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**HOW TO RETAKE CONTROL
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inBrief

U.S. could profit on AIG bailout: GAO

The federal government ultimately could recoup more than \$15 billion in profit from financial assistance that it provided American International Group Inc., the Government Accountability Office said. As of March 22, the government's remaining assistance to AIG totaled \$46.3 billion. That was down from \$92.5 billion in March 2011 and \$154.7 billion in December 2010.

Commercial P/C rates rose in first quarter

Pricing for commercial property/casualty insurance accounts increased an average of 4.4% during the first quarter this year compared with the same period last year, according to a by the Council of

See **IN BRIEF** page 21

SPOTLIGHT

ELECTRONIC PLACEMENT OF INSURANCE

Brokers tap new technology; data standards adapt; exchanges strive to integrate information; broker uses the cloud to offer E&S lines portal. **PAGE 9**

WORKERS COMPENSATION

Audit reviews turning up errors

Employers looking to reduce comp premiums find clerical slips that can cost them dearly

By **SHEENA HARRISON**

With workers compensation rates firming, some employers are pressing for reviews of their workers comp audits with an eye to lowering their premiums.

Some of the those reviews are turning up clerical errors and misclassifications that can cost employers as much as hundreds of thousands of dollars in overpaid premiums and adversely affect their financial profile.

By checking industry classifica-

tions and experience modification calculations, companies can ensure that their comp premiums are in line with their employment numbers and loss experience, said Lisa D. Costello, senior risk consultant at Willis North America Inc.'s strategic outcome practice in Overland Park, Kan.

"I think more clients will request this service as the (workers comp) rates increase and those increases get traction in the marketplace," Ms. Costello said. "I think the better question is: How

'I think the better question is: How many employers or insureds know that there's even an issue?'

Lisa D. Costello,
Willis North America Inc.

many employers or insureds know that there's even an issue?"

Ms. Costello said about one out of five audits that Willis reviews

for clients have clerical errors, while about one in three ex-mods includes a mistake. About 10% of Willis' clients that go through the audit review process receive a partial premium refund, she said.

Aside from the total cost of workers comp coverage, Ms. Costello said such errors can affect a company's lending profile and even its ability to win contracts.

"This is a significant problem for contractors, because if their (ex-mod) is incorrect because of a clerical error, they're prevented from bidding jobs and they may not secure the bid because their mod is too high," she said.

See **AUDITS** page 17

RISK MANAGEMENT

City readies for trouble at NATO Summit

Chicago firms face surge of protesters

By **RODD ZOLKOS**

CHICAGO—As they prepare for the risks associated with next week's NATO Summit in Chicago, a common theme of property owners, risk management experts and others working with downtown Chicago businesses is that the necessary preparation largely comes down to basic risk management.

It's the sort of preparation that should be applied anytime a simi-



Chicago police officers protected a bank entrance while protesters gathered nearby during a May Day march. More protests are expected during the NATO Summit next week.

AP PHOTO

lar high-profile event is close to a business' offices or properties, experts say.

The May 20-21 event headed by

President Barack Obama is expected to draw 7,000 delegates from 50 countries and 2,500 international journalists.

The summit also is expected to draw thousands of protesters. Among other things, National Nurses United has a protest event planned for Friday and a major demonstration of several groups is scheduled for Sunday. In addition, protest groups announced plans for a May 21 demonstration outside The Boeing Co.'s headquarters with the goal of shutting down the office.

Boeing officials reportedly said

they were reviewing the situation.

While the FBI said it believes a terrorist attack during the summit is unlikely, it indicated that it is a possibility it is addressing.

Among summit-related precautions, the airspace over downtown Chicago will be closed during the event, the harbor near the McCormick Place convention center where the bulk of summit activities will occur will be cleared and various road closures and parking bans will be put in place.

While the FBI allowed Amtrak

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Business Insurance

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1. GALLERY: Highest-paid execs at largest listed U.S. P/C insurers
2. GALLERY: Highest-paid execs at largest public brokers
3. P/C insurance rates up 3% in April: MarketScout
4. Commercial P/C market has turned: Council president
5. Muslim woman wins \$5.1M judgment in work bias suit
6. Fraud case vs. AIG ex-CEO Greenberg cleared for trial
7. Ryan Specialty, CRC employee-poaching dispute settled
8. Couple retiring in 2012 needs \$240,000 to cover medical costs
9. Aviva CEO quits as investor revolts gather pace
10. Three unwanted touches in five months are sexual harassment

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QUESTIONS & ANSWERS



Mario Vitale is co-CEO of Aspen Insurance in New York. During the Risk & Insurance Management Society Inc.'s recent annual conference in Philadelphia, he spoke with Business Insurance Senior Editor Mark A. Hofmann about the current and future challenges facing the insurance industry.

Aspen chief sees market turning firmer

Q: What are the major issues facing the insurance industry in 2012?

What I'm hearing mostly being discussed in Philadelphia are a couple of issues. One, prices are starting to rise and necessarily so, particularly in areas where there've been a lot of catastrophe losses, and that includes in the United States. There's a lot of need to move up in rates, not including inflationary costs. You'll see cat-exposed property most often talked about as to how it's increasing. No lines of business seem to be decreasing any more, which is good news. The amount of the increase is dependent upon the line, but just about everything's moving up. After seven years of the soft market, it actually is quite necessary if you look at that combined with the lack of investment income that's coming from the financial markets. The high amount of cat activity in general—that's really taken everybody by surprise last year, including Japan, Thailand and in the U.S. tornadoes, which of course is continuing this year.

I also hear that a big topic is contingent business interruption, supply chain interruption. We've seen countless examples in the last two years about how much just-in-time supply chains have been affected by all of the catastrophes, including what happened in Thailand and Japan and Iceland with the volcano. It's really just amazing. Certainly for lines of business like workers compensation, everybody's talking about drastic price increases, although Aspen U.S. doesn't participate in that line of business by choice.

The other issues that are facing the market include what can we do to finally improve the

See **VITALE** page 21

SURPLUS LINES

Surplus lines pacts under pressure

Withdrawal of three states casts doubt on arrangement

By **MIKE TSIKOUDAKIS**

Three states' withdrawal from the Nonadmitted Insurance Multi-State Agreement has raised the question of whether there will be a clearinghouse arrangement to collect and distribute surplus lines premium taxes.

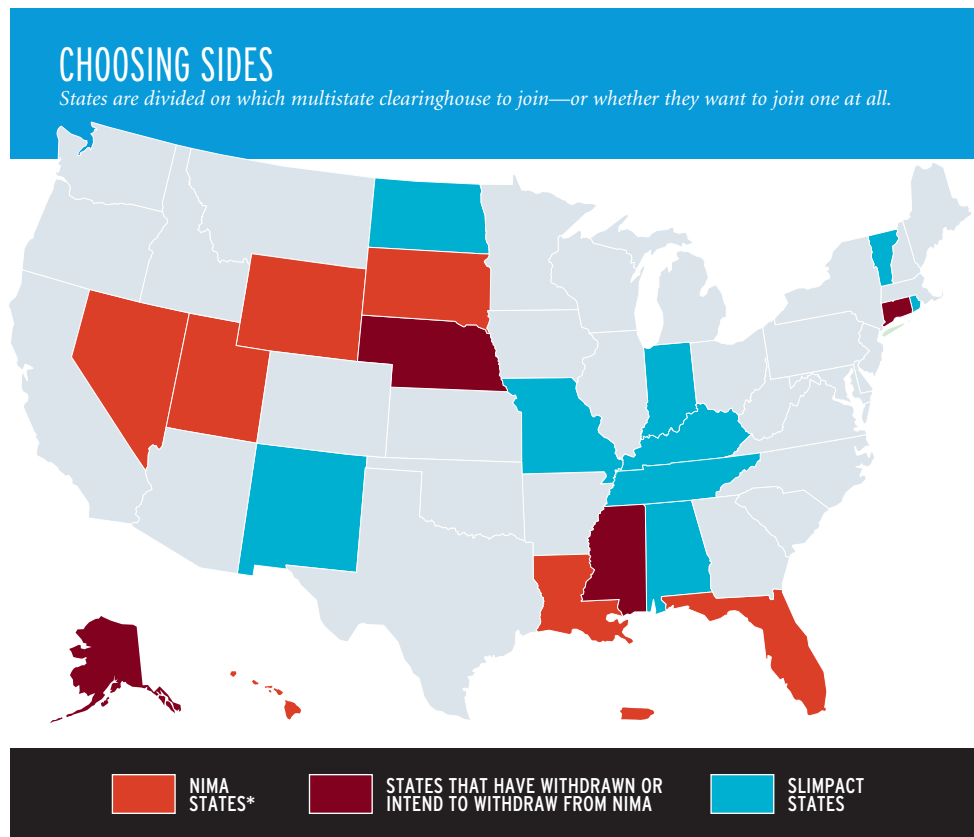
Alaska, Connecticut and Mississippi this month filed their intent to withdraw from NIMA, citing operational, administrative and technological challenges, a trend experts say is expected to continue with other states.

Rival clearinghouse plans have been developed in response to the Nonadmitted and Reinsurance Reform Act, which is part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and took effect July 21, 2011.

The law stipulates, among other things, that only the home state of a policyholder can collect premium taxes. It requires state legislatures to approve a method to allocate the taxes to other states where the surplus lines coverage was in effect.

In addition to Alaska, Connecticut and Mississippi's intent to withdraw from NIMA, the Nebraska Department of Insurance withdrew in January, also citing administrative difficulties. With the three states' withdrawal, that would leave the number of participating states at eight (see map).

Despite the recent dropouts, the NIMA arrangement is scheduled to become operational on July 1, said Jack McDermott, direc-



tor of communications for the Florida Office of Insurance Regulation, which also houses the NIMA website and signature documents for members.

"We are hopeful that, over time, other states will see NIMA's success in providing the

See **SURPLUS** page 17

PROPERTY/CASUALTY INSURERS

Greenberg plans appeal of ruling ordering trial

Former AIG chief scores partial victory in Spitzer-era suit

By **MARK A. HOFMANN**

NEW YORK—Former American International Group Inc. Chairman and CEO Maurice R. Greenberg plans to appeal a ruling allowing a New York state lawsuit against him and another former AIG executive to go to trial in an alleged sham reinsurance deal.

But in its ruling issued last week, a divided five-judge panel of the New York State Supreme Court's Appellate Division 1st Department also held that a lower court acted prematurely when it granted summary judgment for the state to hold Mr. Greenberg and former AIG Chief Financial Officer Howard Smith liable for damages stemming from what the state alleged was a sham reinsurance transaction involving Capco Reinsurance Co.

The case dates back to 2005, when then-New York Attorney

General Eliot Spitzer alleged that Messrs. Greenberg and Smith were involved in devising the sham reinsurance deals involving Capco and General Re Corp. to make AIG's financial results look better.

While four former Gen Re executives and one former AIG executive were found guilty in 2008 of violating federal law in the Gen Re case, they were granted a retrial—expected to begin next year—in March. Neither Mr. Greenberg nor Mr. Smith ever faced criminal charges in the matter.

In the state's civil case against Messrs. Greenberg and Smith, New York State Supreme Court Justice Charles Ramos issued a summary judgment in 2010 that Messrs. Greenberg and Smith were liable for the alleged improper use of Barbados-based Capco as a shell corporation to take on auto warranty losses that AIG generated in the mid-1990s to remove them from the insurer's books.

However, Justice Ramos refused to grant summary judgment on allegations related to the Gen Re



BLOOMBERG

Though not entirely successful in avoiding a lawsuit filed against him over a sham reinsurance deal, former AIG head Maurice R. Greenberg won relief from a summary judgment ruling in New York state court.

transaction, saying that while the facts "strongly suggest knowledgeable conduct on the part of Greenberg," the evidence against him was "too remote" to charge him at the time when confronted with his denials.

Messrs. Greenberg and Smith appealed, arguing that federal securities law trumped the state action. However, the state appellate court disagreed last week.

"Nothing in the federal legislative scheme indicates that

Congress intended to pre-empt this action," the majority decided in an unsigned opinion that opened the way for the Capco and Gen Re allegations to go to trial.

However, New York Appellate Court Associate Justice James Catterson dissented in part, holding that federal securities law should block the state action.

See **GREENBERG** page 19

INTERNATIONAL

Lloyd's long-term plan targets emerging markets

Vision 2025 seeks growth, more diverse capital base

By MARK A. HOFMANN

LONDON—Lloyd's of London is looking toward new markets for growth and financing as part of its long-term strategy, Vision 2025, unveiled last week.

"It is a strategy for growth," Lloyd's Chairman John Nelson said in a statement. "Lloyd's is a profitable international business, but we want to make sure we become the true global hub for specialist insurance and reinsurance."

"Vision 2025 will be a real challenge for the Lloyd's market to execute," Mr. Nelson said. "The benefits, though, could be sub-

stantial, not only for Lloyd's but also for the City of London and the U.K. economy."

In addition to the greater emphasis on emerging markets, the strategy calls for Lloyd's to grow premium income in established markets at least in line with their economic growth; diversity its capital base "with a greater contribution from the leading growth countries;" become a truly internationalized underwriting community with more overseas nationals in the Lloyd's market; make maximum use of brokers' international networks; and establish a small number of "powerful overseas hubs."

Hank Watkins, New York-based president of Lloyd's America Inc., said the new strategy looks further into the future than Lloyd's traditional three-year plans. "We



Mr. Watkins

want to be the world's premier market for specialist insurers and reinsurers," he said.

Lloyd's wants to make sure "we're first in

line" to deal with the specialty insurance needs of emerging markets, he said.

The initiative drew praise from a variety of sources.

"I welcome the drive and ambition with which Lloyd's is pursuing plans for where it wants to be in 2025," British Prime Minister David Cameron said in a statement. "This is a great example of the bold and dynamic approach we need as we work to foster sustainable economic growth across the country."

"As with all visions, it makes intent expressly indicated," said Carl Beardmore, CEO of BMS Group Ltd. in London. "It makes it easier to understand the direction the organization is taking, and makes it

See **LLOYD'S** page 18



CYBER RISKS

Cyber security bills hit federal roadblock

Regulation, privacy top concerns

By JUDY GREENWALD

WASHINGTON—Issues of whether business' cyber liability risks should be regulated and privacy protection are standing in the way of needed federal cyber security and privacy legislation, experts say.

Several bills with varying approaches have been vying

See **CYBER** page 18

EMPLOYMENT PRACTICES

Damages upheld for gay worker

Court ruling extends employees' protection in hostile workplace

By JUDY GREENWALD

HARTFORD, Conn.—In its first ruling on the issue, the Connecticut Supreme Court has upheld a hostile work environment claim brought by a gay employee.

In a unanimous ruling earlier this month in *Luis Patino vs. Birken Manufacturing Co.*, the court upheld a jury's award of \$94,500

in punitive damages against the Bloomfield, Conn., firm.

Mr. Patino, who had worked at Birken as a machinist from 1977 until his November 2004 termination, said he was subjected to years of slurs for homosexuals in Spanish, Italian and English.

According to the ruling, the company's responses to Mr. Patino's complaints included a letter from Gary Greenberg—then the company's vp and general counsel and now its president—in which he recommended Mr. Patino be evaluated by a psychologist "because the plaintiff's job

required him to work with precision instruments and he thus posed a safety risk to others when his mental facilities were compromised."

The issues raised by the company in its appeal were that state law does not provide for hostile work environment claims; even if such claims could be brought under state law, the plaintiff presented insufficient evidence to support the jury's finding of a hostile work environment; and the award was unsupported by the evidence and

See **HOSTILE** page 21

BI adds events, research staffers

Business Insurance has added to its research and events staff with appointments in Chicago and New York.

Angelina Villarreal has joined the publication as director of research in Chicago, where she will lead and expand *BI's* research initiatives.

Ms. Villarreal has 15 years of experience in research, including experience in market segmentation, consumer insights and customer satisfaction. Previously, she was vp-consulting and research for GfK Custom Research North America, a global market research firm. Ms. Villarreal also spent seven years leading research initiatives for CNA Financial Corp., the Principal Financial Group and Safeco Insurance, a Liberty Mutual company.

She holds a Ph.D. in business administration from the University of Pittsburgh with a major in marketing strategy and consumer behavior and a minor in applied statistics. She also holds a master's in economics from the Universidad de Nuevo Leon in Monterrey, Mexico, with a major in econometric models.



Ms. Donato

Ms. Villarreal can be reached at avillarreal@businessinsurance.com and at 312-649-5412.

Separately, Martha Donato has joined *Business Insurance* as director of events and brand marketing in New York. Ms. Donato will develop the publication's existing events, add new events to *BI's* growing portfolio and take on brand marketing responsibilities.

Previously, Ms. Donato ran her own events management firm,



Ms. Villarreal

MAD Event Management.

Major events that she has conceptualized and produced include Comic Con International, an annual exhibition that attracts about 10,000 attendees.

She holds a bachelor of science degree in organizational management and communications from Marist College.

Ms. Donato can be reached at mdonato@businessinsurance.com and at 845-545-0653.

Errors & Omissions

The name of Finley T. Harchham, a shareholder with Anderson Kill & Olick P.C. in New York, was misspelled in "Litigating Coverage Dispute Requires Cost-Benefit Analysis" in the May 7 issue of *Business Insurance*. He also was misidentified as Mr. Finley in "Insurance Case Alternative Dispute Resolution Often Best."



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Taking control in a crisis

Violent work incidents require gaining control of information flow

By MATT DUNNING

The degree to which a mid-market company effectively manages internal and external communications may greatly affect its ability to recover physically and financially from a violent incident in the workplace, several security and risk management experts say.

Mapping out the multiple lines of communication, internal responsibilities and messaging protocols that will be called upon in the event of a violent incident can minimize confusion and anxiety among employees, stem the spread of false or misleading information in the media, and reduce conflicts with first responders and investigators, experts said.

Failing to do so could leave mid-market firms with gaping—and costly—exposures to reputational harm; civil and regulatory liabilities such as workplace safety or employment practices compliance; protracted facility downtime; and, in some cases, property damage and secondary injuries to employees. And while those exposures exist for companies of all sizes, the financial damage they might inflict would be proportionally greater for small and midsize firms, where emergency cash reserves are typically much lower than those of large corporations.

“The idea is to anticipate impacts and consequences, to recognize an event not just for the basic fact of it, but for its broader implications it might have for the organization,” said Tracy Knippenburg Gillis, the New York-based global reputational risk and crisis management practice leader at Marsh Risk Consulting.

Any emergency communications program, including one tailored to address workplace violence, should begin with internal assignments of key responsibilities employees and executives will handle during and immediately following an event, experts said. Of primary importance is establishing an emergency chain of command, one that spells out clearly for employees which staff members will instruct the rest of them during and after an incident.

Drafting a chain of command for emergency communications ahead of time gives employers the chance to consider which employees can best guide the rest of the workforce in a calm and safe way during a crisis.

For example, anyone on staff with emergency response experience would be useful as a group leader.

Not only do those preparations reduce the risk of injury during an incident, they also can significantly reduce trauma or emotional strain that can linger long after



‘The idea is to anticipate impacts and consequences, to recognize an event not just for the basic fact of it, but for its broader implications it might have for the organization.’

Tracy Knippenburg Gillis, Marsh Risk Consulting

an event is over.

“The biggest mistake employers make when dealing with a workplace violence situation is that they don’t know who to go to or what to say, and they’re usually reacting in a very emotional manner rather than carrying out a prepared and well-understood script for what to do in an emergency,” said Tina Downey, a senior vp at Norristown, Pa.-based Procura Management Inc. “As a result, they reach out to

employees that they really shouldn’t because they can escalate or compound the problems.”

This can be especially crucial at large worksites with multiple facilities, where a lack of leadership can cause confusion or even disputes among workers.

“One of the worst things that you can do as an employer is leave open the opportunity for conflict in leadership, where you have multiple people trying to take over control

Communication plan should be in place before a crisis hits

With a well-organized, comprehensive emergency communications plan, mid-market companies can significantly reduce the risk of long-term physical, emotional and financial fallout resulting from a violent incident in the workplace, security and risk management experts say.

Conversely, failing to develop communication protocols can inflict additional damage on a company.

To bolster a company’s emergency communications plan, experts recommend:

- Establishing an internal chain of command for crisis management directives and information, including designated group leaders for employees in segmented locations. Consider factors such as physical health and temperament when selecting emergency leaders.

- Appointing media and community relations specialists to field inquiries from local officials, community groups, news organizations and other civilians. Make certain the specialists are trained to handle interactions with live media and are given clear directives on appropriate messaging.

- Reaching out early with public communications that express concern for the victims of an incident, emphasize the company’s cooperation with investigators and outline any internal measures being taken to prevent future incidents.

- Starting external communications with media and other stakeholders as soon as possible to head off misleading or incorrect information. Instruct employees to allow designated managers and representatives to handle such external communications.

- Providing emergency numbers for quick telephone contact with local officials, as well as ample details on emergency response planning, security programs, facility layouts and other relevant information.

—By Matt Dunning

of an event,” said Sean Ahrens, Aon Global Risk Consulting’s Chicago-based security consulting practice leader. “Those multiple leaders might all want essentially the same thing—to get the company through the incident and back to a normal state of operation—but (having multiple people trying to take charge) can work against you in the long run.”

Continued on next page

CONTINUED FROM PREVIOUS PAGE

Mismanagement of external communications during and after a violent on-site incident typically results in bad publicity, which can strain relationships with customers or business partners for years after the actual event, experts said. Damage to a mid-market company's reputation or brand can be particularly devastating, especially if it is unprepared for the heightened scrutiny that typically accompanies workplace violence.

As such, media and community relations are vital roles that mid-market firms must assign well before a crisis occurs (see related story, page 6).

"You have to identify ahead of time who will be your spokespeople and make sure that they know how to stay on point when talking to the media," said Nancy Hamlet, vp of marketing at Duluth, Ga.-based Healthcare Solutions.

With the right media and community relations representatives in place, experts said employers can work internally or with crisis communications experts to develop and deploy messaging protocols that emphasize concern for the victims of an incident, cooperation with investigators and other officials, and ongoing internal steps to prevent future incidents, experts said.

Those preparations will better position a company to provide effective early responses to investigator and media inquiries.

"You can't wait, because if you don't begin communicating immediately about an event, people are going to start drawing their own conclusions," Mr. Ahrens said, noting that the ubiquity of text messaging and other smartphone technology has made containment of information particularly challenging.

The best remedy, he said, is for firms to get as far ahead of unfiltered information as possible.

"There needs to be a more simultaneous approach to getting information to your staff for their safety while incorporating the PR side of things," Mr. Ahrens said. "That gives you the opportunity to present the story that you want to present, rather than having people getting incomplete information via text message or whatever other medium is out there, and having a different view of the event."

And while much of the initial scrutiny during and immediately after an incident will be at the hands of investigators and members of the media, mid-market firms should be especially careful not to overlook the needs of the community in which their facility is located.

"These kinds of incidents have a very real likelihood of impacting the community immediately surrounding the organization's site," said Kevin Wilkes, a Pittsburgh-based vp and security practice leader at Willis North America. "It's important for organizations to reassure their community that they intend to thoroughly investigate the event and take every step they can to prevent it from hap-

pening again."

Mid-market firms also need to incorporate local law enforcement and any relevant state or federal regulators—such as the Occupational Health and Safety Administration—into their communication models during and after an incident, experts said. Employers that provide law enforcement agencies with key emergency contacts, security programs and emergency codes can greatly reduce the chances that an employee is harmed during a police response, while providing first responders with building schematics can lower the risk of damaged property or other physical assets.

"With that kind of model, you have the opportunity to bring



together all of these collaborative resources that, really, are all work-

ing toward the same goal, and that's managing and recovering

'There needs to be a more simultaneous approach to getting information to your staff for their safety while incorporating the PR side of things.'

Sean Ahrens,
Aon Global Risk Consulting

from the event in the best way possible," Mr. Ahrens said.



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Opinions

EDITORIAL

Time for action on cyber threat

WHILE REPUBLICANS and Democrats squabble over cyber security legislation provisions, businesses are being left in the lurch.

There are critical areas of dispute in legislation that Congress is considering. Republicans have said a bill proposed by Sen. Joe Lieberman, I-Conn., is too regulatory and that businesses should not have to contend with more rules. Meanwhile, others have questioned whether businesses can effectively address these issues on their own.

Another major stumbling block is privacy concerns and the extent to which these will be protected under the various bills. For instance, the Obama administration has contended that the bill passed by the House in April, the Cyber Intelligence Sharing and Protection Act, would repeal important provisions of electronic surveillance law without introducing corresponding privacy safeguards.

These are legitimate issues for Congress to consider and, hopefully, resolve.

But in the meantime, businesses are being left with a patchwork of state laws in the area of cyber security and privacy that have made it increasingly difficult for them to continue to conduct business across state lines. Making life more difficult for business doesn't help anybody.

Despite the disagreements, there probably are many points concerning cyber security and privacy about which both sides in Congress would agree. For instance, establishing a set definition of personally identifiable information or not requiring notifications until a threshold number of consumers are affected by data breaches would be noncontroversial.

Yet, while Congress indulges in its election-year partisanship, nothing is being done.

This leaves two options: Congress should hash out its differences and, after years of inaction, come up with compromise legislation that finally does something. The second, perhaps less desirable, option is for congressional leaders to get together and produce legislation that at least addresses the issues on which they can agree readily, and then work out their basic differences on the regulatory and privacy issues in a measured way.

Either way, businesses finally would get some clear directions without being distracted and hampered by conflicting state laws. That way, everybody wins.

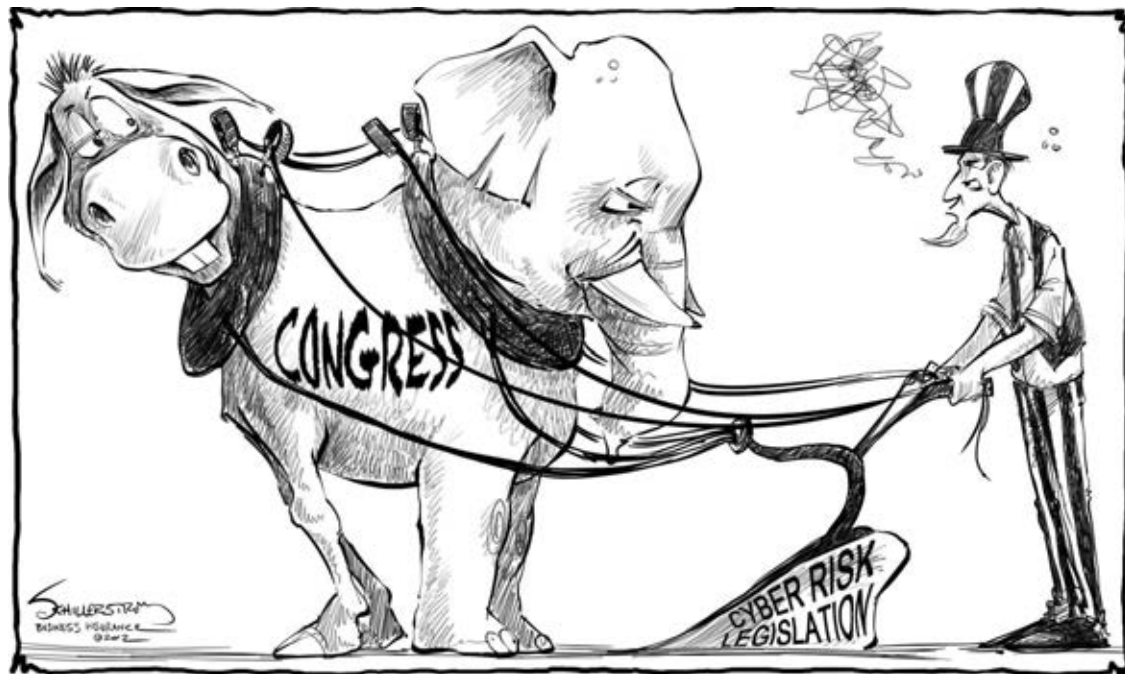
LETTERS

Informal resolutions deserve mention too

TO THE EDITOR: Good articles in your April 30 issue about litigating coverage disputes against insurers. The focus on litigation is imbalanced, however.

While litigation has a place in the risk manager's toolbox, the articles gave insufficient mention to more informal ways to try to resolve such disputes, short of litigation or even alternative dispute resolution. Insureds should

SCHILLERSTROM



COMMENTARY

Cost control battle has only just begun

Making accurate predictions about future health care cost increases is fraught with peril.

In my 35 years with *Business Insurance*, I've seen periods of double-digit annual increases, a few years where costs for group plans actually stayed about the same, and years—as is the case now—where annual cost increases have stayed in a fairly narrow range.

Why cost increases have been so volatile is beyond my expertise and perhaps that of many others.

What I do know is that lately there is some reason for optimism that cost increases may be easing.

For example, last year the Office of Personnel Management, which administers the Federal Employee Health Benefits Program—the nation's largest group plan with more than 8 million enrollees—said premium increases for the program would average 3.8% in 2012, the smallest increase since 2008 and sharply lower compared with 2011, when premiums leaped an average of 7.3%.

At the time, OPM officials attributed the easing of premium increases to effective negotiations with insurers and a greater emphasis on preventive care.

Some employers I've spoken with say better plan design also may be a factor.

One design that some employers have begun, and which they say is producing results already, is one in which employees can qualify for more generous health care plan coverage if they participate in and complete certain wellness program requirements. I can't think of a better incentive to get employees to

take better care of themselves, which ultimately has to lead to healthier employees and lower health care costs.

Another positive development is the creation and expansion of private health insurance exchanges, which give employees and retirees a far wider choice of plans than their employers could.

Under this approach, an employer might, for example, give employees a fixed premium contribution that they can use to buy coverage in an exchange through which their employers have contracted.

If the employee buys coverage that costs less than the contribution from his or her employer, the employee can pocket the difference. If the coverage costs more, employees have to make up the difference.

To me, that approach makes a lot of sense. It helps to ensure that each employee has coverage that meets his or her needs and that employees aren't over- or under-insured.

These kinds of approaches are just a few of the many that employers and insurers are launching to keep cost increases better under control.

To say that the battle to control costs has been lost is plain inaccurate. Rather, it is a battle that has hardly begun. And it is a battle that must continue—regardless of how the Supreme Court rules on the constitutionality of the health care reform law—to ensure the continuation of affordable employment-based health care plan coverage.

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JERRY GEISEL
EDITOR-AT-LARGE

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**QUARTERLY
TECHNOLOGY
FOCUS:**

Electronic
Placement
of Insurance

SPOTLIGHT

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PLATFORMS

FOR

PLACEMENT

*Insurance brokers tap new technology
with online portals, platforms*

By BILL KENEALY

New technology has altered many insurance industry processes in the past several years, including placing insurance electronically.

Jeff Yates, executive director of the Agents Council for Technology for the Arlington, Va.-based Independent Insurance Agents & Brokers of America, said insurers have deployed sophisticated business intelligence and predictive analytics tools for years in underwriting, marketing and fraud detection, but the technology's use in the distribution channel has been limited.

"Business intelligence is an area where the insurance carriers have done a lot, such as using predictive analytics to decide how policies are rated," Mr. Yates said. "However, when you look at the distribution side, it's really an untapped reservoir."

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Platforms: New technology used by brokers

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This has begun to change, however, as brokers Aon P.L.C., Marsh & McLennan Cos. Inc. and Willis Group Holdings P.L.C. have launched online portals and platforms that are intended to capture placement data and use it to facilitate the process for all major types of commercial insurance as well as risk management-related information.

Other brokers, such as Arthur J. Gallagher & Co., also have platform-type offerings. Itasca, Ill.-based Gallagher's CoverageFirst website specializes in wholesale placements.

When Aon started working on its Global Risk Insight Platform, Stephen Cross, Dublin-based chairman of Aon Global Risk Consulting and CEO of GRIP, said the goal was to take a process mired in tradition and update it with modern capabilities.

"Placement was archaic in the way it had been done for last 20 years," Mr. Cross said. "Most brokers deal with perception, experience and knowledge, so the process was too anecdotal, too siloed, and all in people's heads."

Launched in May 2008, GRIP helps Aon brokers evaluate which insurers to approach during the placement process. The platform provides real-time information on prices, coverage and limits that insurers in all major insurance markets use to quote and bind business. Nonetheless, Mr. Cross said, the system is intended to augment rather than replace the personal insights of brokers.

"We wanted to provide (brokers) with the tools that complement what they currently do with fact-based decisions," he said.

London-based Willis Group Holdings P.L.C. also sought to blend art and science in its placement platform, WillPLACE. Irrespective of physical location, the platform gives Willis brokers an international view of markets while leveraging their local expertise, said Matt Keeping, New York-based chief placement officer of Willis North America Inc.

"From a business perspective, we run a decentralized placement model insofar that the brokers in our local offices are responsible for placing the business," Mr. Keeping said. "We believe in having our brokers as close to our clients as possible."

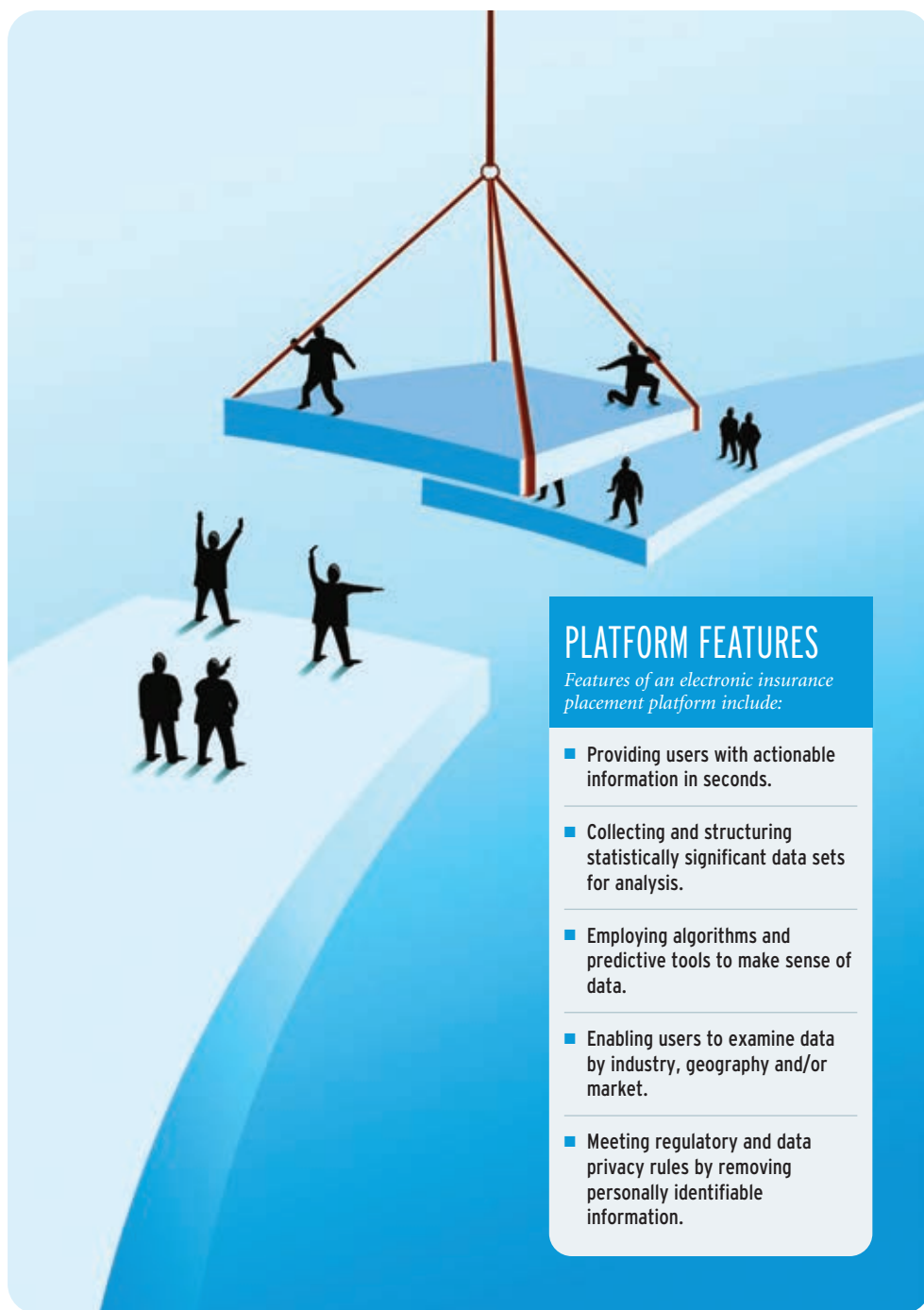
The system gives buyers a transparent placement process, Mr. Keeping said. "It gives brokers the data to sit down with a client and tell them which carriers are being selected, and more importantly, why. It creates a certainty around the products being offered by our brokers."

Janet Pane, managing director of Willis North America Placement, New York-based managing director of placement at Willis North America, said the data can help commercial insurance buyers justify their decisions before their boards and senior management.

"Clients now have an auditable process that they can take to their procurement or treasury departments and show the scientific factors that led to the selection of these markets," Ms. Pane said.

In addition, the platforms perform analytics driven by proprietary algorithms on the data to best match buyer and insurer. While such analytics historically looked backward, the algorithms powering WillPLACE use historical data and information gathered in real time, she said.

"The best part of that algorithm is that it is not just comprised of static data factors; it also has a dynamic learning tool that learns in real time," she said. "The actual transactions that are being placed in the system affect the



dynamic score, which will change the total rankings for the markets in the system."

Cutting-edge analytics also are a major feature of Marsh MarketConnect, an online portal the company introduced in 2009.

Robert F. Howe, New York-based managing director for Marsh USA Inc., said the purpose of the portal was twofold, to help align business between insurers and buyers, and provide insurers using the portal insights derived from the data.

For benchmarking purposes, the portal furnishes insurers with averages that can be analyzed by industry and geography. "With our system, we give them the averages against other companies that are writing the same type of business with Marsh," Mr. Howe said. "The analytics we've done has opened up the eyes of a lot of insurance companies to just how they are performing."

Moreover, the broker has formed Marsh Market Consulting to help insurers work with and craft business plans from the data. "It's a technology piece integrated with people who help facilitate successful use of technology," he said. "We want to turn analytics into action."

The unit's staff includes financial analysts, line-of-business experts and quantitative analysts. "You need people for different roles than you might otherwise find in a brokerage house," he said. "It's kind of a whole new business within a business."

"Data enables a new level of consulting today," Mr. Howe said. "The amount of information we can put in the hands of our brokers to make them smarter for our clients is a quantum leap from what it was just a few years ago."

In addition to providing the financial and

technological wherewithal to run sophisticated analytics, the size of the largest brokers provides another benefit by making statistically significant data sets for analysis easier to come by.

"Size is a great thing if you can use it to bring value out of it," Marsh's Mr. Howe said.

Aon's Mr. Cross agreed that large data sets are needed for accurate projections, noting that Aon collects information from its 500 offices in 120 countries. "The value in this is related to our size," he said.

"We're actually seeing over \$100 billion in premium flow a year," he said. "That's hugely predictive."

"If you think about Facebook or LinkedIn, it's a very connected world around information," he said. "The question is how do you shepherd all that information into one place that can give you output that is actually valuable."

Others are less optimistic about the potential of big data to revolutionize the placement process. Claudia Mandato, executive vp at Kansas City, Mo.-based Lockton Inc. said the legacy system baggage of insurers was one potential roadblock. "The insurance industry doesn't do big data well due to the archaic systems in place," she said. "If you look at the average insurance company they are dealing with 8 to 15 legacy systems."

Moreover, she said while analytics-derived automated placement is feasible in highly standardized lines of business such as personal lines auto, the inherently complex nature of commercial lines makes electronic placement a challenge. "One of the challenges is getting all criteria that you need to make things match up perfectly," Ms. Mandato said. "Human intervention is still needed."

Living up to industry's standards

Development helps industry harness evolving technology

By BILL KENEALY

The interaction between buyer, intermediary and insurer necessarily to place insurance electronically is impossible without common data standards.

"There's always a continuum of capability on all three levels," said Jeff Yates, Arlington, Va.-based executive director of the Agents Council for Technology for the Independent Insurance Agents & Brokers of America.

Much as players in the larger technology arena have worked through nonprofit organizations such as the World Wide Web Consortium to craft standards such as XML, or extensible markup language, the insurance industry has crafted industry-specific electronic data standards.

"To further adoption and efficiency for the entire industry, standards are really the way to go," said Christopher Gagnon, director of strategic technology for the Washington-based Council of Insurance Agents & Brokers.

Much of this insurance-specific electronic placement standards development takes place under the auspices of the Pearl River, N.Y.-based Assn. for Cooperative Operations Research and Development. In addition to associations, ACORD members include hundreds of insurance and reinsurance companies, agents and brokers, software providers worldwide.

ACORD messaging standards facilitate a vast array of interactions in the insurance ecosystem, such as communications between an insurer's underwriting system and an intermediary's agency management system.

Yet the size and complexity of the insurance market, not to mention the size and diversity of ACORD membership, creates challenges when it comes time to develop standards.

"Standards development is pretty challenging in and of itself because every company is a little different under the hood," Mr. Gagnon said. "However, everybody realizes the benefits (of standards), so the real question is what does it take to get from here to there?"

Lloyd Chumbley, vp of standards at ACORD, acknowledged that while effective, the historical "top-down" standards development process became unwieldy in recent years amid rapidly changing insurance industry dynamics.

"Standards development is

Continued on next page

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changing," he said. "In the past if we needed a standard, we would get the entire community together in a room, hash out standards and publish things. What you are seeing now is smaller groups of people take the initiative, build something, and have it validated by the industry and have it validated by the group."

Mr. Chumbley said that while one possible downside to such community-driven development is the perception of the standard not being neutral, the change was necessary to keep pace with demand for standards.

"We want to build on existing work being done and hand it back to industry," he said. "It's quite a change and a whole lot faster."

Shane McCullough, chief enterprise architect for ACORD, agreed that the top-down approach needed to change.

"In order to meet the demands of our industry and members, we knew we needed to produce tighter, more well-defined standards, quicker," he said, adding that ACORD reorganized its staff last year and changed internal processes to facilitate the new development methodology. "We had to do a lot of things internally from a development and tooling perspective to accommodate the faster response time."

The new methodology comes on the heels of another profound shift from the standards organization, the completion of the ACORD Framework. Conceived in 2007, the framework was rolled out in stages over the past few years to bring order to the complex array of data relationships between clients, insurers and intermediaries. The framework contains five separate facets,

'Standards development is pretty challenging in and of itself because every company is a little different under the hood. However, everybody realizes the benefits (of standards), so the real question is what does it take to get from here to there?'

Christopher Gagnon,
Council of Insurance Agents & Brokers

including a glossary that contains standardized definitions of insurance concepts, and a capability model that defines a baseline of the things insurers need to do to operate effectively.

Standardizing a common business vocabulary and technology architecture for common business processes such as insurance placement and claims is important as the insurance industry expands internationally, Mr. McCullough said, noting that the organization recently aided the development of electronic data insurance stan-

dards in South Africa, Australia and India.

"At ACORD, we've changed our focus to have a global standards base," he said. "As we've built a model that is not specific to a given line of business, it gives us that platform to expand easier into global markets. We're seeing a real uptick in wanting to embrace these models."

In addition to new geographies, new technology is driving standards development. Mr. Chumbley said the embrace of mobile technologies by the insurance industry is spurring action, even causing the organization to evaluate the future usefulness of XML and Web-based standards in a mobile-centric world.

"When you look at mobile devices, they want something more concise than XML and they tend to use different protocols than Web services," he said. "What do we need to do as an industry to deliver these transactions in a more mobile device-friendly environment?"

The future of the technologies that catalyze the business of insurance and standards development are linked, Mr. Chumbley said.

"Looking at the dramatic technology shifts of the last five years, we have to be ready for the next big change, even if we don't yet know what it is," he said. "Standards are going to need to be involved" and craft quicker. "We are very mindful of that," he said.



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Insurance exchanges strive to broaden buyer choice

Growth may increase products available through brokers

By BILL KENEALY

While brokers and agents have long invested in agency management systems to capture and format insurance application data, and insurers have devised portals with product and service information, integrating that information has been the goal of the insurance exchange movement.

An early manifestation of the exchange model is Dallas-based MarketScout, which launched its exchange in 2000 and now has some 47,000 users.

Licensed agents use the Web-based MarketScout exchange to access insurance companies writing policies for hundreds of industries and coverage types across the United States.

"The reason that we built the exchange was because thousands of retail agents across the country lacked access to a plethora of markets that are organized according to expertise," said MarketScout CEO Richard Kerr.

In addition to giving retail agents market access, the insurance exchange has evolved in recent years, Mr. Kerr said, noting that exchanges need to offer a wide variety of products and services to attract agents.

"The exchange is going to be tasked with solving problems for the retail agents, such as accounting, automation, training and human resources," he said. "We really believe that this is the way that retail distribution and product access is morphing into. Exchanges are beginning to provide everything that agents need."

On a separate front, the Washington-based Council of Insurance Agents & Brokers announced a partnership with Atlanta-based

LexisNexis Risk Solutions to build an exchange. The LexisNexis Insurance Exchange launched in 2010.

That same year, Lloyd's of London unveiled its exchange, which offers its brokers and managing agents a standardized way to exchange electronic information. The Message Exchange Ltd., which Lloyd's website said processed 800,000 messages last year, this year is ramping up transmission of endorsements and other insurance-related information.

'We recognized that the exchange portal would be a valuable tool for retail agents to easily identify markets for their accounts in one place.'

Michael S. Oliver,
5Star Specialty Programs

Mr. Kerr said a growing exchange realm ultimately will benefit brokers and agents by increasing products and services available to them.

"You are going to see different exchanges competing for customers," he said.

Chris Gagnon, the council's director of strategic technology, agreed. "In our nirvana, all carriers, brokers and agents would get on board," he said.

Clyde Owen, Hartford, Conn.-based general manager of the LexisNexis Insurance Exchange, said a primary goal of the exchange is to give insurance

intermediaries information in an easily searchable manner, as opposed to asking them to maintain knowledge of multiple programs, insurers and markets.

"Our goal is to take information about the industry and share it with people who need to know it, when they need to know it," Mr. Owen said. "Brokers or producers don't have a Google for the information they need, so they tend to place most business with the few insurers they know best, which is not always in the best interest for insureds."

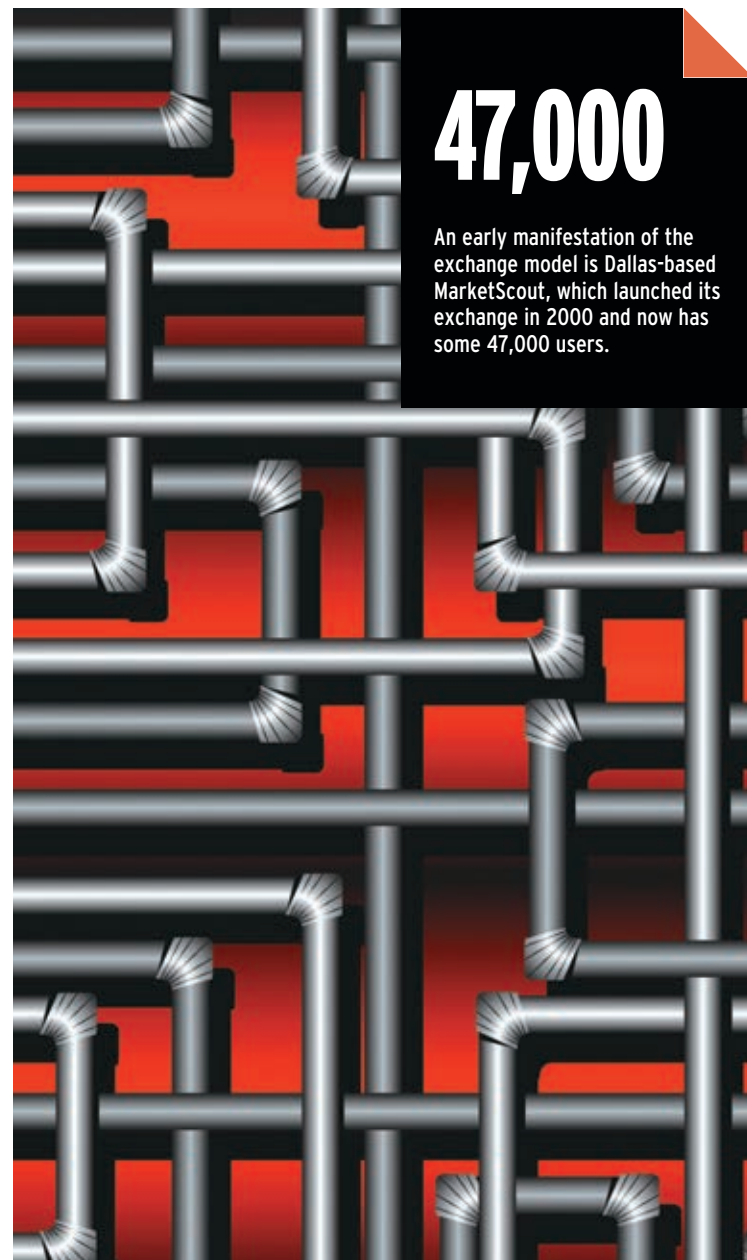
According to LexisNexis Risk Solutions, by the end of 2011, about 20,000 submissions had been entered into the system in which more than 300 underwriters participate. In 2012, Roseland, N.J.-based Crump Insurance Services Inc. joined the exchange.

"We recognized that the exchange portal would be a valuable tool for retail agents to easily identify markets for their accounts in one place," said Michael S. Oliver, senior vp at 5Star Specialty Programs, a Naperville, Ill.-based managing general agent that is part of Crump. "It also enables 5Star to identify those classes and lines of business we have the ability to provide product for, which reduces nonproductive activity for both the retail agency and 5Star."

Another merit of the exchange is that it is cloud-based and accessible through a Web browser, eliminating the need for a capital outlay of hardware and software for participants, Mr. Owen said, adding that the exchange also encrypts all data.

However, Mr. Gagnon said there are some inherent disadvantages in the exchange model. A prominent one is that working through an exchange has the potential to alter brokers' long-established workflows.

"The mindset that 'this won't change anything' isn't always accurate," he said. "When you



47,000

An early manifestation of the exchange model is Dallas-based MarketScout, which launched its exchange in 2000 and now has some 47,000 users.

get down into the weeds with the people who are doing the placement, you realize that this is going require some change management. You can't walk in and say, 'We'll just add a button to go through the exchange' without some serious change management."

A future concern is data security. Mr. Owen said that while there's not yet a critical mass of data to aggregate, clear of personally identifiable information and release for analysis, the exchange will release anonymous data in the future.

"As the exchange grows, you are going to get richer data sets to run more analytics," Mr. Owen said.

Even though this data will be scrubbed, Mr. Gagnon said it could give rise to competitive concerns in certain instances. For example, if a broker or insurer has most of the business in a specific niche line of coverage, a competitor could analyze exchange data in an attempt to discern the "secret sauce" underlying the success, he said.

Nonetheless, Mr. Gagnon said he expects analysis of the placement data to be used largely for the benefit of the industry as a whole.

"Data is the key to our industry," he said. "Being able to trend and derive models from actual data aggregated from an exchange would change the industry in a profound way."

Crump relies on the cloud for E&S insurance lines portal

Roseland, N.J.-based Crump Insurance Services Inc. turned to cloud-based technology when it launched its portal for excess and surplus lines insurance last year.

The company said the portal, made with technology from New York-based Seapass Solutions Inc. and among the first of its kind for E&S lines, is intended to enable retail agents to receive

multiple indications from a single submission in real time.

Wayne Carter, executive vp of Crump Professional Programs, said the company made a conscious effort to make the portal as simple as possible for agents.

The agent first sends an online submission through either online quoting hub Insurance Noodle or through

BOLT Insurance Agency, the marketing arm of Business Owners Liability Team L.L.C. If the submission is declined by standard markets, it then is submitted automatically online to Crump's portal for an excess and surplus quote.

"If you are an agent and have been in the business for a while, it's incredibly intuitive," Mr. Carter said.

Moreover, the cloud-based portal

presents a unified, modern interface to agents while enabling insurers to leverage their existing investments in core systems, Mr. Carter said.

"The whole idea was to reach into existing rating systems of carriers and pull data elements needed for a quote back to the portal, so we are not trying to recreate the wheel," Mr. Carter said.

—By Bill Kenealy

Same-sex touching can constitute harassment

Unwanted contact severely intrusive, appeals court rules

By JUDY GREENWALD

NEW YORK—A plaintiff can pursue a hostile work environment claim on the basis of three alleged instances of unwanted intimate contact over a five-month period, the 2nd U.S. Circuit Court of Appeals ruled.

According to the unanimous May 4 ruling by a three-judge panel in *Fedie R. Redd vs. New York State Division of Parole*, Ms. Redd, who was a parole officer in Queens, N.Y., said she was touched on her breast three times over a five-month period in 2005 by her female supervisor, Sarah Washington.

A lower court dismissed her complaint of a hostile work environment due to sexual harassment, stating that the alleged acts were “relatively minor, incidental physical contact” and that a jury would not find the parole department supervisor’s conduct to “be so severe or pervasive as to be objectively hostile or abusive.”

However, the appeals court

panel disagreed and overturned the lower court.

“Taking the evidence in the light most favorable to Redd and accepting her version of the events as true, as we are required to do and a jury would be permitted to do, we have several difficulties with the district court’s conclusion that no rational juror could find that Washington had sexually abused Redd because of her sex and that the abuse was not sufficiently severe to create a hostile work environment in violation of Title VII,” the panel ruled in saying Ms. Redd interpreted the contact as homosexual advances.

“We see no principled reason why a jury, considering the evidence of repeated touching of such gender-specific body parts, would not be permitted to draw the same inference,” the court said.

While the supervisor denied she sexually harassed or touched Ms. Redd in an inappropriate way, “the jury would not be required to believe those denials; hence the district court, in determining whether the division was entitled to judgment as matter of law, was required to disregard them,” the appeals court ruled.

The district court also failed to view the record in the light most

favorable to Ms. Redd “or credit inferences that were permissible from her descriptions of the events she physically experienced,” the appeals court said. “The repeated touching of intimate parts of an unconsenting employee’s body is by its nature severely intrusive and cannot properly be characterized as abuse that is ‘minor,’” the court said.

“This is not the manner in

be characterized as ‘incidental.’” In each instance, a jury could find Ms. Washington “had contrived to be in close proximity to Redd,” the court said.

The court said it also disagreed with the district court’s conclusion that the alleged incidents were episodic, rather than continuous or concerted.

“The evidence that Washington repeatedly touched Redd’s breasts;

in remanding the case for further proceedings.

Plaintiff attorney Paul W. Mollica, of counsel with law firm Outten & Golden L.L.P. in Chicago, said the case illustrates that employers need to conduct an investigation “in any situation that involves intimate touching.”

“The court’s reminding us that while there may be some kinds of harassing behavior that’s not severe,” such as an occasional comment, touching a man or a woman’s intimate parts “would be essentially severe enough to constitute harassment all by itself” and does not need to be accompanied by comments or a proposition, Mr. Mollica said.

“It’s sensitive enough to any reasonable person that if an employee complains about it, the employer really needs to shift into high gear to prevent it, correct it and investigate it,” he said.

Ms. Redd’s attorney, Maia Goodell, a partner with Vladeck, Waldman, Elias & Engelhard P.C. in New York, said she was pleased with the decision.

A spokesman for the New York Solicitor General’s office, which represented the parole department, could not be reached for comment.

‘It’s sensitive enough to any reasonable person that if an employee complains about it, the employer really needs to shift into high gear to prevent it, correct it and investigate it.’

Paul W. Mollica, Outten & Golden L.L.P.

which women routinely interact” and such conduct is not normal for the workplace, the appeals court ruled in citing the U.S. Supreme Court’s 1998 ruling in *Joseph Oncale vs. Sundowner Offshore Services Inc.*, in which the nation’s high court ruled that same-sex workplace harassment is prohibited.

“Nor, with the record viewed as a whole and in the light most favorable to Redd, could Washington’s physical contacts properly

that Washington never apologized or indicated in any other way that her touching were accidental; that Washington repeatedly requested that Redd come into her office even though she was not Redd’s immediate supervisor; and that Redd, apprehensive of further repetition, consequently felt the need to avoid Washington, would all allow a rational juror to find that Washington’s conduct was not only severe but pervasive,” the appeals court ruled



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Perspectives

The cyber risk insurance market has grown, increasing its capacity and competitiveness in recent years. But Jim Whetstone, U.S. technology and privacy manager for Hiscox Inc., says it is worth asking if the cyber risk market in its current form is sustainable over the long term. Lessons learned from the mortgage industry's financial crisis should help the cyber insurance industry avoid similar pitfalls as it continues to expand, he says.

Does mortgage crisis offer lessons for cyber market?

By Jim Whetstone

Could there be a lesson for cyber risk insurers in the mortgage bubble debacle?

The cyber risk insurance sector, once a niche market with a limited number of insurers, has grown and changed significantly over the past several years. When it was first offered, coverage was narrow, premiums were high and underwriting was extensive. Claims were infrequent, and carriers gradually broadened coverage and lowered premiums.

Over time, the market softened, with increased capacity and competition. Annual gross written premiums now are in the \$800 million range, up from \$600 million in 2010, according to Betterley's Cyber Risk Insurance Market Survey 2011.

Large companies, the most frequent early buyers, have been joined by small and mid-size businesses, government agencies and nonprofits. The opportunity is significant, and the potential buyer pool includes nearly every current and future insurance buyer. This growth potential makes it a very exciting time for cyber insurers and brokers/agents. But it is worth asking if the cyber risk market in its current shape is sustainable for the long term. With growth opportunities in the property/casualty market limited, it's understandable that this new business opportunity is very tempting.

Although adverse exposures are developing rapidly, from new risks associated with cloud computing to more persistent and damaging cyber attacks, pressure to reduce pricing for this coverage continues in the marketplace. The question now is whether the loss scenarios and underwriting questions that drive policy formation and pricing are still up to date.

Although it's not a direct parallel, there are some similarities to the mortgage market, which struggled to recognize the significant increase in its risk exposures.



Mr. Whetstone

Writing cyber risk insurance is challenging. Malicious attacks are on the rise, and hackers and other cyber criminals are more sophisticated and adaptable.

While there are many factors that contributed to the mortgage crisis, it does appear the eagerness to increase opportunities, expand the pool of borrowers and make more money caused the mortgage industry to overextend itself. Only now is it evident just how damaging that was.

The question is whether hindsight can help guide cyber risk insurers as the market continues to grow. Writing cyber risk insurance is challenging. Malicious attacks are on the rise, and hackers and other cyber criminals are more sophisticated and adaptable. Privacy breaches have become commonplace, from the Sony Online Entertainment and PlayStation breaches that exposed

more than 100 million records, to leaks of confidential health care information.

Fast-changing technologies, such as cloud computing and smartphones, have created new exposures. But it isn't just the large companies attracting malicious attacks that are at risk. Simple human error, such as losing laptops, flash drives or even paper files, can create privacy exposures for even the smallest entities. Adding to the complexity is the fact that claims and losses are just starting to develop. The number, scope and type of losses are fluid; the claims phase for many insurers is largely untested.

How did a small, specialized market grow so quickly? One major game-changer was the passage of numerous breach notification laws, which mandate disclosure in the event a breach occurs. The breach notification laws, which are now in effect in nearly all of the 50 states and in at least one instance at the federal level, took what had been a hypothetical loss scenario and made it concrete and quantifiable.

Businesses may now be on the hook for mandated costs, and these costs have the potential to add up quickly. According to a cyber liability claims study by NetDiligence, the marketing arm of Network Standard Corp., the average cost of a data breach is \$2.4 million. The study looked at 116 events that occurred between 2005 and 2010, with major underwriters of cyber liability providing the claims payout data. The average cost per record was \$1.36. Removing outlier events (those that exposed millions of records) boosted the cost to \$5 per record. The biggest costs were for legal defense (average cost: \$50,000) and settlements (average payout: \$1 million). Response services, including notification and forensics, were the next-highest expense. The involvement of federal regulatory agencies also has had an impact.

The U.S. Securities and

Exchange Commission recently issued guidance for public companies, reminding them of their obligation to disclose cyber security issues, including actual breach events and potential risks. In a 2009 survey, Hiscox Inc. found that 38% of public companies did not adequately report information about cyber security risks in their public disclosures.

Legal liability issues also have forced companies to look for ways to mitigate risks. Similar to the loss and claims arena, there are few precedents, and legal liability issues are being explored on a case-by-case basis. For example, is a ZIP code personally identifiable information? The California Supreme Court says yes.

Does it matter if the breach is a criminal hack as opposed to an inadvertent breach? In *John Anderson vs. Hannaford Bros. Co.*, which involves an intentional hack, a federal appeals court says it does matter. The court ruled that out-of-pocket mitigation costs (such as credit insurance and fees associated with new credit cards) could result in viable claims for damages because there was evidence the breached information had been used for criminal purposes. With so many unknowns, the cyber risk insurance market is sure to change dramatically. When coverage was introduced, caution was the watchword. The pendulum has now swung in the other direction.

While the hope is that today's underwriting criteria and processes will stand up under future pressures, there is always the fear in such a dynamic environment that problems and unintended consequences will arise down the road.

Some things seem certain: The pace of claims will accelerate, and losses will mount. Right now, there is still time to learn from the hard lessons of the mortgage debacle. Insurers must be cognizant that exposures are increasing and changing rapidly, and they must ensure that underwriting is up to speed. This outlook will help insurers make any necessary course corrections with an eye to a profitable future.

Jim Whetstone is the Chicago-based U.S. technology and privacy manager for Hiscox Inc. He can be reached at 312-239-6354 and jim.whetstone@hiscox.com.

N.Y. comp audit says felons got benefits

By ROBERTO CENICEROS

ALBANY, N.Y.—An audit found that New York's State Insurance Fund paid workers compensation benefits to incarcerated felons, but examiners could not conclude whether private insurers and self-insured employers also paid benefits to any inmates.

The State Insurance Fund improperly paid seven state prison inmates \$36,000, according to an examination conducted by New York State Comptroller Thomas P. DiNapoli. Inmates jailed on felony convictions are not eligible for workers comp

benefits in New York.

"These payments are indefensible and should have been stopped," Mr. DiNapoli said in a statement earlier this month. "The Workers' Compensation Board owes it to businesses and taxpayers to put stronger internal controls in place. New York state businesses can't afford to pay higher insurance premiums to cover the cost of these inappropriate payments."

The comptroller's office found the improper workers comp payments by cross-checking work comp claimant records with Department of Correction files for benefit payments made during

the three-year period that ended last September.

The comptroller said another 193 inmates also may have been inappropriately paid benefits, but examiners could not say for certain because their benefits are paid by private insurers and self-insured employers.

However, the New York Workers' Compensation Board "could assist both itself and the State Insurance Fund as well as the more than 1,600 private and self-insurance companies by performing a periodic match of claimant and inmate files," according to the report.

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LETTERS

CONTINUED FROM PAGE 8

exhaust informal avenues before "going nuclear." Such means include scheduling an in-person "meet and confer" session with the adjuster. They also include going up the claim department (organizational) chart to appeal groundless coverage stances. Another tool is enlisting the broker's help and leverage to bring an intransigent insurer to heel.

More importantly, many claim clashes result from inadequate buyer due diligence at the insurance placement and renewal stage.

Nailing down the meaning and application of key policy terms and provisions in advance is key. Examining claim processes and discussing "what-if" loss scenarios are neglected in the rush and zeal to do the deal. Coverage buying decisions driven by price and "the cheapest quote" crowd out serious consideration of claim issues.

In claim service and coverage determinations, you get what you pay for. Skimping on claim issues at the placement/renewal stage is a recipe for disaster. Proactive approaches can save risk managers headache and heartburn and avert some (albeit not all) coverage litigation.

Prevention beats litigation. Litigating against the insurer is not a course to choose lightly. Litigants on both sides may ponder Voltaire's quote: "I was never ruined but twice: once when I lost a lawsuit, and once when I won one."

Kevin Quinley

Quinley Risk Associates L.L.C.
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Business Insurance welcomes letters to the editor.

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Products&Services

Aon unit rolls out cover for wage-and-hour claims

PHILADELPHIA—Aon Risk Solutions has rolled out coverage for wage-and-hour claims, the global risk management business of London-based Aon P.L.C. announced. The policy covers the defense and indemnity costs stemming from legal actions whether they are settled or go to trial.

“This is the first time the insurance marketplace has offered this level of protection for wage-and-hour claims,” Tom Hams, Chicago-based national practice leader for employee practices liability insurance at Aon Risk Solutions, said in a statement. “We worked with leading defense law firms and our insurance trading partners for two years to develop the models necessary to bring this product to market for our clients.”

Policy limits up to \$50 million are available, and minimum retentions are \$5 million. Costs are based on a company’s policy and loss history, as well as the concentration of its employee numbers in specific states and specific job classifications.

For more information, contact Mr. Hams at tom.hams@aon.com.

Zurich Insurance launches apps for risk managers

PHILADELPHIA—Zurich Insurance Co. Ltd. has launched two apps for risk managers.

The Zurich Risk Room app is a limited version of the larger risk modeling software Zurich offers clients. The app shows scenarios for natural catastrophe and disaster management, supply chain disruption, regulatory imbalances, social value of insurance and eco-

nomie value of insurance. Each has 10 to 12 preselected risks offering a comparison of different countries’ stability as well as modeling the interconnection among risks. New risks and scenarios will be added as issues arise. The other app, Zurich Virtual Literature Rack, is aimed at mid-size and large businesses. This online library includes information about Zurich products, solutions, risk insights, white papers and other materials.

Both apps are available for the iPad, and the Zurich Risk Room app also is available for Windows media. They can be downloaded from the iTunes App Store.

Chubb introduces cover for green Calif. commuters

WARREN, N.J.—Chubb Corp. has announced travel accident coverage for California’s environmentally friendly commuters.

The service is aimed toward commuters using carpools, public transit and other alternative-fuel private passenger vehicles to head to and from work. Open to all U.S. employees of California-based companies, the coverage is available as an option to the Warren,

N.J.-based insurer’s travel accident insurance policy, BTA 360°. The program carries an accidental death and dismemberment benefit of \$50,000 on all insured persons. For details, contact Dominick Zenzola, vp and employee benefit manager of Chubb Accident & Health, at dzenzola@chubb.com or 312-454-4328.

QBE North America expands EPL insurance

NEW YORK—QBE North America has expanded its employment practices liability insurance to include small and medium-sized businesses. In a statement, the insurer announced its comparable coverage for companies with up to 250 employees. The policy includes coverage against harassment or coercion, discrimination, wrongful failure to employ or promote, and wrongful discipline or dismissal. Options also are available for claims made by customers and vendors. Prior acts and punitive damages, when allowed by law, are covered as well. Policy limits range from \$25,000 to \$1 million, and

deductibles from \$2,500 to \$25,000. Pricing is determined by business size, among other factors. For more information, contact Diana Van Horn, QBE head of strategic agent marketing, at 503-526-3060.

Global Aerospace provides aviation safety resources

PARSIPPANY, N.J.—Global Aerospace Inc. has launched a website to provide safety resources to the aviation industry. Developed through its SM4 safety program, the site aims to promote and improve safety for aviation professionals. Features include an expanded resource library and information about upcoming seminars sponsored by the London-based insurer. The site’s SM4 Safety Blog also includes content from SM4’s partners and leadership team and encourages conversations with users about aviation safety and risk management issues. Partners are Baldwin Aviation Inc., Convergent Performance L.L.C., Fire-side Partners L.L.C., ICF SH&E and MedAire Inc. The new website can be found at <http://SM4.global-aero.com>.

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REQUEST FOR PROPOSAL

Auditing Services

The WTC Captive Insurance Company is seeking proposals for auditing services. The Captive is an independent, not-for-profit corporation, created by the City of New York, licensed by the New York State Department of Financial Services and domiciled in New York State. The Captive received slightly less than \$1 billion from the Federal Emergency Management Agency on December 3, 2004. The Captive is insuring the City and its contractors from their work performed on the City’s FEMA funded debris removal site.

The Request for Proposal solicits proposals from firms to provide the following services, among others:

1. Audit of financial statements in accordance with generally accepted auditing standards as promulgated by the American Institute of Certified Public Accountants (AICPA).
2. Single audit of the Captive’s federally assisted program, covering internal control over the administration of Federal programs and compliance with applicable laws and regulations in conformance with Generally Accepted Government Auditing Standards (GAGAS), as promulgated by the United States Government Accountability Office (GAO) in its publication, Government Auditing Standards, as well as the additional standards for financial and compliance audits contained in the Single Audit Act Amendments of 1996 and the provisions of OMB Circular A133 and its Compliance Supplement.

In addition to other prerequisite qualifications for consideration, each candidate must affirm that it presently satisfies all licensing and certification requirements necessary to conduct business in the State of New York with regard to the scope of service required, and have experience with at least four other captive insurance companies. This experience must include currently serving as auditor to a minimum of two (2) US domiciled single parent or group captive insurers with assets over \$50 million.

Please contact clasala@wtccaptive.com or jsohenbeck@wtccaptive.com to request a copy of the Request for Proposal. Proposals are due by Friday, June 1, 2012 at 12 noon.

EXPRESSION OF INTEREST



Expression of Interest

“The Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (“CTBTO”) invites you to respond to the Expression of Interest (EOI) for the “CTBTO’s Group Medical Insurance Policy”. Please be informed that all documentation for this EOI is posted on the website of the CTBTO (www.ctbto.org/procurement) and on the United Nations Global Marketplace, and should be downloaded to enable you to respond. In order to be considered as a potential Supplier, interested companies should submit their EOI, including the company information. We would appreciate receiving your response to the EOI and any accompanying documents on or before 17:00 hours Vienna Local Time on 31 May 2012 via Fax No: +43 1 26030 5948 or email: procurement@ctbto.org “

CTBTO Procurement Section

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 27, 2012, 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 29, 2012 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.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE ADMINISTRATOR
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112
(212) 408-5100
ATTN: HOWARD SEIFE, ESQ.
FRANCISCO VAZQUEZ, ESQ.

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 27, 2012, 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 29, 2012 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

IN THE MATTER OF THE LIQUIDATION OF ATLANTIC AMERICAN HEALTH INSURANCE COMPANY, AUSTIN LIBERTY INSURANCE COMPANY, AXEL INSURANCE COMPANY OF NEW YORK, MAJESTIC INSURANCE COMPANY OF NEW YORK, MBL PROPERTY AND CASUALTY INSURANCE COMPANY AND NATIONAL HERITAGE INSURANCE COMPANY, INC.
Supreme Court County of New York
Index No.: 401643/11

NOTICE

Pursuant to an order of the Supreme Court of the State of New York, County of New York (the “Court”), entered July 20, 2011 (“Liquidation Order”), the then-Superintendent of Insurance of the State of New York and his successors in office were appointed as liquidator (“Liquidator”) of Atlantic American Health Insurance Company, Austin Liberty Insurance Company, Axel Insurance Company of New York, Majestic Insurance Company of New York, MBL Property and Casualty Insurance Company and National Heritage Insurance Company, Inc. (collectively, the “Companies”) and, as such, has been directed to take possession of the Companies’ property, liquidate its business and affairs, and dissolve its corporate charter pursuant to Article 74 of the New York Insurance Law (“Insurance Law”). The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Liquidator of the Companies. The Liquidator has, pursuant to Insurance Law Article 74, appointed Jonathan L. Bing, Special Deputy Superintendent (“Special Deputy”), as his agent to liquidate the business of the Companies. The Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Liquidator has submitted to the Court a verified petition (“Verified Petition”) seeking an order: (i) approving the Liquidator’s report (“Report”) on the status of the Companies’ liquidation proceeding (“Liquidation Proceeding”); (ii) terminating and closing the Liquidation Proceeding; (iii) releasing and discharging the Liquidator, his predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts and omissions in connection with the Liquidation Proceeding; (iv) authorizing and directing the Liquidator, in his discretion, to destroy or otherwise dispose of any and all of the books, files, records and other property of the Companies without further order of this Court; and (v) providing for such other and further relief as this Court may deem just and proper.

A hearing is scheduled on the Verified Petition on the 15 day of June, 2012, at 10:00 a.m., before the Court at the Courthouse, 115 West 111th Street, in the County, City and State of New York. If you wish to object to the Verified Petition, you must serve a written statement setting forth your objections and all supporting documentation upon the Liquidator and Clerk of the Court, at least seven business days prior to the hearing. Service on the Liquidator shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York as Liquidator of Health Partners of New York
110 William Street
New York, New York 10038
Attention: John Pearson Kelly, Esq.
General Counsel

The Verified Petition and Report are available for inspection at the above address. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor Claims Department at (212) 341-6809.

Dated: May 3, 2012

Superintendent of Financial Services of the State of New York as Liquidator of Atlantic American Health Insurance Company, Austin Liberty Insurance Company, Axel Insurance Company of New York, Majestic Insurance Company of New York, MBL Property and Casualty Insurance Company and National Heritage Insurance Company, Inc.

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Surplus: Pacts put under pressure as states opt out

CONTINUED FROM PAGE 3

technical support to report, collect and allocate surplus lines tax consistent with federal law, and will make a decision to join the agreement at a later point in time," he said.

States, though, are increasingly weighing the costs of participating in the compacts against increased tax revenues they might receive, experts say.

"Upon careful review and consideration of newly captured information, I do not believe that our data shows that Mississippi would receive any significant additional tax revenue by participating in the tax-sharing arrangement under NIMA," Mississippi Insurance Commissioner Mike Chaney said in a statement.

"We have been encouraging the states now for sometime to carefully study the cost-benefit of tax sharing," said Brady Kelly, executive director of the Kansas City, Mo.-based National Assn. of Professional Surplus Lines Offices Ltd.

While NIMA is supported by the National Assn. of Insurance Commissioners, NAPSLO supports a rival approach, the Surplus Lines Insurance Multi-State Compliance Compact.

SLIMPACT, which has nine member states and has yet to be implemented, is required by its legislation to have 10 member states to become operational, Mr. Kelly said. As states' legislative sessions have adjourned, the earliest SLIMPACT could be operational is July 2013.

"The interest in compacts is

waning among states," said Mark R. Goodman, a Chicago-based partner at law firm Freeborn & Peters L.L.P.

"It's accurate to think that this is part of a trend," he said, noting that no new states have joined NIMA or SLIMPACT. "The number of states and the interest in these compacts may have hit a zenith and is now waning."

In a statement last week, the Council of Insurance Agents &

'It's probably no secret that very few brokers were big fans of NIMA to start with.'

Robert J. Greenebaum,
Swett & Crawford Group Inc.

Brokers said states should retain 100% of surplus lines premiums, noting that NIMA requires excessive data submission by brokers.

"The clearinghouse and allocation agreements make much more sense if a critical mass of jurisdictions—large and small—buy into them," said Joel Wood, Washington-based senior vp of government affairs at the council. "That's just not happening, and I don't see any momentum among the large states to join."

"It's probably no secret that very few brokers were big fans of NIMA to start with," said Robert J. Greenebaum, executive vp and casualty practice group leader at

Swett & Crawford Group Inc. in Chicago, noting that the (NIMA) compact would impose huge compliance on brokers with no real benefits to the participant states.

"Currently, the tax allocation methodology of NIMA presents us with a number of difficulties and the lack of clear guidance from NIMA with regards to its clearinghouse requirements will make compliance difficult for surplus lines brokers as early as July 1, 2012," said James Drinkwater, president of AmWINS Group Inc.'s brokerage division in New York.

Mike Johnston, executive vp for CRC Insurance Services Inc. in Birmingham, Ala., said the NIMA proposition is well outside the intended NRRA law where states decide how to allocate the tax among themselves.

"There was no mandate to have a clearinghouse," he said. "NIMA has taken NRRA, which was supposed to be simple and cost-effective, and they have turned it into something that is complicated and not cost-effective."

Richard A. Brown, San Francisco-based insurance regulatory attorney that specializes in surplus lines regulation, said states prefer a home state taxation method.

"There seems to be no appetite for states to join NIMA or SLIMPACT," he said. "It appears that the states that have taken a look at the economics have concluded that they are better off to adopt 100% home state taxation at the home state's tax rate."

Home state taxation, Mr. Brown said, is simple for states and brokers to calculate and easy to reconcile for premium tax audits. "It's almost a no-brainer," Mr. Brown said.

Audits: Reviews turning up costly clerical errors

CONTINUED FROM PAGE 1

Simon Feuer, president of Apex Services Ltd., said he's seen more companies requesting workers comp premium recovery services as the economy has improved. The Cedarhurst, N.Y.-based company seeks refunds for employers that have overpaid their workers comp premiums.

"They see their premiums going up and they're looking for solutions to get their premium down to what it was," Mr. Feuer said.

Most of Apex's clients include employers with annual premiums in excess of \$100,000. Errors in their policies typically stem from miscalculated ex-mods, Mr. Feuer said.

Audit reviews can help companies looking to contain their workers comp costs, he said.

"We go and knock (the premium) down, and they have a better underwriting profile in the

marketplace," Mr. Feuer said.

Chicago-based AuditRate Inc., also a premium recovery service, found a classification error that resulted in more than \$606,000 in overpaid workers comp premiums between 1996 and 2000 for a small Illinois manufacturer.

Howard Alper, chairman and CEO of Alper Services L.L.C., which owns AuditRate, said the error resulted in Byron, Ill.-based Quality Metal Finishing Co. being classified incorrectly as a foundry rather than a plumbing goods manufacturer. While the client has a foundry division, the rest of the business consists of lower-risk operations, Mr. Alper said.

The Illinois Department of Insurance ordered the company's insurer, Liberty Mutual Insurance Co., to repay the excess premiums in 2010. Liberty Mutual is appealing the decision and declined to discuss the case.

Mr. Alper said classification errors in workers comp policies

occur regularly, particularly for industrial firms with various job functions. He said such companies usually need help to correct workers comp premium mistakes.

"The businessperson may have the judgment that it's wrong, but they don't have the tools to fix it," Mr. Alper said.

Not all errors result in premium refunds for employers, said Judy Leo, New York-based area senior vp at Arthur J. Gallagher & Co.'s casualty risk management practice.

The broker reviews workers comp audits annually for its clients and finds clerical errors about 10% of the time, she said. In some cases, the review showed that companies underpaid their premiums and need to pay the difference, Ms. Leo said. Still, she said the process is beneficial because it helps employers catch mistakes before they turn into significant problems.

Willis' Ms. Costello said recovery audits are just a small part of risk management practices that can help employers manage their workers comp costs.

"The bigger piece of this is...the claims management or claims prevention," Ms. Costello said.

UP COMINGS & GOINGS CLOSE

ERIC SILVERSTEIN

NEW JOB TITLE: Atlanta-based senior vp national accounts, team leader, Lockton Cos. L.L.C.

PREVIOUS POSITION: Atlanta-based casualty practice leader for Beecher Carlson Risk Insurance Services Inc.

LOOKING FORWARD TO: I am looking forward to being able to do some of the things I have done in the past but on a larger scale.

GOALS FOR NEW POSITION: To bring some innovative collateral solutions to my clients. Would like to also be involved in developing analytical tools that are unique to the industry.

CHALLENGES FACING THE INDUSTRY: One of the bigger challenges is the use of data and how it can be used most effectively. There is a large amount of data out there, and most of it is going to waste. I would like to see the industry use that data in a more effective way.

INDUSTRY OUTLOOK: It's generally positive. The industry itself is healthy. We will continue to attract capital, especially as the market begins to harden.

BEST THING ABOUT A BAD ECONOMY: Great opportunities to deliver money-saving solutions. That's when people are looking for innovative solutions.

CAREER ADVICE: Put your short-term goals behind your longer-term goals. In other words, it makes more sense to work...where you can build a strong background in the industry and somewhere where you are given additional opportunities than (to) work somewhere for the highest dollar. It's not good to jump around.

OUTSIDE THE INDUSTRY, A DREAM JOB: Investment banking. I enjoy analyzing companies and learning about different types of businesses.

HOBBIES: I play in a men's soccer league, and I also play guitar.

FAVORITE BOOK: I just finished reading "The Fountainhead" (by Ayn Rand). I thought it was excellent.

CAN'T-MISS TELEVISION SHOW: "House." I enjoy the antics.

FAVORITE MEAL: Anything Italian.

ON A SATURDAY AFTERNOON: Watching my son play soccer.

Comings&Goings

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TO SUBMIT ITEMS

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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Cyber: Security bills hit federal roadblock

CONTINUED FROM PAGE 4

for lawmakers' attention in recent months.

In April, the U.S. House voted to approve the Cyber Intelligence Sharing and Protection Act, which would help the private sector "defend itself from advanced cyber threats without imposing any new federal regulations or unfunded private sector mandates" as well as provide privacy and civil liberty protections, co-sponsor Rep. Mike J. Rogers, R-Mich., said in a statement.

However, the Obama administration sharply criticized H.R. 3523 and threatened to veto it if it received congressional approval. The bill fails to ensure that the nation's core critical infrastructure is protected; and it would repeal important electronic surveillance law provisions, but have no corresponding privacy safeguards, the administration said.

The administration is backing another bill, the Cybersecurity Act of 2012, that Sens. Joe Lieberman, I-Conn., and Susan Collins, R-Maine, have co-sponsored in the Senate.

S. 2105 calls on the Homeland Security secretary to develop cyber security performance requirements, as well as "appropriate security measures and oversight to protect privacy and preserve civil liberties," Sen. Lieberman said in a statement.

A rival bill is the Strengthening and Enhancing Cybersecurity by Using Research, Education, Information, and Technology Act of 2012 sponsored by Sen. John McCain, R-Ariz. S. 2151 would allow private entities to voluntarily disclose cyber threat information, but it would prohibit the government from using any disclosed information to regulate an entity's lawful activities.

Legal experts say infrastructure regulatory issues and privacy concerns are the major stumbling block to any legislation on the topic.

"The biggest issue that they're facing is what to do about regulating the critical infrastructure," which the House bill did not address, said Jessica Herrera-Flanigan, a partner with the Washington-based Monument Policy Group. She also is a former federal prosecutor and senior congressional adviser.

Republicans have objected the Lieberman bill as being "too regulatory in nature" and that "we shouldn't be creating any kind of standard, whether voluntary or required, for the critical infrastructure," Ms. Herrera-Flanigan said.

Critics of the provisions say the problem is the speed of technological change.

Robert Dix, Washington-based vp of government affairs and critical infrastructure protection for Juniper Networks Inc., said many in the industry feel that by the

time a regulatory and compliance regime would be built, the technology would change. That "would slow down our ability to be successful," he said.

However, Stewart A. Baker, a partner with Steptoe & Johnson L.L.P. in Washington, said setting security standards is a problem the market has not "been solving very well. It's partly because industry doesn't always see the problems until the government points them out," said Mr. Baker, who is a former assistant secretary for policy at the Department of Homeland Security.

Daren M. Orzechowski, a partner with law firm White & Case L.L.P. in New York, said privacy groups are concerned the House bill "would give broad powers and the ability for private entities and government entities to share a lot of personal information," which "would effectively negate a lot of the privacy laws and protections that either exist under current legislation or may be coming down the pipeline."

"Cyber security does need to be addressed certainly, but the bills that are out there right now are bad enough that we opposed them," said Harley Geiger, policy counsel at the Washington-based Center for Democracy & Technology, which focuses on privacy issues.

One neglected issue in all three bills is the international implications of cyber risks, some observers say.

"Cyber security is a global system and the problems that we are having with threats to our system are not going to be resolved by the United States Congress," said Jody Westby, CEO and founder of Washington-based Global Cyber Risk L.L.C. In addition, a federal law including such a mandate would "cost business much more in compliance" and pull out money needed for jobs and economic growth, he said.

Partisanship has diminished chances of any legislation passing this year.

"It's a volatile year in politics, and I don't think there's enough cohesiveness in Congress to get something through," said Celeste King, a founding partner with Walker Wilcox Matousek L.L.P., in Chicago.

"Simply because Congress' track record has been bad over the past few years in passing cyber legislation, plus this is an election year," means that cyber legislation is unlikely to pass Congress, said Jay Ireland, a partner with Davis Wright Tremaine L.L.P. in Washington.

Paul Rosenzweig, founder of Washington-based Red Branch Law & Consulting P.L.L.C., said the Obama administration has been "insistent upon the regulatory structures" in the Lieberman-Collins bill, but Republicans "won't stomach that."

Mr. Dix said, however, "I think



Nationwide plan preferred over separate state laws

WASHINGTON—Federal cyber risk and privacy legislation is needed, many observers agree.

Properly crafted legislation "would simplify some of the challenges that we currently have dealing with dozens of state laws," said John F. Mullen, a partner with Nelson Levine DeLuca & Horst L.L.C. in Blue Bell, Pa.

The standards, duties and even definitions of personally identifiable information differ among the states. There also are a variety of ways to read state laws, Mr. Mullen said. "Those are some of the issues that should probably be addressed in a well thought-out (federal) law," he said.

"Business would appreciate any bill that gives it some predictability," said Celeste King, a founding partner with Walker Wilcox Matousek L.L.P., in Chicago. "That is the problem we have now with the patchwork of state laws. It's becoming increasingly difficult, really impossible, for some businesses to conduct business across states," she said.

While there is a need for a federal privacy law, there also is the need to harmonize U.S. privacy law with the rest of the world, said

Daren M. Orzechowski, a partner with law firm White & Case L.L.P. in New York. "There's a need to harmonize the different state laws that have arisen over the past few years with respect to privacy, and I think there's a general desire within the American culture to have a better set of ground rules between the consumers and the companies that collect their information."

That being said, "I don't dispute that there's a legitimate need to assist the government in addressing cyber security threats, both to the government and American business," he said. "The trick is: How do you balance these competing interests?"

Nathan David Taylor, an associate with Morrison Forester L.L.P. in Washington, said while cyber risk "is an issue that everyone cares about," people "are struggling, trying to think about what's the best way to address it."

As a financial services attorney, "we think we're already covered" by existing regulations, Mr. Taylor said. "I think it's an issue that probably needs greater and continued debate about how to do it right without adverse and unintended consequences."

—By Judy Greenwald

there's an opportunity to do something if the folks that are involved here would kind of adopt a strategy that says, 'Hey, let's agree on some of the arrows

in the quiver,' recognizing that that it may not be everything that we need," while "continuing to work on the areas over which there's disagreement."

Lloyd's: 2025 plan focuses on growth

CONTINUED FROM PAGE 4

easier for our own organization to align our activities and strategy with that of Lloyd's because Lloyd's as a market is extremely important to BMS."

Ross Howard, London-based chief operating officer of Towers Watson & Co.'s brokerage operations in Europe, praised the initiative, noting that Lloyd's Mr. Nelson conferred with leading brokers as he drafted the vision.

"It's what we're looking for from the Lloyd's market," said Mr. Howard, adding that Towers Watson is "very supportive of that."

"Our business with Lloyd's is a very large book," he said. "It's very good news to see that the Council of Lloyd's is looking to expand the business. I couldn't have been more pleased to hear the news."

"It's tremendous to see Lloyd's setting out a clear vision for the future, and their confidence in planning for the long term whilst dealing with clients' immediate challenges," Steve McGill, chair-

'I couldn't have been more pleased to hear the news.'

Ross Howard, Towers Watson & Co.

man and CEO of London-based Aon P.L.C.'s Aon Risk Solutions, said in a statement. "With the move of Aon's headquarters to London this year, we're obviously delighted that they see London as the global center for specialist insurance and reinsurance, and brokers' international networks as a key part of their vision."

Prime Minister Cameron's participation in the Lloyd's announcement indicated "clearly this is a high-profile announcement by the market," said Martyn Street, director-insurance at Fitch Ratings Ltd. in London. He also noted that it is the first time Lloyd's has issued a plan for such a long period of time.

"I think incoming Chairman John Nelson is putting a lot of emphasis on this strategy," said Mr. Street, adding that "a lot of it seems to be business as usual in that they continue to place emphasis on being a subscription market supported by broker distribution, but clearly the focus in the future is going to look to expand operations in emerging markets through what appears to be a number of small hubs; and, at the same time, they mention they will aim to achieve performance that outstrips their peers. It will be interesting to understand how they will be looking to achieve that. Clearly, as you expand into new territories," new challenges emerge.

Greenberg: Suit scores partial win

CONTINUED FROM PAGE 3

Attorneys for Messrs. Greenberg and Smith issued a joint statement saying their clients will seek to appeal the decision to the New York Court of Appeals, the state's highest court.

"Mr. Greenberg and Mr. Smith are pleased that the Appellate Division agreed that the prior grant of summary judgment to the attorney general must be reversed," David Boies, chairman of Boies Schiller & Flexner L.L.P., and John Gardiner, partner at Skadden Arps Slate Meagher & Flom L.L.P. in New York, said in a statement. Both attorneys represent Mr. Greenberg.

However, Messrs. Greenberg and Smith "believe the Appellate Division should have gone even further...and, as stated in the well-reasoned opinion of Judge Catterson, dismissed the attorney general's action in its entirety because the claims of the attorney general conflict with the federal securities laws, and the attorney general also failed to develop and present any proper, admissible evidence to support its allegations" against the men, the attorneys said.

Messrs. Greenberg and Smith "intend to seek leave to appeal to the New York Court of Appeals with regard to these matters in order to have this misguided action...conclusively dismissed," Vincent Sama, a partner at Kaye Scholer L.L.P. in New York who represents Mr. Smith, said in a statement.

In the meantime, both men "expect that the federal court, which has preliminarily approved a settlement of federal securities claims on behalf of a class of AIG shareholders, will approve that settlement, resulting in additional grounds for the dismissal of this wasteful action," Mr. Sama said.

The New York attorney general's office said it was pleased with the ruling.

"We are pleased that the court has paved the way for a trial to hold the defendants accountable for perpetrating a major reinsurance scheme to defraud investors," a spokesman for the New York attorney general's office said in an email.

Panel hears asbestos trust transparency needs

By MARK A. HOFMANN

WASHINGTON—The congressionally created system of asbestos trust funds needs greater transparency to prevent potential fraud, a series of witnesses told a House panel last week.

The comments came during a hearing on the Furthering Asbestos Claim Transparency Act of 2012—H.R. 4369—before the House Judiciary Committee's Subcommittee on Courts, Commercial and Administrative Law.

The bill, introduced in April, would require federal asbestos bankruptcy trusts to make quarterly reports about claims and other activities to bankruptcy courts.

Supporters argue the bill is necessary to prevent claimants from receiving restitution from multiple trust funds for the same injury.

"This is not a solution in search of a problem," said Leigh Ann Schell, founding partner in the New Orleans law firm Kuchler Polk Schell Weiner & Richeson

L.L.C. The current system is "broken," and the measure represents "good, common-sense, bipartisan legislation."

S. Todd Brown, an associate professor at SUNY Buffalo Law School in Buffalo, N.Y., said that nothing in the bill requires more information than is required in bankruptcies every day.

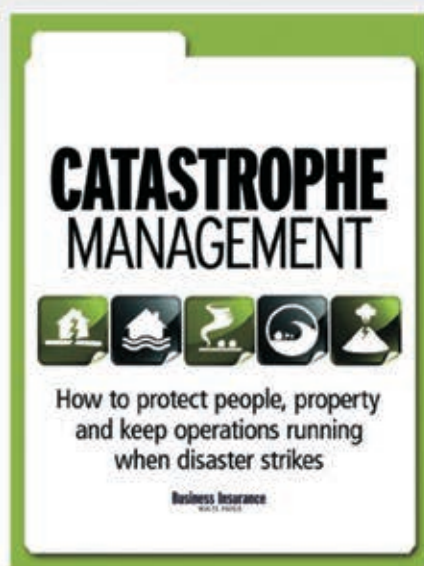
A third witness who supports the measure, Marc Scarcella, manager at Bates White Economic Consulting in Washington, said transparency in the operation of

the asbestos trusts is "critical" and that the measure would provide a "cost-effective, efficient" way to deal with claims.

But the sole witness speaking against the measure, Charles Siegel, a partner in Dallas law firm Waters Kraus & Paul L.L.P., said it was "designed to slow down the payment of claims" to people suffering from mesothelioma, and that if the bill becomes law, it would impose "onerous" administrative burdens on the trusts.

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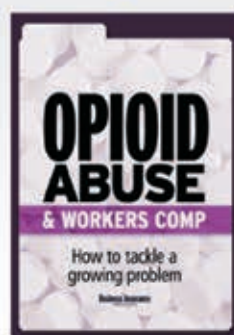
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Exposure to flood losses is rising, driven in part by growing development in flood-prone areas and poorly maintained flood protections such as dams and levees. In this free white paper, which is sponsored by Lexington Insurance Co., Business Insurance examines how flooding risk is changing, what's being done to enhance risk assessment and modeling, and strategies for loss control and risk transfer.

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AP PHOTO

May Day protesters block the entrance to a Bank of America Corp. branch as part of the Occupy Chicago demonstrations on May 1, 2012. Protests such as this are expected during the NATO Summit in Chicago on May 19-21.

NATO: City readies for trouble at summit

CONTINUED FROM PAGE 1

and commuter rail lines that travel beneath McCormick Place to continue running during the summit, it advised passengers to be prepared for heightened security measures.

Several museums announced they would be closed May 19-21.

Aside from other extensive pre-summit efforts, city officials have focused on making sure their insurance coverage is adequate (see related story).

Experts note that among potential threats facing businesses and property owners as a result of protest activities during the summit are transportation disruptions, building occupations, employee and customer injury, and physical damage to buildings or infrastructure.

"I think businesses or property owners should always be thinking about things like emergency plans," said Donald R. Zoufal, safety and security executive at System Development Integration L.L.C. in Chicago.

"I think quite frankly the best way to address NATO preparation is to go back to basics and focus on the things you should always be focusing on," he said. Companies should update emergency plans and continuity-of-operations plans and "make sure your employees understand" the plans.

Speaking of preparations at Zurich North America's downtown Chicago office, Mary Gardner, head of Americas resilience for the Schaumburg, Ill.-based insurer, said the company engages in such risk management activities whenever it has an office in the location of a political convention, major gathering of international leaders or other high-profile event that might draw demonstrators.

"This is something that we've been doing for any number of years," Ms. Gardner said. "When

Chicago extends coverage to add protection for summit

CHICAGO—From the city's perspective on the upcoming NATO Summit, considerable time has been spent making sure the proper insurance coverage is in place, said James Raussen, managing deputy comptroller.

"When you put your arms around something like this, the first thing you do is you look at previous cities that have done something like this," Mr. Raussen said. "One of the key things we have to do in an event like this is naming the additional insureds."

For example, the NATO Summit host committee and police personnel coming in from other jurisdictions to assist Chicago police will be named additional insureds

on Chicago policies, he said.

In addition, "The various vehicles that are involved—some of those coverages don't exist normally, we self-insure. So for this event, we place additional coverage on some of those vehicles," Mr. Raussen said.

Limits on relevant coverage will be increased for a few days before the summit until a few days after, he said.

"It's been more than a monthlong process to make sure that we've got all the interested parties involved and know what the exposures are and make sure we've got all of the listings of all the additional insureds," Mr. Raussen said.

—By Rodd Zolkos

'When we know events are going to happen, we want to be proactive.'

Mary Gardner, Zurich North America

we know events are going to happen, we want to be proactive."

A key focus for Zurich is safety of employees, customers, agents, brokers and other visitors to the office. Groups have identified certain buildings as demonstration targets, she said. "If there are adjacent or nearby locations that are targets, we want to make sure we take that into consideration."

through its completion, ready to respond to any changing conditions, Ms. Gardner said. For example, it might be necessary to close the office early and send employees home.

"We had to do that on the recent May Day," Ms. Gardner said. "We had one particular office where the demonstration stopped in front of the office at a bank." Realizing there was a risk at the location, Zurich encouraged employees to work from home that day, and, when violence erupted, shut the office.

While most protesters tend to be peaceful, there are subgroups bent on disruption and damaging property, said Mr. Zoufal of System Development Integration. "Businesses should always be mindful of these man-made threats to their organizations."

Still, most Chicago businesses and property owners seemed to be anticipating little change to their operations.

"For the most part, the operations within our managed properties have not changed and it's going to be business as usual," said Mark Anderson, director of security and national security liaison at real estate services firm Jones Lang LaSalle Inc. in Chicago.

Most properties in downtown Chicago have stepped up security for the NATO event, however, Mr. Anderson said. "Almost everybody that I can think of has increased their internal staffing."

Those properties have tested their emergency response plans to make sure they are current and complete, Mr. Anderson said, and established communication lines with organizations such as the Building Owners and Managers Assn. of Chicago and the Chicago Police Department to make sure they have real-time communications in place during the summit.

A "pretty limited" number have engaged in additional security measures at their properties, such as applying protective anti-graffiti film to windows and building facades, Mr. Anderson said.

"I think most important is the communication, working with the city, working with the host committee," he said "It's having your emergency management plans in place, the business continuity plan."

"Because we represent so many of the office buildings in Chicago...we've been focused on this since it was first announced," said Michael Cornicelli, executive vp of BOMA/Chicago. "It's been an ongoing process of getting information and assimilating it and disseminating it to the building owners and their staffs."

"Essentially, what we're saying to our (members) is just be prepared," Mr. Cornicelli said. "Be prepared, understand what should be happening on those days."

"If you're the Boeing building you're going to need to take different precautions than if you're a small business on an upper floor of a building that isn't on a demonstration route," Mr. Cornicelli said, adding, "A lot of it's common sense. It would be a bad day to do window washing, for example."

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Hostile: Ruling extends protection to gay worker

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was excessive.

In rejecting all of Birken's arguments, the court said that state law makes it illegal to discriminate against individuals "in terms, conditions or privileges of employment" because of the individual's sexual orientation.

The legislature's use of that phrase "evidences its intent to permit hostile work environment claims where employees are subject to sexual orientation discrimination," the court ruled.

Commenting on the ruling, Mr. Patino's attorney, Jon L. Schoenhorn, of Jon L. Schoenhorn & Associates L.L.C. in Hartford, Conn., said it "is a sweeping decision supporting workers" that "puts employers on notice—not just in sexual orientation cases, but in any case where there's a hostile work environment on any identifiable class."

Mr. Schoenhorn said, "This is the first appellate-level case in the country that extends hostile work environment (claims) to

the area of sexual orientation."

Defense attorney Daniel L. Schwartz, a member of law firm Pullman & Comley L.L.C. who was not involved in the case, said he is not sure whether there have

'This is the first appellate-level case in the country that extends hostile work environment (claims) to the area of sexual orientation.'

Jon L. Schoenhorn, Jon L. Schoenhorn & Associates L.L.C.

been any other state Supreme Court rulings on this issue, but it is "certainly one of the first of its kind in the nation."

Mr. Schwartz said Connecticut "has had its anti-discrimination laws regarding sexual orientation on the books for some time, so

it's sort of a natural evolution for these types of court decisions to see a court have to address that, given how developed the law is starting to become in that area."

Mr. Schwartz said *Patino* "certainly broadens the state's sexual orientation anti-discrimination laws to include hostile work environment claims, and in essence" calls for them to "be treated as gender-hostile work environment claims as well."

The ruling "gives some teeth to the advice that many employers are prone to follow anyway, which is barring harassment in the workplace isn't just about gender any more. It covers all types of discrimination," including sexual orientation discrimination, he said.

Birken's president said the company is disappointed by the ruling.

"Birken Manufacturing Co. prides itself on its ethics, integrity and reputation," according to a statement from Mr. Greenberg. "Our company's history and longevity in this community is a testament to our business practices and corporate record. We value our workforce and will continue to diligently work to protect our employees against discrimination."

Vitale: Aspen co-CEO sees rates turning firmer

CONTINUED FROM PAGE 3

effectiveness and efficiency of the U.S. markets? The domination of 50-state regulation and how difficult it is to bring a national product to market in the U.S. is just something that has to be addressed. Quite frankly, I think the sooner the Federal Insurance Office starts to address something like that, the better off we're going to be.

Q: Is Aspen doing business any differently as a result of last year's catastrophes?

We're a global company. We're both a reinsurer and insurer. I think there's no doubt that our reinsurance colleagues are taking a hard look at the models that they use to model risk wherever it may be in the world. I know Aspen U.S. Insurance is looking differently at the world after the RMS 11 implementation, which

basically said that losses in the U.S. will be larger and deeper and go further inland than we expected before. So we are implementing the major parts of RMS 11, and using that modeling to help us steer our risk selection and pricing decisions going forward.

Separate from that, the things that make Aspen U.S. special are the things that we are doing in the market differently anyway. We are using an integrated approach with claims and underwriting, working hand in hand on our risk selection basis as well as pricing basis. Those are the kind of things we believe will be great differentiators for us, and the distributors that we do business with are starting to see that and are helping us to be successful.

Q: Where do you see the insurance market as a whole moving during the next 12 months?

I believe you're going to see con-

tinuing firming. I actually think it needs to be accelerated. The fundamentals of why rates have to go up are in place. Seven years of a soft market, bad investment income, inflationary costs, costs of regulation, the way the rating agencies are looking at the business including the new models that are in effect—all of this is requiring rates to go up. That's the known, and we're seeing the fundamentals of that work. What we don't know is catastrophe, major catastrophe. We saw some pretty drastic storms in Oklahoma. Wherever that next major cat might be, whether it's in the U.S. or in the world, that's going to have a contributing impact. I believe that the ability of the industry to continue to reduce reserves as they've done much in the past is coming to an end. I think that some of the excess capital has been removed from the market last year by the number of cats that we had, and you saw that in companies' results. I think that the next big cat, if it's a major one, could be the tipping point that could move it from a firming market to a hard market.

inBrief

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Insurance Agents & Brokers. The 4.4% average increase compares with a 2.7% increase during the last quarter of 2011.

PBGC moves to take over Dewey & LeBoeuf pensions

The Pension Benefit Guaranty Corp. said it intends to take over and terminate three underfunded pension plans sponsored by financially ailing law firm Dewey & LeBoeuf L.L.P. The PBGC set a termination date of May 11 for the plans. The plans are underfunded by more than \$80 million and have nearly 1,800 participants.

Reinsurance rates up in loss-affected areas

Reinsurance price increases at July renewals likely will "be restricted to loss-affected sectors" absent large insured losses for the reinsurance industry, Fitch Ratings Ltd. said. Fitch noted that July reinsurance renewals predominantly relate to U.S. exposures and that pricing trends are likely to follow the same as those of the April renewal period, which focused on Asian markets.

Pension plan funding levels fall

Funding levels of pension plans sponsored by large publicly held U.S. employers fell in April as lower interest rates fueled a rise in plan liabilities, Milliman Inc. said. Defined benefit plans offered by the 100 U.S. employers with the largest pension programs were an average of 82.9% funded as of April 30, down from 85% at the end of March. In all, the value of plan liabilities rose to \$1.561 trillion at the end of April, a \$35 billion increase compared with the end of March. In a separate analysis, Towers Watson & Co. said the funding levels of the nation's largest employer-sponsored pension plans slipped in 2011. Towers Watson's analysis of financial statements filed by sponsors of the 100 largest pension programs found that plans on average were 78% funded at the end of 2011, down from 2010, when

plans on average were 83% funded.

N.J. governor vetoes insurance exchange

New Jersey Gov. Chris Christie vetoed legislation that would have established a state health insurance exchange for insurers to provide coverage to individuals and small employers. In his veto message, Gov. Christie, a Republican, said creating an exchange would be premature. "Because it is not known whether the Affordable Care Act will remain, in whole or in part, it would be imprudent for New Jersey now to create an exchange before these critical threshold issues are decided with finality by the court," he said, referring to the U.S. Supreme Court's pending decision on the law.

More employers offer wellness initiatives

While more companies are turning to wellness programs to curb employee medical costs and improve their workers' general health, relatively few are measuring the actual return on investment those programs generate, according to a study by the International Foundation of Employee Benefit Plans. More than 70% of the 583 U.S.-based IFEBP-member firms that participated in the study indicated that they offer some form of wellness program to their workers including flu shots, health screenings and weight management programs.

Noted

Gary Lefkowitz, a **Labor Department** attorney who has been involved in reviewing captive insurance company employee benefits funding arrangements for more than 30 years, will retire at the end of next month....The **Reinsurance Assn. of America** has announced its new officers for 2012-2013. James Few, president of Aspen Reinsurance and CEO of Aspen Insurance Ltd., was elected chair of the board of directors. Theodore Walker, president and CEO of PartnerRe North America, was named vice chair of the board of directors; and Franklin Montross, chairman and CEO of General Re Corp., was elected secretary-treasurer. Bryon Ehrhart, the chairman of the analytics and investment banking units at Aon Benfield Fac, was re-elected as co-chair of the Council of Reinsurers and Brokers. Their terms expire in April 2013.

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‘LIKE’ IF YOU ARE
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Clicking that “like” button Facebook can get you fired.

At least that is the experience of a worker in the sheriff’s office in Hampton, Va., who clicked on the like button of an opponent to Sheriff B.J. Roberts’ 2009 re-election bid, according to news reports.

The sheriff, who won his re-election bid anyway, fired the worker, Daniel Ray Carter, and five others who had supported his opponent. Sheriff Roberts said some of the workers were let go because he wanted to replace them with sworn deputies, while others were fired because of poor performance or his belief their actions “hindered the harmony and efficiency of the office.”

The workers claimed their First Amendment rights had been violated and filed suit. But Judge Raymond A. Jackson in U.S. District Court in Norfolk, Va., ruled against them, stating that clicking the “like” button did not amount to free speech.

Others disagree with Judge Jackson. Eugene Volokh, a law professor at the University of California in Los Angeles, told the Associated Press, for instance, that although “like” could be ambiguous, there was no question it counted as speech.

“It is conveying a message to others,” said Mr. Volokh. “It may just involve a couple of mouse clicks, or maybe just one more mouse click, but the point of that mouse click, a major point of that mouse click, is to inform others that you like whatever that means.”



CONTRIBUTING: Matt Dunning, Judy Greenwald, Mike Tsikoudakis

End Page



Producer-director Sam Raimi is suing Award Pictures L.L.C. over the company’s alleged interference with his remake of ‘The Evil Dead.’

‘Evil Dead’ remake languishes in court

Producer-director Sam Raimi is suing a film company that he alleges is interfering with his plans to make the fourth installment of the cult classic horror film “The Evil Dead.”

Renaissance Pictures Ltd., the film company formed by Mr. Raimi, producer Robert Tapert and actor-producer Bruce Campbell to make the first film in 1981, last week filed a trademark infringement suit in U.S. District Court in Los Angeles against Award Pictures L.L.C., according to news reports.

After Mr. Raimi announced plans last year to remake the original “Evil Dead,” Award Pictures reportedly tried to block production and filed a complaint with the U.S. Patent and Trademark Office

that Mr. Raimi abandoned the “Evil Dead” trademark. As part of its argument, Award Pictures cited a 2000 comment he made in a book that he would not pursue an “Evil Dead” sequel, according to reports.

In the lawsuit, Renaissance Pictures reportedly said it still has the copyright to the cult film franchise and has used the trademark for licensing “Evil Dead” video games, dolls, clothing, memorabilia and comic books.

Renaissance Pictures alleges false advertising, injury to business reputation, unfair competition and trademark infringement.

Renaissance is seeking a jury trial and unspecified damages.

AP PHOTO



A customer has objected to Southwest employees ‘eyeballing’ passengers’ size.

DON’T CHECK OUT PASSENGERS CHECKING IN

A woman suing Southwest Airlines Co. over its policy regarding overweight passengers says she’s not interested in the airline’s money.

In May 2011, New Orleans resident and blogger Kenlie Tiggeman allegedly was told that she would have to buy a second seat to board a Southwest flight, according to her website.

Ms. Tiggeman alleges she was “humiliated and harassed” by a gate agent who asked for her weight and clothing size before determining that she was too big for a single seat.

According to her blog, Ms. Tiggeman offered to demonstrate that she could fit in a single seat, but reportedly was denied the opportunity.

In her lawsuit, filed April 20 in Orleans Parish district court in New Orleans, Ms. Tiggeman accused the company of discriminatory actions toward overweight customers. In lieu of damages, her suit seeks to force Southwest to clarify its “customer of size” policy, which Ms. Tiggeman argues is too prone to interpretation by airline employees.

“When this is over, Southwest will (hopefully) owe overweight and obese Americans a clear definition of their rules at the point of purchase,” Ms. Tiggeman wrote on her website. “Eyeballing people at the gate won’t cut it.”

Southwest could not be reached for comment immediately.



PREPARE FOR QUAKES, STORMS, ATTACKS BY UNDEAD

Emergency preparedness is an important part of keeping family members safe during large-scale catastrophes—and according to state officials in Oregon, that includes zombie infestations.

Hoping to scare up some added interest among state workers for its annual safety week initiatives, Oregon’s Housing and Community Services agency is urging employees and their families to create personal safety plans designed to respond to a sudden, widespread uprising of ravenous, flesh-eating zombies, according to a report.

“Or if there’s an earthquake, or a hurricane or even a power outage,” HCS

administrative services manager Sandy McDonnell told the Statesman Journal. “If you’re prepared for a zombie apocalypse, you’re going to be ready for any of these other incidents to occur.”

During safety week, the agency will post and email safety tips for staying alive and safe in the event of a zombie apocalypse, the report said.

For example, families should designate meeting places both near to and far from their homes, because “zombies tend to gather in mobs, so you may wish to move further away in the event that the zombies choose to linger over lunch at your

mailbox,” according to the report.

Ms. McDonnell said she got the idea from a “Zombie Preparedness” safety campaign sponsored by the U.S. Centers for Disease Control and Prevention last year.

While the tips provided during HCS’ campaign are peppered with zombie-specific advice, the general practices should be applied to plans for other, less otherworldly catastrophes like earthquakes, floods, hurricanes and tornadoes.

“We all realize the importance of (safety), but oftentimes it’s buried,” Ms. McDonnell told the Journal. “So this time we figured, let’s make it a little more fun.”

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