

**RIMS BENCHMARK SURVEY
FINDS MOST P/C RATES FELL
IN FIRST QUARTER / PAGE 3**



**INSURED LOSSES
FROM TORNADOES
MAY HIT \$5B / PAGE 3**

**SUPREME COURT RULING
IN ARBITRATION DISPUTE
HELPS EMPLOYERS / PAGE 4**

In Brief

AIG Financial Products sues advisory firm

AIG Financial Products Corp. has sued investment advisory firm ICP Asset Management L.L.C. and others, after losing more than \$350 million in connection with collateralized debt obligations, American International Group Inc. said last week. The claim resulted from a review of its business dealings before and during the financial crisis.

Liberty Mutual contests AIG comp settlement

Liberty Mutual Group has filed court papers challenging a settlement between American International Group Inc. and seven other insurers over alleged underreporting of workers compensation premiums by AIG. The dispute began in 2007 when the National Workers Compensation Reinsurance Pool operated by NCCI Holdings Inc. sued AIG, alleging it underreported premiums by \$6.1 billion, compared with the \$2.1 billion figure for underreported premiums that was used as the basis for the settlement. U.S. District Court Judge Robert Gettleman is scheduled to hear Liberty Mutual's challenge to the settlement in June, sources said.

Most companies lack network liability cover

Despite recent accounts of significant cyber attacks and corporate data breaches, a new survey of risk managers by Towers Watson & Co. showed that 73% of companies surveyed have not purchased network liability coverage. Of the companies without

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WORKERS COMPENSATION

Firms unbundle TPA services

*Some seek savings
by shifting vendors
for managed care*

By **ROBERTO CENICEROS**

More risk managers at large companies are scrutinizing the value of workers compensation managed care services and opting to “unbundle” those products rather than purchase them from third-party administrators, several sources said.

Rising claims expenses and a desire for optimal medical management are fueling the trend. So is growing concern that charges for workers comp managed care services—such as utilization review, case management and bill review—often are obscure, especially when a TPA adds its markup for “brokering” the services, they added.

The medical and indemnity expense portions of a claim are

easy to dissect, said Michael J. Tilley, vp of workers compensation for Kelly Services Inc. in Troy, Mich. In contrast, loss adjusting expenses for managed care services can be difficult to unravel, he said.

“It’s like a Pandora’s box,” Mr. Tilley said. “That lack of transparency says, ‘What am I buying and what am I getting?’”

Mr. Tilley purchases workers comp managed care services through a TPA. A few years ago, however, he changed TPAs to eliminate hidden charges and gain direct interaction with the managed care company with which his undisclosed TPA contracts.

For example, he now pays a flat amount per bill for fee schedule bill reviews, rather than paying on a percentage-of-savings basis.

“The fees per bill were just outrageous compared to what I am paying today,” Mr. Tilley said.

Most large self-insured

**‘It’s like a
Pandora’s box.
That lack of
transparency
says, “What am I
buying and what
am I getting?”’**

Michael J. Tilley,
Kelly Services Inc.

See **UNBUNDLE** page 52

CATASTROPHES



AP PHOTO

Masahiko Horio, president of Horio Seisakushou Co. Ltd., examines destruction at the northeast Japan factory caused by the March earthquake and tsunami, which hit the region the hardest.

Japan quake highlights cat modeling challenge

Business interruption often opaque, complex

By **JOANNE WOJCIK**

Insurance industry modeling of property losses improves with data gathered after each catastrophe, but modelers still struggle to accurately assess business interruption losses after events such as the recent disaster in Japan, whose impact is reverber-

ating around the world, industry experts say.

Moreover, some experts say insurers tend to underestimate their potential business interruption claims because they have been relying too heavily on models that originally were built

See **SUPPLY** page 54

ALTERNATIVE RISK TRANSFER

Backers hope time is right for RRG expansion bill

By **MARK A. HOFMANN**

WASHINGTON—Congress could begin considering legislation that would allow risk retention groups to offer property coverage to their members as early as this month.

That would be welcome news for the Risk & Insurance Management Society Inc., which includes allowing RRGs to provide property coverage on its legislative agenda.

It also would be good news for risk retention groups, which sometimes find themselves in legal battles with nondomiciliary states that seek to regulate them in contravention of federal law.



Sen. Jon Tester, D-Mont., (left) and Rep. John Campbell, R-Calif., are expected to introduce risk retention group legislation.

Reform legislation appears likely to come sooner than later.

For example, Sen. Jon Tester, D-Mont., told a legislative confer-

ence of the Self Insurance Institute of America Inc. in Washington in March that he intends to introduce legislation that would allow RRGs to offer property coverage to their members. He also said he wants to develop a process to settle disputes between RRGs and nondomiciliary states.

Rep. John Campbell, R-Calif., is expected to introduce companion legislation in the House.

“We’ve made progress from the point of just talking about legislation” to introducing a bill in the House last year and now looking to having bills being introduced in both houses soon, said Mike Ferguson, chief operating officer

of the SIIA in Simpsonville, S.C. He said SIIA is working to add co-sponsors to the bills and then have bipartisan legislation move forward.

The original 1981 Product Liability Risk Retention Act allowed RRGs to write product liability coverage for member policyholders in any state after meeting the licensing requirements of one state.

In 1986, Congress responded to a hard liability insurance market by passing the Liability Risk Retention Act, which allowed RRGs to write all types of commercial liability

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MOST POPULAR STORIES
Week of April 25, 2011

1. Aon Hewitt setting up health insurance exchange for employers
2. Fox worker can't sue employer's landlord for bedbugs: Judge
3. P/C premiums fall further: RIMS Benchmark Survey
4. Vermont closer to single-payer health care system
5. Video: Tornado hits Lambert-St. Louis International Airport
6. Two insurers agree to pay \$8M to settle Chinese drywall suit
7. No broad increases in insurance rates in first quarter: Marsh
8. AIG sues two financial firms over CDO losses
9. Buffett's Berkshire says Sokol deceived, broke law
10. Tornadoes, storms rip U.S. South, at least 284 dead

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Congratulations to **2011 Risk Manager of the Year Lisa L. Havens**, director of risk management and associate general counsel for Scott & White Healthcare as well as the following 2011 Risk Management Honor Roll members:

- **Françoise Carli**, vice president of insurance for Sanofi-Aventis Worldwide
- **Daniel Desjardins**, senior director of global risk management and insurance at Bombardier Inc.
- **Michael Lusk**, vice president of insurance and risk management at Archer Daniels Midland Co.
- **Laurie Solomon**, director of risk management at Coca-Cola Co.

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RISK MANAGEMENT

Rates fell in 1Q for several lines: RIMS Benchmark

*Abundant capacity
holds down prices,
research shows*

By MARK A. HOFMANN

Average renewal premiums for several lines of property/casualty insurance decreased during the first quarter this year, according to the "RIMS Benchmark Survey" released last week.

-4.2%

Property insurance posted the largest decrease in annual renewal premiums, falling 4.2% on average for policies renewing during the first quarter of this year.

Property insurance posted the largest decrease, falling 4.2% on average for policies renewing during the first quarter. The average workers compensation premium fell 3.2% and the average directors and officers liability premium dropped 2.3%. Only general liability did not record a material decrease, dropping just 0.8%.

That's in marked contrast with

conditions reported for the fourth quarter of last year, in which only D&O coverage recorded a material decline, according to the Risk & Insurance Management Society Inc.

Dave Bradford, editor-in-chief of the survey and executive vp at Advisen Ltd., the New York-based consultant that administers the survey for RIMS, said the latest survey results weren't particularly surprising.

"The surprises had been in the last couple quarters and how well rates had held up over the past two quarters," said Mr. Bradford.

"Risk managers had told us that underwriters were trying to hold the line, but there is a lot of capacity in the market," he said. "Policyholder surplus has just really soared over the past year and the demand for that capacity is still feeling the effects of the recession."

"There's still an enormous amount of pressure" to hold premiums down, Mr. Bradford said.

He noted that several devastating catastrophes had occurred during the first quarter of 2011, notably the earthquake that struck downtown Christchurch, New Zealand, and the earthquake and tsunami that ravaged north-eastern Japan. But those events have not affected the U.S. insurance market, he said.

"The catastrophes in the first quarter did not affect premiums in the U.S., but if there are further catastrophes in 2011, it could

See **BENCHMARK** page 55

CATASTROPHES



A tornado last week devastated the community of Phil Campbell, Ala., last week, causing severe property damage and several deaths.

Tornadoes devastate southern U.S.

Insured losses from string of storms may hit \$5 billion

Property owners across 14 states are picking up the pieces left by more than 130 tornadoes that pounded the South and Midwest last week, killing about 300 people and leaving a swath of ruined property.

Preliminary reports indicate as many as 10,000 buildings were destroyed in the affected areas, putting insured property damage loss estimates between \$2 billion and \$5 billion, according to catastrophe modeling firm EQECAT Inc.

Among the most heavily damaged areas, Tuscaloosa, Ala., was hit by a massive funnel cloud that destroyed parts of the town and

interrupted business operations in the region.

Published reports said car manufacturers Toyota Motor Corp. and Mercedes-Benz U.S. International suffered an undetermined amount of damage and halted production at their Alabama plants. The University of Alabama's campus in Tuscaloosa sustained minor damage.

The Tennessee Valley Authority experienced "major widespread damage to our transmission systems" in Mississippi and northern Alabama due to the storms, said William R. McCollum Jr., the Chattanooga, Tenn.-based utility's chief operating officer.

—By Michael Bradford and Matt Dunning

CAPTIVES

Captive use strong despite economy

*Marsh study finds
growth in premiums,
financial strength*

By RODD ZOLKOS

A study from Marsh Inc. finds that captives have weathered the economic downturn with their claims-paying ability intact and that premiums placed in captives continue to increase despite the soft traditional market.

The Marsh report, "Trends and Performance—2011 Captive Benchmarking," released today at the Risk & Insurance Management

Society Inc.'s Annual Conference & Exposition in Vancouver, British Columbia, also reports that a growing percentage of newly formed captives are choosing onshore domiciles.

Despite the poor investment climate and widespread suggestions that captive owners were looking for ways to tap their captives' capital, "The financial stability of captives is stronger than ever," said Michael Cormier, CEO of Marsh Captive Solutions Group and global captive solutions practice leader in New York.

The Marsh study also examined how "new generation" captives—those formed since the Sept. 11,

2001, terrorist attacks—compare with older captives.

"I think the new generation of captives tends to be a bit more opportunistic," Mr. Cormier said, with owners putting lines of business in the captive when it makes sense, but pulling that coverage out of the captive when traditional market pricing makes it attractive to transfer the risk.

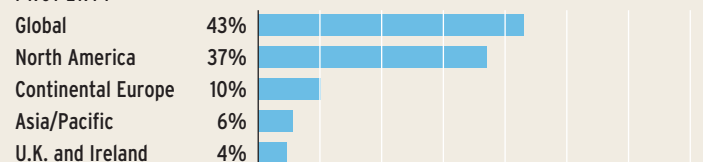
In comparison, older captives seem to be more ingrained in their risk management strategy than their "new generation" counterparts, the Marsh captive practice leader said. "The interesting

See **CAPTIVES** page 53

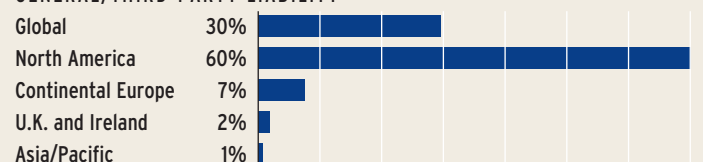
WHERE THE RISKS ARE

Global vs. regional programs in captive insurers

PROPERTY



GENERAL/THIRD-PARTY LIABILITY



Source: Marsh Global Captive Management System

LIABILITY & LITIGATION

Ruling could help employers avoid class actions

Decision upholds class action waivers in arbitration

By JUDY GREENWALD

WASHINGTON—The U.S. Supreme Court’s decision last week to uphold class action waivers in arbitration agreements could become a major tool that helps employers avoid class action employment suits, legal experts say.

While the court’s 5-4 decision in *AT&T Mobility L.L.C. vs. Vincent and Liza Concepcion* involved a consumer case, it is widely expected to be applicable in the employment context as well.

According to the decision, the *Concepcions* entered into a con-

tract in 2002 with AT&T that allowed arbitration of disputes but disallowed class actions. The couple purchased AT&T services, which were advertised as including free phones but included \$30.22 in sales tax based on the phones’ retail value.

They sued, challenging the sales tax, and sought class action status.

AT&T moved to compel arbitration under terms of its contract with the *Concepcions*. A federal judge denied AT&T’s motion to compel arbitration, a ruling the 9th U.S. Circuit Court of Appeals upheld in 2009. The appeals court ruled that the provision forbidding class actions was “unconscionable” under California law and pre-empted by the 1925 Federal Arbitration Act.

Last week, the Supreme Court

WHAT HAPPENED

- The U.S. Supreme Court upheld class action waivers in arbitration agreements, possibly creating a major tool that helps employers avoid class action employment suits.

WHAT’S NEXT

- Observers expect the ruling to be applied to employment disputes, and say employers are not expected to consider introducing arbitration agreements that prohibit class actions in employment disputes.

ruled in AT&T’s favor. “Requiring the availability of classwide arbitration interferes with fundamental attributes of arbitration and thus creates a scheme inconsistent with the FAA,” Justice Antonin Scalia wrote for the majority.

“The switch from bilateral to class arbitration sacrifices the principal advantage of arbitration—its informality—and makes the process slower, more costly and more likely to generate procedural morass than final

judgment,” he wrote. Class arbitration “requires procedural formality” and “greatly increases risks to defendants,” said the opinion. “Faced with even a small chance of a devastating loss, defendants will be pressured into settling questionable claims.” Observers estimate that more than 20 states have legislation similar to California that permits class actions in arbitration disputes. But “the Supreme Court ruled essentially that the federal statute, the FAA, trumps those laws,” said Ron Chapman Jr., a shareholder with law firm Ogletree, Deakins Nash, Smoak & Stewart P.C. in Dallas. Although the case involves consumers, it is expected to be applied

See **CLASS** page 52

RISK MANAGEMENT

Economic slowdown still No. 1 risk

By MIKE TSIKOUDAKIS

Global risk managers and chief financial officers say the No. 1 risk facing their organizations remains economic slowdown, according to Aon Corp.’s biennial Global Risk Management Survey.

While new risks joined the list and others shifted in rank in this year’s survey of organizations in 58 nations, economic slowdown also topped the list in Aon’s previous survey in 2009.

“That actually was a little surprising when you think about the fact that it’s been three years since the credit crisis and this is still topping the list of risk managers and CFOs and treasurers who responded,” said Theresa Bourdon, group managing director of Aon Global Risk Consulting, a Columbia, Md., unit of Aon.

Regulatory/legislative changes also remained at No. 2 like the previous survey, while increasing competition and damage to reputation/brand moved up the risk ranking to Nos. 3 and 4, respectively.

The risk of business interruption dropped from third in the 2009 survey to No. 5 in this year’s.

The survey collected 960 responses from private and publicly traded companies in various industries, up from 551 respondents in 2009, Aon said.

Ways in which companies reacted to the weak economy may have pushed risks into the top 10 concerns (see chart), Ms. Bourdon said.

“There was a lot of retrenchment from organizations as a result of the economy,” Ms. Bour-

TOP 10 RISKS

The greatest organizational risks among 960 global risk managers and chief financial officers participating in an Aon Corp. survey are:

1. Economic slowdown
2. Regulatory/legislative changes
3. Increasing competition
4. Damage to reputation/brand
5. Business interruption
6. Failure to innovate/meet customer needs
7. Failure to attract or retain top talent
8. Commodity price risk
9. Technology failure/system failure
10. Cash flow/liquidity risk

Source: Aon Corp.’s 2011 Global Risk Management Survey

don said. “The kind of things companies had to do to survive during the recession, that’s now having an impact on other areas of risk within their organization.”

For example, companies facing tight budgets may have held back spending on research and development and information technology, causing innovation and technology to join the top exposures, Ms. Bourdon said.

Another issue that has come out of this year’s survey that was not evident previously is the how the speed and breadth of technology change affects organizations.

Several risks—such as hacking and network viruses, lack of technological infrastructure, and loss of intellectual property or data—that did not make the top 10 risks still rose in priority among respondents.

“The ability to embrace and leverage technology is emerging as a dominant factor underlying many of the risks facing these organizations,” Ms. Bourdon said.

To view the survey, go to www.aon.com/globalrisksurvey.

HEALTH CARE BENEFITS

Aon Hewitt offers exchange plan

Health insurers would offer workers range of options

By JERRY GEISEL

LINCOLNSHIRE, ILL.—Aon Hewitt Inc. is developing a health insurance exchange that would enable employers to offer employees an array of plans provided by participating insurers.

By using the exchange, employers would be relieved of the time and expense of choosing health insurers and administering their plans, while employees would have more choice of

plan designs, said Ken Sperling, global health and benefits practice leader at Aon Hewitt’s Norwalk, Conn., office.

“Employers wouldn’t have to worry about bids or plan administration,” Mr. Sperling said. The role of the employer would be a simple one: decide how much of the premium it would pay for each option.

Initially, premiums would be based on an employer’s claims experience and demographics.

Insurers would offer plans with five levels of benefits, including three high-deductible plans that could be linked to health savings accounts. A fourth design would offer coverage

much like a traditional preferred provider organization plan, while a fifth option would be similar to a traditional health maintenance organization plan.

Insurers would offer identical plans for each of the five options.

Mr. Sperling said the program is geared for companies with at least 1,000 employees, but added that Aon Hewitt has received interest in the health insurance exchange from “employers of all size, and in all industries” across the nation.

“This will appeal to employers who want to continue to provide benefits” but not get involved in

See **EXCHANGE** page 53

REINSURANCE

Judge upholds solvent runoff plan

By JUDY GREENWALD

PROVIDENCE, R.I.—A Rhode Island judge has approved a commutation plan allowing a still-solvent reinsurer to wind up its business quickly without a lengthy runoff or liquidation.

In the case, a majority of creditors had approved a commutation plan in November for Providence, R.I.-based GTE Reinsurance Co. Ltd. However, units of Stamford, Conn.-based Odyssey Re Holdings Corp., which objected to the valuation ascribed to their claims, sued and sought to have state law that authorized the plan declared unconstitutional.

The 2002 law, the Voluntary Restructuring of Solvent Insurers

Act, borrowed language from the U.K. Companies Act.

Such schemes have gained popularity in the United Kingdom and elsewhere as a tool to run off and restructure solvent and insolvent insurers. The Rhode Island statute, though, is the only one of its kind in the United States that allows a solvent insurer to liquidate its obligations in a runoff, said Gary S. Lee, a partner with law firm Morrison & Forester L.L.P. in New York. He represented the Rhode Island Department of Business Regulation’s insurance division in defending the statute.

In his ruling, Providence County Superior Court Judge Mark A. Silverstein said the “Odyssey insureds assert that the Restruc-

turing Act and commutation plan substantially impact their contract rights because the central purpose of the Odyssey (reinsurance) treaties—shifting risk from one party to the other—is completely abrogated in exchange for a potentially insufficient sum of money. The court, however, does not agree,” the judge ruled in *In Re GTE Reinsurance Co. Ltd.*

“Put simply, the Odyssey insureds contracted for the payment of money, and under the commutation plan, that is exactly the benefit they will receive,” the judge ruled.

Mr. Lee said the advantage to creditors under the statute is, “they all get treated the same,” with none getting a better deal than any other.

A LOT OF THINGS CAN HAPPEN IN A MAJOR STORM.
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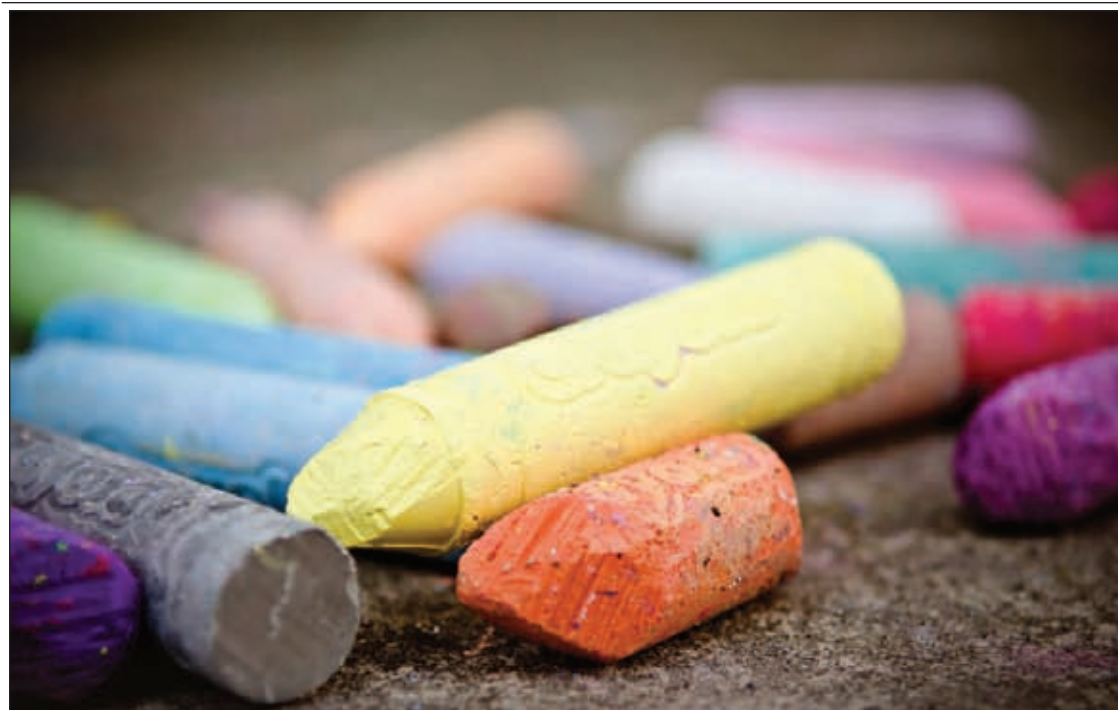
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Commentary

Remembering heroes killed doing their jobs

We look at photographs and television footage from the world's trouble spots and rarely think as deeply about how that information comes to us as we do about the events on which they report.

It should be that way. Reporters and their work are not supposed to be part of the story.

But the recent deaths in Libya of photojournalists Tim Hetherington and Chris Hondros caused me to reflect on their heroic jobs and that of ordinary working people who receive far less attention when they die doing a typical day's work.

The two photojournalists died doing their job of documenting horrific suffering. Their deaths were widely reported, and other journalists called them heroes and "the best of the best" in their profession.

I found myself reflecting on their deaths, so I will add my eulogy by saying I am grateful for their work—although it wasn't always the message many of us wanted to hear.

Mr. Hetherington is best known as one of the makers of "Restrepo," an Academy Award-nominated documentary film about U.S. soldiers in Afghanistan's deadly Korengal Valley.

The filmmakers followed a platoon for a year and let the soldiers tell their own story about their daily lives during a war, their fears, boredom and anxiety.

Unfortunately, the film left me feeling that our war efforts in Afghanistan likely are futile.

Mr. Hondros, an award-winning photographer, shot beautiful images in the midst of several wars. But his photos also were disturbing.

One recent shot captured doctors in the besieged city of Misrata, Libya, tending to a baby injured by shrapnel.

Without such work, we wouldn't have as clear a focus on the wars in which our country participates. Our debate about their necessity, their pitfalls, and our accomplishments or failures would not be as well-informed.

As I reflected on the two photojournalists' deaths, I also thought about how common it is for everyday U.S. residents to die while working at ordinary jobs.

The Occupational Safety & Health Administration's home page reports that there were



ROBERTO CENICERROS

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4,340 fatal work-related injuries in the United States during 2009.

Just like we don't give it any thought to how war news photographs reach us, we usually don't have reason to consider the weekly death toll of typical U.S. workers.

Recently, those deaths have included a Texas bowling alley employee who was killed while releasing a jammed pinsetter

**The people who risk their
lives to bring us the news,
no matter how unpleasant,
get my gratitude.**

machine, a New York firefighter who slipped on ice and a Michigan mail delivery worker who died after a cement porch collapsed on him, according to OSHA.

Of course, war correspondents perform a particularly dangerous job.

The Committee to Protect Journalists says there have been 16 journalists killed so far in 2011. Since 1992, 861 have been killed and another 145 have been imprisoned worldwide.

Like everyone else, I can point to many problems with the media. But the people who risk their lives to bring us the news, no matter how unpleasant, get my gratitude.

Likewise, I'll take this opportunity to pay my respects to everyday workers killed on the job. Their deaths should give us pause and force practices that make the workplace safer.

For their friends and families, they undoubtedly also were heroes and the best of the best.



**"We're a growing
company. And, with
Zurich's help, we're
already a global one."**

**Joseph G. Mahler, Chief Financial Officer
FuelCell Energy, Inc.
Connecticut, USA**

Zurich HelpPoint

**International insurance solutions for the
global companies of today and tomorrow.**

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Business Insurance OPINIONS

Captives help create innovative programs

INNOVATION IS a hallmark of successful leaders in all areas of business, and innovation clearly is a key attribute of the risk managers we honor with our 2011 Risk Manager of the Year award and Risk Management Honor Roll.

One striking feature of all the honorees' risk management programs is the innovative use of captives. While risk management has long moved away from being simply an insurance-buying function—with the formation and use of captives being a key part of that transformation—the creative thinkers we profile in this issue all found new roles for captives.

Lisa L. Havens of Scott & White Healthcare developed the captive she inherited from a facility to cover workers compensation risks to become the main risk financing tool for the health care system. While Scott & White still makes use of the insurance and reinsurance markets, the expansion of risks within the captive has allowed Ms. Havens to take far greater control of the numerous exposures her organization faces as well as the claims process.

Françoise Carli of Sanofi-Aventis Groupe uses the pharmaceutical giant's captive to address problematic risks such as trade credit, stock-in-transit and product liability. The coverage also helped diversify the captive before Solvency II implementation.

Daniel Desjardins of Bombardier Inc. faced challenges when the company made a series of acquisitions that brought organizations with varying levels of loss control. To overcome insurers' concerns, the risks were packaged into a program funded by the captive, and this helped him sell the risk to the insurance market.

Michael Lusk of Archer Daniels Midland Co. uses the capital in the captive he runs to help other business units of ADM achieve their goals. For example, he used the captive to set up a crop insurance program that strengthened business units' relationships with crop producers.

Finally, Laurie Solomon of The Coca-Cola Co. is blazing a trail that has caught the imagination of many other risk managers in tapping company captives to fund employee benefits risks. Her approach has allowed Coca-Cola to move risk financing to a new level.

Captives once were seen as little more than an alternative to traditional insurance during hard markets, but as all of our honorees show, captives have evolved far beyond that.

In partnership with the Risk & Insurance Management Society Inc., we are proud to salute these outstanding risk managers.

Act before a crisis occurs

IT SHOULDN'T take a coverage crisis to get lawmakers to address a gap in federal risk retention law—the fact that risk retention groups remain barred from offering property coverage to their members.

It's far better to address the issue before a crisis emerges.

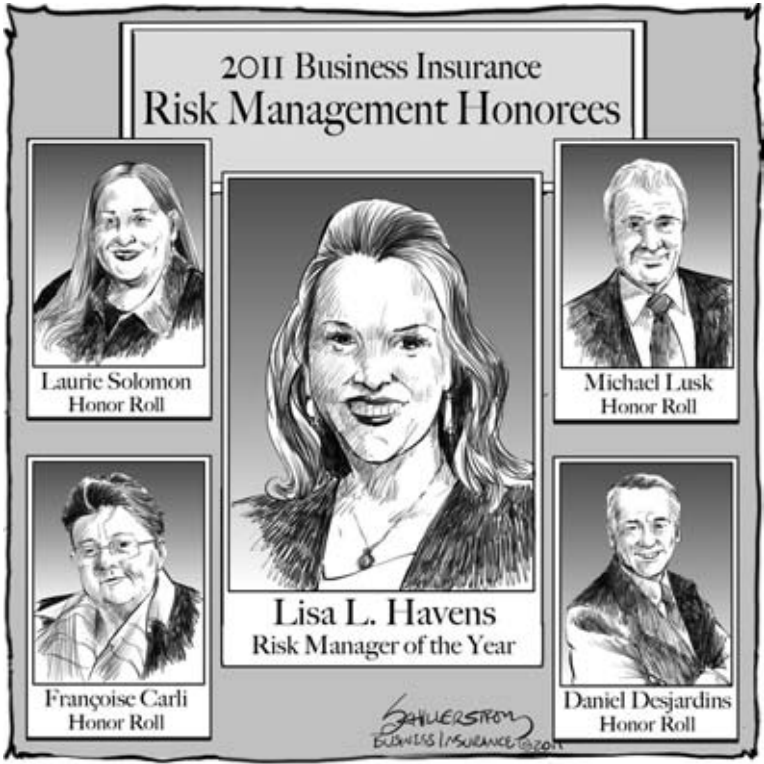
That's why we're heartened that legislation that would allow RRGs to offer property and liability coverage to their members, as we report on page 1, appears likely to be introduced sooner rather than later.

Similar legislation was introduced in the last Congress, but it was done so late in the session that it stood next to no chance of passage. This time, the issue should get the airing it deserves.

Allowing RRGs to offer property coverage deserves careful consideration. Anything that expands risk financing opportunities available to risk managers is welcome. With catastrophe losses mounting, a hardening property market can't be ruled out.

There's time to prepare for that eventuality. We hope a measure allowing RRGs to expand into property coverage is introduced soon and approved. The best way to deal with any coverage crisis is to be prepared for it before it occurs.

The creative thinkers we profile all found new roles for captives.



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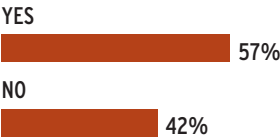
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THIS WEEK'S RESULTS

Will the U.S. insurance market harden as a result of the first-quarter catastrophes?



NEXT WEEK'S QUESTION

Should risk retention groups be allowed to cover property risks?

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Benefit captives need a good fit

Captive insurers have been around for decades, but largely have been used for liability risks. In recent years, however, it has become easier to use a captive to fund employee benefits risks. Paul Rudeen, vp and actuary at Minnesota Life, a subsidiary of Securian Financial Group Inc. in St. Paul, Minn., says employee benefits captives can bring significant advantages to companies using them, but first they must establish whether their corporate culture and their risk appetite are a good fit for an employee benefits captive.

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RISK MANAGER OF THE YEAR

Lisa L. Havens

SCOTT & WHITE HEALTHCARE

MICHAEL MARCOTTE

ACCOMPLISHMENTS

SCOTT & WHITE: Roots reach to late 19th century. **PAGE 16****EDUCATION:** Staff takes courses in risk management. **PAGE 16****INSURANCE:** Captive becomes main risk financing tool. **PAGE 18****WORKERS COMP:** Keeping workers safe and on the job. **PAGE 22****GRANTS:** Captive funds safety efforts, cuts claims costs. **PAGE 22****FORT HOOD:** Fallout spurs crisis management revamp. **PAGE 24****CLAIMS:** Early intervention avoids escalation to litigation. **PAGE 26****RESEARCH:** Some risks insured, but others are managed. **PAGE 27****M&As:** Risk management integral in vetting potential M&As. **PAGE 28****BIO:** Ohio native content in the Lone Star state. **PAGE 29**

company's assets.

"So they recruited me to come in-house," Ms. Havens said. "My clinical background and legal background seemed to be a nice fit. They had gotten to know me over the previous years doing their defense work."

Risk management became her mandate when she joined Scott & White, and she brought skills to the position even though she had never directly worked in the field. She had knowledge of the insurance market through her work as a medical malpractice defense attorney, and her nursing background helped prepare her for managing the risks of a health care system.

"She has the best work ethic I have ever seen," said Janet L. Hale, executive vp and managing director, health care, at Alliant Insurance Services Inc., which is Scott & White's Houston-based broker.

Alfred B. Knight, president and CEO of Scott & White, said in a letter supporting Ms. Havens' nomination for the Risk Manager of the Year award that she "has made a profound change in the way Scott & White approaches risk management, and has helped us improve the way we deliver care."

While her background helped prepare Ms. Havens for her risk management role, her personal style of handling a lot of tasks at once made her a good fit for the position, said Ms. Hale. "I've never seen anyone work harder with so many balls in the air. She can be juggling a couple of acquisitions and lawsuits at the same time."

Previous work experience helped, Ms. Havens said.

"I had never been a risk manager, but my prior lives and jobs had included parts of risk

Clinical, legal skills paved risk management path

By MICHAEL BRADFORD

Medicine, law and risk management merged neatly into a career path that led Lisa L. Havens to Scott & White Healthcare, a bustling Texas medical system where she has used her experience to craft an enterprise risk management program, restructure its insurance program to save millions of dollars, and create a safer place for employees and patients.

Ms. Havens, who is *Business Insurance's* 2011 Risk Manager of the Year, could justify adding juggling to her resume.

As director of risk management

and associate general counsel at Temple-based Scott & White since 1999, she has not only established an ERM program but has helped guide the organization through several acquisitions, all while mastering the art of risk financing enough to rework an insurance program that now is grounded by a captive, plus establishing educational and training programs that have dramatically lowered workplace injuries and claims.

Meanwhile, she also serves as an adjunct assistant professor in the Texas A&M University system.

It was medicine first for the Ohio native. A nursing major at Texas Christian University in Fort

Worth, she graduated in 1984 and took her first job in the field at the James A. Haley Veterans' Hospital in Tampa, Fla.

Nursing positions at Veterans Administration facilities led her to Dayton, Ohio, and eventually back to Texas, where she spent several years at the Dallas VA Medical Center. In 1989, she added to her medical credentials by earning a master of science in nursing at the University of Texas at Arlington.

Practicing law was next, after Ms. Havens plunged into studies at Baylor University School of Law in Waco. She graduated third in a class of 154 in 1993.

Ms. Havens, who joined the firm in 1994, eventually became a partner at the Temple law firm of Bowmer, Courtney, Burleson, Norman & Moore, an office of Naman, Howell, Smith & Lee P.L.L.C. Among her responsibilities during the next five years was acting as defense counsel for Scott & White in medical malpractice and other cases.

Risk management was right around the corner.

Scott & White's risk manager, Al Haggard, was close to retirement and the health care system needed someone to take over the department of 3.5 employees responsible for protecting the

See **HAVENS** next page



Lisa L. Havens (center) with brokers Velma Johnson (left) and Janet Hale of Alliant Insurance Services.

MICHAEL MARCOTTE

Havens: Prior jobs pave risk management path

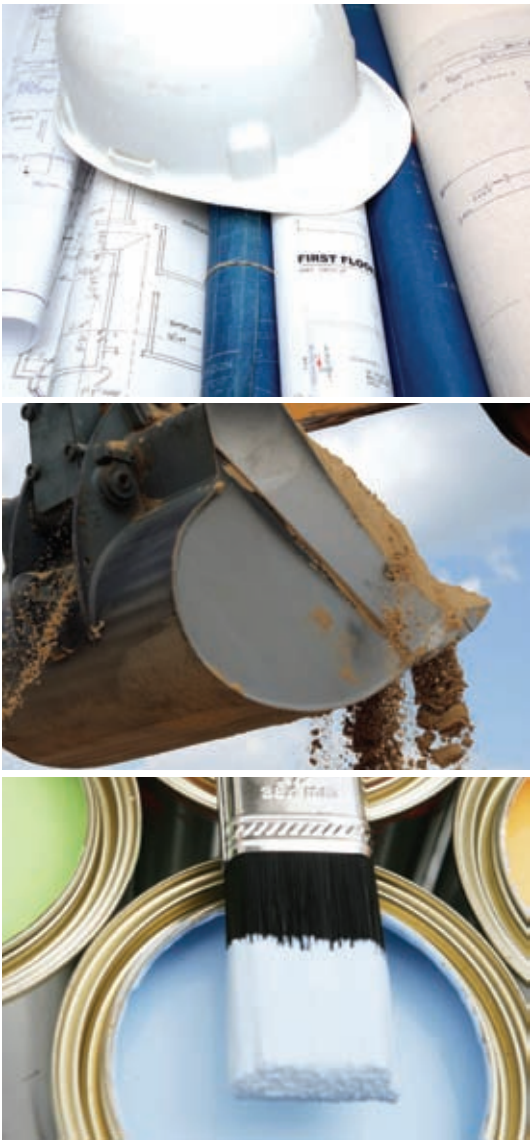
CONTINUED FROM PREVIOUS PAGE

management,” such as claims and litigation management, she said. “I had been a clinical nurse specialist,” which involved some degree of risk management, Ms. Havens said. “I was involved in quality (control) and peer review, some of those types of things that fall into the risk prevention bucket. I did some teaching, when I was working on my master’s, at some of the rural hospitals,” she said.

While she was equipped with some risk management skills, others had to be learned. **ERM incorporates experience**

Enterprise risk management was a “new concept,” Ms. Havens said. While she didn’t intend to put an ERM program in place, it just turned out that the risk management framework she envisioned fit the ERM definition. She began tying the components of an ERM program together from the start. Claims and liti-

gation management were brought in-house right away. “We started a risk financing analysis” that led to a revamp of the way the health care system’s exposures are covered, Ms. Havens said. “I did not have any background in the risk financing piece,” Ms. Havens said. She learned quickly, though, eventually restructuring the insurance program so that a captive insurer became the core of Scott & White’s risk financing activities. The ERM approach spread to other departments, including patient financial services, compliance, research and others in clinical and nonclinical areas. “Like everything else, it’s a journey, a process. It started with finance and myself working together on insurance” and has become an ERM program that reaches across all departments and involves employees and management throughout the organization, Ms. Havens said. She meets regularly with department heads to discuss strategic plans and risk-related issues, a practice she started to break down long-established risk silos. In the department of medicine, for example, she began meeting with the chairman to “share what’s going on in his department, from our view,” Ms. Havens said. Adverse events, claims and other topics were discussed, and the department head was encouraged to help develop ways to reduce those losses, she said. The purpose: “to find out what’s going on that worries them that we can partner and help with,” Ms. Havens said. **Building good will** Breaking down silos was not as troublesome as it could have been, she said, because her predecessor’s department had built up a fair amount of good will at Scott & White, Ms. Havens said. “There were some people not as open to us as others. Over time, though, showing them the benefit we could bring to them” tended to make working together easier, she said. To help in her risk management training, Ms. Havens began attending conferences held by the American Society for Healthcare Risk Management. The Risk & Insurance Management Society Inc. also has become a resource, she said. “I’m new to RIMS,” she said. “I just joined. I’ve been meaning to get to the conferences for the last couple of years and it just didn’t work out,” she said. That meant much of her risk management education happened on the job. “When I started here, they had a trust for their malpractice insurance and there was another department involved in their other insurance programs,” Ms. Havens said. “Scott & White had a very small captive just for their workers comp deductible that had never really been utilized” to fund other exposures, she said.



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Havens: Prior jobs pave path to risk management

CONTINUED FROM PAGE 12

"One of the challenges I was given was to look at the overall insurance program. So I partnered with the finance people and the people who had been involved in the commercial insurance," she said.

Her first step was to assess what policies were in place and determine whether the role of Scott & White's captive insurer should be expanded.

"We made a decision to make our captive more usable and really use it as a risk financing tool," Ms. Havens said. "Through that pro-

cess, I learned a lot about insurance, self-insurance and the different tools that were available."

Among early moves in reworking the risk financing framework was shifting medical malpractice exposures to the captive and using it for loss-portfolio transfers from acquisitions.

Peter MacKay, CEO of Global Captive Management Co. Ltd., which manages the captive, Scott & White Assurance Ltd., said Ms. Havens was well-educated about how the insurer operates when he began working with her.

"She came in with a fair amount of knowledge and she's

not afraid to learn new techniques," Mr. MacKay said.

Since joining Scott & White, Ms. Havens has been active in the Cayman Islands captive community, participating in the domicile's captive conference held each year, he said.

Growth adds responsibilities

Her responsibilities have expanded along with Scott & White's growth. "We have grown a lot in recent years," Ms. Havens said. "When I started, we had the main hospital here in Temple—our flagship hospital—and a number of regional clinics," as well as

one other hospital, she said.

Scott & White has seen significant growth since then. Much of it has been through mergers and acquisitions; some has been expansion through new facilities. The nonprofit health care network now boasts 12 hospitals and hospital partners. There are more than 60 primary and specialty clinics among the facilities that make up the system, which also operates a health maintenance organization with 200,000 members in central Texas.

"Most of that growth has been in the last three years," Ms. Havens said. "So the risk financ-

ing piece has been a huge function of how we deal with other entities, bringing them in and dealing with their old policies. It's been quite an education."

Scott & White's former risk manager, Mr. Haggard, left a small, well-run department for her to take over and stayed on for several weeks to help with her transition to the job, Ms. Havens said.

"He had done a very good job in risk management here and I was blessed to come in where he already had the respect of the physicians and the leaders," she said.

Mr. Haggard, an attorney, had a paralegal working with him and two other employees who provided assistance in the department. "He established a good risk management program, so it was a good foundation," she said.

The program did not include handling claims and litigation in-house, which was a significant change that Ms. Havens brought about.

Velma Johnson, senior vp at Alliant, who described Ms.

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'We made a decision to make our captive more usable and really use it as a risk financing tool. Through that process, I learned a lot about insurance, self-insurance and the different tools that were available.'

Lisa L. Havens,
Scott & White Healthcare

Havens as "very organized and methodical in her work," said bringing claims and litigation management in-house is one of the risk manager's most impressive accomplishments, as it has more than halved Scott & White's defense costs.

Since she arrived at Scott & White, Ms. Havens' risk management and legal staff has grown to about 50 people responsible for protecting the assets of the health care system with projected revenues of \$2.2 billion this year.

"We have the team and the support to do what we need to do," Ms. Havens said. "And part of that has been proving to leadership that what we have been doing is working."

Apart from her broad risk management and legal responsibilities, Ms. Havens also serves as an adjunct assistant professor in the Texas A&M University system.

"I'm involved in teaching the residents, the medical students," who are based at Scott & White, Ms. Havens said.

Medical jurisprudence, risk management courses, mock trials and depositions are part of the curriculum.



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MICHAEL MARCOTTE

Scott & White Healthcare has more than 13,000 employees at its 12 hospitals and 60-plus clinics, with 2011 revenue projected at \$2.2 billion.

Scott & White's 19th century roots

From one hospital to over 70 facilities serving Texas

By MICHAEL BRADFORD

Scott & White Healthcare's roots were established in the days when the practice of medicine was far less sophisticated than it is today.

It was 1892 when Texas native Dr. Arthur C. Scott Sr. was hired as chief surgeon at the hospital in Temple, Texas, to treat employees

of the Santa Fe Railway Co.

Three years later, he hired Dr. Raleigh R. White Jr. as house surgeon.

Drs. Scott and White entered into a partnership in 1897, the date that is considered the health care system's founding, and opened their own hospital in 1904.

Since then, Scott & White has grown from its origins in the railroad town into a nonprofit health care network of 12 hospitals and hospital partners, and more than 60 primary and specialty clinics.

Its revenues are projected at \$2.2 billion this year.

More than 13,000 employees, including 900 physicians and scientists, work at the facilities located throughout central Texas. Scott & White also operates the Scott & White Health Plan, a health maintenance organization with 200,000 members in central Texas.

In Temple, Scott & White Memorial Hospital, the group's flagship hospital, is the only Level 1 trauma center between Dallas and Austin. Scott & White also is the principle clinical research facility and campus for the Texas A&M Health Science Center College of Medicine.

The medical facilities are busy, with 1.9 million outpatient visits in fiscal year 2010. There were more than 41,000 outpatient and inpatient surgical procedures performed at the facilities during the year.

Scott & White also operates several "centers of excellence" that provide specialized care.

The Scott & White Cancer Institute includes the Cancer Treatment Center, the Cancer Research Institute and the Drug Development Institute.

Other centers are the Scott & White Bone & Joint Institute, Heart and Vascular Institute, Neuroscience Institute and Eye Institute.

Scott & White acquired King's Daughters Hospital in Temple in 2009 and is converting the facility into a 64-bed children's hospital scheduled to open this year.

Education core to managing hospital's risks

By MICHAEL BRADFORD

In looking for ways to teach employees how to hold down patient claims, Lisa L. Havens recognized the potential value in making Scott & White Healthcare's patient relations department a formal member of the risk management team.

"Within a couple of years of being here, I made a recommendation that patient relations be part of risk management," said Ms. Havens, who joined Scott & White in 1999 and is the health care system's director of risk management and associate general counsel. "They sometimes get the first contact" with patients who have complaints "and we were partnering with them already to solve problems," she said.

After incorporating patient relations into risk management, Ms.

See **EDUCATION** page 18



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Captive insurer becomes primary tool to finance risks

By MICHAEL BRADFORD

A captive insurance company is at the center of Scott & White Healthcare's insurance universe.

"That's our primary risk-financing tool," said Lisa L. Havens, director of risk management and associate general counsel with the central Texas health care company, which operates a dozen hospitals and more than 60 clinics.

Scott & White Assurance Ltd., which is based in the Cayman Islands and is managed by Global Captive Management Ltd., funds

a hefty amount of self-insurance for many exposures and is backed by significant reinsurance limits, she said.

The captive was created in 1987 to cover workers compensation risks and continues to fund a \$250,000 deductible for that exposure. Since then, the insurer has expanded to cover medical malpractice, aviation risks, cyber liability, automobile liability, general liability, a \$350,000 deductible on directors and officers liability, and exposures related to medical research.

The captive buys reinsurance in the U.S., European and Bermuda markets.

The parent company's desire to control as much of its risk-taking as possible is part of the reason for expanding coverage by the captive, Ms. Havens said.

Before moving its D&O deductible into the captive in 2006, Scott & White purchased the coverage in the commercial market and maintained a small deductible, she said. The move was made specifically because "we like managing our own risk and

making decisions," which the company is able to do well because of the depth of knowledge and experience in its nearly 50-employee risk management department, Ms. Havens said.

Using higher deductibles and funding them through the captive "gives us flexibility in handling our claims. For the most part, our reinsurers have seen that we do pretty well in handling them, and they're there as a resource if I want help," Ms. Havens said.

The captive also has been used for loss-portfolio transfers of self-

insured trusts that Scott & White gained through acquisitions.

There is another important benefit to funding risks in the captive. "If we put X millions in the captive, manage our losses and don't use it, that's money that can stay with the entity and we can put back into our mission—patient care, employees, etc.," Ms. Havens said.

Unused funds are available as grants to the parent to fund projects such as patient-safety initiatives

See **INSURANCE** page 20



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Education: Risk classes help staff

CONTINUED FROM PAGE 16

Havens and the director of patient relations began putting together risk management education courses for Scott & White's staff.

Ms. Havens knew from her experience as an attorney defending medical malpractice claims before she joined Scott & White that communications issues generate a lot of lawsuits.

"They weren't nice to me, they blew me off or they didn't tell me (why) something bad happened," were reasons many plaintiffs brought suits, she said.

"So we started with courses related to communications" to teach caregivers to provide the proper information to patients, Ms. Havens said. The one-hour courses, some of which were developed from lessons learned from claims and lawsuits, were approved for continuing education credits.

The courses taught that it often is "the little things that make a difference," such as showing empathy or communicating properly with patients with complaints, Ms. Havens said.

The courses expanded to cover topics such as disclosure, privacy, and other medical and legal issues.

The education effort has grown as departments throughout the health care system requested the courses.

"Our residency program wanted us to come and present," Ms. Havens said, "and we built some of those concepts into the medical school's medical jurisprudence course."

Now, as part of Scott & White's risk management education curriculum, the courses are offered regularly and on request, Ms. Havens said.

The courses are offered to new staff, senior staff, the department of nursing, administrative staff and others.

In addition, it is mandatory for medical residents at Scott & White to complete the risk management courses, Ms. Havens said.

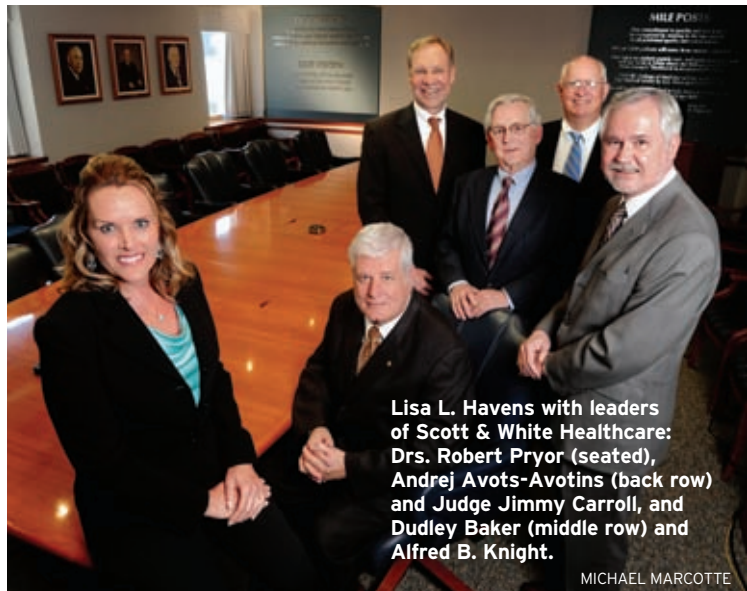


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Lisa L. Havens with leaders of Scott & White Healthcare: Drs. Robert Pryor (seated), Andrej Avots-Avotins (back row) and Judge Jimmy Carroll, and Dudley Baker (middle row) and Alfred B. Knight.

MICHAEL MARCOTTE

Insurance: Captive moves to primary role in risk

CONTINUED FROM PAGE 18

and risk-control efforts.

Apart from the captive, several other exposures are covered in the traditional market.

Excess liability is written to undisclosed limits by ACE Ltd., Endurance Specialty Insurance Ltd., Allied World Assurance Co. Holdings A.G., One Beacon Insurance Group Ltd., Chaucer Holdings P.L.C. and Hiscox Ltd.

ACE also provides D&O coverage and helipad aviation liability

coverage for Scott & White. One Beacon writes excess D&O coverage. XL Group P.L.C. is the company's pollution liability insurer.

Zurich Financial Services Group and Texas Mutual Insurance Co. write Scott & White's workers comp coverage above the deductible funded by the captive. Zurich also writes an automobile and garagekeepers policy and crime coverage.

Other casualty coverage includes cyber liability written by Beazley P.L.C., a policy written by

Lexington Insurance Co. to cover security guards, and coverage for hospital volunteers written by Hartford Financial Services Group Inc.

Property coverage is written by Johnston, R.I.-based Factory Mutual Insurance Co., which does business as FM Global.

Ms. Havens acknowledged that she and her staff keep a close eye on commercial market conditions and will shift coverage from the captive to a traditional insurer if it makes sense from a coverage and cost standpoint to do so.

She and her staff are closely involved in insurance renewals, working with Scott & White's broker, Alliant Insurance Services Inc. in Houston.

As an attorney, Ms. Havens developed good negotiating skills, said Janet L. Hale, executive vp and managing director, health care, at Alliant. While that has served the risk manager well in handling claims at Scott & White, "it is a great help to us in negotiating insurance programs also," Ms. Hale said.

Costs cut despite expansion

Restructuring the insurance program and reducing claims and litigation costs helped lower Scott & White's total cost of risk by 39%, or \$8 million, in 2010 compared with 2003.

The decrease is particularly impressive considering it came at a time when the health care system was undergoing significant expansion. Scott & White completed several acquisitions during the period and saw significant organic growth, with net patient revenue increasing 350%.

Tort reform in Texas in 2003 that capped noneconomic damages in most medical malpractice cases at \$250,000 also has helped lower the hospital system's risk-financing costs. Even without that, other risk-mitigation efforts have resulted in a declining number of medical malpractice cases being brought against the hospital system, officials said.

Scott & White provided data from the Texas Medical Liability Trust showing that in the year Texas enacted tort reform, 8.3% of physicians at Scott & White were sued compared with 33.3% of all doctors in the state. In 2010, the rate had fallen to 1.6% among Scott & White physicians vs. 8.4% of all doctors in Texas.

As her exposure base grew during Scott & White's expansion, Ms. Havens' efforts to trim claims and litigation expenses and restructure the system's risk-financing approach were affecting insurance costs.

Over the seven-year period, the company's commercial market insurance costs fell \$3 million, a 46% reduction. The cost of reinsurance on risks funded in the Cayman captive dropped \$2.4 million, a 56% decrease.

When measured as a percentage of net patient revenue, which soared during the period, Scott & White's total cost of risk has plummeted. It amounted to 4.5% of those revenues in 2004. By 2010, its cost of risk had fallen to just 0.8%, officials said.



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Prompt care keeps comp costs down

Proactive tactics speed injury recovery

By MICHAEL BRADFORD

A strong back-to-work program helps keep workers on the job and workers compensation costs low at Scott & White Healthcare.

"We have over 13,000 employees and only 34 missed more than eight hours of work last year," said Lisa L. Havens, director of risk management and associate general counsel at the Temple, Texas-based health care system.

Efforts to keep workers safe and on the job have resulted in an experience modifier of 0.06, a figure that Scott & White's broker, Janet L. Hale, managing director of health care at Houston-based Alliant Insurance Services Inc., called "the most unbelievable mod I have ever seen."

The modifier is used to calculate

workers comp insurance costs; the hospital's costs plummeted 70% from 2003 to 2010. Scott & White funds its workers comp deductible through its Cayman Islands captive and buys coverage in the traditional market from Zurich Financial Services Group and Texas Mutual Insurance Co.

"Nurses are the most frequently injured because they are the biggest part of our workforce," said Ms. Havens. Injuries often are strains from lifting patients.

"We have a very proactive approach and think it is the best thing to get people back to work as quickly as possible," she said, calling the back-to-work effort the biggest reason that workers comp costs have fallen.

Within the risk management department, workers comp managers assist injured employees and

'We have a very proactive approach and think it is the best thing to get people back to work as quickly as possible.'

Lisa L. Havens
Scott & White Healthcare



MICHAEL MARCOTTE

Scott & White Healthcare's (from left) Karen Castillo, patient relations specialist; Julie Schramm, regional patient relations specialist; Susan Clark, patient relations administrative assistant; Lisa L. Havens, director of risk management and associate general counsel; Peaches Mathews, patient relations specialist; and Robbie Lam, regional patient relations specialist.

caregivers to "get the best possible result for the patient/employee," Ms. Havens said.

An injured employee first notifies his or her manager and usually visits the employee health department, Ms. Havens said. "A workers comp manager will immediately start working with them."

Depending on the injury, the worker may return to work the next day.

"They may not be doing the same job they were doing," Ms.

Havens said. "But we try to keep them in the work environment, and we don't have resistance to that here" at the flagship hospital in Temple, she said.

"Now, as we've grown and added facilities, not everyone has that same philosophy," Ms. Havens said. "We're working in different cultures and environments now (due to acquisitions) and, so far, we've been able to manage that."

Much of the literature on work-

er injuries indicates that "the quicker you're back to work, the better you do," Ms. Havens said.

She acknowledges, too, that a hospital as an employer might help the workers comp experience.

"Most of our injured employees—almost all of them—want to come here for their care," Ms. Havens said. "People choosing to come here for that shows the kind of trust they have as well, and the desire to be back at work."

Safety efforts funded through captive program

By MICHAEL BRADFORD

A Cayman Islands captive is funding projects at Scott & White Healthcare that are making the hospital system safer while reducing the cost of claims.

Scott & White Assurance Ltd., the captive insurer put in place in 1987, provides grants to its parent that fund equipment purchases, hiring of staffers and simulations that can show health care professionals how to reduce patient injuries.

Lisa L. Havens, director of risk management and associate general counsel at Scott & White, said 2003 tort reform in Texas that capped noneconomic damages in medical malpractice awards at \$250,000 in most cases, along with her department's loss-control efforts, have helped the captive save money it otherwise might have spent on claims and insurance.

She suggested to the captive's board of directors that those savings be "put back into things that help patients, and one of the things that I asked for was a grant for us to develop some additional risk management education and simulation programs," she said.

"We've had grants several years in a row now that we've been able to use to help staff, buy equipment and develop simulation scenarios" to train physicians and other staffers, Ms. Havens said.

Peter MacKay, CEO of Global Captive Management Ltd., the Cayman Islands-based manager of Scott & White's captive, said Ms. Havens' use of grants to improve patient safety is a smart move.

"We're seeing more of that," Mr. MacKay said of the practice of captives issuing grants to their owners. Hospitals such as Scott & White that are building up capital offshore are using some of the funds to add risk controls that drive down claims, he said.

At Scott & White, the simulations funded by the grants "are really pretty powerful," Ms. Havens said. They are presented using an actor as a patient. "It's much more real when you have a patient there" giving a convincing sense of the emotions and experience that a person goes through during a risky medical procedure.

Simulations have covered the

See **GRANTS** page 24

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Lessons learned in Fort Hood shootings

By MICHAEL BRADFORD

As the news of a massacre at Fort Hood gripped the nation in 2009, Scott & White Healthcare got ready to handle the victims and the media storm that would arrive with them.

"The good news is we were prepared," said Lisa L. Havens, director of risk management and associate general counsel at the Temple, Texas, hospital system. Doctors and staff had been trained to respond to such an incident and were on the scene when the victims began arriving, she said.

Nidal Malik Hasan, a U.S. Army major who was serving as a psychiatrist, is charged in the shooting spree that left 13 dead and 32 wounded. Mr. Hasan, an American-born Muslim, was found to have ties to a radical Muslim cleric who since has praised the murder of the U.S. soldiers.

The alleged gunman was shot by a civilian police officer.

The hospital's proximity to Fort

Hood and the Crawford ranch owned by former President George W. Bush ensured that it was prepared in case of a high-profile terrorist incident, said Ms. Havens.

As the only Level 1 trauma facility in the region, Scott & White has a history of responding to emergencies.

The hospital treated victims

'We weren't really used to dealing with lots of media and, as you can imagine, there were lots of media everywhere.'

Lisa L. Havens, Scott & White Healthcare

from a 1991 massacre at a Luby's Cafeteria in Killeen, the siege of the Branch Davidian compound in Waco in 1993 as well as a deadly tornado in Jarrell in 1997. Victims of hurricanes Katrina, Rita and Ike also were treated at the facility.

"We've been involved in emergency preparedness for many, many years," Ms. Havens said.

"Crawford is not far from here, so when President Bush was home on the weekends," the hospital was aware that he was nearby and equipped to handle any sort of emergency that might arise. "And with Fort Hood not far from here, we were prepared for those kinds of things" as well, Ms. Havens said.

As the victims and Mr. Hasan

arrived at the hospital, "it was pretty awesome to see our group of physicians and health care providers working together to get the things done that we needed to do," said Ms. Havens.

After being treated at Scott & White, the victims and Mr. Hasan were moved to Brooke Army Medical Center in San Antonio.

Apart from medical attention

that the hospital was able to provide, some unfamiliar challenges arose in the wake of the shootings, Ms. Havens said. In the days after the crisis, the hospital reviewed its performance and addressed areas where it felt it could improve.

"We did a debriefing to say, 'OK, what worked well, what didn't work well, and what are the things we need to think about and change in our emergency preparedness plan?'" Ms. Havens said.

"We weren't really used to dealing with lots of media and, as you can imagine, there were lots of media everywhere," she said.

Her department was not directly involved in dealing with the media, a responsibility that fell on the chief medical officer and others, she said.

Scott & White learned that dealing with the media is easier if there are timely, consistent releases of information, no matter how sparse. Technology helps, too, and information was sent out via Twitter, Facebook, blogs and YouTube.

Still, "we had to protect patient privacy and our No. 1 goal (is) to take care of patients," she said.

Phone lines were overwhelmed after news stories displayed numbers at Scott & White, resulting in more than 12,000 calls in four hours. Since then, changes have been made to the internal call routing system that equip it to handle a large call volume, she said.

Unscrupulous reporters also presented challenges. There were attempts by some members of the media to gain access to patients by claiming they were family members, Ms. Havens said.

The hospital had to review the way it communicates with staffers during such an event, particularly to educate them about aggressive media tactics as some employees were stopped by reporters as they were leaving work, Ms. Havens said.

The huge number of reporters meant they had to be contained in a secure area away from patients, Ms. Havens said, and reporters

covering the event were educated on patient confidentiality rules.

Confidentiality was an issue from sources other than the media. "We had military (personnel) wanting to know about the patients," Ms. Havens said. "They have certain rights to do that," she said of military requests for patient information, "but there are certain ways you have to go about doing that."

The hospital also had to coordinate visits by the Texas governor, state and local officials, and military officers from Fort Hood.

"We sat down and did a root-cause analysis. What went well and what didn't, what do we need to share and learn from this?" Ms. Havens said.

Some of the changes to Scott & White's crisis management response in the aftermath of the incident included:

- Evaluating how the incident would have been handled if it had occurred on a weekend, holiday or at night, rather than on a weekday.
 - Changing how the hospital's blood bank managed donors. More than 500 arrived within hours of the shooting.
 - Using text messages to communicate with staffers to help coordinate the hospital's response to the emergency.
 - Developing airspace plans. Medical, civilian and media helicopters crowded the hospital's airspace during the incident.
 - Coordinating with local law enforcement officials regarding increased hospital security.
 - Refining communications with families of victims of disasters, as well as with families and patients already being treated at the hospital.
 - Preparing hospital management ahead of time to deal with the media.
 - Developing processes to help out-of-state family members who arrived with little preparation.
- Mostly, the hospital's plan worked well and the lessons learned will make it perform even better if it faces another such emergency, she said.
- "I felt very proud to be associated with Scott & White," she said.

Grants: Safety programs

CONTINUED FROM PAGE 22

disclosure process that physicians are required to go through with patients, Ms. Havens said.

"We'll do a training on disclosure," she said, followed by physicians going through the simulated disclosure process. "Then we do a debriefing to talk through what went well and what didn't work."

Among high-risk procedures covered in the grant-funded simulations, caregivers have performed simulated deliveries of babies on lifelike dummies to learn how to avoid shoulder dystocia. The condition can leave a child with a broken arm or permanent nerve injury.

"They go through all the technique and the process" of delivering the child under circumstances

that could cause the condition, she said. "But they also have to go through how they're handling the mom and the dad—dealing with those communications and sharing that information" about the delivery, Ms. Havens said.

In building the scenario model, she and her staff studied shoulder dystocia lawsuits filed against Scott & White, looking at specific claims to properly simulate the medical components of a claim.

Ms. Havens said there have been no shoulder dystocia claims against Scott & White's flagship health care facility in Temple, Texas, since the simulations began. "It's made a big difference," she said of the simulation. "A lot of these things don't happen very often, but when they happen, it's very important to be ready."



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Early intervention reduces lawsuits

In-house teams coordinate to resolve potential problems

By MICHAEL BRADFORD

Keeping problems from becoming lawsuits is a key risk management approach Lisa L. Havens has used through much of her working life.

"I knew from my practical experience that once it gets to lawsuit world, costs get much, much higher and they generally don't get any better," said Ms. Havens, director of risk management and associate general counsel at Scott & White Healthcare in Temple, Texas.

Because she had been a lawyer with a local firm that defended medical malpractice cases filed against Scott & White, she already recognized the importance of keeping claims out of the courtroom.

When she joined Scott & White in 1999, Ms. Havens originally planned to continue working on cases filed against Scott & White as co-counsel with the outside firm she had left to join the non-profit hospital, clinic and medical teaching organization.

"We did that on one or two (cases), but because of the reality of this job and how broad risk management was, I personally wasn't able to continue doing that," she said.

So an early move she made after joining Scott & White was to bring claims and litigation management in-house. "I got approval to bring my paralegal here" to help build an in-house system to handle claims and save on legal costs, Ms. Havens said.

Her staff grew and Scott & White's risk management and legal departments were combined. Nearly 50 strong, the staff that originally handled only medical malpractice claims now manages all claims and most of the litigation filed against the organization, which has around 13,000 employees at 12 hospitals and more than 60 clinics.

Her staff has four attorneys who have spent their entire careers as trial lawyers, one of which could handle an "entire defense," she said. Still, there are cases in which her staff will partner with outside counsel in defending the health care system against lawsuits, Ms. Havens said.

Bringing claims and litigation in-house has helped cut legal costs in half, Ms. Havens said. In addition, more than half of the suits filed against Scott & White end with no payments to plaintiffs, she said.

Some of the credit goes to the work of the Professional Review and Oversight Committee, which

was formed before Ms. Havens arrived at Scott & White, to review claims and make sure they are properly handled. The committee, which she chairs, is charged with determining whether the appropriate standard of care was met, suggesting preparations for legal defense, and deciding whether a case should be settled or litigated, among other tasks.

Last year, Scott & White's rate of claims and suits against its physicians amounted to one for every 44 doctors, or 1.6% of the physicians on staff. That's a decline from one in every 12 physicians, or 8.3%, in 2003.

Because so much of Scott & White's coverage is within its Cayman Islands captive, Scott & White Assurance Ltd., spotting potential claims and handling them properly when they occur is crucial to saving the health care organization money. Ms. Havens established a unit within the risk management department that identifies "potentially compensable events" before they become claims.

Previously, there was a part-time person taking calls from doctors who let the risk management department know when a problem that could lead to a claim had occurred, and only a small number of such events could be tracked, she said.

"I thought we could really make a difference if we knew about more things that were happening and intervened before they could escalate," she said. "Trying to do the right thing as quickly as we could" has helped physicians and minimize risk to the company, she said.

The hospital started a communications campaign to make doctors, nurses and other health care providers aware that they needed to let risk management know when something went wrong that could lead to a claim, "and we started getting lots of calls," Ms. Havens said.

As doctors and others became familiar with identifying potential claims, calls rose to a point where more people were needed to handle them.

Ms. Havens now has four people at the Temple facility and two at other hospitals working full time on PCEs, as the hospital refers to potential claim events. "All they do is take those calls, investigate and handle those potential events by partnering with managers, doctors, patients and patient relations to end up with the right outcome," she said.

An example of a PCE would be a call from a physician who treated a patient in the emergency room and released them, but learned later that the person died after being taken home, Ms.



'I thought we could really make a difference if we knew about more things that were happening and intervened before they could escalate.'

Lisa L. Havens, Scott & White Healthcare

MICHAEL MARCOTTE

Havens said. The doctor might feel the treatment was appropriate based on the patient's symptoms, but also felt the incident should be reported.

That allows risk management to analyze the incident to determine, for example, what an autopsy might show about the patient's condition, what care emergency responders administered and whether the family should be contacted to discuss the death, she said.

In some cases, there may be very little if any risk of a claim from such an event; at other times, a distraught family might be likely to file a claim, she said.

"Sometimes, we find something that was missed and we need to intervene," Ms. Havens said. "Then we have to go through the process of determining if we want to approach the family, what's the best way to approach them and who's the right person to approach them."

She recalled a case in which a child was treated in Scott & White's ER and was discharged, but later returned to the hospital and died there. "It was very traumatic for the family, very difficult.

We approached them to share what we did know," she said.

There are incidents in which someone is diagnosed with a disease, such as cancer, that they feel should have been caught sooner, Ms. Havens said. "So we try to figure out if we could have known and would it have made a difference, and address the family's concerns...Whether we are legally liable or not, sometimes there are still things that we can do to help people in difficult times."

Medication errors are another source of PCEs, Ms. Havens said. Caregivers can call risk management to notify them of an error regardless of whether it causes harm to a patient.

The approach also considers the doctor involved in a case being investigated. Health care providers can become "the second victim" in some cases, she said.

"They also are suffering, or are potentially in crisis" as a result of something that has happened to a patient, Ms. Havens said. "So how do we support them, and help the family or patient who is having a difficult time? And, if we are responsible, what is the right way

to approach that?"

Ms. Havens has worked to broaden the awareness of PCEs so that anyone in the system can call risk management to alert them that a problem may be brewing. "It could be the billing office, where they may be talking (to a patient) about a bill, but during the conversation they bring up something they think was done wrong. It could be from a letter that was written or an outside agency they complained to," she said.

Sometimes all it takes is educating a caregiver to prevent complaints or problems, while in other cases, steps must be taken to implement a "broader, systemwide fix." The work to identify PCEs "has been one of our biggest successes," Ms. Havens said. "Over the last several years we've been able to show 98% to 99% success—99% in most years."

She defines success as identifying a PCE that does not become a claim or lawsuit. "Even if they turn into a claim or lawsuit, we're ready," Ms. Havens said. "We've already tried to do the right thing, learned about it, talked to people and have a file ready."

Minimizing risks in drug research maximizes rewards

By MICHAEL BRADFORD

As research became more important for a central Texas health care system, so did covering the exposures it created.

Lisa L. Havens, director of risk management and associate general counsel at Scott & White Healthcare, said she realized that, as the Temple-based system was expanding through organic growth and acquisitions, the amount of research it was conducting was expanding as well.

"We've had research at Scott & White for years, but we had a conscious effort several years ago to do additional research here," she said. "It's good for our patients and, ultimately, society, as well as helping us attract physicians."

In 2009, an effort was launched to document what sort of projects were under way at Scott & White and analyze the facility's role, she said. It was important to determine whether Scott & White was a sponsor or working with the person or organization that developed the research program, she said.

A close look at the research process looked for insurable risks and the "risks you just need to manage, or a combination of the two," Ms. Havens said.

As a result, coverage in Scott & White Assurance Ltd., the hospital's Cayman Islands-based captive, was broadened to include research-related exposures, she said. For example, errors and omissions related to research projects, and expanded coverage of laboratory animals were funded in the captive.

Managing research risks means paying keen attention to "all the right processes and protocols," Ms. Havens said.

That includes securing approvals from an institutional review board for clinical trials and making sure consent is provided by patients participating in trials, monitoring and following up after trials—"doing all the things that are required in that research-regulated world," she said.

Scott & White assists other organizations and individuals involved in research, which creates a unique set of exposures, Ms. Havens said. "We have a research lab that has really grown, and we've brought in some of the top scientists in the world developing different drugs."

When partnering with other companies for clinical trials, contract details must be examined and Scott & White must ask, "What should their insurance requirements be if we want to partner with them?" she said.

"Those are just some examples of what could come up," she said.

Peter MacKay, CEO of Global Captive Management Ltd., the Cayman-based manager of Scott & White's captive, said, "It amazed me when she came up with all the potential risks related to research. It was very detailed."

As a result of Ms. Havens' work, research-related losses have been

phenomenally low, Mr. MacKay said.

The exposure is managed partly by making sure research oversight is centralized, Ms. Havens said. Risk management has partnered with Scott & White's research department to "look at the research that we're doing...to make sure we're managing those risks effectively," she said.

Prior to that partnership, research could be initiated from any of several departments within the Scott & White system with no centralized oversight over the pro-

'We have a research lab that has really grown, and we've brought in some of the top scientists in the world developing different drugs.'

Lisa L. Havens, Scott & White Healthcare

cess or its related risks. Ms. Havens formed a committee that included her broker, representatives of the health care system's risk management, legal, finance and research departments. The group was charged with formalizing the pro-

cess in starting research and involving risk management in making decisions.

Among changes initiated by the committee, Scott & White's Office of Sponsored Research Administration was given the responsibility for

initiating and tracking all research.

In addition, a risk assessment checklist was developed for clinical trials and a matrix was created to set minimum insurance requirements for all parties involved in a research project.

Two attorneys were hired, one with a medical degree and the other with a specialty in intellectual property, to review all research-related contracts.

"We really haven't had any major problems," Ms. Havens said. "And we would like for it to stay that way."

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Risk management scrutinizes M&As

By MICHAEL BRADFORD

Scott & White Healthcare's risk management department honed its ability to assess the risks related to acquisitions during a series of deals with hospitals that struggled during the recession.

In the past two years, Temple, Texas-based Scott & White completed five acquisitions, two of them closing the same day. Much of that activity can be attributed to financially troubled facilities looking for help from a larger health care entity, said Lisa L. Havens, director of risk management and associate general counsel at Scott & White.

"As the world has been changing around us, a lot of the smaller hospitals have been failing," Ms.

'As the world has been changing around us, a lot of the smaller hospitals have been failing. A lot of the transactions we had were from other hospitals approaching us to partner in some way.'

Lisa L. Havens,
Scott & White Healthcare

Havens said. "A lot of the transactions we had were from other hospitals approaching us to partner in some way."

The acquisitions involved a competing hospital in Temple and four other facilities elsewhere in Texas. Some of the deals were done quickly, which meant due diligence had to be performed in a hurry but carefully.

Scott & White's insurance broker in Houston, Alliant Insurance Services Inc., helped Ms. Havens assess the deals before they closed.

"We shared that dream with her," joked Janet L. Hale, executive vp and managing director of health care at Alliant. "We all spent some late nights pulling those together."

"We were involved in the due diligence and the assessment of whether the transactions made sense from an enterprise risk management approach," Ms. Havens said. "That included the business approach, the needs of the community and our mission" of caring for patients, she added.

She didn't have to ask to be part of the acquisition process, Ms. Havens said. "I was included. I had never done due diligence before, so it was a learning opportunity for me."

Ms. Havens and her team analyzed the risks faced by the facili-

ties to be acquired and how they were being managed. She said they asked about "past losses, their insurance program...what other things did we need to know other than what we were provided, and who did we need to meet with and interview?"

There also was work to do in

Continued on next page



Scott & White Healthcare's legal team includes (from left, front) Kelly Hinton, Paula Shiroma-Bender, Sumita Ghosh and (back row) John Cunningham, Enid Wade, Lisa L. Havens and Judge Jimmy Carroll.

JAELE MARCOTTE



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CONTINUED FROM PREVIOUS PAGE

analyzing an acquisition target's insurance coverage, said Alliant's Ms. Hale. "You really have to evaluate all the policies" and decide whether to keep them or make changes so that coverage is consistent with Scott & White's existing program.

Past liabilities of the acquired companies had to be identified and decisions made as to how those would be integrated into Scott & White's insurance program, Ms. Hale said. Another issue was how to cover liability tails that were insured under expiring policies, she said.

Claims and legal issues also had to be scrutinized, Ms. Hale

said. "Do they have a handle on claims? You also have to look at any legal cases that are outstanding."

"Every facility was different," Ms. Havens said of the acquisitions. "Some were smaller facilities; some were older facilities. None of them had the type of risk management program we had in place. That's not a slam on them; they just had smaller departments," she said. In some cases among the acquisitions, risk management was one of many responsibilities of a single person within the organization.

Combining workplace cultures after acquisitions has been a challenge, Ms. Havens said.

"Even if you're welcomed and

wanted there, people have done things differently" and that can cause some tension, she said. "Personalities and politics are always different everywhere you go."

Her approach, Ms. Havens said, was to uncover "what they're doing great that we can do here; what are things that they can learn from us and how do we become partners?"

For the most part, the merging of workplaces has gone well, Ms. Havens said. "Overall, we are pleased about how that process has gone. We try to be open and honest and upfront about what our goals and theirs are, and work through a lot of the issues ahead of time."

Ohio native content in Lone Star state

Havens maintains work/life balance despite busy schedule

Lisa L. Havens is having a memorable year, and not just because she has earned *Business Insurance's* Risk Manager of the Year award.

Late last month, Ms. Havens,

47, married Ken Bailey, a former combat photographer and documentarian who retired after a career change that saw him earn an advanced degree and establish a health clinic specializing in acupuncture, nutrition and wellness techniques.

"He's also been an artist," she said, and has spent his time doing a "variety of very interesting things."

Add wedding planning to her responsibilities as director of risk management and associate general counsel at Scott & White Healthcare, and it would seem Ms. Havens would have little time left for other activities. But she manages to maintain her personal interests.

"I like to jog," Ms. Havens said. "I started last year doing half-



MICHAEL MARCOTTE

A native of Springfield, Ohio, Lisa L. Havens moved to Texas in 1981 when she arrived to attend TCU in Fort Worth.

marathons and that's been fun. I'm very slow," she laughed. "That's why I said jog, not run."

She also does some cycling, and enjoys cooking and reading.

Her two sons keep her occupied, too, Ms. Havens said. "They are a great joy and a lot of fun," she said of her boys.

The oldest is 22, a senior at Texas Christian University who is graduating in May with a physics degree. The youngest is a 14-year-old ninth grader who loves soccer and tennis, Ms. Havens said.

A native of Springfield, Ohio, Ms. Havens moved to Texas in 1981 when she arrived to attend TCU in Fort Worth. It appears she is content to stay in the Lone Star state and will carry on in her mission to protect Scott & White's assets while ensuring the health care system is a safe place for patients and employees.

"I'm happy doing what I'm doing," she said. "I'm well-supported with a great team. It's been nice."

—By Michael Bradford

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GREGORY ROBINSON



Françoise Carli
SANOFI-AVENTIS GROUPE

Finding the right prescription for a world of pharmaceutical risks

By SARAH VEYSEY

Managing global risks as diverse as vaccine transportation, earthquake exposures and legacy liabilities in acquisitions is challenging but can also be rewarding.

"It is a fantastic job," said Françoise Carli, vp, insurance at Sanofi-Aventis Groupe.

As risk manager for the Paris-based pharmaceutical manufacturer, Ms. Carli relishes the challenges of her "very international job" and strives to put her years working for insurers (see story, page 32) to use in providing the best protection possible for Sanofi-Aventis.

"When I was an insurer, I used to say, 'I am buying the claim I want to have.' Now as a buyer, I'm buying the policy to pay the claims I did not anticipate," Ms. Carli said.

With new situations crossing her desk daily, Ms. Carli said her job "is really what you make it, and I have worked hard to be

a real asset for Sanofi-Aventis."

In recognition of the value she brings to her company, Ms. Carli was selected as a member of the *Business Insurance* 2011 Risk Management Honor Roll—the first risk manager outside of North America to be so honored.

In charge of a team of 10 people—eight in Paris, one in the United States and one in Canada—Ms. Carli has worked to establish strong lines of communication between her department and senior management to ensure that the insurance and risk management team are seen as "troubleshooters," "enablers" and "solution providers," she said.

Jerome Contamine, chief financial officer and executive vp of Sanofi-Aventis and Ms. Carli's supervisor, describes her as "vibrant," "collegial," "creative" and "a great strategic thinker."

Since taking the post in 2006, Ms. Carli has overhauled Sanofi-Aventis' risk management and insurance buying processes

(see story, page 32) and delivered overall premium reductions of 30%, said Alex Moczarski, former president of international at Marsh Inc. in New York, one of the brokerages serving Sanofi-Aventis.

In addition, Aon Corp. manages Sanofi-Aventis' captive (see story, page 34) and provides other broking services to the company, and Willis Group Holdings P.L.C. works with Sanofi-Aventis on U.S.-specific matters.

Beyond premium reductions, Ms. Carli has improved relationships that Sanofi-Aventis' risk management team has with insurers, said Mr. Moczarski, who recently was promoted to CEO of Guy Carpenter & Co. L.L.C.

Ms. Carli and her team work with ACE Ltd.; Allianz S.E.; Chartis Inc.; Factory Mutual Insurance Co., which does business as FM Global; HDI-Gerling Insurance; Zurich Financial Services Group; as well as other international and local insurers.

"Françoise demands quite a lot from her

team, her broker partners and herself," Mr. Moczarski said.

An example of how she has expanded risk management and insurance into the company's strategic decisionmaking is her active due diligence role in mergers and acquisitions.

Sanofi-Aventis has been involved in some 40 M&As in the past two years, and Ms. Carli has persuaded colleagues in business development to involve the risk management and insurance department early in the due diligence process. While her advice—which has largely been taken—at times as has been to "walk away," Ms. Carli likes to see her department's function as enabling business.

During the due diligence process, the risk management and insurance team is particularly involved in assessing product liability (see story, page 31) and directors and officers liability exposures (see story, page 35), which she described as "an interesting part of my job. You see discrepancies in the risk assessments between companies. You see how they value (human) life and you get a real sense of whether they care about their assets. It gives a real insight," Ms. Carli said.

She also is responsible for U.S. employment practices liability claims.

Sanofi-Aventis last year settled a large class action lawsuit in which the company's female sales representatives alleged they had been underpaid, a settlement for which Ms. Carli obtained a large insurance contribution.

Risk management also plays a key role in caring for a company's human assets, Ms. Carli said.

When L'Aquila in central Italy was hit by a 6.3 magnitude earthquake that killed 291 people in April 2009, Sanofi-Aventis was affected.

The company had a plant that produced, among other things, medicines to regulate blood pressure and Type 2 diabetes, at Scopito, near temblor-ravaged L'Aquila. Though none of the company's 380 employees was killed in the quake, many were injured and lost family members. About 80% of the plant's employees also were left homeless.

The plant itself did not sustain serious damage, but access was severely restricted for several days.

The business continuity plan Ms. Carli and her team devised was put in place immediately. And the company's property insurance claim—which, unusually for an earthquake, was closed in the same year as the event—was "probably one-tenth of the initial expectation," said Ms. Carli.

That's because Sanofi-Aventis focused on restarting the business as quickly as possible, and the company's local insurer, FM Global, and chief financial officer of its Italian operations played a huge role in achieving this aim, said Ms. Carli.

But first, she said, the company realized they faced a "family issue, a people issue." The company organized temporary housing for workers and their families, which boosted staff morale and efforts to restart the business.

The result of those efforts: Sanofi-Aventis' eventual business interruption claim from the disaster in Italy was "almost zero," Ms. Carli said.

The raison d'être of Sanofi-Aventis is to save lives, she said.

"Our business is to make life better for people....But we still need to buy insurance because we cannot anticipate everything," Ms. Carli said.

Customized coverage programs address complex exposures

By SARAH VEYSEY

Life sciences companies are exposed to all manner of complex risks. And Sanofi-Aventis Groupe, a diverse company with operations around the globe, is subject to some rare but important exposures.

A major task for its risk management team, therefore, has been to customize insurance programs to meet Sanofi-Aventis' particular needs.

One such risk area is the management of clinical trials.

While this poses a relatively small risk to Sanofi-Aventis, according to Françoise Carli, vp, insurance at Sanofi-Aventis, clinical trial coverage is compulsory in many countries, and various countries' ethics committees require insurance certificates as part of their own assessment.

Ms. Carli and her team devised an insurance program that provides appropriate coverage and

limits in accordance with the specific rules governing clinical trials in each country where the company conducts such trials. The program forms part of Sanofi-Aventis' global general liability program.

Another area where the specific risks of a multinational pharmaceutical company have proven to be a challenge for the risk management and insurance team has been designing appropriate business interruption coverage for animal laboratories or chemical libraries.

Challenges can arise in this area because of difficulties in the valuation of a loss, Ms. Carli said. The more time a study takes, the more important the data being collected, and therefore the more valuable the animal or chemical, she said.

Ms. Carli and her team have negotiated specific clauses with insurers to ensure they have adequate protection for these risks, and the company buys coverage with an excess relevant to certain sites. Several insurers participate on the program, and the leader is Factory Mutual Insurance Co., which does business as FM Global.

Another area of risk where Ms. Carli has had special concern is in bringing new products to market. She organizes medical meetings, which are held to educate interested parties about new products before they are authorized, to enable insurers to have time for an in-depth risk assessment. Such meetings also are required every time a change is made in the way a regulator licenses a product, whether that be by Asian, European or U.S. regulators. Pharmaceutical companies also are faced with the risk, once a product is launched, of patent infringement by makers of generic

products.

This risk, according to Ms. Carli, is particularly acute in the U.S. court system.

The court proceedings that often are needed to halt patent infringements can require a large amount of cash and letters of credit to be deposited in court to cover legal costs.

Ms. Carli has been able to set up a facility with insurers whereby those letters of credit are replaced by surety bonds provided by insurers, and this has significantly reduced Sanofi-Aventis' levels of debt.

SANOFI-AVENTIS GROUPE

Paris-based Sanofi-Aventis Groupe is one of the world's largest pharmaceutical companies. It is the world leader in vaccines.

Sanofi-Aventis reported 2010 net sales of €30.38 billion (\$40.62 billion) and net income of €9.22 billion (\$12.30 billion).

The company is listed on the Paris and New York stock exchanges.

Sanofi-Aventis undertakes research and development and markets and sells pharmaceutical-related products, including prescription medicines, generic drugs, consumer and animal health care products, and vaccines.

The company has more than 100,000 employees in more than 100 countries and has about 180 subsidiaries worldwide.

In the past two years, Sanofi-Aventis has made more than 40 acquisitions or partnership deals. Most recently, in April 2011, Sanofi-Aventis completed the acquisition of Cambridge, Mass.-based biotechnology company Genzyme Corp., which focuses on rare inherited disorders, kidney disease, orthopedics, cancer, transplants and immune diseases.

Also in April, the company opened a subsidiary in Cambodia.

Sanofi-Aventis was formed in 2004 when Paris-based Sanofi-Synthelab acquired Schiltigheim, France-based Aventis.

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Creative solutions for critical risks

Captive plays role in trade credit, liability programs

By SARAH VEYSEY

Trade credit, stock-in-transit and product liability coverage are three areas where Françoise Carli has made a huge impact on Sanofi-Aventis Groupe's risk management program.

The three areas are vitally important to a company that deals with suppliers and customers worldwide, many in developing nations, where it faces disruption of its own supply chains as well as regulations on transporting its products that differ from nation to nation.

Through loss prevention programs and innovative use of Sanofi-Aventis' captive, Ms. Carli, vp, insurance at the Paris-based pharmaceutical firm, has controlled the company's exposure for the three critical risks.

Sanofi-Aventis did not have a worldwide insurance policy for trade credit coverage, which protects against losses by the credit default or insolvency of its customers, until last year.

Yet, as Sanofi-Aventis has expanded globally, including developing economies, its trade credit exposure has increased, Ms.

Carli said.

Following the global financial crisis several years ago, trade credit insurance limits decreased substantially. In some cases, insurers withdrew coverage.

Since few insurers underwrite international trade credit risks, capacity was scarce, Ms. Carli said. In addition, limits that insurers can withdraw or reduce in reaction to an event also were a major concern, she said.

To overcome the problem, Ms. Carli examined the possibility of using Sanofi-Aventis' Dublin-based captive, Carraig Insurance Ltd., to manage its trade credit risks. While unusual, the approach is not unique.

While preparing the captive for Solvency II, the upcoming risk-based capital regulatory regime for insurers and reinsurers in Europe that begins in 2013, Ms. Carli became aware that the captive retained a heavy concentration of product liability risk.

Solvency II, however, rewards companies for diversifying risks and imposes stringent capital demands on those that do not diversify.

"We wanted to diversify, if we could," she said of risks placed in the captive. Trade credit appeared to be an area where risks could be mutualized, "and for me the captive is all about mutualization," said Ms. Carli.



GREGORY ROBINSON

Within six months, Sanofi-Aventis had a trade credit insurance program retained within its captive.

The company works with trade credit insurers, which help it to accurately assess and price its risk, Ms. Carli said. Because of the structure of Sanofi-Aventis' captive, some of this risk is then ceded to both insurers and reinsurers.

Within its captive, Sanofi-Aventis is able to mutualize trade credit risk "at a country level while leaving it acceptable at company level," Ms. Carli said of spreading the risk across its various territories and keeping it at an appropri-

ate level for the parent.

Sanofi-Aventis has credit managers throughout the world, and the insurance program really is the "last resort," she said.

In addition, the trade credit program aids one of Sanofi-Aventis' stated aims—to develop business in emerging countries.

Stock-in-transit is another coverage for which Ms. Carli took an innovative approach. Because local rules often require at least one step of the pharmaceutical manufacturing process be performed in a country where that product is sold, and because its business is global, Sanofi-Aventis

has huge quantities of pharmaceuticals in transit at any one time.

The company makes about 65,000 to 70,000 shipments a year, she said. Covering the exposure "is a huge challenge" since the products also are targeted by thieves.

"A rupture of the supply chain could happen at any moment," she said. And a product liability claim caused by a supply chain breakdown would damage Sanofi-Aventis' reputation, she said.

Stock-in-transit coverage—or insurance that covers damage to or the theft of goods in transit—forms a vital part of the company's overall risk protection, she said.

All of Sanofi-Aventis' stock-in-transit claims flow through its captive, said Ms. Carli, and this enables her to analyze the claims patterns.

Since the frequency and average cost of stock-in-transit claims increased in recent years, particularly in emerging markets, Ms. Carli and her team worked to restructure the company's program. The result was obtaining broader coverage that is adaptable to the differing needs of local operations, she said. In addition, her department engaged logistics colleagues across the group in risk management efforts. That has resulted in a more than 50% reduction in Sanofi-Aventis' stock-in-transit insurance costs and improved its loss ratio significantly in the past two years.

Product liability is a key insurance coverage for pharmaceutical firms, which is difficult or costly to obtain due to the risks of litigation by large numbers of consumers that take the products.

While much of the company's product liability risk flows through its captive, Sanofi-Aventis also buys insurance on the open market, Ms. Carli said.

As part of the risk management process, Ms. Carli assesses awareness of the product liability risks companywide through every part of the process—from clinical trials to offering the product for sale.

Everybody in the company has an interest in product liability and deals with its risks every day, Ms. Carli said.

One of the most important actions she said she has taken is introducing actuarial studies to gauge the company's product liability risks.

While little public data is available because pharmaceutical companies retain much of their product liability risk, Ms. Carli said she has provided the company more information about its risk and related claims using this actuarial research.

The fact that product liability touches every part of the organization provides risk management with a very good sense of the level of risk awareness within the company, Ms. Carli said.

To achieve this, it is vital for a risk manager or insurer to have already established connections and lines of communication throughout the company, she said. It is these connections, and the promotion of risk management as a discipline within Sanofi-Aventis at every level, about which Ms. Carli said she is most proud.

Diverse background informs approach to job

Françoise Carli took a circuitous career route to her job as vp, insurance for Sanofi-Aventis Groupe.

She began her professional life in 1982 as a structural engineer with nuclear energy firm Framatome-La Défense, now AREVA. Her specialty was the design of nuclear facilities in earthquake zones.

But it was a desire to balance her technical expertise with some business know-how that started Ms. Carli on the road to her current role at one of the world's largest pharmaceutical companies.

Already owning a degree in civil engineering from the Paris-based Ecole Spéciale des Travaux Publics and a master's in structural civil engineering from Stanford University, in 1985 Ms. Carli completed a graduate degree in management and finance from the Université d'Orléans in France as well as a Ph.D. in finance from the prestigious Paris-based business school Hautes Etudes Commerciales.

After completing her business studies, she was named central cost controller at Fram-

atome-La Défense, a post in which she co- led the company's investment management. In this role, she says, she developed an understanding of financial markets.

When an opportunity arose to become an investment manager for the French arm of Swiss insurance giant Zurich Financial Services Group in 1987, Ms. Carli took her first steps into the world of insurance.



GREGORY ROBINSON

Françoise Carli

In 1991, Ms. Carli was promoted to chief financial officer for Zurich's French operations. In 1998, she launched an asset management division for Zurich in France and, in 1999, she was appointed business unit manager for corporate non-life business in France.

After building that division, in 2003 Ms. Carli was appointed CEO of Zurich's operations in France.

Ms. Carli says she loved her time working at an insurance company and received top-quality training in underwriting, among other things. But after a time, she felt the need to move on from what had become, she believed, an advisory function. She

wanted, she said, to be on "the other side of the table."

After stints of consultancy work for AIG Europe, the European arm of American International Group Inc., and the French and international arms of Australian insurer QBE Insurance Group Ltd., Ms. Carli took up her current position in 2006.

In addition to her native French, Ms. Carli speaks fluent English and Italian, as well as intermediate Russian and German.

She is a former board member of the French insurers' association, la Fédération Française des Sociétés d'Assurances, and a member of the French and European risk management associations. In addition to her work responsibilities, Ms. Carli lectures at French business schools and is a member of several trade bodies.

Ms. Carli hugely enjoys the international nature of her job and spanning different cultures in the course of her work.

"I am very French when I am not in France," she jokes, "and when I am in France, I am very U.S.-oriented."

Another huge source of enjoyment for Ms. Carli is mentoring and encouraging young members of her team in their chosen careers.

They are a "young, efficient, dynamic group," she said.

—By Sarah Veysey

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Captive helps company keep control of risks

Background in insurer management gives Carli insights into strategy

By SARAH VEYSEY

A background in insurance company management has helped Françoise Carli in numerous ways since she transferred to the buyer side of the insurance transaction, perhaps most in the area of captive management.

“For me, the captive is an insurance company and because I have managed an insurance company before, I know how to manage the

top line, the bottom line, the future and the past.”

And she had quite a management task when she joined Sanofi-Aventis Groupe as vp, insurance in 2006.

The Paris-based pharmaceutical company had, as a result of previous acquisitions, active and inactive captives in numerous domiciles.

One of Ms. Carli’s major tasks was to close inactive insurance

and reinsurance captives in Bermuda, Canada, the Cayman Islands, France, Ireland, Luxembourg and the United States.

She also merged six active captives into one, Carraig Insurance Ltd. in Dublin, which is an integral part of the company’s risk management and insurance program.

Ms. Carli is CEO of Carraig, which is one of the largest captives in Dublin and handles some

of Sanofi-Aventis’ most complex and important exposures, including trade credit and product liability risks. The captive is managed by Aon Insurance Managers (Dublin) Ltd.

“The captive is a fantastic system,” she said. It can take on the risks of a traditional insurer, but it is not run to make a profit. Its function is purely to serve the parent company and to ensure that risks are being priced correctly,

she said.

A large proportion of Sanofi-Aventis’ claims flow through the captive, giving Ms. Carli a firm grasp on the risks faced by Sanofi-Aventis and access to every one of the company’s claims. “I see all sorts on my radar screen,” she said.

“In the captive, I need to take care of my past and my present and forecast the future,” said Ms. Carli.

While information on the premium volume underwritten by Carraig is not publicly available, the captive is believed to be one of the three largest in Europe.

Ms. Carli said Dublin was chosen as the domicile for Carraig for several major reasons: The fact that it is within the European Union means that Carraig benefits from E.U. rules on the freedom of services; Dublin falls within the Eurozone—the group of countries that use the Euro currency, also Sanofi-Aventis’ reporting currency; and

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‘For me, the captive is an insurance company and because I have managed an insurance company before, I know how to manage the top line, the bottom line, the future and the past.’

Françoise Carli,
Sanofi-Aventis Groupe

Dublin has a major and well-established captive insurance market.

The upcoming European Union risk-based capital regulatory regime, Solvency II, will apply to large captives and so, under Ms. Carli’s leadership, Carraig has taken part in the fourth and fifth quantitative impact studies run by European regulators to assess companies’ readiness for the rules, which will come into force on Jan. 1, 2013.

For Carraig, said Ms. Carli, adapting to Solvency II should not be a problem.

“Solvency II is only an issue if you don’t know what you are doing,” she said. “We have a choice of what we put into the captive and what we don’t. If you know what you are putting in, then Solvency II is not an issue. We manage the captive exactly as it if were an insurance company,” she said.

Carraig took part in QIS4 and QIS5 to help the insurance team work out how much capital to allocate to certain lines, said Ms. Carli. The reserving for the captive is checked every quarter, she said.

As a result of taking part in the quantitative impact studies, Ms. Carli and her team decided to try to diversify the business that was underwritten in the captive and

Continued on next page

International D&O risks require skills of a translator

By SARAH VEYSEY

Directors and officers liability insurance, according to Françoise Carli, is like a “wall to defend the castle,” and it is a critical line of coverage for Sanofi-Aventis Groupe.

Also, according to Ms. Carli, it is “the coverage of expectations” and the coverage area where you “feel the heart of the decision-makers of the company beat.”

D&O also is the line of insurance where there is the greatest difference between the coverage expectations of the insurer and those of the policyholder, said Ms. Carli, vp, insurance for Paris-based Sanofi-Aventis.

With listings on the Paris Bourse and the New York Stock Exchange, and its history of acquiring other companies, Sanofi-Aventis’ D&O needs are perhaps more complex than many other companies.

Because Sanofi-Aventis has dual listings and because, for example, French directors and officers of the company could be cited in a U.S. class action, Ms. Carli has to

have a firm grasp of the opposing sides of any D&O claim as well as the differing legal expectations.

“In D&O, my job is being a translator,” she said. It is a tough job and one which requires the support of good insurers and good lawyers, she said.

In October 2010, after a tender process by insurers to underwrite the company’s D&O program, Sanofi-Aventis’ D&O costs were reduced significantly.

One of Ms. Carli’s biggest achievements in the D&O area was to place Sanofi-Aventis’ first

D&O is ‘the coverage of expectations’ and the coverage area where you ‘feel the heart of the decision-makers of the company beat.’

Françoise Carli, Sanofi-Aventis Groupe

excess Side A program onto the company’s French D&O program with a drop-down to cover gaps in local policies.

This required a huge amount of communication to assure board

members on both sides of the Atlantic that there were no new risks involved and that the move would lead to broader coverage.

Ms. Carli’s involvement in the due diligence process when Sanofi-

Aventis is considering a merger or acquisition, also calls on her D&O expertise.

One of Ms. Carli’s innovations to help her company when making an acquisition has been to introduce an automatic integration clause for certain lines of insurance coverage, including D&O.

Thus, on the day that an acquisition is completed, the acquired company’s policy automatically is canceled and they become part of Sanofi-Aventis’ policy and there are no gaps in coverage.

CONTINUED FROM PREVIOUS PAGE

ultimately included trade credit coverage in the captive.

Solvency II will serve as a “safety belt” for Carraig, she said, and the captive will be fully compliant.

Another of Ms. Carli’s major achievements with Carraig was enabling the captive to become fully compliant with the Sarbanes-Oxley Act.

The 2002 U.S. law instituted various accounting and corporate governance procedures.

This process, she said, was a “fantastic opportunity for us to really define our strategy” for the captive.

“It’s how you use things,” she said. Regulatory edicts, such as Sarbanes-Oxley and Solvency II, can either be viewed as a constraint or as a tool to help a business make strategic decisions, she said.

Sanofi-Aventis, which is listed on the New York and Paris stock exchanges, is fully compliant with Sarbanes-Oxley, but the size and complexity of Carraig means it also is subject to full, annual Sarbanes-Oxley audits.

Ms. Carli and her team, therefore, were tasked with organizing, documenting and controlling the flow of tasks between Carraig and its parent.

This process, Ms. Carli said, was instrumental in the transformation of Carraig from a captive vehicle to a “real” insurance company.

Carraig is structured so that risk can be ceded to insurers and reinsurers, and there is no hierarchy between the two forms of risk transfer. A panel of international insurers and reinsurers participate on Carraig’s coverage.



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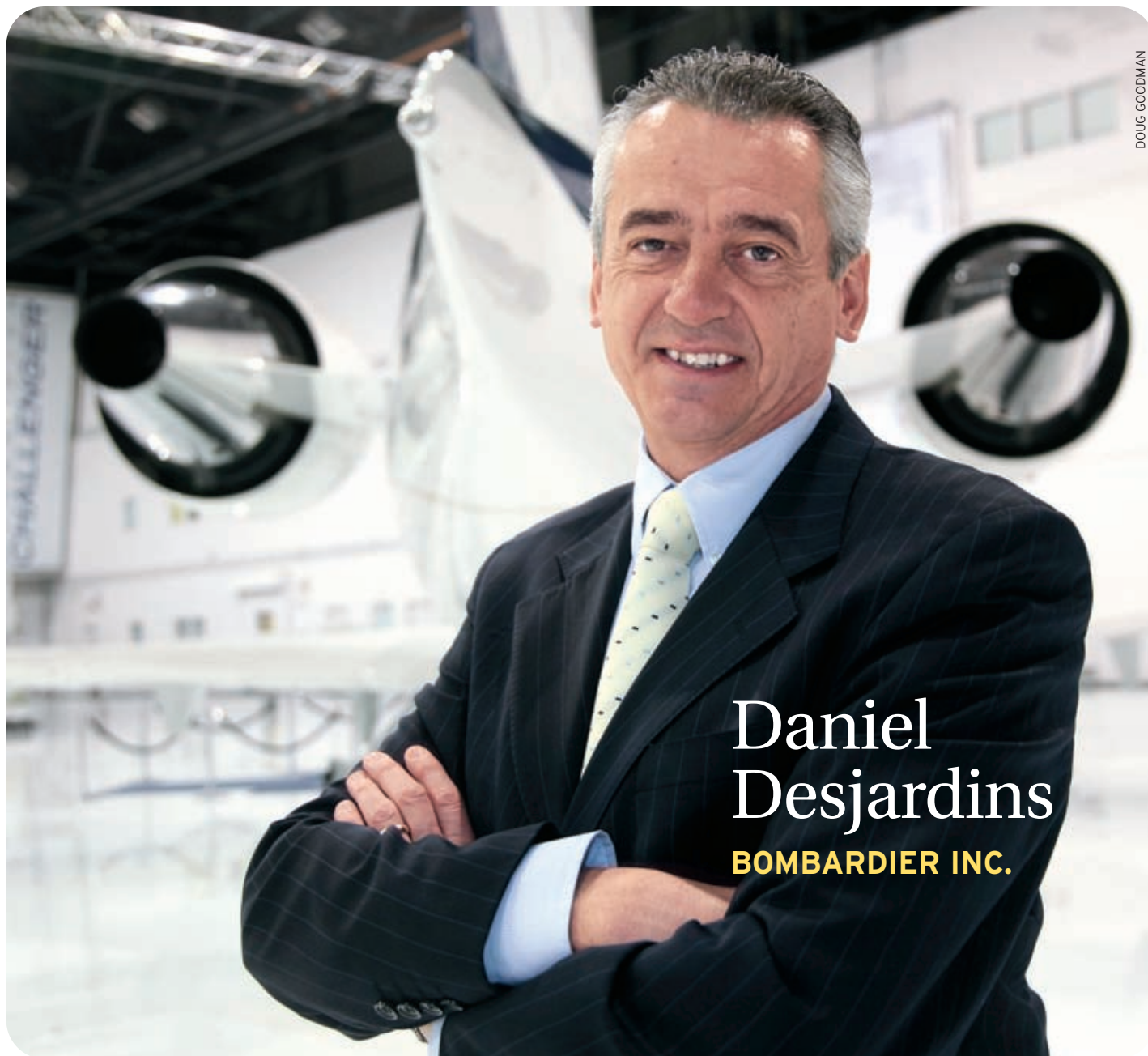
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Daniel Desjardins
BOMBARDIER INC.

Risk management program evolves to reflect company's transformation

By MARK A. HOFMANN

Montreal-based Bombardier Inc. has changed from a company known primarily for its recreational vehicles to the world's largest railcar manufacturer and third-largest aircraft manufacturer in the past 20 years.

During that time, the company's risk management program has had to evolve with the changes in efforts involving Daniel Desjardins, who has been part of Bombardier's risk management efforts for two decades and has headed the department since 1998.

His performance as senior director of global risk management and insurance at Bombardier has earned him a place on the *Business Insurance* Risk Management Honor Roll for 2011.

Mr. Desjardins' achievements include:

- Greatly expanding the use of the company's Barbados-based captive insurer (see story, page 38) to meet the demands of an aggressive growth-by-acquisition period and beyond;
- Enhancing Bombardier's reputation in global surety markets (see story, page 39); and
- Promoting loss control throughout the global company (see story, page 37).

"Our philosophy is there is nobody that understands the Bombardier risk better than Bombardier," said Mr. Desjardins. "For

BOMBARDIER INC.

BUSINESS: Manufacturer of aircraft and railcars

FOUNDED: 1942

HEADQUARTERS: Montreal

2010 REVENUES: \$17.7 billion*

EMPLOYEES: 65,400 globally

*Year ended Jan. 31, 2011

us, it's basically common sense. It's using the tools that we have."

Mr. Desjardins has "brought risk management to another level," said Daniel Desjardins, Bombardier's senior vp and general counsel and no relation to the risk management executive of the same name. "He's very proactive, very hands-on; he does understand the issues very well. He can maneuver within the company. There are lots of issues in the context of risk management; he is able to liaise and coordinate with many people around the world."

"As with many companies, we've moved from just the narrow vision of protection of

the assets to protecting the balance sheet," added Bombardier's senior vp and general counsel. "He brought a lot of value to the captive. It's been profitable for us; otherwise, its margin would have gone to the market with no return to us. It's worked well for us."

"This organization has grown by leaps and bounds," said Michel Bryan, managing director and vice chair of the eastern zone of Marsh Canada Ltd. in Montreal, Bombardier's primary insurance broker.

"It started from a very traditional insurance program to cutting edge," said Mr. Bryan, who noted that Bombardier retains significant risk and "uses the captive and other means to press the envelope."

"Dan really took the captive...to what it is today," said Mr. Bryan. "It's a big item for them for what it does in retaining risk."

"This is an organization that doesn't want claims," said Mr. Bryan. "This is an organization that prides itself on continuing to operate, period."

Bombardier consists of two divisions—Montreal-based Bombardier Aerospace and Berlin-based Bombardier Transportation. Bombardier sold its recreational products business—best known for the Ski-Doo snowmobile and Sea-Doo watercraft—in 2003.

Mr. Desjardins, the risk management executive, noted that one of his biggest challenges was dealing with acquisitions

that fueled Bombardier's growth during the 1990s and early 2000s. As the traditionally Canadian company grew to include operations in the United States, Germany, France and elsewhere, Mr. Desjardins was "involved in all those due diligences and making sure we had an integrated solution" for either Bombardier Aerospace or Bombardier Transportation.

"My objective was to make sure that we were presenting the entity we were acquiring with a global (risk management and insurance) program that they could buy into," he said. "The function is still very centralized at corporate today; it's still managed out of Montreal. That required a lot of effort from everybody on the team to make sure we had the best solution at the best price and at the best terms and conditions."

Sometimes, people needed to be persuaded about the value of the approach to managing risk. Mr. Desjardins said his approach reflects the oft-cited advice, "think globally and act locally."

That meant determining the "sticking points for the people across the table from us and how we could manage their expectations," he said. "It was a matter of sitting down with them and spending the time with them, explaining to them and hearing from them." The goal was to come to a "common conclusion that what we were providing them was better than what they had at a better price than what they had, and that they were benefiting from being part of a bigger corporation and that they had a lot to get out of that relationship. It was not always easy, but all in all, I think everybody is happy with the end result."

That widespread acceptance "speaks for the quality of the programs we have put together," said Mr. Desjardins.

If the challenge of the first 10 years of his career at Bombardier was dealing with acquisitions, the challenge of the next 10 years "was to keep all of that together" he said.

That's a challenge he has taken seriously.

Mr. Desjardins noted that Bombardier Transportation does about 300 requests for proposals a year on various rail projects. That means he closely examines terms and conditions in the contracts, examining indemnities and meeting insurance requirements, he said.

Fortunately, he has a team he can rely on, with a risk management operation consisting of 14 people, including himself, in Montreal, Zurich, Berlin and Dallas. That's a far cry from the situation Mr. Desjardins faced when he became head of the department in 1998 upon the retirement of Marc Darby, Bombardier's director of risk management and insurance and a member of the 1992 *Business Insurance* Risk Management Honor Roll (see story, page 38).

"I was by myself," Mr. Desjardins said. "I went basically from a one-man show in 1998 to today, a team around the world." The team includes engineers, lawyers, a mathematician and risk management professionals.

He also relies on services of outside risk engineers from RCE Group in Waynesville, Ohio, with which Bombardier has worked for years.

"The quality of their work speaks for itself," Mr. Desjardins said.

Looking back, he said his most significant achievement is "to have taken a small, modest risk management approach worldwide and having had the ability to have people buy into a risk management philosophy."

"It's to sit here in Montreal and know that I have people who are a party to what we put together here," he said.

Safety, loss prevention put Bombardier on track to success

By MARK A. HOFMANN

Bombardier Inc.'s emphasis on safety and preventing losses reflects a central fact of the company's operations, says Daniel Desjardins, Bombardier's senior director of global risk management and insurance.

"We can't afford not to perform," he said.

That means constantly improving loss-control efforts as well as having a tested business continuity plan in place. It also means communicating risk management throughout the Montreal-based railcar manufacturer's global operations.

And it can start with simple things, said Mr. Desjardins. "You have to go with the small victories," he said.

When risk engineers visit a facility, any loss-control effort that doesn't require a capital expenditure is listed. "Within that risk improvement program we have, we work with the facility to make sure that we fix those things," Mr. Desjardins said of internal efforts.

For example, this could be something as simple as making sure that combustible materials are removed from areas where workers weld steel and making sure workers use proper eye protection, he said. In places where indoor smoking is common, such as Russia and China, it means making sure that workers aren't smoking in areas that could present a hazard.

"It doesn't cost the group anything—yet we're improving the quality of the risk," said Mr. Desjardins.

In addition, in "every facility we have a three- or five-year capital expenditure program in terms of loss prevention," he said.

"Loss prevention is a big part of our portfolio," said Mr. Desjardins. "In the last six years, we've invested more than \$140 million in loss prevention."

For example, some structures owned by a German company acquired by Bombardier had wooden roofs that were replaced with corrugated steel roofs, he said. "That's the kind of investment we're involved with," he said. "It's constant improvement. It's not only protecting the facility by installing sprinkler heads; it's also protecting the facility by improving the quality of the risk."

Supply chain protection also is part of the loss-control equation, Mr. Desjardins said. In addition, "we have a fairly good business continuity program in place," he said.

Even before the March catastrophe in Japan, he said Bombardier launched a major business continuity and supply chain exercise in January with Marsh Risk Control. In that first phase, Bombardier used some of Marsh's engineers and forensic accountants to help evaluate the business continuity risk some of its key facilities face in terms of business continuity. The second phase, which is slated

to take place in July, will deal with supply chain issues, he said.

On the broader issue of risk management communication, Mr. Desjardins said the company uses various means to get its message out. For example, in Europe, risk management operations make quarterly presentations to another group. "We also have an electronic risk management communiqué on quarterly basis," he said.

There's also a risk management platform online, he said.

"It's not one thing; it's a series of things that you do to make sure

'Loss prevention is a big part of our portfolio. In the last six years, we've invested more than \$140 million in loss prevention.'

Daniel Desjardins, Bombardier Inc.

that your presence is everywhere," he said. "I have my own road show for the Americas," said Mr. Desjardins.

Malwine Braunwart, the head of risk engineering global risk

management and insurance at Bombardier Transportation's Berlin headquarters, conducts similar exercises in Europe and elsewhere, he said. In addition, Zurich-based Stuart Martin, head

of group operational risk and insurance, recently returned from a visit to Bombardier's operations in China and South Korea, where he made presentations to local management regarding Bombardier's risk management philosophy, said Mr. Desjardins.

"There's no way you can manage a global risk management insurance program if you're not present in your operations. People need to see you," Mr. Desjardins said. "People need to talk to you face to face. If you don't do that, it's very difficult to get people to buy in on what you do."

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Captive helps sell program to market

String of acquisitions create need to build larger retention

By MARK A. HOFMANN

If necessity is the mother of invention, need is what spurred Bombardier Inc. to rely more on its captive insurer to provide the protection it required.

Daniel Desjardins, Bombardier's senior director of global risk management and insurance, said a series of acquisitions the company completed in the 1990s and early 2000s made the captive an attractive alternative to the traditional insurance market.

"Suddenly, we were acquiring companies with facilities all over the world that didn't necessarily have the proper loss-control programs in place," he said. "That made it very complicated for some insurers on the slip to buy into. We basically decided to use the captive to package those acquisitions into a program and make it easier to sell it to the insurance market."

According to the company's website, Bombardier made eight major acquisitions between 1990 and 2001.

He said the captive, DBB Insurance Co. Ltd., allowed Bombardier to retain a sizable retention, which made it palatable for insurers to look at the program.

The captive licensed in 1990 once did little other than provide floor plan insurance for dealers of Bombardier's recreational vehicles, the Ski-Doo and the Sea-Doo, and had a "very, very small capitalization," said Mr. Desjardins. Bombardier sold its recreational product operations in 2003.

The Barbados-based entity, which drew its name by reversing Bombardier's stock symbol on Toronto Stock Exchange—BBD, is managed by Barbados-based Towner Management Group.

Bombardier is "very satisfied with the quality of the service," said Mr. Desjardins, who also is president of the captive.

As Bombardier's acquisitions continued, the captive grew in importance. "It had a snowball effect—it grew, it grew, it grew to the point now that we have close to \$30 billion of assets worldwide that are covered through the captive, through a fairly sizable retention, and still manage to provide a very good risk-transfer approach," said Mr. Desjardins.

The captive provides property, casualty, and some aviation and



Daniel Desjardins (from left), senior vp and general counsel; Diana Pittiglio, global risk management and insurance; and *BI's* Risk Management Honor Roll honoree Daniel Desjardins, senior director, global risk management and insurance at Bombardier Inc.

DOUG GOODMAN

surety coverage for Bombardier units, he said.

"We still place a lot of things in the market," he said. "But we basically buy insurance now for balance-sheet protection—we basically buy catastrophic capacity. We manage the frequency—the frequency we understand—and we can do the math behind it and deal with it."

"But if you look at what's going on in the world right now, where you need to make sure you have protection is on the cat side. So we place catastrophic coverage, buying high limits with a fairly high retention" in the traditional mar-

ketplace, he said.

He noted that Bombardier suffered roughly a \$250 million loss at a German facility this year when about 5 feet of water flooded the facility. "Obviously, DBB took a very good share of that loss and the rest was insured in the conventional market on an excess basis," said Mr. Desjardins. "Everybody was happy about the way it was structured."

He said Bombardier has two markets of choice: The property program is fronted by Swiss-based Zurich Financial Services Ltd. and has been for the past seven years. On the casualty side, Bombardier uses Allianz Group of Toronto, using the global Allianz S.E. network.

But the captive cannot provide all of Bombardier's insurance needs, said Mr. Desjardins. He cited directors and officers liability as an example.

"There are certain risks that are, for lack of a better word, incestuous," he said. "I really don't think it's the role of the captive to get involved in (certain risks) and D&O is one of them, so we go to the conventional insurance marketplace."

Mr. Desjardins said Bombardier maintains a "fairly sizable program even though we are not listed on the U.S. stock exchange," buying \$190 million in limits annually. The program is led by Brit Insurance Holdings N.V., a London-based Lloyd's of London insurer.

"The U.K. D&O market has opened itself to Canada, especially if you're a Canadian-based company even if you have worldwide activities," he said.

"We're not a financial institution—it's purely manufacturing," he said. Underwriters' concerns focus on the board's composition, the number of directors, how close those directors are to the company and the like, he said.

In addition, "95% of our aviation business is placed in the traditional marketplace," he said. "It's led out of London by ACE European Group and John Greene has been our underwriter for more than 25 years."

Marsh of Canada Ltd., a unit of Marsh & McLennan Cos. Inc., is Bombardier's chief broker. Mr. Desjardins said Johnson & Higgins had been Bombardier's chief broker until MMC acquired it in 1997.

"The Marsh Montreal team is really an extension of our department," Mr. Desjardins said. "They have a fairly big role—if you think of our global spread—just in terms of making sure that from a regulatory standpoint everything is fronted properly and that we meet local requirements properly."

But DBB's value does not stop with property/casualty insurance.

In 2002, Mr. Desjardins accepted "quite a challenge" to explore whether the captive could provide some employee benefits in Canada. He said Bombardier's action represented was the first time such an undertaking was considered in Canada.

He was part of a task force directed by a colleague in human resources. He said contrary to risk management's centralized approach, HR's approach was very decentralized and did not always result in economies of scale.

"They were facing the same acquisitions, but let the local HR programs run with the local people," he said. As a result, there were seven programs in Canada covering employee benefits—such as pensions, life and long-term disability—and each program had various reserves and various insurers, he said.

That was "basically money sitting there and we threw the idea around, 'Why don't we use the captive?'" to better understand and manage the risks, he said.

"We went from seven different employee benefit providers to one—that was ultimately DBB," Mr. Desjardins said. It now is a fronted program through Quebec City-based Industrial Alliance Insurance & Financial Services Inc.

"We outsourced to them the claims management and we do the financials behind it," Mr. Desjardins said. "Obviously, it comes with a lot of regulatory requirements."

Chain of events leads to long career

Like many in the risk management profession, Daniel Desjardins did not set out to become a risk manager.

In fact, Mr. Desjardins, 51, senior director of global risk management and insurance at Montreal-based Bombardier Inc., was studying electronics when he accepted a summer job at Royal Insurance Co. in Montreal. But his father's death suddenly made him the family breadwinner, and Royal asked him to stay on past the summer.

At Royal, he worked in claims while taking courses from the Insurance Institute of Canada, where he completed its associate program in 1981.

The same year, a friend with whom he had played ice hockey asked Mr. Desjardins whether he would be interested in entering the risk management field. That led him to accept a position with Domtar Corp., a Montreal-based pulp and paper company.

During the same time, he became active in the local Risk & Insurance Management Society Inc. chapter. There he met Marc Darby, the director of risk management and insurance at Bombardier and president of RIMS in 1983-84. In 1990, Mr. Darby—himself a member of the 1992 *Business Insurance* Risk Management Honor Roll—offered Mr. Desjardins a job at Bombardier.

He has been at Bombardier ever since, becoming

head of the risk management department when Mr. Darby retired in 1998. During the 1990s, Mr. Desjardins earned his bachelor's degree in business administration from the Ecole des Hautes Etudes Commerciales de Montreal.

He also has been active in RIMS locally and nationally.

"The chapter gave me a lot over the years," he said of his involvement in board activities, running conferences and serving as co-chair of the 2005 RIMS Canada conference.

Mr. Desjardins said he also encourages his staff to get involved in RIMS and "look at how others are doing the same job."

He is slated to speak at this year's RIMS conference in Vancouver on surety bonds in a session called, "Surety Is Not Insurance: Know the Difference."

Mr. Desjardins and his wife, Noëlla, have been married nearly 30 years and have one son, Benoit.

"My wife's been very supportive—you're looking at a guy here who spends almost half of the year in the air or other countries," he said.

As a hockey fan and player, Mr. Desjardins has taken part in Spencer Educational Foundation hockey games since 1988.

He also tries to run a marathon each year, and described running as a "nice way to stay in shape, and also to decompress."

—By Mark A. Hofmann



DOUG GOODMAN

Daniel Desjardins

Desjardins builds up reputation to secure surety cover

After difficult period, Desjardins travels far to restore confidence

By MARK A. HOFMANN

For an operation such as Bombardier Inc.'s Bombardier Transportation unit, access to adequate surety bond protection is a life-or-death matter.

Daniel Desjardins, Bombardier's senior director of global risk management and insurance, said 99% of the company's bonding and surety needs come from the transportation unit's railcar manufacturing activities. Bombardier says it is the largest railcar maker in the world.

"We could consume in any given year \$1 billion-plus in surety capacity," Mr. Desjardins said of the marketplace he described as "very interesting."

Bombardier Transportation typically has about \$10 billion in revenue a year, and "right now, they're sitting on close to \$35 billion backlog. If you look at their revenue and you look at their backlog, they have 3 1/2 years of production ahead of them." For customers, performance and execution are "obviously a big concern," he said.

He said, in the United States, the focus is on performance and execution in that the public authorities with which Bombardier deals are concerned about getting the railcars they have ordered. "It's not to end up with a letter of credit, with money. What are they going to do with money if they don't have their train?" said Mr. Desjardins.

But establishing Bombardier's reputation among surety bond writers took time and effort, he said.

"We went into a fairly rough patch in the early 2000s, when our financials were not that great and the surety industry was suffering," Mr. Desjardins said. "There was a lack of capacity at that point and I guess we were not an industry—the rail industry—that the surety companies knew very well."

Surety underwriters were "very good with construction, but when it comes to something as technical as rail manufacturing, they had a lot of problems getting their head around the question: 'How do I deal with this?'" he said.

Further complicating things was an event beyond Bombardier's control. The mid-1990s bankruptcy of railcar manufacturer Morrison-Knudsen Co. "left a very sour taste in the mouth of the surety providers," he said.

"So we basically took our suitcase and briefcase and went around the world to try to gain the confidence of those surety markets, build a relationship, and try to generate capacity despite the difficulties to make sure Bombardier Transportation could meet the financial needs of

its clients," he said.

That has meant dealing face to face with surety providers across the globe, he said.

For example, Mr. Desjardins said he will go to Australia after this year's Risk & Insurance Management Society Inc. annual conference in Vancouver, British Columbia, to hold discussions with that nation's surety market.

But Bombardier does not operate by itself in the surety marketplace, he said, although it did so until 2006. That year, he met with King of Prussia, Pa.-based Rosenberg & Parker, a broker that specializes in surety bonds.

He said Rosenberg & Parker's worldwide network is of great importance to Bombardier. "They would have correspondents in Brazil, they would have correspondents in Australia. Through this network, they had someone who was structured just like they were and would have the ability to

"We started to use them to place some surety bonds," Mr. Desjardins said. Since then, "they've been a very good partner" that has operations in the United States and recently established an office in Toronto.

He said Rosenberg & Parker's worldwide network is of great importance to Bombardier. "They would have correspondents in Brazil, they would have correspondents in Australia. Through this network, they had someone who was structured just like they were and would have the ability to

take care of their client."

Mr. Desjardins said the relationship with Rosenberg & Parker relieved him of some burden. "Surety is very labor intensive with contract review, bond wording and so on." But he still does a lot of placement himself with bigger surety facilities in the United States and Europe.

Another change he made in the surety program in 2006 was to remove some surety contracts from Bombardier's captive, DBB Insurance Co. Ltd. "Economically, it began to make little sense to get the captive involved. It got to the

point where it was requiring too much capital to support the line, particularly given Bombardier's ability to get very favorable terms in the market."

But if the market should sour, Bombardier could return to the captive for some of its surety needs, he said.

"That's the beauty of the captive," Mr. Desjardins said. "We're capitalized in such a way that if for some reason or another the market changed, we know we have a fallback position. I have management support to use the captive if it makes sense."

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Business Insurance



Michael Lusk
ARCHER DANIELS MIDLAND CO.

MICHAEL MARCOTTE

Innovation, communication hallmarks of risk process

By **RODD ZOLKOS**

At agribusiness giant Archer Daniels Midland Co., managing business risks such as commodity prices and foreign exchange rates have long been essential to the company business.

But that business couldn't thrive without managing the company's insurable risks, a vital task that Michael Lusk oversees as ADM's vp, insurance and risk management.

Regular communication with the company's far-flung operations and a constant search for innovative opportunities to help ADM's business units meet their goals are hallmarks of Mr. Lusk's tenure at Decatur, Ill.-based ADM, and factors at the heart of his selection as a member of the *Business Insurance* 2011 Risk Management Honor Roll.

"To me, Mike has done an incredible job developing the insurance strategy for this company," said Ray G. Young, senior vp and chief financial officer at ADM. "He does a good job in terms of finding that balance regarding what we retain and what we move off to third parties, as well as looking at very innovative structures to determine how to move that to third parties."

"We meet with the divisions on a regular basis to go over what kind of programs we have, we sit down with them to find out what kind of risks they face, and we try to come up with programs that help them mitigate their risk," Mr. Lusk said. "Sometimes, it's risk control; sometimes, it's risk financing; sometimes, it's something else."

That emphasis on communicating with business units is a clear strength of his risk management and insurance operation, said Mr. Young, to whom Mr. Lusk reports.

"In some companies, the risk management operations or the insurance operations are totally separate from the mainstream operations," Mr. Young said. "What

ARCHER DANIELS MIDLAND CO.

BUSINESS: Agribusiness

FOUNDED: 1902

HEADQUARTERS: Decatur, Ill.

2010 REVENUES: \$62 billion*

EMPLOYEES: 29,000

*Fiscal year ending June 30, 2010

Mike has done is make it a true partnership with the business folks."

Looking at Mr. Lusk's interactions with ADM's business operations, "I've seen a very, very close collaboration," Mr. Young said.

That sort of collaboration is necessary to manage ADM's risks effectively, as the company's global operations create a host of exposures best managed on an enterprise-wide basis.

In addition to its food processing facilities around the globe, ADM connects crops and markets in more than 60 countries (see story, page 43).

"Transportation and logistics is one of our very strong points," Mr. Lusk said. "We've got a significant barge fleet on the Mississippi River. We own more than 20,000 railcars. We own a significant trucking fleet. We own nine oceangoing vessels. We've also have a significant barge operation down in South America."

"It becomes very interesting in trying to deal with things like piracy for our oceangoing vessels, or things like the Mississippi

floods where you may not be able to move as much grain because the Coast Guard either won't allow the barges at all or only allow them under a half-load situation," the ADM risk manager said. "So we've got some significant risks that we have to deal with all throughout our logistics chain."

ADM looks to retain its expected losses. With business interruption, as with most other exposures, ADM purchases some insurance but retains a large amount of risk. "On the business interruption side, we do buy some specific lines of insurance to help us mitigate the catastrophe side of the equation after taking a significant retention," Mr. Lusk said.

"And we do try on an enterprise basis to look at things like how does a Mississippi flood affect us or how do things like drought affect us," the risk manager said. "It's hard because you've got the pure transportation risks associated with those two events, but you've also got the commodity price risk, so it really has to be looked at from an enterprise risk basis, because the people who are trading are trading on what the future might be."

Mr. Lusk looks to bring all of ADM's operations around the world into global insurance programs, where possible. "We try to get everything involved in a global program as long as it administratively makes sense and there's some savings involved," Mr. Lusk said. "We get involved in all purchases that people make around the world from an insurance perspective."

ADM has 29,000 employees, but its operations are very capital-intensive, and the company relies on outside contractors for much of its project and maintenance work. ADM requires contractors to adhere to its safety standards, leading Mr. Lusk to recognize that ADM should benefit from their improved safety performance if contractors

meet those standards.

By implementing an owner-controlled insurance program, Mr. Lusk was able to take control over the contractors' coverages and reduce associated costs and litigation (see story, page 41).

ADM insures the program in the traditional market, then reinsures a substantial portion of the risk in its Vermont captive, Agrinational Insurance Co. (see story, page 42). In addition to cost savings, the program allows ADM to ensure that contractors have appropriate coverage, rather than relying on certificates of insurance, which Mr. Lusk calls "a snapshot of the day it's issued."

"We get to go buy the policy, so we know the terms and conditions of the policies," Mr. Lusk said. "If you get a certificate of insurance, you only know what the terms are that day. It can change tomorrow."

"We put the OCIP in place in 2003 in just a handful of plants. We got safety engineers in there right away and worked with them all these years," said Barbara Russo, global relationship leader at Zurich Global Corporate in North America in New York, which writes various coverages for ADM, including fronting its owner-controlled insurance program. "At this point, it's become incorporated into their operations. It's no longer the responsibility of the insurance department. It's become part of operations. It's become part of the way they do business."

The OCIP program is in place at more than 30 U.S. ADM locations and has produced approximately \$30 million in savings and could produce as much as \$30 million more. Though ADM hasn't yet been able to apply the program to its overseas operations, it does require contractors at those facilities to meet ADM safety standards.

As with many in the business, Mr. Lusk's path to ADM's 17-person insurance and risk management department was not his original course (see story, page 42).

"Like most people, insurance wasn't my first choice," he said. But when he graduated in 1971 with a degree in chemical engineering, "the oil industry was in a severe recession" and oil companies generally weren't hiring chemical engineers.

So he took a job with Factory Insurance Assn. as a loss-prevention engineer. A few years later he moved to International Risk Management (Americas) Inc., where he rose to senior vp, risk advisory services, and consulted with key clients in developing strategic risk management solutions.

"In 1999, ADM came to me and convinced me I should be working full time for them rather than part time on their program structures," Mr. Lusk said. "I've been very happy since."

"He's a very innovative thinker," said Mr. Young. "He's always coming to me with different ideas on how to look at different insurance products, how to look at our coverages with the purpose of trying to find the best value for ADM."

"I always say he gets to do the strategic thinking and then I've got to put it in place," said Michael Scott, director-insurance operations at ADM. "He's the idea guy. He's the strategic thinker."

Nancy Gray, regional managing director-Americas at Aon Global Insurance Managers in Burlington, Vt., which is ADM's captive manager, cited Mr. Lusk's willingness to look to outside expertise to help guide his thinking on innovative approaches that might reduce ADM's cost of risk. "I think everybody learns a lot because of his approach," she said.

"He applies those traits within the organization, but he's also a leader within the industry," Ms. Gray said, adding that Mr. Lusk is always willing to share ADM's experience on various risk management and insurance initiatives with other risk managers.

Diverse approach helps manage large, complex array of risks

By **RODD ZOLKOS**

While Archer Daniels Midland Co. places some of nearly every risk it faces in its captive, the agribusiness company's insurance program includes a wide variety of coverage to transfer portions of its various exposures.

"There's quite a few of them from our standpoint. Each one brings its own different structure, complexity, risks that we get involved with," said Michael Lusk, vp, insurance and risk management at Decatur, Ill.-based ADM, which has more than 240 processing plants and 330 sourcing facilities in more than 60 countries. "It does keep us busy."

"Obviously, we have a very large property program. We have more than \$45 billion worth of assets that we insure in our property program," Mr. Lusk said. "We have a very large general liability program, which includes product liability, because we have a concern on the brand side of the equation. We have workers comp in the various countries where they have workers comp; then we have employer's liability in those countries where they don't have a workers compensation type of program."

ADM's various types of transportation-related coverage include trucking fleet and personal auto as well as coverage for the company's barge fleet and its oceangoing vessels. "Because we sell around the world, we've got a large charterer's liability program, because we charter boats and ship the corn and the soybeans and the meal and whatever happens to be sold to a particular area," Mr. Lusk said. ADM also carries port liability coverage worldwide.

Aviation is the only coverage ADM transfers entirely to the traditional market. The company also has credit insurance, crime, directors and officers, and fiduciary liability coverage. An owner-controlled insurance program, fronted by Zurich North America, covers the various contractors that provide maintenance services at ADM's U.S. facilities.

"Because we're involved in ethanol, we've got to have customs bonds and other types of bonds," Mr. Lusk said. "We own a bank, currently. (Hickory Point Bank & Trust) has various small things like safe deposit, stamp surety and banker's blanket bond, Internet liability."

ADM has more than \$100 million in annual premiums paid into the captive and self-insured losses, he said.

ADM uses numerous brokers, including Marsh Inc., Aon Corp., Arthur J. Gallagher & Co. and Lockton Cos. L.L.C., and selects the best broker for the location or the particular task.

"We don't use a global broker as such. We use the resources of some of those global brokers, but we don't have a global broker for property," Mr. Lusk said. "We use who we think does the best job in that particular country."

"When you deal with any bro-

ker, you're really dealing with Bob or Joe or Sarah or whomever the person is," said Michael Scott, director-insurance operations at ADM. "So what we try to do is look at who the best person is for whatever area we're operating in."

Working with multiple brokers, "we force them to work together and we tell them we're not going to pay you commissions; we're going to pay you fees," Mr. Scott said. "What we want is for you guys to work together and bring us ideas. We're going to pay you for your thinking and services, not for placing insurance."

'We don't use a global broker as such. We use the resources of some of those global brokers, but we don't have a global broker for property.'

Michael Lusk, Archer Daniels Midland Co.

Likewise, ADM uses multiple third-party administrators for programs it doesn't self-administer.

"We self-administer six states for workers compensation, plus we self-administer all of our (Longshoremen's and Harbor Workers' Compensation Act), and all of our Jones Act claims," Mr. Lusk said. "Having a large barge operation on the Mississippi River, we're subject to both the Longshoremen's and Jones Act. And we've found that we can handle those claims as well

as anybody else because most TPAs don't have a significant amount of those types of claims, but we do."

"We've built up a level of expertise and we feel very comfortable that we are able to handle those types of claims," Mr. Lusk said.

In states in which workers compensation isn't self-administered, the company uses Gallagher Bassett Services Inc., which also handles ADM's auto liability and general liability in the U.S., Mr. Scott said. Crawford & Co. administers overseas general liability, while WK Webster & Co. Ltd. administers the cargo program.

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Far-flung risks merge in captive

By **RODD ZOLKOS**

Archer Daniels Midland Co.'s exposures are sizable, extensive and scattered across the globe. But the insurance coverage for nearly all exposures begins with the company's Vermont-domiciled captive.

"We use our captive for virtually every line of insurance that ADM is involved with to some degree, some larger some smaller, except for aviation," said Michael Lusk, vp, insurance and risk management at Decatur, Ill.-based ADM. "We have our own aviation fleet; and because aviation tends to be catastrophe-driven, we just go ahead and transfer that risk."

The company formed its first captive in 1975 in the Cayman Islands, but moved insurance operations to Vermont in 1987, due largely to elements of the 1986 federal tax reform law aimed at foreign-controlled corporations.

"It changed the way that you could account for profits and losses, and you couldn't match them anymore," Mr. Lusk said. "And we said, 'This doesn't make much sense,' so we came back onshore and formed the Vermont captive."

Today the Vermont captive, Agrinational Insurance Co., owns ADM's original Cayman captive, Agrinational Ltd. "The Cayman captive had some significant assets and we used those assets to actually purchase some foreign entities or make investments in

foreign entities," Mr. Lusk said. "There's no active insurance business in the Cayman captive."

Mr. Lusk brought a strong captive background when he joined ADM in 1999 from International Risk Management (Americas) Inc., where he did consulting and program analysis and design. "So I've been involved with captives ever since I really started my career," he said.

At ADM, the captive ultimately serves two purposes. First, the company seeks to retain its expected losses, funding them through the captive. Beyond that, however, the company uses the captive in innovative ways to help ADM's business units achieve their various goals.

Mr. Lusk's efforts to identify opportunities for captive innovation are cited by many who work with him.

"The thing that I think is most distinctive about him and his risk management program is the way he uses the captive," said Barbara Russo, global relationship leader at Zurich Global Corporate in North America in New York. "They use the captive as a tool to help their other businesses. They house insurance in the captive to help their customers."

"He's always been very creative and innovative," said Nancy Gray, regional managing director-Americas at Aon Global Insurance Managers in Burlington, Vt. "I think he's that way in terms of his lead-



Ray G. Young, senior vp and chief financial officer (left), and Michael Lusk, vp, insurance and risk management at ADM.

MICHAEL MARCOTTE

ership skills and certainly applies that to the captive as well."

One example of Mr. Lusk looking to the captive for an innovative solution to help advance ADM's operating goals is a crop insurance program it started in South America and later brought to the United States.

The problem began as a credit risk issue, with the South American farmers with whom ADM did business traditionally relying on pre-financing of their crops. But after Mr. Lusk studied the issue with those involved in ADM's South American grain processing operations, it started looking more like a crop-yield issue.

"Down there they need pre-financing," Mr. Lusk said. "The banking system wasn't that strong, so they'd go to the processors to get cash in order to buy seeds and fertilizer and diesel fuel. And we needed to expand our programs in order to feed enough soybeans into our facilities."

"The main problem with the farmers was not that the farmers weren't going to deliver the beans, but that they had to have the beans to deliver," the ADM risk manager said. The risk was a drought, flood or blight that might affect farmers' yields, "so we were able to come up with a crop insurance program in South America for them," Mr. Lusk said.

In 2005, the company decided it would be beneficial to expand the program to the United States and became a Standard Reinsurance Agreement holder with the Federal Crop Insurance Corp. "It allows us to have one more tool to get closer to the farmer and to be able to have the farmer deliver his goods to ADM," Mr. Lusk said. "So we have a separate subsidiary, which is a managing general agency, to do the crop insurance program in the United States, and that has grown significantly."

The program had \$20 million in premiums in 2005. This year, Mr. Lusk said it expects more than \$200 million in premiums. All the risk goes through the captive and then is reinsured. Last year, the company bought a shell insurance company, Advanta Insurance Co., and renamed it ADM Insurance Co. to front the U.S. crop insurance business.

"We try to use our captive, the capital that is in there, to help our business units achieve some things," said Michael Scott, director-insurance operations at ADM. The crop insurance program is an example of that, he said.

"It's a further enhancement of our relationship with the producers," said Ray G. Young, senior vp and chief financial officer at ADM.

"One of the things that we want to do at ADM is we want to be a holistic provider of services to the agricultural producers, the farmers; and so in this case, using our insurance product, we're able to do that," Mr. Young said.

Elsewhere in South America, there are other examples of the captive playing a key part in achieving ADM's business goals.

"South America is very important because it's such a large growing area and we're growing in South America quite a bit," said Mr. Lusk. "Over the past year, we've built a fertilizer plant in Paraguay, for instance, and we're building an oil seed crushing facil-

ity in Paraguay."

"Paraguay's been difficult because we haven't really found a good front company," he said. "Because we didn't find a good front company, we went to the superintendent of insurance in Paraguay and were able to get approval to establish a subsidiary of our existing captive in Vermont in Paraguay to do our fronting."

AIC Seguros S.A. has "worked out very well," Mr. Lusk said. "We've had significant savings and much better service associated with the fact that we're able to have our own entity in Paraguay."

"Most people wouldn't do it and we don't necessarily like to do it, because it isn't necessarily efficient," he said. "But in Paraguay, it proved to be efficient mainly because we couldn't get the types of service and cost that we wanted to be able to achieve."

"We've actually had some interest from other insurance companies asking whether we want to front for them on other programs," although, so far, ADM has not done so, said Mr. Scott.

Mr. Lusk also has succeeded in having the ADM captive licensed as an eventual reinsurer in Brazil, or a reinsurer domiciled elsewhere that has no representative office in Brazil. That allows the company to use the captive to reinsure all its programs there. And he obtained an A.M. Best Co. Inc. rating for Agrinational Insurance. The captive's A- VII rating has been a valuable asset for the company in seeking excess reinsurance arrangements through hard and soft markets.

Among many in the U.S. captive industry, Mr. Lusk and ADM are probably best known for the risk manager's efforts in conjunction with the company's human resources department and outside counsel to win U.S. Department of Labor approval to write employee benefit risks in the captive.

When the company won approval in 2003 to write life insurance in the captive, it was the second company to earn DOL approval behind Columbia Energy Group, and helped "fast-track" the approval process for other companies looking to write similar benefits programs in their captives.

Mr. Lusk doesn't limit the application of his captive expertise to ADM. He's also been active in the Captive Insurance Cos. Assn. and the Vermont Captive Insurance Assn., having chaired both organizations, and is a frequent speaker at captive conferences.

The VCIA's Captive Crusader Award, presented to Mr. Lusk in August at the VCIA's annual conference to recognize service and commitment to the organization, occupies a table in his office. "I have to give that back in August," he said, though passing the trophy on likely won't temper his crusade for captive innovation.

By working with Mr. Lusk, said Zurich's Ms. Russo, "we've innovated a couple of captive programs for him here at Zurich—things that we hadn't necessarily done before with captives."

"We're often driving in the same direction," Ms. Russo said. "(But) he's setting the pace."

ADM brought Lusk home to Illinois

For Michael Lusk, coming to Archer Daniels Midland Co. in 1999 could be seen as a homecoming of sorts, if one's willing to overlook the fact that his previous time in central Illinois lasted just a period of months.

They were significant months, however, with Mr. Lusk born in Urbana, Ill., while his father, who was in the military at the time, was studying for a master's degree in electrical engineering at the University of Illinois.

"I only lived there six months of my life, so it's hard to say I'm from there," Mr. Lusk said, "but it is somewhat of a homecoming."

From there, Mr. Lusk's family lived the military life, traveling the U.S. until they settled in Boston when his father completed his military service. Mr. Lusk remained in the Boston area through college, earning his bachelor's degree in chemical engineering at Tufts University.

Mr. Lusk's professional career since then has taken him to Atlanta, Dallas—where he earned an MBA at the University of Texas at Dallas—Cleveland and Fort Lee, N.J., before ADM brought him to Decatur.

Outside of work, Mr. Lusk, 61, enjoys outdoor

activities, during the months of the year that the central Illinois climate permits them.

"I love golf. I actually love all types of outdoor sports," Mr. Lusk said. "I'm not necessarily very good at it, but I love to be out there with the fresh air."

"I enjoy tennis very much, too...My knees don't let me play as much as I'd like to, but they've got some nice tennis facilities around Decatur," he said.

"Decatur has a lot of different things," the ADM risk manager said. "The tough months are January and February when it's cold. It's not like you live where you can go downhill skiing or something. It's hard to go outside and do those outside sports when it's miserable."

Mr. Lusk and his wife, Louellen, have been married more than 40 years. "She's the love of my life," he said. His wife has a Ph.D. in higher education.

The Lusks have two married sons, one in Philadelphia and the other in northern New Jersey, and three grandchildren, and enjoy visiting them whenever they have the opportunity.

—By Rodd Zolkos



Michael Lusk

MICHAEL MARCOTTE

Globe-trotting helps Lusk keep close tabs on non-U.S. risks

By **RODD ZOLKOS**

Archer Daniels Midland Co.'s exposures are truly global in scope, but to Michael Lusk, successful management of those risks isn't something that can be accomplished from afar.

"One of the things that's really distinctive about Mike is the way he handles the global operations," said Barbara Russo, global relationship leader at Zurich Global Corporate in North America in New York.

"He's personally involved with his placements around the globe," Ms. Russo said. "He and his team do a lot of travel."

ADM has agribusiness operations in North America, South America, Europe, Africa and Asia. "Basically in the areas where food is grown," said Mr. Lusk, vp, insurance and risk management at ADM. The company has processing facilities in those areas and ships products around the world.

Given recent events in some of the areas in which ADM does business, "It's very, very interesting times," Mr. Lusk said.

Efforts by the United States, European Union and others to pressure former Ivory Coast President Laurent Gbagbo to step down after losing last year's election by restricting the country's cocoa bean trade is one recent example.

"We had a very, very interesting supply chain issue associated with the Ivory Coast," Mr. Lusk said. "Forty percent of the world's cocoa beans are grown in the Ivory Coast, so that created some significant issues for ADM."

Recent political upheaval in Egypt created more "interesting times."

"We are one of the largest shippers of wheat to Egypt," Mr. Lusk said. "That created some questions and concerns, because we had quite a bit of stock, the wheat, in the port facilities. Fortunately, nothing happened, but we had significant operations and storage in that area."

Despite global exposures, ADM generally does not purchase political risk insurance. "Most governments do not fool around with food. So because of that, we don't feel we have significant political risks," the ADM risk manager said.

"It's not like it's copper or oil where, once it's extracted, it's gone. So we don't have a lot of expropriation types of issues," he said. "What we have more are some of the economic issues, where if they decide to stop exporting or they decide to raise taxes on exports, that creates the problem for us."

Consequently, ADM's approach to those global political exposures is more centered on enterprise risk management. "Our analysis generally tends to go towards: Should we take the risks, what are the returns associated with deploying capital in that particular area?" Mr. Lusk said. "That's where we spend a lot more time than neces-

sarily trying to transfer the risk."

While ADM will look at the possibility of political risk transfer, particularly as the world grows "a little bit more complex," the approach will remain more focused on, "Should we go into this country, and if we go into this country how much capital should we deploy, and are the returns from the deployment of that capital worth the risk?" Mr. Lusk said.

Helping the company make those decisions, as well as addressing other aspects of ADM's risk management and insurance pro-

'Should we go into this country, and if we go into this country how much capital should we deploy, and are the returns from the deployment of that capital worth the risk?'

Michael Lusk, Archer Daniels Midland Co.

gram around the world, involves regular face-to-face meetings with local operations leaders.

"The local business units are the

ones that understand the markets the best, understand the regulations the best, so as we keep on growing around the world. Mike's

team is integrally linked with the local operating teams," said Ray G. Young, senior vp and chief financial officer at ADM.

"We try to meet with various business departments around the world," said Michael Scott, ADM's director-insurance operations.

Mr. Scott joined ADM in 2003 and remembers an early conversation with Mr. Lusk. "One of the things he asked me was how did I feel about travel and I said I'll travel as needed. He said that in the insurance industry and in working with underwriters, you can't replace face-to-face meetings."



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Laurie Solomon, director of risk management at The Coca-Cola Co., has developed innovative benefit funding programs, including international employee benefit and pension plans, through Coca-Cola captives.

retention strategy that ensured the continued tax deductibility of captive premiums on corporate taxes, while sticking to the company's philosophy of taking on higher levels of risk (see story, page 48).

Gary Fayard, Coca-Cola's executive vp and chief financial officer, attributes Ms. Solomon's success in the acquisition to several factors.

"Her ability to think outside the box, to completely rebuild our insurance programs and reduce risk management expenses all at the same time has helped The Coca-Cola Co. achieve our results," Mr. Fayard wrote in his nomination statement.

The risk management profiles of the two companies were dramatically different. Though Coca-Cola was the larger in revenue, its cost of risk was about \$60 million vs. \$175 million for the bottling company. And Coca-Cola's \$60 million included claims paid through its three captive insurance companies as well commercial market coverage.

As a soft drink bottler and distributor, CCE had a fleet of nearly 30,000 vehicles, roughly double that of Coca-Cola.

CCE's workers compensation claims were 10 times that of Coca-Cola, and commercial auto casualty losses also were substantially higher.

How the companies funded various risks also differed distinctly. Coca-Cola's retentions through its captives were, as Ms. Solomon put it, "very substantial," typically well in excess of \$10 million. By contrast, CCE took very low retentions, transferring most of its risks to insurers.

"CCE purchased quite a bit of insurance and assumed much less risk. It was quite different than us," Ms. Solomon said.

So after much analysis, she devised a plan to address numerous issues.

Foremost, she developed a risk retention strategy. Coca-Cola has roughly \$35 million in international employee benefits premiums flowing through Red Re Inc., its South Carolina-domiciled captive. That sizeable premium allows the company to take a tax deduction for property/casualty premiums it pays to Red Re (see story, page 45).

Under Internal Revenue Service rules, benefit coverage is considered third-party or outside business, a necessary requirement for a parent to take a tax deduction for other premiums it pays to its captive.

If Coca-Cola maintained the same high retention levels after acquiring CCE, the balance between the corporate philosophy of maintaining very high retentions through the captive but not so high as to lose tax deductibility for property/casualty premiums would have been upset, she said.

"I did not want to upset that balance by dropping a lot more first-party risk into Red Re," she said.

Her solution: establishing an aggregate stop-loss approach in which Coca-Cola retains the first tranche of retained losses to be paid for certain U.S. casualty risks and the captive provides aggregate stop-loss coverage above that to Coca-Cola.

"Deloitte Consulting helped us work out a clever way of dividing reserves between Red Re and corporate so that the first tranche of losses would be paid by corporate and then Red Re would essentially provide stop-loss coverage to corporate at a point which would not overstrain the first-/third-party balance at Red Re," Ms. Solomon said.

Creative thinking, technical expertise drive risk management innovation

By JERRY GEISEL

For a company that has demonstrated brilliance in branding since its inception, it is fitting that Laurie Solomon, director of risk management at The Coca-Cola Co., has built programs that also bear an innovative stamp.

Under her direction, the world's largest nonalcoholic beverage company became the first employer to win Labor Department approval for a unique approach of funding retiree health care obligations.

Ms. Solomon also has developed other innovative benefit funding programs, including international employee benefit and pension plans, through Coca-Cola captives (see story, page 48).

Her accomplishments, though, extend beyond integrating employee benefit risks and captives. She won corporate support, for example, to take on higher levels of risk through captives, which, along with improving loss-control programs, helped shave Coca-Cola's cost of risk by 25%, or \$20 million, over the past five years.

Those and her other accomplishments have earned Ms. Solomon a place on the *Business Insurance* 2011 Risk Management

THE COCA-COLA CO.

BUSINESS: World's largest nonalcoholic beverage company, owning or licensing and marketing more than 500 nonalcoholic beverage brands.

FOUNDED: 1886

HEADQUARTERS: Atlanta

2010 FINANCIALS: \$35.1 billion in revenues; net income of \$11.8 billion

EMPLOYEES: 139,600 worldwide

OTHER FACTS: Sold 25.5 billion unit cases of its products in 2010. Finished beverage products are sold in more than 200 countries; about 1.7 billion servings of Coca-Cola products are consumed each day, which is equal to about 19,400 beverages per second.

Honor Roll.

The reasons for Ms. Solomon's successes are numerous, say top executives at Coca-

Cola, consultants and insurance brokers.

"She is very decisive and has that ability to see a clear path," said Steve Denton, president of Beecher Carlson in Atlanta, Coca-Cola's broker for primary casualty coverage.

Ms. Solomon has an "extraordinarily high level of technical knowledge. She also is unusually adept at matching insurance industry solutions with exposures that exist at her company," said Walter Gilstrap, a managing director with Marsh USA Inc. in Atlanta. Marsh is Coca-Cola's broker for management liability coverage, global property, and international and excess casualty coverage.

"A major reason for Laurie's success is not just getting the job done; it is getting the job done better each year," Richard Denning, president of Shelter Island Risk Services, a Shelter Island, N.Y., risk management consulting firm that has worked with Coca-Cola on a number of projects, wrote in a nomination statement.

For example, after Coca-Cola acquired bottler Coca-Cola Enterprises Inc. in a deal last year valued at \$12.1 billion, she revamped insurance and risk management programs, generating \$10 million in bottom line savings. She did so by fashioning a

Using captive for international benefits aids claims process

Data-intensive effort allows for focus on specific areas

By JERRY GEISEL

When Laurie Solomon began to examine funding international employee benefit risks through a captive, the concept immediately made sense to her.

For decades, employers have been using captives to reinsure property/casualty risks around the world, with fronting insurers tapped to issue policies and pay claims.

A “fronting insurer moves the cash from local policies to the captive. I understood the concept very well. I began to question why we couldn’t do the same thing on the employee benefits side internationally,” said Ms. Solomon, who is director of risk management at The Coca-Cola Co. in Atlanta.

As Ms. Solomon continued her research, she became convinced that captive funding of international employee benefit risks—including life, disability and medical coverages—was a “natural next step” for Coca-Cola.

She discussed the idea with Sta-

for medical services were much higher than the market norm. Coca-Cola claims executives began to investigate and found that employees were going to a hospital north of Athens that was not in the fronting insurer’s network.

“As a result of better data and close monitoring, we were able to identify the hospital most prevalently used and then had our fronting company negotiate with the hospital to bring them into their network at discounted fees,” Ms. Solomon said.

Through the program, Coca-

Cola now knows exactly what its loss experience is by country and by line of coverage.

“It has allowed us to slice and dice the data more carefully so our efforts can be focused on where we want to try to change employee behavior,” she said.

Using that information, Coca-Cola can readily adjust premiums to reflect local experience. If experience is good, reserves can be built up, which Coca-Cola then can use to help offset future premium increases.

About \$35 million in premium flows into Red Re annually

through the international employee benefits program, which operates in about 50 countries. In all, Coca-Cola has been able to keep cost increases significantly below local medical inflation due to good loss experience, while also reducing administrative overhead, Ms. Solomon said.

The program features inherent cash flow advantages. The local units pay premiums to Chartis and Generali, which then forward the premiums to Red Re. Local units file claims with Chartis and Generali, with Red Re then reimbursing the fronts for the claims

payments. At the same time, Red Re earns investment income from the premiums forwarded by the fronts, Ms. Solomon said.

A critical component of the success of the fronting/captive program for international employee benefits was obtaining the support and participation of local Coca-Cola units around the world.

And key to getting that support, Ms. Solomon said, was communicating to the local units that Coca-Cola would make every effort to duplicate the coverages that had been in place.

\$35M

About \$35 million in premium flows into Red Re annually through the international employee benefits program, which operates in about 50 countries.

cy Apter, Coca-Cola’s senior global benefits consultant, laying out some of the advantages of the approach, including improved cash flow, better access to claims data and, with that, greater ability to take action and improve claims experience.

Having that access to claims data and information was seen as critical to better controlling benefit costs, Ms. Solomon said.

“There wasn’t a lot of analysis being done. We would have liked to have known which benefits were being overutilized and which were being underutilized. We had more of an invoice-and-payment process,” she said.

In 2007, the program began. Coca-Cola contracted with an American International Group Inc. unit—later to be succeeded by Chartis Inc.—and Italian insurer Assicurazioni Generali S.p.A. to issue policies and collect premiums, with the program being reinsured through Red Re Inc., Coca-Cola’s South Carolina-domiciled captive.

In Greece, for example, an analysis of claims data found that Coca-Cola’s inpatient costs



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Overseas benefits program inspires change for U.S. risks

Despite Labor OK, IRS ruling awaited on captive proposal

By JERRY GEISEL

The Coca-Cola Co.'s innovative approach to funding international employee benefit risks through its domestic captive helped pave the way for a cutting-edge approach to funding U.S. benefits risks.

In 2008, "We started brainstorming. What would be the next step? What else could we do with this captive?" Laurie Solomon, Coca-Cola's director of risk management, said about Red Re Inc., the South Carolina-domiciled captive insurer Coca-Cola established in 2006.

Representatives from Coca-Cola's risk management and human resources departments met and began to toss out ideas.

"We knew there was a much broader spectrum of opportunities," Ms. Solomon said. One of the ideas that was "tossed on the table" was funding medical coverage for retired employees and their dependents in the United States.

The concept wasn't a huge leap. Coca-Cola already was funding

international employee benefit risks, including retiree health, through Red Re. In addition, it had contributed more than \$200 million to a special trust, known as a voluntary employees' beneficiary association, to fund U.S. retiree health care obligations, an approach many other employers in the United States also have used.

But funding retiree health care benefits through a VEBA has a financial downside: If investment returns generated by VEBA assets produce returns greater than what is needed to pay benefit obligations, the surplus must remain in the trust and can't be taken by the employer.

Given that, Coca-Cola began to consider other possibilities so it would not lose control of the VEBA assets.

As discussions continued, outside experts, including consultants from Towers Watson & Co., the firm with whom Coca-Cola previously worked on its international employee benefits funding program, were brought in.

Later in 2008, an agreement was reached on a funding approach—one never previously attempted. Under the approach, Coca-Cola would use VEBA assets to purchase medical stop-loss poli-

cies from Prudential Insurance Co. of America to pay claims over the expected lifetimes of roughly 4,000 retirees and dependents. The medical stop-loss policies would pay claims falling between a \$100 attachment point and an upper limit. For those retirees younger than 65, the upper limit would be \$5,800. For retirees 65 and older, the upper limit would be \$3,500.

In turn, Prudential would use the premium it received from Coca-Cola to reinsure the risk with Red Re.

Ms. Solomon says the arrangement is beneficial for Coca-Cola and for retirees. "There is no outstanding liability for the company, while the retirees have a benefit that is truly funded. At the same time, the company does not have the potential situation of trapped cash in the VEBA."

In addition, because the Internal Revenue Service considers employee benefit risks to be third-party business, funding benefit programs through a captive increases the likelihood that an employer can take a tax deduction for property/casualty premiums paid to a captive.

For Coca-Cola, the drive to fund retiree health care obligations through Red Re has been a



MICHAEL MARCOTTE

"It is up to risk managers to explain the advantages of captive benefits funding and how they can be used in a beneficial way for the company," said Laurie Solomon, The Coca-Cola Co.'s director of risk management.

long one.

In January 2009, the company applied to launch the captive benefit funding arrangement with the U.S. Department of Labor, which has jurisdiction over such transactions.

Initially, the Labor Department denied authorization, saying that it wanted more information on certain issues. But at the end of 2009, Coca-Cola received tentative authorization, after months of discussions between DOL officials and the company, its consultants and legal advisers. As part of its effort to secure Labor Department approval, Coca-Cola addressed several questions, including how the arrangement would benefit plan participants. In April 2010, the Labor Department gave final authorization.

But one hurdle remains: the Internal Revenue Service, which must provide a favorable private-letter ruling for the arrangement to proceed.

If that happens, other employers are likely to follow in Coca-Cola's path. "A lot of companies are watching on the sidelines to see what happens," Ms. Solomon said.

Still, the approach is not for everyone, she said. "It is a matter of what works for different companies. From our vantage point, we were willing to fund the VEBA, and we already had a captive."

And Coca-Cola had something else going for it, Ms. Solomon said: collaboration between the risk management and benefits departments.

"We are pretty open-minded to understanding opportunities around the world. This was one area where I had a very willing partner on the employee benefit side of things. The collaboration between risk management and

benefits has been the key to success in all of our captive benefits-related projects," she said.

But such cooperation is far from universal. When collaboration is lacking, Ms. Solomon suggests risk managers explain the benefits of a captive.

"A captive is a fantastic tool for a company. Risk managers understand how captives work. It is up to risk managers to explain the advantages of captive benefits funding and how they can be used in a beneficial way for the company," she said.

Any resistance from corporate benefits and human resources executives on captive benefit approaches should ease when risk managers make clear that the goal is cost reduction, rather than giving risk management control over benefits programs, she said.

"Once it is clear to your counterparts (in benefits) that you are not looking to get into the benefits world, but are looking to partner with benefits to help better finance the obligations of the company," the benefits staff should come on board, Ms. Solomon said.

Above all, benefits and risk management departments must communicate early and frequently throughout the process.

"Any time you are bringing in a new approach to the way things are done, there is a going to be a lot of doubt. The dialogue and the conversation are going to be a key to success because there is no downside to this type of approach," she said.

And more conversations with Coca-Cola's benefit department could be in the offing. A further expansion of Red Re that has been informally discussed involves funding of other benefit coverages, such as life and disability, for U.S. employees, Ms. Solomon said.



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Career began as an insurance underwriter

By JERRY GEISEL

When Laurie Solomon interviewed for a position at The Travelers Insurance Cos. in 1985, she had no inkling that she was starting down a road that would lead one day to running the risk management department of an international icon.

Though her father was a life insurance broker, Ms. Solomon, who grew up in Dix Hills, N.Y., had given little thought to entering the field. Still, when Travelers announced it would be interviewing at her college, Ms. Solomon sought out an interview. She was then a senior, majoring in American studies at Brandeis University in Waltham, Mass.

"Travelers was a big company. I had heard of it. Since they were interviewing on campus, I tossed my hat in," she said. If nothing else, she hoped to gain interview experience.

She interviewed for a risk management information system job, but the Travelers recruiter suggested that Ms. Solomon's engaging demeanor and analytical skills made her a superb candidate to work in the insurer's underwriting department. After an additional interview at Travelers' headquar-

ters in Hartford, she was hired as an assistant underwriter.

Ms. Solomon quickly moved up the ranks and by age 25 was overseeing \$30 million in premiums and negotiated reinsurance on eight national accounts.

A few years later, she was promoted to assistant director and was delivering dozens of presentations to chief financial officers and treasurers at Fortune 1000 companies.

There were many things Ms. Solomon enjoyed during her tenure with Travelers, especially the ability to "bring to bear the services and capabilities of the company I was working for—and showcase that for a customer."

She also enjoyed the interaction with clients. "I loved the chance to meet senior financial executives who had decision-making responsibilities," she said, noting that she also liked working with brokers to help complete deals.

"There were a lot of quality people who helped me learn the business," she said of her years with the insurer.

After a decade with Travelers, though, Ms. Solomon was ready for a change as economic conditions in the Hartford area deteriorated. "The economy was terrible with both insurers and govern-



MICHAEL MARCOTTE

(From left) Coca-Cola Co.'s Gary Fayard, executive vp and CFO; Laurie Solomon, director of risk management; and Chris Nolan, vp and treasurer.

ment contractors laying off staff," she said.

By 1995, "It had gotten to the point that I knew more people who had left Hartford than still were there. I was single and ready for a change," she said.

That change came when The Coca-Cola Co. hired her to be an underwriting manager in its risk management department.

Her first year was a frenetic one,

she said, noting that she was immediately thrown into a huge project: dealing with risk management and insurance coverage issues associated with Coca-Cola's role as a major sponsor of the 1996 Summer Olympic Games in Atlanta, where Coca-Cola is based.

"My job was to understand the risks we faced and to be sure we had coverage for those risks," she said.

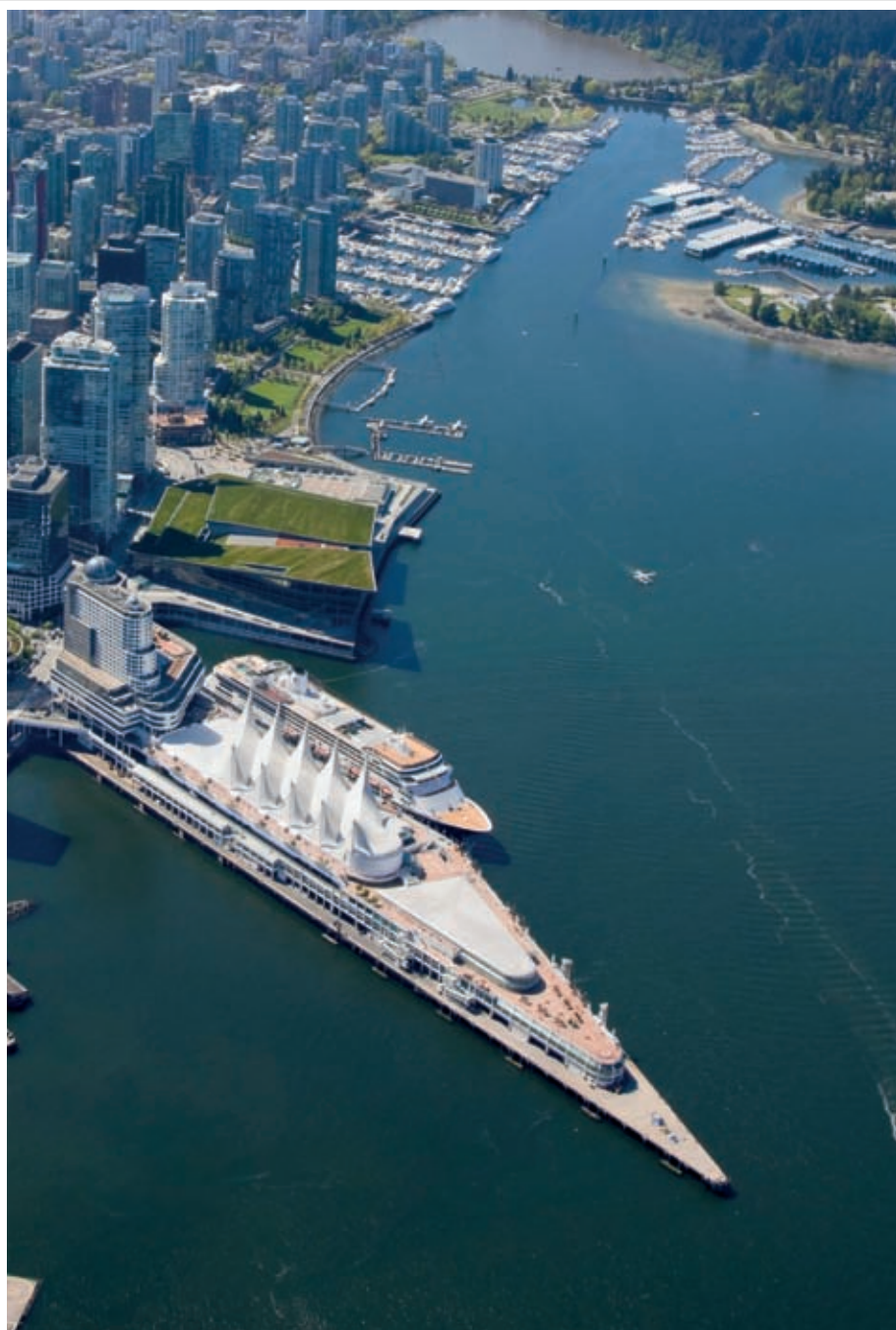
At the time of the games, Coca-Cola had set up a 24-hour risk management command center at Coca-Cola headquarters. When a pipe bomb exploded at Centennial Olympic Park, Ms. Solomon coordinated Coca-Cola's interactions with its strategic security group and its business interruption insurers for the Olympics. The business interruption insurance covered losses associated with the temporary shutdown of Coca-Cola's Olympic City, which was across from Olympic Park.

In 1998, she was promoted to risk manager and over time was given responsibility for setting the strategy, negotiation and implementation for all global insurance placements.

In 2005, she was promoted to her current role as director of risk management, where she helped create Red Re Inc., Coca-Cola's first U.S.-based captive, and whose role includes reinsuring Coca-Cola's international employee benefits risks (see story, page 48).

During that time, Ms. Solomon has fundamentally altered Coca-Cola's risk-taking strategies, dramatically increasing the level of retentions assumed by the company's three captives, which also include two captives domiciled in Dublin.

Ms. Solomon and her husband, Zack, a senior member of the internal audit staff at Colonial Pipeline Co., reside in Atlanta.



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Captive funds group annuities

U.K, Irish program brings consistency to managing funds

By JERRY GEISEL

Although not a likely pairing, The Coca-Cola Co. has partnered a corporate captive insurer and pension programs to achieve positive outcomes.

In an innovative captive benefits funding approach, Coca-Cola is using Dublin captive Coca-Cola Reinsurance Services Ltd. to reinsure group annuity products that are written by a top-rated European-based insurer and purchased by three Coca-Cola pension plans in the United Kingdom and Ireland.

The funding arrangement, which recently was launched after about two years of discussion and planning, will generate significant operational efficiencies and potential financial advantages, said Laurie Solomon, Atlanta-based Coca-Cola's director of

risk management.

For example, rather than dealing with numerous pension plan trustees and investment managers for each plan, Coca-Cola has been able to consolidate asset management within the captive.

"To me, this is the perfect opportunity for a captive. We can use the captive as a collective vehicle to gather funds and provide consistency in terms of the management of those funds. That is what we are trying to do with the captive on the pension side," Ms. Solomon said.

At the same time, if investment results are good, any surplus generated would flow to the captive and could be used by Coca-Cola rather than be "trapped" in the pension plans, she said.

Through the arrangement, "any upside benefit from investment activity" accrues to the captive and the parent, such as through a dividend, Ms. Solomon said.

The funding approach,



A likeness of the iconic bottle long used by the world's largest nonalcoholic beverage company can be seen at World of Coca-Cola in Atlanta.

which Coca-Cola developed with consultant Towers Watson & Co., won the blessing of pension regulators in the United Kingdom and Ireland because of the protection offered by the full guarantee of plan participants' benefits through the annuity products purchased from the insurer.

"This is a win-win. Beneficiaries know they have insured benefits in place," Ms. Solomon said.

Coca-Cola plans to expand the program to another Western European country soon and perhaps eventually to other countries where Coca-Cola sponsors defined benefit plans.

"If we can make it work in other countries, it is something we are going to try to do," Ms. Solomon said.

Still, she added, "While we would look to expand this, right now we are looking for a bit of a breather."

Risk-retention strategy rests in captives

Wide range of risks retained by company

By JERRY GEISEL

Three captive insurance companies—two in Dublin and one in South Carolina—are the heart of The Coca-Cola Co.'s strategy to retain very high levels of risk.

Those captives are:

■ **Coca-Cola Reinsurance Services Ltd.** Licensed in 1992 in Dublin, CCRSL reinsures commercial insurers that front policies, as well as sister Dublin captive Red Disk Insurance Co. Ltd.

Among other things, CCRSL reinsures property risks on policies Red Disk writes directly. It also reinsures property risks on policies issued by fronting insurer ACE USA in other countries.

In addition, CCRSL reinsures international casualty risks written by ACE and an executive liability program written by Red Disk.

And most recently, Coca-Cola tapped CCRSL to reinsure annuities written by a major European-based insurer to cover pension benefit obligations for plan participants in the United Kingdom and Ireland.

■ **Red Disk Insurance Co. Ltd.** Licensed in 1994 in Dublin, Red Disk writes property policies in countries in which it is licensed to do so. It also is used in an integrated program that provides a single very high limit for about a dozen lines of coverage.

■ **Red Re Inc.** Licensed in 2006 in South Carolina, Red Re writes U.S. casualty coverage, provides a worldwide terrorism policy and reinsures fronting carriers used to provide international employee benefit coverages. Coca-Cola chose South Carolina for several reasons, including the flexibility and responsiveness of the state's captive regulators as well as geographic convenience to Atlanta-based Coca-Cola, said Laurie Solomon, Coca-Cola's director of risk management.

And if Coca-Cola wins a favorable Internal Revenue Service private letter ruling, Red Re also will be tapped to help fund health care benefits for retired U.S. employees and their dependents.

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A statue of John Pemberton, the inventor of Coca-Cola, outside World of Coca-Cola in Atlanta.

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Judges for the 2011 awards were:

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CHRISTINE L. EICK, executive director, risk management and safety for Auburn University and a member of the 2010 Risk Management Honor Roll.

TERRY FLEMING, director-division of risk management for Montgomery County in Rockville, Md., and immediate past-president of the Risk & Insurance Management Society Inc., which jointly presents the awards with *Business Insurance*.

JAMES HAYS, president and CEO of Minneapolis-based brokerage Hays Cos.

DEBRA L. RODGERS, vp-global risk management at ARAMARK Corp. and the 2010 Risk Manager of the Year.

MARYANN SACKMAN, president and founder of Port Washington, N.Y.-based risk management consultant RMI Consulting Inc.

CARSTEN SCHEFFEL, president and CEO of Allianz Global Corporate & Specialty Americas, a Chicago-based unit of Allianz S.E.

METHODOLOGY

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

- Established and implemented an effective risk management program within the organization.
- Tackled and solved one or more major problems for his or her organization.
- Innovatively applied the diverse tools of risk management and insurance.
- Creatively and effectively used risk financing/insurance to structure a risk financing and risk transfer program that served the needs of the organization.
- Established a workable intelligence system inside and outside the organization that culminated in a flow of information about events and activities that affect the organization's risk management and insurance.
- Skillfully performed the functions of management in the overall organization and within the risk management/insurance department.
- Achieved the most effective program at the optimum cost over the long term.
- Developed technical expertise in any or all of the broad categories included within risk management, leading to a better managerial grasp of the operations aspects of the job.
- Exhibited an attitude and performed activities fostering the advancement of the risk management profession.
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NOTICE OF SANCTION OF THE
TMEI SOLVENT SCHEME (ADVERTISEMENT)
IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT
No. 9791 of 2010
IN THE MATTER OF

**TOKIO MARINE EUROPE
INSURANCE LIMITED (FORMERLY
KNOWN AS THE TOKIO MARINE
& FIRE INSURANCE COMPANY
(U.K.) LIMITED)**

AND IN THE MATTER OF THE COMPANIES ACT 2006
OF GREAT BRITAIN

NOTICE IS HEREBY GIVEN that by order dated 15 April 2011 made on the above matter, the High Court of Justice of England and Wales has sanctioned the solvent scheme of arrangement between Tokio Marine Europe Insurance Limited (the "Scheme Company") and its Scheme Creditors (the "Scheme"). A copy of the Order sanctioning the Scheme was delivered to the Registrar of Companies in England and Wales on 15 April 2011 and the Scheme became effective on that date (the "Effective Date"). PRO Insurance Solutions Limited, whose address is set out below, is the Scheme Manager.

Please note that all Scheme Creditors are now bound by the provisions of the Scheme.

A copy of the Scheme documents is available to download from the TMEI Website at www.TMEIScheme.com (the "Website"). Scheme Creditors requiring a printed copy of the Scheme documents, or a list of their policies which, where known, may be affected by the Scheme, should contact the Scheme Manager at the contact address set out below and this information will be sent free of charge.

Return of Claim Form

For each Scheme Creditor of which it is aware, the Scheme Manager has prepared and sent to them by post a Claim Form containing: (1) the policy details held by the Scheme Manager in respect of each Scheme Reinsurance Contract of which it is aware and which may give rise to a Scheme Claim; and (2) details of any Unpaid Agreed Claims of which it is aware arising under those Scheme Reinsurance Contracts.

Claim Forms may be submitted by completing and returning an electronic or paper copy of the Claim Form, by post, fax or e-mail to the Scheme Manager. Claim Forms can be supplied electronically in Microsoft Excel format by the Scheme Manager. Scheme Creditors are strongly encouraged to request this and to enter their policy and claims data on the Excel spreadsheet, where possible, because this should be easier than entering such data on the paper spreadsheet. The Website and the notes and instructions that accompany the Claim Form contain important information explaining the process for submission of the Claim Form.

Scheme Creditors wishing to submit a Scheme Claim must submit their signed and completed Claim Form, together with appropriate supporting information, to the Scheme Manager by 11.59 pm (London Time) on 12 October 2011 (the "Bar Date").

If a Scheme Creditor does not submit a Claim Form, together with appropriate supporting documentation, in accordance with the instructions accompanying the Claim Form, by the Bar Date, that Scheme Creditor shall not be entitled to assert any Scheme Claim and shall not be entitled to any payment pursuant to the Scheme or otherwise from the Scheme Company, except in relation to any Unpaid Agreed Claims. Any Unpaid Agreed Claims included on the schedule sent by the Scheme Manager with a Claim Form shall be deemed to be included in a Claim Form sent to and received by the Scheme Manager before the Bar Date. Scheme Creditors will be entitled to receive payment under the Scheme in respect of the amounts of such Unpaid Agreed Claims.

Any Scheme Creditor which has any questions concerning this notice or the action it is required to take, or which requires assistance in completing its Claim Form, should contact the Scheme Manager. Further information may be obtained from the Website at www.TMEIScheme.com or upon request from the Scheme Manager, whose details are as follows:

THE SCHEME MANAGER, PRO Insurance Solutions Limited, Bruton Court, Bruton Way, Gloucester GL1 1DA, United Kingdom
Telephone: +44 (0)1452 782699
Fax: +44 (0)1452 523437
E-mail: PRO_TMEI@pro-ltd.co.uk
Contact: Philip Toft
Dated this 28th day of April 2011

LEGAL NOTICE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**
**IN RE PETITION OF ROLF ÅBJÖRNSSON,
AS OFFICIAL RECEIVER OF
ATERFORSÄKRING AB LUAP,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 03-10945 (SCC)**

NOTICE IS HEREBY GIVEN THAT ON APRIL 20, 2011, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON FEBRUARY 19, 2003. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED FOR OCTOBER 25, 2011 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE SHELLEY C. CHAPMAN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE SHELLEY C. CHAPMAN AND SERVED ON COUNSEL FOR THE OFFICIAL RECEIVER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE OFFICIAL RECEIVER.

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LEGAL NOTICE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**
**IN RE PETITION OF DAN YORAM
SCHWARZMANN, AS ADMINISTRATOR OF
FOLKSAM INTERNATIONAL INSURANCE
COMPANY (UK) LIMITED,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 02-14070 (SCC)**

NOTICE IS HEREBY GIVEN THAT ON APRIL 20, 2011, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON SEPTEMBER 9, 2002. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED FOR OCTOBER 25, 2011 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE SHELLEY C. CHAPMAN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE SHELLEY C. CHAPMAN AND SERVED ON COUNSEL FOR THE ADMINISTRATOR LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE ADMINISTRATOR.

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Products & Services

Zurich launches social networking community

SCHAUMBURG, Ill.—Zurich North America Commercial has launched a social networking community for commercial real estate professionals.

Zurich Real Talk is a free social networking platform through which commercial real estate professionals can share ideas and participate in industry discussions, the Schaumburg, Ill.-based unit of Zurich Financial Services Group said in a statement.

“Zurich Real Talk offers members the ability to have frank discussions about market trends and industry risks, access exclusive content and pose questions to a team of subject matter experts,” Dan Kleiman, head of Zurich North America Commercial’s real estate segment, said in the statement.

Users of the social networking site can create a profile, upload a picture, identify colleagues, and participate in forums and discussions, according to the statement.

To access Zurich Real Talk, go to www.ZurichRealTalk.com. For complete access, users must create a profile and agree to the terms of service.

Aon Benfield creates Germany surge model

HAMBURG, Germany—Aon Benfield Inc., the reinsurance brokerage unit of Aon Corp., has created a storm surge risk model

for Germany.

The model will help reinsurers quantify the risk of storm surge, which generally has not been included in German building insurance policies due to insufficient data, Hamburg, Germany-based reinsurance brokerage unit Aon Benfield Rückversicherungs-makler said in a statement.

“By generating thousands of stochastic scenarios, this new storm surge model quantifies reinsurers’ exposures and potential claims burden, making the potential danger highly transparent,” Jan-Oliver Thofern, CEO of Aon Benfield Germany, said in the statement. “The model will help (in) creating new opportunities to drive the market, providing reinsurance protection for local business and residents who may have been at risk from a storm surge event.”

The region has a history of storm surge devastation, such as the North Sea Flood of 1962. A similar event today would be more costly due to increased building values and density, Aon Benfield said.

The model defines an organization’s individual and aggregate exposures by analyzing variables such as storm frequency, wind speed, tidal frequency, wave height and the adequacy of Germany’s coastal defense systems.

For more information, contact Adam Podlaha, head of international impact forecasting for Aon Benfield, at +44 (0) 207-522-3820 or adam.podlaha@aonbenfield.com.

Hartford offers coverage for warehouse logistics

HARTFORD, Conn.—Hartford Financial Services Group Inc. has introduced a comprehensive marine policy for warehouse

logistics operations.

Hartford’s Warehouse & Logistics Choice policy is designed to cover the gap between traditional motor truck cargo and warehouseman’s legal liability policies by including coverage for property stored in locations other than the operator’s warehouse, the Hartford, Conn.-based insurer said in a statement.

The coverage is for warehouse logistics operations that transport and store their customers’ property, and covers direct physical loss or damage to nonowned property in their care, custody and control of an operator during transit and storage, according to the statement.

“Historically, warehouse operators have had to purchase separate policies to address their exposure during transit and storage of customers’ property,” Alexander McGinley, assistant vp and marine underwriting officer at Hartford, said in the statement. “Increasingly, operators are providing value-added services for their customers and engaging in activities that may not be covered by traditional marine policies.”

Some policy highlights include accounts receivable and valuable papers coverage, no exclusion for unexplained disappearance, and defense costs coverage.

For more information, contact Mr. McGinley at 860-547-9395 or amcginley@thehartford.com.

TO SUBMIT ITEMS

BI's Products & Services column reports on new product offerings. Please send Product & Services news to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. 60601 or e-mail mtsikoudakis@businessinsurance.com.

UP Comings & Goings CLOSE



PETER MULLEN

NEW JOB TITLE: Pembroke, Bermuda-based CEO of Aon Global Risk Consulting’s captive and insurance management operations

PREVIOUS POSITION: Executive vp at Hamilton, Bermuda-based Artex Risk Solutions Inc.

INDUSTRY CHALLENGES: There are a number of challenges facing the captive industry today, including a continued soft insurance market and the maturity of the industry, resulting in captive growth being flat for the last few years. However, the most prominent challenge is probably increased regulation in the form of Solvency II. This increased regulation will result in additional operating costs for our clients.

INDUSTRY OUTLOOK: I think you have to assume that pricing will remain soft across most lines of business, and traditionally captive formation and usage falls off in a soft market. However, captives are very flexible mechanisms; and in recent years, the domiciles have become very competitive and

creative. We hope to bring our clients new and creative ways of using their captives.

FIRST MARKET EXPERIENCE: I spent my first year in the business working in the personal lines department of a large brokerage (now Willis International) in Dublin. That was the toughest year of my career, and I still break into a sweat when I think of negotiating with a particular taxi driver and his six sons for their auto fleet renewal.

OUTSIDE THE INDUSTRY, A DREAM JOB: Instead of being Peter Mullen, I want to be Larry Mullen, the drummer for U2. If that job were gone, I’d settle for Bono’s (job).

HOBBIES: Sitting in my Boston Whaler with a fishing rod and a beer, focusing on the mysteries of the deep. Playing golf.

FAVORITE BOOK: I don’t have a favorite book, but my favorite author is John Irving.

EMAIL OR PHONE, AND WHY: Phone as much as possible. Tone is at least 50% of any communication.

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Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

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POSTING THIS WEEK

BROKERS

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- Aon Risk Solutions

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- Antares Managing Agency Ltd.
- Aspen Insurance UK Ltd.
- ACE Group Holdings Inc.

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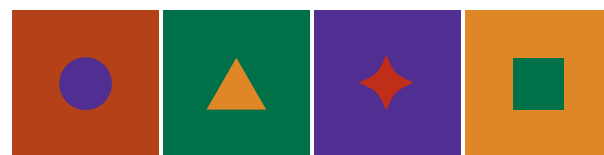
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- Siemens Financial Services Inc.

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Corporate C- Suite

Feature	Issue	Close Date
Supply Chain Risk Management	Aug 8	July 27
Catastrophe Management & Disaster Planning	Aug 15	Aug 3
Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Firms		
Special Report: Alternative Risks	Sept 5	Aug 24
Case Study: EPL Best Practices	Sept 19	Sept 7
Pharmacy Benefit Management		
Case Study: D&O Best Practices	Oct 17	Oct 5
Professional Liability	Oct 31	Oct 19
Case Study: Product Liability Best Practices	Nov 7	Oct 26
Special Report: Construction Risks	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9

Brokers

Feature	Issue	Close Date
Mid-Year Market Report & Legislative Roundup	July 4/11	June 23
Broker Trends & Profiles	July 18	July 6
London & Lloyd's Market Report	Aug 1	July 20
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
Special Report: Alternative Risks	Sept 5	Aug 24
Middle-Market Risks	Oct 3	Sept 21
Excess & Surplus Lines Report	Oct 10	Sept 28

Brokers *(continued)*

Feature	Issue	Close Date
Special Report: Construction Risks	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9
Readers Choice Awards	Nov 28	Nov 16
Women To Watch	Dec 5	Nov 22
Year-in-Review: Best & Worst of 2011	Dec 12	Nov 30
Case Study: E&O Best Practices		
Market SourceBook 2012	Dec 19/26	Dec 7

Insurers/Reinsurers

Feature	Issue	Close Date
Mid-Year Market Report & Legislative Roundup	July 4/11	June 23
Broker Trends & Profiles	July 18	July 6
Case Study: E&O Best Practices	July 25	July 13
London & Lloyd's Market Report	Aug 1	July 20
Catastrophe Management & Disaster Planning	Aug 15	Aug 3
Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
Special Report: Alternative Risks	Sept 5	Aug 24
Global Programs Reinsurance: Rendez-Vous Report	Sept 26	Sept 14
Excess & Surplus Lines Report	Oct 10	Sept 28
Reinsurance: Trends & Issues	Oct 24	Oct 12
Special Report: Construction Risks	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9
Readers Choice Awards	Nov 28	Nov 16

Insurers/Reinsurers *(continued)*

Feature	Issue	Close Date
Women To Watch	Dec 5	Nov 22
Year-in-Review: Best & Worst of 2011	Dec 12	Nov 30
Case Study: E&O Best Practices		
Market SourceBook 2012	Dec 19/26	Dec 7

Middle Market

Feature	Issue	Close Date
Case Study: E&O Best Practices	July 25	July 13
London & Lloyd's Market Report	Aug 1	July 20
Catastrophe Management & Disaster Planning	Aug 15	Aug 3
Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
Special Report: Alternative Risks	Sept 5	Aug 17
Workers Comp and Safety Management	Sept 12	Aug 31
Global Programs Reinsurance: Rendez-Vous Report	Sept 26	Sept 14
Middle-Market Risks	Oct 3	Sept 21
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Special Report: Construction Risks	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9

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Unbundle: Firms alter TPA deals

CONTINUED FROM PAGE 1

companies procure their managed care services through a TPA, said David Donn, president of David Donn Consulting Inc. in San Francisco. But more large employers are looking to purchase directly from managed care companies rather than buying the services through a TPA, Mr. Donn said.

That trend still is developing today because some employers are uncomfortable with markups charged by TPAs, although Mr. Donn said he began noticing more companies taking interest in the strategy two to three years ago.

More large, self-insured employers are seeking to eliminate costs by unbundling managed care services, such as preferred provider networks, said Mike Farrand, workers comp medical cost containment director of the strategic outcomes practice for Willis Group Holdings P.L.C. in Radnor, Pa.

"I have seen a lot more (unbundling) activity in the last three years and it's going to continue as people become more educated about those costs and how they can control them," Mr. Farrand said.

In addition to cost concerns, employers demanding better medical management and return-to-work outcomes are driving the trend, Mr. Farrand said.

While very large corporations have unbundled, or purchased directly from managed care vendors rather than a TPA, regional companies also have applied the approach.

MAIN POINTS

Key areas of workers compensation managed care can include:

- Medical bill review to assure that state fee schedules and provider network discounts are applied properly.
- Medical case management to help direct injured workers to the best medical care when it is most critical.
- Utilization review to verify that prescription drugs and medical procedures recommended by medical providers are appropriate for an injured worker's recovery.



REGISTER:

"Best Practices in Workers Compensation Management," *Business Insurance's* free Virtual Advantage 2011 conference, will be held from 10 a.m. to 5 p.m. CDT on June 23. Go to www.BusinessInsurance.com/VirtualAdvantage to register.

St. Joseph Health System in Orange, Calif., which employs 24,000 workers in three states, unbundles case management, bill review and utilization review, rather than buy the services through its TPA, said Judie Tsanopoulos, the health system's director of workers comp and loss control.

"It gives me a far better opportunity to manage the relationship, set the expectations and get the things I want rather than getting an off-the-shelf product," Ms. Tsanopoulos said.

While some dollar-driven employers unbundle mainly to "pull apart" and scrutinize managed care expenses, most employers do so to achieve optimal medical management and improve return-to-work outcomes, said

Paul Glover, chairman and CEO of ISG Holdings Inc., which owns Lakeland, Fla.-based Bunch & Associates, a workers comp managed care company.

"That is what some of the largest employers are doing now," Mr. Glover said. "They want to make sure it's done appropriately."

Those employers are pressing his company to prove the value of specific managed care interventions, such as utilization review and case management, Mr. Glover said.

In some cases, employers delving into the value and return on dollars spent on utilization review and case management are moving to providers willing to help them understand at what point in the life of a claim that those services

may be most effective, Mr. Farrand said.

In general, employers are asking more questions about the cost and effectiveness of their managed care services because allocated expenses are on the rise, said Paul Braun, managing director of casualty claims for Aon Global Risk Consulting in Los Angeles.

Additionally, the application of managed care techniques to address workers comp claims costs has matured, Mr. Braun said. While employers previously may have simply accepted that they needed an array of managed care services to drive down costs, today's "clients are saying, 'I really need to understand it and is it saving me money, because it's a big driver of allocated expenses?'" Mr. Braun said.

Purchasers also are scrutinizing managed care costs more closely out of fear that as growing unemployment reduced the volume of claims, TPAs and managed care companies generated revenue by driving up allocated expenses charged to employers, several sources agreed.

"Everyone is looking for revenue," Mr. Braun said.

Questionable charges, however, can occur whether purchasing services directly from a managed care company or through a TPA, Mr. Donn said.

The providers, for example, might log multiple utilization review charges to determine whether a claimant needs certain pharmaceuticals and surgery—even though both determinations can be accomplished in a single review, Mr. Donn said.

But inappropriate charges—including "overutilization of utilization review"—are more difficult to uncover when "you have an organization separating you from the managed care company," Mr. Donn said.

Class: Good for employers?

CONTINUED FROM PAGE 4

to employment disputes.

"There's a distinct possibility this ruling is to be extended to apply to the employment context as well, and allow employers to require that any claims be resolved in arbitration on an individual basis, rather than allowing employees to represent a class of employees within the arbitration," said Enzo Der Boghossian, a partner with law firm Proskauer Rose L.L.P. in Los Angeles.

"This one is a game changer," said Mr. Chapman. "The Supreme Court has provided companies with a road map on how to avoid class or collective actions...the No. 1 risk that businesses face," he said.

Jack E. Pace III, a partner with White & Case L.L.P. in New York, said the decision "really preserves arbitration as a way to resolve disputes with employees, and with consumers and customers generally."

Had the Supreme Court ruled otherwise, "then there really would have been a very big risk for any company with an arbitration provision that prohibited class actions," Mr. Pace said. If the provision were invalidated, a company could be at risk of a class action "when you thought you were just agreeing to a small-scale arbitration," he said.

Attorneys said employers now are expected to consider introducing arbitration agreements that prohibit class actions in employment disputes.

"I think every company in America needs to examine whether they want to have an arbitration agreement with a class action waiver in light of the Supreme Court's ruling," said Mr. Chapman. "Even if the company had that internal debate previously, they need to re-examine the issue because the rules have changed."

"Companies will be looking at this very closely and you will probably see resurgence in these types of agreements," Mr. Pace said.

John Doran, a shareholder with law firm Greenberg Traurig L.L.P. in Phoenix, said companies that already have arbitration agreements in place "will probably rush to make it clear that those arbitration agreements preclude the arbitration of class-related claims."

"I think there will be an uptick in adopting arbitration agreements" among firms, but "I don't think you'll see a groundswell," he said. Arbitration "has its own costs and its own downsides," including in some cases generating more claims, Mr. Doran said.

RRGs: Backers hope time is right for expansion bill

CONTINUED FROM PAGE 1

insurance except workers compensation. But RRGs remained barred from writing property coverage under federal law.

Although recent attempts to allow RRGs to write property coverage have failed, RRG supporters say the current Congress may provide the best chance yet for success.

A reform bill likely will contain three components, said Mr. Ferguson. In addition to allowing RRGs to offer property coverage, it would set up a common corporate governance structure for RRGs as well as establish a mechanism to handle disputes between non-domiciliary state regulators and RRGs, he said.

"I think that the outlook is better this year than last year, which is better than the outlook the year before. This is a cumulative process," said Robert H. Myers Jr., general counsel of the Herndon, Va.-based National Risk Retention Assn.

'I think that the outlook is better this year than last year, which is better than the outlook the year before. This is a cumulative process.'

Robert H. Myers Jr.,
National Risk Retention Assn.

That's despite the fact that the continuing soft market means fewer captives are being formed. In addition, when Congress considers insurance, the focus tends to be on health insurance rather than property/casualty insurance, said Mr. Myers, who also is a partner with law firm Morris, Manning & Martin L.L.P. in Washington.

He noted that the National

Assn. of Insurance Commissioners has been working for years on trying to create parity or uniformity among captive domiciles that regulate RRGs. That process, which he said is near completion, would stifle any argument that RRGs are poorly regulated by the states.

"It helps us turn our attention to the behavior of the nondomiciliary states," said Mr. Myers. Some nondomiciliary states have ignored federal law and attempted to regulate RRGs domiciled in other states. Because the NAIC cannot require states to treat RRGs in a specific way, the case for a federal law is bolstered, he said.

"It's like playing Whac-A-Mole—hit it once and it comes up somewhere else," he said of nondomiciliary states attempting to regulate RRGs. "This is a federal statute with no agency oversight."

Jon Harkavy, vp and general counsel with captive manager Risk Services L.L.C. in Washington and a former director of governmental affairs and general counsel at

RIMS, said the idea of "lead state regulation" is not as alien as it was in 1981 and 1986.

Mr. Harkavy, who was involved in winning passage of the 1986 law, noted that the Nonadmitted and Reinsurance Reform Act, which became part of last year's Dodd-Frank Wall Street Reform and Consumer Protection Act, embraces the concept of lead-state regulation.

SIIA's Mr. Ferguson said proponents of allowing RRGs to offer property coverage will argue that the measure "is not necessarily an insurance bill, but this is a small-business bill."

It would provide more options for small businesses and would apply not only to buildings but to automobiles as well, he said.

"How can you reduce the cost of companies doing business?" asked Mr. Ferguson. He said there's "obviously sensibility" about taxes. "Our point is if you can help a company lower its insurance cost, that's every bit as good as a tax credit or tax cut," he said.

Captives: Usage still strong

CONTINUED FROM PAGE 3

thing is across both categories we've seen premium continue to increase," he said.

"The thing that we're hearing from our clients...is, 'How can I use my captive more creatively?'" Mr. Cormier said.

Regarding the trend toward more onshore formations, Mr. Cormier said it's likely attributable to the growing number of U.S. states with captive laws and the desire of some company management teams "to stay closer to home."

While the second factor might be more speculative, "the fact that there are more states offering an onshore alternative to an offshore domicile, that part is undeniable, I think," said Mr. Cormier.

The Marsh study also examined the European Union's impending Solvency II regulatory regime's potential impact on captives. At this point, the conclusion is that "it is going to require a further look from captive owners as to what does this mean to them," Mr. Cormier said, as well as a closer look by regulators as to whether it's necessary to apply increased capital requirements to captives.

This year's report was Marsh's fourth annual Global Captive Benchmarking Report. It focused on the activities of 750 Marsh captive insurance company clients, based on figures as of December.

To obtain a copy of this year's Marsh captive benchmarking report, go to www.marsh.com.

Exchange: Aon offers exchange plan for health cover

CONTINUED FROM PAGE 4

annual decisions on plan design and administration," Mr. Sperling said.

For insurers, the exchange offers the potential of tapping a bigger market, he said.

Aon Hewitt would be compensated through fees and commissions paid by insurers that participate in the exchange. Insurers would handle processing claims.

Health care observers say the concept is appealing, especially for smaller employers that want to offer more plan choices but

lack the staff to administer multiple benefit offerings.

Small employers "just don't have the staff," said Helen Darling, president of the National Business Group on Health in Washington.

"This model may make sense," said Daniel Cahill, national market leader in Cincinnati for My Medicare Advocate, a program offered by Xerox Corp.'s Affiliated Computer Services Inc., which, among other things, offers retiree health care coverage through a network of insurers.

Still, employer health insur-

ance exchanges won't be for everyone, some say. Large employers may want to continue offering their own customized plans as a way to distinguish themselves from others in the marketplace, said Michael Thompson, a principal with PricewaterhouseCoopers L.L.P. in New York.

While the health care coverage would be offered through an exchange, employers still would be plan sponsors. As a result, their premium contributions would be tax-deductible, while employees could pay their share

of the premium on a pretax basis, Mr. Sperling said.

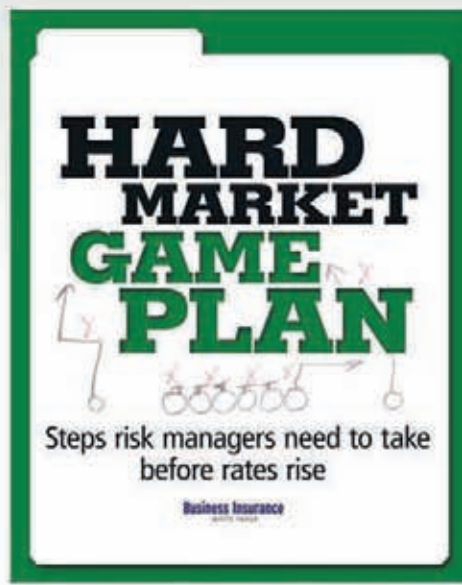
The exchange, which Lincolnshire, Ill.-based Aon Hewitt said it hopes to launch in 2012, would be an extension of a retiree medical exchange program it administers. About 50 insurers offer coverage to 2.4 million retirees and dependents through the program.

The average participant has access to 32 medical plan and 23 prescription drug plan choices, an Aon Hewitt spokesman said.

About 200 employers participate in the retiree program.

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AP PHOTO

Mud-covered parts at an Iwakia Diecast Co. plant at Yamamoto, Japan. A breakdown in supplies of parts from factories affected by the March earthquake and tsunami is creating problems for companies worldwide.

Supply: Disaster in Japan highlights challenges of catastrophe modeling

CONTINUED FROM PAGE 1

to measure property losses after catastrophes, not how a U.S. operation might be affected when it no longer can obtain necessary parts because a tsunami washed out a factory in Japan, modelers say.

Further complicating the matter is that modelers do not always know the proportion of the damaged properties that have business interruption coverage, which pays a company's expenses like rent and salaries when the business is shut down as a result of direct property damage. In some cases, it will cover damage that occurs as a result of an extended power outage.

Modelers are even less likely to know whether the policyholders have contingent business interruption coverage, which responds when a supplier's property is damaged, much less whether they are covered for the type of peril that affected the supplier.

"For instance, if you didn't have earthquake coverage and a quake takes out one of your suppliers, you may not have coverage," said Ken Giambagno, managing director and global practice leader of Marsh Risk Consulting's forensic accounting and claims services practice, a unit of New York-based broker Marsh Inc.

Moreover, "with contingent business interruption losses, many times the losses aren't felt until many months after the event. You're not going to shut down your operation until there's disruption to the supply chain,

which generally doesn't occur until after the inventory is exhausted," he said.

Missing pieces

Information typically embedded in catastrophe models includes things such as construction type, occupancy and height, said Vineet Jain, principal engineer at AIR Worldwide Corp., a Boston-based catastrophe risk modeling firm.

"Construction" refers to the type of building materials used.

they would not be included in the model."

"Unless all of those locations are included in the calculations, it's difficult to know the exposure. There's too much uncertainty. That's why AIR's estimates for the Japan quake and tsunami didn't include (business interruption)," Mr. Jain said.

EQECAT Inc., an Oakland, Calif.-based catastrophe risk modeling firm, has taken a similar position.

"It has been an elusive goal just

components," he said.

Risk Management Solutions Inc. could not be reached for comment.

While Swiss Reinsurance Co. Ltd. has its own catastrophe model, most insurers license the software of risk modeling companies.

Catastrophe models were principally established to compute "straightforward property loss," said Robert Hartwig, president and chief actuary at the Insurance Information Institute in New York. "Although business interruption is considered part of the property loss, inherently there's going to be a much greater degree of uncertainty with estimating (a business interruption) loss."

Commonalities

"The Japanese quake illustrates this, but so did events like (Hurricane) Katrina and 9/11. It's one thing to look at the twin towers and see what they're insured for; it's quite another to assess loss of net income and extra expense for businesses that were located there," Mr. Hartwig said.

In some catastrophes, policyholders may be able to mitigate their losses, which would further skew business interruption estimates if the modelers are unaware such developments are occurring, said Brad Murlick, managing director of disputes and investigations at Navigant Consulting Inc. in Chicago.

"Two companies could have a similar loss and have very different business interruption impacts. Some companies have the ability to use other manufacturing facilities or other suppliers. As you're seeing from the Japan situation, others are in a world of hurt in terms of not having diversity in their supply chains," Mr. Murlick said.

Furthermore, modelers are not always aware of the revenue stream, much less the profits, being generated by each property, said Robert Glasser, managing director of insurance claims at BDO Consulting Corporate Advisors L.L.C. in New York.

"You could have an office building where the first 10 floors are performing administrative work and the next 10 floors are sales, producing revenue. If they are displaced for a month, how can you determine in any model the value of lost profits? It would be so full of assumptions that the credibility would be very difficult to ascertain," Mr. Glasser said.

Because of catastrophe modeling's inherent limitations, insurers should not rely on them to assess risk as part of the underwriting process, said Andrew Castaldi, senior vp and head of catastrophe perils for Swiss Reinsurance America Corp. based in New York.

"Over the last few years, we have become too accustomed to just putting in the information and then accepting whatever comes out without question. It is important to tell our underwriters that cat modeling costing is just like fire costing. When we know that there is a certain component that could cause large business interruption losses, you modify your fire rate accordingly. But

when you're using a cat model, most of us don't apply the same modifications," he said.

"Models are not underwriters," Mr. Castaldi said. "The model is only a tool."

"What the risk-takers have done is taken these models" and tried to apply them to individual risks, "which makes no sense whatsoever," said John Dempsey, managing partner at Dempsey Partners L.L.C. in Wilton, Conn.

Incomplete information

Sometimes cat models are off because policyholders do not always provide insurers with accurate values to calculate potential business interruption exposures, industry experts say.

"Policyholders don't always want to share intimate information," said Mr. Dempsey. "Or, if a company doesn't know its own risks, they don't want their insurers to know that."

The lack of such information often affects insurance pricing.

"You could be covering something you're not aware even exists. For example, some contracts may have (business interruption) and (contingent business interruption) with no sublimits. In these instances, losses could exceed the estimated exposures that the underwriter based their risk costing on, which could, in effect, provide coverage far in excess of what they contemplated," said Mr. Castaldi.

But "not all insureds understate their values," said Mr. Dempsey. "There are an equal number of companies that overstate their values."

If that is the case, they could be paying more for business interruption insurance than is necessary, he said.

"Many people are naively buying these products. They don't fully understand how they're going to apply to their particular needs. They need to evaluate their business interruption exposures," said J. Wiley Donald, a partner in the Wilmington, Del., office of McCarter & English L.L.P., who represents policyholders in insurance coverage disputes.

For example, "if you're doing supply chain risk management, you have to figure out the risks associated with every step in the manufacturing process," he said.

Models should serve as "the starting point for assessing the risk," Matthew Jones, global head of catastrophe management at Zurich Financial Services in Hampshire, England, said in an email. "It is important that we do not rely purely on models or treat them as 'black boxes.'"

Because of their limitations, Factory Mutual Insurance Co. doesn't use models "at all" in the underwriting process, said Jeffrey Beauman, manager of all-risk underwriting at the Johnston, R.I.-based insurer, which does business as FM Global. "We use engineers to perform assessments."

"Until a modeling company is geared toward the way industries work, instead of site-specific locations, they will not be able to replicate business interruption appropriately," he said.

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"Occupancy" pertains to how the property is being used, such as an office or factory. "Height" can be a one-story industrial park or a high-rise, he said.

Although catastrophe modelers generally have access to information about the physical characteristics of a property, "we don't have information like whether the policy covers contingent business interruption," Mr. Jain said. Even if they did, "if the losses are occurring outside of the affected region,

to quantify how many companies have a sensitivity to a small, third-tier port in Japan that had damage and is triggering these contingent business interruption losses throughout the world," said Tom Larsen, EQECAT's senior vp and product architect.

"So we don't make an estimate for contingent business interruption. To build a numeric quantified model, you would have to build a whole logistics scheme and understand all the critical

News In Brief

CONTINUED FROM PAGE 1

coverage, 37% said they believed their internal information technology departments and controls were adequate to address their cyber risk exposures.

Brazil urged to review reinsurance rules

A group of 18 international insurance associations has written to the Brazilian government to voice their concern that two reinsurance regulations recently enacted in Brazil will have a negative impact on the country's insurance market. The two regulations, which came into force March 31, require 40% of reinsurance business to be placed with Brazilian reinsurers and prohibit local insurers and reinsurers from ceding more than 20% of premiums to affiliated, intragroup reinsurers located abroad.

Investments, contributions aid pension funding

Aided by solid gains in the equities market and increased employer contributions, the nation's largest employer-sponsored pension plans improved their funding levels in 2010, according to a Towers Watson & Co. analysis. Towers Watson's analysis of financial statements filed by sponsors of the 100 largest pension programs found that plans on average were 83.4% funded at the end of 2010, an improvement from the prior year, when plans on average were 80.2% funded.

Cat bonds downgraded due to disaster, model

Standard & Poor's Corp. downgraded a catastrophe bond backing Platinum Underwriters Holdings Ltd., saying investors in Topiary Capital Ltd. are at risk of losses from subsequent catastrophes. S&P said the downgrade of Topiary Capital's Series 2008-1 notes to CCC+(sf) from the previous BB+(sf) reflects losses due to the earthquake and tsunami in Japan. S&P also placed its ratings of 16 natural peril catastrophe bonds issued by

insurers under review for a possible downgrade due to Risk Management Solutions Inc.'s updated hurricane model.

Worker suit disallowed in bedbug infestation

The high-profile bedbug lawsuit involving a former Fox News employee who sued the landlord of the building she worked in was thrown out this month by a New York Supreme Court judge, who stated that workers can't hold their employers' landlords responsible for injuries on the job. Judge Carol Robinson Edmead wrote in her decision that Jane Clark, who worked as a Fox News satellite feed coordinator, had "no contractual relationship" with the property defendants in the case and dismissed the case. Ms. Clark's case marks the first time a worker sued an employer's landlord over bedbugs. Her attorney told the Associated Press that they planned to appeal the dismissal.

Ruling favors state in retaliation suits

The state of Texas, including its political subdivisions, is immune from workers compensation retaliation lawsuits, the Texas Supreme Court ruled. In its decision, the Texas Supreme Court cited its 1995 ruling in a case in which it held that the governmental immunity of political subdivisions from retaliatory discharge claims under the statute is waived. However, the Texas Legislature made several changes to the Workers Compensation Act in 2005. The Political Subdivisions Law was one of several state Labor Code chapters affected by the changes, and this affects its earlier decision, the state high court ruled last week. As a result, Texas and its political subdivisions are immune from workers compensation retaliation claims, the Texas Supreme Court ruled, overturning two lower court decisions and dismissing the case.

Reserves, pricing cause P/C failures: Best

Most of 11 financially impaired property/casualty companies that failed last year did so because of deficient loss reserves and inadequate pricing, with underlying themes of overstated assets and reinsurance disputes, A.M. Best Co. Inc. said in a special report. Best also concluded that some already vulnerable insurers were pushed into impairment by the adverse operating environment.

Benchmark: Rates fell in first quarter

CONTINUED FROM PAGE 3

trigger higher rates," Mr. Bradford said.

Frederick Savage, a member of RIMS' board of directors, made much the same point.

"The earthquakes in New Zealand and Japan are reminders as to how vulnerable the U.S. is to devastating catastrophes," Mr. Savage said in a statement announcing the survey results.

"A big earthquake or hurricane could cause premiums across the board to change dramatically," Mr. Savage said. "It is still relatively early on in the year with the Gulf of Mexico hurricane season still to come; but barring a large catastrophe, 2011 looks to be another year of competitive pricing. There certainly is no shortage of capacity in most lines."



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Pricing may increase for cat-exposed risks

Despite large natural catastrophe losses during the first quarter, increases in insurance rates were confined to loss-affected business, New York-based broker Marsh Inc. said in a report released last week.

For classes of business not affected by the catastrophes, there has been little change in market conditions during the quarter and capacity remains plentiful, according to the report, "Spring 2011 Insurance Market Update."

Rate reductions for some property business may be seen, but buyers with catastrophe exposures may be faced with rate increases at renewal, Marsh said.

Although the market has not turned, many insurers' and reinsurers' 2011 catastrophe budgets already have been eroded or exceeded because of losses including the March earthquake and tsunami in Japan, the February earthquake in New Zealand and floods in Australia at the start of the year.

Additional catastrophe losses could affect reinsurance pricing, according to the broker's report.

In the near term, rates are likely to increase up to 25% for property risks exposed to earthquakes in Japan, while business exposed to earthquakes in New Zealand likely will see rate increases of up to 10%, Marsh said.

Risks exposed to earthquakes in California likely will see rates that are flat to 5% higher, while business exposed to Caribbean windstorms could see rate increases up to 10%, the broker said.

Still, there are some areas where rate reductions may be seen, according to the report.

For U.S. casualty business, rate reductions may still be achievable at upcoming renewals, while directors and officers coverage for financial institutions may see rate reductions of up to 10% because new D&O claims against U.S. financial institutions have declined, Marsh said.

Small rate reductions are being achieved on commercial D&O business and other classes of U.S. casualty business continued to see small rate reductions during the first quarter, Marsh said.

—By Sarah Veysey

Insurers agree to \$8M drywall settlement

By JEFF CASALE

NEW ORLEANS—Insurers for a Chinese drywall supplier involved in federal multidistrict litigation in New Orleans have agreed to pay up to \$8 million to settle litigation against the company over damage to homes.

The settlement agreement reached last week between Interior/Exterior Building Supply L.P. and its insurers—Arch Insurance Co. and Liberty Mutual Fire Insurance Co.—still must be approved

by a U.S. district court judge.

The settlement amount is the limits of the supplier's policies with Arch and Liberty Mutual. Previous payments and settlements of claims against Interior/Exterior will be deducted from the fund, according to court documents.

If approved, the settlement will cover a share of claims from homeowners, which are estimated to be in the thousands, who alleged that the imported drywall caused problems in homes rang-

ing from corrosion of wiring, electronics and appliances, to foul odors and ill health effects.

New Orleans-based Interior/Exterior supplied the drywall made by Chinese manufacturers—Knauf Plasterboard Tianjin Co. and Taishan Gypsum Co.—to builders in Alabama, Louisiana, Mississippi and Texas, according to court documents. The drywall was used primarily in building homes throughout the U.S. Southeast during the post-Hurricane Katrina housing boom.



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Insurers boot legless skiers

U.K. residents on holiday are being warned that indulging in too much “après ski” could void their travel insurance. According to research by the Assn. of British Insurers, one in five U.K. skiers admit to overindulging in alcohol during their vacation, while 40% say they have skied while nursing a hangover.

But accidents that occur while skiers still have alcohol in their bloodstream may not be covered by insurance, said Post Office Ltd., a subsidiary of Royal Mail Group Ltd.

As well as increasing the likelihood of accidents, excess alcohol in the bloodstream could render travel insurance policies invalid, London-based Post Office said.

“Most people wouldn’t dream of drinking and driving, but hitting a ski slope under the influence of alcohol can be just as dangerous,” Rachel Croft, Post Office’s travel insurance product manager, said in a statement.

And the risk of invalidating travel insurance cover could result in a nasty surprise, she warned. Medical costs associated with winter sports holidays can run into thousands of dollars, she said.

Still, the ABI said 31% of people in the survey said they did not insure their winter sports holidays.

Nude skydiver eyes phone claim

When considering damage that can befall cell phones and mobile devices, the usual scenarios may come to mind: dropping them down a flight of stairs, slipping out of hand into a puddle, or sitting on them.

But according to ProtectYourBubble.com, a unit of Assurant Direct Ltd., the Windsor, England-based gadget insurer surveyed claims filed under its iPhone protection line. According to the company, users are finding all manner of curious methods of ruining their iPhones.

A nude skydiver’s claim that he dropped his iPhone4 while trying to photograph himself in free fall was among the strangest filings the company said it received last year, according to the company.

Other users filed claims after their phones were “accidentally buried in the garden” or “dropped into a food blender,” the company said.

About one in five people who bought an insurance policy from Protect Your Bubble for their iPhone filed a claim for damaged or lost property last year, the company said.

“With so many people carrying an iPhone with them wherever they go, it’s no surprise that they are being lost or damaged in a host of unusual ways,” a Protect Your Bubble spokesman said.



Business Insurance END PAGE

Contributing: Jeff Casale, Matt Dunning, Sarah Veysey, Joanne Wojcik



Oklahoma resident Christine Carr is able to keep her kangaroo, Irwin, after an anonymous donor paid for his insurance coverage.

Kangaroo owner jumping for joy

A disabled kangaroo and its human caretaker can rest a bit easier since someone has covered their potential liabilities with a \$50,000 insurance policy.

Broken Arrow, Okla., resident Christine Carr needed the coverage if she wanted to keep a red kangaroo named Irwin in her home due to a city ordinance, the Tulsa World newspaper reported. During an earlier city council meeting, Ms. Carr told council members that she could not afford the insurance premium to keep the kangaroo.

Ms. Carr has been caring for Irwin since he was a joey—a young kangaroo—that ran into a fence at Safari’s Interactive Animal Sanctuary in Broken Arrow, suffering injuries that left him disabled and

stunted his growth, according to the newspaper.

Lucky for Ms. Carr and Irwin, an anonymous person came up with the premium to pay for the insurance. Bloomington, Ill.-based Start Farm Mutual Automobile Insurance Co. told Ms. Carr recently that Irwin was fully insured and that the person who bought the policy for her wanted to remain anonymous.

Broken Arrow reportedly banned exotic pets after a resident was discovered keeping two lions. But city officials said they are planning to revise the exotic pets ordinance to allow them under certain conditions, which includes insurance in case the animal injures someone, reports said.

Cast members not so ‘happy’ about royalties

Several former cast members of the popular 1970s and 1980s sitcom “Happy Days” are no longer groovin’ after learning they may have been stiffed of royalty payments for using their images in a variety of merchandise.

When they recently discovered their images also were being used on slot machines, they decided it was time to hire Santa Monica, Calif.-based attorney Jon Pfeiffer to sue CBS Studios Inc. and Paramount Pictures Corp., a unit of Viacom Inc., for breach of contract.

“‘Happy Days’ epitomizes what is best in America with the Cunningham family exemplifying the best of what a family can be. As will be proven at trial, defendants’ actions epitomize what is worst in corporate America, exemplifying the worst business practices,” asserts the lawsuit filed April 19 in Los Angeles County Superior Court.

Despite a provision in the actors’ contracts requiring the studios to share net proceeds for using the actors’ names, voices, likenesses or endorsements in connection with merchandising rights, the studios did not provide periodic revenue statements. When the actors inquired about royalties, they were told by the plaintiffs they had none coming.

But the actors say they are entitled to more than \$10 million, plus interest.



In response, CBS said: “We agree with the actors that they are owed royalties from the merchandising of ‘Happy Days’ and have, in fact, been working with their representatives for some time to see that they are paid what they are due. What is in dispute here is the amount of money they are owed, based on the revenue that has been generated by merchandising of the show.”

The plaintiffs are actors Anson Williams (Warren “Potsie” Weber), Marion Ross (Marion Cunningham), Don Most (Ralph Malph), Erin Moran (Joanie Cunningham) and the estate of Tom Bosley (Howard Cunningham). Ron Howard (Richie Cunningham) and Henry Winkler (the Fonz) are not parties to the litigation.

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