

BROKER BUYOUT

Arthur J. Gallagher & Co.'s proposed acquisition of Wesfarmers Ltd.'s insurance brokerage operations will be the biggest for the world's fourth-largest brokerage.

Price: **\$936.3** million

Revenue: **\$306.9** million*

*Approximate

MERGERS & ACQUISITIONS

Gallagher's global push accelerates

BY MARK A. HOFMANN

Arthur J. Gallagher & Co.'s proposed buyout of Australian conglomerate Wesfarmers Ltd.'s insurance brokerage operations would instantly give Gallagher a giant footprint in Australia and position the large U.S. broker for growth in Asia, according to industry analysts.

The nearly \$940 million acquisition will be the biggest deal in Gallagher's history.

Itasca, Ill.-based Gallagher already has offices in Australia and entered the New Zealand market earlier this month, with its purchase of Mike Henry Insurance Brokers Ltd. for an undisclosed sum. But Gallagher so far has only one office in Asia, located in Singapore.

Under the proposed deal, which Gallagher announced last week, Gallagher will pay 1.01 billion Australian dollars — about \$936.3 million — for the Sydney-based brokerage operations of Perth, Australia-based Wesfarmers, a conglomerate that includes supermar-

See **GALLAGHER** page 41

RISK MANAGEMENT

UNDERWRITERS CHILLED BY UKRAINE CRISIS

Insurers back off political, trade credit risks



AP PHOTO

A protester is arrested by Ukrainian police after clashes last month in Simferopol, Crimea.

BY JUDY GREENWALD AND SARAH VEYSEY

The crisis in the Republic of Crimea has caused insurance underwriters to virtually stop writing political and trade credit risks in Ukraine, but they are still cautiously writing the coverages in Russia.

Last month, in response to the Russian annexation of Ukraine's Crimean region, the United States and the European Union imposed sanctions against certain interests in Russia and

See **CRIMEA** page 39

FOREIGN DIRECT INVESTMENTS

Global investment in 2011* is an indicator of what's at stake in Russia and Ukraine.

Russian Federation: **\$52.88 billion**

Ukraine: **\$7.21 billion**

*Most recent data available
Source: World Bank Group's Multilateral Investment Guarantee Agency



LEGISLATION

Senate TRIA bill sets stage for renewal debate

Insurers balk at higher copays, deductibles

BY MARK A. HOFMANN

The prospects for the federal terrorism insurance backstop sharply improved last week with the introduction of an extension measure in the U.S. Senate. But insurer groups, while welcoming the development, cautioned that proposed program modifications were too radical.

In particular, increases in the losses insurers would have to shoulder in the event of a catastrophic terrorist attack drew criticism.

The measure was introduced late last week by Sen. Charles Schumer, D-N.Y., and cosponsored by a bipartisan group of members of the Senate Banking, Housing and Urban Affairs Committee.

The bill would reauthorize the backstop, slated to expire on Dec. 31, for seven years. It is the first extension bill introduced in the Senate, although three measures that would extend the program, created by the Terrorism Risk Insurance Act of 2002, already have been introduced in the House.

In addition to the seven-year extension, the Senate bill calls for two major changes to the program. The bill landed in the Senate just ahead of next week's one-year anniversary of the Boston Marathon bombing, an event that

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Q&A: STEVE MCGILL

Group president of Aon P.L.C. discusses the outlook for the insurance market

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Converging trends can aid benefits managers looking to control rising health care costs

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RIMS 2014 PREVIEW

An advance look at this year's conference in Denver, including local sights and restaurants

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SOCIAL MEDIA RISKS CRISIS MANAGEMENT CONCERNS GO VIRAL

Training workers on social media; social media the latest malware vector; pitfalls of using damaging information found online; NLRB keeps eye on employers.

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paraner.

IN LOCKSTEP WITH
ENERGY COMPANIES
LONG TERM

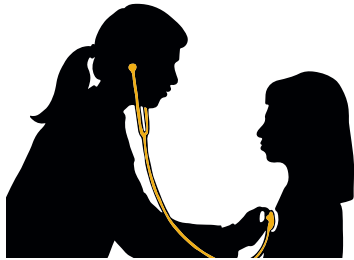


Berkshire Hathaway
Specialty Insurance

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Matthew J. Howard, the senior tax partner at Moore Ingram Johnson & Steele L.L.P. **33**

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The Walt Disney Co. is looking into a trademark registration filed by Joel Zimmerman, known to EDM faithful as Deadmau5. **42**

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NEWS

MARINE

LARGER SHIPS, BIGGER RISKS IN EXPANDED PANAMA CANAL

Marine insurers prepare to cover huge cargo shipments

BY SARAH VEYSEY AND BILL KENEALY

The ongoing multibillion-dollar expansion of the Panama Canal carries a host of risks for the marine insurance industry as larger and higher valued ships will travel the 50-mile waterway with much bigger loads.

The at least \$5.2 billion widening project, slated for completion in 2015, also will force coastal ports in the United States to install different equipment to accommodate and unload the larger ships.

In addition, marine market sources worry the canal expansion could bring an increase in pollution and security risks.

This hallmark maritime project, which has been underway since 2007, came to a standstill early this year because of project cost overruns and financial difficulties of the European building consortium, Grupos Unidos por el Canal.

To avoid a lengthy work stoppage, in February Zurich North America agreed to provide a construction surety bond, which sources said is worth at least \$400 million, to enable the canal expansion to resume.

“Zurich worked diligently with



COURTESY OF MUNICH RE

The Panama Canal expansion came to a standstill early this year because of project cost overruns. The problem was resolved via a surety bond.

the ACP (Autoridad del Canal de Panama) and GUPC (Grupos Unidos por el Canal) to reach an agreement on the matter and, fortunately, the two sides have had a successful negotiation,” Michael Bond, head of surety at Zurich North America, said in a statement.

The Panama Canal Authority’s insurance program is led by Munich Reinsurance Co. acting as the primary insurer, and Zurich

Insurance Group Ltd. Willis Group Holdings P.L.C. is the broker.

In addition to the co-lead insurers, elements of the coverage are placed with international and domestic markets, sources said.

As a co-lead underwriter, Munich Re has to ensure robust risk management procedures are in place during the canal expansion project and that experiences

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WORKERS COMPENSATION

New drug release adds to opioid concerns

BY SHEENA HARRISON

A powerful opioid painkiller recently released to the market is raising concerns among workers compensation experts as the insurance industry continues to struggle with opioid addiction and abuse among injured workers.

The narcotic makeup of the new drug, hydrocodone bitartrate extended-release capsules under the brand Zohydro ER, could lead to a higher incidence of opioid addiction, some experts

fear, though the drug’s manufacturer argues that it is no more potent than other opioids on the market.

The release of Zohydro ER comes as workers comp expert debate how to prevent opioid dependence and overdoses among patients receiving narcotic prescriptions long after the immediate aftermath of a severe injury or surgery. A recent release of a separate drug to treat opioid overdoses is seen a useful tool in



See OPIOIDS page 38

CORRECTIONS

■ A story in the March 31 edition, “Outlook for Tort Reform Remains Hazy,” incorrectly attributed a quote beginning “the push for arbitration and other forms of alternative dispute resolution that are compulsory likewise shut down the courthouse door.” The correct attribution is Andrew Popper, a professor at American University. Due to an editing error, it was incorrectly attributed to tort reform advocate Victor Schwartz.

■ Another story in the March 31 edition “TRIA’s Uncertain Future Sparks Workers Comp Coverage Denial and Price Hikes,” misstated an assertion attributed to Christine Williams of Marsh L.L.C. Ms. Williams did not say pricing doesn’t vary between voluntary workers compensation markets and workers comp assigned risk pools.

BENEFITS MANAGEMENT

FSA’s falling out of favor as rules evolve

IRS allows new options for annual carryovers

BY JERRY GEISEL

Internal Revenue Service guidance resolves how to integrate health savings accounts with carry-over flexible spending accounts, but employer interest in carry-over FSAs appears limited.

The guidance, while welcomed by experts, comes as the future of FSAs in general is cloudy due to the health care reform law.

Unlike grace-period FSAs that allow employees to roll over up to \$2,500 from a prior health plan year but require that it be used within the first 2½ months of the next plan year or be forfeited, carry-over FSAs allow only \$500 to be moved over from one plan year to the next but have no deadline on when the money must be used.

Under long-standing IRS rules, HSA contributions are not allowed when employees are enrolled in so-called general-purpose FSAs, which can be used for nearly all health care-related expenses. But HSA contributions are allowed for employees enrolled in limited-purpose FSAs to pay only dental, vision and preventive care expenses.

Under the recent guidance, the IRS said employees can carry over \$500 from their general-purpose FSA and keep their ability to contribute to an HSA. It provided three ways that can happen:

■ An employee with a general-purpose FSA can carry over unused balances to the next plan year to a limited-purpose FSA.

■ Employers can design general-purpose FSAs so unused balances automatically carry over to a limited-purpose FSA the next year.

■ And employers can allow employees to decline or waive a carry-over from their general-purpose FSA, allowing employees to contribute to an HSA the next year.

“This is very useful guidance,” said Janet LeTourneau, director of compliance services at FSA and HSA administrator WageWorks Inc. in San Mateo, Calif.

“The guidance is about as clear as it gets,” said A. Scott Sims, a senior vice president with Aon Hewitt in Washington.

The guidance comes as some employers have switched from

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4/14/14

ONLINE
FEATURES

CYBER RISK SUMMIT

Register now for for May 22
Cyber Risk SummitRegistration is now open for
Business Insurance's 2014 Cyber
Risk Summit in Washington.
[www.BusinessInsurance.com/
CyberRiskSummit](http://www.BusinessInsurance.com/CyberRiskSummit)

VIDEO



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[www.BusinessInsurance.com/
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DIRECTORY

Third-party administrators

The 2014 edition of
the Directory of
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Administrators
includes a special
report of claims
management trends and a
comprehensive list of TPAs.
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NEWS

EMPLOYMENT PRACTICES

STUDENT-ATHLETE UNION CASE
CHANGES THE RULES OF THE GAME

Schools need to review employment practices policies

BY MATT DUNNING

Northwestern University's expo-
sure to employment practices lia-
bility could broaden significantly
even as it battles with the Nation-
al Labor Relations Board over
whether scholarship student-ath-
letes qualify as employees.Last week, Northwestern asked
the full NLRB to overturn a regional
ruling that the school's football
players who receive scholarships
are employees under the National
Labor Relations Act in their efforts
to form a union.Allowing football student ath-
letes to unionize "would have a
chaotic impact" on the sport and
the respective universities' admin-
istration of the sport" due to the
"patchwork" of federal and state
labor laws that govern Division I
football universities, Northwest-
ern said in its appeal.Among the 126 schools Division
1 competing with Northwestern in
the NCAA's Football Bowl Subdi-
vision, only 17 are private univer-
sities and therefore within the
NLRB's jurisdiction.The remaining universities are
publicly funded, and governed by
state labor laws, Northwestern
noted in its appeal.Meanwhile, the athletes are to
vote April 25 on forming a union,
according to a Labor Relations

AP PHOTO

Northwestern quarterback Kain Colter last year wore APU for "All Players
United" on his wrist. A regional NLRB ruling opens the door for a union.

Board spokesperson.

As long as NLRB regional direc-
tor Peter Sung Ohr's March 26 rul-
ing stands, experts say the univer-
sity could be subject to additional
liability under the federal labor
relations law, particularly over its
enforcement of heavily restric-
tive student-athlete agreements.In light of recent NLRB rulings
regarding employees' protected
activities, "the problem that North-
western and a lot of other colleges
are going to run into is that their
rules on student-athletes' social
media use and other communica-
tions would almost certainly beviewed as far too overbroad, in
terms of what the athletes are
restricted from doing," said
Bradley S. Shear, Bethesda, Md.-
based managing partner at Law
Office of Bradley S. Shear L.L.C.In addition, experts said scholar-
ship student-athletes at North-
western and other universities
could use the regional ruling as the
basis of civil lawsuits seeking
employment rights and protec-
tions under other federal and state
labor laws, including those dealing
with workplace bias, safety, leavesSee **NORTHWESTERN** page 38

INTERNATIONAL

London market
looks to grow
as times change

BY SARAH VEYSEY

The London market must
change, its leaders say, to ensure
it remains competitive and rele-
vant to insurance and reinsurance
buyers at a time when capacity is
readily available from new
sources, such as pension funds.But the market's syndicate struc-
ture and ability to innovate mean
it should continue playing an
important role amid the increased
competition for premiums and cer-
tain types of business, say London
market observers.The London Market Group coordi-
nates the vision for the way
insurance is handled between
members of the International
Underwriting Association, which
represents London market under-
writers; the London & Internation-
al Insurance Brokers' Association;
and the Lloyd's Market Associa-
tion, which represents managing
agents at Lloyd's of London. Group
members said it is refocusing its
efforts to set, maintain and pro-
mote "the common vision of Lon-
don as the market of choice for
global insurance."Steve Hearn, the new chair of the
London Market Group and deputy
CEO of Willis Group Holdings
P.L.C., said that while the London
market can "provide solutions to
clients' problems in a way that no
other market — and no other capi-
tal market — can," it also is losing
ground to other insurance centers.In presenting his vision last
month for the London Market
Group, Mr. Hearn said while buy-
ers may be "agnostic" about where
the capacity that underwrites their
risk originates, and while brokers
and underwriters can do business
outside of London, the market
retains unique characteristics.If it did not already exist, Mr.
Hearn said, "it would have to
invent itself" in order to handle the
complex risks underwritten on a
subscription basis.Dave Matcham, CEO of the IUA,
said the London market should not
be complacent.While some are concerned that
smaller niche insurers and reinsur-
ers are being "squeezed off" by
certain programs, this may actual-
ly be an opportunity for the mar-
ket to "get better at what we do"
rather than a threat, said Lloyd's
finance director Luke Savage.

The comments came in part due

See **LONDON** page 37

BI appoints new advertising sales director

Business Insurance has hired Peter
Oxner as advertising sales director.In that position, he leads the mag-
azine's domestic and international
sales and marketing efforts across
all print and digital platforms and for
industry events and demand gener-
ation services.Mr. Oxner most recently worked in
Chicago with mGage L.L.C. as sales
director responsible for mobile mar-
keting solutions for North America
(except northeastern U.S.) and
Canada.Previously, he had been group director in charge
of sales in North America for the London-based
Financial Times, responsible for all advertising
platforms and sponsored content for print and digi-
tal editions.

Before that, he worked in a variety of national



Mr. Oxner

and regional sales management
positions for publishing companies,
including McGraw-Hill Cos., Imagine
Media/Future Publishing, Interna-
tional Data Group Inc., Computer-
world/Enterprise Business Solutions
Group, Ziff Davis Communications
Inc. and CMP Media Inc.Mr. Oxner holds a bachelor's
degree in advertising from San Jose
State University in San Jose, Calif.
He also took continuing education
courses in accounting at Northwest-

ern University in Chicago.

He replaces Susan Stilwill, who left in February
to become vice president of sales and marketing at
Farm Fresh Xpress in the Chicago area.Mr. Oxner is based in Chicago. He can be reached
at poxner@businessinsurance.com and 312-649-
5224.

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NURSE PRACTITIONERS TAKE ON HIGHER RISK PROFILE

Role as primary care providers increases med mal exposures

BY JOANNE WOJCIK

As nurse practitioners assume greater responsibility for providing primary care, they also are becoming more vulnerable to medical malpractice exposures.

The nationwide shortage of primary care physicians, coupled with changes in medical payment strategies spurred by federal health care reform, also is expected to hold nurse practitioners — who have the authority to diagnose, treat and prescribe medications — even more accountable for patient care.

Nurse practitioners' exposure to medical malpractice claims are following the same evolutionary path as that of primary care doctors, according to Carol Burkhart, a Chicago-based senior vice president with Oliver Wyman Clinical Solutions, a unit of Marsh & McLennan Cos. Inc.

"What nurse practitioners see in claims is what primary care physicians saw a decade and a half ago," she said. "They were hardly ever sued, but as primary care doctors started to treat more extensively and refer less to specialists, you started to see more diagnostic and medication error claims."

A five-year closed claims analysis conducted by Chicago-based CNA Insurance Co. on claims against nurse practitioners bears this out, with the most frequent allegations made against nurse practitioners involving failure to diagnose and delay in making a correct diagnosis, failure to pro-

vide proper treatment and care, and medication prescribing errors. The study also found the average paid indemnity has increased by 19% to \$221,852 in 2011 from \$186,282 in 2007.

"What we're seeing now is that nurses ... are no longer tertiary care providers. They are now primary care providers, subject to the same exposures as primary care physicians," said Michael Scott, assistant vice president for health care programs at CNA in Chicago.

Some professional liability insurance underwriters say if the trend continues, nurse practitioners could face higher professional liability insurance rates (see related story).

However, the potential for large medical malpractice claims against nurse practitioners could be mitigated by tight adherence to clinic guidelines.

"Nurse practitioners are very data- and evidence-driven," said Tay Kopanos, director of health policy/state government affairs at the Austin, Texas-based American Academy of Nurse Practitioners. "We know the more data and information that we have can make care better."

In fact, she said adhering to clinical protocols has helped to keep the frequency of medical malpractice claims down among nurse practitioners. According to the association, only 2% of nurse practitioners have been named as primary defendants in medical mal-

RISK CONTROL RECOMMENDATIONS

Utilize objective, evidence-based clinical guidelines and standards of care to timely and accurately determine diagnosis.

Discuss the patient's condition, medications and care plan with a collaborating/supervising physician, as required.

Understand and maintain the scope of care that applies to the relevant setting, referring unstable and acutely ill patients to emergency services.

Order, obtain and review the results of appropriate diagnostic testing before determining diagnosis.

Thoroughly **document** all patient-related discussions, consultations, clinical information and actions taken.

Maintain clear and constant communication with patients and their families.

practice suits.

While nurse practitioners are sometimes covered by their employers' medical professional liability coverage, most buy their own insurance for several reasons, foremost of which is that med mal policies often require that nurse practitioners be scheduled, so they are not covered unless they are named in their employer's policy.

Since most malpractice cover is written on a claims-made basis, covering only those claims filed during the policy period, that prompts many nurse practitioners to buy their own occurrence-based coverage.

"Medical malpractice is a pretty

long-tailed liability exposure. It could be years before all the claims work through," said Mark Brostowitz, a Chicago-based principal at Mercer Consumer, a unit of Mercer Health & Benefits Administration L.L.C. that administers Proliability, a program available to members of the nurse practitioner association that is underwritten by Liberty Mutual Underwriters, a unit of Liberty Mutual Holding Co. Inc. "There have been situations where the employer has gone out of business and didn't purchase extended reporting period coverage, leaving the nurse practitioners uncovered. We had one claim last year where we had a couple of clients working for a community-based health care system that did not have coverage," Mr. Brostowitz said.

In other cases, the limits of coverage available may not be adequate to extend to all of the practicing physicians as well as the nurse practitioners, said Bruce C. Whitmore, senior resource consultant in Willis North America Inc.'s national health care practice in Chicago.

"You could have a situation where the physician with \$1 million per occurrence, \$3 million aggregate has three claims in a year, leaving no coverage for the nurse practitioners," Mr. Whitmore said. "Also, nurse practitioners may want their own legal representation," which is available only if they purchase their own insurance, he said.

LITIGATION MAY LEAD TO HIGHER COSTS

Insurance industry observers say the trend of increasing payments to indemnify nurse practitioners when they are sued could lead to higher professional liability insurance rates.

"Right now, the market for nurse practitioner professional liability coverage is competitive," said Ron Calhoun, managing director in Aon Risk Solutions' health care practice in Charlotte, N.C. "The markets that play in this space have not seen enough catastrophic outcomes to change."

Nurse practitioners pay an average of \$2,000 annually for \$1 million per occurrence and \$3 million aggregate in professional liability coverage, depending on their state and prior claims experience, sources said.

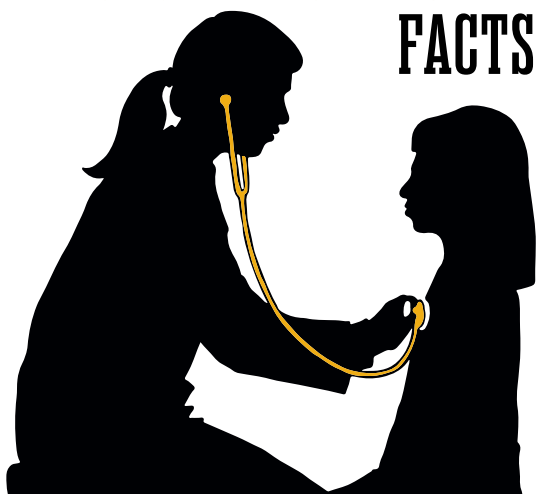
But as more nurse practitioners take on greater primary care roles, "underwriters are going to start deploying more aggressive underwriting criteria because these nurse practitioners are practicing at much higher levels than they have historically," Mr. Calhoun said.

Bill McDonough, a Boston-based managing principal in Integro Insurance Brokers Ltd.'s health care practice, said the health care captive insurers with which he works "have already broached this subject. Many are re-underwriting nurse practitioners, particularly those who are working independently and in high-risk specialties."

One unidentified "captive in the Northeast is exploring a 50% surcharge for nurse practitioners who are currently paying \$2,750 per year, and another captive is exploring the need to fund the captive at a rate closer to the family practitioner rate, at nearly \$13,000 a year, given the extent of care and risk that their nurse practitioners now face," Mr. McDonough said.

By Joanne Wojcik

NURSE PRACTITIONER FACTS



171,000 nurse practitioners were in **U.S. practice** in 2013 vs. 60,000 in 1999.

89% of nurse practitioners are trained in **primary care**, and 75% work in primary care settings.

Nurse practitioners can operate independently of physicians in **18 states** and the District of Columbia, while seven states require physician oversight only of prescribing medications.

Nurse practitioners write an average of **19 prescriptions** per day.

95.1% have **graduate degrees**, receiving six years or more of academic and clinical preparation.

Nurse practitioners had more than **900 million patient visits** in 2012, averaging three or more patients per hour.

Only **2%** of nurse practitioners were named as **primary defendants** in a medical malpractice case, a rate that has held steady for more than 10 years.

Source: American Association of Nurse Practitioners

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EMPLOYERS USE MULTI-PRONGED STRATEGY TO CUT HEALTH CARE COSTS

Switch to high-deductible plans and move coverage to private exchanges

BY BILL KENEALY

Benefit managers who are looking to control rising health care costs have converging trends that can aid them in that effort.

Adopting high-deductible health plans, revising plan designs and moving coverage to private health care exchanges are among ways companies and organizations are trying to contain their costs. Adopting a comprehensive benefits strategy, analyzing claims data and instituting reference-based pricing also aid those cost-containment efforts, experts say.

Ed Kaplan, New York-based senior vice president and national health practice leader at consultant The Segal Group Inc., said a combination approach is needed because the drivers of health care costs can vary from year to year.

“The most effective clients we have are the ones that take an ‘all of the above’ approach to containing costs,” Mr. Kaplan said.

Chris Riedl, Chicago-based head of product strategy for national accounts at Aetna Inc., said the cost savings companies can accrue after shifting employees to a high-deductible health plan, also known as a consumer-driven health plan, is evident in the health insurer’s annual study.

Tim Nimmer, Denver-based chief health care actuary at Aon Hewitt, said more comprehensive claims data also is helping improve plan design.

According to an Aetna study based on nearly 10 years of Aetna

data, firms using consumer-driven health plans saved \$208 per member per year, which would equal \$12.5 million over a six-year period for a plan with 10,000 members.

“From the data that we have seen, CDHP plans have proven their ability to deliver cost savings” for employers, Ms. Riedl said.

Nonetheless, Ms. Riedl said a full replacement plan, in which an employer offers only a high-deductible plan, is not the only way companies can save money. The study found that companies following a series of best practices that include year-round employee communications, incentives for healthy behaviors, and a combination of wellness and case management programs also can reduce costs.

“What we found is that even if you do not go full replacement with a consumer-directed plan — but do implement a comprehensive benefits strategy — you can still see improved results,” Ms. Riedl said.

Bruce Elliott, Washington-based manager of compensation and benefits at the Society for Human Resource Management, said analyzing claims data is another way to control health costs.

For example, companies concerned about prescription drug costs can adopt low-cost wellness and disease management programs to help eliminate the need for expensive drugs.

“Claims data is now much more granular,” Mr. Elliott said. “So a fair bit of financial analysis can go



COST-CONTAINMENT TRENDS

Plan designs: Companies are changing copayments to coinsurance and using “reference-based” pricing for employees who seek elective surgery.

Consumerism: High-deductible health plans are becoming more common, and employee understanding is growing.

Private exchanges: Insurance brokers have established private health care exchanges that offer a range of options.

High-cost cases: Companies find the greatest return on investment with programs that target employees with chronic, high-cost illnesses.

Analysis: New tools help benefits managers get a better sense of how the company’s experience compares with broader health cost trends.

a long way to finding out instances where you can contain costs in your medical plan.”

When it comes to plan design, Mr. Nimmer said data analysis is essential.

He said an analysis for an unnamed client by Aon Hewitt showed a wide divergence in the cost of knee-replacement surgery

in California, with a range of \$3,000 to \$90,000 per procedure. The data showed 80% of the procedures could be performed for \$10,000 or less, so the client changed its plan design to provide at most \$10,000 in reimbursement for a knee replacement rather than covering the procedure irrespective of cost, Mr. Nimmer said.

The move to “reference-based” pricing also requires online tools that arm the employee with the information on “who charges what” to enable them to make the best decision on which provider to choose for the knee replacement, he said.

“These transparency-type tools are growing in popularity,” Mr. Nimmer said. “They encourage you to modify your behavior without necessarily taking anything away from you as an employee.”

Greater employee choice and involvement also dovetail with the growth of private health insurance exchanges.

Mr. Elliott said many benefits managers are keeping an eye on the experience of early adopters of private health insurance exchanges.

“It will be interesting to see what their behaviors are over the next few years,” Mr. Elliott said. “We are probably going to see larger organizations adopt private exchanges as one means of cost containment. Provided that they are successful, we will see products intended for the mid- and small-sized market emerge as well.”

FOCUS ON DISEASE MANAGEMENT

A still-unsettled issue in health care cost containment is the potential of wellness and case management programs to reduce costs overall or over time.

“When you talk about the cost containment levers benefit managers have, one of the first is the investment in wellness solutions,” said Bryan Mailliard, Kansas City, Mo.-based vice president and strategic consultant in the employee benefits group at Lockton Cos. L.L.C. “Investing in your people today pays off in the future by reducing future claims incidents.”

Soeren Mattke, Boston-based senior scientist at RAND Corp. and managing director of RAND Health Advisory Services, said companies should focus less on general wellness programs and more on chronic illness management programs for employees with chronic diseases such as diabetes.

A RAND Corp. study that tracked the workforce of PepsiCo Inc. for seven years found that while chronic disease management programs saved \$3.78 in health care costs for every \$1 invested in the effort, broader wellness efforts such as subsidizing employee gym memberships provided little, if any, return on investment.

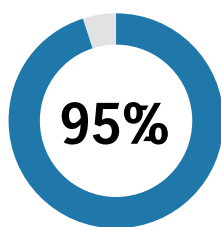
“We see that the savings from workplace wellness programs come exclusively from managing chronic conditions,” Mr. Mattke said. “So, financially speaking, managing unhealthy lifestyles just costs you money.”

According to a separate study by Willis North America Inc., 49% of employers with wellness programs said they had a measurable improvement in either medical costs or the risk profile of their workforce.

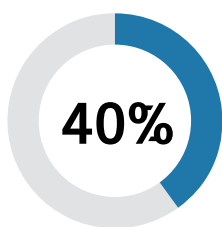
By Bill Kenealy

EMPLOYERS SHIFT STRATEGIES

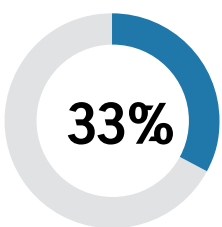
An Aon Hewitt study of employers and employees earlier this year found:



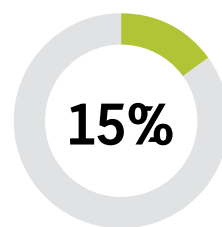
Expect to still provide health benefits to active employees in the next three to five years



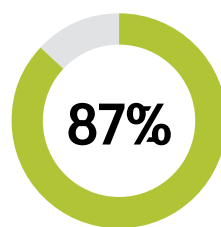
Expect to require employees to take a more active role in managing their health



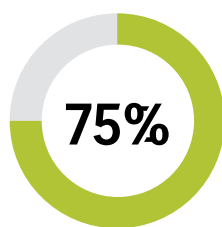
Plan to offer group-based health benefits to active employees through a private insurance exchange



Employees who renewed health benefits through a private exchange switched insurers



Enrollees who liked to choose among several insurers

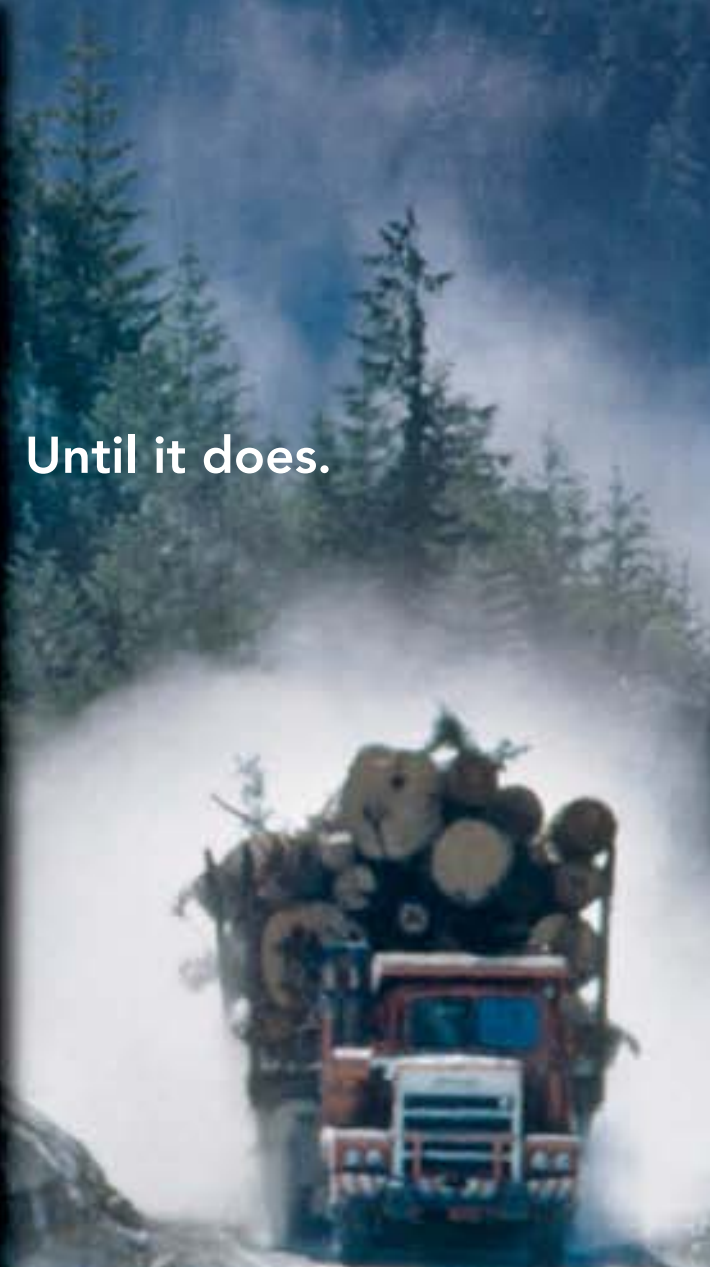


Confident the health plan they chose was the best value for them and their family

Aon Hewitt study of employers

Aon Hewitt study of employees

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E.U. telecom data rule violates privacy rights

■ The European Court of Justice has ruled that a European Union directive that requires telecommunications companies to retain users' data for up to two years is invalid. The Luxembourg-based court, the highest court in the European Union, ruled that the E.U. Data Retention Directive, adopted in 2006, violates two basic rights under E.U. law: the right to a private life and the protection of data. The court's ruling will apply retroactively to March 15, 2006, the date the directive went into effect. The directive, passed after terrorist attacks in London in 2005 and Madrid in 2004, was transposed into the national laws of all 28 member states of the European Union. Those member states must now consider how to apply the European Court of Justice's ruling. The European Commission said it is assessing the ruling.

Chile quake losses foreseen as low: AIR

■ The 8.2-magnitude earthquake that struck off the coast of Chile is unlikely to result in significant insured losses, according to Boston-based catastrophe modeler AIR Worldwide Corp. The expected low amount of insured losses reflects the fact that the region most affected by the quake is "relatively sparsely populated," AIR said in a statement. "Since the quake's epicenter was located quite a distance from the coast, the shaking inland was not very severe and should serve to reduce the insured losses from this event," said Mehrdad Mahdyiar, senior director of earthquake research at AIR, in the statement. In addition, he said the fact that the affected area was largely rural and characterized primarily by low-rise buildings constructed from either unreinforced masonry or confined masonry helped mitigate the potential for insured losses.

Malaysia Airlines claims likely limited: S&P

■ Claims arising from the loss of Malaysia Airlines flight 370 likely will be manageable for insurers and reinsurers, according to an analysis by Standard & Poor's Corp. S&P said in a statement that it expected insured losses from the missing jet to be between \$250 million and \$450 million, depending on the outcome of any court settlements and other factors. "The losses will be well spread throughout the global aviation insurance and

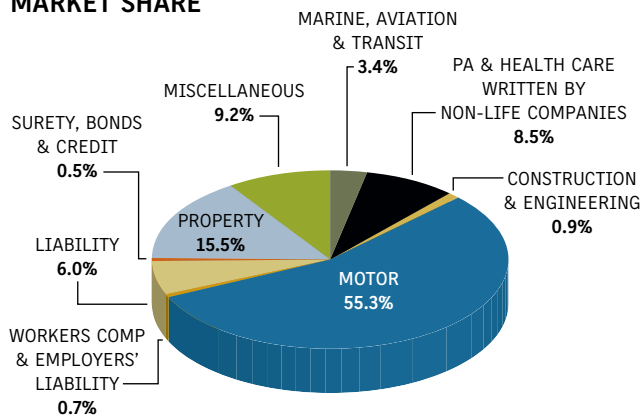
PROFILE: JAPAN

\$103.63
BILLION

Since 1997, the long-term trend in the Japanese property/casualty market has been a decline in premiums for various reasons, including an aging population and fewer younger drivers traditionally charged higher premiums for auto insurance. Premium volume grew by 3.1% in 2011 and 2.5% in 2012 due to higher earthquake insurance rates after the 2011 quake that caused the Fukushima disaster. The shrinkage is forcing domestic insurers to look for alternative markets, such as life insurance.

◀ 2012 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

COMPULSORY INSURANCE

Japan has comparatively few compulsory coverages:

- Auto third-party liability
- Liability for maritime oil pollution
- Liability for nuclear risks
- Residential buildings defects liability insurance

NONADMITTED

Nonadmitted insurance is not allowed in Japan because the law provides that insurance must be purchased from locally authorized insurers, with the following exceptions: international marine cargo, hull and liabilities for Japanese ships and aircraft engaged in international trade, and overseas travel insurance.

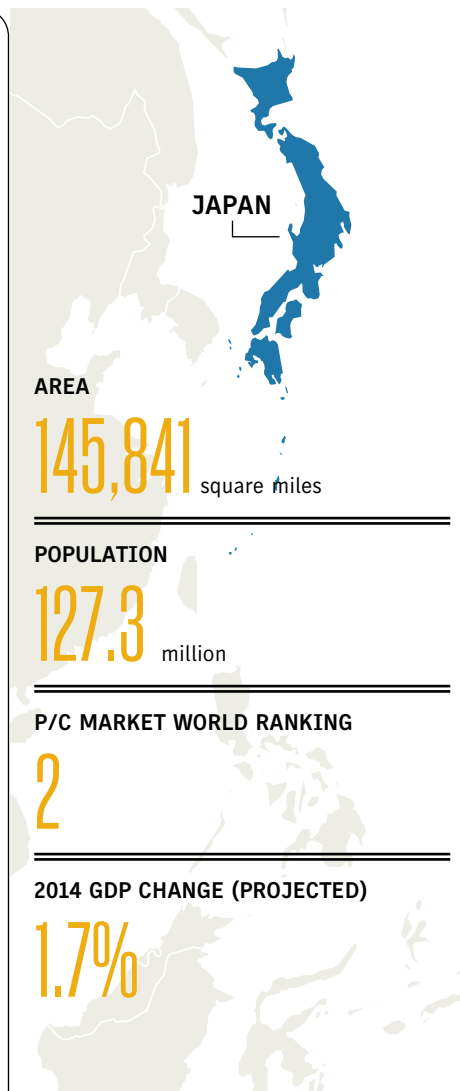
INTERMEDIARIES

To conduct business in Japan, brokers and agents must be licensed by the Financial Services Agency. There is no local licensing requirement for foreign brokers placing international marine and aviation business with nonadmitted insurers abroad. The law is generally interpreted as requiring brokers involved in nonadmitted placements to warn buyers that their insurer is not subject to local supervision.

MARKET PRACTICE

Because of strict standards or legal enforcement in Japan, foreign multinationals are unlikely to use nonadmitted insurers, except for highly specialized global coverages or for global difference in conditions policies. Even those policies are technically illegal with regard to Japanese risks.

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



MARKET DEVELOPMENTS

UPDATED MARCH 2014

- In response to the 2011 earthquake, the General Insurance Rating Organization of Japan proposed to the Financial Services Agency to raise household earthquake insurance rates by an average of 15.5%, effective July 1, 2014.
- Following a review of Japan's household earthquake insurance program, the division between the government and private insurers of liabilities for future earthquake losses was amended in May 2013. The maximum liability for private-sector insurers was reduced to \$2.41 billion.
- A revised Financial Instruments and Exchange Act will empower the government to inject cash into individual financial institutions in the event of another financial crisis and to recover the funds by a levy on the financial services sector.
- To help insurers rebuild catastrophe reserves after 2011, the government has agreed to increase for three years the tax-deductible amount that may be transferred to the reserves to 5% of relevant net premiums from 4%.

reinsurance markets," said Dennis Sugrue, a London-based credit analyst at S&P, in a statement. "The impact on smaller rated Asian insurers and reinsurers that have a share of the potential losses should be manageable because their reinsurance or retrocession protection is likely to keep their net loss relatively low," he said. The loss of the flight is unlikely to trigger any major changes in rates for aviation insurance coverage, S&P said.

Widow of Zurich CFO rejects suicide report

■ The widow and other family members of Zurich Insurance Group Ltd.'s late finance chief said at the firm's annual shareholder meeting that they could not accept the results of a probe into his suicide, which exonerated the firm

and its former chairman of responsibility. "We cannot accept your conclusion that his suicide was unaccountable," Fabienne Wauthier said. She was joined by her daughter and the mother and brother of her late husband, Pierre. The brother, Michel Wauthier, added: "It was not normal pressure at the office that led to his suicide." Pierre Wauthier killed himself in August, leaving behind a suicide note in which he described himself as demoralized because of a new, aggressive tone at Zurich under then-Chairman Josef Ackermann, who stepped down several days later but has denied responsibility for what he called a "very tragic event." An investigation into Mr. Wauthier's death commissioned by Swiss financial regulator FINMA found "no indication that the CFO was subjected to any undue or inappropriate pressure," Zurich said in November.

Reuters

Ample capacity benefits reinsurance buyers

■ An ample supply of capacity from traditional and nontraditional sources benefited reinsurance buyers at the April 1 renewals, according to reports from reinsurance brokerages. Aon Benfield Group Ltd. said in its report that "benign catastrophe losses in 2013 contributed to sub-90 reinsurer combined ratios, and coupled with a 28% growth in alternative capital led to a 7% increase in total reinsurer capital during 2013." There was "abundant" reinsurance capacity for Japanese renewals, according to the report. Traditional reinsurers offered improved rates, according to the report, while alternative capacity "maintained a presence in Japan earthquake risk." Renewals that took place in India and the United Kingdom also saw improved rates and

terms and conditions, the report said. In the United States, reinsurance pricing remained soft, according to a separate report by Guy Carpenter & Co. L.L.C. The competitive market is expected to continue during mid-year renewals, despite worldwide storm and flood losses in the first quarter of 2014.

Arch Capital launches reinsurer Watford Re

■ Hamilton, Bermuda-based Arch Capital Group Ltd. has launched a new multiline reinsurer — Watford Re Ltd. — with \$1.133 billion in capital. Watford Re, a Class 4 insurer licensed by the Bermuda Monetary Authority, intends to combine a diversified reinsurance business with an investment strategy composed primarily of noninvestment-grade credit fixed income assets, Arch said in a statement.

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EDITORIAL

EXCHANGES ENROLLMENT REACHES GOAL

We'd be remiss if we didn't take note of a positive health care reform law development: the surge in enrollment in public health insurance exchanges. The Obama administration's announcement this month that more than 7 million individuals have enrolled in the 51 exchanges administered by the states and the federal government is a huge achievement.

It was only a few months ago when many of the exchanges were so hampered by technical glitches that just getting on the exchange websites — let alone enrolling — was at many times nearly impossible.

Indeed, one month after the exchanges opened on Oct. 1, 2013, only a little more than 100,000 people had enrolled.

After that terrible start, state and federal exchange regulators, as well as outside vendors, worked hard to overcome enrollment glitches. The proof of the success of those efforts was obvious, especially in the final weeks before the 2014 open enrollment ended. During March alone, nearly 3 million people enrolled in exchange plans.

To be sure, as health care reform law critics repeatedly and with some justification have said, the 7.5 million enrollment figure does not tell the whole story. Some portion, perhaps 10% to 20% of those who signed up for coverage, actually will not enroll.

That's understandable, given the time between when an individual signs up for coverage and the time the first premium has to be paid. During that time, many things could happen, such as an enrollee landing a job with employment-based coverage, making that person ineligible for exchange coverage.

In addition, the 7.5 million enrollment figure does not correspond to a 7.5 million reduction in the number of uninsured. Some enrollees — the exact number is not yet known — had prior coverage, though likely in many cases not equal to what they will be receiving through policies obtained in the exchanges.

We hope that exchange enrollment continues to grow. As more people obtain coverage, a basic and long-time source of health care inflation — the efforts of medical providers to shift uncompensated care costs in the form of higher charges to insured patients — will be reduced.

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SCHILLERSTROM



COMMENTARY

BEWARE TOO MUCH DISCLOSURE AMONGST THE SOCIAL SET

As a regular viewer of the TV show “Downton Abbey,” I was interested to read a couple of weeks ago about series writer Julian Fellowes upbraiding the cast for careless use of social media.

Apparently, Richard E. Grant, star of the cult movie “Withnail and I” and a guest star on the next series of Downton, tweeted a photo of himself on the set.

Upon learning of the tweet, Mr. Fellowes reportedly said that actors on the show needed to understand that anything they tweet about the hugely popular drama is scrutinized, and they risk giving away plotlines through seemingly harmless comments.

Given that Mr. Grant's Twitter photo shows him in full evening dress, which seems to be the standard evening attire of the aristocrats and gentry in the show, it's hard to see what he risked giving away, other than yet more publicity for the next season.

But in the real world, giving away trade secrets on Twitter and other social media is a real concern.

Employees at all levels of an organization are in a position to disclose information by inadvertently using social media platforms. Therefore, guarding against the potential for that disclosure requires some creative thinking.

Of course, there are some obvious safeguards, such as reminding senior executives they should not use Facebook to reveal information that should be disclosed to the U.S. Securities and Exchange Commission first. But other risks are not so apparent.

For example, analysis of a sales executive's new LinkedIn contacts might give away a new business strategy, if the connections are all working in a particular industry. Or the geolocation capabilities of



GAVIN SOUTER
EDITOR

Facebook can tip off a competitor that the executive is scouting a particular region for business.

Obviously, you can show an executive how to block locator capabilities and how to tighten privacy settings, but you need to be proactive.

And that's just the basics. If a company has a strong social media presence, sophisticated analysis of social media messaging can

reveal underlying themes and provide a common thread for competitors to pull at and unravel confidential information.

The good news is 89% of companies that have a social media policy address the issue of disclosure of company information. The bad news is only 63% of companies have a social media policy (see data on page 19).

At the same time, 68% of companies put a high value on the use of social media as a business tool, and that figure is only going to grow.

Given the huge opportunity to use social media to promote and win business, companies have to embrace the platforms.

As they implement those strategies, it's crucial they also introduce practical guidance and detailed training on how employees should use social media.

If not, they could be a “like,” a “connection” or 140 characters away from giving away the family silver.



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SPECIAL REPORT

Social Media Risks

Training workers on social media

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NLRB keeps eye on employers

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Social media the latest malware vector

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Pitfalls of using damaging info found online

PAGE 18

Crisis management concerns go viral

Companies strive to present speedy, calculated response to social media attacks

BY RODD ZOLKOS



SOCIAL MEDIA RISKS

90%

Corporate directors and senior managers who say they understand the risks social media pose to their organizations.

32%

Corporate directors and senior managers who monitor social media to detect risks social media pose to their businesses.

24%

Senior managers who receive reports of summary information on social media and metrics.

Source: 2012 survey by Stanford Graduate School of Business, The Conference Board

The basic dynamics of dealing with a crisis stemming from social media communication are largely the same as those confronting a company via traditional media, but a social media crisis demands quick corporate response after careful consideration about who and what warrants a response.

When a crisis occurs and critics, for example, turn to social media to call for a boycott of an organization, the company's response almost always benefits from advance planning so the crisis is not unintentionally worsened.

"There's not a single company on the planet right now that I know of that isn't worried about social media to a very significant degree," said Daniel Diermeier, IBM professor of regulation and competitive practice in the department of managerial economics and decision sciences at Northwestern University's Kellogg School of Management. "That rises to the level of boards and C-level executives."

"Social media, like any media, are windows into behavior," said Nir Kossovsky, CEO and director of Steel City Re, a Pittsburgh-based broker and adviser specializing in corporate reputation management and risk transfer. "What social media have done is magnify the noise around an event and accelerate the pace at which we discover events."

For firms facing a crisis playing out on social media networks, it's necessary to distinguish between incidents limited to social media and those picked up by traditional media, Mr. Diermeier said.

"There's very often the reinforcement between social media and traditional media," he said. "Then it really becomes big."

"I think the most important thing is acknowledging legitimate customer complaints and concerns very, very quickly, particularly if there's a crisis," said Shannon M. Wilkinson, founder and president of New York-based Reputation Communications Ltd.

Given the premium on a speedy response to a social media crisis, "it's essential to involve the legal department in creating a plan before you need a plan," Ms. Wilkinson said. Because many companies' legal departments are the reason for a delayed response in a crisis, it's important to involve them in devising a crisis response plan before a crisis occurs, she said.

It's also critical for companies in a crisis to monitor comments on social media.

"Monitoring is an imperative and one of the most fundamental components of crisis management," said Cindy Ta, senior director of corporate communications at Juniper Networks Inc. in Sunnyvale, Calif. "Monitoring not only helps identify issues as they arise, but can help spot misinformation that may need to be corrected before they turn into a full-blown crisis."

Such monitoring can help a company shape its response based on actual conversations and current trends, identify key online influencers and possibly gain insight into future issues, Ms. Ta said.

"I think it's always important to correct the record" when false statements are made about a company in social media, said Larry Walsh, vice chairman of Alexandria, Va.-based consultant Hawthorn Group L.C. But opinions from unidentified cranks don't always

merit a response, and the company often can find ways to address the issue with confronting the individual directly. "You need to filter your responses somewhat," he said. "You don't need to respond to everything."

Because social media networks provide an effective way for customers to organize boycotts and other actions, companies need to respond to social media crises quickly, Mr. Diermeier said. At the same time, however, "there's a tremendous amount of volume you have to deal with."

"The art here is that white space is a problem, because social media definitely need to be filled," Mr. Kossovsky said. "The authenticity of a message helps drive its replication, and an authentic message replicated fills the need of the media for content," he said.

"Authentic communication in the media that is then replicated through the social media channels is the heart of any strategy."

FIGHT FIRE WITH FIRE ON SOCIAL MEDIA

Social media can be a valuable tool in companies' crisis management efforts.

"Particularly if you're a consumer products company, social media allow you to get to a lot of people very quickly," said Larry Walsh, vice chairman at Alexandria, Va.-based strategic communications consultant Hawthorn Group L.C.

For example, a compelling video of a company executive or spokesperson speaking genuinely that is shared via social media networks is a powerful tool in responding to a crisis, said Shannon M. Wilkinson founder and president of New York-based Reputation Communications Ltd.

Videos of General Motors Co. CEO Mary Barra responding to the automaker's recent ignition switch recall are examples of an effective response during a crisis, Ms. Wilkinson said.

"The public wants company decisions during crises explained to them," Ms. Wilkinson said. "Social media allows companies to do that."

Ms. Barra faced tough questioning in early April by panels in the U.S. House and Senate concerning GM delaying for years the recall of vehicles affected by the ignition switch problem that has been tied to 13 deaths.

"In some cases you have no choice" but use social media to respond to a corporate crisis, said Daniel Diermeier, IBM professor of regulation and competitive practice in the department of managerial economics and decision sciences at Northwestern Uni-

versity's Kellogg School of Management.

"The problem is you're really not controlling the channels anymore," Mr. Diermeier said. "In many cases, that means you have to act together," to effectively respond to a crisis.

"You have to create your social media capability before you face one of these developments," he said.

But many companies are uncomfortable with the transparency needed to adequately respond via social media during a corporate crisis, Mr. Walsh said.

"Also, you're providing a platform for some of the critics and some of the craziness that goes on in social media. To play the game, you have to be in the middle of it," he said.

Despite the challenges, "companies can head off potential future issues and gain credibility online by engaging in online dialogue and participating in social media," said Cindy Ta, senior director of corporate communications at Juniper Networks Inc. in Sunnyvale, Calif. "Companies should encourage conversations to occur on their own properties rather than somewhere else."

"When consumers don't have a place to go to online that is created by the company, they go elsewhere online. They create their own communities and vent," Ms. Wilkinson said. "And if the company is not on that (social media) platform, they can't be part of that conversation."

By Rodd Zolkos

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TRAINING FOR SOCIAL SITUATIONS

Educate workers on social media advantages, pitfalls

BY KAREN PALLARITO

Experts routinely recommend that businesses and organizations teach their employees how to safely and effectively use social media due to their potential risks when misused and rewards when used appropriately, but few companies provide such training.

Chicago-based consultant Grant Thornton L.L.P., and the Morristown, N.J.-based Financial Executives Research Foundation surveyed senior level executives last year, finding that 66% said they expect their companies' use of social media to increase. Yet just 36% indicated that their businesses provide social media training.

In separate research, San Mateo, Calif.-based consultant Altimeter Group last year found that 43% of companies plan to develop social media education and training programs, but only 38% already had a program or were in the process of putting one in place.

Charlene Li, Altimeter's partner and founder and author of best-seller "Open Leadership: How Social Technology Can Transform the Way You Lead," on social media, said many business leaders are "putting their heads in the sand and hoping nothing bad happens."

There is tremendous pressure not to spend time on training because it takes people off the job, and some employers question whether it's possible to teach workers to make appropriate decisions when situations arise that are neither black nor white, but gray, she said.

"My feeling is that the only way you develop good judgment in people is to train them," Ms. Li said.

Training programs vary depending on a company's size, culture, industry, business goals, social media experience and degree of government regulation, experts say.

Companies may hire outside experts to customize a training program or may purchase prepackaged software. Employees may be trained in small groups, online or both.

A company's social media policy — a written document outlining the do's and don'ts when using it on a business' behalf — typically is the foundation for that training.

Rochester, Minn.-based Mayo Clinic, an early adopter of social media, shows new hires and students an 8½-minute video highlighting Mayo's social media guidelines.

"The first point in our guidelines is that all policies that apply elsewhere apply here, too," said Lee Aase, director of the Mayo Clinic Center for Social Media. Chatting about a patient on the elevator, for example, is a privacy violation, and having that same conversation on Facebook "just raises the stakes; it just exposes more people (to that information)," he said.

Some employers require training for all, including outside providers and partners. At some companies, only employees designated to speak on behalf of the company or sanctioned to use social media for business purposes receive such training.

At Round Rock, Texas-based Dell Inc., social media

training is available to all employees of the computer technology company, and it's mandatory for those who use social media tools as part of their job, said Liz Brown Bullock, Dell's former director of social media and community and now CEO and co-founder of Social Arts & Science Institute L.L.C., an Austin, Texas-based social media training firm.

Ms. Bullock helped launch Dell's Social Media and Communities University, a social media certification program, about three years ago. To date, more than 11,000 employees have been certified to speak to customers via social media, about 10% of the workforce, and nearly 30,000 have attended training classes, Dell confirmed.

Dell's program focuses on mitigating risks and empowering employees to apply social media in business situations.

"If you're in (human resources), you can be utilizing social (media) to be finding the best talent out there; if you're in sales, you can be doing this for better selling," and so on, Ms. Bullock said.

Eric Schwartzman, founder and CEO of Comply Socially Inc., a Santa Monica, Calif.-based provider of social media training, recommends at least 60 minutes of initial employee training in social media "compliance" and at least another 15 minutes a year to keep up to date because social networking tools and best practices do change.

"Just because you're a Facebook ninja in your personal life doesn't mean you know how to use it responsibly for business," Mr. Schwartzman said.

Francine Esposito, a partner in the Parsippany, N.J., office of law firm Day Pitney L.L.P., said employees need to understand the unintended negative consequences of their social media activities, such as disclosing confidential information.

"Twitter followers could be your customer list," she said. "You can't enforce a noncompete agreement when your customer list is now public information."

In highly regulated industries, such as financial services and health care, training can be a bit trickier, experts concede. But appropriate training also can give an organization a leg up over the competition.

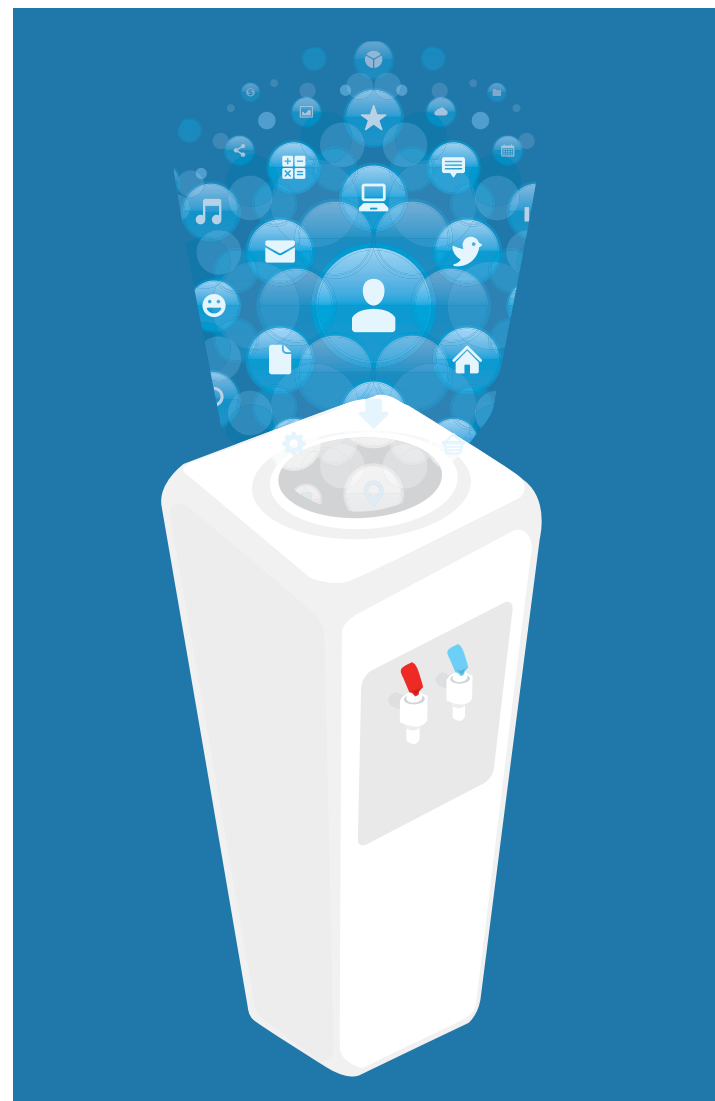
In 2010 and 2011, several stock brokerages independently hired Protiviti Inc., a unit of Menlo Park, Calif.-based Robert Half International, to provide "social media 101," said Gregory Hedges, managing director in Protiviti's Chicago office and leader of the firm's social business consulting practice. In each case, the undisclosed brokerages lacked basic knowledge and were afraid of losing new recruits who insisted on using social media.

Showing broker-dealers how to navigate social media and archive their communications "turned into a competitive advantage" for the companies because the Financial Industry Regulatory Authority Inc. now requires members to keep records of their electronic communications with the public, Mr. Hedges said.

With social media capability, brokerages didn't just retain new recruits but attracted seasoned professionals who brought with them large books of business, Mr. Hedges said.

SOCIAL MEDIA TRAINING TIPS

- Make the company's social media policy the foundation for employee training.
- Define employees' social media role within the company.
- Show employees how to leverage social media for business purposes.
- Engage in scenario-based discussions or use role-playing to help employees make good judgments.



NLRB keeps an eye out for employer backlash on workers' posts

BY JUDY GREENWALD

Unionized and nonunionized employers alike must avoid disciplining workers for any social media postings that touch on general work conditions or risk an adverse ruling from the National Labor Relations Board. But experts say it's often unclear what social media policy is likely to raise the ire of the agency, which has taken a strong interest in the issue of social media at both unionized and nonunionized employers in an era of declining union membership.

"Given the relatively small and decreasing percentage of unionized employees," the NLRB's focus on social media is "its way for the board to stay relevant," said Philip L. Gordon, a shareholder at law firm Littler Mendelson P.C. in Denver.

But observers said there is an ongoing misperception, particularly among smaller companies, that the NLRB's focus remains fixed on unionized companies, when it views its bailiwick as including nonunionized firms.

"It's a much deeper problem

than a lot of people realize," said Steven M. Swirsky, a member of Epstein Becker & Green P.C. in New York.

The NLRB views social media "as the 21st-century water cooler, and is fairly aggressively seeking ways to prevent employers from implementing policies and imposing discipline that the board views as violating employees' right to engage in protected, concerted activity," Mr. Gordon said.

"It's a serious problem, because the NLRB has concluded that pretty garden-variety policies and restrictions are illegal under the National Labor Relations Act, and it's difficult to know how to draft a social media policy language in a way that protects the company and addresses things like improper disclosure of confidential information, or workplace bullying, precisely enough" without "overstepping the lines as far as the NLRB is concerned," said Bruce Michael Cross, a partner at Perkins Coie L.L.P. in Seattle.

All companies "need to keep their eyes on that series of decisions coming out of the NLRB" that involve social media,

BE CAREFUL ABOUT DISCLOSING COMPANY INFORMATION OVER SOCIAL MEDIA

The U.S. Securities and Exchange Commission and the Federal Trade Commission are among the federal agencies that pay particular attention to businesses' use of social media.

The SEC warned against selectively using social media to disclose information in April 2013, a warning that came in response to a post by Reed Hastings, CEO of Los Gatos, Calif.-based Netflix Inc., on his personal Facebook page making the first announcement that Netflix's monthly online viewing had exceeded 1

billion hours.

The SEC, however, took no action against Netflix, saying it recognized there had been market uncertainty about the use of social media to disclose corporate information and said it is allowed so long as investors have been alerted about which social media will be used to disseminate such information.

"Companies need to be very cautious with respect to the way they disclose information," said Stephen Bonnington, London-based senior vice president at

Lockton Cos. L.L.P. Social media should be a complementary strategy, not a replacement for traditional announcements such as news releases or SEC filings, he said.

When it comes to the FTC, companies "have to be thoughtful about the alignment of their corporate values and strategies and mission statements with what might be disseminated via social media," said Catherine A. Mulligan, New York-based senior vice president and head of specialty errors and omissions at Zurich

North America.

Anything that might violate the Children's Online Privacy Protection Act is another concern, said Anthony Dagostino, Jersey City, N.J.-based vice president of Ace Professional Risk, a unit of Ace USA.

"Companies that are using social media that may be directed at children really have to make sure they're abiding by that (law), because the FTC has been heavily enforcing" it, Mr. Dagostino said.

By Judy Greenwald

"because we know we're not at the end of the line of cases that we're undoubtedly going to see," said Ann M. Longmore, New York-based executive vice president of Willis North America Inc. "And the line is beginning to be drawn exceedingly narrowly between what is acceptable and what is not ... and sometimes not in a manner that is predictable."

"You sometimes will look at two policies that look pretty similar, but the NLRB says one's OK because it's precise enough" and does not violate employees' rights, but then rule "the one right next to it" is too broad and "a reasonable person would interpret it as interfering with employee rights," Mr. Cross said.

In addition, "some of these cases are moving out of the NLRB tribunal into the civil court system, so it's going to get more expensive" to defend employers' social media policies, Ms. Longmore said.

Another problem is the delay in getting a decision on a particular social media policy, Mr. Cross said. Employees have six months to file a complaint and it can take up to two years to get a decision from the agency, he said.

If the NLRB rules against a company and the worker has been discharged, the firm is obligated to offer employment and compensation for all losses that have been incurred in the meantime, "so it's a pretty big item," he said.

"The way to avoid the NLRB issue is to be as specific as you can be in your social media policy" about protected vs. unprotected activity, said Scott L. Vernick, a partner at Fox Rothschild L.L.P. in Philadelphia.

Protected social media comments include issues that reflect employee welfare, such as working conditions, wages, a supervisor, staffing and training schedules, said Mr. Vernick.

Mr. Gordon recommended that firms frequently review their social media policies.

"This area is very fluid, very dynamic and is likely going to change over the next several years," so social media policies should be revisited more frequently than areas where the law is already "pretty well established now and there's not such frequent material changes," he said.



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SOCIAL NETWORKING NOW THE NORM

73% of adults use at least one social networking site, while 42% use more than one site.

63% of Facebook users, 57% of Instagram users and 46% of Twitter users visit the sites daily.

23% of Pinterest users and 13% of LinkedIn users visit the sites daily.

Source: 2013 survey by Pew Research Center

Social media provides route for malware attacks

Hackers implant software to steal data from corporate computers

BY BILL KENEALY

Social media, which already pose a series of risks for companies, have become the darling of hackers trying to gain access to corporate computer systems.

Companies that use Facebook, Twitter, LinkedIn and other social media networks for business functions that include touting new products, providing services to customers and managing a crisis also face the risk hackers will plant malware in social media communications to get at corporate data or to launch an attack.

Malware is malicious software used to disrupt a computer system and gain access to sensitive data.

"Social media have created an enhanced risk surface for corporations," said James Foster, CEO of Baltimore-based cyber security consultant ZeroFox.

One reason hackers embrace

social media as an avenue of attack is cost, Mr. Foster said, adding that the "one-to-many" nature of social media postings is economical and efficient from hackers' point of view.

"It's very inexpensive to attack a corporation through social media," he said. "If I'm a hacker, I can go online and purchase 10,000 automated bots to attack an organization through social media for about \$50."

Another reason hackers turn to social media is response rate.

While ubiquitous spam email filters reduce the chance of a recipient receiving and clicking on a malicious link, the employer vulnerability to social media attacks is higher because most companies do not filter social media content, said Shawn Ram, San Francisco-based managing director and national technology practice leader at Aon Risk Solutions.

Moreover, people still tend to inherently trust social media, Mr. Ram said. "For some reason, people associate malware with email and don't expect it from social media or message boards," he said. "This is why hackers are taking advantage of it."

Jerry Irvine, Chicago-based chief information officer of outsourced information technology adviser Prescient Solutions, said social networks have eased hackers' ability to plant malware in an enterprise because corporate websites that provide executive names and titles allow hackers to deploy classic "social engineering" techniques to manipulate unsuspecting employees into divulging critical information.

"One of the breaches that typically occur is when somebody sends you a fake invite to connect," Mr. Irvine said. "Once you have accepted, they have an increased

footprint for introducing malware into a network and can also view your contacts and use you as a reference to contact other people they want to get at."

Spoofing attacks, where a hacker assumes a false identity on a social network, also are a growing threat, said Kenneth Geers, Washington-based senior global threat analyst at network security provider FireEye Inc.

"It's very easy to copy pictures and names," Mr. Geers said. "A lot of hacking is about creativity and good timing."

Hackers are keenly aware that otherwise cautious people will let their guard down if they think a message is from someone they know, Mr. Foster said.

"Not surprisingly, the most impersonated person in any organization is the CEO," Mr. Foster said. "If an employee is using a mobile device and gets a friend

request that has a picture of their CEO and a single sentence asking them to connect and perhaps take a survey, they are more likely to click on a link."

Compounding the challenge is that common security tools such as firewalls, antivirus and detection software are ill-suited to ferreting out social media-launched malware intrusions.

"(Computer) perimeter security is pretty much obsolete today," Mr. Irvine said. "Traditional antivirus programs only clean existing infections and may detect only 30% of malware."

Despite the rapid increase of social media communication, Mr. Foster said it may take the data security industry several more years to develop the proper mitigation technology to thwart social media-based malware.

"Think about how much time, effort and money went into securing email," Mr. Foster said. "The same effort will be needed for social media."

So what can risk managers do in the meantime?

Mr. Irvine suggested a "defense in depth" strategy, in which companies use several types of vulnerability and application software that scan data for potential risks.

He also said companies should make good use of encryption from the individual documents level to the database level to the hardware level.

Using personal info found online carries privacy, legal risks

BY JUDY GREENWALD

Employers that use information obtained from social media to discipline an employee or evaluate a job applicant run the risk of violating state and federal laws, yet there are circumstances in which employers' use of such information is legally defensible.

The employer's type of business, its existing social media policies and how the employer obtains potentially damaging information about a worker or prospective worker factor into the boundaries between what a court would consider legal or rule that it violates worker privacy, disability and and/or gender-orientation rights among classes of workers protected by federal and state laws.

"Through social media, you may be able to get access to information you would otherwise not be entitled to," such as people talking about their medical conditions, said Aaron K. Tantleff, a partner with law firm Foley & Lardner L.L.P. in Chicago.

In terms of appropriate boundaries, "Some of it may well depend on what your privacy policy states" and whether or not employees expect privacy concerning social media content about them, said Scott L. Vernick, a partner at Fox Rothschild L.L.P. in Philadelphia.

But anything that an employee does that is lawful and does not affect the business, is probably within a "zone of privacy" employers should avoid in making decisions concerning workers, he said.

In evaluating their social media practices, employers "have to take into consideration somewhat the culture and demographics of their organization, and the nature of the individuals that work for them or that they partner with, or the nature of the entities with which they interact," said Shawn Ram, national technology practice leader at Aon Risk Solutions in San Jose, Calif.

Social media policies may differ if a company is primarily consumer-oriented, a business-to-business firm, a professional services organization or a health care organization, he said.

According to the Denver-based National Conference of State Legislatures, legislation banning employer access to social media user names and passwords has been introduced or is pending in at least 28 states this year.

Most states "have an exception for workplace investigations," but the exceptions can be very broad, covering all workplace investigations, or narrow, covering only investigations such as trade secret misappropriation or securities law violations, said Philip L. Gordon, a

PRIVACY VIOLATIONS FALL UNDER EPL COVERAGE

Most litigation that alleges employers have breached workers' or job applicants' privacy by accessing or using online information about them would fall under firms' employment practices liability insurance, experts say.

"I can say without a doubt it's not covered by the vast majority of cyber policies in the market" that cover theft or unauthorized disclosure of private

information, said Nicholas Economidis, Philadelphia-based underwriter for professional liability lines at Beazley P.L.C.

However, if a prospective worker fills out a job application and puts down his driver's license number, which leads to its unauthorized disclosure, "that would be covered by a cyber liability policy," Mr. Economidis said.

By Judy Greenwald

shareholder at Littler Mendelson P.C. in Denver.

Edward R. Quinn Jr., president and CEO of Rockville Quinn Management in Rockville Centre, N.Y., said employers would be prudent to restrict themselves to information that is in the public record.

"What's really important is to understand that you can't go supersleuthing," said Sarah K. Goldstein, director of employment practices at Kaufman Dolowich & Voluck L.L.P. in Los Angeles.

For someone on Facebook, "you can't make up an identity and friend that person" to gain access to their online information. Nor, if a job applicant is the friend of a

current employee, can an employer ask the current employee to access that information for the employer, Ms. Goldstein said.

"You have to be very, very careful, and companies should have (human resources) involvement when reviewing Facebook pages because they may find information they're not entitled to consider" when making a hiring or firing decision, such as pregnancy or information related to the Genetic Information Nondiscrimination Act.

"You can get a GINA violation because (on Facebook) it says, 'I'm running a marathon for my mother, who's got diabetes,' something as simple as that," if that informa-

tion is used to make a negative employment decision, Ms. Goldstein said. Ask HR to "black out" all information an employer is not entitled to consider in making a job decision, she said.

"Set up a filtering process" in relaying such personal information, Mr. Gordon said.

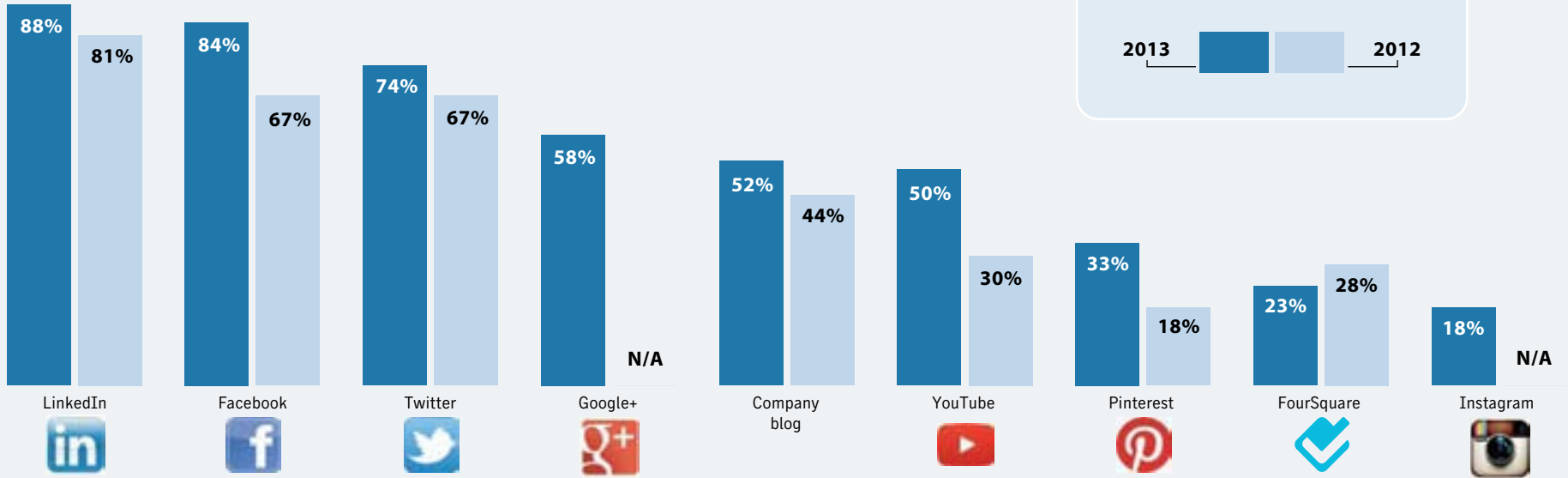
On the other hand, if every picture on someone's Facebook page shows them with a can of beer, an employer is entitled to take that information into consideration, said Ms. Goldstein.

If someone posts something on Facebook that is visible to all, "it's fair game for employers," said Christopher G. Ward, a partner at Foley & Lardner in Chicago. If "the employer is not doing anything to circumvent an employee's attempt to keep social media activity private, then you don't have an issue," Mr. Ward said.

There are nuances to consider, though. If an employee approaches a supervisor unprompted with evidence of another worker's abuse of leave under the Family and Medical Leave Act, for instance, the information learned is "fair game," he said. Similarly, if a worker friends a manager on Facebook, goes on leave because he cannot stand for more than five minutes and then posts a picture showing him walking in a St. Patrick's Day parade, it can be used in an employment-related decision assuming the manager "did not do anything there to try and violate the employer's social media policy," he said.

MOST-USED PLATFORMS*

Ninety-five percent of the Inc. 500 used at least one social media outlet in 2013, up from 92% in 2012. LinkedIn was the top choice of Inc. 500 businesses, the fastest growing private U.S. companies as ranked by Inc. Magazine, to generate revenue, find customers, create an identity and disseminate information.



*Multiple responses allowed.

Source: University of Massachusetts Dartmouth

RISKS RAISED

When using social media for business purposes, companies and organizations must take care not to violate several laws. They include:

Activity	Risk	Law(s)
Paying bloggers to create a buzz about the company	Misleading communication	Federal Trade Commission Act
Sending messages via social media to followers	Deceptive communication	Controlling the Assault of Non-Solicited Pornography and Marketing Act
Tweeting	Disclosing nonpublic information	U.S. Securities and Exchange Commission rules
Use of pictures, videos, text in social media messages	Unauthorized use of material, personal information	Digital Millennium Copyright Act, Gramm-Leach-Bliley Act
Authorized work-related employee use of social media	Harassment, spam	Controlling the Assault of Non-Solicited Pornography and Marketing Act
Background check via social media	Unauthorized use of personal information, discrimination	Gramm-Leach-Bliley Act privacy rules and data security guidelines, Fair Credit Reporting Act
Deleting information posted in social media	Destroying evidence	Federal Rules of Civil Procedure, Stored Communications Act, Gramm-Leach-Bliley Act

Source: BI research

GREATEST WORRIES

While 60% of companies do not perform assessments of their social media risks, those that do rank the loss of proprietary information as their top concern.

Risk	Private firms
Disclosure of proprietary information	1
Negative comments about company	2
Exposure of personally identifiable information	3
Out-of-date information	4
Fraud	5
Personal employee use of social media	6

Risk	Public firms
Disclosure of proprietary information	1
Exposure of personally identifiable information	2
Negative comments about company	3
Out-of-date information	4
Fraud	5
Personal employee use of social media	6

Source: BI analysis of Grant Thornton L.L.P. data

SOCIAL MEDIA POLICIES*

Sixty-three percent of companies have a social media policy today, up from 57% last year. Issues addressed in those policies include:

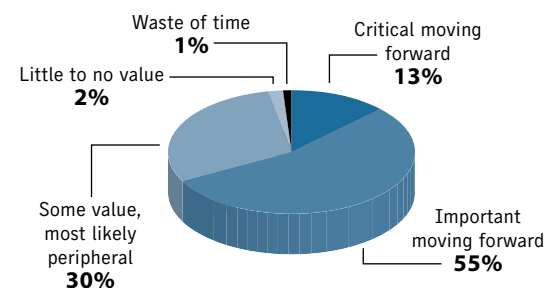
Issues	2014	2013
Disclosure of company information	89%	90%
Ethical use of social media	76%	76%
Disclosure of employee information	71%	73%
Approved use of social media applications	67%	70%
Information security	66%	70%
Purpose of using social media	54%	56%
Approved community forum use	44%	47%
Employee training	28%	38%

*Multiple responses allowed

Source: Protiviti Inc.

VALUE OF SOCIAL MEDIA*

While only a small percentage of companies see social media as a critical element in their efforts to increase brand awareness, recruit talent and identify customers among their business efforts, only 1% see it as a waste of time.

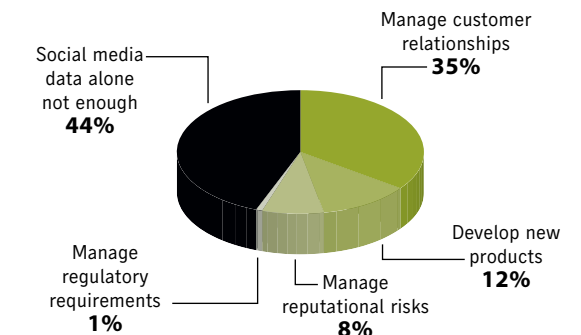


*Due to rounding, numbers may not total 100%

Source: Grant Thornton L.L.P.

DECISION SUPPORT

While companies say they use social media to support business-related decisions, they also say social media are just one component of decision-making.



Deloitte L.L.P. survey conducted via LinkedIn

RIMS 2014

CONFERENCE PREVIEW: DENVER, APRIL 27-30



Conference reaches for new heights with revamped schedule, big-name speakers

BY RODD ZOLKOS

The Risk & Insurance Management Society Inc. will encourage members to “Elevate” and take their risk knowledge to new heights at this year’s annual conference and exhibition April 27-30 in Denver.

The 2014 conference offers increased educational content, three keynote presentations and other new features as RIMS brings its annual event to the Rocky Mountain region for the first time.

“The biggest thing is it’s the first time we’ve been in Denver for the annual conference,” said Mary Roth, executive director of New York-based RIMS. “We’re looking forward to it. It’s a great city.”

“I’m anticipating a great conference. I think Denver will be a great city,” said Carolyn Snow, RIMS president and director of risk management for Louisville, Ky.-based Humana Inc. “The Denver chapter, the local people, are so excited to have us come.”

A revamped schedule of educational sessions offering 60% more content through more than 160 different sessions is something else the RIMS leaders are looking forward to this year.

“Part of our ability to do that is that

last year in Los Angeles we tested out some one-hour sessions,” Ms. Roth said. Based on the success of those so-called “Power Hour” sessions, all regular sessions this year will be in that one-hour format rather than last year’s 75-minute format. The change to 60-minute sessions allows RIMS to include more topics among conference offerings and provides greater choice for attendees, Ms. Roth said.

Again this year, the conference will include several “hot topic” sessions. Among them will be discussion of the potential implications of the expiration of the Terrorism Risk Insurance Act, cyber liability, global warming, the Foreign Account Tax Compliance Act and the impact of legalization of marijuana on employee policies.

This year’s conference also will see a return of the 25-minute Thought Leader Theater sessions in the exhibit hall’s RIMS Hub. And a new Innovation Showcase in the exhibit hall will provide a venue for exhibitors’ product demonstrations and presentations.

“It’s basically a little mini-forum area located in the heart of the exhibit hall,” Ms. Roth said.

This year’s conference will take a

multimedia approach with RIMS TV, sponsored by Liberty Mutual Holding Co. Inc. In addition, “We’re also capturing about 50 hours of (conference) content, and we’re going to make it available to attendees after the conference,” Ms. Roth said. RIMS also will be live-streaming its Monday morning opening general session.

The 2014 RIMS gathering will include three different keynote presentations.

“We’ve got three really interesting keynote speakers,” said Ms. Snow. “When you look at the three of them, they’re all different.”

The keynote speaker during Monday’s opening session will be Jordan Belfort, motivational speaker, author and inspiration of the film “The Wolf of Wall Street.” Monday’s awards

luncheon will include a keynote presentation by author, Paralympic medalist and leadership consultant Bonnie St. John. Finally, as the conference winds down Wednesday afternoon, the finale will include a closing keynote from author and actor Ben Stein.

A daylong post-conference event Thursday will feature a trip to the U.S. Olympics Complex in Colorado Springs, Colo.

Sunday evening’s opening reception



Carolyn Snow,
RIMS president

will be held at the Denver Art Museum. Monday afternoon, the “Get Refreshed” health break in the exhibit hall will offer attendees an opportunity to recharge with healthy snacks and juices.

Tuesday’s “Get Cultured: World Cuisines Luncheon” in the exhibit hall will provide samples of food from around the world, while later that afternoon the “Get Elated: Rocky Mountain Ale Tasting” will offer attendees a chance to sample some of 20 different local craft beers in the exhibit hall.

With a nod to next year’s RIMS conference venue, Wednesday’s lunch will feature the “Get Jazzed: Down on the Bayou” theme, allowing attendees to sample iconic New Orleans dishes and a last chance to meet with exhibitors.

“We already have more exhibitors than we did last year,” Ms. Roth said. The society’s leaders are also encouraged by the number of first-time attendees and younger members, RIMS’ Rising Risk Professionals, she added.

And attendees are coming from many different countries, Ms. Roth said. “We have about 60 countries represented, so it’s a truly international conference.”

“We’ll have attendees from our new chapters in Peru and Australia,” added Ms. Snow.

RIMS attendees can lend a charitable hand to worthy causes

Community service opportunities include helping Denver-area foster children, schoolteachers

BY SHEENA HARRISON

Insurance executives will aid several Denver-area nonprofits during the Risk & Insurance Management Society Inc.'s 2014 conference and exhibition, including two community service projects slated to take place during the event.

RIMS conference attendees will perform maintenance work from 8 a.m. to 3 p.m. April 27 at Savio House in Denver. The organization teaches parents how to properly care for their children after protective service agencies have been asked to deal with cases of child abuse or neglect.

Savio House Executive Director William S. Hildenbrand said the organization performs such work because children placed into foster care are more likely to face trouble later in life such as teen pregnancies, dropping out of school or developing poor personal relationships.

By instructing parents on how to better raise their children, Savio House can help reduce some of the social ills that are associated with the foster care system, Mr. Hildenbrand said.

"The worst thing that can happen to a child is to be separated from their family, even if their family isn't the best," Mr. Hildenbrand said.

In a study of families helped by Savio House from 1996 to 2006, 88% had not received any further complaints of child abuse or neglect after undergoing training, Mr. Hildenbrand said.

RIMS volunteers will do maintenance at Savio House's visitation center, where parents who have been separated from their children hold supervised visits in a setting that models a healthy home environment, Mr. Hildenbrand said.

RIMS also plans to perform general cleanup efforts at Savio House's main office, including landscaping and painting, said Stuart Ruff, the society's New York-based director of meetings and events.

Savio House was selected for this year's Community Service Day partly because it will benefit local children, said Mr. Ruff, who expects about 100 RIMS members to participate in the event.

RIMS and Zurich North America, which is sponsoring RIMS' community service events, asked Savio House to assign tasks to volunteers that the organization's employees may not normally have time to do, said Jillian Walsh, Schaumburg, Ill.-based director of community investment for Zurich North America.

The Community Service Day event will allow RIMS attendees to demonstrate the insurance industry's commitment to helping oth-

ers, Ms. Walsh said.

Along with the preconference community service event, RIMS will conduct a volunteer project during the conference to benefit the Resource Area For Teaching in Denver. The nonprofit, based in San Jose, Calif., provides classroom materials for teachers at a discounted rate compared with retail prices.

RIMS conference attendees will

be able to assemble math and science teaching kits for RAFT during an all-day event inside the conference exhibit hall on April 29. Materials for the packs will be provided by RIMS and Zurich.

"A lot of teachers who work in the public education system are strapped for resources, and it's not uncommon for a teacher to buy his or her own supplies sometimes," Mr. Ruff said of why RIMS chose to

support RAFT.

This will be the first time that RIMS has held two service events during the annual conference, organizers say.

RIMS also will provide donations to two additional charities that benefit the Denver area, Mr. Ruff said.

RIMS attendees were given the option of donating \$8 to Carbonfund.org along with their conference registration, Mr. Ruff said.

The charity will use the money to help offset the carbon footprint of the RIMS conference and attendees' travel to the event, such as by planting trees.

Denver's Road Home also will receive a \$5,000 donation on behalf of RIMS' annual conference programming committee, Mr. Ruff said. The nonprofit organization aims to end homelessness in Denver by providing assorted services.

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RIMS2014

Denver insiders' recommendations

Denver, the host city for the 2014 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 KATE SHEPHERD



STEVEN LEVINE

Director of risk management U.S. Olympic Committee

Dining: Tamayo at 14th and Larimer streets for their roasted corn chowder; Cherry Cricket in the Cherry Creek shopping area for an amazing burger; Snooze for a decadent breakfast.

Attractions: Rent a bike and enjoy the miles upon miles of bike paths throughout the area; Boulder, Colo., provides beautiful scenery and the walkable Pearl Street Mall; Red Rocks amphitheater in Morrison, Colo.

Getaway: Drive south to Manitou Springs, Colo., for lunch and to climb the 2,000-foot elevation incline.



CARTER E. BOARDMAN

Director of contracts and risk management Merrick & Co.

Dining: Jax's Fish House, DOMO Restaurant (authentic Japanese) and Brewery Bar II (authentic Mexican).

Attractions: Molly Brown House Museum and Red Rocks Park and Amphitheatre.

Getaway: Estes Park, Colo., a beautiful little town nestled in the Rocky Mountains with Rocky Mountain National Park as its backdrop. See the elk wandering through the town and get a caramel apple from Laura's.



SCOTT D. COLLINS

Director of risk management Digital First Media

Dining: Breakfast: Snooze, the best breakfast fare in Denver. Saturday or Sunday Brunch/Dinner: The Root Down with excellent local fresh fare. Dinner: Domo — delicious country Japanese restaurant near downtown.

Attractions: Great museums like the Denver Museum of Nature & Science and the Denver Art Museum. Afterward, sample some microbrews at Euclid Hall Bar & Kitchen, Great Divide Brewery or The Falling Rock Taphouse.

Getaway: Head to Boulder, Colo., for a beautiful day hike in the Flatirons.



ONDREA MATTHEWS

Director of riskmanagement and benefits CoorsTek Inc.

Dining: Linger and Osteria Marco. I always recommend Linger for its diverse food and eclectic history ... it used to be a mortuary! Osteria Marco puts you in the middle of Larimer Square with affordable, delicious options.

Attractions: Mile High and Red Rocks. Did you know you could take a tour of Sports Authority Field at Mile High?

Getaway: A quick drive with maximum views can be found by heading up I-70 to Lookout Mountain. Stop at the overlook at Buffalo Bill's grave for amazing views.



Red Rocks (above) just west of Denver is a fabulous outdoor amphitheater and a gorgeous location. Enjoy the miles upon miles of bike paths throughout the Denver area.

VISIT DENVER/STEVE CRECELIUS

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RIMS holds competitions on the golf course, in the classroom

Student teams take Risk Management Challenge, golfers raise funds for scholarships

BY BILL KENEALY

A new academic competition will join a venerable golf tournament at the 2014 Risk & Insurance Management Society Inc.'s Conference & Exhibition in Denver.

The first annual Spencer-RIMS Risk Management Challenge will pit nine teams of risk management students from universities against each other. The teams of four or fewer students are tasked with presenting a plan to solve a real-world risk management problem.

The nine teams — Appalachian State University, Butler University, Florida State University, the Illinois State University Katie School of Insurance, La Salle University, Missouri State University, St. Joseph's University, the Temple University Fox School of Business and the Virginia Commonwealth University School of Business — submitted 10-page papers and were selected from a pool of 15 universities.

The challenge is modeled after other academic case study challenges for other disciplines and fits well with the Spencer Educational Foundation Inc.'s mission of identifying and supporting bright and talented risk management students, said Deborah Little, Richmond, Va.-based senior program manager of rising risk professionals for RIMS, noting that all members of the teams must have speaking parts in the presentations.

"There wasn't anyone doing a risk management challenge nationally," Ms. Little said. "I went to Spencer with a grant proposal, and they thought it was a good idea."

The risk management case study the students are working on, which was provided by Daniel H. Kugler, assistant treasurer of risk management at Snap-on Inc. in Kenosha, Wis., will enable the students to put what they have learned in the class room to practical use, said Peggy Accordino, chairwoman of the Spencer Educational Foundation.

"These are real, practical business issues from real companies," Ms. Accordino said.

The nine teams will give their first presentations on April 27 to a panel of eight judges. From there, three finalists will be selected to present on the afternoon of April 29 in front of both the judges and a crowd of attendees at the conference. The winning team will be announced April 30 at the conference finale, with the first-place team splitting a \$4,000 cash prize, the second-place team getting \$3,000 and the third-place team earning \$2,000.

The event will also give companies a convenient way to spot emerging risk managers, Ms. Accordino said. "It will be nice to

put these students on stage and realize that this is the future of risk management," she said. "It's kind of like the Academy Awards for risk, minus the red carpet."

Elsewhere, the Spencer/Gallagher Golf Tournament, which has been sponsored by Itasca, Ill.-based insurance brokerage Arthur J. Gallagher & Co. for 23 years, also seeks to support the next generation of risk management students.

The event, which raised \$43,000 for the Spencer Educational Foundation during last year's conference, will be held at Arrowhead Golf Club in Littleton, Co., on Sunday. Teams interested in participating can register online for the event, which tees off at 8 a.m.

Timothy Boston, tournament co-chairman and Baton Rouge, La.-based marketing manager for Arthur J. Gallagher, said he was

looking forward to hitting the links. "I've played the course a couple of times," he said. "There's some great scenery and some great views. It will be a lot of fun."

Mr. Boston said the tournament has enjoyed renewed popularity in recent years after many companies cut back travel budgets in the wake of the 2008 financial crisis. For example, last year's tournament at the Robinson Ranch Golf

Club in Santa Clarita, Calif., attracted 118 participants.

The golf outing is a "great way" to bring members of the risk management community together, Ms. Accordino said.

"The golf outing is always fun, and we always have a great turnout," Ms. Accordino said. "We are always grateful for Gallagher for their generosity in putting it together and taking the time to do this."

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RIMS2014

Denver insiders' recommendations



RAY SIBLEY

Director of risk management City and County of Denver

Dining: Good meals have to have both good food and a great beer selection: Fresh Craft (Blake Street), Euclid Hall (14th Street, Larimer square) and Cheeky Monk (Colfax Avenue).

Attractions: Red Rocks. Denver cultural venues: Denver Art Museum, Denver Museum of Nature & Science, Denver Zoo. Or just walk around downtown or Lodo.

Getaways: Pearl Street Mall, Boulder, Estes Park, Garden of the Gods, Pikes Peak.



GLORIA BROSIOUS

Director of risk management and insurance programs FCC Services Inc.

Dining: Ted's Montana Grill for outstanding bison; Elway's in Cherry Creek for a wonderful dining experience and great food.

Attractions: The Red Rocks Amphitheater — beautiful natural amphitheater. Lookout Mountain — fabulous views of Denver and the front range from north to south.

Getaway: Estes Park, Colo., offers mountain scenery and small town charm. While there, be sure to tour the Stanley Hotel, the setting for the movie *The Shining*.



TERESA SPENCER

Senior director, global risk management IHS Inc.

Dining: Osteria Marco; The Kitchen; Crave Dessert Bar & Lounge.

Attractions: Downtown Aquarium; Washington Park (aka "Wash Park"), 165-acre park in urban Denver; 16th Street Mall — outdoor pedestrian mall in the heart of Denver.

Getaway: Red Rocks Amphitheater. A great venue for music and entertainment, in addition to walking trails, a trading post and beautiful views of the red rock formations and Denver.



RICK DINGMAN

Director of enterprise risk management IMA Inc.

Dining: Breakfast: Rialto Café; Lunch: Southern Hospitality; Dinner: Bistro Vendome; Late Night: Tom's Urban 24.

Attractions: Denver Art Museum. If you're into whiskey: Stranahan's Whiskey Tour. If you're into beer, Wynkoop Brewing Co.

Getaway: A great day trip is to head south on U.S. Route 285 through South Park, Colo., (yes that one) to Fairplay, Colo., where you are surrounded by all the 14ers in the President's Range.



Garden of the Gods (above) and the Denver Art Museum.

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2014 RISK MANAGEMENT SUMMIT POST CONFERENCE SUPPLEMENT



The 2014 *Business Insurance* Risk Management Summit was held March 12-13 in New York. Now in its fifth year, the summit serves the networking and information needs of senior risk managers who are confronting complex and global risks. The two-day event brings attendees focused insights through thought-provoking keynote speakers, expert panels and risk manager-only discussions.

This year's summit included panel discussions on cloud computing, global coverage and compliance, social media risks, workplace violence, communicating with the C-suite, directors and officers liability and alternative capacity.

"The occasion to meet with industry peers and insurance practitioners encourages attendees to continuously improve their individual knowledge and to learn from one another. Insurance and risk management are a skills business and the greatest value of this event is the opportunity to feed a curiosity and foster creativity of this business," said Dan Riordan, chief executive officer of Zurich Global Corporate in North America, a Diamond sponsor of the Risk Management Summit.

Events such as the Risk Management Summit "serve as a catalyst to identify and create ideas and solutions aimed at tomorrow's most formidable challenges. Sedgwick is pleased to be a part of and recognized at such a distinguished event," said Catherine Bennett, director of public relations for Sedgwick, a Platinum sponsor of the Risk Management Summit.

American International Group Inc. also was a Platinum sponsor of the summit.



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Resilience a key element to managing risk

Eliminating all risk is not possible, but planning for continuity can minimize losses

A key to managing risk is a resilience-centered approach, said Stephen Flynn, professor of political science and founding director of the Center for Resilience Studies at



Stephen Flynn
Northeastern University

Northeastern University in Boston. "Risk is something to be managed, not something that can be entirely avoided," Mr. Flynn said in a keynote speech at the *Business Insurance Risk Management Summit 2014* in New York.

"Society has seduced itself into thinking that we can reduce risk to zero and drive it away."

He cited a series of events that suggest otherwise: the Sept. 11, 2001, terrorist attacks; Hurricane Katrina; the global financial crisis; the Deepwater Horizon oil spill; and Superstorm Sandy in 2012.

These events' severity surprised many, in part because people applied past experience, Mr. Flynn said.

Superstorm Sandy, for example, was a "predictive surprise," yet left 1.3 million people without power for a week and damaged or destroyed 380,000 homes.

The fact that a major storm could strike New York City was predictable, he said. Flooding was the key factor in Sandy losses, compounded by the fact that many electrical systems in Manhattan were in

basements.

A resilience-centric approach can ensure continuity of critical infrastructure by examining:

- **Engineering:** How does the critical system operate?
- **Interdependencies:** What does

'Society has seduced itself into thinking that we can reduce risk to zero and drive it away'

the critical system need to function?

● **Boundaries:** Where does the system function?

● **Stakeholders:** Who are they?

Resilience design, according to Mr. Flynn, has four elements: resistance, or redirecting a threat to mitigate impact; cushionability, a range in loss of function between full and essential; robustness, or hardening of assets to maintain essential function; and redundancy, having spares.

To evaluate the consequences of a worst-case scenario, critical systems should be tested to failure, even where that probability seems low, Mr. Flynn said. To ensure resilience, risk management must focus on restoring systems to essential function, full function and finally, learn from events.

Cloud technology brings advantages, risks

Panel details considerations for managing risk of data breach in cloud

The proliferation of data and evolution of cloud-based computing are creating more risks for organizations to manage, according to a panel of experts at the *Business Insurance Risk Management Summit 2014*.

Advantages of cloud computing include cost-efficient and scalable information technology resources and the ability to deliver solutions without large investments in system hardware, said Marcin Plonka, global risk manager for SAP America Inc., which is a provider of cloud computing services.

Outsourcing information technology does entail some risks, noted Robert Parisi, senior vice president and technology, network risk and telecommunications specialist at Marsh L.L.C. These risks include security defects, privacy-related issues, application or system performance, and business continuity and disaster recovery.

"Outsourcing technology is not outsourcing the risk. You still own that risk; if something goes wrong, it's yours," said Mr. Parisi.

Privacy issues and regulatory compliance can be significant concerns in cloud computing, said Richard Bortnick, a shareholder at law firm Christie Parabue & Young P.C. Organizations that work with data covered by the Health Insurance Portability and Accountability Act, or HIPAA, can face substantial penalties for failing to protect personally



Audrey Rampinelli
Loews Corp



Robert Bortnick
Christie, Parabue, Mortenson & Young, P.C.



Bob Parisi
Marsh L.L.C.



Marcin Plonka
SAP America Inc.

identifiable data. Keeping data confidential is therefore important not only for cloud providers but also for their vendors—a consideration for risk managers whose organizations work with cloud providers, Mr. Bortnick said.

The security, privacy and integrity of data are key concerns of SAP, according to Mr. Plonka. Compliance with laws in different jurisdictions is another risk, and countries have differing approaches in implementing laws and regulations, he said.

Mr. Bortnick added that data can be

stored around the world, in jurisdictions with laws that could conflict, making compliance challenging.

Contractual risk management is a key strategy in working with cloud providers, especially before data breaches occur, the RMS panelists agreed.

Contracts should specify how an organization will collaborate with the cloud provider, how data will be extracted for compliance and operations, and how fee disputes will be handled, suggested Mr. Parisi.

Important contract clauses are requirements that the cloud provider immediately notify the client organization in the event of a breach and outlines on how both parties will work together afterward, Mr. Bortnick advised.

"It's a lot easier and cheaper to fix the problem before it's broken than after the event; the average cost of breach remediation is \$2.5 million," Mr. Bortnick said. "Your first call after a breach should be to your insurer; one of the most important components of cyberinsurance is crisis management. Next, you need to call in forensics, to figure out what happened, how and why. Third, call a lawyer. It's as important or perhaps more important on the back end because of attorney/client privilege."

Moderated by Audrey A. Rampinelli, vice president for Loews Corp.

CLOUD COMPUTING

There are three categories of cloud computing, and four main models according to SAP America Global Risk Manager Marcin Plonka:

Infrastructure as a service: Where hardware is owned and maintained by the cloud provider.

Platform as a service: Where the cloud provider offers add-on operating systems and an environment for developing applications.

Software as a service: Where apps run in a virtual environment without the need for an in-house data center.

Four main models of cloud computing are prevalent today:

Private cloud, in which a separate server is used.

Community cloud, or a network of connected servers.

Hybrid cloud, or a combination of private and public clouds.

Controlled cloud, which uses encrypted and secure network to deploy computing resources.

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Global coverage depends on local compliance

Avoiding conflicts a big task, but not impossible

Differing insurance laws and regulations around the world make achieving a global program difficult and create ongoing compliance challenges, said an expert panel at the *Business Insurance Risk Management Summit 2014*.

"There are challenges to going international. There are 196 countries in the world, with hundreds of jurisdictions, cultures and insurance practices, and expertise in local markets ranges from low or emerging to well-developed," said Tim Yeates, executive director at Axco Insurance Information Services Ltd.

For risk managers, Mr. Yeates said, global coverage and compliance largely come down to two questions: Is the organization covered for claims? How to balance the interests of the

overall group and local operations, which sometimes can conflict?

Compliance carries costs, the panelists noted.

John N. Ellison, a partner at law firm Reed Smith L.L.P., said companies need to empower risk managers to be as compliant as possible, to obtain proper coverage.

Increasingly, jurisdictions are scrutinizing corporations for tax compliance, the panelists said. The costs of non-compliance can surpass financial penalties and may include loss of licenses and local sanctions, said Mr. Yeates.

Insurance underwriters have different approaches on the payment of insurance premium taxes in global programs, said Claude F. Gallelo, managing director of Willis Risk Solutions International. That can become a problem if companies are audited and cannot prove that premium taxes have been paid, he said.

"Ultimately, client, insurer and broker are all responsible for compliance," Mr.



John N. Ellison
Reed Smith



Claude F. Gallelo
Willis Risk Solutions Intl.



Tim Yeates
Axco

Gallelo said.

A recent trend is heightened enforcement activity around the globe, Mr. Ellison said. In international insurance programs, directors and officers liability has taken on sharper focus, amid increasing enforcement of the U.S. Foreign Corrupt Practices Act and equivalent laws in other jurisdictions, he said.

Despite the challenges, "it is possible to have a totally compliant program," said Mr. Gallelo.

On behalf of a major multinational client, whose top executive mandated compliance, Willis placed a D&O and fiduciary liability program comprising

a master policy covering nine countries and 142 free-standing local policies in 129 countries, as well as a dozen fiduciary/pension trust policies. "That was not easy to do. In some of those countries, they had never issued locally admitted D&O policies," he said. Implementation of the program occurred over about 6 months, but "refining it took years." Mr. Gallelo said the organization's subsidiaries had flexibility in setting local coverage limits and were required to pay their own premiums.

Moderated by Rodd Zolkos, Senior Editor Business Insurance.

Innovation Awards 2014 honorees

Business Insurance's annual awards program, sponsored this year by XL Group, recognizes outstanding achievements of companies that create products or services for professional risk managers that address: risk identification, risk assessment/analysis, risk control and/or risk financing.

2014 Innovation Award honorees:

American International Group Inc.
AIG Multinational Program Design Tool

Aon P.L.C.

Aon Interactive Political Risk Map 2013

CorVel Corp.

CareMC—Pharmacy Clinical Modeling

FM Global

The FM Global SimZone

The Institutes

Enterprise Risk Management (1st Edition) textbook

Marsh USA

Marsh Wage and Hour Preferred Solution

PartnerRe Ltd.

PartnerResearch App

Sedgwick Claims Management Solutions Inc.

viaOne® Express Mobile App and Push Technology

XL Group P.L.C.

XL GAPS Mobile Field App

Zurich Insurance Co. Ltd.

What if...? Risk Grading App

New capacity from pensions, Asia

Investors attracted to cat risk for diversification of portfolios

Alternative forms of capital are flowing into the commercial insurance industry, boosting capacity as new groups of investors look to complement their portfolios, a panel of experts said.

Alternative capital includes insurance-linked securities, industry loss warranties and various forms of collateralized reinsurance, such as sidecars and cat funds, said Mr. Porter, who is S&P's property catastrophe

Another new capital source for risk managers is Asian insurers, said Duncan Ellis, managing director and leader of the U.S. property practice at Marsh L.L.C.

Many Asian insurers, especially in China, South Korea and Japan, are looking to diversify and include risks outside Asia. These markets prefer to write U.S. risks on a coinsurance or reinsurance basis, and are looking for significant but specific industrial risks that align with their portfolios, Mr. Ellis said.

"Asian markets are following markets, not leads. They can help fill capacity needs and may reduce premiums," he said.

The panelists agreed that fluctuations are likely in the amount of capital flowing in but that the new capital appears to be committed.

"The market is subject to the interest rate environment, other investment opportunities and future catastrophe events. Cat risk appears to be a long-term strategy for pension funds," Mr. Porter said.

"Pension money is like an elephant. It takes a long time to move in to the room but doesn't leave the room quickly. Instead, it shifts around," said Ms. Anger.

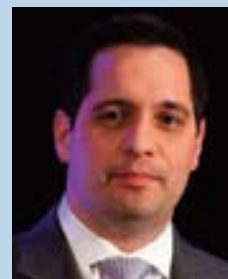
Moderated by Gavin Souter, Editor of Business Insurance.



Cory Anger
GC Securities



Duncan Ellis
Marsh L.L.C.



Jason Porter
Standard & Poors Corp.

Speaking at the *Business Insurance Risk Management Summit 2014*, the panelists discussed how and why alternative capacity is increasing risk-financing options.

In 2006 and 2007, a large inflow of alternative capital occurred following Hurricanes Katrina, Rita and Wilma, said Jason Porter, associate director at Standard & Poor's Corp. From 2011 to 2013 came another large inflow. "Post-KRW was demand-driven. Now the flow is more supply side, with investors embracing catastrophe risk as a complement to their investment portfolios," he said.

specialist for North America. "As an alternative to other investment vehicles, these are risky instruments but good investments because yields are uncorrelated," he said.

Pension funds are the primary source of alternative capital entering the marketplace, said Cory Anger, the global head of ILS structuring at GC Securities, the investment banking unit of reinsurance intermediary Guy Carpenter & Co. L.L.C. "Investors value the diversification available in ILS; returns are not typically as high as in commodities, but ILS offers a lot less volatility," she said.



Q: Should your multinational policy be serviced locally or globally?

A: Yes.

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Set corporate policy to limit social media perils

Social media pose an array of liability risks for organizations, but a well-drafted internal policy can help mitigate those risks, said a panel of experts at the *Business Insurance Risk Management Summit 2014*.

Among the risks are reputational damage, libel or slander, violation of privacy regulations and employment practices liability, the panelists noted.

"Only 40% of companies have a formal social media policy," said Scott L. Vernick, an attorney at Fox Rothschild L.L.P.

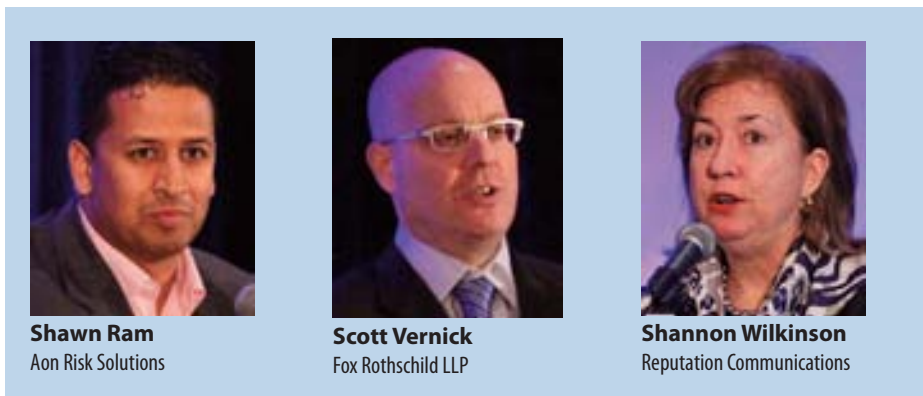
More employers should consider social media policies, particularly as the trend in allowing employees to use their own smartphones and mobile devices grows, he said. A strong social media policy is directly connected to a strong bring-your-own-device policy, he said. "Make sure you have robust policies in place. Know what you want to accomplish, and identify and anticipate risks," Mr. Vernick said.

"Every company has social media

risk. Just look your organization up on Facebook, Twitter and search prior conversations," said Shawn Ram, national technology practice leader for Aon Risk Solutions. "Social media enable an unlimited amount of people to get a message out and an unlimited amount of people to send messages back."

He cited a manufacturer that tweeted on the safety of its cars in light of a jet accident. Social media users objected and the post was promptly taken down, but the reputational damage had already been done. "It's important to understand who's writing the posts about your organization," Mr. Ram advised.

A liability risk that can arise from social media is advertising injury or personal injury. This peril sometimes is excluded in general liability policies but can be covered in errors and omissions policies, Mr. Ram said. Exclusions include knowing violation of the rights of another, even though "some



Shawn Ram
Aon Risk Solutions

Scott Vernick
Fox Rothschild LLP

Shannon Wilkinson
Reputation Communications

employees would argue they did not know they were violating another's rights in posting content," he said.

Shannon Wilkinson, founder and president of Reputation Communications, suggested employers use social media to monitor mentions of their brand and executives and to screen current and prospective employees' social media activity.

Certain actions can violate the National Labor Standards Act and regulations by the National Labor

Relations Board, which apply to most private-sector employers, cautioned Mr. Vernick. "You can't stop employees from talking about work on social media. But you can stop them from disparaging your products or services through a social media policy," he said.

A policy "should spell what employees can and cannot do on social media," Mr. Vernick said.

Moderated by Paul Bomberger, Managing Editor of Business Insurance.

Learn CFO's style to better communicate



Jack Hampton
St. Peter's College

The right road for managing risks in 2014 leads into the office of the chief financial officer, said Jack Hampton, professor of business at St. Peter's University and a principal of Princeton Consulting Group.

Mr. Hampton, also the former executive director of the Risk & Insurance Management Society, spoke at the *Business Insurance Risk Management Summit 2014* on how risk managers can get the attention of the C-suite.

In most organizations, the CFO occupies a position below that of the chief executive officer and as a peer to the chief marketing

officer and chief of production. When examined from the perspective of organizational influence, however, the CFO generally plays a leading role, even over the CEO, Mr. Hampton suggested. Risk managers must therefore master the art of communicating effectively with their organizations' finance chiefs.

Mr. Hampton said that, in his experience, there are two main types of CFO. One has a motto of "behind the back," which describes how that executive passes monthly variance reports to the trashcan. "You can't get to these kinds of CFOs with details – you need

to catch them with stories," Mr. Hampton said.

The other type of CFO has a motto of "get buried in numbers." "To reach this kind of CFO, you have to be able to talk finance to be in the discussion," Mr. Hampton said.

Risk managers "need financial tools that tell a compelling story, are relevant and provide a foundation for discussion," he suggested. A financial foundation provides a basis for discussing total cost of risk and how to lower costs and achieve tax benefits through operational risk management, he said.

Terrorism, digital risks here to stay, Ridge

Only a few steps from the site of the worst terrorist attacks on U.S. soil, former Secretary of Homeland Security Tom Ridge told risk managers he believes terrorism will be an ongoing problem.

In a keynote speech during the *Business Insurance Risk Management Summit 2014*, Mr. Ridge said that businesses and governments will continue to grapple with terrorism and cyber risk challenges.

"I believe there are two fundamental changes in the world that we will be dealing with in perpetuity," he said.

One is "the global scourge of terrorism."

Terrorism has been a tactic deployed for centuries and today has become a war against ideology. The broader world community will be dealing with terrorism forever, he said.

The second is what Mr. Ridge termed the "digital forevermore."

"We are a connected world, ubiquitous in nature and anonymous in nature. With every new



Tom Ridge
Ridge Global

innovation is another vulnerability," Mr. Ridge said.

"Cyberattack used to be an IT problem. Today it's a business risk," he noted. "It has to be a C-suite priority."

Organizations also must change from a reactive to a pre-emptive mindset, picking out their most

vulnerable and important systems, he said.

Mr. Ridge, a former two-term governor of Pennsylvania, became the first Assistant to the President for Homeland Security following the Sept. 11, 2001, terrorist attacks and then was appointed as the first Secretary of Homeland Security. His firm, Ridge Global, advises businesses and governments on a range of issues from security to crisis management to technology integration.

Mr. Ridge suggested the federal government share more information with the private sector on cyberattacks. He proposed a "protected pathway" for information sharing to reduce the risks posed by hackers and organized crime.

"Government is in the need-to-know business. Post-9/11, we're in the need-to-share business," he said.

"Risk management and resiliency isn't about preventing something; it's about responding. One element of resiliency is being prepared," Mr. Ridge said.

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Advice for preventing workplace violence

Training, communication and analysis key to connecting the dots

Workplace violence is a costly problem in the United States, even as the overall rate of incidents and homicides in the workplace has reduced, said panelists at the *Business Insurance Risk Management Summit 2014*.

Significant costs and liability arising from such incidents in the workplace make prevention critical.

Workplace violence is estimated to cost \$121 billion per year in the United States, and non-fatal assaults result in 876,000 lost workdays annually, said Debbie Michel, executive vice president, national insurance at Liberty Mutual Group Inc. and president of Liberty Mutual's third-party administrator unit Helmsman Management Services.

"Each year, about 2 million people in the U.S. are victims of workplace violence," she said. This is defined as physical assault, threatening behavior or verbal abuse, and it can range from threats and intimidation to violence to homicide, Ms. Michel said.

Post-incident reports show that most incidents of workplace violence



Rich Shaw
Awareity

Debbie Michel
Liberty Mutual Insurance

Jeff Natterman
The Johns Hopkins Hospital

were preventable, said Rick Shaw, president and chief executive officer of Awareity Inc., a provider of incident management and prevention software platforms.

"Information on social media is out there, the dots are out there, so why aren't organizations preventing incidents?" Mr. Shaw asked. "There are gaps in awareness and identifying indicators, and there are gaps in true anonymous reporting options."

He said more tools are needed to perform threat assessments and behavior assessments so that

employers can intervene, monitor, escalate and prevent violence in the workplace, at schools and other public settings.

Jeffrey R. Natterman, risk manager and associate senior counsel at The Johns Hopkins Hospital, recounted learnings from a 2010 fatal shooting at the hospital by a patient's son who was distraught over post-operative complications.

"Pieces of the story were observed over 4-5 days, but nobody put them together," Mr. Natterman said. The shooter was observed acting strangely

by hospital staff before the incident, yet his behavior was not communicated.

After the incident, Mr. Natterman said the hospital implemented several measures, including:

- Clinical customer service coordinators to organize communications and respond to patients and visitors.
- Behavioral alerts in electronic health records.
- Training on identifying and responding to threats.
- And multiple options for anonymous reporting of suspicious or dangerous behaviors,

In addition to loss prevention measures, several kinds of insurance may respond to workplace violence risks, Ms. Michel said. These coverages include workers compensation; general liability; workplace violence insurance, which can be purchased as stand-alone coverage or as part of an employment practices liability policy; and specialty coverage such as kidnap, ransom and extortion insurance.

Moderated by Matt Dunning, Associate Editor of Business Insurance.

Managing D&O policies along with exposures

Build relationship with D&O insurers to set expectations

Risk managers have an important role in managing not only directors and officers liability risks for their organizations but also in helping preserve coverage and managing carrier relationships, a panel of D&O experts said.

Speaking on market developments at the *Business Insurance Risk Management Summit 2014*, the panelists noted that D&O lawsuits are becoming increasingly complex and are consuming more of the available coverage limits.

Shareholder derivative suits, through which investors sue directors and officers on behalf of the company, are driving much of the Side A coverage purchases, said John McCarrick, a partner at law firm White & Williams L.L.P. Side A D&O coverage responds where a corporate entity is legally barred from or financially unable to indemnify directors and officers and is often sits excess of other D&O coverages.

"There are potentially conflicting contract clauses as you build limits around the market, in Bermuda, London and elsewhere," he said. "Policyholders need continuity as they build excess capacity," and "most difficult kinds of claims have to navigate various policy structures."

Evan J. Rosenberg, senior vice president and global specialty lines manager at Chubb Corp., noted a trend in claims related to mergers and acquisitions, which are driving up the cost of defense and settlement and

eroding limits. "The average cost is \$1.5 million to \$2 million per case," and defenses requiring multiple forms of counsel, such as for regulatory actions, civil and criminal cases, can "easily cost \$20 million to \$30 million," he said.

"The risk manager's value in D&O claims is to familiarize the legal team with the terms and conditions of the organization's D&O policies," said Ann Longmore, executive vice president at Willis North America Inc.

Risk managers also must carefully manage their organizations' relationships with D&O insurers, she advised.

"Getting a claim during a D&O renewal makes for an interesting conversation. You can't choose when you get sued and you must live with the consequences,"

Ms. Longmore said. "But you must value the relationship with the carriers, even on excess layers—you need to get them to pay your claim and to renew the coverage. And do not wait for renewal to buy additional limits."

Mr. McCarrick agreed: "Policyholder lawyers can only threaten to sue insurers. The risk manager uniquely has the relationship to reach in and establish expectations and can preserve the relationship by playing a role in coverage issues," he said.

Moderated by Carolyn Snow, Director of Risk Management for Humana Inc.

'You must value the relationship with the carriers, even on excess layers—you need to get them to pay your claim and to renew the coverage.'



Carolyn Snow
Humana Inc.



Ann Longmore
Willis North America



John F. McCarrick
White and Williams LLP



Evan Rosenberg
Chubb Insurance Corp.

This Risk Management Summit 2014 special report was authored by

Regis Coccia, former editor of Business Insurance and a freelance journalist and content strategist based in Atlanta, and photography provided by Douglas Goodman, based in New York.



Captives plug terror coverage gap



Mr. Howard

BY MATTHEW J. HOWARD

After the Sept. 11, 2001, terrorist attacks, many property/casualty insurers found it increasingly difficult to buy reinsurance coverage for acts of terrorism, and as a result began to exclude those losses altogether.

In 2002, Congress passed the Terrorism Risk Insurance Act to provide a reinsurance market for property/casualty insurers. In return for this federal backstop, the federal government requires insurers to offer their customers, by endorsement, the option to purchase terrorism coverage at fairly low rates under the same terms and conditions of the endorsed policy.

The Act was seen as restoring order to the marketplace. However, a few years later, the Government Accountability Office published two separate reports, the first in 2006 and the second in 2008, noting that procurement of the TRIA endorsement would likely not protect insureds against all acts of terrorism.

More specifically, acts of terrorism involving nuclear, biological, chemical, and/or radiological agents would likely be excluded under the endorsed policy's standard pollution and radiation clauses. The 2008 GAO report said the marketplace for coverage of such nuclear, biological, chemical or radiological acts is virtually non-existent, and those few insurers that do offer the coverage charge very high premiums compared with premiums for a standard TRIA endorsement.

So what is one to do to procure complete terrorism coverage, including nuclear, biological, chemical or radiological acts? A business owner is seemingly left with three options as it relates to this risk: 1) try to find a commercial insurer to underwrite the risk at high rates; 2) do nothing and retain such risk; or 3) insure such risk through a captive. Since for many businesses, the first two options are not ideal, they have sought a captive.

However, terrorism insurance, in the context of captive insurance programs, has received an increased amount of attention in recent months. A few in the industry have taken the position that a captive's legitimacy could be called into serious question by the Internal Revenue Service, if such captive issues terrorism coverage.

The crux of their argument is that ter-

Although policyholders can buy terrorism insurance backed by TRIA, the coverage does not include nuclear, biological, chemical or radiological attacks. To broaden the coverage, policyholders can use their captive insurers to take on the risks; however, careful attention needs to be paid to premiums charged and how the IRS will treat the coverage for tax purposes, says attorney Matthew J. Howard, the senior tax partner at Moore Ingram Johnson & Steele L.L.P.

rorism claims are rare, and as a result, captive premiums charged for terrorism coverage are excessive, compared with purchasing terrorism endorsements on the commercial market. Therefore, it is alleged that some captive practitioners are writing terrorism coverage simply for premium and/or reserve deductions.

While some captives may indeed charge excessive rates for terrorism as well as for other coverages, with little justification solely for tax benefits, it cannot be ignored that terrorism is a real risk, and a properly structured captive which charges premiums based on rates developed by independent, qualified actuaries, can provide practical risk management solutions for business owners.

In fact, many business owners have decided to insure these risks through a captive program, reasoning that if the only coverage available on the commercial market has been priced with high premiums why not manage such risk internally?

While it is always important to price a captive premium with market-comparable rates, it is not unusual for an actuary to price a captive's premiums higher than the commercial market given that a captive program has far fewer insureds and a lean capital structure.

Still, some may question the real risk that an act of terrorism may pose to the U.S., and as such, are concerned the IRS may question such high premiums. In 2012, the Heritage Foundation released a report stating that at least 50 terror plots had been foiled since 2001. Furthermore, in 2008 the Rand Corp. issued a report estimating damages from a simulated nuclear, biological, chemical or radiological terrorist attack in southern California could cause damage of nearly \$1 trillion.

Insurers are aware of this and have gone out of their way to exclude these risks, to which, one could reason: If these risks are not real, why are insurers clamoring to exclude them? If these risks are not real, why would the GAO publish two separate reports regarding the unavailability of coverage for these nuclear, biological, chemical or radiological events?

Given the high severity loss that an act of terrorism can produce, some captive owners may find it advantageous to pool their collective terrorism risks. Pooling of terrorism risks can be beneficial by offsetting a high severity loss but also can provide a practical benefit as well.

To be considered a legitimate insurance arrangement in the eyes of the IRS, a captive program must not only insure legitimate risks that are underwritten at market-comparable rates, but the program also must have adequate risk distribution.

To that end, the IRS-issued Revenue Ruling 2002-89 states that one way to attain adequate risk distribution would be for a captive to receive at least 50% of its premium from unrelated sources. Further, the revenue ruling implies that the unrelated risks insured by a captive should be similar or homogenous.

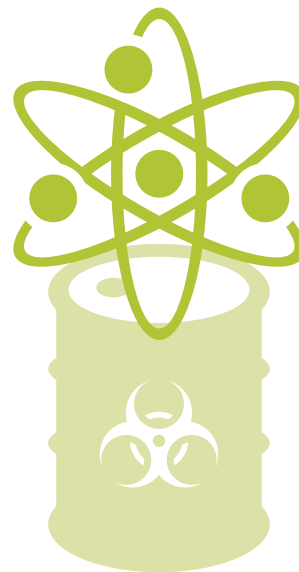
So assume there are 10 separate, unrelated businesses, and each has a captive program, respectively, referred to as captives one through 10. Each business owner is located in a different part of the country, and each would like to insure various risks, including its terrorism exposure, via its respective captive.

This terrorism coverage will not only insure what the TRIA endorsement would insure, but also the exclusions for nuclear, biological, chemical or radiological attacks. Captive No. 1 would insure Business No. 1 directly for 50% of its total premium while the remaining 50% relates to the terrorism exposure of the other nine businesses. Captive No. 2 would insure Business No. 2 directly for 50% of its total premium, while the remaining 50% would relate to the terrorism exposure of Businesses No. 1 and Businesses No. 3 through No. 10, and so on. As a result, each business has insured its enterprise risk through its captive program, while each captive abides by the IRS's 50% homogenous unrelated risk rule.

Although there may be a few bad apples abusing terrorism coverage — and the abuse of the terrorism coverage is not likely the sole abuse — we should not let those practitioners sully the legitimate application of terrorism coverage provided through a properly structured captive.

While it is true that premiums for coverage of nuclear, biological, chemical or radiological terrorist acts are justifiably higher than commercially procured terrorism endorsements, that does not give captives license to randomly assign outrageous premiums. That is why it is imperative that terrorism premiums be priced by an independent and licensed actuary who possesses the skill and competence to accurately price such coverage.

Matthew J. Howard is the senior tax partner at law firm Moore Ingram Johnson & Steele L.L.P. in Marietta, Ga. He can be reached at 770-795-5022 or MJHoward@mij.com.



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Poms Connects launches for personnel managers

Poms & Associates Insurance Brokers Inc. has launched Poms Connects, an online resource and learning community for human resources managers.

Poms Connects offers information on key business areas including human resources management, employee benefits, risk management and loss control, and organization effectiveness, the Woodland Hills, Calif.-based broker said in a statement.

“We recognized the need to provide our clients with vital knowledge on the daily challenges they face in limiting their exposure to risk, and allowing them to focus on important objectives to enhance performance and productivity,” David Poms, president of Poms & Associates, said in the statement.

The following features will be available to clients and members of the public on a subscription basis: e-learning on demand, customized training, webinars, institutes and conferences, breaking news alerts and weekly video tips, according to the statement.

“Knowing that HR departments are often understaffed and inundated with work, this proprietary tool helps alleviate the HR workload without having to spend money on hiring staff,” Dan Foley, a vice president of Poms & Associates, said in the statement.

Segal expands exchange offerings for retirees

The Segal Group Inc. said it has expanded its retiree health services offerings for organizations interested in a private health care exchange platform for Medicare-eligible retirees.

Segal has prequalified three private exchange vendors that have agreed to meet minimum requirements including at least three years of operational experience, exclusively using U.S.-based employees for account service and agreement with minimum performance standards, the New York-based consulting firm said in a statement.

“Segal’s role as independent advisers will continue,” Joseph A. LoCicero, president and CEO of the Segal Group, said in the statement. “We have established nonexclusive relationships with these vendors, and they have agreed to meet our minimum requirements. This initiative represents a step in the evolution of retiree health care consulting as we continue to tailor employer-sponsored health plan solutions to the needs of the plan sponsors and their retirees.”

Segal has no prevetted arrangements with any private exchange service providers for the active employee market, the firm said.

“The retiree health plan market is undergoing substantial change, and in order to keep pace with this rapidly changing environment, we are adding solutions for our clients,” Edward A. Kaplan, senior vice president and national health practice leader at the Segal Group, said in the statement.

“Customized solutions will still be the preferred approach for many large group

PRODUCTS & SERVICES

Oswald launches health exchange market platform

* Oswald Cos. has launched the Oswald Private Exchange, a private health care marketplace and benefits management platform for Ohio businesses, the Cleveland-based broker said.

The exchange, powered by Assurex Global Partners L.L.C., offers employers a range of employee health benefit options and administrative flexibility for companies with 50 or more employees, Oswald said in a statement.

“This platform is all about choice, giving both employers and their employees options for designing a benefits plan that works for them,” Robert J. Klonk, CEO of Oswald Cos., said in the statement.

The features of the Oswald Private Exchange include choice of a defined contribution or a defined benefits plan, access to medical and ancillary benefits customized for employers and their employees, support for Patient Protection and Affordable Care Act record-keeping responsibilities, business data integration that enhances benefits administration and flexible decision support tools, according to the statement.

“Our product allows employers the flexibility to keep their current benefits program or choose from a wide variety of networks, plans and contribution strategies, including defined contribution strategies that limit employer costs,” Jim Hackbarth, president and CEO of Columbus, Ohio-based Assurex Global, said in the statement.

retiree health plan sponsors.”

Allied World U.S. launches data breach liability cover

Allied World U.S., a unit of Allied World Assurance Co. Holdings A.G., has launched Privacy//403 SRVS, a specified response vendor solution policy focusing on data breaches.

The policy provides comprehensive coverage for the liability and expenses related to a data breach, the New York-based insurer said in a statement.

The product offers coverage for privacy, network security and media liability exposures and includes full-limit cover-

age for regulatory defense, fines and penalties. Supplemental privacy coverages, including public relations expenses, data forensics expenses, network extortion coverage and international notification are available, according to the statement.

“Privacy breaches remain a real threat to companies that store client and employee data in information systems,” Al Fantuzzi, Allied World U.S. senior vice president for professional liability, said in the statement.

“In the event of a breach, Privacy//403 SRVS provides real-time assistance for our clients with immediate access to topflight vendors to help them to stay compliant with response timelines established by statute.”

Ace forms a global cyber risk practice

Ace Ltd. has launched its global cyber risk practice, naming Toby Merrill as its leader.

The practice aims to address growing risks as legislation and exposures for privacy and network security evolve and demands for cyber risk insurance and risk management solutions increase, Ace said in a statement.

“Ace is already a global leader in cyber risk insurance, with specialist underwriting, risk engineering and service capabilities spanning four continents,” Tim O’Donnell, executive vice president for financial lines, Ace overseas general, said in the statement.

“Cyber risk exposures have no boundaries, and Ace is one of the few insurers capable of delivering truly global services to brokers and clients.”

Mr. Merrill’s new title is division senior vice president, global cyber risk practice. Previously, he was vice president and national product manager for Ace’s network security, privacy and technology errors and omissions liability products in the U.S. He is based in Philadelphia.

ID Experts, Enquiron team on cyber risk resource

Data breach prevention firm ID Experts and employer risk management solutions provider Enquiron have launched Virtual Privacy Expert, an online resource for insurers to help policyholders minimize cyber risks.

Portland, Ore.-based ID Experts and Boston-based Enquiron will include Virtual Privacy Expert as part of Enquiron’s risk management services, ID Experts said in a statement.

Virtual Privacy Expert’s includes a proprietary risk assessment application, customizable privacy and security policies, a data breach incident response plan and direct access to certified privacy experts, according to the statement.

“This is a completely integrated management liability strategy that will drive usage on a proactive basis, which is the backbone of Enquiron’s ability to reduce claims and provide quantifiable (return on investment) to carriers,” Mike Nacle-rio, president of Enquiron, said in the statement.

DEALS & MOVES

Arthur J. Gallagher enters New Zealand with brokerage buy

Itasca, Ill.-based Arthur J. Gallagher & Co. has acquired Auckland, New Zealand-based retail broker Mike Henry Insurance Brokers Ltd.

The buy is Gallagher’s first broker acquisition in New Zealand, according to a spokeswoman for the company. Terms of the transaction were not disclosed.

Mike Henry has annualized revenues of approximately \$4.5 million and 30 staff operating from its offices in Auckland and Christchurch, New Zealand, Gallagher said in a statement. It provides retail property/casualty insurance, employee benefits products and services, and affinity plans to its middle-market commercial clients in New Zealand, and specializes in coverage for the transportation and freight, jewelry, travel, marine, hotel and hospitality industries as well as the public sector.

Mike Henry CEO Graham Henry and his associates will stay on under the direction of Andrew Godden, head of Gallagher’s Australasia brokerage business.

“As a three-year member of Gallagher Global Alliance, MHIB is an example of how our global correspondent broker alliance strategy can help expand strong working relationships into future partners,” J. Patrick Gallagher Jr., Arthur J. Gallagher’s chairman, president and CEO, said in the statement.

Forensics firm LWG Consulting starts Mexican unit

LWG Consulting Inc., a provider of forensic engineering services, has launched a Mexican subsidiary, LWG Consulting Mexico S.A. de C.V.

The Mexico City-based unit will focus on property loss investigation, failure analysis/damage assessment and litigation support to insurers, legal professionals, government agencies and corporations throughout Latin America, the Northbrook, Ill.-based firm said in a statement.

“As we are already the leading fire investigation firm in Latin America, it is the perfect time to expand our service offering to power- and electrical engineering-related failures as well,” Tim Christ, director general at LWG Consulting Mexico, said in the statement.

Hancock selling P/C, benefits businesses to AssuredPartners

Hancock Holding Co., the Gulfport, Miss.-based parent company of Hancock Insurance Agency and Whitney Insurance Agency, said it has agreed to sell its property/casualty insurance and group benefits books of business to Lake Mary, Fla., broker AssuredPartners Inc.

Financial terms of the agreement were not disclosed. The pending sale of the two business segments — which together accounted for roughly half of Hancock Holding Co.’s \$15.8 million in insurance revenue in 2013 — has an effective date of April 1, Hancock Holding Co. said in a statement.

Under the terms of the sale agreement, AssuredPartners has agreed to establish a referral program allowing the Hancock and Whitney insurance agencies to continue providing property/casualty insurance and employee group health benefits services to clients, according to Hancock Holding Co.’s statement.

CLASSIFIEDS

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PUBLIC NOTICES

LEGAL NOTICE

IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK
IN RE: METEX MFG. CORPORATION, (f/k/a Kentile Floors, Inc.), Chapter 11 Debtor. Case No. 12-14554 (CGM)

NOTICE OF VOTING RIGHTS AND HEARING TO CONSIDER WHETHER TO CONFIRM PLAN OF REORGANIZATION AND APPROVE CERTAIN INSURANCE SETTLEMENT AGREEMENTS
If You Were Exposed To ASBESTOS or ASBESTOS-CONTAINING Products Made, Distributed, or Sold by METEX MFG. CORPORATION (f/k/a KENTILE FLOORS, INC.), PLEASE READ THIS NOTICE

Please consult with the Balloting Agent referenced below to obtain additional information about the matters covered by this Notice.

- 1. Bankruptcy Case.** On November 9, 2012, Metex Mfg. Corporation (f/k/a Kentile Floors, Inc.) (the "Debtor") filed a voluntary petition for relief under chapter 11 of the United States Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). The purposes of the Debtor's chapter 11 case are to provide for the resolution of all existing and future asbestos-related personal injury and wrongful death claims against the Debtor pursuant to section 524(g) of the Bankruptcy Code and to implement ten settlement agreements (the "Insurance Settlement Agreements") between the Debtor and the Debtor's general liability insurers who have agreed to support the Debtor's reorganization (the "Settling Asbestos Insurance Entities").
- 2. Plan of Reorganization.** A plan for the chapter 11 reorganization of the Debtor called the *Plan of Reorganization of Metex Mfg. Corporation Under Chapter 11 of the Bankruptcy Code* (the "Plan") has been filed with the Bankruptcy Court. The Plan is supported by the Official Committee of Unsecured Creditors and the Legal Representative of Future Asbestos Claimants. Individuals or entities holding "Asbestos PI Claims" (as such term is defined in the Plan), which includes claims for asbestos-related personal injury or wrongful death, may vote to accept or reject the Plan by **May 2, 2014 at 5:00 p.m. (pre-vailing Eastern time)**. The Bankruptcy Court then will consider whether to confirm (approve) the Plan at a hearing on **May 22, 2014 at 10:00 a.m. (pre-vailing Eastern time)**. If you have an Asbestos PI Claim against the Debtor, you should carefully read this notice and take all necessary steps to protect your rights. Capitalized terms used but not defined in this notice have the meanings given in the Plan.
- 3. Votes Cast on Previous Prepackaged Plan.** In the summer of 2012, the Debtor solicited votes for a prepackaged plan of reorganization. Since that solicitation, the Debtor initiated this chapter 11 case and proposed the Plan for which votes are now being solicited. All votes previously submitted on the prepackaged plan are now void and have no effect on the current Plan. A new vote must be submitted on this Plan in order to be counted.
- 4. Insurance Settlement Motions.** In connection with the Plan, on December 23, 2013, the Debtor filed with the Bankruptcy Court nine motions (the "Insurance Settlement Motions") seeking orders authorizing and approving each of the Insurance Settlement Agreements. The Insurance Settlement Agreements provide for releasing and sales of policies pursuant to section 363 of the Bankruptcy Code, free and clear of all claims and interests. The Insurance Settlement Agreements also provide that the Settling Asbestos Insurance Entities will be protected by one or both of the injunctions described in section 6 of this notice.
- 5. Solicitation Materials.** A detailed document describing the Plan, called the "Disclosure Statement" which was approved by the Bankruptcy Court on February 25, 2014, together with copies of the Plan, the Insurance Settlement Motions, the Insurance Settlement Agreements, and voting materials, called a "Solicitation Package," has been mailed to known holders of Asbestos PI Claims or their lawyers. The Disclosure Statement contains information that will help you decide how to vote on the Plan if you are entitled to do so. You should read the Plan, the Disclosure Statement, the Insurance Settlement Motions, the Insurance Settlement Agreements, and all other documents included in the Solicitation Package carefully for details about how the Plan and the Insurance Settlement Agreements may affect your rights.
- 6. Key Parts of the Plan.** The Plan provides for the establishment of an Asbestos PI Trust that would liquidate and, as appropriate, pay all eligible Asbestos PI Claims. The Plan also proposes certain releases and injunctions, pursuant to which certain parties are released from liability for a variety of claims. Specifically, the Plan provides for the issuance of an "Asbestos PI Channeling Injunction" that will channel all current and future Asbestos PI Claims against the Debtor and its affiliates, among others, to the Asbestos PI Trust. The Plan provides that individuals and entities with Asbestos PI Claims will be permanently barred from asserting their claims directly against the Debtor and other protected parties, including the Settling Asbestos Insurance Entities. The Plan also provides for an "Insurance Policy Injunction" in favor of certain Settling Asbestos Insurance Entities which will bar claims based on, arising from, or attributable to insurance policies released and/or sold under the Insurance Settlement Agreements. You should read the Plan, the Disclosure Statement, the Insurance Settlement Motions, the Insurance Settlement Agreements, and all other documents included in the Solicitation Package carefully for details about how the Plan and the Insurance Settlement Agreements may affect your rights.
- 7. How to Vote on the Plan.** The Bankruptcy Court has issued an order describing exactly who can vote on the Plan and how to vote. The Disclosure Statement contains information that will help you decide how to vote on the Plan if you are entitled to do so. Your legal rights may be affected if the Plan is approved. To be counted, a ballot voting on the Plan must be actually received by the Balloting Agent at the address below by **5:00 p.m. (pre-vailing Eastern time) on May 2, 2014**. Ballots that are not actually received by that date and time—even if they are postmarked on that date—will not be counted. Ballots will not be accepted by facsimile or other electronic means, including email.
- 8. What to Do if You Did Not Receive a Solicitation Package.** If you believe you may be entitled to vote on the Plan, but did not receive a Solicitation Package, you may obtain a Solicitation Package, and other key documents relating to the Debtor's chapter 11 case by consulting the website referenced below or by contacting the Balloting Agent at the telephone and/or address provided below.
- 9. Asbestos and Wrongful Death Claims.** Proof of an Asbestos PI Claim does not have to be filed with the Bankruptcy Court at this time. The Bankruptcy Court has established special procedures for holders of Asbestos PI Claims to vote on the Plan. Lawyers for holders of Asbestos PI Claims may vote on the Plan on behalf of their clients if the lawyers are authorized to do so. If you are unsure whether your lawyer is authorized to vote on your behalf, please contact your lawyer.
- 10. Combined Hearing on Confirmation of the Plan and Approval of the Insurance Settlement Agreements.** A combined hearing (the "Combined Hearing") on whether the Bankruptcy Court should confirm the Plan and approve the Insurance Settlement Agreements will be held before the Honorable Cecelia G. Morris, Chief United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, Courtroom 610, One Bowling Green, New York, New York 10004, on **May 22, 2014 at 10:00 a.m. (pre-vailing Eastern time)**. You may attend the Combined Hearing but are not required to do so. The Combined Hearing may be continued from time to time by the Bankruptcy Court or the Debtor without further notice to parties other than by such adjournment being announced in open court or by a notice of adjournment filed with the Bankruptcy Court.
- 11. Objections to Confirmation of the Plan and/or Approval of the Insurance Settlement Agreements.** Objections and responses, if any, to confirmation of the Plan and/or approval of one or more of the Insurance Settlement Agreements must (i) be in writing, (ii) set forth in detail the name and address of any party filing the objection, the grounds for the objection, any relevant and admissible evidence in support of the objection, and the amount of the objector's claims or such other grounds that give the objector standing to assert the objection, (iii) conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, (iv) be filed with the Bankruptcy Court, and (v) served in accordance with General Order M-399 (found at www.nysb.uscourts.gov) upon the following parties so as to be actually received on or before **4:00 p.m. (pre-vailing Eastern time) on May 2, 2014**: (i) counsel to the Debtor at Reed Smith LLP, 599 Lexington Avenue, 22nd Floor, New York, NY 10022, Attention: Paul E. Breene, Esq. (Facsimile: (212) 521-5450), and Reed Smith LLP, 225 Fifth Avenue, Suite 1200, Pittsburgh, PA 15222, Attention: Paul M. Singer, Esq. (Facsimile: (412) 288-3063); (ii) counsel to the Future Claimants' Representative at Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 King Street, Wilmington, DE 19801, Attention: Edwin Harron, Esq., and Sara Beth Kohut, Esq. (Facsimile: (302) 571-1253); (iii) counsel to the Asbestos Claimants Committee at Caplin & Drysdale, Chartered, One Thomas Circle, N.W., Washington, D.C. 20005, Attention: Peter Van N. Lockwood, Esq., and Jeffrey Liesemer, Esq. (Facsimile: (202) 429-3301); and (iv) the Office of the United States Trustee at 33 Whitehall Street, 21st Floor, New York, New York 10004. Registered users of the Bankruptcy Court's case filing system must electronically file their objections. All other parties in interest must file their objections in writing with the Clerk of the Bankruptcy Court, One Bowling Green, New York, New York, 10004-1408. If you or your attorney does not file an objection, the Bankruptcy Court may conclude that you do not oppose confirmation of the Plan and/or the Insurance Settlement Motions, and may enter an order confirming the Plan and granting the Insurance Settlement Motions by which you will be bound.
- 12. Additional Information.** Copies of the Plan, the Disclosure Statement, the Insurance Settlement Motions, the Insurance Settlement Agreements, and other materials contained in the Solicitation Package, including a ballot to vote on the Plan, may be obtained by contacting the Debtor's Balloting Agent, (a) at <http://www.loganandco.com>, by navigating to the case information page for Metex Mfg. Corporation, (b) upon request by mail to Logan & Company, Inc., 546 Valley Road, Upper Montclair, New Jersey 07043, or (c) upon request by contacting the Balloting Agent by phone at (973) 509-3190, by facsimile at (973) 509-1131, or by email at metex@loganandco.com. Copies of the Plan and the Disclosure Statement also may be examined by interested parties between the hours of 9:00 a.m. and 4:30 p.m. (Eastern Time) at the office of the Clerk of the Bankruptcy Court, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Room 511, New York, New York 10004. To the extent any portion of this notice conflicts with the Plan, the Disclosure Statement, the Insurance Settlement Motions, or the Insurance Settlement Agreements, the terms of those documents shall control over this notice.

LEGAL NOTICE

IN THE MATTER OF THE LIQUIDATION OF ATLANTIC MUTUAL INSURANCE COMPANY
Supreme Court County of New York
Index No.: 40242/10
NOTICE

Pursuant to an order of the Supreme Court of the State of New York, County of New York, entered on April 27, 2011, the Superintendent of Insurance of the State of New York and his successors in office were appointed as liquidator ("Liquidator") of Atlantic Mutual Insurance Company ("Atlantic Mutual") and, as such, have been directed to take possession of Atlantic Mutual's property and liquidate its business and affairs pursuant to Article 74 of the New York Insurance Law ("Insurance Law"). The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as liquidator of Atlantic Mutual. The Liquidator has, pursuant to Insurance Law Article 74, appointed Michael J. Casey, Acting Special Deputy Superintendent (Acting Special Deputy), as his agent to liquidate the business of Atlantic Mutual. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038.

PLEASE TAKE NOTICE that the Supreme Court of the State of New York, County of New York, has issued an order, entered February 19, 2014, establishing January 16, 2015, as the final date by which the Liquidator must actually receive in respect of any claim presented prior to December 15, 2013 (the "Bar Date") established in the proceeding by order of the Court entered on December 2, 2013) any and all evidence demonstrating (a) that such claim has been liquidated and (b) that there has been actual loss and/or payment in respect of such claim.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6589.

Dated: March 7, 2014, Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York as Liquidator of Atlantic Mutual Company of New York.

ANTI-FRAUD NOTICE

Amalgamated Life Insurance Company is committed to preventing fraud in regard to the insurance coverage it issues. Therefore, Amalgamated Life, as required by the New York State Department of Financial Services makes the following statement:

Any person who knowingly and with intent to defraud any insurance company or other person, files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

Anyone knowing of a fraudulent act should call Ellen Dunkin at: Amalgamated Life Insurance Company 333 Westchester Ave. White Plains, NY 10604 800-624-5844

LEGAL NOTICE

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION, COMPANIES COURT, No 2078 of 2013
IN THE MATTERS OF
CAVELL INSURANCE COMPANY LIMITED and
FIELDMILL INSURANCE COMPANY LIMITED and
HILLCOT RE LIMITED and
LONGMYND INSURANCE COMPANY LIMITED and
UNIONE ITALIANA (UK) REINSURANCE COMPANY LIMITED and
RIVER THAMES INSURANCE COMPANY LIMITED and
IN THE MATTER OF PART VII OF THE FINANCIAL SERVICES AND MARKETS ACT 2000
TRANSFER OF BUSINESS

NOTICE IS HEREBY GIVEN that by an application dated 20 March 2013, Cavell Insurance Company Limited (Cavell), Fieldmill Insurance Company Limited (Fieldmill), Hillcot Re Limited (Hillcot), Longmynd Insurance Company Limited (Longmynd) and Unione Italiana (UK) Reinsurance Company Limited (Unione) (together, the Transfers) applied to the High Court of Justice of England and Wales, for (inter alia) an order under section 111 of the Financial Services and Markets Act 2000 (the Act) sanctioning an insurance business transfer (the Transfer) providing for the transfer of insurance business to River Thames Insurance Company Limited (River Thames) and for an order making provision under section 112 of the Act.

The business included in the Transfer consists of:

- all insurance and reinsurance business effected and/or carried on by Cavell;
- all reinsurance business effected and/or carried on by Fieldmill;
- all insurance and reinsurance business effected and/or carried on by Hillcot;
- all reinsurance business effected and/or carried on by Longmynd; and
- all insurance and reinsurance business effected and/or carried on by Unione.

Copies of a report on the terms of the Transfer prepared by an independent expert in accordance with section 109 of the Act (the Transfer Report) and copies of a statement setting out the terms of the Transfer and containing a summary of the Transfer Report may be obtained, free of charge, from Clyde & Co LLP, The St Botolph Building, 138 Houndsditch, London, United Kingdom tel: +44 (0)20 7876 5000, fax: +44 (0)20 7876 5111 Ref: GEQ/1204815/HND/SRB. Alternatively, copies of the documents can be downloaded from www.enstargroup.com/insurance-transfers-to-River-Thames.

Please note that the application will be heard on 17 June 2014, before the Applications Judge at 7 Rolls Building, Fetter Lane, London EC4A 1NL, United Kingdom and not at the Royal Courts of Justice, Strand, London WC2A 2LL, United Kingdom as previously advertised. Any person who alleges that they would be adversely affected by the carrying out of the Transfer is entitled to:

- appear at the hearing and make representations in person or by a representative; or
 - instruct a barrister or solicitor advocate to appear at the hearing and make representations on their behalf; or
 - make representations in writing.
- If you intend to appear at the hearing in person or by representative, or to instruct someone to appear on your behalf, you are requested to give notice of your intention to do so and to send your representations:
- in writing;
 - setting out the reasons why you would be adversely affected by the Transfer;
 - to the solicitors named at the address below;
 - to be received by close of business on 10 June 2014.

Administrative enquiries about the Transfer or its effect on your policy should be addressed to Clyde & Co LLP, The St Botolph Building, 138 Houndsditch, London, United Kingdom or call: +44 (0)20 7876 5000, or fax: +44 (0)20 7876 5111 Ref: GEQ/1204815/HND/SRB.

If the Transfer is sanctioned by the Court, it will result in the transfer of all the contracts, property, assets and liabilities within its scope to River Thames, notwithstanding any restriction such as a prohibition on transfer or a requirement to obtain consent to transfer from another party, or any right, such as a right to terminate a contract, that might otherwise arise as a result of such transfer. Any such restriction or right will only be enforceable to the extent permitted by the order of the Court sanctioning the Transfer. If you have any concerns in relation to the enforceability of such restrictions and rights, then you should make those concerns known to the Court, Clyde & Co LLP or the PRA.

Clyde & Co LLP, The St Botolph Building, 138 Houndsditch, London EC3A 7AR.
Solicitors to the Transfers and Transferee (Ref: GEQ/1204815/HND/SRB).

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AON STRIVES TO BUILD BUSINESS AS INSURANCE INDUSTRY EVOLVES

Q What do you have planned for Aon over the next 12 months?

A To be honest, it's more of the same. It's continuing to realize the full potential of the firm, maximizing the value we deliver to our clients across the world, and recognizing different clients have different needs ... continuing to drive our innovation agenda.

Certainly, over the last five years, we've been at the cutting edge ... whether it was building GRIP, which is now the largest proprietary database and risk information system in the world, developing the Berkshire Hathaway sidecar that we did in London last year, which created a degree of concern at the time, or, on the Aon Hewitt side, developing the first-ever corporate health exchange.

So I would say we're continuing to build the success of the platform.

Q As you mentioned, the Berkshire Hathaway deal caused a stir. Do you think that has settled down, and do you see yourself doing similar things with other insurers?

A It has settled down. We've worked hard to really communicate how the transaction would work and why actually we felt it was good for clients, good for the London market and good for Lloyd's. And we believe that it has actually achieved what we said it would achieve.

Bringing thoughtful additional AA-rated capital into the industry and aligning it with the sort of world-class leadership that exists in London actually helps reinforce the value proposition of the London and Lloyd's markets. And so we saw a trend where new busi-

ness was going to London and certainly orders were being retained in London or increased. And so I think it's been a successful transaction from that standpoint.

The principals of portfolio underwriting and portfolio broking and the use of data and analytics to deliver differentiation to our clients is something that we're very excited about.

Q Do you think the new capital entering the insurance market is here to stay?

A There's a lot of debate about the permanency of the capital. Our view is it's probably going to be long term because, you know, you're certainly seeing a trend with pension funds wanting to diversify their investments. You only need to take a couple percentage points of diversification from the trillions of dollars of assets under management, and it's a big number. And the returns that they need to make are not as high as the returns that conventional underwriting capital would like to make — single-digit as opposed to double-digit.

Q Aon has grown a lot through acquisitions over the past 20 years. Have you grown to a point where it's not necessary to complete numerous acquisitions?

A We've never stopped doing acquisitions. We're proud of our history with acquisitions. In the last four or five years, if you ignore the two really big transactions of Benfield and Hewitt, we've been spending a couple of hundred million dollars a year on bolt-on acquisitions to continue to strengthen our platform, and we have every intention of continuing to do that.

Q&A



STEVE MCGILL

AON P.L.C.

Steve McGill is group president of Aon P.L.C. and chairman and CEO of the brokerage's global risk management business. Mr. McGill had a long career as a brokerage executive in the London market before joining Aon in 2005. At Aon, he has led several initiatives, including last year's controversial deal with Berkshire Hathaway Inc. to establish a facility that guaranteed capacity on certain business placed with Lloyd's of London syndicates. Recently, Mr.

McGill spoke with *Business Insurance* Editor Gavin Souter about the outlook for Aon and the insurance market.

Edited excerpts follow.

So I think there are some structural changes that are happening that could have quite a profound impact on the capital in the reinsurance industry and possibly the insurance industry.

Q Aon has grown a lot through acquisitions over the past 20 years. Have you grown to a point where it's not necessary to complete numerous acquisitions?

A We've never stopped doing acquisitions. We're proud of our history with acquisitions. In the last four or five years, if you ignore the two really big transactions of Benfield and Hewitt, we've been spending a couple of hundred million dollars a year on bolt-on acquisitions to continue to strengthen our platform, and we have every intention of continuing to do that.

COMINGS & GOINGS

UP CLOSE: BILL WRIGHT

ATLANTA-BASED SENIOR VICE PRESIDENT

Lockton Cos. L.L.C.

PREVIOUS POSITION: Atlanta-based executive vice president of Willis Global Solutions Consulting Group.

LOOKING FORWARD TO: Continually building up our clients and helping them understand risk. I am looking forward to being a part of a team that is successful.

CHALLENGES FACING INDUSTRY: We are dealing with an overall soft marketplace. Clearly that's a challenge. In a soft marketplace, from a competitive standpoint, it's common that brokers will take their eye off the value that they can bring to their client and they focus on the transaction. With the challenge comes opportunity. If you are good at what you do and you understand the value gap — what you can do for a client that they can't do for themselves — you can be successful.

INDUSTRY OUTLOOK: I think it's fantastic. The main reason is companies are still continuing to do more with less. And when companies are doing more with less, they are leaning on Lockton to help them focus on the human



capital and risk management piece.

FIRST INDUSTRY JOB: Marsh (L.L.C.) in Atlanta. I grew up in the industry on the employee benefits side before I went over to risk management.

ADVICE: Be passionate about what you are doing. Be relentless in delivering great service, doing what you say you're going to do. Take care of people around you.

HOBBIES: I like running and exercise. Golf.

THING MOST PEOPLE DON'T KNOW ABOUT ME: I love to surf. I grew up in Florida surfing.

WHEN I RETIRE: I don't think my wife will ever let me retire, but I think I'll work with kids.

CAN'T-MISS TELEVISION SHOW: "Naked and Afraid." It's about survival and overcoming life-threatening obstacles.

ON A SATURDAY AFTERNOON: Watching my kids play sports. In the fall, it's college football.

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LONDON

Continued from page 4

to reaction to a recent influx of capacity from pension funds and other third-party capital providers that has increased competition for all forms of reinsurance and insurance business, notably property catastrophe business, and may have reduced the London market's share of the global insurance and reinsurance business.

While the subscription market, where multiple underwriters cover a single risk, has advantages, Mr. Hearn said that does not top buyers' priorities.

"Price is" at the top of buyer priorities, he said. "So if the subscription market adds costs, we may need to look at that."

While there still is business that can be underwritten only in London because of its concentration of expertise in specialty business and the market's syndicated structure, "this is beginning to change," Mr. Hearn said.

A collective effort is needed to ensure London retains its position, he said, adding that data is needed on the size of the Lloyd's and London markets to better understand its position globally.

While there is no single source of premiums underwritten by all

insurers and reinsurers in London, Mr. Hearn cited Willis' business as an example of premiums shifting elsewhere: In 2007, Willis placed about 16% of its premiums in London; today, it's about 10% even though he said Willis' worldwide premiums have not decreased.

The London Market Group will focus on coordinating talent, diversity and training efforts; lobbying government and regulators to ensure rules do not unduly ham-

per the market; and conduct research to demonstrate its contribution to the U.K. economy as well as why London's position in the world of insurance may be dimming, he said.

Mr. Matcham said a better understanding is needed of why certain business does not come to London. While it's important for the market to be more efficient, he said its nature makes improving efficiency tricky.

Coverage via London tends to be big-ticket business that requires many underwriters, and such processes are not easy to reform, Mr. Matcham said, while still supporting the London Market Group's new focus.

In a speech to the Insurance Institute of London at Lloyd's Old Library last week, Aon P.L.C. CEO Greg Case said Lloyd's and the London market "are more important than ever." He also said London has "no equal as a city" for its

concentration of insurance market partners and expertise.

For some brokers, establishing a consortium of Lloyd's underwriters is becoming attractive, since it removes brokers' need to visit numerous syndicates to secure sometimes small line sizes of cover and allows smaller players to remain relevant, Mr. Savage said.

"Big is not always beautiful," Mr. Savage said in saying the Lloyd's market always will need small, niche players.

Members of one such consortium said several syndicates have worked together to provide meaningful capacity and specialist expertise. Last May, four major Lloyd's construction underwriters — Beazley P.L.C., Canopus Group Ltd., Hardy Underwriting (Bermuda) Ltd. and Talbot Underwriting Ltd. — formed a consortium.

Colin Rose, head of construction and engineering at Beazley, said Beazley is a major construction underwriter at Lloyd's, but its capacity was limited and left it unable to compete against larger non-Lloyd's underwriters for certain risks, and fellow consortium members were in a similar position.

The consortium structure gives brokers access to capacity and expertise without having to deal directly with four different syndicates, said David Turner, construction global practice leader at Talbot. That leads to a "simpler negotiation process," he said.



Mr. Hearn

FSA

Continued from page 3

grace-period to carry-over FSAs.

"Employers are embracing carry-over FSAs," said Ms. LeTourneau, noting that without the "dreaded" use-it-or-lose-it requirement, employee usage has increased.

That can benefit employers, since FSA contributions are made with pretax dollars, reducing the amount of employees' salary subject to FICA tax, which is paid equally by employers and employees. Employers typically have used the resulting FICA tax savings to help pay the overhead associated with offering FSAs.

But others aren't so sure that employers will convert their grace-period FSAs to carry-over FSAs. One reason is that employees who know they face large health care-related expenses early in the next plan year could be worse off, since they would have at most \$3,000 to use with a carry-over FSA vs. \$5,000 with a grace-period FSA.

"Those employees would be disadvantaged," said Jay Savan, a partner at Mercer L.L.C. in Atlanta.

With a carry-over FSA, "use-it-or-lose it is eliminated, but at a price," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

In addition, pending IRS clarifica-

tion, the carry-over approach could saddle employers with additional administrative expenses. That is because even if employees stop contributing to their FSAs, the balance would be carried over year after year.

As a result, employers and administrators would have to track small amounts of money for

CONSUMER-DRIVEN HEALTH PLANS

In just four years, the percentage of employers offering consumer-driven health plans linked to health savings accounts or health reimbursement arrangements has doubled, and the percentage of employees enrolled in the plans has nearly doubled.

Year	Employers offering	Employees enrolled
2013	39%	18%
2012	36%	15%
2011	32%	13%
2010	23%	10%
2009	20%	9%

*Includes HRA- and HSA-linked CDHPs for employers with at least 500 employees. Source: Mercer L.L.C.

extended periods of time, said Amy Bergner, managing director of human resource solutions at PricewaterhouseCoopers L.L.P. in Washington.

At least one big employer has decided to keep its current FSA offering.

"We are sticking with a grace-period FSA," said Gregg Nevola, vice president of total rewards at

North Shore-LIJ Health System in Lake Success, N.Y. "We want to offer employees maximum flexibility in how they can use their FSAs."

Meanwhile, the future of all FSAs — regardless of their design — is growing murkier due to the growth of HSA-linked high-deductible health plans, where HSA balances can be rolled over indefinitely.

In addition, the health care reform law's so-called "Cadillac" plan tax puts the future of FSAs in doubt.

Under the Patient Protection and Affordable Care Act, a 40% excise tax will be imposed on health insurance premiums that exceed \$10,200 for single coverage and \$27,500 for family coverage effective in 2018. That calculation must include employees' FSA contributions.

"You will see reduced employer interest in FSAs as the Cadillac tax nears," said Mercer's Mr. Savan.

As employers attempt to stay below the Cadillac tax limit, "FSAs could be the first to go," said Andy Anderson, a partner specializing in employee benefits at Morgan, Lewis & Bockius L.L.P. in Chicago.

Changes also could be in the offing, experts say, in the way employers offer HSAs. Employers could redesign their HSAs so employees would make after-tax contributions to the HSA. Employees still would receive a tax deduction for the contribution, but it would be excluded in calculating premium costs for excise tax purposes, Ms. Bergner said.

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SPEAKERS

WELCOME ADDRESS: ALDERMAN FIONA WOOLF Lord Mayor of London

- > Inga Beale Chief Executive, Lloyd's of London, UK
- > Albert Benchimol President and CEO, Axis, Bermuda
- > Dominic Casserley CEO, Willis Group, UK
- > Jozef De Mey Chairman of the Board, Ageas, Belgium
- > Evan G. Greenberg Chairman and CEO, ACE Group, USA
- > Yoshihiro Kawai Secretary General, IAIS, Switzerland
- > Denis Kessler Chairman and CEO, SCOR, France
- > Barry Stowe Chief Executive, Prudential Corporation Asia, Hong Kong
- > Vincent Vandendael Director, International Markets, Lloyd's of London, UK
- > Nikolaus von Bomhard Chairman of the Board of Management, Munich Re, Germany
- > Greig Woodring President and CEO, Reinsurance Group of America, USA



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OPIOIDS

Continued from page 3

those efforts (see story, right).

“We’re seeing a decrease in opioid use, but it’s nowhere where it needs to be,” said Brian Carpenter, Tucson, Ariz.-based vice president of pharmacy product at Coventry Workers’ Comp Services, a division of Aetna Inc. “We, as an industry, have many patients who are still in the danger zone of taking these types of medications.”

“We’re still in the midst of this opioid crisis, and we need to continue to ... give the tools for responsible prescribing and monitoring and patient education,” said Dr. Robert L. Hall, medical director at Progressive Medical Inc., a Westerville, Ohio-based pharmacy benefit manager.

Zohydro ER, approved by the U.S. Food and Drug Administration last year, was released to the market last month. The FDA classifies the extended-release pill, which contains 10 to 50 milligrams of hydrocodone, as a Schedule II controlled substance, meaning it requires a doctor’s prescription and refills are not allowed.

The drug already is being prescribed for workers comp patients, said Dr. Teresa Bartlett, Troy, Mich.-based medical director at Sedgwick Claims Management Services Inc.

FDA APPROVES OPIOID OVERDOSE TREATMENT

The recently approved Evzio is a prescription treatment that patients’ family members or caregivers can use to treat opioid overdoses.

The medication, naloxone hydrochloride, is delivered through a handheld auto-injector.

While naloxone has been used for several decades by first responders and hospitals to treat prescription overdoses, Evzio is the first such remedy available outside of a health care setting, the Food and Drug Administration said earlier this month.

Richmond, Va.-based manufacturer Kaleo Inc. said it expects Evzio to be available this summer

to patients who have a physician’s prescription.

But Evzio can have significant side effects. Patients injected with Evzio could experience immediate withdrawal symptoms, such as increased respiration and heart rate, severe anxiety or convulsions, said Brian Carpenter, Tucson, Ariz.-based vice president of pharmacy product at Coventry Workers’ Comp Services.

Evzio is “for that emergency situation where you either give it or the person dies,” said Dr. Teresa Bartlett, Troy, Mich.-based medical director at Sedgwick Claims Management Services Inc.

By Sheena Harrison

The average wholesale price of Zohydro ER ranges from \$7.02 for the 10 milligram pill to \$8.58 for the 50 milligram pill, according to Progressive Medical data.

Experts say Zohydro ER is notable because it is the only pure hydrocodone pill available for sale. Other opioid tablets, such as Vicodin and Vicoprofen, mix hydrocodone with non-narcotic pain relievers, such as acetaminophen and ibuprofen.

By comparison, Vicodin formulations contain 5 to 10 milligrams of hydrocodone mixed with 300 milligrams of acetaminophen, according to North Chicago, Ill.-based drug manufacturer AbbVie Inc.

Medical experts differ about how Zohydro ER’s potency compares with other hydrocodone formulations blended with less potent

medications, Dr. Hall said.

“One of my concerns is how physicians are going to prescribe this,” Dr. Hall said. “Because if there is a higher potency, they may not understand the dose may need to be decreased.”

Zohydro ER’s manufacturer, San Diego-based Zogenix Inc., said in a statement that a “10 (milligram) dose of Zohydro ER is actually the exact same potency as a 10 (milligram) dose of Vicodin or any other hydrocodone product,” and other opioids “are more potent than hydrocodone such as oxycodone, methadone, hydromorphone and fentanyl.”

Meanwhile, Zogenix has sued to overturn one state’s ban on the drug (see story, right).

In documents the FDA posted online before Zohydro ER’s

approval, the agency’s staff said it expects Zohydro ER “will be abused, possibly at a rate greater than that of currently available hydrocodone combination products.” While the FDA approved Zohydro ER, its Anesthetic and Analgesic Drug Products Advisory Committee voted 11-2 against releasing Zohydro ER.

Workers comp experts urge caution with the drug, saying it requires safety protocols such as patient monitoring and consultations with physicians to help them prescribe less risky drugs.

“We are doing our best to put (Zohydro ER) through a precertification process and to ensure that physicians have adopted all of the best practices before this is dispensed,” Sedgwick’s Dr. Bartlett said.

DRUGMAKER SUES STATE OVER BAN

The manufacturer of Zohydro ER has sued Massachusetts Gov. Deval Patrick for imposing a ban on prescriptions and sales of the drug in the state.

In a complaint filed April 7 in U.S. District Court in Boston, San Diego-based Zogenix Inc., argues the ban is unconstitutional.

The governor’s “actions will cause real and irreparable harm for patients in Massachusetts with chronic pain,” according to the complaint. “Zohydro ER addresses a specific set of patient needs. It fills a noticeable and important gap for chronic pain patients — an acetaminophen-free, extended-release product suitable for round-the-clock pain treatment.”

Gov. Patrick declared a public health emergency in Massachusetts last month related to opioid painkiller abuse. In a statement, he said prescribing and dispensing of Zohydro ER would be banned in the state until “adequate measures are in place to safeguard against the potential for diversion, overdose and misuse” of Zohydro ER.

By Sheena Harrison

NORTHWESTERN

Continued from page 4

of absence, privacy and disability.

“If you look a bit further out on the horizon, there’s no question in my mind that there will be attempts to use the ruling’s logic to argue that student-athletes should be treated as employees under other labor statutes,” said Terence McCourt, a Boston-based shareholder and chairman of Greenberg Traurig L.L.P.’s labor and employment practice.

For example, universities could be exposed to claims under Title VII of the Civil Rights Act if athletes believe they are disciplined disparately by their coaches according to their race, ethnicity or religion, said Brad Livingston, partner and co-chair of Chicago-based Seyfarth Shaw L.L.P.’s labor relations practice group.

“What happens if a coach disciplines one player for a certain rules violation, and then disciplines a second player differently for the same violation? If those players are of different races or ethnic backgrounds, that could give rise to a Title VII claim,” Mr. Livingston said.

Student-athletes seeking employment protections likely would have to file separate suits under each specific law, due to variations in the statutes’ analysis for the application of “employee status,” experts say.

COVERAGE NOT GUARANTEED

Private universities could face considerable legal expenses if scholarship student athletes sue for employment rights and protections, since alleged violations of many federal and state laws are not covered under most employment practices liability insurance policies.

Covered

- Age Discrimination in Employment Act
- Americans with Disabilities Act
- Equal Pay Act
- Family and Medical Leave Act
- Immigration Reform Control Act
- Pregnancy Discrimination Act
- Title VII of the Civil Rights Act

Not covered

- Employee Retirement Income Security Act
- Fair Labor Standards Act
- Occupational Safety and Health Act
- National Labor Relations Act
- Social Security Act
- State and local laws workers compensation laws

“In every case, the court would have to interpret the standards under whichever law is in question based on the very specific circumstances of each group of athletes,” said Stephanie Gournis, a Chicago-based partner at Drinker Biddle & Reath L.L.P.

Consequently, experts say private universities, including North-

RULING PUTS PRESSURE ON MANY PRIVATE COLLEGES

Private universities worried that their scholarship student athletes might follow Northwestern University football players’ lead should re-evaluate their policies, experts say.

“There are some things that other universities can change regarding their relationships with their student-athletes to make their athletes look less like employees in the way they did in Northwestern’s case,” said Terence McCourt, a Boston-based shareholder and chairman of Greenberg Traurig L.L.P.’s labor and employment practice.

For example, a university could relax its control of athletes’ activities, including restrictions on external communications, part-time jobs and required minimum training hours, experts said.

“I’d think about whether I need to start amending some of my policies and employee handbooks to protect the school in the event that the

claims begin to begin to roll in,” said Jeff Pasek, a New York-based member concentrating on labor and employment law at Cozen O’Connor L.P. “Any school that has scholarship athletes needs to think long and hard about how this ruling could affect them.”

While National Labor Relations Act rules prohibit Northwestern from changing policies to potentially influence football players’ upcoming union vote, experts said other universities should use the regional National Labor Relations Board ruling to reduce the likelihood of similar rulings regarding their athletes.

“Pandora’s box is open, and we’re not going to be able to turn back from here,” said Ann Longmore, executive vice president and EPLI practice leader at Willis North America Inc. in New York. “Colleges are going to have to look at all of these provisions with new eyes.”

By Matt Dunning

western, could face concurrent multiple suits, in some cases without the safety net of insurance.

Observers say most EPLI policies — including those designed for universities — do not cover

defense costs and other losses related to alleged violations of many of the federal and state labor laws under which student-athletes are most likely to seek protection (see box).

A small consolation for universities facing such litigation is that the student-athletes would need to prove both eligibility and a wrongful act by their school, said Ann Longmore, executive vice president and EPLI practice leader at Willis North America Inc. in New York.

“Courts are not going to determine an individual’s status under a certain law absent a complaint, which puts the burden of proof on the plaintiff,” she said.

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CRIMEA

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Ukraine, and have threatened to expand them as the crisis intensified.

Experts advise policyholders in both countries with political risk and trade credit coverage to carefully examine their policies, which often are heavily manuscripted.

The situation is “fluid,” experts say, as about 40,000 Russian troops remain poised at the Ukrainian border and pro-Russian protests flared up in several Ukrainian cities last week.

Richard S. Maxwell, New York-based chief underwriting officer and global head of political risk and trade credit for XL Group P.L.C., said, “For both countries, we’re operating very cautiously and supporting clients that have been with us for a period of time, and we’re looking to see how developments work their way out over the course of the next six months or so,” by which time he said he expects “more political clarity in the political and economic circumstances for both countries.”

“We’re still open for business, but not business as usual,” he said.

Equinox Global Ltd., a Lloyd’s of London coverholder for trade credit business, is “off cover” in Ukraine, said Alex Paton, head of underwriting and one of the company’s founders.

Ms. Paton said that most trade credit underwriters at Lloyd’s are currently off-risk for Ukraine and that a small number are writing “very small lines at a very high price.”

Political risk analysts and economists say the possible scenarios of the Crimean crisis are Russia remaining in control of only Crimea, Russia taking over eastern Ukraine and Russia taking over the entire country, said Gabe Mansky, New York-based area executive vice president for trade credit and political risk at Arthur

BUSINESSES SHOULD REVIEW POLITICAL RISK, TRADE CREDIT POLICIES

Policyholders who conduct business in Russia or Ukraine should take a close look at their political risk and trade credit policies, which are often customized, to see what coverage if any they may have in light of the geopolitical crisis, experts say.

It is important “to dust off your policies, and see what you have for purposes of figuring out” if there is coverage to “allay some of the financial repercussions” involved, said Linda D. Kornfeld, a partner with law firm Kasowitz, Benson, Torres & Friedman L.L.P. in Los Angeles.

Ms. Kornfeld, a policyholder attorney who specializes in insurance coverage litigation, said these policies are frequently fairly individualized, so a determination of whether they are applicable “will require a careful review of the specific terms.”

Furthermore, “these policies generally have sometimes fairly detailed procedural requirements regarding how quickly you need to inform the insurer of a potential exposure,” and require the policyholder to inform the insurer of the activities it is engaged in to reduce the business losses, Ms. Kornfeld said.

“Read, understand and seek clarification on causes of losses” under your policies and “what exactly is anticipated in the coverage,” said Jim Quirk, Boston-based vice president and practice leader for trade credit and political risk at Wells Fargo Insurance Services USA Inc.

Richard S. Maxwell, New York-based chief underwriting officer and global head of political risk and trade credit for XL Group P.L.C. said policyholders are “going to have to obviously monitor their exposures

carefully, monitor their business very carefully, and keep the lines of communication open with their counterparties in both Russia and the Ukraine to understand which way the political and economic wind will take them.”

Meanwhile, companies affected because they conduct business with one of the U.S.-sanctioned Russian entities can appeal to the U.S. Treasury Department’s Office of Foreign Assets Control to continue doing the business, said Thai Hong, Kansas City, Mo.-based vice president of international business, at Lockton Cos. L.L.C.

Wells Fargo’s Mr. Quirk also recommended companies have an evacuation plan in place for expatriated employees that covers issues including the availability of flights out of the country and alternative ways to leave.

By Judy Greenwald



of the Treasury’s Office of Foreign Assets Control.

The sanctions are unique in light of Russia’s major role in the global economy, said Trip MacIntosh, a partner with law firm Holland & Hart L.L.P. in Denver. Previously, sanctions against other countries, including Rwanda, Myanmar and even Iran, have all involved nations that “are on the margins of the global economy,” he said.

Experts say they know of no insurance claims to date related to the crisis, although these may take time to work through the pipeline.

They draw distinctions between the Russian and Ukrainian markets. Russia is a big market with a significant amount of exposure to trade and political risks, said Evan Freely, New York-based political risk and trade practice leader for

Marsh L.L.C. Ukraine has a much smaller exposure, he said.

According to a 2012 report by the Washington-based World Bank Group’s Multilateral Investment Guarantee Agency, foreign direct investment inflows into the Russian Federation totaled \$52.88 billion in 2011, and were only \$7.21 billion in the Ukraine.

Marsh estimated political risk insurers wrote \$324 million in premiums for Russian political risk insurance last year. No comparable data is available for Ukraine.

The Ukrainian economy had been deteriorating for some time before the recent tensions over Crimea, Ms. Paton said, and therefore most underwriters at Lloyd’s had come off cover before the crisis or were writing Ukrainian business “very selectively.”

J. Gallagher & Co. It’s highly unlikely Russia eventually would take over Ukraine, he said.

The U.S. sanctions have been designated against 16 Russian government officials — members of the Russian leadership’s inner circle, including a Russian bank — according to the U.S. Department

TRIA

Continued from page 1

has helped focus support for again extending the federal terrorism program.

Under current law, in the event of a terrorist attack, insurers would first pay 20% of the prior year’s direct earned premium for covered commercial lines as a deductible. After that deductible, the federal government covers 85% of each insurer’s losses until losses total \$100 billion, leaving individual insurers to cover the remaining 15%.

The proposed legislation would increase insurers’ copay after the deductible to 20% from 15%, with the government covering 80% of each insurer’s additional losses. The deductible increase would be phased in incrementally over five

years.

The law’s provision dealing with recoupment also would change. When aggregate insured losses from a catastrophic terrorist event are less than \$27.5 billion, the federal backstop program currently mandates that the government recoup all claims payments from the insurance industry.

The proposed legislation would raise the mandatory recoupment threshold to \$37.5 billion, so that the government will be required to recoup claims payments from insurers when the insurance industry’s aggregate uncompensated losses are below \$37.5 billion.

While welcoming an extension of the program, insurance groups questioned the higher copay for insurers.

“We’re encouraged that the Senate recognizes the need for long-term reauthorization,” said Jimi Grande, senior vice president in

the Washington office of the National Association of Mutual Insurance Cos. But the trade group was disappointed with the proposed copay increase, he said.

“There continue to be a number of lawmakers who insist on making changes to the program simply for the sake of change, without a defined policy objective,” Mr. Grande said.

Nat Wienecke, senior vice president of the Property Casualty Insurers Association of America in Washington, said the group was pleased with the relatively early introduction of the House and Senate bills, and that it recognized that to garner Republican support the legislation would need to include an increased financial burden for insurers.

“Our concern is the scale of the change — it’s a 33% increase, and it’s very unclear how the markets will react to that increase,” he said.

With regard to Russia, Ms. Paton said, underwriters are exercising caution and not accepting as much business as they were prior to the political unrest in Crimea. She said Equinox is not off cover for Russia and that she is not aware of any underwriters within the Lloyd’s market that have stopped writing Russian business altogether.

Although most political risk insurers are not writing business in Ukraine, there are a declining number of insurers still willing to write business in Russia, said Kirk A. Pasich, a partner with law firm Dickstein Shapiro L.L.P. in Los Angeles. However, they are pricing the coverage more carefully “because it’s clear it’s a greater risk. It’s definitely harder to get and more expensive,” which is not unusual in this type of situation, Mr. Pasich said.

Joseph F. Bermudez, a partner with law firm Wilson Elser Moskowitz Edelman & Dicker L.L.P. in Denver, said “because the situation in Ukraine is extremely fluid, ... essentially, everyone has had to put a brake on any type of new business or consideration of new business, because they don’t know how this will play out.”

In Russia, though, business is still being considered, he said.

There are distinctions to be made among the different types of insurance within the political and trade credit risk segment. Expropriation insurance, for instance, is easier to obtain than coverages for lack of payment, because the risk is not considered as large, Arthur J. Gallagher’s Mr. Mansky said.

Experts say they anticipate an increased demand for political and trade credit risk coverage, with some drawing the analogy of trying to buy fire insurance while their house is on fire.

“You’ll certainly see companies that don’t have coverage seeking it out, and the cost, of course, is going to be much more challenging under the current sections situation,” said Kevin L. Petrasic, partner with Paul Hastings L.L.P. in Washington.

the process of reauthorizing TRIA is encouraging, but we understand that this introduction is just the initial step of a long legislative process,” RIMS President Carolyn Snow said in a statement.

“The senators who have introduced this bill understand the consequences of TRIA’s expiration, and we applaud them for their foresight. We remain hopeful that the House Financial Services Committee also realizes the impact TRIA’s expiration will have on all businesses across the U.S.”

A veteran insurance industry lobbyist expressed optimism over the chance for reauthorization.

“Nothing about TRIA has ever been easy or unanimous, but the Senate process on the reauthorization is shaping up to be cooperative, bipartisan and deeply encouraging,” said Joel Wood, senior vice president at the Council of Insurance Agents & Brokers.

Quality, coordinated medical care supports cost-cutting efforts

BY JERRY GEISEL

NATIONAL HARBOR, Md. — There may be a silver lining to employers' move to high-deductible health plans: It is making medical providers more conscious of the need to control costs.

"For the patient's sake, we have to start thinking about costs," said Dr. Steven Shapiro, executive vice president and chief medical and scientific officer at the University of Pittsburgh Medical Center.

Dr. Shapiro said medical providers have to give the best quality of care while also being "conscious of the costs."

Increased patient questions about costs and the need to perform certain tests are a factor in increasing provider sensitivity to costs, he said.

"Patients are asking, 'Do I really need that MRI?' Like it or not, for

the patient's sake, we have to start thinking about costs," Dr. Shapiro said.

Also at last week's 11th annual World Health Care Congress in National Harbor, Md., speakers noted the disconnect between spending and quality of health care.

"We spend 17% of (gross domestic product) on health care," by far the highest in the world, but many other countries have healthier populations, said John Clymer, executive director of the National Forum for Heart Disease and Stroke Prevention in Washington.

"There is a disconnect between spending and results," he said. "We are great at rescue care," but less so on the preventive side, Mr. Clymer said.

Another speaker cited the need to make it easier and faster for patients to contact their primary care physician when medical prob-

lems crop up.

If patients could more easily contact primary care physicians, many emergency room visits could be eliminated. "You could take a big chunk of costs out of the system," said Todd Hixon, a managing partner in Cambridge, Mass., with New Atlantic Ventures, a venture capital firm that invests in technology businesses.

Oregon Gov. John Kitzhaber, who spoke at the conference that drew about 1,000 attendees, offered his own suggestions to hold down costs.

One simple but potentially huge cost-saving step, he said, is finding new but simple solutions, such as better coordination of care to reduce the likelihood of individuals ending up in the hospital.

One example he cited: An elderly woman with a heart problem lives by herself in an apartment that has

no air conditioning. Typically when the heat soars, the woman might have to be rushed to the hospital to treat heat-related breathing problems, incurring thousands of dollars in medical bills. But had a health care case worker been assigned to monitor the woman's health and her living condition, the case worker could recommend that an inexpensive air conditioning unit be installed to keep the woman out of the hospital despite the heat wave, Gov. Kitzhaber said.

Under "the old system, we pay \$50,000" for the woman's health care bills, but won't pay \$250 for an air-conditioning unit, he said. With more coordination, \$49,500 could be saved that in no way jeopardizes the woman's health, he said.

On the preventive care side, Gov. Kitzhaber suggested that medical school students be given more financial incentives to encourage

them to become primary care physicians.

While there has been much speculation about how the health reform law is leading to higher health insurance rates, Gov. Kitzhaber said cost increases also were a big problem before the reform law was passed.

"People without health insurance went to the hospital. Everyone's rates went up," he said, referring to provider cost-shifting.

Still, demographics will put enormous pressure on cost-control efforts, said Janet Elkin, president and CEO of Supplemental Health Care in Dallas.

"Every day, an average of 8,000 people turn 65," and the 65-and-older population uses an average 40% more in health care services than younger people, Ms. Elkin said. "We have to do something to meet that demand."

CANAL

Continued from page 3

are shared to ensure a successful outcome, said Joachim Pawellek, a senior engineering underwriter at Munich Re in London and risk engineer for the project.

Today, the 100-year-old canal can accommodate only ships carrying about 5,000 containers. After construction of new locks on both ends of the canal and widening and the man-made passage, vessels transporting 12,000 containers or more will be able to navigate it. These so-called new-Panamax ships are as long as four football fields and more than 160 feet high.

"Not only are vessels' hulls going to be of higher value, but the amount of cargo that they are going to have is something we worry about," said John Phillips, Houston-based vice president of marine hull for Liberty International Underwriters, a unit of Liberty Mutual Holding Co. Inc. "We can now have many more insureds having their cargo intermingled on one ship."

"Larger amounts of commodities will be transferred on a single vessel," said Stavros Costarangos, Panama City-based executive vice president and partner at insurance broker Padeco Seguros S.A. This increases the concentration of insured values transported on one ship, sources said.

Potential accidents involving the bigger ships could mean higher insured losses, said Stephen Harris, senior vice president of the marine practice at Marsh Ltd. in Norwich, England. And if accidents do occur, he said, there may be an insufficient number of qualified, experienced salvage experts to handle the new-Panamax ships.

Major industry players insure project

Major global players in the insurance industry are providing coverage for the pivotal Panama Canal expansion project.

Munich Reinsurance Co., the primary insurer, and Zurich Insurance Group Ltd. are leading the Autoridad del Canal de Panama's (the Panama Canal Authority) insurance program. Willis Group Holdings P.L.C. is the broker. None of the parties involved in the coverage would disclose limits or other terms of the policies.

The insurers conduct regular site visits to keep up to date with the project's progress, said Joachim Pawellek, a senior engineering underwriter at Munich Re in London and risk engineer for the project.

Coverage for the mammoth eight-year project that could end up costing more than \$6 billion and is slated to be finished next year includes:

- A contractor all-risk policy for physical damage to the canal from an unforeseen event, such as a natural catastrophe or workmanship errors, Mr. Pawellek said. The contractor all-risk policy will remain in place for a limited time after the project is completed to cover defects or maintenance issues.

As part of the overall construction, building the

canal gates in Italy and transporting them to Panama has been a major feat itself. The gates are being shipped, in one piece, to the canal. Each gate measures 190 feet long, 32.8 feet wide, 108 feet high and weighs 3,300 tons, he said. The gate building and transportation is covered by the project's contractor and marine policies.

The canal's lock chambers will measure 180 feet wide by 1,401 feet long — the equivalent of more than four football fields — and 59 feet deep.

The contractor policy also covers construction materials, whether fixed or unfixed, and will cover claims related to injuries to third parties, among other things.

- An excess policy covers third-party liabilities such as injuries to workers on the canal project. It is not underwritten by Munich Re, and Mr. Pawellek declined to disclose the policy underwriter.

- A marine policy covers damage to goods at sea in transit to the canal, among other things.

- A construction surety bond of at least \$400 million was provided by Zurich for the project, which includes building a third set of locks to expand the canal's capacity.

By Sarah Veysey and Bill Kenealy

In addition to concern about the salvage industry's ability to handle an incident involving one of these larger vessels, such accidents could impede traffic at major ports in the U.S. and elsewhere, said Tim Donney, global head of marine at Allianz Global Corporate & Specialty in New York.

The expected increase in the tonnage of container ships and bulk carriers passing through the wider and deeper canal also could be of concern for the insurance market, Mr. Harris said.

For example, the project is particularly important to the United States, because it will enable U.S. energy firms to export liquefied

natural gas on hulking gas tankers to Asia via the Panama Canal.

Also, increased marine diesel oil and petroleum coke being transported through the canal could pose heightened pollution risks, Mr. Harris said.

With the canal's strategic and commercial importance for the U.S. and other nations, political and security risks also could increase, he said.

Meanwhile, the scale and complexity of the canal project poses several underwriting challenges, Mr. Pawellek said, citing keeping cool the massive amount of concrete being used, maintaining the continuity of workers on the pro-

ject and contending with various risks of subcontractors.

But the project's insurance program has run well with no major losses, said one London-based broker who asked not to be named.

Mr. Costarangos said the project's effects also will be felt on land. U.S. East Coast and Gulf Coast ports are upgrading their infrastructure to handle goods transported through the canal on larger vessels, he said.

Still, underwriters are concerned about construction risks because U.S. ports will have to install cranes large enough to handle loading and unloading the big new-Panamax ships. And there are

CANAL PROJECT AT A GLANCE

- Construction to enlarge and widen the Panama Canal is slated to finish in 2015 at a cost that could exceed \$6 billion.
- A consortium of European construction companies called Grupos Unidos por el Canal is doing the project.
- It is the largest engineering effort undertaken on the man-made canal since it was built in 1914.
- The expansion involves building a new set of locks parallel to, but operating separately from, the existing locks. The new locks will allow a third lane of sea traffic and enable ships twice the current size to pass through the waterway.
- The locks will allow bigger ships carrying up to 12,000 or more containers to pass through the canal.

additional concerns regarding the potential for ship collisions in port, Mr. Harris said.

That means port and shipping workers must undergo training, Allianz's Mr. Donney said.

Another underwriting concern is high concentrations of insured goods could be sitting on bigger ships in U.S. ports and terminals, many of which are exposed to hurricanes, Mr. Donney said, noting a large portion of Superstorm Sandy losses in 2012 were due to storm surge that flooded ports in the Northeast.

The bigger ships going through the wider canal could result in fewer vessels using the waterway, said LIU's Mr. Phillips.

But the value of bigger ships will be much higher and there likely will be stiff underwriting competition to cover these vessels.

"There's more insurance capacity now in the marine market than there has ever been," Mr. Phillips said. "So you have more insurers fighting over fewer clients."

FedEx has \$5M in primary cover for deadly California crash

■ Federal Express Corp., whose tractor-trailer reportedly crossed a grassy center divide last week, slamming into a chartered bus carrying high school students and killing 10 people, has a \$5 million combined single limit policy with Protective Insurance Co., a unit of Carmel, Ind.-based Baldwin & Lyons Inc. The accident, which also left dozens injured, occurred on Interstate 5 about 100 miles north of Sacramento, Calif. According to Memphis, Tenn.-based FedEx's website, the company has a \$5 million combined single limit with Protective Insurance for business automobile liability insurance for all owned and nonowned vehicles. A Baldwin & Lyons spokeswoman confirmed the details. The policy period is Oct. 1, 2013, through Oct. 1, 2014. The chartered bus that was hit in the accident was operated by San Luis Obispo, Calif.-based Silverado Stages Inc. The company has \$5 million primary coverage with Cary, N.C.-based Lancer Insurance Co., according to information filed with the U.S. Department of Transportation.

Port Authority sues Aon over commissions, premiums

■ The Port Authority of New York and New Jersey last week sued Aon P.L.C. in New York State Supreme Court, alleging mishandling of commissions and overpayment of premiums

from 2008 to 2012. In its suit, the Port Authority claims Aon's "deficiencies" led to more than \$50 million in overpayment of premiums by the Port Authority in the 2008-2012 period. The suit "seeks damages arising out of the acts and omissions of Aon while serving as an advisor, consultant, insurance broker and insurance program administrator for the Port Authority, in connection with an owner-controlled insurance program for the Port Authority and its construction contractors and subcontractors (CIP) during the period of 2008-2012," according to court papers. "We have provided and continue to provide professional advice and solutions that have benefitted the Port Authority for over 25 years, and we believe we have done nothing wrong," an Aon spokesman said in an emailed statement. "We intend to fight these allegations very vigorously in court."

Below-average hurricane season predicted in the Atlantic basin

■ Atlantic basin hurricane activity in 2014 should be below average, says an analysis by the Tropical Meteorology Project at Colorado State University. The team forecasts that nine named storms will form during the hurricane season, which runs from June 1 through Nov. 30, compared with an average 12 during the period 1981-2010. Three will grow to hurricane strength, vs. an average of 6.5, and only one will become a major hurricane with winds of at least 111 mph, compared with an average of two during the 1981-2010 period, the analysis says.

Same sex retirement benefits retroactive to June 2013: IRS

■ Employers are not required to retroactively offer qualified retirement benefits to married same-sex couples for plan years predating the U.S. Supreme Court's partial overturn of the Defense of Marriage Act, according to the Internal Revenue Service. The IRS clarified that employer-sponsored pension and retirement plans qualified under the Employee Retirement Income Security Act must offer married same-sex couples the same rights and benefits afforded to opposite-sex couples as of June 26, 2013, the date of the Supreme Court's ruling in *United States v. Windsor*. The IRS guidance also stated that employers may choose, but are not required, to extend some or all spousal retirement benefits to same-sex couples retroactively to include plan years that predate the ruling.

CVS Caremark to pay \$20M to settle SEC charges

■ CVS Caremark Corp. agreed to pay \$20 million to settle U.S. Securities and Exchange Commission charges that it misled investors about significant financial setbacks and used improper accounting to artificially boost its results. The Woonsocket, R.I.-based company did not admit or deny wrongdoing in agreeing to settle. CVS operates the second-largest U.S. drugstore chain.

Reuters

GALLAGHER

Continued from page 1

kets, department stores, mining, chemicals and other businesses.

The insurance brokerage operations generated AU\$331.1 million — about \$306.9 million — in revenue for the year ended June 30, 2013. It has more than 50 offices in Australia, New Zealand and the United Kingdom with about 1,700 employees.

Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Dominion Securities Inc. in Richmond, Va., called Gallagher's move "a big deal" that represents "a significant piece in building out their international franchise."

The Wesfarmers brokering operations include OAMPS Insurance Brokers Ltd. in Australia, OAMPS (UK) Ltd. in England and Crombie Lockwood Ltd. in New Zealand.

The deal is subject to regulatory approval and is expected to close during the second or third quarter of this year, according to a statement issued by Gallagher. Wesfarmers sold its insurance underwriting business to Insurance Group Australia Ltd. late last year.

In a conference call last week, Gallagher Chairman, President and CEO J. Patrick Gallagher Jr. called the deal "a coup for our company."

"They sell right into the middle market," very similar to what Gallagher does in the United States, said Mr. Gallagher. "I think the combined organization will be very attractive to potential partners."

Gallagher also announced last week an underwritten public offering of 19 million shares of common stock. The company "intends to use the net proceeds of the offering to fund a portion of its previously announced acquisition of the Wesfarmers insurance brokerage operations," it said in a statement.

Industry analysts tended to view the proposed acquisition favorably.

GALLAGHER'S OVERSEAS EXPANSION

Arthur J. Gallagher & Co.'s proposed acquisition of Wesfarmers Ltd.'s insurance brokerage operations for more than \$900 million is its biggest deal to date. The acquisition represents Gallagher's third international purchase worth more than \$300 million in seven months.

Date	Acquisition	Price	Country	Revenue*
April 6	Wesfarmers Ltd. brokerage	AU\$1.01 billion (\$936.3 million)	Australia	AU\$331.1 million (\$306.9 million)
April 1	Oval Group of Cos.	£199 million (\$329.9 million)	England	£80 million (\$132.6 million)
Sept. 4, 2013	Giles Group of Cos.	£233 million (\$386.2 million)	England	£90 million (\$149.2 million)

*Approximate
Source: Arthur J. Gallagher & Co.

"I guess it wasn't unexpected," said Timothy J. Cunningham, managing director at Chicago-based Optis Partners L.L.C., an investment banking and financial consulting firm that serves the insurance distribution industry. Mr. Cunningham noted that Gallagher had recently enhanced its presence in the United Kingdom with two high-profile purchases, paying £199 million (\$329.9 million) for Oval Group of Cos. earlier this month and £233 million (\$386.2 million) for Giles Group of Cos. in September.

"I think this is more strategic than tactical," said Mr. Cunningham. "They're going into countries that are English-speaking and have insurance systems similar to ours."

If growth is not sufficient domestically, it makes sense to go where there are similarities, he added. "They're going to be a very significant player down there all of the sudden."

Mr. Dwelle called Australia a "good market," adding that "it gives them an entrée to the Far East generally" as well as adding to their existing presence in Australia, New Zealand and the United Kingdom.

"If you were going to plant a flag in that part of the world, you kind of use Australia as a jumping-off point," said Mr. Cunningham. "It would seem logical that it's that kind of progression."

"It looks like those are markets that are grow-

ing," said James Auden, managing director at Fitch Ratings Inc. in Chicago. "When we think of Gallagher, they have international business but not on the scale of a Marsh (L.L.C.) or Aon (P.L.C.), so this appears to be an opportunistic move."

"On the whole it's positive," said Paul Newsome, managing director at investment banking firm Sandler O'Neill & Partners L.P. in Chicago. "It definitely adds scale and size to Gallagher."

"All things being equal, I would give them the benefit of the doubt in making a big purchase in a foreign country and being disciplined about it," said Mr. Cunningham.

"I don't think there's any capital pressure on them," said Mr. Cunningham. "They've got enough cash to continue to do deals. The flip side is: Is the Wesfarmers deal going to take all of their integration attention?"

"I fully expect they will continue on an acquisition path," said John Ward, CEO of Cincinnati Partners L.L.C. in Loveland, Ohio. "They've built quite a track record of successful acquisitions and as long as they are able to successfully issue new shares, I think this will continue."

RBC Capital's Mr. Dwelle noted that Gallagher spent about \$1.2 billion in five days for the Wesfarmers and Oval acquisitions.

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Raymond Teller (right) pictured with magic partner Penn Jillette won a copyright infringement lawsuit against Belgian entertainer Gerard Dogge.

Magician wins suit over tricks of trade

Penn & Teller have been performing magic tricks for decades, but they certainly don't want copycats offering to explain their signature tricks for a price.

Raymond Teller — Teller's real name — won a copyright infringement lawsuit against Belgian entertainer Gerard Dogge in U.S. District Court in Nevada on March 20, according to the Hollywood Reporter.

Mr. Dogge posted a video on YouTube of a magic trick similar to Mr. Teller's signature "Shadows" trick and offered to reveal the secrets for a mere \$3,050, according to the Hollywood Reporter.

Mr. Teller had copyrighted "Shadows" in 1983, and U.S. District Judge James Mahan ruled that the magic performance cannot be copied.

"While Dogge is correct that magic tricks are not copyrightable, this does not mean that Shadows is not subject to copyright protection," Judge Mahan wrote in his ruling, according to the report.

Bad hair day costs celeb stylist's pals

We've all had bad hair days. But rarely do they end in a \$500,000 lawsuit.

One celebrity hairdresser, however, is swapping the salon for the courtroom in a bid to protect his hair care business from unwelcome competition.

Celebrity hairstylist Oribe Canales has filed suit against two of the part-owners of his hair care product line, Oribe Hair Care, whom he claims violated noncompete and confidentiality clauses in their contracts to launch rival — and cheaper — brands.

Mr. Canales, owner of an iconic Miami Beach salon, has worked with supermodels including Tyra Banks (above), Naomi Campbell, Linda Evangelista and Christy Turlington, to name but a few, and clients can stay on a waiting list for up to a year.

In a lawsuit filed in the Manhattan Civil Court, Mr. Canales alleges that his business partners have launched hair care brands virtually identical to his own. He also alleges that they have "misappropriated" confidential client lists.



DISNEY TRYING TO GIVE DEADMAU5 LOGO A TECHNO BEATDOWN



AP PHOTO

Joel Zimmerman is known to Electronic Dance Music faithful as Deadmau5.

The Walt Disney Co. last week said it is looking into a trademark registration filed by Joel Zimmerman, known to Electronic Dance Music faithful as Deadmau5, which is actually pronounced "dead mouse."

Zimmerman's Ronica Holdings Ltd. last year made a trademark application for a logo with round black ears on a round head with oblong white eyes and a smiling white mouth. Sound familiar?

The trademarked logo would cover items including electrical and scientific apparatus, vehicles (specifically BMX bikes), paper goods, leather goods, toys and sporting goods, staple foods (like coffee), light beverages and entertainment services; items, it could be argued, commonly found in the Disney universe.

Given that Deadmau5 made his mark in the throbbing, neon-lit netherworld of EDM, raves and assorted reveling, is it really reasonable that Disney might argue that the logo is misleading and could confuse consumers about the source of goods and services?

Despite Disney's roots in the kinder, more-melody-driven decades of mid-20th century Americana, the company said it has requested and been granted 90 days to investigate the Deadmau5 claim and file a notice of opposition.

Business Insurance isn't all business all the time, and we know you're not either. So visit 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.

FTC tells website to stop being jerky

A website has gotten into trouble with the Federal Trade Commission for addressing the apparently burning — and perhaps hurtful — question of whether someone is a jerk by allegedly getting its information from Facebook.

Hingham, Mass.-based Jerk.com and its owner, John Fanning, co-founder of Napster, are being charged with improperly using personal information from Menlo Park, Calif.-based Facebook Inc. to create profiles labeling more than 73 million people, including children, either a "jerk" or "not a jerk," according to news reports from Bloomberg and Boston.com.

The FTC says the website violated the FTC Act when it falsely claimed the content on Jerk.com had been created by other users of the site, and that most of its content was harvested from Facebook.

Victims also were falsely told they could revise their status by paying \$30 to the website, the FTC said.

Jerk.com, through its attorney, says it thought the information it obtained from Facebook was publicly available.

Meanwhile, the company that has encouraged millions to make their every move public said it was pleased with the FTC's action.



FEATUREFLASH/SHUTTERSTOCK.COM

Tina Fey "was never delinquent in paying premiums or having the proper" insurance.

Fey's broker cops to comp foul-up

Comedian Tina Fey faced a \$79,000 workers compensation judgment last month for allegedly failing to insure her employees, though her insurance brokerage reportedly owned up to the mix-up.

The New York Supreme Court issued the judgment against the former star of TV shows "Saturday Night Live" and "30 Rock" on March 20, court records show. Documents show that the judgment was for failure to carry workers comp insurance from November 2012 to February 2014.

The documents did not specify what type of employees were affected by the purported lack of comp coverage.

Insurance brokerage Robertson Taylor reportedly admitted fault for Ms. Fey's insurance judgment to the Daily News in a later story, saying she "was never delinquent in paying premiums or having the proper" insurance.

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