, Mr. Roarx said.

"We'll go so far as to call the managing partner at that restaurant and say, 'Hey, we paid this claim with a gift card, so they'll be becoming back to see you,'" Mr. Roarx said. "So when they do, (we) treat them like a king."

The company's in-house claims handling also allows Texas Roadhouse to track liability claims and potential claims internally to determine whether certain restaurants need to ramp up their safety efforts or improve their service.

"We can circle back very quickly, partner with our operators and develop new programs and tools that will help us be successful," Mr. Simpson said of being able to use internal liability claim data to drive restaurant improvements.

"We look at it as a loss prevention effort," Mr. Roarx said. "We're talking to our facilities managers. We're talking to our managing partner at the restaurant, and we're saying how do we actually fix that problem so we don't have any more guests injured?"

Safety incentive program shows vigilant restaurateurs the money

Texas Roadhouse Inc.'s compensation program for its restaurant operators creates financial incentives for operators to keep their facilities and workers as safe as possible, said Patrick Sterling, senior director of risk and legendary people.

Operators are paid 10% of their restaurants' net income. In the past year, Mr. Sterling implemented a program that charges operators a flat fee for losses that occur at their restaurants, such as $9,750 for workers compensation claims that involve a worker missing more than 14 days of work, or $2,250 for a general liability slip-and-fall claim.

Restaurant operators can also receive credits for positive risk management, such as $2,500 if an injured worker comes back to work in 30 days or less.

Mr. Sterling said the flat-rate claim program was just rolled out to all of Texas Roadhouse's markets last year. Restaurant operators had a choice of whether to adopt the flat-fee payment structure or remain on Texas Roadhouse's previous compensation program.

The prior structure provided a $20,000 claim accrual account each year toward each restaurant's claim charges. If a restaurant's annual claim costs fell below that $20,000, the remaining balance was paid to restaurant operators at the end of the year.

Mr. Sterling said restaurant operators viewed the year-end accrual payout like a holiday bonus, which meant some operators placed a heavier emphasis on claims management at the end of the year rather than year-round.

"A lot of the restaurants had big windfalls in December, so they never saw an additional hit to their" profits and losses, Mr. Sterling said. "It almost became like guaranteed-cost insurance to them."

The new claim allocation program allows Texas Roadhouse to hold restaurant operators responsible for how their restaurants contribute to the company's overall insurance and claims costs each month. But charging operators a flat rate, rather than the full cost of a claim, prevents unusually large claims from cutting drastically into operators' income, Mr. Sterling said.

"They can't control how a claim grows, but they can control whether they have an accident," he said.

Mark Simpson, vice president of legendary people who handles human resources for Texas Roadhouse, said the claims allocation program creates a business case for restaurant operators to adopt Texas Roadhouse risk management and safety standards.

By Sheena Harrison

It takes a team to execute effective ERM program

BY SHEENA HARRISON

Texas Roadhouse Inc.'s enterprise risk management program has allowed employees throughout the chain to take ownership of the company's various risks, the architect of the program says.

In 2005, Patrick Sterling, senior director of risk and legendary people, worked to create several teams and committees that discuss risks for Texas Roadhouse restaurants and ideas for solving or mitigating those problems.

Mr. Sterling said he wanted to create an ERM structure for Texas Roadhouse as he learned about best practices in risk management during his early days with the company. The approach gives Texas Roadhouse a platform to discuss risk management regularly with stakeholders in the restaurant chain, he said.

Texas Roadhouse's ERM teams fall under a central risk committee that meets quarterly and deals with issues such as food safety, wage and hour compliance, business continuity, crisis situations, responsible alcohol service, leadership development and information technology.

The risk committee, which has eight to 12 members at any given time, includes three restaurant operators and company executives in various departments, including the audit department, IT, human resources, legal and public relations, Mr. Sterling said.

"By having everyone in the room, especially operators, it's been pretty effective," he said.

The committee has been crucial in getting all levels of Texas Roadhouse employees to buy in to the company's risk management culture, said Keith Humpich, senior director of internal audit for Texas Roadhouse.

"We've been really trying to drive the risk management culture throughout the company, and not just here at the support center," said Mr. Humpich, who co-leads Texas Roadhouse's overall risk committee with Mr. Sterling.

Mr. Sterling's decision to include input from restaurant partners has helped ensure that they can actively participate in Texas Roadhouse's risk management processes, said Rick Kaskel, a Providence, Rhode Island-based regional market partner responsible for about 150 Texas Roadhouse restaurants in Maine, Wisconsin, Georgia and other states.

Risk is "more top-of-mind today than it was 10 years ago, and way more top-of-mind than it was 17 years ago when I started," said Mr. Kaskel, who is a committee member. "(Mr. Sterling) basically almost singlehandedly created the risk committee and created the awareness around potential risks we have."

Mr. Sterling said the committee identifies potential problems for Texas Roadhouse and allows it to mitigate threats.

One risk committee meeting included a presentation from the company's food safety team, which identified hand washing as critical for the company's restaurants.

That presentation resulted in a year-long training program that emphasized proper hand-washing procedures, which Mr. Sterling said continues to this day.

"It's a very small thing, but it's one of those things that have a huge impact," Mr. Sterling said.

The committee also has executed exercises that have helped Texas Roadhouse prepare for handling crises, Mr. Sterling said.

That has included annual drills to determine how to handle a cyber threat, such as stolen customer credit card data, and a joint exercise with Texas Roadhouse's top food distributor to prepare for supply chain disruption or foodborne illness issues.

"They're such an important partner to us that we want to make sure we have the right communication protocols so we don't get sideways in a crisis situation," Mr. Sterling said of the food distributor exercise.

Scott Colosi, president and chief financial officer with Texas Roadhouse, said Mr. Sterling has "enormous credibility" with the company's leadership, which listens closely when Mr. Sterling's ERM team discusses potential risks with them.

STERLING'S RIGHT-HAND-MAN IS HIS SUCCESSOR IN WAITING

Patrick Sterling, senior director of risk and legendary people for Texas Roadhouse Inc., has used his background in restaurant human resources to guide the career development of Texas Roadhouse professionals throughout the company.

"He's very passionate about individual development and professional development," said Nora FitzGerald Meldrum, associate general counsel with Texas Roadhouse.

That includes planning to pass the Texas Roadhouse risk management torch to senior claims manager Britt Roarx. Though Mr. Sterling said he does not have a definitive timeline for when a transition would happen, he wants to make sure that Texas Roadhouse's risk management operations have a continuity plan in place.

"He is my right hand and successor in risk management," Mr. Sterling said of Mr. Roarx.

Mr. Roarx worked in claim management with companies such as Louisville, Kentucky-based fast food restaurant chain Long John Silver's Inc. and Atlanta-based telecommunications firm BellSouth Corp. before joining Texas Roadhouse seven years ago. He was connected with Mr. Sterling through a contact at Marsh L.L.C., which is Texas Roadhouse's primary broker for most of its insurance programs, who believed Mr. Roarx's general liability and workers compensation claims background would be helpful to Texas Roadhouse.

Mr. Sterling said Mr. Roarx came in just as Texas Roadhouse began handling its own general liability claims and has been a "perfect" fit with Texas Roadhouse's goals and corporate culture.

"He's done an amazing job," Mr. Sterling said.

Mr. Roarx said he's "honored" to know that Mr. Sterling trusts him to head up Texas Roadhouse's risk management operations some day.

"He's such a force and so good at what he does that I want to live up to those expectations," Mr. Roarx said.

By Sheena Harrison

MICHAEL MARCOTTE

FOCUS ON FAMILY BEGINS AT HOME

Patrick Sterling's emphasis on family carries over to his life outside of the office.

His favorite pastime is spending time with his wife of 31 years, Ellen, whom he met as a student at Louisiana State University, and his 16-year-old daughter, Grace, who is a high school sophomore.

"I just enjoy time at home," said Mr. Sterling, senior director of risk and legendary people for Texas Roadhouse Inc.

Mr. Sterling, 53, said he has enjoyed following Grace's interest in soccer and track and field, where she participates in the triple jump and long jump.

"She's a multisport athlete, so she's always on the go," Mr. Sterling said.

Mr. Sterling also looks forward to visiting his 22-year-old daughter, Natalie, who works as a neonatal intensive care nurse in Louisville, Kentucky, and his 30-year-old daughter, Victoria, who works as a financial analyst for insurance brokerage Hub International Ltd. in New Orleans and recently gave birth to a son, who is Mr. Sterling's first grandchild.

Mr. Sterling's colleagues describe him as someone they can count on at any time of day.

"Patrick is basically (available) 24/7, and I really mean that," said Rick Kaskel, a Providence, Rhode Island-based regional market partner with Texas Roadhouse who oversees about 150 restaurants in several states.

"Patrick has an enormous amount of enthusiasm and positive energy, and he really brings that to work literally every day," said Scott Colosi, president and chief financial officer of Texas Roadhouse.

Mark Simpson, vice president of legendary people who handles human resources for Texas Roadhouse, said Mr. Sterling is known as a morale booster around the company's support center.

"He'll be the first person to put on a crazy costume, pull a prank or have some fun on folks, just to create that true fun-loving culture," he said.

Mr. Simpson and Mr. Sterling, who were fraternity brothers at Louisiana State, sit in offices next door to each other and described each other as brothers.

That strong bond has made it all the more fulfilling to work together over the years, Mr. Simpson said.

By Sheena Harrison

RESEARCH & DATA

RISK MANAGEMENT CAREER TRENDS & ATTITUDES

Business Insurance established its Risk Management Insights Panel last year to help gain a better understanding of the issues risk managers are facing today, and to provide a platform to share these experiences and concerns.

The panel includes approximately 500 participants with diverse risk management experience and decision-making responsibilities for a variety of industries.

Business Insurance commissioned an inaugural survey, conducted in March by Signet Research Inc., to gauge the trends and attitudes of our panel members toward their profession.

The survey, which had a 38.3% response rate, may be accepted as accurate at a 95% confidence level, within a sampling tolerance of plus or minus 7.5 percentage points.

We hope this will lay the groundwork for the risk management benchmark for years to come.

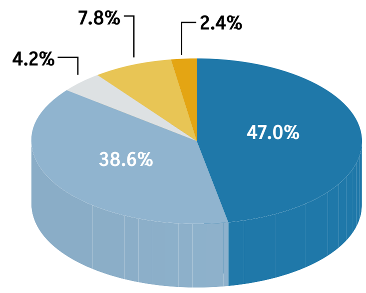
If you are a risk manager and are interested in becoming a member of the *Business Insurance* Risk Management Insights Panel, please register at *www.biriskinsight.com*.

CHARACTERISTICS

- Some 79.6% of responding panel members decide or are part of a small group that makes risk management and commercial insurance decisions for their company. Another 16.9% participate in such decisions.
- Respondents average 20 years of experience in risk management.
- Respondents work an average of 50 hours per week, but about 40% work more than 50 hours.

SATISFACTION

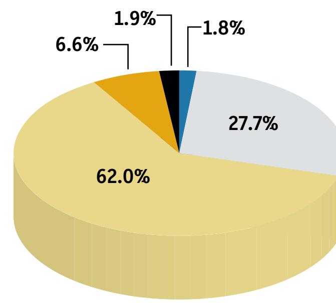
Eighty-five percent of responding panel members are very satisfied or somewhat satisfied with their job.



- Very satisfied
- Somewhat satisfied
- Neither satisfied nor dissatisfied
- Somewhat dissatisfied
- Very dissatisfied

EXPECTATIONS

Two-thirds of respondents expect their job to be more difficult this year.

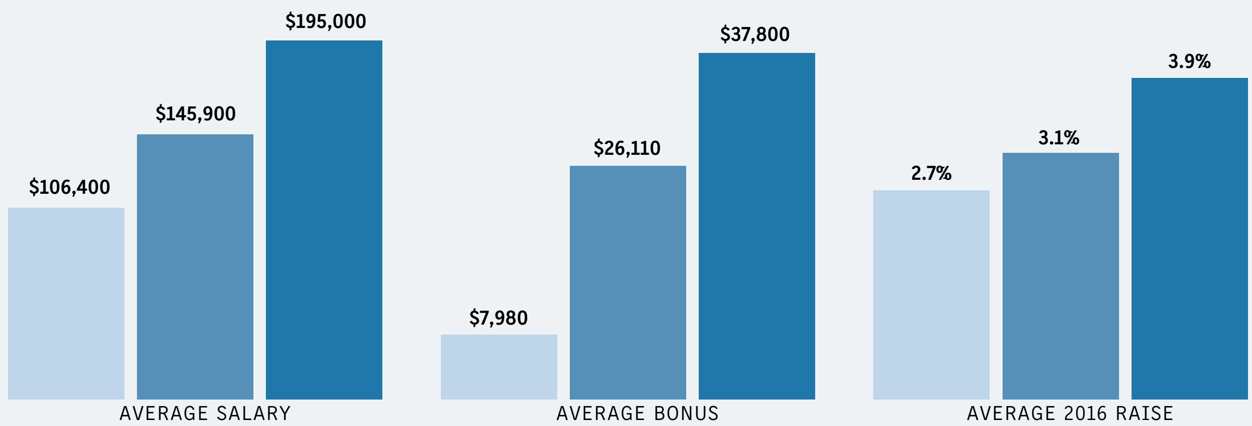


- Less difficult
- No change
- More difficult
- Significantly more difficult
- Not sure

COMPENSATION

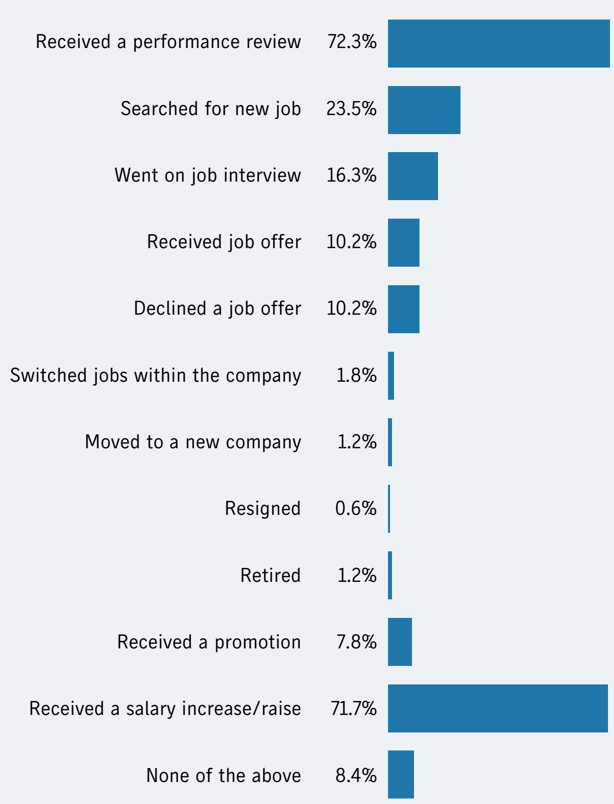
Risk Management Insights Panel members responding to the survey receive salaries that average more than $100,000 per year as well as an annual bonus and pay raise.

- Risk manager/senior risk manager
- Director of risk management/insurance
- Vice president/senior vice president/chief risk officer/chief financial officer/treasurer/controller



JOB EVALUATIONS AND OFFERS

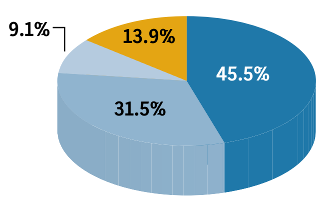
The vast majority of respondents received a performance review and a salary increase in 2016.*



*Multiple answers allowed

HIRING DECISIONS

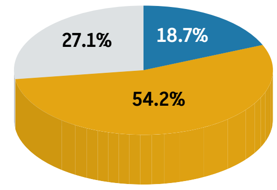
More than three-quarters of respondents make or influence hiring decisions.



- Risk manager makes final hiring decision
- Risk manager actively participates in hiring decisions
- Risk manager influences hiring decisions
- Not involved/not applicable

JOB HUNTING

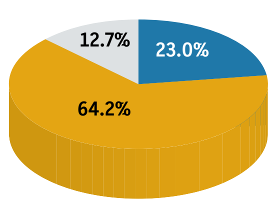
More than half of respondents see a stable career outlook this year.



- Looking for a job
- Not looking for a job
- Not sure

HIRING PROSPECTS

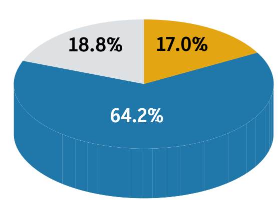
A majority of respondents do not expect to hire additional risk management staff this year.



- Hiring expected
- No hiring expected
- Not sure

LAYOFF PROSPECTS

Most respondents do not expect a reduction in their risk management workforce this year.



- Layoffs expected
- Layoffs not expected
- Not sure

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PRODUCTS & SERVICES

Hospital indemnity policy helps with surprise illness

Cigna Corp. has launched a group hospital indemnity insurance policy called Cigna Hospital Care.

Cigna Hospital Care provides individuals and families additional financial protection for costs associated with unexpected medical bills when they are admitted to a hospital for a covered injury or illness, the health insurer said in a statement.

The coverage pays a lump sum to use for out-of-pocket medical costs, hiring extra help for child care or housework during recovery, as well as other expenses, Cigna said.

"As an example, our standard (health savings account-compatible) plan would provide a benefit of $1,400 to $1,800 for an average hospitalization, which assumes an admission with four days in the hospital as an inpatient. If the customer were in the (intensive care unit) one day and then the hospital for four additional days (five days total in the hospital), the plan would be $1,600 to $2,200," a Cigna spokesman said in an email.

"Whether recovering from an illness or injury or simply returning to work, we want to help customers worry less about medical bills and focus more on getting back to health and to life," Mark Marsters, senior vice president of group operations at Cigna, said in the statement. "We designed our voluntary benefits to fit seamlessly into any comprehensive benefit package."

Broker launches national construction group

Edgewood Partners Insurance Center, which does business as EPIC, has formed EPIC National Construction Specialty Group.

Brian McDonnell joins the group as a managing principal in EPIC's Concord, California, office. In the role, Mr. McDonnell is responsible for building and leading a construction-focused national "center of excellence" as well as developing, integrating and delivering key technical resources, leading-edge risk solutions and new tools, EPIC said in a statement.

Previously, Mr. McDonnell was senior vice president and director of construction services at Wells Fargo Insurance Services USA Inc.

"Brian and his team will deepen our construction industry bench strength, reinforce our commitment to client service excellence across the country, and unify our voice to the carriers and larger insurance and risk management marketplace," Thomas O'Neil, EPIC West region president, said in the statement.

Group accident coverage offers flexible limits

Boston Mutual Life Insurance Co. has launched a group accident insurance voluntary benefit that allows employers to offer employees the same coverage and rate across multiple states.

The product offers eight modules that provide personalized options based on employer needs, Canton, Massachusetts-based Boston Mutual said in a statement.

Customizable benefit categories include hospitalizations, emergency care, diagnostic imaging, continuing care, specific losses, major injuries, fractures and dislocations, according to the statement.

Program merges student debt, retirement effort

Prudential Retirement is helping its clients' employees pay down student loan debt while also building a retirement nest egg, rather than prioritizing one goal over the other.

Prudential Retirement Insurance & Annuity Co. has teamed with Student Loan Genius to enable employers to reward employees for paying off their student loan debt, the Newark, New Jersey-based retirement plan providers said in a statement.

The partnership allows Prudential Retirement's employer clients to make a pretax contribution to workers' retirement accounts when that worker makes a student loan payment processed through Austin, Texas-based Student Loan Genius, according to the statement. The pretax contribution can be paid as a flat dollar amount or as a percentage of the student loan payment or the employee's compensation, and can be offered annually, monthly or for each payroll period, Prudential said.

"As student loan debt grows, workers are having to choose between paying off their student loans or prioritizing other important financial goals," Jamie McInnes, senior vice president and head of total retirement solutions at Prudential Retirement, said in the statement. "Our research tells us many workers will choose to pay down debt rather than save for retirement. As an industry, we need to understand this and provide solutions to help maximize retirement security for American workers."

Phone service available for workers comp claims

Restore Rehabilitation L.L.C. said it has launched a national telephonic case management service for workers compensation payers.

Restore is an Owings Mills, Maryland-based medical and vocational case management company focused on reducing the effect of workers comp claims on injured employees, insurers, third-party administrators and employers, Restore said in a statement.

Restore's telephonic case managers contact employees after an injury to assess their medical status and medical needs, plan next steps, help identify physicians and schedule appointments. The case managers are registered nurses and are available between 8:30 a.m. and 8 p.m. Eastern time, according to the statement.

Restore Rehabilitation President Pam Anthony said Restore's case managers are employees, not independent contractors.

"Our case managers are highly trained, credentialed and extremely experienced in workers compensation," Ms. Anthony said in a statement. "Reasonable caseloads allow for proactive results-based services that surpass industry standards and exceed clients' expectations."

Chubb starts health care industry practice

Chubb Ltd. has launched a practice to provide insurance and risk management services to the health care marketplace.

Chubb's health care industry practice will offer insurance and services for health care customers that include hospitals, physicians, long-term care facilities, managed care providers, and other miscellaneous medical facilities and operations, Chubb said in a statement.

The practice will offer medical professional liability coverage, management liability coverage, privacy and network security coverage, environmental coverage, accident and health coverage, and surety coverage, according to the statement.

Philadelphia-based Caroline Clouser, executive vice president of Chubb Healthcare, leads the team of health care underwriters, risk engineers, service specialists and regional distribution leaders, according to the statement.

"The integration of physicians' shifts in payment models, new medical treatments and technologies, changing regulations, and merger and acquisition activity are driving health care transformation and are challenging the industry to find new and creative risk management strategies and coverage options to help protect itself against significant liability exposures. Our industry practice is uniquely positioned to address these challenges with a comprehensive portfolio of products and services," Ms. Clouser said in the statement.

DEALS & MOVES

Zurich acquires crop insurer from Wells Fargo

Zurich American Insurance Co. has acquired Rural Community Insurance Agency Inc. and its subsidiary, Rural Community Insurance Co., collectively known as Rural Community Insurance Services, from Wells Fargo & Co.for approximately $700 million.

RCIS is a crop insurance provider, recording approximately $1.9 billion in gross written premiums in 2015, Zurich said in a statement. RCIS will operate as a unit within Zurich North America Commercial.

Texas insurance agencies join forces in merger

Higginbotham & Associates said it has merged with Capps Insurance Agency.

Terms of the deal were not disclosed.

Fort Worth, Texas-based Higginbotham is an independent insurance broker of U.S. business, and Capps is an independent broker in Mount Pleasant, Texas, Higginbotham said in a statement.

Capps has 33 employees, and this partnership brings the total number of Higginbotham employees to 750 in 24 offices. Capps will continue operating under its existing name under the leadership of Managing Directors Steve Capps and Norman Wilson and agency Manager Jim Fraley, according to the statement.

Software company acquires predictive analytics firm

Guidewire Software Inc. has acquired EagleEye Analytics.

Terms of the deal were not disclosed.

Columbia, South Carolina-based EagleEye provides software as a service-based predictive analytics specifically designed for property/casualty insurers, Foster City, California-based Guidewire said in a statement. EagleEye's products will be renamed Guidewire Predictive Analytics.

"We welcome the EagleEye team to Guidewire, where their expertise in property/casualty processes and data science will advance our mission of enabling insurers to adapt and succeed in a time of significant change," Guidewire CEO Marcus Ryu said in the statement.

Merged firms to service workers comp business

K2 Insurance Services L.L.C. has acquired Morris Plains, New Jersey-based managing general agent High Point Underwriters.

Terms of the deal were not disclosed.

High Point and Louisville, Kentucky-based Midwestern Insurance Alliance, an MGA that is majority owned by K2, will partner with New York-based QBE North America to administer workers compensation and occupational accident insurance, Solana Beach, California-based K2 said in a statement.

QBE North America will issue workers comp policies that will be administered under the High Point and Midwestern Insurance partnership, according to the statement. Midwestern Insurance focuses on the transportation industry, and High Point specializes in insurance products for independent contractors, according to the statement.

LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
COMPANIES (WINDING UP)
NO. 436 OF 1995
IN THE MATTER OF THE COMPANIES ACT 1981
IN THE MATTER OF
ELECTRIC MUTUAL LIABILITY INSURANCE COMPANY LTD.
NOTICE TO CREDITORS AND CONTRIBUTORIES OF INTENTION TO APPLY FOR RELEASE

NOTICE is hereby given that I, the undersigned Liquidator of the above named company (the "Company"), intend to apply to the Court for my release and the dissolution of the Company. Further take notice that any objection you may have to the granting of my release must be notified to the Court within twenty-one days of the date hereof.

A summary of the receipts and payments accounts can be obtained from the offices of PricewaterhouseCoopers Advisory Limited by contacting Kristyn Fellowes at kristyn.fellowes@bm.pwc.com or on +1 (441) 295 2000.

Dated this 11th day of April 2016

Chris Hughes, *Liquidator*

OSHA

Continued from page 3

immediate injury and illness reporting are common, experts say.

"That's often been an uncontroversial requirement, but OSHA is now taking the position that that kind of policy can be retaliatory," said Ilana Morady, a San Francisco-based associate at Seyfarth Shaw L.L.P.

At the heart of the U.S. Steel case are five-day suspensions imposed on two employees who did not immediately report their injuries because they were unaware they sustained injuries at the time — disciplinary actions that OSHA said violated the anti-discrimination provision of the Occupational Safety and Health Act.

Even employer advocates say the disciplinary action, if true, is unusual.

"The policy from the company was different from what we typically see," said William Principe, an Atlanta-based partner at Constangy, Brooks, Smith & Prophete L.L.P. "I don't know of anybody that I've dealt with that would have had a multiday, unpaid suspension for the first time that somebody didn't report an injury by the end of the shift."

The suit seeks to permanently bar U.S. Steel from enforcing a policy that requires employees to report any injury earlier than seven calendar days after the employee becomes aware of his or her injury or illness — a helpful piece of information to guide employers going forward, Ms. Morady said.

"I don't think we'd want to say, 'Scratch your policy or don't enforce your policy,' but I think it would make sense for employers to evaluate those policies and make sure they have something in place that allows employees time to realize that they've been injured because it's true that sometimes you can be injured and not realize it," she said.

Last month, the Labor Department sued Lear and several managers in Montgomery, Alabama, federal court on grounds they violated the anti-discrimination provisions of the OSH Act for suspending and terminating employees who reported workplace safety hazards, according to court records.

HEAR INTERVIEW

Visit *Business Insurance*'s multimedia Web page to hear Jim Stanley of FDRsafety L.L.C. discuss the U.S. Steel case involving suspensions of employees who did not immediately report their injuries, and how those actions line up with federal anti-discrimination provisions, with *Business Insurance* Senior Editor Gloria Gonzalez.

" I just don't see how people are going to feel confident that it's a good idea to go to federal agencies to report safety concerns if they can then be sued for even opening their mouths."

Carolyn Wheeler,
Katz, Marshall & Banks L.L.P.

A March 2015 filing by Lear sought a temporary order to restrain Kimberly King, one of the fired employees, on grounds of intentional interference with business relations and defamation after she spoke to media outlets about her workplace safety concerns and tried to deliver a letter to Lear customer Hyundai Motor Co., asking the automaker to require Lear to deal with these issues.

Federal authorities responded by securing a restraining order forbidding the automotive seating and electrical provider from engaging in or threatening retaliation against employees during a whistleblower investigation, according to court records.

"It's always been kind of common to fire people, but to then sue them because they tried to protect their rights is very, very chilling," said Carolyn Wheeler, senior counsel at Katz, Marshall & Banks L.L.P. in Washington. "I just don't see how people are going to feel confident that it's a good idea to go to federal agencies to report safety concerns if they can then be sued for even opening their mouths."

The department took a "very aggressive approach" in suing three individual Lear managers for alleged retaliation, said Punam Kaji, a Houston-based attorney at Haynes & Boone L.L.P.

"Managers are no longer shielded by their corporation or employer, and they need to consider whether their actions are going to put them in a position of personal liability," she said.

The Lear managers were named partly because of the decision to transfer the employees from the company's plant to the warehouse, where they were no longer fully able to take advantage of overtime opportunities.

"Increased training might just be a first step so that everyone really understands what is considered retaliation because sometimes a change in employment in ways that may be perceived to be retaliation or without the intent of retaliation can be retaliation," Ms. Kaji said.

CYBER

Continued from page 3

Mr. Finan, now chief security officer of Dulles, Virginia-based Ark Network Security Solutions, L.L.C., was a senior cyber security strategist and counsel with the Department of Homeland Security's National Protection and Programs Directorate until late last year. There, he launched and led DHS' cyber security insurance initiative.

During his appearance before the panel and in an interview, Mr. Finan said insurers eventually could play the same role in promoting cyber security risk management as fire insurers have in promoting fire safety, although doing so will take some time.

While fire is a fairly well-understood phenomenon, "cyber is a much more complicated risk area because of the human element, and you never know what the human motivations will be," Mr. Finan said.

While a fire can be contained to a few buildings, cyber threats present a much larger problem, he said. Still, some of the "fundamentals from the fire context still apply." The challenge is identifying which controls actually work and, as the "risk evolves, what controls evolve with that risk," he said.

"The history of the insurance industry is promoting good risk management," said Howard Mills, global insurance regulatory leader at consultant Deloitte L.L.P. in New York. "You can go back to fire prevention, product safety and electric appliances. It's logical to expect that insurance companies by providing cyber coverage will require good cyber risk management that will benefit companies, individuals and society at large."

Government interest in cyber insurance has "continued to ratchet up" for several years, said Ben Beeson, Washington-based cyber risk practice leader at Lockton Cos. L.L.C.

"I think that will continue," said Mr. Beeson. "The insurance industry has a role to play to incentivize good risk management."

As cyber insurance has evolved, "I think it's been the stick approach today, and I hope we're about to move into the carrot area" Mr. Beeson said. "The stick approach has been, "implement best practices and we will give you cyber insurance.' "

"The carrot approach will be a more prescriptive approach, which will say, 'Adopt XYZ controls, and we will offer you lower premiums or broader coverage,' " he said.

"It has not happened today because the insurers have not had the ability to understand how specific controls move the needle on risk exposure to the policyholder," Mr. Beeson said, although he added that he does expect something along those lines in the near future.

"I do think that both Congress and the executive branch officials as well as state regulators do see the importance of cyber risk management as a top-tier issue both for the government and also for the private sector," said Nat Wienecke, senior vice president in the Property Casualty Insurers Association of America's Washington office. "In many cases, the soft underbelly of our cyber security environment can come through companies that haven't matched their cyber risk management programs to the threats we are facing."

Government can play a role in encouraging cyber risk management, he said.

When it comes to a data breach, "we think it's very, very important that there be state and federal harmonization of data breach (notification) requirements," he said. "This will allow more even management of this risk across the economy."

Regarding cyber insurance itself, anything state and federal regulatory bodies as well as Congress could do to help develop clear and consistent uniform standards or protocols "would be very helpful to push these products out to the broadest of audiences," Mr. Wienecke said.

COSTS

Continued from page 3

sicker than average from the employer market into the marketplaces," said Gary Claxton, Washington-based director of the Kaiser Family Foundation's health care marketplace project. That's because people who lose employer-based insurance likely would enroll in the marketplaces, especially if they are sick and qualify for tax credits, he said.

Still, "part of this going forward is going to depend on the outreach," Mr. Claxton said. "If the (ACA) tax credits are able to reach more of the low income uninsured, a lot of them are relatively healthy, so (if they enroll) it would even out."

Enrollment in the public exchanges so far has been lower than expected. About 12.7 million people signed up for coverage during the 2016 open enrollment season, according to the Department of Health and Human Services. That compares with a Congressional Budget Office projection last year that 21 million people would enroll by 2016.

More people will be motivated to enroll in coverage through the exchanges as their plans lose grandfathered status and as the penalty increases for not having coverage, sources said.

The individual penalty this year for not having health insurance is $695 or 2.5% of household income, whichever is higher, versus $325 or 2% of household income last year.

After two years in the market, insurers are beginning to price the health coverage they provide more accurately, said Mr. Claxton.

Insurers are doing so by raising deductibles and premiums while implementing narrower networks to help control medical costs. They also are calling for regulatory changes for the health insurance exchanges.

"The carriers have been very vocal about the changes they would like to see in this market to make it viable," Mr. Sloan said. Health insurers want changes to requirements for special enrollment periods, which they say are too relaxed and allow individuals to enroll when they need treatment, then drop coverage once they complete it.

Insurers also say the health reform law's risk-adjustment program, which transfers payments from plans with lower-risk enrollees to plans with higher-risk, more costly enrollees, doesn't compensate them enough, Mr. Sloan said.

Changes are being made, but slowly.

The Centers for Medicare and Medicaid Services recently responded by tightening the rules on special enrollment periods and proposed changes to the risk-adjustment program.

CMS reduced the number of circumstances in which people can enroll in exchange plans outside of open enrollment, and said it would require documentation to prove they are eligible for special enrollment periods. CMS also said it is using more recent data, updating medical and drug trends and incorporating preventive services into companies' risk-adjustment calculations.

Though some health insurers have threatened to quit the exchanges or reduce their participation, most sources expect them to stick around.

Insurers have realized "that this is a long-term issue. It's going to take much longer to stabilize than we thought," said Stephen Zaharuk, New York-based senior vice president at Moody's Investors Services Inc. The exchange business is "a good deal for the insurance companies. It just has to be fixed."

"Carriers see some future growth in this segment, and I don't think they are eager to pull out," said Katherine Hempstead, Princeton, New Jersey-based senior adviser to the vice president with the Robert Wood Johnson Foundation, who directs the foundation's work on health insurance coverage.

UnitedHealth Group Inc. is among insurers that have threatened to leave the public exchange business amid major losses.

Reports on Friday said United Healthcare had decided to end its health exchange offerings in Arkansas and Georgia effective in 2017.

AP PHOTO

While an expanded Panama Canal is slated for completion, megaships are leading to a "trickle down effect" of so-called Panamex vessels

MEGASHIPS

Continued from page 6

ple as this could help prevent weight distribution problems and cargo misidentification problems" that could endanger the craft as well as its crew.

Concentrating more cargo on fewer ships also increases supply chain risks, London-based Drewry Shipping Consultants Ltd. said in an analysis.

The potential for the ships to be carrying highly valuable cargoes, variations to routes because of the ships' size and a potential scarcity of salvage equipment to deal with an accident all contribute to uncertainty to the potential loss picture, Allianz said.

While an expanded Panama Canal is slated for completion in the coming weeks, megaships are leading to a "trickle down effect" of so-called Panamex vessels, previously the world's largest, being pushed to inadequately prepared secondary or tertiary ports to free up space for the even larger vessels at the biggest ports, Mr. Kinsey said.

In addition, London-based Marsh Ltd. said in a recent report that megaships may need to change the routes they take, but large areas of the oceans have not been surveyed to modern standards.

According to Marsh's report, International Hydrographic Organization data shows that just 49% of the U.K.'s coastal waters up to a depth of 200 meters have been surveyed to modern standards while as little as 1% of the waters around the Arctic Peninsula have been surveyed.

Steve Harris, senior vice president of Marsh's global marine practice in London, said megaships also will be sailing the Caribbean and inadequate salvage resources are a concern.

He urged shipowners to share data about lesser sailed areas of the oceans.

OVERTIME

Continued from page 4

The ruling, authored by Justice Anthony Kennedy, also cautioned, however, that the "fairness and utility of statistical methods in context other than those presented here will depend on facts and circumstances particular to those cases."

In a dissent, Associate Justice Clarence Thomas, who was joined by Associate Justice Samuel Alito, said the majority had redefined class action requirements and devised an "unsound special evidentiary rule for cases" under the FLSA.

While it is good the court has given some direction to plaintiffs and employers on the admissibility of statistical evidence, "we are going to see an uptick in litigation here" because plaintiffs can use it to sustain class proceedings, said Christopher R. Kazanowski, a partner at Honigman, Miller, Schwartz & Cohn L.L.P. in Detroit.

Fine-tuning legal language

The case could also affect class actions beyond wage-and-hour claims "because the court used pretty broad language to say they will not permit a categorical rejection of all statistical evidence," he said.

"Until we have opinions from other federal courts fleshing out the ruling, we're going to see additional litigation by plaintiff class action attorneys trying to broaden that narrow window and exception" in the ruling, said Kenneth L. Racowski, counsel at Buchanan, Ingersoll & Rooney P.C. in Philadelphia.

"It's going to be easier for plaintiffs' lawyers to do less discovery, do less work" and provide evidence through expert witnesses, rather than having to spend a lot of time fighting over getting evidence admitted in wage-and-hour cases, said defense attorney Rebecca L. Torrey, a partner at Manatt Phelps & Phillips L.L.P. in Los Angeles.

Others, however, believe the ruling's impact will be more limited.

The decision "basically ratified the way that many of these cases are litigated now," said Eric R. Magnus, a principal in Jackson Lewis P.C.'s Atlanta office.

"I suspect the court had trouble punishing the employees because the employer didn't keep the kind of records they were supposed to have kept," said P. Russell Perdew, a partner at Locke Lord L.L.P. in Chicago.

The ruling does point to the need for firms to keep track of their workers' overtime, experts say. It imposes a record-keeping burden on employers that might not have been a factor before, Mr. Racowski said.

QUESTION OF CLASS CERTIFICATION REMAINS

The primary question on which the U.S Supreme Court's 6-2 ruling in *Tyson Foods Inc. v. Peg Bouaphakeo et al.* focused was the admissibility of statistical evidence.

Left undetermined, however, was the question of whether the class should have been certified because it included members who did not work overtime in donning and doffing their work clothes and were therefore not "injured." That part of the issue was returned to district court.

"The question of whether uninjured class members may recover is one of great importance," the high court said in its March ruling. The majority concluded, however, that whether a methodology can successfully identify uninjured class members is "premature" at this point in the litigation.

In his concurring opinion, in which Justice Samuel Alito joined in part, Chief Justice John Roberts said that while he agreed that considering the issue now is premature, "I am not convinced that the district court will be able to devise a means of distributing the aggregate award only to injured class members."

"It's just plainly impermissible" to expand liability to include uninjured class members, said Penelope A. Preovolos, a partner at Morrison & Foerster L.L.P. in San Francisco.

The district court now will try "to separate the wheat from the chaff" on which workers are entitled to recover damages, said Kevin M. McGinty a member of Mintz, Levin, Cohn Ferris Glovsky & Popeo P.C. in Boston. Tyson does not think it is possible to make that distinction, he said.

The court achieved a majority ruling only because it did not rule on this issue, said Eric R. Magnus, a principal in Jackson Lewis P.C.'s Atlanta office. Meanwhile, "Justice Roberts' concurrence will certainly have an impact on the court when the next case comes along," said Kenneth L. Racowski, counsel at Buchanan, Ingersoll & Rooney P.C. in Philadelphia.

By Judy Greenwald

CADILLAC

Continued from page 4

Chicago.

"The exclusion does not solve the problem. It only puts it off for a few more years," said Gretchen Young, senior vice president of health policy at the ERISA Industry Committee in Washington.

Others, though, say excluding FSA and HSA contributions in calculating health plan costs would not affect the drive to repeal the excise tax.

"A big constituency, including labor unions, would remain for full repeal," said Bill Sweetnam, legislative and technical director at the Employers Council on Flexible Compensation in Washington.

The likelihood that lawmakers will act this year to exclude FSA and HSA contributions for excise tax calculation purposes is low, some say.

"The momentum is not on mending the excise tax, but repealing it," said Geoff Manville, a principal at Mercer L.L.C. in Washington.

In fact, Mr. Manville said, the business community is taking the position that Congress should move to repeal the excise tax, not just one aspect of it.

In addition, the two-year delay in imposing the tax, originally set to begin in 2018, means "there is no pressure to do anything now," said Ms. Young.

Still, "in 2017, the odds of repeal go up" since 300 House members have gone on record in favor of repealing it, Mr. Manville said.

The delay in the start of the excise tax also reduces the pressure on federal regulators to develop and publish excise tax rules.

"Now that the tax has been delayed for two years, the urgency for rules is reduced. I don't anticipate rules anytime soon," said Rich Stover, a principal at Xerox HR Services in Secaucus, New Jersey.

If the tax is not repealed, rules are needed on several issues issues, including who would pay the tax.

For example, the IRS said earlier that it is considering two approaches on who would pay the tax for self-insured employers.

Under one approach, the employer would calculate the tax and determine the liability of different plan administrators, such as third-party administrators and pharmacy benefit managers, with the administrators paying their share of the tax and being reimbursed by the employer.

Under the other proposed approach, the self-insured employer would pay the tax directly.

SPLIT POINT

Continued from page 1

their workers comp risks, for example, will not be affected by the proposed change.

Split points are the cut-off point between primary losses, which reflect frequency, and excess losses, which reflect severity. It's used to calculate experience modifcations, or ex-mods, which are premium rating tools based on the claims experience of employers in similar industries. Split points in several states, including New York, have increased over the past year, but California is the first large state to consider a variable split point.

If the split point is $15,000 and a worker has a $20,000 claim, only $5,000 of that claim is recognized as an excess loss. Every dollar up to the split point, however, is considered a primary loss, which counts more toward an employer's ex-mod.

Most of the 34 states that use the National Council on Compensation Insurance Inc. to set workers comp rates saw split points increase this year to $16,000 from $15,500 in 2015.

Upon reviewing the California split point, which was last adjusted in 2010, "it became clear that one size doesn't necessarily fit for all employers," a spokesman for Oakland, California-based WCIRB said. "For smaller employers, a lower split point is more appropriate and reduces volatility. And for very large employers, higher split points are appropriate."

An ex-mod is designed to be a predictor of future losses, but many employers think of it as "a punishment for past sins," said Kevin Ring, lead workers comp analyst for the Institute of WorkComp Professionals, a firm that educates insurance agents so they can better serve employers, in Asheville, North Carolina. "Having a variable split is the most equitable way to accurately predict the future experience of an employer," since excess losses can vary due to factors outside of an employer's control.

For example, an employer with 10 $5,000 claims will have a higher ex-mod than an identical employer with one $50,000 claim, Mr. Ring said. So, if only one or two workers sustain injuries, an employer's ex-mod won't "spike in an extreme way, which is a very serious problem that exists in pretty much every jurisdiction," he added. A variable split point would help prevent an employer with one $50,000 freak accident claim from having the same ex-mod as the potentially less safe employer that had 10 $5,000 claims.

In theory, experience rating plans that place more weight on claim frequency than claim severity are "more productive as far as getting employers focused on safety," said John R. Pedrick, vice president of actuarial services for the Pennsylvania and Delaware Compensation Rating Bureaus in Philadelphia.

Delaware utilizes about 190 different split points — ranging from $29,100 to $530,000 — to calculate ex-mods, Mr. Pedrick said, adding that that he'll be analyzing the performance of the state's plan over the next few years to determine whether changes are needed.

California's workers comp market has been "very volatile," said Christopher Flatt, managing director and leader of Marsh L.L.C.'s Workers' Compensation Center of Excellence in New York. If a claim was "valued at $7,000 four or five years ago, it's not going to be the same now — it likely would be a lot more," Mr. Flatt added.

"Getting the rate structure fairer across all employers, and more equitable, tends to increase (an employer's) desire to want to pay attention to what's going on in claims," Mr. Pedrick said. "Most employers do pay attention, but now they have a financial incentive to keep costs under control and ultimately reduce the number of accidents."

Sources agree the new formula will likely lead California employers to invest more in safety programs, or at least look into reducing their losses.

Employers will be able to see how the new formula might affect their ex-mods when WCIRB releases its experience modification calculator in late June.

The tool will be particularly important for vendors or contractors, said Pam Ferrandino, New York-based executive vice president and casualty practice leader at Willis Towers Watson P.L.C.

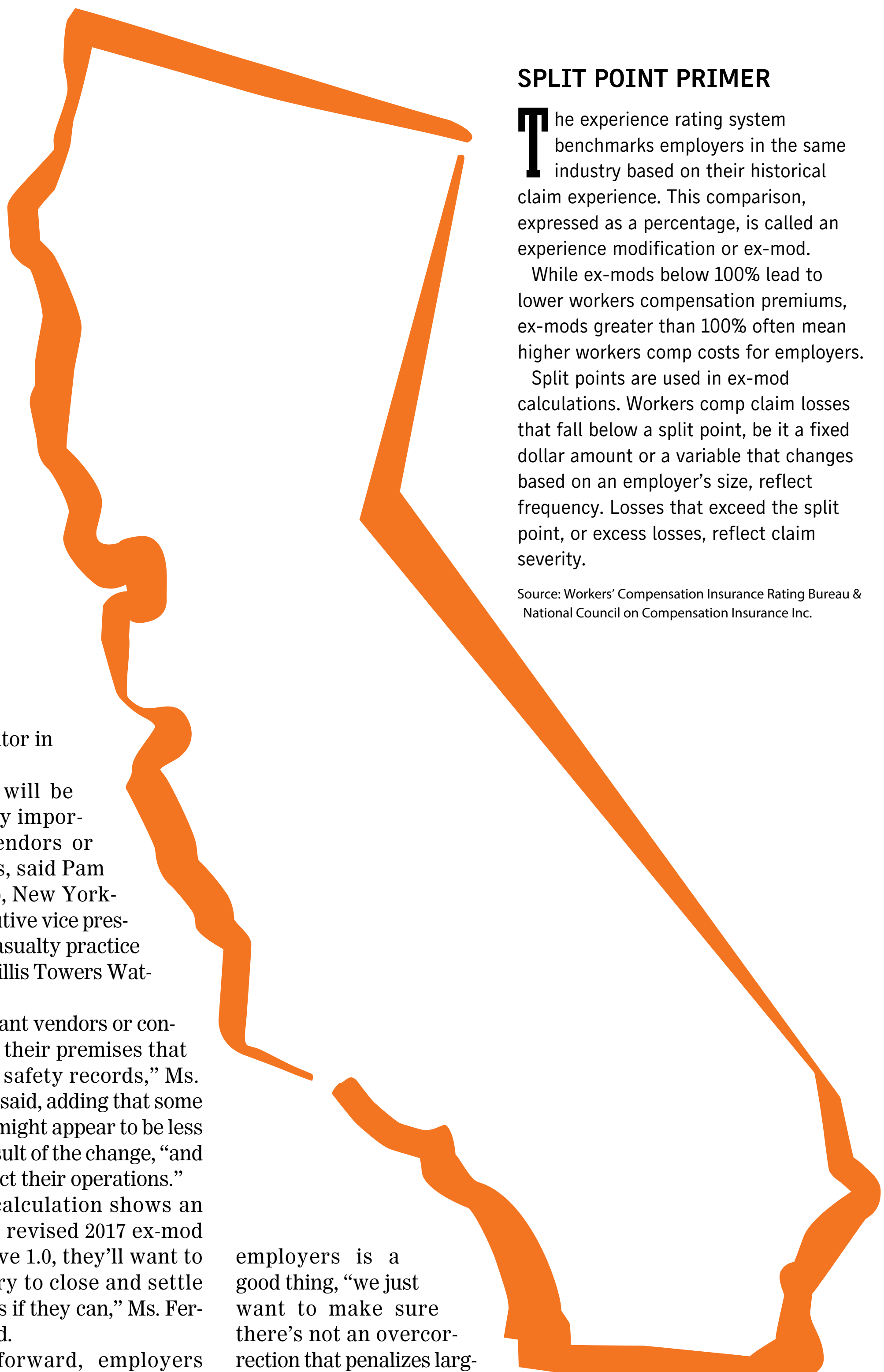
"People want vendors or contractors on their premises that have great safety records," Ms. Ferrandino said, adding that some employers might appear to be less safe as a result of the change, "and it could effect their operations."

If a test calculation shows an employer's revised 2017 ex-mod will be above 1.0, they'll want to "actively try to close and settle comp claims if they can," Ms. Ferrandino said.

Moving forward, employers could see their ex-mods rise significantly, "not necessarily because their injury experience has gotten worse, but because their payroll increases and (their) split point goes up," Mr. Ring said. "But if they're talking about (90) split points, maybe the jumps won't be so big."

While less volatility for smaller employers is a good thing, "we just want to make sure there's not an overcorrection that penalizes larger employers," Ms. Ferrandino said.

More large employers could look to self insure as a result, "but what we wouldn't want to do is create a larger burden for the middle market employers that are in the guaranteed cost rate environment," she said, noting that such a concern is premature.



SPLIT POINT PRIMER

The experience rating system benchmarks employers in the same industry based on their historical claim experience. This comparison, expressed as a percentage, is called an experience modification or ex-mod.

While ex-mods below 100% lead to lower workers compensation premiums, ex-mods greater than 100% often mean higher workers comp costs for employers.

Split points are used in ex-mod calculations. Workers comp claim losses that fall below a split point, be it a fixed dollar amount or a variable that changes based on an employer's size, reflect frequency. Losses that exceed the split point, or excess losses, reflect claim severity.

Source: Workers' Compensation Insurance Rating Bureau & National Council on Compensation Insurance Inc.

REINSURERS

Continued from page 1

Inc. in Chicago. "Pricing in primary lines is better than it has been in reinsurance lines."

"There is probably more opportunity in the near term to (expand insurance offerings) than to figure out ways to grow their reinsurance business," said Steven Webersen, managing director and head of insurance research at Conning & Co. in Hartford, Connecticut.

In a February conference call with analysts, Everest Re Group President and CEO Dominic J. Addesso noted the value of diversifying from volatile lines such as catastrophe-exposed property reinsurance.

"The insurance sector is much more stable from that perspective," Mr. Addesso said.

Bermuda-domiciled Everest Re is aggressively building its specialty property/casualty insurance operations following a major revamp. It has hired several new senior managers to run the business, including Jonathan M. Zaffino, a former Marsh & McLennan Cos. Inc. executive who's now president of Everest Re's North American insurance division.

Everest Re's insurance volume jumped 25.8% last year to $1.53 billion in gross written premiums, while its U.S. and international reinsurance premiums declined.

Its mix of insurance risks has shifted dramatically. Long-tail casualty risks, 63% of its insurance business in 2010, were down to 36% last year, while property and other short-tail lines were 42% of its business last year versus 10% in 2010, according to company filings.

Brokers generated a majority of Everest Re's insurance business last year versus 2010, when 77% was produced by managing general agents.

"We are primarily driving the underwriting as opposed to an MGA driving the underwriting," Mr. Addesso told analysts.

He said Everest Re still has partnerships with MGAs, but expects future growth from surplus lines property, directors and officers liability, accident and health, inland marine, excess casualty and environmental risks, workers compensation, and sports and entertainment insurance. The company also launched a Lloyd's of London syndicate last year to write international insurance business.

Meanwhile, Berkshire Hathaway Inc., long a major reinsurer, is quickly becoming a major specialty insurer. Boston-based Berkshire Hathaway Specialty Insurance Co. has grown from 82 employees when it was formed in 2013 to 636 at the end of 2015, and already has hit $1 billion in annual premium volume, according to company reports.

Berkshire also has formed Berkshire Hathaway Direct Insurance Co., which is expected to write workers comp and small business owners policies through an online portal, according to Best..

Both are part of Berkshire's primary group, which includes several other workers comp and commercial property/casualty underwriting units. The primary group's revenue has jumped $1 billion a year for the past three years, rising to $5.39 billion last year. Like Everest Re, Berkshire's reinsurance premiums — written through General Re Corp. and Berkshire Hathaway Reinsurance Group — declined 19.5% last year to $13.2 billion.

On a smaller scale, Bermuda-based Hamilton Insurance Group

SIFI

Continued from page 1

cial stress tests.

Shortly after Judge Collyer issued her initial order late last month but before it became public, AIG President and CEO Peter Hancock said in a CNBC interview that he expected an appeal and "we'll see how it progresses."

The ruling "certainly opens the opportunity" for AIG, which the government bailed out in 2008, to seek to shed its SIFI designation, but Mr. Hancock said the company would reserve judgment until rules governing SIFIs are ultimately written and interpreted.

Insurers have long argued that they, by their very nature, do not present the same sort of the threat to the national economy as do banks, but MetLife was the only insurer to challenge the SIFI designation.

"I think this is the single biggest victory for the insurance industry in the post crisis era," said Grace Vandecruze, managing director of New York-based Grace Global Capital L.L.C., an insurance-specialist consulting firm and adviser to regulators. "It gives the industry the ammunition to fight federal regulation with a higher level of conviction. To date the industry has spent in excess of $4 billion in regulatory and compliance costs with little tangible benefits to the policyholders."

While SIFIs are subject to "enhanced supervision" and "prudential standards" as defined by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which created FSOC, the Federal Reserve has yet to announce what that supervision and standards will be, Judge Collyer wrote.

FSOC "determined that 'material financial distress' at MetLife Inc. could 'pose a threat to the financial stability of the United States,' " which FSOC defined in formal guidance years before MetLife's designation, the judge wrote.

But "during the designation process, two of FSOC's definitions were ignored or, at least, abandoned. Although an agency can change its statutory interpretation when it explains why, FSOC insists that it changed nothing. But clearly it did so. FSOC reversed itself on whether MetLife's vulnerability to financial distress would be considered and on what it means to threaten the financial stability of the United States," Judge Collyer wrote.

She said FSOC focused exclusively on the presumed benefits of its designation and ignored the potential costs.

"While MetLife advances many other arguments against its designation, FSOC's unacknowledged departure from its guidance and express refusal to consider cost(s) require the court to rescind the final determination" that MetLife be designated a SIFI, the judge ruled in dismissing other issues MetLife had raised in its legal challenge.

The treasury secretary strongly disagreed.

"This decision leaves one of the largest and most highly interconnected financial companies in the world subject to even less oversight than before the financial crisis," Mr. Lew said in a statement. "This is wrong and dangerously ignores the lessons of the financial crisis. FSOC's authority to designate nonbank financial companies is a critical tool to address potential threats to financial stability, and it has made our financial system safer and more resilient."

Insurers and insurance regulators, however, praised the ruling.

In a statement, the National Association of Insurance Commissioners said the ruling confirms what its members "have long argued: the Financial Stability Oversight Council's designation of MetLife as a systemically important financial institution is flawed," including concerns about its analytical approach and lack of ability to show that MetLife's failure would affect the broader economy.

"The facts quite simply did not support MetLife being designated as a SIFI," Dirk Kempthorne, president and CEO of the Washington-based American Council of Life Insurers said in a statement.

"FSOC should also offer a clear 'exit ramp' to companies so that they can understand the de-risking strategies they could use to be de-designated from SIFI oversight," Mr. Kempthorne said.

The "ruling hopefully will be seen as a significant, independent affirmation that there are critical flaws in the FSOC process and that Congress needs to establish more transparency and accountability," Dave Snyder, vice president in the Washington office of the Property Casualty Insurance Association of America, said in an email.

Nonindustry observers also look forward to the appeal.

"I think it's going to be interesting what the (appellate court) does with this decision," said Thaya Brook Knight, associate director of financial regulation studies at the Cato Institute, a Washington-based free-market think tank. "I really don't think the judge pulled any punches in this. She said FSOC really didn't have any standards in assessing (MetLife's) the threat to U.S. financial stability."

But some say the government's appeal looks to put efforts to shed SIFI designations or impose news ones on hold.

"FSOC is going to be less likely to designate large insurance companies as SIFIs if it's repeatedly being reversed by the district courts," said Bruce Grohsgal, a law professor at the Delaware Law School at Widener University in Wilmington, Delaware. "The bigger elephant in the room I think is Judge Collyer's requirement that FSOC must now undertake a cost-benefit analysis prior to designating a SIFI, even though Congress in Dodd-Frank did not require this."

The government's promised appeal could "dampen enthusiasm for AIG or Prudential to try to dedesignate," said Tom Dawson, a partner in the New York office of Drinker Biddle & Reath L.L.P. and co-head of the firm's insurance transactional and regulatory team. "It's conceivable that Treasury could prevail on the appeal; but if they don't, I think at worst, Judge Collyer has given them pretty detailed instructions on how to proceed the second time around."

DRONES

Continued from page 4

president and manager of the Northeast regional office and unmanned aircraft systems risk at Global Aerospace Inc. "The aviation industry has continued to evolve, and the regulations have continued to evolve with it, and it will be exactly the same for drones."

Among the committee's recommendations are using an operation-based method to define four categories of risk rather than weight, as countries such as Canada and Australia do. According to their levels of potential hazard, each category would have greater restrictions.

Category 1 drones would be allowed to fly in congested areas and over crowds. Such drones

would be small, weigh less than 8.8 ounces including cargo or cameras and have a low risk of hurting people.

Category 2 drones over 8.8 ounces could fly over people no closer than 20 feet vertically or 10 fee horizontally, but the FAA wants manufacturers to prove they have a 1% or less chance of hurting someone.

Category 3 drones would not be allowed to fly over densely populated areas, and flights would be limited to restricted sites. Such drones are used for tasks like inspecting transmission lines or flare stacks. The manufacturer also would have to certify there is a 30% chance or less that impact would cause a serious injury.

Category 4 drones, used primarily by news media, could fly over people, but they also would have greater operational restrictions. Operators would be required to have a risk mitigation plan that coordinates with event planners and local government, and a higher level of pilot training than the other categories will be required.

William Walsh, a Seattle-based member of Cozen O'Connor who focuses on aviation law, is alarmed by the recommendations and lack of insurance requirement.

"Normally, you assess a known risk calculated with previous data and losses, but here we are saying we can subject the public to a 30% risk at the convenience of commercial use of drones," he said.

If losses are possible, insurance should be required to mitigate those risks, Mr. Walsh said.

John Geisen, Minneapolis-based senior vice president of Aon Risk Solutions' aviation practice, doubts there ultimately will be an insurance mandate, but also says he's confident that those who need insurance will seek it out.

"I do believe we will continue to see those in the commercial space secure cover out of competitive necessity — either due to their own risk retention philosophies or, more so where relevant, because their customers are likely going to demand that they have cover, grant additional insured status, etc., much like they would demand of any contract service provider," Mr. Geisen said.

Mark Dombroff, a McLean, Virginia-based partner at Dentons U.S. L.L.C. as well as a member of the UAS Insurance Association and the Aviation Insurance Association, agrees that market demand will drive insurance purchases.

"There are a lot of drone-for-hire services out there that will fly over facilities and inspect transmission lines or flair stacks, etc. but businesses are not going to allow this operation on their property unless they have insurance," said Mr. Dombroff, who also made a presentation to the micro UAS aviation rulemaking committee.

Ltd., which began as a reinsurer in 2013, is building out a long-planned U.S. insurance operation. Based in Princeton, New Jersey, Hamilton USA will insure small commercial policyholders with revenue under $25 million, using U.S.-based surplus lines and admitted insurance subsidiaries acquired in 2014, said Bob Deutsch, the unit's acting CEO. Hamilton aims to use information technology resources, such as property loss databases, to drastically streamline underwriting, he said.

The story is similar for other companies.

Bermuda-based Endurance Specialty Holdings Ltd. has added 150 specialty underwriters and dramatically built its U.S. and London insurance operations over the past three years. Insurance premiums of $2.1 billion last year were 41.4% higher than 2013, while reinsurance premium volume has changed little, company reports show.

'Hardscrabble business'

Munich Re America has allocated more capital to insurance underwriting in line with premium growth, though its mix of business "depends heavily on market conditions and need in each segment," Mr. Kuczinski said.

Munich Re's primary insurance units, Hartford Steam Boiler Group and American Modern Insurance Group, also grew last year, and "our strategy of combining insurance and reinsurance activities remains on a successful track that we will continue to pursue in the future," the parent company said in its 2015 annual report.

Alternative reinsurance capital and insurance-linked securities, which have affected reinsurers' pricing and returns, have been a factor in pushing reinsurers into insurance said John L. Ward, CEO of Loveland, Ohio-based private equity firm Cincinnatus Partners L.L.C.

Reinsurance "is a real hardscrabble business right now," said John Wicher, principal of investment banking adviser John Wicher & Associates Inc. in San Francisco. "Growth is very difficult to achieve, and profitable growth, even more difficult."

Beyond offsetting the volatility of property cat reinsurance, insurance allows underwriters to better balance "tail risk" among shorter- and longer-tailed lines, improve companies' positions with rating agencies that favor diversification, and build closer relationships with policyholders, experts said.

The new capacity may soften insurance pricing and conditions "at the margins," in the specialty and excess lines being targeted, but will likely not "move the needle for the overall industry," said Catherine Seifert, an equity analyst at Standard & Poor's Corp. in New York.

"Growth is very difficult to achieve, and profitable growth, even more difficult."

John Wicher,
John Wicher & Associates Inc.

OFF BEAT ;-)

Contributing: Stephanie Goldberg, Gloria Gonzalez, Dave Roknic, Sarah Veysey

IT woes don't vanish at Hogwarts

Turns out there's a magical equivalent of "123456" and "password," according to the new IT guy at Hogwarts School of Witchcraft and Wizardry.

A Tumblr user that runs an account as "The Setup Wizard," notes that it is a work of fan fiction based on J.K. Rowling's beloved "Harry Potter" series.

"Daily accounts of the muggle (non-magic folk) and half-blood (half-magic folk) IT team at Hogwarts," are written from the point of view of fictional Jonathan P. Dart, a 23-year-old muggle from Pittsburgh.

In one post, Mr. Dart complains that the Hogwarts headmaster "neglected to write down or even (attempt) to remember his login password because he assumed he could use Alohomora to unlock his laptop."

As "Potter" fans know, Alohomora is a charm that unlocks and opens doors.

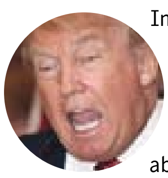
"It took some pressuring from me for him to not set the password as 'Alohomora,' simply because half the school is already using it as theirs," Mr. Dart wrote in his post.

No doubt IT folks in non-magical offices can relate.

Election policy was too foolish to be true

For all those Americans considering moving to Canada if a certain controversial political figure wins the presidency, one insurer seemed to be trying to make the relocation a lot easier.

San Francisco-based Esurance Insurance Services Inc., a unit of Allstate Corp., sent out a news release about its new homeowners' insurance policy called Election Insurance, which claimed it would protect people's abandoned homes for the next four years while they flee the United States.



"Every four years, we hear from countless dissatisfied Americans who threaten to leave the country if the 'wrong' candidate is elected into office," Alan Gellman, chief marketing officer at Esurance, said in the statement. "This year, we're very pleased to announce our newest innovation — Election Insurance. If your preferred candidate loses the election, Esurance will protect your home so you can move out of the country worry free."

April Fool! No such insurance product exists.

A video with fake testimonials ended with a disclaimer saying that no such policy would be available in any states.

POLICE DOG GETS HAZARD HEALTH COVERAGE

BLACK HAWK COUNTY

Police dog Loki, in eastern Iowa's Black Hawk County, is now covered under pet health insurance.

Emergency responders routinely win praise for selflessly putting themselves into harm's way, and their four-legged companions often share the same risks. Thanks to an award called Healthcare for K9 Heroes, one such police dog in eastern Iowa's Black Hawk County is now covered under pet health insurance, according to kwwl.com in Waterloo, Iowa.

Loki is one of only 10 such hounds nationwide that has earned the distinction available to law enforcement dogs ages 2 through 7.

The $10,000 grant reportedly will cover on-the-job injuries as well as illness, testing and therapy.

Loki is no stranger to accolades beyond the usual, "Who's a good boy?" He was previously awarded a bulletproof vest from the same organization, Vested Interest in K9s, kwwl.com reported.

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Golf's drink carts under drone attack?

Risk managers the world over are coming to grips with the risks — and opportunities — posed by drone technology.

And the next time your broker suggests a round of golf, it might make sense to do a quick risk assessment in case any drones are buzzing around.

Players in Japan may now have another reason to shout "fore!," according to TechCrunch.

Japanese online commerce firm Rakuten is participating in a new round of financing for Autonomous Control Systems Laboratory, a Japanese firm that develops robotics and drones for industrial purposes, according to TechCrunch, and, the site reports the two firms are taking an unusual approach to testing the drones.

From May, TechCrunch reported, the firms will test their drones on a golf course in Japan's Chiba prefecture.

Golfers will be able to order drinks, snacks or new balls via a smartphone app, and a drone will bring those items from clubhouse to golfer.

The new definition of 'light' beer

Fans of Anheuser-Busch beers likely were not raising their frosty mugs to celebrate a court ruling that their favorite brews can contain just a bit less alcohol than the label promises.

The U.S. Circuit Court of Appeals in Cincinnati has upheld a U.S. District Court ruling on the mega-brewer's alcohol content. Beer drinkers in seven states had sued and sought to create a nationwide class alleging that Anheuser-Busch Cos. Inc. intentionally overstated the alcohol content of many of its brews.

They alleged "that Anheuser-Busch adds water to dilute the alcohol content to levels, according to court documents.

After a wide ranging consideration of laws — some dating to the end of Prohibition — the appeals court concluded that a brewer's products could legally vary by a "tolerance of .03%." Consequently, the brew could be light on alcohol by .03%, or it could be up to .03% stronger, whether by accident or by intent.

Somewhere, a craft brewer is chuckling into his hipster beard.

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