

## SEXUAL ASSAULTS ON CAMPUS

Most sex assaults on college campuses involve alcohol and are committed by men the female victims know.

- 41% of sexual assaults occurred at off-campus parties; victims knew the perpetrator in 90% of cases.
- Alcohol use was involved in 78% of cases, with one in three victims drunk, passed out or asleep when assaulted.
- Nearly three in four victims were freshman or sophomores.

United Educators Insurance, a Reciprocal Risk Retention Group study of 305 claims filed between 2011 and 2013

### RISK MANAGEMENT

## Colleges crack down on fraternities

Wave of problems puts focus on risk

BY DOUGLAS McLEOD

Recent highly publicized examples of fraternity sexual misconduct, hazing abuses and racial hostility have renewed concerns among college administrators about managing the risks and prompted a tougher stance.

Schools and national fraternity organizations have suspended or closed numerous chapters in the past month as instances of underage drinking, sexual misconduct and hazing abuse have come to light, often documented on social media. More than two dozen fraternity chapters have been suspended or shut down this year for alleged misconduct, according to news reports.

“Colleges have always had kind

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### RISK MANAGEMENT

## FIT-FOR-DUTY PROCEDURES IN FOCUS AFTER ALPS TRAGEDY

Employers debate workers' rights vs. public safety



Andreas Lubitz, co-pilot of Germanwings Flight 9525, had reportedly been deemed not fit to fly by his doctor.

REUTERS

BY STEPHANIE GOLDBERG

The devastating effect a single employee in a safety-sensitive position can have if he or she evades fit-for-duty procedures was brought chillingly into focus last month when a Germanwings co-pilot, who reportedly hid his mental illness, deliberately crashed a commercial jet into the French Alps.

The crash, which killed 150, was a stark reminder to employers to have a consistently enforced fitness-for-duty policy to avoid potential liability.

Andreas Lubitz locked the flight captain of Germanwings Flight 9525 out of the cockpit on the March 24 flight and set the plane on a crash course, authorities said after reviewing the jet's black box data.

Doctors' notes found in Mr. Lubitz's home stating he was not fit to fly were reportedly never shared with Germanwings' par-

See **FIT** page 29

## FIT TO FLY

- In the United States, scheduled airline pilots must renew their first-class medical certificates annually if younger than 40 and every six months if 40 or older.
- Pilots must complete a Federal Aviation Administration medical application form and have a physical exam conducted by an FAA-designated aviation medical examiner.
- The application includes questions about the pilot's mental health, and the examiner can refer a pilot to the FAA Office of Aerospace Medicine if additional testing is indicated.
- All pilots must report any health care visits during the previous three years or their medical and pilot certificates could be revoked, and they could face a civil penalty.
- If the FAA receives information that a pilot may have a mental health condition, its Office of Aerospace Medicine can direct the pilot to provide documentation and/or a psychiatric/psychological evaluation from a mental health professional.



### WORKERS COMPENSATION

## Comp hikes easing as insurers profit

Loss ratios improve throughout sector

BY SHEENA HARRISON

Higher pricing and improved underwriting are credited for workers compensation insurers' better financial performance in 2014, after years of struggle.

The industry's financial turnaround from the lean years of 2010 and 2011 has translated into declining workers comp advisory rates in many states throughout the country.

“This year's been very favorable for employers,” said Peter Burton, Wayne, Pennsylvania-based senior division executive of state relations at the National Council on Compensation Insurance Inc.

Four of the five largest workers comp insurers had lower loss ratios in 2014 vs. 2013, according to market share data the Washington-based National Association of Insurance Commissioners released in March.

“We've seen the level of rate increases slow across the product over the course of 2014, and that will likely continue,” said Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Securities Inc. in Richmond, Virginia. “That also reflects the fact that a greater proportion of the underlying business is at levels that are viewed as adequately priced to make reasonable

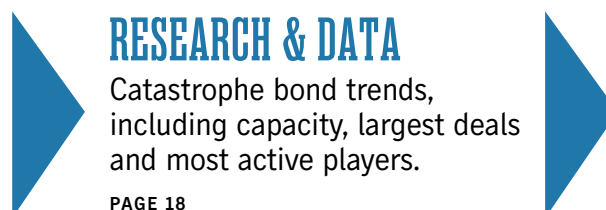
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## Q&A: JAMES A. SKARZYNSKI

PLUS President discusses how the professional liability group is making a global push.

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## RESEARCH & DATA

Catastrophe bond trends, including capacity, largest deals and most active players.

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## OIL SPILL MILESTONE

At the fifth anniversary of the BP oil spill, the offshore energy sector shows improved safety.

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## ALTERNATIVE REINSURANCE

Access to alternative capital is becoming cheaper; riskier bonds may trigger higher losses and coverage disputes; investors crowd the market despite falling returns.

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RIMS 2015: CONFERENCE PREVIEW  
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# Put a feather in your capital.



## In the changing insurance landscape, who is your best partner for creating new opportunities?

With major medical carriers now offering voluntary benefits, there may appear to be more answers to that question than ever before. But when you take a closer look, one stands out: Aflac.

Aflac has exceptionally high brand recognition to help drive enrollment. It also has guaranteed-issue group products, so it's a great way to grow your business with clients both old and new.

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4/13/15

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The Singapore insurance market is mature, with intense competition. Insurers are looking to diversify in the surrounding region. **10**

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The father of deceased Gwar lead singer Dave Brockie sued the metal band for allegedly stealing its frontman's ashes. **30**

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SAFETY

ENERGY SECTOR STRIVES TO MAKE OPERATIONS SAFER

Five years after BP explosion, technology improves

BY BILL KENEALY

The offshore energy industry in general and BP P.L.C. in particular have taken a series of steps to improve safety in the five years since the Deepwater Horizon disaster in the Gulf of Mexico.

Millions of gallons of oil spilled into the ocean after a blowout preventer failed at the Macondo well and set off an explosion and fire April 20, 2010, killing 11 workers and sparking litigation that has yet to be resolved (see story, page 27).

In addition to indelibly altering livelihoods and ecosystems, the disaster has changed the way companies in the offshore energy industry, as well as their regulators and insurers, view safety and risk management (see story, page 27).

The disaster has cost BP more than \$40 billion (see box, page 27).

One example of how the energy industry's safety posture has changed since the blowout is establishment of HWCG L.L.C., a consortium of 16 offshore energy firms and service providers tasked with responding to subsea oil spills to protect people, property and the environment. Members include Marathon Oil Co., Noble Energy Inc. and W&T Offshore Inc.

The consortium shares assets, personnel and technical resources that member companies can use when there is an incident, said



AP PHOTO

Smoke poured from BP's Deepwater Horizon oil rig after it exploded in April 2010. The disaster prompted increased safety measures.

David Coatney, Houston -based managing director of HWCG.

"The primary response solution is comprised of specific-purpose capping stacks, which leverage long-existing blowout preventer technology that has been adapted for rapid response to a loss of well control," Mr. Coatney said. "We also have vessels from contracting service vendors who have readily deployable equipment to be able get the capping stacks in place."

Similarly, BP, Chevron Corp. and ExxonMobil Corp. are members of the Marine Well Containment Co., which also offers emergency response resources and expertise to its members.

In addition to collaborative ventures, companies are taking their own steps to increase offshore safety.

BP has developed a \$50 million global deepwater well cap and tooling package that can be quickly transported by air to wells throughout the world, a company spokesman said.

Another innovation is the use of well simulator rooms, such as one BP opened on its Houston campus, to train workers how to use the complex and evolving equipment employed in offshore drilling.

"The simulators now are very

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CYBER RISKS

Cyber sanctions may temper foreign threats

But identifying criminals remains a hurdle

BY MARK A. HOFMANN

The White House is drawing generally favorable reaction to its executive order allowing imposition of sanctions on overseas cyber criminals, but it's not yet the "silver bullet" solution to the ongoing hacking threat against U.S. interests.

Saying that cyber threats "pose one of the most serious economic and national security challenges to the United States," President Barack Obama signed the executive order April 1 allowing federal authorities to freeze the assets of individuals or entities involved in activities such as intellectual property theft.

"As we have seen in recent months, these threats can emanate from a range of sources and target our critical infrastructure, our companies and our citizens," President Obama said in a statement. "This executive order offers a targeted tool for countering the most significant cyber threats that we face."

Mike Rogers, former chairman of the House Intelligence Committee, said the executive order is a good first step.

"It is the starting of the accumulation of tools, and you will need lots of tools to continue this job of pushing back against cyber hackers," said Mr. Rogers, now a commentator on security issues and a distinguished fellow at the Hudson Institute. "The reason this

See CYBER page 29

Broker award nominations open

Don't miss the opportunity to nominate an outstanding young broker for the 2015 Business Insurance 40 Under 40 Broker Awards. The nomination deadline is June 15.

This awards program, which is in its third year, recognizes retail commercial insurance brokers younger than 40 who work in four regions of the United States: Northeast, Midwest, South and West.

Nominations should highlight the broker's client service skills, leadership skills and market expertise. A panel of Business Insurance editors will review the nominations and select the regional honorees.

Anyone can nominate a broker — co-workers, managers, clients or insurance industry partners — but each nomination must include client and

management/co-worker references. To be eligible, nominees must have worked in the brokerage industry for at least three years and must be under age 40 on Oct. 1, 2015.

The winners will be announced online in late summer and will be profiled in the Oct. 12 edition of Business Insurance. Award winners also will be recognized at regional events during the fall.

Nominations should be submitted online at [www.businessinsurance.com/40under40](http://www.businessinsurance.com/40under40), where an FAQ section is available. If you have further questions, contact Gavin Souter, editor of Business Insurance, at [gsouter@businessinsurance.com](mailto:gsouter@businessinsurance.com).



AP PHOTO

President Barack Obama's executive order aims to punish international cyber criminals.

ONLINE  
FEATURES

BREAKFAST EVENT

RMOY breakfast at RIMS:  
Now taking registrations

The Risk Manager of the Year® Awards Breakfast is April 28, Morial Convention Center in New Orleans.  
[www.BusinessInsurance.com/RMOYBreakfast](http://www.BusinessInsurance.com/RMOYBreakfast)

VIDEO



In Focus: Truck driver safety

Safe driving practices help trucking companies mitigate their risks.  
[www.BusinessInsurance.com/InFocus](http://www.BusinessInsurance.com/InFocus)

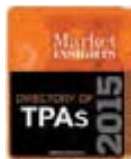
GALLERY

Largest captive domiciles

See how the worlds 10 largest captive insurer domiciles ranked in *Business Insurance's* latest survey.  
[www.BusinessInsurance.com/CaptivesGallery](http://www.BusinessInsurance.com/CaptivesGallery)

DIRECTORY

Third-party administrators



The 2015 edition of the Directory of Third-Party Administrators includes a special report of claims

management trends and a comprehensive list of TPAs.  
[www.BusinessInsurance.com/TPADirectory](http://www.BusinessInsurance.com/TPADirectory)

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NEWS

RISK MANAGEMENT

POLITICAL RISK CAPACITY GROWS  
DESPITE WORLDWIDE TURMOIL

Buyer interest increases as prices keep falling

BY MATTHEW LERNER

Pricing for trade credit and political risk insurance is softer now than in recent years due mainly to increased capacity and a favorable loss history despite the world growing more dangerous.

Softer pricing for such insurance is “an anomaly really, because if you look at political risk, it’s clearly risen. The world seems to be a riskier place from a geopolitical standpoint,” said Evan Freely, managing director and global practice leader of credit and political risk at Marsh L.L.C. in New York.

“There is definitely increased capacity in the market, both on the primary and the reinsurance side, and that did have an effect on pricing and rates,” said Karsten Herrmann, senior vice president and manager of political risk and trade credit at Munich Reinsurance America Inc. in Princeton, New Jersey.

Buyer inquiries remain strong. “There is absolutely more interest” in trade credit and political risk, said Roger Schwartz, senior vice president of Aon Risk Solution’s political risk practice in New York.

“Certainly, over the last 12 to 24 months, it’s been an ongoing type of situation in the Middle East and



AP PHOTO

Political losses from countries such as Ukraine have upped demand for trade credit and political risk insurance, but capacity remains adequate.

Ukraine,” said Mr. Schwartz, naming two volatile regions.

“Demand in the first quarter has been robust, definitely well above the same quarter last year,” said David Anderson, senior vice president and director of global business development of trade and political risk at Zurich North America.

“Ukraine is very difficult right now. There are some countries where political losses are actually flowing in as we speak, and Ukraine is one of them,” he said.

Several sources also named Venezuela, which ranked last at

No. 130 on FM Global’s recent “2015 Global Resilience Index” measure of supply chain resilience as the most difficult nation in which to secure coverage currently.

“What you definitely see in the market is more awareness about the product, especially political risk,” which is leading to increased cedent inquiries, Mr. Herrmann said.

Despite recent advances in nuclear proliferation negotiations with Iran, sources said continued

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REINSURANCE

Market moves  
keep pressure  
on reinsurers

Endurance buy,  
launch of Ace vehicle  
signal more turbulence

BY MATTHEW LERNER

Competitive pressures in the reinsurance sector have again driven a merger among two smaller players striving to remain relevant.

At the same time, the sector saw the formation of a potentially powerful new vehicle that could ratchet up those pressures even further.

Endurance Specialty Holdings Ltd.’s \$1.83 billion purchase of Montpelier Re Holdings Ltd., announced late last month, will likely help both companies move forward, according to analysts.

The cash-and-stock deal, the latest consolidation move in the Bermuda reinsurance sector, comes nearly a year after Endurance failed to acquire rival Aspen Insurance Holdings Ltd.

Pembroke, Bermuda-based Endurance was known to be looking for an acquisition after failing to buy Aspen, and as one of the smaller Bermuda-based reinsurers, Montpelier was perhaps more vulnerable to takeover.

“There was a lot of strategic



Mr. Shields

value rationale behind the attempt for Aspen” in terms of building scale, and buying Montpelier accomplishes that, although in a “Plan B” man-

ner, said Meyer Shields, managing director with Keefe, Bruyette & Woods Inc. in Baltimore.

The deal allows Montpelier a more promising future at a time when property cat reinsurance rates are tumbling.

“Montpelier, because of its size and focus specifically on property and catastrophe, wasn’t really viable, so they’ve been able to monetize the business they’ve assembled,” said Mr. Shields.

Mr. Shields, however, left the door open to even further acquisitions by Endurance.

“I think this is best viewed as an intermediate step in the hopes of achieving even more scale maybe a year or two down the line,” depending on what becomes avail-

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HEALTH CARE BENEFITS

Health plan communications in transition

BY KAREN PALLARITO

While employers have gotten an extension on providing revised statements to health plan participants summarizing their benefits and coverage, they have yet to get more clarity on the subject.

Changes that had been proposed by the U.S. Labor, Health and Human Services and Treasury departments last December to the federal health care reform law requirement were to take effect later this year, but groups representing large employers and insurers sought a delay to give plan sponsors and issuers more time to revise and distribute the sum-



maries prior to open enrollment this fall.

While the summary of benefits coverage requirement has been in effect since 2012, the federal agencies proposed a facelift late last year. Among other changes, they proposed switching to a

shorter template and adding another coverage example.

“The agencies are saying, ‘We want to make things simpler,’ ” said Julia Zuckerman, a director at Buck Consultants at Xerox in Washington.

But in a March 30 FAQ, the Labor Department said the agencies intend to issue final new rules governing the summary of benefits and coverage “in the near future” for plan years that begin Jan. 1, 2016.

Changes to the template used to prepare these statements would be rolled out for plan years

See **BENEFITS** page 26



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## MARINE

# BIGGER SHIPS, ARCTIC WATERS RAISE STAKES FOR INSURERS

## Huge containers create \$1 billion potential loss

BY SARAH VEYSEY

The worldwide shipping sector faces several growing risks despite total marine losses falling to a 10-year low.

Seventy-five large ships were lost worldwide in 2014, down 32% compared with 2013 and the lowest in 10 years, said a March report by Allianz Global Corporate & Specialty S.E., a unit of Allianz S.E.

Separately, the International Union of Marine Insurance in an April report said less than 0.1% of the tonnage of the world fleet of ships weighing at least 500 gross tonnes (551 U.S. tons) was a total loss last year.

But growing risks such as the increasing size of vessels, more navigation in Arctic waters and cyber attacks must be addressed, experts say.

Rahul Khanna, London-based global head of marine consulting at the Allianz unit, said a steady improvement in the quality of ships being built and a more proactive regulatory safety approach have helped reduce total losses to that 10-year low.

The International Maritime Organization, an agency of the United Nations, now has become more influential, and the shipping industry is learning lessons from accidents that have occurred, such as the loss of the cruise ship Costa Concordia in 2012, the industry's largest-ever insured loss, Mr. Khanna said.

### LOSSES

Total shipping losses declined for a third straight year in 2014, the lowest level in a decade.

Year	Number
2005	149
2006	154
2007	170
2008	149
2009	128
2010	124
2011	91
2012	121
2013	110
2014	75

Source: Allianz Global Corporate & Specialty S.E.

More proactive regulators include the IMO, which last year adopted the Polar Code, which governs safety and environmental issues concerning shipping around the North and South poles, he said.

Increased "policing" of vessels also is improving safety, said Stephen J. Harris, senior vice president in the global marine practice at Marsh L.L.C. in London.

For example, he said, under the Paris Memorandum of Understanding on Port State Control, which covers 27 maritime administrations across European coastal states and the North Atlantic basin from North America to Europe, more than 18,000 safety and environmental inspections of ships in foreign ports take place each year.

Another regulatory effort, the Nairobi Convention on Wreck

Removal, goes into effect April 14. Mr. Harris said the effort imposes strict liability on shipowners to remove wrecks and is likely to improve safety standards.

Still, the shipping industry faces several major risks.

The increasing size of container ships — the largest of which currently is the MSC Oscar, with a capacity of 19,224 20-foot equivalent units — poses a risk for the shipping industry as well as insurers, experts say.

Ships with capacity of up to 22,000 units will be in service by 2018, the Allianz report stated.

A single loss of a so-called mega-ship could have a catastrophic effect on insurers and rates, Zurich Insurance Group Ltd. said in a report last year.

The loss of a ship of that size and its cargo could result in an insured loss of about \$1 billion, Mr. Khanna said. While such ships offer great economies of scale for shipowners, detailed risk assessments and mitigation efforts need to begin at the design stage, and crew training is essential, he said.

Increased navigation of the northern sea route through the Arctic, which the Allianz unit said grew from four in 2010 to 71 in 2013, also poses risks, experts say.

They include difficulty in getting assistance to stricken vessels in Arctic waters, the risk of pollution and complicated salvage efforts, Mr. Khanna said.

While the Polar Code is to be wel-



### NAIROBI CONVENTION

The Nairobi International Convention on the Removal of Wrecks goes into effect April 14 in 16 countries.

- The convention puts financial responsibility to remove shipwrecks of 300 gross tonnes (331 U.S. tons) on shipowners.
- Insurance or some other form of financial security is compulsory for shipowners.
- A claim for compensation to remove a wreck may be brought directly against the shipowner's insurer.
- The 13 members of the International Group of P&I Clubs, which includes the world's largest marine liability insurers, can issue "blue cards" enabling members to obtain a certificate carried aboard ships to comply with insurance requirements.
- The convention goes into effect April 14 in Antigua and Barbuda, Bulgaria, Congo, Cook Islands, Denmark, Germany, India, Iran, Liberia, Malaysia, Marshall Islands, Morocco, Nigeria, Palau, Tuvalu and the United Kingdom; and April 18 in Malta.

### WORKERS COMPENSATION

## Courts determine when an injury at work fails to qualify as a workers comp claim

BY STEPHANIE GOLDBERG

Workers compensation payers should consider the increased risk test when evaluating benefits for injured workers in light of recent court rulings.

Under the test, injuries resulting from risks common to the general public are compensable only if a workplace put employees at an increased risk of such injuries.

States such as Minnesota and New Hampshire recently used the increased risk test to determine if an injury arose out of and in the course and scope of employment.

Though not all courts refer to the test by name, a version of it is used in more than two-thirds of states for certain cases, such as those resulting from conditions with an unknown cause, natural disasters or traveling employees, sources said.

The Minnesota Supreme Court, which explicitly adopted the test in December 2013, reinforced its stance in March by overturning a nurse's award of benefits and remanding her case, said Tom Atchison, associate attorney at Heacox, Hartman, Koshmrl, Cosgriff & Johnson P.A. in St. Paul, Minnesota.

The court ruled that Carol Kainz, who frac-

tured her ankle while walking down basement stairs to retrieve supplies, is not entitled to comp benefits because her workplace, the Arrowhead Senior Living Community in Virginia, Minnesota, didn't expose her to an increased risk of injury or a special hazard she wouldn't face in everyday life.

"It wasn't an employer- or insurer-friendly reading, but it wasn't necessarily as employee-friendly as some other courts have been with regard to the 'arising out of and in the course of' element," Mr. Atchison said. Now, "there has to be some sort of causal connection or nexus between your

work activities and the injury."

The New Hampshire Supreme Court also referenced the increased risk test in March when it awarded workers comp benefits to Brandon Kelly, whose lower leg was amputated after he fell asleep at the wheel of a company truck and hit a utility pole.

The court ruled that Mr. Kelly was entitled to benefits since his work, which involved traveling to job sites for Hudson, New Hampshire-based Advanced Sheet Metal Services Inc., presented an increased risk

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## ■ **AIG Chairman Miller to leave in July: media report**

American International Group Inc. Chairman Robert “Steve” Miller intends to step down in July after five years in the role, the Wall Street Journal reported. The insurer’s directors have not yet decided on a replacement, but the next outside chairman is expected to be a current board member, the Journal said, citing a person familiar with the matter. Mr. Miller, who joined the AIG board in 2009 and became chairman in July 2010, was previously the chief executive of auto-parts maker Delphi Corp. AIG was not immediately available to comment.

Reuters

## ■ **Quiet hurricane season predicted for 2015**

Colorado State University Tropical Meteorology Project researchers predicted a well-below-average hurricane season for the Atlantic basin in 2015, forecasting seven named storms and just three hurricanes. They further forecast that only one of the three predicted hurricanes would reach major hurricane strength of Category 3, 4 or 5 on the Saffir-Simpson scale, with sustained winds of 111 mph or greater. “A moderate to strong El Niño event as well as anomalous cooling of the tropical and subtropical Atlantic” over the past several months was cited by the researchers. The probability of a major hurricane making landfall is 28% for the entire U.S. coastline, and just 15% each for both the East Coast, including the Florida Panhandle, and the Gulf Coast west of the panhandle to Brownsville, Texas. Hurricane season runs from June 1 to Nov. 30.

## ■ **UnitedHealth to acquire Catamaran for \$12.8 billion**

Health insurer UnitedHealth Group Inc. agreed to buy Catamaran Corp. in a deal worth about \$12.8 billion to boost its pharmacy benefit business as it competes with bigger rivals such as Express Scripts Holdings Co. As employers look to cut prescription costs on expensive drugs, the deal with Catamaran will give UnitedHealth’s pharmacy benefits unit, OptumRx, the scale to negotiate favorable prices from pharmacy companies. The purchase of Catamaran will increase UnitedHealth’s market share to 15% to 20% of the people who receive their drug benefits through pharmacy benefit managers, BMO Capital Markets analyst Jennifer Lynch said in a research note. With a combined 1 billion scripts annually, UnitedHealth will be about the same size as current industry No. 2, CVS Health Corp., she added. The transaction is expected to close in the fourth quarter of this year.

Reuters

## ■ **Kicker sues Buccaneers over MRSA infection**

Former NFL player Lawrence Tynes, 36, has sued the Tampa Bay Buccaneers, claiming that unsanitary conditions at the team’s medical facility resulted in a career-ending infection. Mr. Tynes, a kicker for his former team, filed suit in Broward County Circuit Court in Fort Lauderdale, Florida, alleging negligence by the Buccaneers after he contracted a drug-resistant staph infection on the big toe of his kicking foot while being treated at the team’s facilities in

2013. A 10-year veteran, Mr. Tynes has not played in the NFL since getting the MRSA infection, which required multiple medical procedures. The Buccaneers paid Mr. Tynes his full salary of \$905,000 in 2013 after placing him on the “non-football injury” list. In seeking damages in the lawsuit, Mr. Tynes said he lost in excess of \$20 million in expected future earnings as a result of the methicillin-resistant Staphylococcus aureus infection.

## ■ **Private health exchange enrollment booms**

Enrollment in private health insurance exchanges doubled in the past year, with even larger enrollment increases expected during the next few years, according to a report from consultant Accenture L.L.C. in Chicago. Exchange enrollment has doubled so far in 2015 to 6 million, with enrollment expected to double again to 12 million in 2016 and hit 40 million in 2018. “We remain optimistic that several factors will catalyze enrollment in private health insurance exchanges through 2018,” Rich Birhanzel, managing director for Accenture Health Administration Services said in a statement. “This is especially true as the market matures, employers gain more control of benefit design and evidence continues mounting on the tangible benefits of the model,” Mr. Birhanzel said. Accenture said its 2015 enrollment estimate was calculated by assessing exchange enrollment through last month.

## ■ **Property/casualty insurance rates holding steady so far in 2015**

Commercial property/casualty insurance rates in March were flat compared with those of the same month in 2014, Dallas-based electronic insurance exchange MarketScout reported last week. That compared with an average 1% increase in February. No line of coverage increased by more than 1%, although none of the lines tracked by MarketScout experienced a decrease. Smaller accounts reported a 1% increase, while the largest remained flat. There was also no significant difference among the classes of business monitored by MarketScout. “March is an important month,” said MarketScout CEO Richard Kerr in a statement. “There is a considerable volume of U.S. business placed with both the U.S. and international insurers. While a small change from February, the downward adjustment in rates may be an indicator of what is to come for the next six months.”

## ■ **Louisiana mulls closed formulary to combat opioid abuse**

A Louisiana bill would implement a closed drug formulary to help combat overutilization of opioids and compounded drugs in the state. S.B. 256 was filed ahead of the Louisiana State Senate’s 2015 regular session, which convenes April 13. Closed formularies, which have reduced workers comp medical costs in Ohio, Texas and Washington, require proof that non-formulary medications — or “N” drugs — are medically necessary before they can be prescribed to injured workers. Meanwhile a limited list of covered medications — or “Y” drugs — don’t require preauthorization. In Louisiana, N drugs would include medications that are labeled narcotics by the U.S. Food and Drug Administration, any compounded drugs or compound medication, any experimental drugs, and any drugs that aren’t listed on the closed

formulary at the time of prescription, according to the bill, which states that the closed formulary won’t apply to claims with a date of injury prior to Jan. 1, 2016.

## ■ **AIG, Pimco argue over credit default swaps**

American International Group Inc. is promising to “vigorously” defend itself against charges by Pacific Investment Management Co. that it had misled investors about its exposure to risky investments that led to the insurer’s near-collapse in 2008. In a complaint filed in California Superior Court in Santa Ana, Pimco, part of Munich-based insurer Allianz S.E., charged that AIG had violated the Securities Act of 1933 by failing to warn investors about the problems created by its investment in credit default swaps, and had misstated the value of its CDS portfolio. The complaint seeks an unspecified amount of damages. AIG recently settled with a group of investors alleging they had been misled about the CDS exposure of \$970.5 million. Pimco was not part of that settlement.

## ■ **Falling interest rates nudge S&P 500 pensions down**

Hurt by falling interest rates, which inflated the value of plan liabilities, the funded status of pension plans sponsored by S&P 500 companies slipped to 82% as of March 31, down from 83.2% at the end of last year, according to an Aon Hewitt report. Pension plan liabilities increased by 2.1%, or \$44 billion, during the first quarter of 2015, overshadowing asset growth of 2.27%, or \$12 billion, during the same period. “Falling interest rates continue to drive liabilities higher, outpacing pension asset growth,” Ari Jacobs, global retirement solutions leader in Aon Hewitt’s Norwalk, Connecticut, office said in a statement.

## ■ **OSHA addresses violence in health care, social services**

The U.S. Occupational Safety and Health Administration has updated its guidelines for protecting health care and social service workers from workplace violence. The revised publication, “Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers,” updates OSHA’s 1996 and 2004 guides with recent data and suggestions for implementing a written program for workplace violence prevention, the agency said in a statement. Such a program should include management commitment and employee participation; a worksite analysis; hazard prevention and control; safety and health training; and recordkeeping as well as a program evaluation. More than 70% of assaults on workers that resulted in injuries in 2013 occurred in health care and social service settings, OSHA’s statement says.

## ■ **FCC fines AT&T record amount over customer data breach**

The Federal Communications Commission has reached a \$25 million settlement with AT&T Inc. over a consumer data breach at call centers in Mexico, Colombia and the Philippines. The \$25 million civil penalty levied on the No. 2 wireless carrier is the largest data security enforcement action to date, a senior FCC official told reporters.

Reuters

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# 40 UNDER 40

BROKER AWARDS 2015  
BUSINESS INSURANCE  
WEBINAR

THURSDAY, APRIL 16, 2015  
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## Are You A Next-In-Line Leader?



### **YOUR OPPORTUNITIES ARE ENDLESS.**

That's not an empty promise with 25 percent of the commercial insurance and brokerage workforce reaching retirement age by 2018. Are you in place to reap the rewards?

The industry is seeking ways to train and retain talent. This discussion will show the next generation of professionals how to position yourselves to step into the vacancies created by these retiring baby boomers.

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Marianne Halvorsen

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Tom Kurtz

*Associate, Willis North America; Co-chair, New York Young Risk Practitioners Advisory Group*

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## Global Aerospace leads Air Canada crash cover

Global Aerospace Underwriting Managers Ltd. is the lead insurer for Air Canada, whose plane was severely damaged late last month when it landed in bad weather short of the runway at Halifax Stanfield International Airport, the underwriter confirmed. The account was written out of London, said a spokeswoman who did not provide additional details. Peter Schmitz, New York-based CEO of Aon P.L.C.'s global aviation specialty business, said that according to market reports, Air Canada has more than a billion dollars in liability coverage and \$10 million in physical damage coverage with Global Aerospace. He added the Airbus A320 plane appears to be a total loss. Marsh L.L.C. was the broker on the coverage, he said. Twenty-five passengers and crew were treated at a hospital following the crash of Air Canada Flight 624, but there were no fatalities, according to a statement issued by Joyce Carter, president and CEO of the Enfield, Nova Scotia-based Halifax Stanfield International Airport.

## AIG sells shares of Chinese insurer

American International Group Inc. sold 256 million shares of China's PICC Property & Casualty Co. Ltd. for about \$500 million, subject to customary closing conditions, AIG said in a statement. Even after the sale, AIG will remain the largest holder of PICC P&C, with about 1.2 billion shares, representing 8.2% of the company's total issued share capital, according to the statement. "AIG is proud of our successful partnership with PICC, which includes our cornerstone investment in the IPOs of both PICC P&C in 2003 and PICC Group in 2012," AIG President and CEO Peter D. Hancock said in the statement. "By monetizing a portion of our PICC P&C investment, we are de-risking our exposure and enhancing AIG's financial flexibility."

## Windstorm damage expected to top \$1 billion

Economic and insured losses will likely exceed \$1.0 billion as a result of damage caused by European windstorms Mike and Niklas during March. The storms hit Western and Central Europe during the last week of March, "killing at least nine people and causing widespread damage," Impact Forecasting, a unit of Aon Benfield

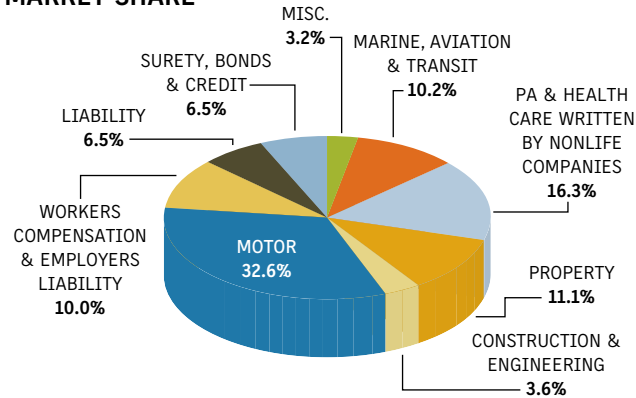
## PROFILE: SINGAPORE

**\$2.5 BILLION**

The Singapore insurance market is mature, with intense competition in most lines of coverage. Its regulator is being encouraged by various international financial organizations to introduce more onerous financial security measures, largely to align with the European Union's Solvency II regulations, which are expected to increase costs for insurers. Insurers in Singapore are looking to diversify their operations to write more business in the surrounding region.

← 2013 P/C gross premiums

### MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



**AREA**  
247 square miles

**POPULATION**  
5.5 million

**NUMBER OF P/C INSURERS**  
57

**2015 GDP CHANGE (PROJECTED)**  
3.7%

## MARKET DEVELOPMENTS

UPDATED MARCH 2015

- The Monetary Authority of Singapore issued a consultation paper on risk-based capital in 2012. The market issued a response, but no further action has been taken. The Singapore government plans to conform to the E.U.'s Solvency II regime, but no timetable has been set.
- The Personal Data Protection Act 2012 came into effect on July 1, 2014, but the law does not proscribe insurance coverage, only fines and penalties; therefore, there is little interest in related insurance coverage.
- The Malaysian bank, Maybank, has used its wholly owned subsidiary eTiQa Insurance Bhd. to introduce takaful insurance products in Singapore.
- Auto insurers have reached an agreement whereby, in multicar pileups, the repair costs for the front car will be paid by the insurer of the second car, the repair costs of the second car will be paid by the insurer of the third car, and so on. The insurers of the last vehicle in the line will also bear the costs of its own policyholder.

### COMPULSORY INSURANCE

Various lines of coverage are compulsory, including:

- Auto third-party liability
- Aviation liability
- Work injury compensation
- Professional liability for various professions
- Clinical trials
- Private health insurance for employees with a work permit

### NONADMITTED

Unlicensed insurers cannot carry on insurance activity in Singapore, although, with some exceptions, there is nothing in the law stating that insurance must be purchased from locally licensed insurers. This is generally interpreted to mean that insurers can issue policies from abroad if approached by an intermediary.

### INTERMEDIARIES

Brokers must be licensed to carry out insurance business, and agents must operate on the basis of an agreement with a registered insurer. Intermediaries are not allowed to place business with nonadmitted insurers except for reinsurance and risks located outside of Singapore. Brokers, however, can seek permission to place risks with nonadmitted insurers in the case of exceptional risks or circumstances.

### MARKET PRACTICE

Most policyholders buy insurance in Singapore, as the market is able to meet most insurance requirements, including those of foreign multinational companies.

Information provided by Axco Insurance Information Services.  
[www.axcoinfo.com](http://www.axcoinfo.com)

Group Ltd., said in a statement accompanying its report saying that hurricane-force winds were seen in Germany, the United Kingdom, Netherlands, Switzerland, Austria and Poland, with Germany sustaining the most significant damage. "Based on preliminary damage reports from each country and local insurers, it is expected that total economic and insured losses are each likely to exceed \$1.0 billion," Impact Forecasting said in the report.

## Elon-Felix windstorm loss estimate increases

Insured property losses from Windstorm Elon-Felix, which hit Western and Northern Europe from Jan. 8 to 11, totaled about €335 million (\$367.6 million), according to the latest estimate by

catastrophe loss data company Perils A.G., up slightly from a previously estimated €328 million (\$359.9 million) loss. The storm also was known as Dagmar-Egon in Denmark and Sweden, and as Nina in Norway. Most of the damage caused by the storm was in Denmark, Germany, Norway, Sweden and the United Kingdom.

## Marsh names risk chief for U.K., Ireland

Marsh L.L.C. has appointed Sally Williams as director of risk and governance for its U.K. and Ireland activities. Ms. Williams, who most recently was head of risk at the London branch of National Australia Bank Group Ltd. and a board member of NAB Europe Ltd., will succeed John Nicholson, who retired earlier this

month, the brokerage said in a statement. In her new role, London-based Ms. Williams will lead the development and adoption of Marsh's risk management and governance policies across the United Kingdom and Ireland, Marsh said, and will serve on the board of Marsh Ltd. Prior to joining NAB, Ms. Williams was group risk director at London-based insurer Aviva P.L.C.

## Willis expands in Mexico through acquisition

Willis Group Holdings P.L.C. has acquired Guadalajara, Mexico-based brokerage Carsa Consultores Agente de Seguros y de Fianzas S.A. de C.V. A spokesman for Willis declined to comment on the terms of the deal. Carsa Consultores is a broker, risk consultant

and actuarial specialist operating out of five offices in Mexico, including Guadalajara, Tijuana, Mexicali, Hermosillo and Leon, according to the spokesman, who declined to disclose Carsa's total revenues. Carsa's team of 84 employees will join Willis Mexico, according to the statement, and the firm's CEO, Jose Ruiz Torres, will become an external adviser to the combined organization, the spokesman said. In a statement, Willis said the acquisition will strengthen its existing Willis Mexico business, specifically in the northwest region of Mexico, and bring the total number of offices in the country to nine. As part of the deal, Willis Mexico associates will relocate to Carsa's Guadalajara office, and Willis Mexico's existing Mexico City office will house Carsa's actuarial and government specialties teams, according to the statement.

## PROFESSIONAL LIABILITY GROUP MAKING A GLOBAL PUSH

**Q** Please discuss your involvement with PLUS.

**A** I have been involved in one way or another for many years with PLUS. In my capacity as president-elect, I was the chair of the 2014 annual PLUS conference, which was held in Las Vegas. And from November 2014 through November 2015, I am serving my one-year term as president of PLUS.

**Q** How do you juggle being a busy defense lawyer with your PLUS work?

**A** There certainly is a significant time commitment to being a board member of PLUS and particularly an executive board member and chair of the conference. One way you juggle this is by simply adding more hours to your day or spending, in my case, nights or weekends to make sure everything is being taken care of in terms of my responsibilities with my firm, my clients and my duties as a PLUS board member. And I'm fortunate to be a partner in a law firm where there are many other capable lawyers who have been

### Q & A

more than willing to help out in terms of assisting with the inevitable emergencies.

**Q** What are some of the future programs planned?

**A** During the course of this year we have a number of symposiums that have been planned. There will be a medical professional liability symposium in Atlanta on April 28 and 29, and we are also having for the first time a standalone cyber symposium this September in Chicago, then the annual conference, which will be

in November.

In addition to that, there is a robust program of webinars throughout the year. One of my goals has been for PLUS to put on a webinar about once a month, so that we'll have at least 12 a year, and we have successfully achieved that.

**Q** How has PLUS been increasing its international presence?

**A** We had very successful events last year in London, Hong Kong and Singapore, and we are putting on an event on May 14 in Singapore with a presentation entitled, "How to manage and insure reputation." And there will be a program in the fall in London. We want to be a truly global community for the professional liability industry. We have roughly 7,000 members now, and we could see that there certainly could be a significant increase in our membership for international members alone.

**Q** Please discuss the upcoming management change at PLUS.



**JAMES A. SKARZYNSKI**

**PROFESSIONAL LIABILITY  
UNDERWRITING SOCIETY**

James A. Skarzynski is president of the Minneapolis-based Professional Liability Underwriting Society. Mr. Skarzynski, who specializes in directors and officers liability insurance and other forms of professional liability coverage, is chairman of law firm Skarzynski Black L.L.C. in New York. He talked about the insurance society's plans with *Business Insurance* Senior Editor Judy Greenwald. Edited excerpts follow.

**A** Derek Hazeltine, who has been the executive director of PLUS for 20 years is going to be retiring as the PLUS executive director at some point later this year. We have a committee of the board headed by our immediate past president, Chris Duca, heading up the search for the new executive director. We look forward to, at some point in the year, bringing on board a new executive director to continue the fine work done by Derek Hazeltine, who carried the organization forward.

We have roughly 7,000 members now, and we could see that there certainly could be a significant increase in our membership for international members alone.

### COMINGS & GOINGS

## UP CLOSE: JEFFREY S. BRUNO

PARSIPPANY, NEW JERSEY-BASED PRESIDENT AND  
CHIEF UNDERWRITING OFFICER  
Global Aerospace Inc.

**PREVIOUS POSITION:** Parsippany, New Jersey-based chief underwriting officer at Global Aerospace.

**LOOKING FORWARD TO:** Making everyone understand the strategy and the message and making each of them feel like they are making a contribution.

**GOALS FOR NEW POSITION:** Teamwork, higher levels of operational efficiency, greater diversity of revenue streams, making people comfortable with the concept of continuous improvement and change.

**CHALLENGES FACING INDUSTRY:** Growing your business in a relatively stagnant economy, and generally soft market, coupled with the increasing cost of complying with the patchwork of regulatory requirements that insurers face.

**INDUSTRY OUTLOOK:** Barring the unforeseen, I don't see any reduction in capacity anytime soon, and that probably means that pricing is likely to remain on the soft



side for the foreseeable future.

**FIRST INDUSTRY JOB:** Commercial property and inland marine underwriter at American International Group Inc. in New York City.

**ADVICE:** It takes more than one person to lead a company. No one individual is so brilliant that they know all of the answers, and that certainly includes me.

**OUTSIDE THE INDUSTRY, A DREAM**

**JOB:** Major university program basketball coach.

**HOBBIES:** Golf, boating — new for me — fishing and flying. Really, I would say almost anything that involves the outdoors.

**WHEN I RETIRE:** I am going to tour the country in a monster RV. I chose an RV because I have already done enough flying to last a lifetime.

**FAVORITE BOOK:** I have a first edition copy of "The Spirit of St. Louis." I love that book.

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Ace Ltd.	Gary Etherington
CNA Financial Corp.	Ziad Kubursi

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EDITORIAL

## EXCHANGE GROWTH A POSITIVE

**U**nquestionably, the biggest trend in the health care benefits arena is the growth of health insurance exchanges. In the public insurance realm, the exchanges operated by 13 states and the District of Columbia, and by the U.S. Department of Health and Human Services in the 37 states that declined to set them up, have seen enrollments soar.

By the close of the 2015 open season, nearly 11.7 million people had chosen health care plans through the public exchanges, a roughly 50% increase over a year ago.

In some states, especially those with high uninsured rates, enrollment growth was extraordinary. In Texas, whose uninsured rate of more than 22% in 2013 was the highest of any state, nearly 1.2 million state residents chose plans through the federal exchange by the close of the 2015 open season, boosting enrollment by more than 60% over a year ago.

Enrollment growth in private health insurance exchanges has been just as impressive, if not more so. For example, a report released last week by consultant Accenture L.L.C. found that enrollment in private insurance exchanges doubled over the past year to 6 million, with even more significant growth projected over the next few years.

The growth in public insurance exchange enrollment is good news. The surge in enrollment illustrates that the massive technological problems that surfaced following the exchanges' launch during the fall of 2013 are over. Just as importantly, the enrollment gains have made deep inroads in the number of uninsured. That's important for those newly insured individuals who, with coverage, are more likely to have medical issues addressed before they develop into more expensive and difficult-to-treat complications. And it's important for group health care plan sponsors, as more health coverage means hospitals and other providers will be hit with much less in uncompensated care, a cost shifted in the form of higher charges to patients in group plans when possible.

In short, more health insurance coverage should translate into smaller health care cost increases.

The growth in private insurance exchanges also is positive. For employees it means, in many cases, more plan choices than they were offered when they received coverage directly from their employers. And for employers, turning to private insurance exchanges allows them to focus more on their core business while ensuring more predictable health costs.

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SCHILLERSTROM



COMMENTARY

## DRONES COVER NEW TERRITORY FOR CORPORATE PRIVACY

**I**f you haven't noticed, there's been quite a buzz around drones recently. Unmanned aerial vehicles, as they are formally known, have long been used for military purposes, but lately they are being used for commercial purposes, including in the insurance industry.

Last week, both American International Group Inc. and United Services Automobile Association, or USAA, announced they had received regulatory authority to start using drones. State Farm had previously been given approval by the Federal Aviation Administration to start testing drones for commercial use.

For insurers, it would seem that the mini pilotless aircraft could be a big help, particularly for assessing damage in catastrophe areas or tough to reach locations, such as roofs of commercial buildings. Assessing risks more accurately during the underwriting process would also seem like a big advantage of drone use.

But the regulatory framework for drone use is still murky, and a lot of work remains to be done to catch up with their already extensive use in other fields, such as the movie industry.

The FAA has been understandably cautious in its approach to regulating drones, but in February it proposed regulations governing smaller drones. The proposed regulations include restricting flights to daylight hours and a stipulation that the devices must remain within the operator's or observer's sight unaided by anything other than corrective lenses.

You can't help feeling that, given the ubiquity of GPS tracking and the sophisticated navigation sensors already used with other vehicles, that in a few years



**GAVIN SOUTER**  
EDITOR

we'll look back on these as quaint rules of a bygone era, similar to the Red Flag laws passed in the United Kingdom and some U.S. states in the 19th century requiring that early automobiles be preceded by a pedestrian waving a flag. And before too long, Internet retailers will be routinely making good on their plans to use drones to deliver packages, much like the owls in the

Harry Potter books.

What isn't so quaint is the potential privacy violations that could occur if the drones and the images they capture are used for reasons other than legitimate commerce. It doesn't take a lot of imagination to figure out how, in the wrong hands, drones could be used — and no doubt already are being used — as corporate spying devices, let alone what use Peeping Toms might make of the devices.

Several states already have laws in place to try and address privacy concerns, but they usually are directed at preserving the privacy of private citizens, often focusing on restricting governments' use of drones, and inevitably offer only piecemeal protections.

Corporations are often feared as the entities that will abuse drones, but they are also likely victims. As the FAA continues to assess what rules it should impose on drone use, it should address corporate privacy concerns to ensure that companies are piloted through these uncharted skies.

# A discredited pitchman can carry damaging risks in digital world

Companies putting their brand image in the hands of a key personality or celebrity pitchman need to know the reputational risks should that person make a public misstep or have a fall from grace, says Roger Sandau, managing principal of Integro Entertainment, a division of Integro USA Inc.

**B**rian Williams' "conflated" recollection of his helicopter under siege in the skies over Iraq has inflicted a reputational wound on Mr. Williams, the face of "NBC Nightly News," and the network. Mr. Williams' employer, NBCUniversal, and parent company, Comcast Corp., also must be feeling the pain.

Mr. Williams' humiliation, and by extension that of NBC, over his apparently exaggerated experiences reporting on the Iraq War, has served to once again highlight the vulnerability of a company, team or sponsor that ties its own reputation and financial model to a single key personality.

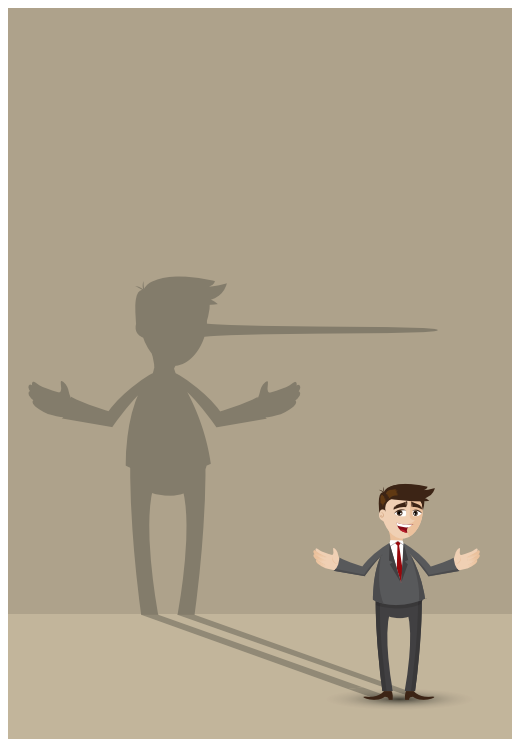
While it is clear a publicly recognized entertainer, politician, athlete or executive can have a tremendously positive influence on a product or service he or she endorses, a converse risk also exists. A product or service that the public closely associates with a key individual may suffer greatly should the individual be publicly discredited, embarrassed or stigmatized.

Companies that rely on key individuals — be they top executives or celebrity endorsers — frequently secure insurance coverage for the financial loss to the business that may result from the death or disablement of such individuals. So it's an opportune time to remind these companies they should also consider the effect on their reputation, and all that entails, if their key executive or spokesperson falls victim to public disgrace.

Over the past several years, headlines have trumpeted the missteps of previously exalted heroes such as Tiger Woods and Lance Armstrong, and television personalities such as Paula Deen, whose actions or circumstances left them publicly besmirched, and left their advertisers and endorsement partners looking to quickly distance themselves. Nearly overnight, marketing campaigns featuring these well-known personalities were discontinued.

Perhaps even more challenging, and potentially more costly, was the recall of products that had been specially designed to bear the name or image of each of these personalities, ranging from the locker room to the kitchen.

Products that had once flown off the shelves thanks in large part to their close association with the success and high profile of their spokesperson, may have to be recalled and either destroyed or sold at liquidation prices. One such example was the "Tiger Focus" beverage product developed by Gatorade, which featured Tiger Woods' name and



*When confronted by a sudden degradation of a spokesperson's public image, which can create negative vibes for a company simply by association, a company faces an array of potentially serious and costly outcomes.*

image. Following his notorious car accident in 2009 and admission of marital infidelity, Gatorade discontinued its "Tiger Focus" beverage, although Gatorade stated at the time that its decision to abandon the specialty drink was reached prior to the car accident.

When confronted by a sudden degradation of a spokesperson's public image, which can create negative vibes for a company simply by association, a company faces an array of potentially serious and costly outcomes.

A number of these negative outcomes would likely fall within the scope of coverage provided by a public disgrace policy, which can provide financial protection for: 1) money paid to the dis-

graced spokesperson to secure their services; 2) expenses incurred to hire a replacement spokesperson; 3) expenses incurred to replace or reshoot advertising and marketing materials that feature the name or image of the disgraced spokesperson; and 4) expenses incurred in the elimination of the name or image of the disgraced spokesperson from product packaging.

In the case of the "NBC Nightly News," the discrediting of Mr. Williams' helicopter-under-siege account and his resulting six-month suspension could expose the network to several possible financial liabilities. These might range from the cost of managing the damage to NBC's public image and finding a replacement for Mr. Williams, to reshooting and redesigning its advertising and marketing campaign for the highly rated news program. These are among the risks a public disgrace insurance policy is designed to address.

Although it may be written on a stand-alone basis, a public disgrace policy is often combined with other perils such as death and disability, which may prevent the key person from rendering the expected or contracted services. Premium rates for public disgrace coverage vary based upon the age, reputation and history of an individual. Naturally, a spokesperson or endorser with a past that includes prior misconduct or scandals, will either be more costly to insure or, perhaps in the extreme, even uninsurable.

It also is important for the insured to understand and be comfortable with the definition of "disgrace" within a particular policy, and that the definition is sufficiently clear and broad to respond to misconduct that would be damaging to the insured's reputation, products, services or marketing efforts.

Today, such a situation can develop at warp speed.

Thanks to nearly instantaneous global communications via social media networks like Twitter and Instagram — coupled with the omnipresent recording of every movement made by a celebrity by paparazzi or a person with a camera phone — a single ill-fated comment or embarrassing action by a publicly recognized person carries the potential to destroy the reputation of the person overnight and cause businesses and products associated with that person to immediately sever their relationship.

So much is put at stake when a product or service becomes closely tied to an individual that companies would be foolhardy not to consider public disgrace coverage.

So the next time you read a headline of an athlete involved in a domestic violence scandal or a celebrity caught in a compromising situation, know that there is an insurance underwriter somewhere waiting for the phone to ring.

The likely caller: a client with the foresight to recognize its exposure to financial loss resulting from a public misstep by its celebrity spokesperson — and the acumen to manage such risk.



Roger Sandau is managing principal of Integro Entertainment in Austin, Texas, a division of Integro USA Inc. He can be reached at [roger.sandau@integrogrou.com](mailto:roger.sandau@integrogrou.com) and 512-982-2055.

SPECIAL  
REPORT

## Alternative

## Reinsurance

Riskier bonds may  
trigger losses and  
payout disputes

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Falling returns don't  
deter investors from  
crowding market

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Cat bond trends,  
issuance, top deals  
last year revealed

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Cheaper access to  
alternative capital

'Cat bonds lite' emerges for smaller market transactions

BY MATTHEW LERNER

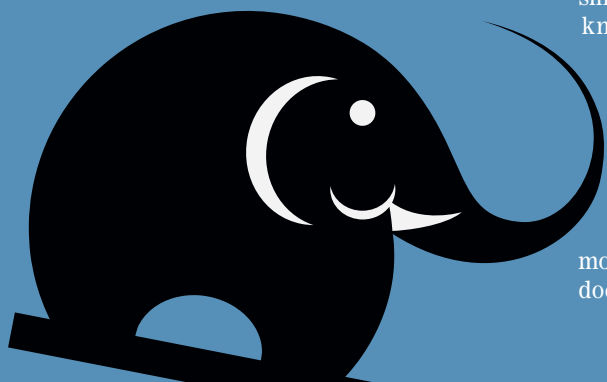
**T**he insurance-linked securities sector continues to expand through traditional catastrophe bonds, but it is also getting some help from smaller private placements that are known as "cat bonds lite." The instruments are smaller transactions and require less robust documentation and disclosure than traditional cat bonds issued under U.S. Securities Act Rule 144A.

From the absence of third-party modeling to the production of fewer documents, these "lite" cat bonds

allow cedents and investors quicker, less expensive access to the insurance-linked securities market, and they typically cover U.S. wind and earthquake risks.

While it's "difficult to quantify" the cost and time savings in a cat bond lite vs. a traditional cat bond, "suffice it to say, the cost savings and time to complete a cat bond lite is significantly less costly and time-consuming than that of a 144A cat bond," said Asha Attoh-Okine, managing senior financial analyst at A.M. Best Co. Inc.'s insurance-linked securities group in Oldwick, New Jersey.

"A key element in the opening up of the insurance-linked securities sector is the development of products which offer reduced frictional



costs, and which also meet investor liquidity and structural requirements,” Robert Eastham, managing director of Kane Bermuda, part of Kane Holdings Ltd., said in an email. “The emergence of cat bond lite structures is a key step in this evolution.”

Frictional costs can be 50% to 75% less for lite cat bonds vs. traditional cat bonds, with time savings of about 50%, said Michael Popkin, New York-based co-head of insurance-linked securities at Jardine Lloyd Thompson Capital Markets Inc., a unit of JLT Towers Re.

“Cat bond lite has reduced the complexity and cost of bonds in order to give a boost to new issuance,” said Jennifer Donohue, a consultant at law firm Locke Lord L.L.P. in London.

“These transactions ... enable investors to access the ILS arena at a much lower entry point, with trades ranging from approximately \$5 million to \$50 million,” Mr. Eastham said.

Such instruments are “easily accessible to small and medium-size insurers, the documentation is streamlined, and the structuring costs are very low,” Best’s Mr. Attoh-Okine said.

Cat bond lite deal sizes typically range from \$10 million to \$50 million, said Mr. Attoh-Okine, compared with \$100 million or more for a standard instrument.

Most standard catastrophe bonds require 20 or more documents, which can be time consuming, expensive and daunting to new market participants, said Brad Adderley, a Bermuda-based partner in the corporate department at law firm Appleby Global Group Services Ltd.

“There’s no question people are forming platforms to allow clients to do small transactions, to be able to get to market more quickly, and to give more access to clients who don’t want to spend the money to come up with all the needed documentation,” Mr. Adderley said.

One such route is Kane’s SAC Ltd. platform, designed for lite cat bonds of \$10 million to \$50 million. The service was launched in August 2013 and has hosted a

*“There’s no question people are forming platforms to allow clients to do small transactions, to be able to get to market more quickly, and to give more access to clients who don’t want to spend the money to come up with all the needed documentation.”*

Brad Adderley,  
Appleby Global Group Services Ltd.

variety of transactions. A \$54.8 million January placement in its Exeter Segregated Account collateralized a property catastrophe reinsurance contract for an undisclosed buyer through Jan. 15, 2016.

A key aspect of the SAC platform is the notes began trading this year on the Bermuda Stock Exchange, opening them to a wider pool of investors. “Some investors require that a security

be listed, otherwise they cannot buy it,” Mr. Adderley said.

Another leap forward this year is clearing such cat bond lite trades through Brussels-based post-trade service provider Euroclear P.L.C., which helps open up the potential of the secondary market through enhancing liquidity by allowing investors to trade notes over the counter using a recognizable system.

Other lite cat bond platforms include JLT Capital Market’s Market Re, launched last May, and the Tokio Tensai Platform that Tokio Solution Management Ltd. and GC Securities rolled out in June 2013.

Platform-based, exchange-cleared trading will make the insurance-linked securities market more attractive to investors who don’t want to do big deals or find the traditional process too slow and cumbersome, Mr. Adderley said.

While several platforms have focused on smaller cat bonds, another market player has tried to simplify the process for standard cat bonds.

Aon Benfield Securities’ CATstream was established last summer “so middle market and smaller property catastrophe programs, as well as corporate clients, can access it without having to consider a minimum transaction size needed to create efficiencies,” said Paul Schultz, the Aon P.L.C. unit’s Chicago-based CEO.

CATstream utilizes templated documentation and third-party modeling and Aon Benfield models to reduce costs associated with traditional cat bonds, he said.

## Major catastrophe unlikely to detract investors

**B**ackers say the insurance-linked securities space is not likely to suffer a major catastrophic event, despite some detractors’ concerns.

Indeed, a substantial catastrophe loss could attract more funds, experts say.

“I don’t think a loss event or two will drive investors away,” said Gary Martucci, a director at Standard & Poor’s Corp. in New York.

Should there be a significant loss event, which he said would be on the order of Hurricane Katrina, which resulted in insured losses in excess of \$50 billion, standard insurance rates

likely would increase and attract more capital to the sector.

“There is also a lot of money available to quickly come in after an event,” said Bill Dubinsky, head of ILS at Willis Capital Markets & Advisory in New York.

“If investors walk after an event, others will replace them,” said Asha Attoh-Okine, managing senior financial analyst with A.M. Best Co. Inc.’s ILS group in Oldwick, New Jersey.

“This market is here to stay even with a big insured event” that would cost tens of billions of dollars, Mr. Attoh-Okine said.

By Matthew Lerner

*“If investors walk after an event, others will replace them.”*

Asha Attoh-Okine,  
A.M. Best Co. Inc.



AP PHOTO

Severe weather struck the Midwest in 2011, triggering losses for catastrophe bond Mariah Re Ltd. that are still being litigated.

## Stellar bond loss rate expected to falter

Big disaster, complex issues could trigger disputes

BY DOUGLAS McLEOD

**L**osses on catastrophe bonds have been rare, and disputes over bond payouts even rarer. That could change, though, as the market grows and bond structures become riskier and more complex.

Of hundreds of cat bond deals to date, natural disasters have triggered fewer than six and only two have produced litigation or arbitration, market sources say.

“Disputes arising out of that are pretty sparse,” said Huhnsik Chung, a partner at law firm Locke Lord L.L.P. in New York.

Still, cat bond deals themselves have become more complicated, with more indemnity triggers and other features that have not been tested by losses, experts say.

“That complexity in itself raises the potential risk” of disputes, said Michael Madigan, a partner at Sidley & Austin L.L.P. in New York.

Trigger mechanisms — already the focus of one cat bond lawsuit — are a likely source of future disagreements, along with alleged failures to disclose information in offering documents or in descriptions of a ceding insurer’s business, bond experts say.

“The bottom line is we don’t have much of a track record on how bonds will behave in a big event, especially a big event that triggers several bonds,” Mr. Madigan said.

Cat bond issuance set a record last year with the completion of 39 deals totaling \$8.3 billion, according to Swiss Re Capital Markets. Since 1996, cat bonds and insurance-linked securities have attracted a cumulative \$65.6 billion in capital, according to alternative reinsurance website *Artemis.bm*.

However, cat bond losses to date total well under \$1 billion. Major losses include:

- Muteki Ltd., sponsored by Japanese agricultural insurance cooperative Zenkyoren Ltd., which paid a \$300 million total loss after the March 2011 Tohoku, Japan, earthquake and tsunami.

- Mariah Re Ltd., sponsored by American Family Mutual Insurance Co. of Madison, Wisconsin, which suffered total losses on two \$100 million bond issues after severe weather struck the Midwest in 2011.

- Kamp Re 2005 Ltd., sponsored by Zurich American Insurance

See **CLAIMS** next page



AP PHOTO

A dispute pitted Switzerland-based Glacier Reinsurance A.G. against cat bond Nelson Re Ltd. over losses from Hurricane Ike in 2008.

## CLAIMS

Continued from previous page

Corp., which paid \$144 million of its \$190 million in principal on losses from Hurricane Katrina.

■ Avalon Re Ltd., sponsored by Bermuda-based Oil Casualty Insurance Ltd., which lost \$12.7 million of the \$135 million in principal on a junior tranche of notes after the 2007 explosion of a Consolidated Edison Inc. steam pipe in New York.

Other cat bonds have suffered losses unrelated to natural disasters.

Crystal Credit Ltd., for example, paid on notes covering credit insurance losses of sponsor Swiss Re Ltd. Four other cat bond vehicles suffered minor investment losses on swaps with counterparty Lehman Bros. after Lehman collapsed in 2008.

Disputes over cat bonds have been rare.

The biggest involved Mariah Re, now in liquidation in the Cayman Islands. The company's liquidators filed suit in U.S. District Court in New York in 2013 to recover \$100 million paid to American Family under one of two Mariah bonds.

The Mariah bond had an industry loss trigger based on Midwest storm losses reported by the Property Claims Services unit of Insurance Services Office Ltd. and evaluated by cat modeler AIR Worldwide Corp. The extent of Mariah's liability depended on whether AIR treated losses as metropolitan area property

damage, which carried higher values, or non-metropolitan damage, according to court records.

ISO and AIR, both units of Verisk Analytics Inc. of Jersey City, New Jersey, also were named in the suit.

Mariah's liquidators, acting on behalf of investors, alleged that ISO improperly updated its original catastrophe bulletin to include more site-specific information on the 2011 storms in Kansas, and that AIR wrongly reclassified the losses as metropolitan property damage, leading to a total loss on the bond.

U.S. District Judge Richard J. Sullivan threw out Mariah's breach of contract suit last September, saying investors "gambled and lost on the weather."

Mariah is appealing the ruling to the 2nd U.S. Circuit Court of Appeals in New York.

A second dispute pitted Switzerland-based Glacier Reinsurance A.G., now in runoff, against cat bond vehicle Nelson Re Ltd. over Glacier's losses from Hurricane Ike in 2008, which cut a path of destruction through several Caribbean nations and nearly a dozen U.S. states. Glacier demanded arbitration to resolve which of its policies should be covered by a Nelson Re note

providing \$67.5 million for Glacier losses exceeding \$145 million. Glacier withdrew its arbitration claims in 2013, though, and bondholders recovered 100% of their principal.

The growing complexity of more recent bond deals could lead to more disputes, experts say. Most cat bonds now are written with indem-

nity triggers rather than industry loss or parametric triggers, according to Swiss Re. This means bond investors need to understand more about a ceding company's own business, and cedents have to describe it fully and accurately, sources say.

"The onus on disclosure is growing massively," said Kiran Soar, a partner and head of reinsurance at Ince & Co. in London.

Some bonds now include a variable coupon feature, said Bill Dubinsky, head of ILS at Willis Capital Markets & Advisory in New York. If the cedent's business changes and affects its expected loss levels, the coupon rate on a cat bond may rise or fall annually to reflect it, potentially affecting the value of the bond, he said. If the mechanics of these spread adjustments aren't disclosed in accordance with the underlying documents and information supporting them provided in a timely way, disputes could follow, he said.

Bonds with indemnity triggers also may provide for advance payments to cedents based on established case reserves, with mechanisms for a cedent to collect more from bond investors or repay the advance depending on how the reserves develop, Mr. Madigan said.

"You have to make sure all these different features are working together in a synchronized way," he said. "It just takes more time and effort for everyone involved."

Should the benign catastrophe experience of the past several years change, that also could lead to more disputes.

The number of issued and outstanding bonds is at an all-time high, and the bonds themselves are riskier and exposed to higher average levels of expected losses than previous years as investors have become comfortable with the risks, Mr. Dubinsky said.

A major hurricane or earthquake now could trigger a large number of bond losses, he said. "That's really up to Mother Nature," said Gary Martucci, a director at Standard & Poor's Corp. in New York. "It's really which way the wind blows."

## Lower cat bond yields don't scare investors

Institutions value the market diversification

BY MATTHEW LERNER

**Y**ields on catastrophe bonds are falling in line with tumbling traditional reinsurance rates, but investors keep coming back for more.

Institutional investors are still looking to diversify their portfolios with insurance-linked securities despite the lower returns, and the lack of opportunity to make large returns from other investments means that cat bonds often are oversubscribed when they come to market.

"As more money comes in, interest rates — or the rates on the risk — naturally begin to go lower," said Bill Dubinsky, head of ILS at Willis Capital Markets & Advisory in New York.

Increased interest in the relatively new asset class is driving down yields, said Romulo Braga, New York-based CEO of BMS Capital Advisory, a unit of BMS Intermediaries Inc.

"Institutional investors, such as pension funds, continue to seek higher yielding assets including insurance-linked securities," he said in an email. "This migration toward higher yielding assets combined with the continued influx of new capital to the reinsurance sector has driven multiples on catastrophe bonds to historic lows."

The market mirrors declining rates in the overall reinsurance sector, experts say.

"The decline is not only limited to catastrophe bonds," said Todor Todorov, a New York-based investment consultant at Towers Watson & Co. Reinsurance premiums, "particularly property catastrophe risk, have come down quite a bit over the last year."

"It's not just catastrophe bonds, but reinsurance in general. Rates have come down significantly in most cases," said Gary Martucci, a director at Standard & Poor's Corp. in New York.

Insurance-linked securities also are following trends in the corporate bond market.

The decline "is not unique to the insurance-linked securities market," said Ed Hardy, Basking Ridge, New Jersey-based partner at Deloitte Consulting and managing partner of the firm's financial accounting, valuation and securitization practice. "Corporate bond yields have also come down."

Some, however, attribute the decline in the traditional reinsurance market at least in part to the influence of third-party capital entering the sector.

“It was capital markets pricing that led the market down in 2013 and 2014,” said Cory Anger, New York-based global head of ILS structuring at GC Securities. “It should be recognized that the marketplace has faced a fairly historic shift in pricing over the last two to three years.”

One example, Mr. Martucci said, is the Everglades Re bond from Citizens Property Insurance Corp. to cover its hurricane risks in Florida, which priced at 17.75% in 2012 but at 7.5% when it renewed in 2014, when it sold a record \$1.5 billion after being upsized from an initial offering of \$400 million.

Another example is Chubb Corp.’s \$250 million East Lane bond for Northeast hurricane, earthquake, thunderstorm and winter storm risks that was priced at 6.65% in 2011. When it renewed in 2015, also including wildfire, volcanic eruption and meteorite impact, it was priced at 3.75%.

With returns falling so far, some say the market may have reached the floor, at least temporarily.

“In the last three to six months, yields have flattened and haven’t really fallen much further, and we think that’s where things will be in the near to intermediate term,” Mr. Dubinsky said. “We’ve now moved from an environment where returns are declining to where they’re more flat.”

Mr. Martucci said that two deals, Kizuna Re and Merna Re, were priced at 2%, with Kizuna Re rated BBB- as the first bond assigned an investment grade rating since 2008 and Merna Re was not rated.

Still, 2% is higher than the current 1.9% interest on a 10-year Treasury note, and the risk is uncorrelated with financial market risks, sources said.

“It seems to me that (2% interest on a cat bond) might be the floor that people are willing to take. I’d be surprised to see them below 2%. There is risk associated with catastrophe bonds” Mr. Martucci said.

Ms. Anger, however, sees more potential to reduce rates.

“There will always be a minimum amount of compensation that risk takers need to earn for risk, and for the time being pricing is stable relative to the second half of 2014,” Ms. Anger said. “But, again, as capital continues to expand and sources lower (the cost (of) funding, certainly we think there’s further room for rate reduction while risk takers are still getting adequately compensated for the risk.”

Sources do agree, however, that even with yields contracted to the point they are, investors will not

shy away from the space that generated record 2014 issuance in excess of \$8 billion.

“Insurance-linked securities are growing as an acceptable component of an investable universe for many investors,” Mr. Hardy said.

“We would argue that this new asset class still has a strategic role to play in our clients’ portfolios,” Mr. Todorov said, adding, however, that “we would definitely recognize that its relative attractive-

ness is nowhere near where it was back in 2009 when we started talking to our clients about it.”

“These deals are oversubscribed, usually two to three times, so investors are clearly interested in it,” Mr. Martucci said. “You can get 4% return for a four- to five-year investment, which is more in line with an investment grade spread, but these bonds do provide diversification from other fixed-income assets.”

“Despite the influx of capital to the sector and falling yields and multiples, the yields remain higher than many other fixed-income instruments and offer exposure to a different set of risks (i.e. natural catastrophe risk) with low correlation to general market risks, so many investors still find it attractive,” Mr. Braga said.

“I think investors are still valuing the diversification benefits” of the ILS market, Mr. Dubinsky said.

“In the last three to six months, yields have flattened and haven’t really fallen much further, and we think that’s where things will be in the near to intermediate term.”

Bill Dubinsky,  
Willis Capital Markets & Advisory

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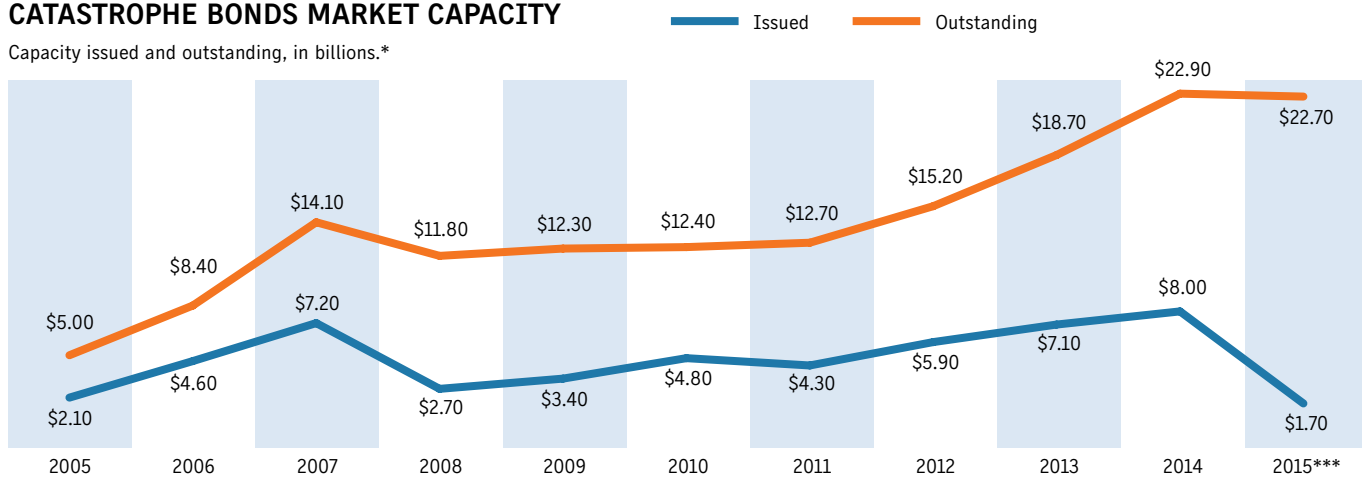


HURRICANE

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### CATASTROPHE BONDS MARKET CAPACITY

Capacity issued and outstanding, in billions.\*



\*Excludes private insurance-linked securities deals.

\*\*Amounts reported in or converted to U.S. dollar on date of issuance.

\*\*\*Year to date.

Source: Willis Capital Markets & Advisory Ltd. Transaction Database

### LARGEST CATASTROPHE BOND TRANSACTIONS IN 2014

Ranked by the risk amount, in millions.

Rank	Special purpose vehicle	Sponsor name	Risk amount	Peril	Risk location
1	Everglades Re Ltd. 2014-1	Citizens Property Insurance Corp.	\$1,500	Hurricane	Florida
2	Sanders Re Ltd. 2014-1	Allstate Corp.	\$750	Hurricane & Earthquake	United States
3	Kilimanjaro Re Ltd. 2014-2	Everest Re Group Ltd.	\$500	Earthquake	United States & Canada
3	Tradewynd Re Ltd. 2014-1	American International Group Inc./National Union Fire Insurance Co. of Pittsburgh, Pa./Chartis Inc.	\$500	Hurricane & Earthquake	United States & Canada
4	Kilimanjaro Re Ltd. 2014-1	Everest Re Group Ltd.	\$450	Hurricane & Earthquake	United States
5	Alamo Re Ltd. 2014-2	Texas Windstorm Insurance Association	\$400	Hurricane	Texas
5	Ursa Re Ltd. 2014-1	California Earthquake Authority	\$400	Earthquake	California
6	Nakama Re Ltd. 2014-2	Zenkyoren Ltd.	\$375	Earthquake	Japan
7	Merna Re V Ltd. 2014-1	State Farm Mutual Automobile Insurance Co.	\$300	Earthquake	New Madrid, Missouri
7	Nakama Re Ltd. 2014-1	Zenkyoren Ltd.	\$300	Earthquake	Japan

Source: GC Securities

### MOST ACTIVE PLAYERS

The most active insurance and reinsurance brokers, capital markets units and investment banks in the catastrophe bond and insurance-linked securities market.<sup>1</sup>

Company	Sole structurer	Joint structurer	Sole bookrunner	Joint bookrunner	Manager/ Co-manager	Number of deals	Risk capital outstanding (in millions)
Aon Benfield Securities Inc.	18	12	14	18	2	35	\$8,721.8
Swiss Re Capital Markets Corp.	17	14	13	15	1	33	\$7,713.8
Goldman Sachs Group Inc.	2	19	4	15	4	23	\$5,795.0
GC Securities	5	8	14	5	8	24	\$5,405.0
Deutsche Bank Securities Inc.	2	7	2	8	6	16	\$4,645.0
BNP Paribas S.A.	0	3	0	6	5	12	\$3,060.4
Munich Reinsurance Co.	8	7	1	0	2	14	\$2,775.0
Willis Capital Markets & Advisory Ltd.	6	0	8	0	5	12	\$2,520.0
Natixis Global Asset Management S.A.	1	2	0	5	0	5	\$1,900.7
Citigroup Inc.	1	0	1	3	0	4	\$1,795.0
Bank of America Merrill Lynch	0	0	0	1	0	1	\$1,500.0
AIG Global Capital Markets Securities L.L.C.	0	0	0	1	0	1	\$400.0
Jardine Lloyd Thompson Capital Markets Inc.	7	0	7	0	0	7	\$295.9
Loop Capital Markets L.L.C.	0	0	0	0	1	1	\$250.0

<sup>1</sup> As of March 30, 2015

Source: Artemis.bm

### OUTSTANDING ALTERNATIVE CAPITAL, IN BILLIONS\*

Year	Catastrophe bonds	Other	Total
2008	\$11.80	\$7.07	\$18.87
2009	\$12.30	\$10.00	\$22.30
2010	\$12.40	\$11.19	\$23.59
2011	\$12.70	\$14.83	\$27.53
2012	\$15.20	\$28.84	\$44.04
2013	\$18.70	\$30.99	\$49.69
2014	\$22.90	\$40.90	\$63.80

\*As of Dec. 31, 2014

Source: Aon Benfield Securities Inc. and Willis Capital Markets & Advisory Ltd. Transaction Database

### PROPERTY CATASTROPHE BONDS OUTSTANDING, IN MILLIONS\*

Sponsor Type	Company	2014/2015
Reinsurer 12%	Amlin P.L.C.	\$200
	Catlin Group Ltd.	\$300
	Everest Re Group Ltd.	\$950
	Munich Reinsurance Co.	\$100
	Scor S.E.	\$150
Insurer 29%	Allstate Corp.	\$750
	American Coastal Insurance Co.	\$200
	American International Group Inc.	\$500
	American Strategic Insurance Group	\$200
	Assicurazioni Generali S.p.A.	\$263
	Castle Key Insurance Co.	\$200
	Chubb Corp.	\$270
	Great American Insurance Group	\$95
	Heritage Property and Casualty Insurance Co.	\$200
	Sompo Japan Nipponkoa Insurance Inc.	\$100
State Farm Mutual Automobile Insurance Co.	\$300	
Tokio Marine Holdings Inc.	\$245	
United Services Automobile Association	\$230	
Zenkyoren Ltd.	\$675	
Other 59%	Non reinsurance or insurance companies	\$8,477

\*As of Feb. 27, 2015

Source: Aon Benfield Securities Inc.

# TRACK THE HACKER

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# Find out what to do, before they find you

Put up your defenses before you're breached. And if you're hacked, how do you recover? The experts and the answers are here at this can't-miss event.

## AGENDA AT A GLANCE:

### DAY 1

Evening networking reception

### DAY 2

Networking breakfast

Welcome remarks

Opening keynote

#### **You're not a retailer, but you're still a target**

No business is safe from cyber attacks. This session will give risk managers the tools to perform a cyber risk self-assessment by exploring today's latest threats.

#### **Legislative and regulatory landscape**

In the wake of the large-scale theft and destruction of data at Sony Pictures Entertainment Inc., President Obama has proposed new federal legislation to combat cyber attacks. This session will help risk managers navigate the data privacy and security requirements with which their organizations must comply.

# CYBER RISK SUMMIT 2015

COMING SEPTEMBER 2015

For more details visit: [BusinessInsurance.com/cyberrisksummit](http://BusinessInsurance.com/cyberrisksummit)

BI EVENTS

#### To sponsor event:

Kimberly Jackson  
kjackson@BusinessInsurance.com  
978.317.5032

#### To speak at event:

Joanne Wojcik  
jwojcik@BusinessInsurance.com  
303.278.7444

#### To attend event:

Julie Ford  
jford@BusinessInsurance.com  
312.649.5441



### DAY 2 (cont.)

Networking luncheon

#### **Quantifying the impact of a cyber incident**

Using data analytics and modeling scenarios derived from actual events, this session will examine the vast array of potential costs to organizations when their systems are hacked.

#### **Addressing cyber risks:**

##### ***Sometimes insurance isn't enough***

The potential scope of cyber risk exposure is reaching \$2 trillion. Yet the market for cyber risk insurance is estimated at just \$85 billion. This session will report on the latest advances in coverage, provide a market update on new players and available coverage limits, costs, terms and conditions.

##### **Cyber Challenge**

In this session, "Jeopardy" meets "Who Wants to Be a Millionaire," as four risk managers test their knowledge of cyber risk terminology. All attendees will be invited to participate using electronic polling, which contestants can use as "help from the audience."

##### **Track The Hacker**

Months leading up to the Cyber Risk Summit, attendees and BI subscribers have been following clues in the "Track The Hacker" Sweepstakes for a chance to win valuable prizes. The location of the tracker will be revealed and a winner will be announced.

##### **Closing keynote**

Closing remarks and cocktail reception

# RIMS 2015

CONFERENCE PREVIEW: NEW ORLEANS, APRIL 26-29

## Annual gathering features focus on the future

BY MARK A. HOFMANN

**C**ultivating young risk professionals will be one of the hallmarks of this year's Risk & Insurance Management Society Inc.'s annual conference in New Orleans.

The conference's theme — "New Innovations, New Encounters, New Knowledge, New Orleans" — is designed to both garner interest in the event and "to show that we're looking to the future," RIMS 2015 President Richard Roberts said. "Part of our overarching work this year is to make RIMS more nimble and to move into new areas."

Each aspect of this year's conference fits into that theme, Mr. Roberts said.

"New Innovations" includes an exhibit hall the size of about "four soccer pitches" or even a little bigger, he said, and RIMS is on target with about 400 exhibitors and a record number of new vendors participating.

"New Encounters" reflects the event's emphasis on networking, which is "probably the No. 1 reason to come to the conference," said Mr. Roberts, who is director of risk management and employee benefits at Ensign-Bickford Industries Inc. in Simsbury, Connecticut.

"New Knowledge" includes 165 educational sessions, Mr. Roberts said. It also reflects that RIMS is "truly becoming an international organization," he said, with more than 60 countries represented at the gathering.

And "New Orleans," of course, emphasizes the conference's venue.

### Professional engagement

Engaging rising risk professionals — not only students — is one of this year's goals, Mr. Roberts said.

"We do a great job of engaging students, but then there's a gap," he said, noting that many risk management students find employment in brokerages or other organizations upon graduation before joining the ranks of risk management later in their careers. Rising risk professionals could be in their 30s, he said.

RIMS has created a "Rising Star Award" to recognize a person new to the profession who has demonstrated innovation. RIMS has



This year's Risk & Insurance Management Society Inc.'s annual conference in New Orleans sets out to emphasize new innovations, new encounters and new knowledge.

received more than 20 recommendations for the award, Mr. Roberts said.

RIMS also will offer programs for students, including 30 Anita Benedetti Student Scholars selected from universities nationwide, during the conference. Mr. Roberts said that about 100 students will attend this year, and eight teams representing colleges and universities out of 26 submissions will compete in the annual RIMS Spencer Risk Management Challenge (see story page 23).

"The key thing for them is get out and about and pass out their cards and network with as many people as possible," he said.

RIMS will have a new international lounge at this year's conference for attendees from outside North America to meet and share ideas.

He said he would be there to meet some of the international representatives.

The conference also will highlight a variety of emerging risks, he said.

Cyber risk "is probably on everybody's mind," he said. "There's still so many things that hit the news — all the big hacks. We're seeing it in the health care space. It's opening a whole new arena."

Other emerging risks that will be discussed at the conference are the use of drones, the emergence of new service providers such as rideshare service Uber and the creation of new technologies such as 3-D printing, he said.



The conference's theme is designed to both garner interest in the event and "to show that we're looking to the future."

Richard Roberts, Risk & Insurance Management Society Inc.

## INSIDERS' RECOMMENDATIONS

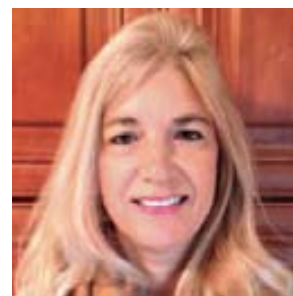


**Cheryl Harper**  
Operations manager  
Catholic Mutual Group  
President of the South Louisiana Chapter of RIMS

**Dining:** Parkway Bakery & Tavern: Best po'boys in town. President Barack Obama has even been there. Antoine's Restaurant: They've been in business since 1840. Best dining experience with world famous New Orleans cuisine. You must have the baked Alaska for dessert.

**Attractions:** Blaine Kern's Mardi Gras World is a great way to see what Mardi Gras is all about. I also love to stroll down Magazine Street on the weekends and venture into all the shops on a beautiful day.

**Getaway:** Old downtown Covington just across the lake is fun to walk on a beautiful day. It has a lot of shops with unique, locally made art and good restaurants.



**Carol Ann Melan**  
Data analyst  
Cox Communications Louisiana L.L.C.

**Dining:** Kingfish Kitchen and Cocktails — convenient for lunch, and the best mint julep in town.

**Attractions:** Take a ride down St. Charles Avenue on the streetcar. You can stop and visit a variety of great places and restaurants along the way.

**Getaway:** Spa Aria at the Hotel Monteleone.

Continued on next page

# Community service day returns to New Orleans after post-Katrina launch

BY SHELBY LIVINGSTON

In 2007, the Risk & Insurance Management Society Inc. held its annual conference and exhibition in New Orleans, just two years after Hurricane Katrina devastated the city and surrounding region.

While there, RIMS hosted a comedy show to raise money toward providing the New Orleans Fire Department with an emergency command vehicle, and members helped to clean City Park, which was still littered with debris from the devastating storm.

“It was really, really fulfilling to try to put something back together that was destroyed by Katrina,” said RIMS Executive Director Mary Roth, who participated in the cleanup. “It was a great turnout.”

This April, nearly 10 years after Katrina, RIMS 2015 attendees will continue their restoration efforts by aiding the St. Bernard Project

national disaster recovery program. Attendees also will help feed local at-risk children with nonprofit organization Blessings in a Backpack.

Conference attendees can volunteer with the organization to help rebuild 10 to 15 of the thousands of homes destroyed by the hurricane during Community Service Day from 8 a.m.-3 p.m. April 26.

St. Bernard Project rebuilds homes in areas affected by natural disasters, including New Orleans, Joplin, Missouri, New York and New Jersey, according to the organization’s development manager, Elizabeth Eglé. Since it was founded in 2006, the organization has built 895 homes nationally, and 584 of those homes are located in New Orleans, Ms. Eglé said.

That number changes weekly, she said: “We have closing ceremonies pretty much every week. What that means is we’re welcoming a family back to the home that



“It was really, really fulfilling to try to put something back together that was destroyed by Katrina. It was a great turnout.”

Mary Roth,  
Risk & Insurance Management  
Society Inc.

they own.”

St. Bernard Project first began reconstructing homes in its namesake area, St. Bernard Parish, which was left completely uninhabitable following Katrina. The project has since extended its rebuilding efforts throughout other parts of the city, as well as nationally, Ms. Eglé said.

It relies on the AmeriCorps pro-

gram, individual volunteers, and a staff made up of veterans and at-risk youth to keep the program running — and it’s growing. The St. Bernard Project will have about 7,400 volunteers work in New Orleans by the end of the year, a 10% increase in volunteers from last year, Ms. Eglé said.

She said volunteers from RIMS can expect to hang insulation and drywall, lay hardwood floors, paint walls and hang trim.

They also will have a chance to speak with the families of the homes they will be rebuilding, said Jillian Walsh, director of community investment for Zurich North America, which is sponsoring RIMS Community Service Day.

“I think that’s what makes it worthwhile,” said Ms. Walsh, who has participated in other home building with the St. Bernard Project. “Once you meet the family, it really humanizes this house and it makes you work harder, frankly.”

Ms. Walsh said RIMS is expecting 100 to 150 attendees to help build the homes, which are located in the Gentilly and New Orleans East neighborhoods of the city. Those areas, part of Orleans Parish, were among those that suffered the most damage from Katrina, Ms. Eglé said.

Interested conference attendees can sign up to participate on the RIMS website.

During the conference, attendees also will fill backpacks with non-

perishable foods and books for Blessings in a Backpack, a national organization that provides children in the federal Free and Reduced Price Meal Plan Program with food for 38 weekends during the school year.

According to its website, Blessings in a Backpack feeds more than 72,000 elementary school children in 700 schools in the United States. The backpacks are filled with easy-to-prepare and ready-to-eat foods, such as granola bars and oatmeal, according to the organization’s website.

Tables will be set up in the RIMS conference exhibit hall, where attendees can drop by between 10 a.m. and 2 p.m. April 28 to pack as many bags as they wish, said Jenae O’Neil, community investment program manager for Zurich North America.

She said RIMS’ goal is to pack 250 backpacks, which will then be delivered to the local Educare school, which serves at-risk children from infant to age 5.

This year’s conference marks RIMS’ ninth Community Service Day, an annual event the society launched during the New Orleans conference in 2007.

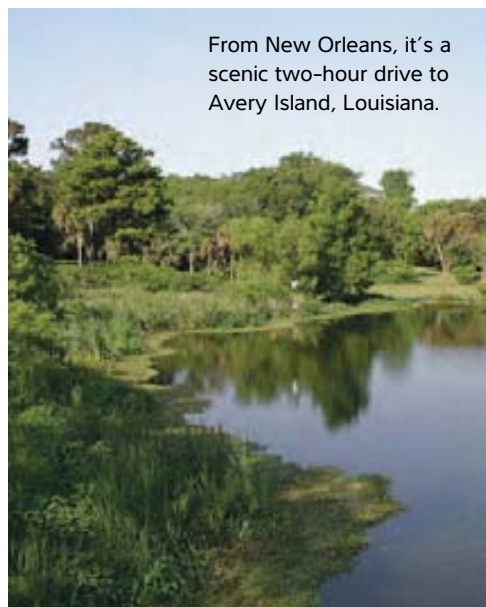
“When we bring a conference to a city, we take over all the restaurants and the venues, and we have a lot of people there,” Ms. Roth said. “It’s our way of giving back — or, when we leave, leaving a little something behind.”

## RIMS 2015

### New Orleans insiders’ recommendations

New Orleans, the host city for the 2015 Risk & Insurance Management Society Inc. Conference & Exhibition, offers visitors plenty of attractions, fine restaurants and proximity to several getaway destinations within a few hours by car. *Business Insurance* polled a group of local risk management and insurance professionals for inside scoops and recommendations of their favorite activities, dining spots and quick getaways.

COMPILED AND WRITTEN BY SHELBY LIVINGSTON



From New Orleans, it’s a scenic two-hour drive to Avery Island, Louisiana.



**Joe Hassinger**  
Defense counsel  
Galloway Johnson P.L.C.

**Dining:** Willie Mae’s Scotch House and The Pelican Club. Willie Mae’s gives you a glimpse of a real New Orleans neighborhood joint, with the best fried chicken you will ever eat. The Pelican Club offers a French Quarter scene with fantastic food and great service.

**Attractions:** For golf fans, try our Tournament Players Club course.

**Getaway:** About 1½ hours from New Orleans, St. Francisville will take you back in time. It is known for its small-town quiet life, the historic district with the numerous homes, churches, office buildings, shops, restaurants and courthouse on the national historic registry.



**Denny Borne**  
Risk manager  
Bollinger Shipyards L.L.C.

**Dining:** No. 1: Mr. B’s Bistro is one of my most favorite restaurants in the city. Start with the Gumbo Ya Ya and end with the bread pudding. Anything you put in the middle will be awesome. No. 2: The Bon Ton Café is a true New Orleans experience with traditional Creole cooking.

**Attractions:** Without any hesitation I would recommend visiting the National WWII Museum.

**Getaway:** From New Orleans, it’s a scenic two-hour drive on Highway 90 to Avery Island, Louisiana, where you can visit Tabasco’s pepper sauce factory as well as the gardens.



**Mike Dragna**  
Finance project manager,  
risk and insurance  
management  
Entergy Corp.

**Dining:** My two favorites are Mandina’s, great New Orleans seafood and creole cooking, and Domilise’s Po-Boys & Bar on Annunciation Street. There you will find the quintessential New Orleans roast beef po’boy and have a Barq’s root beer!

**Attractions:** City Park and the botanical garden.

**Getaway:** I would recommend taking one of the local swamp tours, such as the Honey Island Swamp east of the city, or the tours south of the city near Jean Lafitte National Historical Park and Preserve. Be ready to feed some ‘gators!



**Suzanne M. Foster**  
Claims risk manager  
Catholic Mutual Group

**Dining:** Commander’s Palace, opened in 1880, was recently named “America’s Most Historic Restaurant” by USA Today and has won too many awards to list.

**Attractions:** The WWII Museum is an absolute must. You will love this museum even if you don’t like history.

**Getaway:** Avery Island. Ever wonder where Tabasco is made? Right here on Avery Island, and you can tour the factory. Besides Tabasco, Avery Island is a nature preserve with a bird sanctuary and a botanical garden filled with exotic plants.



**Ellen Ziegel**  
Administrator of  
insurance-risk  
International-Matex  
Tank Terminals

**Dining:** Bon Ton Café. I love the traditional New Orleans-style seafood, atmosphere and service.

**Attractions:** The Audubon Zoo is a must if you visit New Orleans, especially if you bring family with you. The Louisiana Swamp Exhibit allows you to experience Louisiana wildlife up close.

**Getaway:** The French Quarter Fest in April is an event you should not miss. Bring all of your senses for this one.



St. Francisville will take you back in time.

# Sports, risk management student competition all on the RIMS agenda

BY BILL KENEALY

Attendees of the 2015 Risk & Insurance Management Society Inc.'s conference and exhibition in New Orleans will have ample opportunity to indulge their love of competition while supporting good causes.

## Running for fun

People looking to break a sweat while helping to raise money for the Spencer Educational Foundation Inc. can attend the inaugural Spencer 5K Fun Run, sponsored by Sedgwick Claims Management Services Inc.

The idea for the run came to Jarrod Magan, Memphis, Tennessee-based vice president of client technology services for Sedgwick, during last year's RIMS conference.

"While running with one of our clients in Denver last year, it occurred to me that the RIMS conference would provide an ideal platform for staging a 5K run given the industry's focus on health and wellness," Mr. Magan said. "It was my moment of inspiration, and it has snowballed from there."

The race is scheduled for 7 a.m. on April 28 and will start and finish in front of Harrah's Casino, taking runners through a 3.1-mile course along the historic waterfront of downtown New Orleans. Mr. Magan calls the course selection a "no-brainer" and said people unable to participate can sponsor a runner in the race.

"We are already approaching 60 runners and are still a month out from the conference date," he said. "We have been impressed with the turnout thus far, but we can take as many as 200 to 225 runners and still be comfortable."

## Hitting the links

While the Spencer 5K is new this year, the traditional Spencer/Gallagher Golf Tournament is being sponsored by insurance brokerage Arthur J. Gallagher & Co. for the 24th year. The tournament will tee off at 8 a.m. April 26 at Lakewood Golf Club.

In addition to their clubs, golfers may want to bring their appetites, said Butler Bourgeois, Baton Rouge, Louisiana-based area vice president with Gallagher and tournament chairman. Participants will find a series of Louisiana culinary treasures from gumbo to jambalaya to shrimp po'boys waiting for them every two holes along the course.

"Because we are in Louisiana, we decided to do something a little unique with our home-course advantage," Mr. Bourgeois said, noting the treats will be provided by some of New Orleans' finest restaurants, including Bourbon House, Bayou Burger & Sports Company, Copeland's of New Orleans, Danny Barry Catering,

as well some of Gallagher's own employees. "The whole idea is to eat your way through the course."

Mr. Bourgeois also said he was looking forward to being on the course, which is nestled among regal cypress and oak trees.

## Finding the next generation

A different type of competitive spirit will be on display at the second annual Spencer-RIMS Risk Management Challenge, which will pit eight teams of risk manage-

ment students from various universities against each other.

The teams of four or fewer students are tasked with presenting a comprehensive plan to solve a real-world risk management problem furnished by the Walt Disney Co. before a judging panel of risk management professionals and potential employers.

"When you look at the last few years, one of the most exciting things we have gotten involved with at Spencer is the Risk Management Challenge," said Brion

Callori, Providence, Rhode Island-based chairman of the Spencer Educational Foundation and senior vice president of engineering and research at FM Global.

Mr. Callori said he was struck by the quality of the presentations during last year's challenge.

"As we are exposed to the types of students coming through these schools, you are also getting people in the industry more excited about its future," he said. "It's really impressive to see the talent that's out there."

Twenty teams from across the United States and Canada were selected to participate in a three-month competition for the slots. The eight finalists are from Appalachian State University, Butler University, Florida State University, Missouri State University, St. Mary's University, Temple University, Virginia Commonwealth University and the University of Georgia.

The top three teams will be recognized during the conference finale and awarded cash prizes.



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## XL launches venture capital arm

XL Group P.L.C. is launching an XL-sponsored venture capital initiative called XL Innovate.

The initiative will invest in companies that “have a strategic focus on developing new capabilities in the insurance sector,” the insurer said in a statement.

The statement said XL Innovate “will strive to create partnerships outside of the traditional underwriting space to find ways to underwrite currently uninsured risks.”

According to XL Innovate’s website, its early focus will include underserved risk markets, innovative approaches to risk underwriting and client access, and financial technology with application to risk underwriting.

Tom Hutton, most recently CEO and founder of New Energy Risk Inc., will head the new operation. New Energy Risk is a provider of data analytics, strategic consulting and financial risk transfer solutions to the renewable energy industry worldwide, and partnered with XL last year to launch a fuel cell insurance product, XL said in the statement.

## Trustmark launches critical illness policy

Trustmark Insurance Co. has launched Trustmark Critical LifeEvents policy, a critical illness insurance product designed to benefit policyholders throughout a lifetime, including when they are not seriously ill.

Based on consumer feedback, Critical LifeEvents expands traditional critical illness insurance policies by providing coverage for preventive care, early disease detection and caregiver support, offering multiple payouts as the disease progresses, Lake Forest, Illinois-based Trustmark said in a statement.

The policy also waives premiums during a critical illness without requiring a disability; extends protection to diseases that it says are not typically covered, such as diabetes and central nervous system infections; and offers more affordable coverage for common illnesses, such as heart attack, cancer or a stroke, Trustmark said.

Finally, the policy provides coverage if a policyholder struggles to perform two or more daily activities and offers an annual replenishing benefit.

“It was time to build a product that consumers can use throughout their lifetime, and not just when they are seriously ill,” Julie Pohjola, Trustmark’s assistant vice president of product management, said in the statement.

Critical LifeEvents policies will be available during the first quarter of 2016, Trustmark said.

## USI expands program for builder’s risk

USI Insurance Services L.L.C. has launched a builder’s risk program for projects of all sizes and types that expands the coverage terms typically

## PRODUCTS & SERVICES

### Zurich launches drone coverage for Canada

\* Toronto-based insurer Zurich Canada, a unit of Zurich Insurance Group Ltd., has launched an insurance package for Canadian customers using drones.

The coverage, which was developed with London-based Global Aerospace Underwriting Managers Ltd., offers liability limits of up to \$25 million, but more typically 5.0 million Canadian dollars (\$4.0 million) in that country, a spokesman for Zurich Canada said.

The product offers physical damage limits of up to CA\$500,000 (\$396,450), he said.

Minimum premiums will begin at CA\$500 (\$396) and depend on the size of the drone, he said.

In a statement, Zurich Canada said the drone insurance package includes first-party property coverage for theft or damage to the drone and ground equipment used to operate it, as well as any electronics or components carried.

The package also offers third-party liability coverage for property damage and bodily injury caused by the drone, premises liability at locations of scheduled aircraft, and medical expenses, Zurich Canada said.

Following its launch in Canada, the drone insurance package will be rolled out globally on a country-by-country basis, Zurich Canada said.

offered to middle-market customers.

In the middle-market space, it is more difficult to obtain comprehensive risk coverage, according to Brian Dove, Dallas-based national real estate practice leader for the Valhalla, New York-based brokerage.

Instead, middle-market owners and contractors must often rely on policies with inadequate coverage terms and restrictions, Mr. Dove said.

USI has “beefed up” its builder’s risk program to provide the same coverage for middle market customers that larger customers receive, Mr. Dove said.

The program, underwritten by Ace Ltd. and Allianz S.E., offers no specific limits, and minimum premiums range from \$2,500 to \$5,000, he said.

In a statement, USI said the program allows customers to negotiate the terms and conditions to meet contractual and

lender compliance, accelerates the response time during the bidding process and reduces costs on the value of the project through an expedited claim recovery process.

“Middle market clients frequently rely on standard builder’s risk coverages when developing a new property or renovating an existing location,” Robert Meyers, USI’s senior vice president of property/casualty, said in the statement. “This is their path of least resistance, however, inadequate coverage terms and property transfer problems at completion often create unforeseen costs and delays.”

### Professional liability MGA available

Cooper Gay Swett & Crawford Ltd.’s North America unit has launched StatPro Underwriters, a managing general agent serving the U.S. miscellaneous professional liability insurance market.

StatPro writes errors and omissions risks with limits of up to \$5 million of primary capacity backed by Lloyd’s of London, CGSC North America said in a statement. Coverage will be placed by Cooper Gay’s Lloyd’s brokering operation, CGNMB L.L.P.

Coverage is available for a range of professions including claims adjusters, real estate agents and brokers, appraisers, employment agencies and event planners, CGSC North America said.

Additional coverage, such as choice of counsel and automatic inclusion for additional insureds and independent contractors, are available at no cost, according to the statement.

Senior Vice President Judy Biancardi and Vice President Samantha Gamble will lead the StatPro team, CGSC North America said. They will be based in New York.

### Hartford offers disability benefits app

Property/casualty insurer and group benefits provider Hartford Financial Services Group Inc. has rolled out a mobile application that allows users covered by the firm’s group disability plans to manage their claims.

The “My Benefits” app allows covered employees to start a short-term disability claim, update personal data and monitor the status of a claim, including payment information, the Hartford, Connecticut-based insurer said in a statement.

The app includes definitions and details of benefits, Hartford said.

“Our focus on ability, not limitations, has driven our pioneering approach to disability insurance for more than two decades,” John Urankar, Hartford’s senior vice president of group benefits and workers compensation claims, said in the statement. “This app is our latest resource to empower consumers and help them return to an active, productive life after an unexpected injury or illness.”

Hartford’s benefits app is available at no cost from Apple Inc.’s App Store or Google Inc.’s Google Play store.

## DEALS & MOVES

### Alliant Insurance expands with Idaho acquisition

Newport Beach, California-based broker Alliant Insurance Services Inc. has acquired independent agency North Idaho Insurance L.L.C.

Terms of the agreement were not disclosed.

Based in Sandpoint, Idaho, North Idaho Insurance provides personal and commercial lines and employee benefits products and services to clients throughout the inland Northwest, Alliant said in a statement.

The deal allows Alliant to expand its presence in the Northwest middle market, while North Idaho Insurance will benefit from expanded resources, according to the statement.

### W.R. Berkley to merge two U.S. reinsurer units

W.R. Berkley Corp. will merge its two U.S. reinsurance underwriting units, Berkley Re America L.L.C. and Facultative ReSources Inc.

The companies, both based in Stamford, Connecticut, will operate under the Berkley Re America name, the Greenwich, Connecticut-based insurer said in a statement.

Berkley Re America is a specialty treaty reinsurance underwriter that services insurance companies or units within insurance companies that specialize in the products they underwrite, Berkley said. Facultative ReSources is a property/casualty and professional liability facultative underwriter, according to the statement.

### National Financial Partners acquires Weber’s agencies

New York-based broker National Financial Partners Corp. has acquired property/casualty insurance agencies Weber’s Insurance Service Inc. and Weber’s Assurance Group L.L.C.

The Prescott, Arizona-based Weber’s firms provide personal and commercial lines coverage and group health and welfare products, NFP said in the statement.

As part of the deal, the Weber’s firms will be folded into NFP and assume the NFP name, a spokeswoman for NFP said.

### Life insurers Pan-American, Mutual Trust to merge

Pan-American Life Insurance Group and Mutual Trust Financial Group have agreed to merge their respective holding companies, the firms announced last week.

The combined company will continue to provide life, accident and health insurance in North and South America to roughly 1.5 million covered individuals, and is expected to generate approximately \$1 billion in revenues, the companies said in a joint statement.

The addition of Mutual Trust’s presence in the U.S. life insurance market will compliment Pan-American Life Insurance’s existing international group, international life and domestic group businesses, which are focused primarily on the Latin American and Caribbean markets, José Suquet, Pan-American’s New Orleans-based president, board chairman and CEO, said in the statement.

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# REINSURANCE

Continued from page 4

able, said Mr. Shields.

Montpelier shareholders will receive 0.472 Endurance share and \$9.89 in cash for each share held, representing \$40.24 per share for Montpelier, also based in Pembroke. Montpelier stock closed at \$39.61 on April 10.

The deal gives Endurance the option to build out its Lloyd's of London business while giving Montpelier an exit at a nice multiple to book value, said Amit Kumar, New York-based vice president and senior analyst of insurance at Macquarie Capital (USA) Inc.

"This is the new normal, where the financial component of these deals is attractive, focusing on reducing expenses and generating more capital flexibility. This is a good-enough deal," said Mr. Kumar.

Between Endurance's previous acquisition attempt and talk of Montpelier's future, the deal did not take analysts by surprise.

Montpelier was widely known to be up for sale and John Charman, the chairman and CEO of Endurance, was known to be looking for a buy, Mr. Kumar said.

Because Endurance had been active in seeking acquisitions,

their interest in Montpelier was not a surprise, according to Jim Auden, Chicago-based managing director with Fitch Rating Services Inc.

The deal also follows a trend of buyers gaining access to Lloyd's markets through acquisitions. With Montpelier, Endurance gets a Lloyd's platform, the third such deal recently.

Fairfax Financial Holdings Ltd. announced in February it would buy Brit P.L.C. for about \$1.88 billion, and XL Group P.L.C. acquired Catlin Group Ltd. for \$4.22 billion in January.

The Endurance deal consists of \$450 million in cash and about 21.5 million Endurance shares, and Montpelier's shareholders will own about 32% of the combined company.

The deal is expected to close in the third quarter of 2015, the companies said.

Meanwhile, Ace Ltd. and investment bank Blackrock Inc. have launched a joint reinsurance venture, ABR Reinsurance Ltd., putting more pressure on the reinsurance sector.

ABR Reinsurance Capital Holdings Ltd., ABR Re's parent company, will be initially capitalized at between \$800 million and \$1.3 billion, according to recent documents filed with the U.S. Securities and Exchange Commission, and has thus far raised some \$800 mil-

lion in a private placement, according to Ace.

ABR will write a portion of the risks Ace currently places in the traditional reinsurance market and Blackrock will manage the investments.

The arrangement may spell trouble for traditional reinsurers in an already competitive market.

**"This is the new normal, where the financial component of these deals is attractive, focusing on reducing expenses and generating more capital flexibility. This is a good-enough deal."**

Amit Kumar, Macquarie Capital (USA) Inc.

"When you've got a very large reinsurance buyer saying it has found another alternative to traditional markets, I think it's an enormous challenge that the reinsurers overall have to contend with," said Mr. Shields, calling the move potentially "devastating" for the traditional reinsurance industry.

"Where the shake-up may be in terms of another vehicle that traditional reinsurers will have to

compete with to get on Ace's reinsurance panel, given ABR Re will only be assuming Ace's business over the intermediate term," said Tracy Dolin-Benguigui, New York-based insurance financial services ratings for Standard & Poor's Corp.

"I think it definitely has the potential to change things in the industry. I think it puts even more pressure on the reinsurance business, which was already under a lot," said Cliff Gallant, an analyst with Nomura Securities International Inc. in San Francisco.

Sources agreed that the arrangement could reduce Ace's costs in ceding risks, as they no longer have to pay external, traditional reinsurers to cede such risks.

Further, the move could easily spawn copycats.

"I think you'll see other companies say, 'If this works for Ace, we can try it as well,'" Mr. Shields said. "I can't see why they wouldn't, frankly."

Ms. Dolin-Benguigui also said she would not be surprised to see similar "copycats" coming to the market in the future.

"I think that's why ABR Re becomes important, because as Ace grows it, if they're successful with it, I would think other companies would consider doing similar types of structures. It could be a harbinger of things to come," Mr. Gallant said.

# BENEFITS

Continued from page 4

beginning Jan. 1, 2017, the agency said.

"I think they were hedging their bets" with that wording, said Thomas Barker, a partner and co-chair of the health care practice at Foley Hoag L.L.P. in Washington.

Kim Buckey, a principal in the Clarkston, Michigan, compliance communications practice of HighRoads, which helps companies automate their summary of benefits and coverage statements, said whether employers need to take immediate action depends on when those new rules are issued.

But any change will require employers to revamp their documents, and large companies may have a dozen or more plans in place that require multiple types of statements, sources said.

Marsha Baker, benefits administrator at Western Farmers Electric Cooperative in Anadarko, Oklahoma, generates the employer's summary of benefits and coverage in-house. It's not the paperwork burden that bothers her. It's that the coverage examples are misleading because they are based on a single person's cost-sharing, not a family's.

Although one of the electricity provider's two health-plan offerings is a high-deductible plan with a family deductible, Ms. Baker said she is powerless to change the summary of benefits statement to reflect the single deductible that families must meet.

"They're cast in stone; you can't change them," she said.

Instead, Western Farmers distributes the benefits and coverage statement with a cover sheet cautioning its 375 employees and 30 retirees that the cost-sharing examples are based on an individual's cost-sharing.

Steve Wojcik, vice president of public policy at the National Business Group on Health in Washington, said many companies already provide a wealth of information to help employees understand their health plan choices.

The summary of benefits coverage is "not very useful to us; it's not very useful to our employees," he said.

Such summaries were intended to help people shopping for health coverage through public insurance exchanges easily compare plans, said Richard Stover, a principal in Buck Consultants' Secaucus, New Jersey, office.

Employers were "shoe-horned into them" and so they "don't quite fit as well," he said.

Mr. Barker advises clients to make an effort to comply until final rules are issued.

# POLITICAL

Continued from page 4

sanctions prevent underwriters from even considering covering operations in the nation.

"As a sanctioned country, Iran has been off limits for most underwriters in the market for years, and one has to consider: Will there actually be a deal causing sanctions to be removed?" Mr. Anderson said.

Capacity for expropriation of assets or political violence that affects assets has had "a big increase over the last five years," Mr. Freely said. Today, it's \$2.4 billion to \$2.5 billion for a single occurrence vs. roughly \$1.4 billion five years ago.

Mark McLeod, New York-based political risk and trade credit underwriter at The Hanover Insurance Group Inc., which binds risks through its Chaucer syndicate 1084 at Lloyd's of London, provided similar figures.

For the protection of a physical asset such as an industrial installation in a third-party country against damage or confiscation, there would be roughly \$2 billion in per occurrence capacity in the marketplace, said Mr. McLeod, though it would likely require a large syndication of many insurers to achieve such a limit.

Payment risk, which covers risk of nonpayment for an exporter or contractor working abroad, has approximately \$1.2 billion in capac-



AP PHOTO

Venezuela ranked last at No. 130 on FM Global's recent "2015 Global Resilience Index" measure of supply chain resilience.

ity today, Mr. McLeod said, again with broad syndication. For corporate counterparty risk, limits would be roughly \$700 million to \$800 million, he said.

In addition, many such policies are customized to meet specific needs.

"Political risk policies tend to be manuscripted because the exposures tend to be different for each customer," Mr. Anderson said. "As a result, in political risk you end up having quite a bit of innovation

with each transaction."

More precise figures are difficult to ascertain for the market due to the individual, disparate nature of the risks as well as the condition that most or all such policies have nondisclosure agreements, limiting available information.

In its "Report and Market Update: Credit and Political Risk Insurance January 2015," Arthur J. Gallagher & Co. found that capacity has increased 2.3% to \$2.27 billion per occurrence as of

January, up from \$2.22 billion last July.

The market for such risks is "really robust and well-capitalized," said Mr. Freely, leading to softer rates, with premium rates off up to 30% over the past five years.

"I also believe that because general property and casualty rates have been trending downward, that this seems to be an attractive alternative, niche product for the carriers to move into," he said.

After losses associated with financial crises in 2007 and 2008, the trade credit market has "not been loss-making," Mr. McLeod said.

"It has generally been profitable since the financial crises, and that's made it an appealing class of business for some insurers to come into, so capacity in the market has increased quite dramatically over the past two to three years," he said.

"It's still being seen as a very attractive marketplace, which attracts new capital and new capacity," Mr. Herrmann said.

Trade credit insurance is "a critically important financial tool," said Hank Watkins, president of Lloyd's America Inc. in New York.

"By removing the risk of nonpayment by a foreign buyer of goods or services, this insurance provides lenders with a form of collateral they wouldn't otherwise have. This, in turn, encourages lending to businesses seeking to penetrate emerging but potentially risky markets."



AP PHOTO

The offshore oil industry has renewed its efforts to tighten safety and risk management standards in the years since the Deepwater Horizon oil spill.

## ENERGY

Continued from page 3

sophisticated and are invaluable for training,” said Terry N. Gardner, Houston-based senior associate at energy consulting and training firm EKT Interactive Inc., which helps train employees of several large oil companies.

Another technology that has helped offshore energy companies manage risk is increased use of real-time monitoring and data from offshore operations, said Robert G. Bea, professor emeritus of civil and environmental engineering at University of California, Berkeley.

Indeed, BP has a monitoring center in Houston that focuses exclusively on Gulf wellbore monitoring and provides real-time data on well pressures and flow rates.

“Some companies have taken reasonably aggressive actions, such as establishing real-time data centers, much as they do for commercial aviation,” Mr. Bea said.

He said the enhanced focus on safety is vital as offshore drillers look to tap energy reserves in places such as the Chukchi Sea in the Arctic Ocean. “This is a really

### SPILL COSTS

■ According to BP P.L.C.’s 2014 annual report, the company’s pretax income charges since the 2010 Deepwater Horizon disaster total \$43.5 billion.

■ BP established the Deepwater Horizon Oil Spill Trust with \$20 billion for individual, business claims, state and local government claims; response costs; natural resource damage and related costs.

■ As of Feb. 28, BP has paid \$12.2 billion in claims to individuals and businesses and \$1.47 billion to local, state and federal governments.

different environment,” he said. “It’s like the challenge NASA faces going from operating on the moon to operating on Mars.”

Mr. Gardner, a 40-year veteran of offshore operations, said operating safely is long ingrained in the offshore industry, and the BP disaster only reinforced it.

“Historically if you look at the offshore drilling industry, the accident rate has been extremely low, and that’s because they know that the consequences are so high when you have a failure,” he said. “There has recently been a renewed recognition within the industry that if we were going to continue to do aggressive operations offshore that we would have

to tighten up on safety and risk management.”

Paul Garrot, Houston-based vice president and product line manager of energy at Ironshore Inc.’s specialty casualty business, said underwriters credit energy companies for the strides they have made in safety and risk mitigation since the accident.

“Five years out, I think that offshore is an improved risk, and I think that if there was another incident, there would be an improved response from what we saw at Macondo from BP,” Mr. Garrot said. “The insurance industry realizes that, and that’s why there is a lot of capacity for writing offshore risk.”

**HEAR INTERVIEW**

Visit *Business Insurance's* multimedia Web page to hear Wortham Insurance Chairman Richard M. Blades discuss transformation of the offshore insurance energy market in the five years since the 2010 BP oil spill with *Business Insurance* associate editor Bill Kenealy.

## POLLUTION FINE FOR BP UNCLEAR

Oil still unrecovered in the Gulf of Mexico due to the 2010 Deepwater Horizon disaster could cost BP P.L.C. up to \$13.7 billion for violating federal environmental law.

The final penalty phase of a nearly two-year civil trial in New Orleans wound down in February following closing arguments by lawyers representing BP, drilling partner Anadarko Petroleum Corp. and the U.S. Environmental Protection Agency.

While U.S. District Judge Carl J. Barbier has yet to decide what BP will pay in civil penalties for violating the Clean Water Act, he did reject a March attempt by BP’s lawyers to limit the amount.

In his order, Judge Barbier agreed with the EPA’s stance that BP could face a maximum civil penalty of \$4,300 per barrel spilled. Since the judge determined 3.2 million barrels of oil remained unrecovered in the Gulf of Mexico, the fine could reach \$13.7 billion.

A date has not been set for the penalty determination, a court spokeswoman said.

“The amount of the penalty turns in part on whether BP was grossly negligent or ordinarily negligent,” said Joseph Lavitt, a law professor at the University of California Berkeley. But beyond the BP penalty, the trial has posed larger questions, Mr. Lavitt said.

“Five years post-BP, it’s time to reflect of the inadequacies of the present system of private insurance and publicly determined liability to deal with major disasters caused by human error,” he said. “The question now is whether the legal system and insurance industry are able to address the types of risk now engendered by modern technology without stifling progress.”

By Bill Kenealy

## HIDDEN RISKS OF DEEPWATER DRILLING BROUGHT TO THE SURFACE

In the immediate aftermath of the Deepwater Horizon disaster, offshore energy operators looked to augment their coverage for blowouts and the resulting pollution through operators extra expense coverage, said Joachim Wiechers, Munich-based senior underwriter at Munich Reinsurance Co.

“The Macondo catastrophe made everyone aware of the somewhat hidden risks of deepwater drilling, especially in view of possible pollution exposures, and oil and gas companies with offshore drilling exposures re-evaluated their risks,” Mr. Wiechers said.

“Based on the experience of Macondo, clients started to ask for higher (operators extra expense) limits and the inclusion of resulting

pollution from blow outs in their liability programs,” he said.

But “during the past five years, we’ve had a tremendous recovery in capacity,” said Richard M. Blades, Houston-based chairman of Wortham Insurance “Perhaps more importantly, we haven’t had the catastrophe-related losses in the Gulf. This is putting pressure on rates and driving them down. Underwriters are offering improved terms and conditions.”

In a report issued last week, Willis Group Holdings P.L.C. said record capacity has produced the most competitive energy market in 15 years, with upstream capacity of \$6.9 billion, downstream capacity of \$5.5 billion and international onshore liability capacity at \$2.4

billion.

Regulators also altered their approach to offshore operations in the past five years.

At the time of the BP spill, a division of the Department of the Interior, the Minerals Management Service, was the primary offshore regulator. Critics said the agency was inherently flawed because it promoted industry growth while also overseeing safety.

In October 2011, the Interior Department reorganized its offshore regulatory structure and established three agencies that include the Bureau of Safety and Environmental Enforcement, which now oversees safety and environmental issues for all offshore energy activities.

By Bill Kenealy

and was a “substantial contributing factor to the injury.”

Albert B. Randall Jr., Baltimore-based principal at law firm Franklin & Prokopik P.C. and president of the National Workers’ Compensation Defense Network, said the increased risk test doesn’t come up that often, possibly because most occupational injuries clearly result from workplace hazards. He added that Maryland is among states that recognize the test.

Slips, falls and other potential injuries from unknown causes typically are compensable when there’s an increased risk present, Mr. Randall said, noting, “if you replace the stairs with a ladder, there’s no doubt” the Minnesota Supreme Court would have ruled in favor of Ms. Kainz.

In Florida, the test is “less of a consideration than perhaps in other states,” said Steve Coonrod, a partner at McConnaughay, Duffy, Coonrod, Pope, Weaver, Stern & Thomas P.A. in Tallahassee, Florida.

“If somebody falls at work or has an accident at work, it’s presumed to be work-related — unless the carrier can show it was caused by something external to work,” Mr. Coonrod said. “So if you don’t know why it happened — it was truly idiopathic — then it’s normally covered. But even if you can show it was caused by something outside of work, is there some special hazard at work that made the results particularly bad?”

Sources both in states that use the increased risks test and those that don’t shared a similar example to explain special hazards, saying a worker who slips for no reason, but hits his or her head on a filing cabinet on the way down, has suffered a compensable injury.

However, lawyers in California and New York said idiopathic injuries — those resulting from an unknown cause — are typically considered compensable in those states regardless of workplace conditions.

“With regard to idiopathic injuries which occur at the place of employment, (California) courts will find that the injury is compensable,” Demetra G. Johal, managing partner of Laughlin, Falbo, Levy & Moresi L.L.P.’s Los Angeles office in Pasadena, said in an email. Though the condition itself isn’t compensable, if an employee with epilepsy “has a seizure and falls against or strikes an object at the place of employment — including the floor — in the fall, there is sufficient causal connection for the injury to be found industrial and compensable.”

# FRATS

Continued from page 1

of a strained relationship with fraternities,” said Gary W. Langsdale, university risk officer at Pennsylvania State University in State College, Pennsylvania. “There’s always been a challenge” in determining how much administrators can or should do to regulate fraternities.

“Schools have always been concerned about these situations,” said John Schwartz, senior risk management consultant at United Educators Insurance, a Reciprocal Risk Retention Group in Bethesda, Maryland. “I think they’re as concerned as they’ve ever been.”

But fraternities, including the Indianapolis-based North American Interfraternity Conference and the National Panhellenic Conference, are pushing back. The groups are lobbying Congress for due process protections for accused perpetrators in campus investigations, including the right to legal counsel and to question witnesses. The groups also argue that colleges should suspend disciplinary proceedings while authorities investigate alleged misconduct.

Colleges have had to deal with a rising tide of federal regulation in recent years, including Title IX rules barring discrimination and sexual harassment; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which requires reporting of campus crimes; and

the Campus Sexual Violence Elimination Act, a 2013 amendment to the Clery Act mandating prevention education and setting disciplinary proceeding standards.

A bill now pending in Congress, the Campus Accountability and Safety Act, would require schools to post crime statistics on their websites, reach agreements with law enforcement agencies on handling sexual violence complaints and appoint confidential advisers to assault victims.

In one highly publicized recent case, the University of Virginia chapter of Phi Kappa Psi said it plans to sue Rolling Stone magazine over a story alleging a gang rape at the fraternity, following a police investigation that found no evidence to support the allegations.

While it appears the Greek organization may have been the victim of overzealous reporting, the fraternity system in general has come under fire for sexual assault and other misdeeds.

Sexual assaults, the most common violent offense on campus, rose to 6,016 in 2013 from 4,949 in 2012, according to the U.S. Department of Education.

Some 90% of sexual assault victims know the perpetrator, according to United Educators Insurance data released in January. While United Educators found that fraternity members are no likelier to be accused of sexual assault than other students, fraternity members and student athletes were involved more often in serial and multiple-perpetrator assaults.

“Our review of these claims sug-



AP PHOTO

Phi Kappa Psi at the University of Virginia in Charlottesville says it will sue Rolling Stone magazine over a discredited story alleging rape.

gests a subculture within some fraternities and (sports) teams that promotes hypermasculinity, sexual aggression and excessive alcohol consumption,” according to the study.

The general liability market for colleges “is not soft,” particularly for primary and lead umbrella layers up to \$25 million, said Mark Turkalo, senior vice president and national education placement leader at Marsh L.L.C. in New York. Total general liability limits for colleges can reach \$50 million to \$100 million, with pricing flat to up single digits in recent renewals, according to Marsh.

Claim severity has been an issue for underwriters, who are concerned about fraternity as well as security guard exposures and athletic injuries, Mr. Turkalo said.

Risk management sources say

incidents of fraternity misconduct may not be more frequent than in the past, but the incidents are more visible, more frequently reported and could result in more severe claims.

“Social media has made it easier for incidents of bad behavior to come to light,” Mr. Langsdale said.

“Twenty years ago, things happened on campus that you never heard about,” said Teena Hostovich, executive vice president at Lockton Cos. L.L.C. in Los Angeles. “It was more or less swept under the rug.”

In recent years, though, universities have improved federal safety law compliance and been more active in addressing fraternity exposures, experts say.

While freshman orientation often features education about alcohol abuse and sexual harass-

ment, some colleges are requiring frat members to undergo the training annually, said John McLaughlin, managing director of the higher education practice at Arthur J. Gallagher & Co. in Itasca, Illinois.

Colleges also may require fraternities to register parties and describe how they plan to manage them. The institutions need to put the “onus of risk management” on fraternities. “They need to be part of the solution,” he said.

Some fraternities are taking their own steps.

James R. Favor & Co., an Aurora, Colorado-based managing general underwriter owned by several fraternities, established the Fraternal Health & Safety Initiative that includes training on prevention of sexual and relationship misconduct, binge drinking and hazing, said Marc Mores, a Favor executive vice president.

One Favor client, Oxford, Ohio-based Phi Delta Theta, launched an alcohol-free housing policy for its chapters in 2000, he said. Phi Delta Theta’s liability claims frequency dropped and its annual total losses fell from an average \$413,000 before the policy change to an average \$25,000 since, Mr. Mores said.

The liability market for fraternities is extremely tight and coverage for chapters is limited, insurance sources agree. The Lloyd’s of London form used by Favor, for example, does not cover individual members — and in some cases local chapters — for liabilities arising from sexual misconduct, hazing, and violations of fraternity alcohol or drug policies.

# COMP

Continued from page 1

returns.”

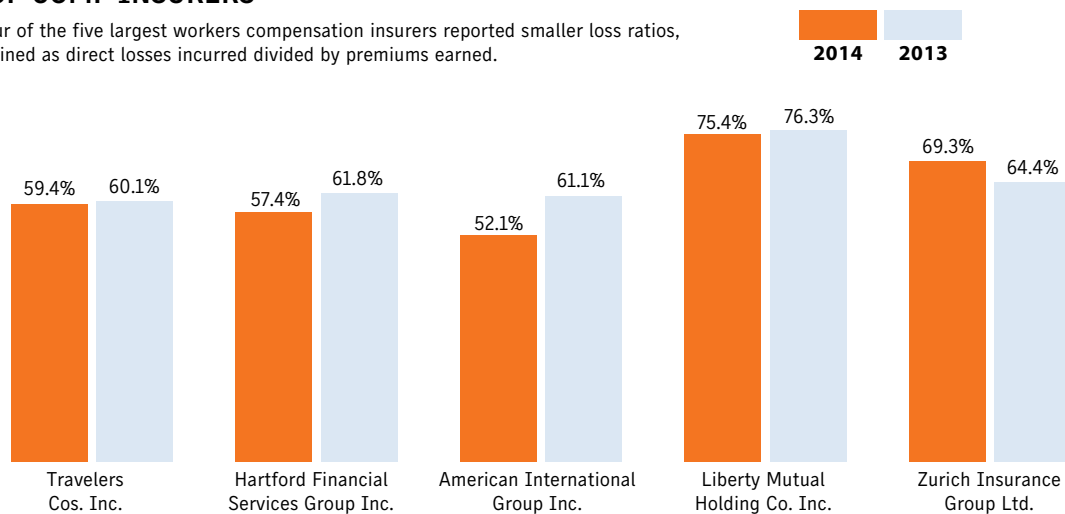
Travelers Cos. Inc., the largest workers comp insurer by premiums written, saw its loss ratio decline last year as did Hartford Financial Services Group Inc., American International Group Inc. and Liberty Mutual Holding Co. Inc., which fell to the No. 4 comp insurer after cutting back on its workers comp business. Zurich Insurance Group Ltd., the fifth-largest workers comp insurer, saw its loss ratio increase nearly 5 percentage points.

“Advances in data analytics in our underwriting, claims and risk engineering are leading to better outcomes for injured workers and our customers,” Joseph Wells, Hartford, Connecticut-based vice president of workers compensation underwriting and product operations at Hartford, said in a statement. “As a result of these advances, we have seen reductions in lost-time frequency, as well as improved return-to-work outcomes.”

While most of the largest comp insurers only saw small decreases in their loss ratios, “it does reflect stronger underwriting on their

## TOP COMP INSURERS

Four of the five largest workers compensation insurers reported smaller loss ratios, defined as direct losses incurred divided by premiums earned.



Source: National Association of Insurance Commissioners

parts,” according to the NAIC.

In the case of Liberty Mutual, cutting back on risky workers comp accounts likely also helped improve its results. “They’re getting rid of any business that’s caused them problems and retaining higher quality insureds,” the NAIC said.

Kai Pan, an insurance analyst at Morgan Stanley & Co. L.L.C. in New York, said improved losses can be attributed in part to workers comp insurers pushing for price increases during the past several years.

“Workers comp, in particular, has shown some meaningful pricing improvements, so that helped improve the underwriting margin,” Mr. Pan said.

Workers comp insurers also have benefited from using claims management strategies to help reduce the severity and frequency of comp claims, Debbie Michel, Chicago-based president of Liberty Mutual’s third-party administrator Helmsman Management Services L.L.C., said in a statement. That includes use of outcomes-based medical providers for

treating workers and efforts to control the use of narcotic prescriptions in comp claims, according to Ms. Michel’s statement.

The NAIC’s data aligns with projections from NCCI, which found comp insurer performance stabilizing following a peak in unprofitability in 2010 and 2011.

NCCI’s Mr. Burton said that has translated to lower advisory rates for employers across the nation. In the 38 states where Boca Raton, Florida-based NCCI provides ratemaking services, the agency requested 30 workers comp rate

decreases for the 2014-15 policy year and only six rate increases.

“The filings speak to the balanced environment we have in workers comp today,” Mr. Burton said.

Meanwhile, loss ratios for the top 25 workers comp insurers as a whole remained relatively flat at about 60.8% in 2014, up from 60.1% in 2013, according to NAIC data. Smaller insurers were most likely to see an uptick in their loss ratio.

Though it’s unclear why some insurers’ loss ratios increased last year, it could be that claim exposures caused by a growing labor force in recent years have contributed, Mr. Dwelle said.

“There’s usually a little bit of uptick in loss exposure associated with an improving jobs market,” Mr. Dwelle said. “Sometimes, that shows itself first in smaller-account business, then in the large business.”

Additionally, larger workers comp insurers may have more resources to invest in predictive modeling and other underwriting tools to help stave off losses that smaller insurers could not avoid, Mr. Pan said.

“You would imagine ... a large company would have better resources to use, so they’re probably better off than some of their smaller peers,” Mr. Pan said.

# CYBER

Continued from page 3

part is not the silver bullet is that you have that whole process of attribution. You have to go through a process to establish who did it. That's no small matter. It takes highly technical and intellectual resources to deal with that problem."

Mr. Rogers said last week's revelation that a White House computer system was breached by Russia implicates just one of several foreign governments that have infiltrated U.S. systems.

"I think this is just a public face of what everybody in cyber space already knows — that there's a cyber war going on, and most Americans don't recognize it," Mr. Rogers said.

The executive order authorizes the treasury secretary, in consultation with the secretary of state

and the attorney general, to impose sanctions on individuals or entities overseas that engage in malicious cyber-enabled activities posing a "significant threat to the national security, foreign policy or economic health or financial stability of the United States," according to a White House fact sheet.

This includes compromising provision of services by entities in a "critical infrastructure sector;" significantly disrupting the availability of a computer or computer network; and "causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers or financial information for commercial or competitive advantage or private financial gain."

People or entities that "knowingly receive or use" or assist in such cyber thefts also would be subject to sanctions.



Mr. Rogers

"The most important part of it is the president is coming out and stating there is a national emergency," said Raymond O. Aghaian, a partner in the Los Angeles office of McKenna Long & Aldridge L.L.P. and co-chair of the law firm's cyber security practice.

While cyber attacks involving individuals' information such as Target Corp. have been made public, "what we don't hear as much about is the attacks on a daily basis where intellectual property and trade secrets are stolen," he said.

Although "we don't know yet" how effective the new power will be, it is promising "because it raises the prospect for the first time that we can take our much-improved attribution capabilities and use them to punish people who are breaking the rules," said Stewart A. Baker, partner in the

Washington office of Steptoe & Johnson L.L.P. and a former Department of Homeland Security official.

Basically, he said, this "is a framework for adjudicating in a classified environment who has been breaking into U.S. companies with a view to causing damage or stealing secrets."

The executive order could deter would-be hackers whose personal assets and travel could be threatened, said Alan Charles Raul, a partner in the Washington office of Sidley Austin L.L.P. and leader of the firm's privacy, data security and information law practice.

"It could be a factor if it's vigorously enforced," he said.

If a particular actor is sanctioned, all U.S. entities would be prohibited from doing business with it — even if it changes its name, Mr. Aghaian said.

If state-sponsored activities were part of the prohibited conduct, sanctions could be imposed on for-

eign governments, Mr. Raul said.

He suggested developing a trade strategy to look at products imported into the United States that have been developed using purloined research and development and then enforce sanctions against the imports.

An insurance group hailed the move but also raised concern.

"We are glad to see the administration continuing to take the nation's cyber security seriously, and we hope that the latest executive order will act as the deterrent it is intended to be," said Jonathan Bergner, federal affairs director in the Washington office of the National Association of Mutual Insurance Cos.

"Unfortunately, the very real problem of attribution — clearly identifying the perpetrator of an attack — remains incredibly difficult," Mr. Bergner said. "Slapping foreign-based hackers with sanctions is useful, but we need to know who to slap."

# FIT

Continued from page 1

ent company, Deutsche Lufthansa A.G.

Being fit for duty means workers can perform their job functions with or without employer accommodations and without putting themselves or others at risk, experts say.

"As we saw with the (Germanwings) airline pilot incident, doctors don't have an affirmative obligation to notify an employer (if a worker isn't fit for duty), and employees may have a strong incentive not to disclose what they're experiencing because they fear they'll lose their job," said Kristin Anger, a partner at Summit Law Group P.L.L.C. in Seattle. "You might not know there was even an issue until it's too late."

Employers with workers in safety-sensitive positions, such as commercial drivers and heavy-equipment operators, "have greater latitude in making medical inquiries" because these workers can "cause great harm to themselves or others if they can't do their job safely," Ms. Anger said.

It's a worker's responsibility to work safely, but it's the employer's responsibility to make sure the worker is fit for duty, said Woody Hill, Austin, Texas-based vice president of safety services at workers compensation insurer Texas Mutual Insurance Co.

Employers have to "walk a legal tightrope," balancing the potential liability of workers causing harm, with violating workers' rights under federal laws such as the Americans with Disabilities Act and the Family and Medical Leave Act, Ms. Anger said.

One way to minimize disability and liability litigation is to have a written, consistently applied fitness-for-duty policy that allows the employer to order a physical



AP PHOTO

A search crew worked April 3 at the crash site of a Germanwings flight that is believed to have been deliberately crashed last month in the French Alps by its troubled co-pilot.

and/or mental health evaluation of a worker if need be, experts say.

For police officers, firefighters and other first responders, fitness-for-duty evaluations typically are considered a condition of the job, said Theodore Quisenberry, manager of Oakland County's homeland security division in Pontiac, Michigan.

Since police officers have the ability to "restrict peoples' freedom, take them into custody, tell people to do things they may not want to do, ... we need to make sure the people who are making these decisions out there are capable," he said. Even so, "we can't just arbitrarily pick someone and say, 'We're going to send you off to the shrink.'"

Employers might think they don't have a right to be very specific in their policies, but high workplace hazards call for more specific language, Mr. Hill said, noting that oil and gas employers often require that workers must

get at least eight hours of sleep.

If an employee comes to work crying, trembling or having coordination problems, there might be "a reluctance to address it immediately, and I think that's where we're remiss," Mr. Hill said.

Ms. Anger recommends stating clearly in writing that when an employer is concerned about an employee's fitness for duty, the employer can require an evaluation.

"If we get a medical report back saying that somebody is not fit for duty, they're not put out there," Mr. Quisenberry said.

Due to patient privacy rights, employers don't have access to worker's diagnosis or treatment plan, said Dr. Fred Kohanna, Woburn, Massachusetts-based corporate medical director of occupational health services firm AllOne Health Group Inc. They're told only whether a worker is fit for duty and, if not, whether the problem is cor-

rectable, he said.

However, many employers are more interested in pre-employment screenings than fitness-for-duty evaluations, said Trish Ennis, Denver-based president of the American Society of Safety Engineers and senior risk control consultant at Willis North America Inc.

"A lot of companies keep their hiring practices separate from their safety departments, but there needs to be a collaboration between risk management, (human resources) and safety," she said.

Experts say most workers in safety-sensitive jobs comply with recommended treatment because they're not cleared to return to work until they do.

"A Department of Transportation driver who says, 'I don't want to get a stress test' — either because he doesn't want to do it or he doesn't want to pay for it — wouldn't get his (Department of

Transportation) medical card" and would not be allowed to continue working, Dr. Kohanna said.

Like pre-employment physical and psychological screenings, there is an expense associated with fitness-for-duty evaluations, which can run from about \$75 to \$180 depending on the medical provider and fee schedule, among other factors, Ms. Ennis said.

Such evaluations can help employers save money and lives in the long run, Dr. Kohanna said.

But not all employers can afford such testing.

As a small employer with about 80 employees, "it's not financially feasible to give everyone a fitness-for-duty exam," said Jeremy Bethancourt, director of safety, health and training at Scottsdale, Arizona-based LeBlanc Building Co. Inc., a general contractor that specializes in wood frame construction.

Instead, Mr. Bethancourt said he and his supervisors take advantage of the company's small size by developing relationships with workers, approaching them discreetly if they are uncharacteristically irritable or suddenly start making errors. Because workers know they won't be reprimanded for disclosing physical or psychological conditions, they occasionally come forward on their own.

From there, Mr. Bethancourt said they decide together if taking a couple of days off or a leave of absence is necessary.

All employers can benefit from creating a culture where workers want to be forthcoming and get treatment, but workers will be less likely to disclose problems if they think that sharing the information will result in termination, Ms. Anger said.

It helps to educate workers "that they may have an entitlement to leave under FMLA or state law for a health-related condition," and that they may seek help through the company's employee assistance program, she said.



AP PHOTO

Apple may have to delay its Watch rollout in Switzerland.

## Apple Watch launch shows poor timing

**A** 30-year-old trademark may sour Apple Inc.'s plan to sell its smart watches in Switzerland.

According to published reports, the Cupertino, California-based computer giant may have to delay its Apple Watch rollout in Switzerland, after news of the trademark came to light. A company called Leonard Timepieces filed a trademark for watches and watch parts bearing an apple insignia in 1985.

While the 30-year trademark is set to expire on Dec. 5, 2015, Apple plans to launch its newest bauble worldwide on April 24.

Unless the fruit tech giant manages to strike a deal with Leonard Timepieces, those who desire Apple Watch wrist candy in Switzerland may need to travel to nearby Italy or Germany to snag what Apple boasts as its most personal device yet.

## OMG: Jobseekers fail using txt shorthand

**D** YJHIW people use text shorthand when applying for a job? If you didn't know, that's short for "don't you just hate it when," and one insurer said recently that many jobseekers are failing at the first stage of the recruitment process because of their use of text shorthand.

Cardiff, Wales-based auto insurer Admiral — a trading name for EUI Ltd. — recently gave evidence to the Welsh Assembly's Enterprise and



Business Committee that many job hunters are failing at the stage of filling out application forms because of their use of text message-style abbreviations. And a spokesperson for the company told the Daily Mail that while the

company does not ask for formal qualifications, it does expect a certain standard of spelling and grammar on application forms.

One of the largest U.K. auto insurers, the company has received forms containing phrases such as "U r a gr8 company 2 work 4" and "btw am out of work atm," according to the Daily Mail.

While there is work to be done in helping jobseekers to better present themselves in applications, they may be left saying OMG and TTYL to employers who certainly are not LOL at those using text shorthand.

## DUSTUP OVER ASHES OF METAL SINGER REMAINS UNSETTLED



AP PHOTO

The father of deceased Gwar lead singer Dave Brockie, above, has accused the band's members of illegally holding onto Mr. Brockie's ashes.

**A** metal band is being sued for allegedly stealing its frontman's ashes. But, hey, it's only rock 'n' roll. The father of deceased Gwar lead singer Dave Brockie, who died in March 2014 of a heroin overdose, has accused the band's members of illegally holding onto his ashes, along with his musical instruments and artwork, according to news reports.

The lawsuit seeks \$1 million in compensatory damages plus punitive damages, as well as the return of Mr. Brockie's remains, for alleged breach of contract and the unauthorized use of Mr. Brockie's image, according to reports.

The suit charges the band with trying to "capitalize on the death of Dave Brockie," according to reports, and alleges that band manager Jack Flanagan signed false documents allowing Gwar to use Brockie's name and image for merchandising. The elder Brockie also said the band withheld his son's earnings from his last tour, media outlets reported.

Gwar, however, says Mr. Brockie was paid upfront, and that the personal items listed in the lawsuit have been available to attorneys for weeks, according to reports. They further stated that after 30 years of working with Mr. Brockie, several of them overheard his wishes to have his ashes remain with the band to "keep an eye on Gwar."

"We did not steal Dave Brockie's ashes, or anything else that belonged to him," the band said in a statement. "At all times, and under very trying circumstances, we have acted in good faith to honor the wishes of our dear friend. Dave left no will or instructions for final arrangements, and so we have done the best we could to honor what we believe (he) would have wanted."

*Business Insurance* isn't all business all the time, and we know you're not either. So visit [www.businessinsurance.com](http://www.businessinsurance.com) for more Off Beat stories and monthly photo galleries featuring the best of the weirdest news about insurance, fraud, liability issues and related topics that make people and companies do funny, silly and strange things.

## Who owns giant emerald?

**A** Los Angeles judge is trying to officially determine who owns a 180,000-carat, 840-pound emerald in a case that has all the trappings of an Indiana Jones movie.

According to news reports, the popular rock known as the Bahia Emerald was mined in Brazil in 2001 and was first sold for \$5,000. It was sold thereafter for \$20,000. At one time it was



reportedly valued as high as \$372 million after it was delivered via Brink's truck and stored in an East Los Angeles vault insured by Lloyd's of London.

But its lineage is murky, with reports that it has been in and out of the hands of assorted rock hunters and investors, even allegedly having spent several weeks submerged near New Orleans' French Quarter after Hurricane Katrina.

After an investor reported it missing in 2009, the Los Angeles County Sheriff's Department tracked it to Las Vegas, where they confiscated it, according to the Los Angeles Times. The gem has been stored as evidence in Los Angeles while the ownership dispute has simmered. Even Brazil got into the act in September, claiming the gem should be returned to its country of origin because it had been illegally mined and exported, the Times said. But Los Angeles Superior Court Judge Michael Johnson said Brazil lacked sufficient evidence to warrant halting the case, and he has allowed it to proceed.

However it plays out, the verdict will be priceless.



AP PHOTO

Grieving fans wipe away their tears next to wax replica of Zayn Malik.

## One D fans seek compassion

**W** e all wept into our morning coffee when we heard Zayn Malik confirm that he has quit One Direction.

But some heartbroken fans have asked their employers for "compassionate leave" to allow them to come to terms with his departure. Manchester, England-based law firm Peninsula Business Services Ltd. told the Daily Telegraph it had been inundated with calls from employers seeking advice after employees had asked for time off.

Peninsula director Alan Price took a tough stance: "I would advise any employer who receives a compassionate leave request to refuse it — unless the employee concerned is directly related to Zayn," he said. "Enforce that the employee takes it as holiday leave."

## Q:

Why is it essential for benefit managers and senior executives to have the most in-depth reporting, analysis and news intelligence regarding their employees' health care?

## A:

*Employers today face increasing pressure to develop new benefit strategies designed to both reduce medical costs and improve their employees' health and well-being, all while adjusting to a shifting regulatory landscape.*

*As reporters, we know how much is riding on employers' health benefit decisions, and how important it is that those decisions are informed by timely, objective coverage of the complex regulations and evolving market conditions shaping the health benefits industry.*

**MATT DUNNING**

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