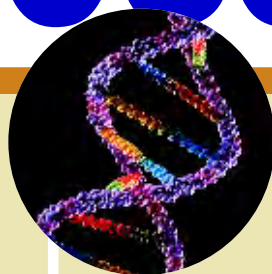


Business Insurance

May 17, 2010

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DETROIT SCHOOLS' FORMER RISK MANAGEMENT EXEC'S INDICTED IN FRAUD / PAGE 3



INCREASE IN SUITS OVER GENETIC BIAS EXPECTED / PAGE 3

DEBT HOLDINGS EXPOSE EUROPEAN INSURERS TO GREEK CRISIS / PAGE 4

In Brief

Catlin leads coverage in Libyan plane crash

Catlin Group Ltd. led insurance coverage of a Libyan Afriqiyah Airways flight that crashed last week short of the runway at Tripoli International Airport, according to market sources. The plane, which took off from Johannesburg, crashed and killed 103 of the 104 people aboard, according to Libyan authorities. The Airbus A330-200 was built in 2009 and valued at \$130 million, according to a bulletin from London-based broker Jardine Lloyd Thompson Group P.L.C. JLT said Catlin led the coverage and Aon Ltd. placed the risk. Another market source confirmed those details.

Zurich revamps senior management

Zurich Financial Services Ltd. has named Mario Greco CEO of

See **IN BRIEF** page 25

SPOTLIGHT ENVIRONMENTAL RISKS

Rates are lower and demand is higher for environmental impairment liability cover; E.U.'s environmental damage rules increase liability; Chinese drywall suits focus on pollution exclusion; environmental liability insurers listed. **PAGE 11**

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NEWSPAPER

HEALTH CARE REFORM

Delay sought for mental parity rules

Compliance stymied by health reforms, complexity: Firms

By **JOANNE WOJCIK**

WASHINGTON—Groups representing employers are asking the Employee Benefits Security Administration to delay the application of mental health parity regulations for at least a year, saying they were caught off guard by certain provisions and have been distracted by the passage of health care reform.

The groups assert that a postponement of the interim final rules for implementing the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, which were slated to take effect July 1, is justified so that government agencies can consider how the recently enacted federal health care reform law might affect compliance.

In particular, plan sponsors are concerned that if they make design changes to fulfill the mental health parity requirements, they will lose their "grandfathered" status, which makes them exempt from certain provisions in the Patient Protection

and Affordable Care Act.

Because the PPACA also requires employers that set up new health plans to cover preventive care services at 100% for plan years beginning on or after Sept. 23, 2010, the PPACA also could impede those plans' ability to pass the cost-sharing tests in the mental health parity regulations, according to comments submitted by the Washington-based American Benefits Council, the National Retail Federation and the U.S. Chamber of Commerce.

A previous attempt to suspend the regulations by the Coalition for Parity, a group of managed behavioral health organizations, was stymied April 1 when the U.S. District Court for the District of Columbia denied its request for a temporary restraining order and ordered an expedited briefing on the merits.

The group had argued that "the rules were promulgated in the absence of notice and comment," which is required under the Administrative Procedure Act. However, the government countered that the rules were adopted with the "express statutory authority" of the secretaries of Labor and Health and

See **PARITY** page 23

LIABILITY & LITIGATION

President Obama last week nominated U.S. Solicitor General Elena Kagan to serve on the Supreme Court.

High court nominee seen as unknown

Business says little to go on, but Kagan's tort work praised

By **MARK A. HOFMANN**

WASHINGTON—Although little is known about how U.S. Supreme Court nominee Elena Kagan will rule on business issues, she is drawing some praise from both sides of the tort reform debate.

Ms. Kagan, U.S. solicitor general and former dean of Harvard Law School, has never been a judge, nor has she published extensively. As a result, observers say, she lacks a paper trail regarding civil justice or most other legal matters,

See **KAGAN** page 22



AP PHOTO

P/C INSURERS

Massive Gulf spill roils offshore energy renewals

By **ZACK PHILLIPS**

The massive oil spill in the Gulf of Mexico has thrown offshore energy renewals into disarray, observers say.

The Deepwater Horizon, a semisubmersible rig operated by BP P.L.C., sank April 22 after an April 20 fire and explosion. The accident killed 11 workers and caused oil well leaks that are spewing thou-



AP PHOTO

An oil-soaked bird floats in the Gulf of Mexico. Thousands of barrels of oil a day are spewing into the ocean.

sands of barrels of oil a day into the ocean. Cleanup costs and liability damages could reach \$3 billion,

according to various estimates.

Hurricane season begins June 1, and most offshore energy companies in the Gulf of Mexico renew their insurance policies in April, May and June.

Brokers had been expecting a slight softening in market prices, but underwriters are reassessing their strategies in response to the Deepwater disaster. Most experts expect offshore energy rates to increase; several observers said the market has not yet figured out how to respond to the incident, while others said they already have seen prices harden.

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HEALTH CARE REFORM FAQ

BusinessInsurance.com's Health Care Reform section includes an updated FAQ that describes key provisions of the new law for employers. Find it on the home page.



BENEFIT CONSULTANTS and ENVIRONMENTAL LIABILITY

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Week of May 10, 2010

1. Adult-children health coverage rules bar surcharge
2. Workers comp insurers in 'precarious position': NCCI
3. Ex-Detroit Public School risk management execs indicted
4. Liberty Mutual Agency plans IPO
5. Administration tries to block health care reform suit
6. Specialty insurer Markel OKs new management structure
7. Rig owner seeks to cap liability, cites insurer advice
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HEALTH CARE REFORM

Adult child coverage rules issued

Guidance clarifies several uncertainties in health reform law

By JERRY GEISEL

WASHINGTON—Employers now have regulatory guidance to comply with the health care reform law mandate that they extend coverage to employees' adult children up to age 26.

Joint guidance issued last week by the Departments of Labor, Health and Human Services and the Internal Revenue Service resolves one key issue—whether employers can impose surcharges for the expanded

coverage on which the new law is silent—and clarifies numerous other issues. (see box).

Perhaps most significantly, the rules were issued less than two months after President Barack Obama signed the legislation into law. That gives employers time to analyze the rules and consider changes they must make to their health care plans to comply with the young adult child coverage mandate.

"The first surprise is how quickly the rules came out and how clear they are. That will allow employers to take action that won't be rushed," said Randy Abbott, a senior consultant with Towers Watson & Co. in Wellesley Hills, Mass.

The biggest issue resolved in the

regulations is whether employers can impose surcharges on employees for the expanded coverage. The rules say they cannot.

"That was a very big question for employers as they looked at future plan design," said Jennifer Henrikson, a legal consultant with Hewitt Associates Inc. in Lincolnshire, Ill.

"The terms of the plan or health insurance coverage providing dependent coverage of children cannot vary based on age," according to the regulations published in the May 13 issue of the Federal Register.

That position "is not a surprise, but it was the most significant open

See **AGE 26** page 25

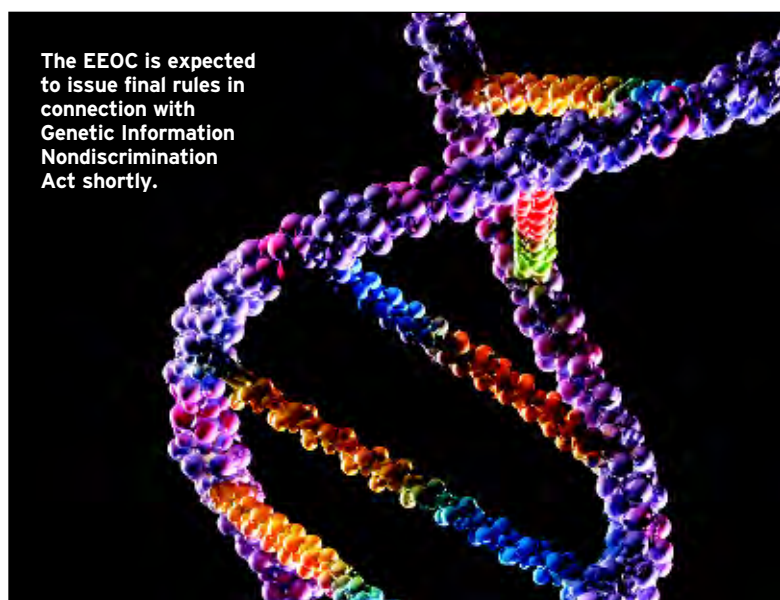
A NEW AGE

Rules that employers must follow to extend coverage to employees' adult children up to age 26

- Conditioning coverage on student status, residency, marital status or parental financial support is no longer permitted.
- Special surcharges for coverage are not allowed.
- Coverage must be extended through the day before a child turns 26 and can be continued on a tax-favored basis through year-end when the child turns 26.
- Coverage mandate does not apply until Jan. 1, 2014, for children eligible to enroll in another employer-sponsored plan.
- Employees must be informed of the extension of coverage and given 30 days to enroll eligible older children.
- Children who lose coverage when they turn 26 can enroll in COBRA.
- Extension of coverage must begin on the first day of the plan year that starts after Sept. 23.

Source: Interim final rules from the Departments of Labor, Health and Human Services and Internal Revenue Service

EMPLOYMENT PRACTICES



The EEOC is expected to issue final rules in connection with Genetic Information Nondiscrimination Act shortly.

Discrimination claims rising in wake of genetic bias law

Experts say employers not ready to comply with GINA rules

By JUDY GREENWALD

Employers should brace themselves for more lawsuits alleging violation of the Genetic Information Nondiscrimination Act, many observers warn.

Some experts believe, though, that several months after its enactment, many employers still may be inadequately prepared to comply with provisions of Title II of GINA, which prohibits employment discrimination based on genetic information.

In a potentially precedent-setting case, a Connecticut woman last month filed a claim with the Equal Employment Opportunity Commission alleging her employer violated the law when she was terminated this year after undergoing a preventive double mastectomy (see story, page 24).

Title II of GINA, which went into effect in November, prohibits using genetic information in making employment decisions, restricts acquisition of genetic information by employers and strictly limits its disclosure. Title I of GINA, which addresses the use of genetic information in health insurance, goes into full force at the end of May.

Narrow exceptions to the law include the inadvertent acquisition of genetic information, such as when a manager or supervisor overhears someone talking about a family member's illness. In addition, genetic information can be obtained as part of health or genetic services, including wellness programs offered by employers, on a voluntary basis if certain requirements are met.

The EEOC is expected to issue final rules in connection with GINA shortly, although a specific date has not been set, said EEOC Assistant Legal Counsel Chris Kuczynski.

To date, the EEOC has received

See **GINA** page 24

RISK MANAGEMENT

Former school risk managers indicted

Ex-Detroit officials accused of bilking district of \$3.2 million

By SALLY ROBERTS

DETROIT—A former Detroit Public Schools official once honored for his risk management work there is at the center of a scandal in which he is accused of bilking the school system of millions of dollars for himself, friends and business associates including several insurance brokers.

Stephen Hill, former executive director of the Detroit school system's risk management department, and Christina Polk-Osumah, former risk finance manager, were indicted late last month by a Detroit



U.S. MARSHAL OFFICE
Stephen Hill, a former Detroit Public Schools risk management official, faces criminal charges and a civil suit.

federal grand jury on charges they improperly diverted more than \$3.2 million in school funds to pay a Detroit-based wellness vendor, Associates for Living, in exchange

for more than \$150,000 in kick-backs.

The former risk management executives also have been named in a civil suit the school system filed in 2008 in Wayne County Circuit Court. The two are accused of using improper wire transfers to divert more than \$57 million to seven vendors, including Associates for Living, that provided little, if any, services to the school system.

Other providers named in the civil suit include insurance brokers Arthur J. Gallagher & Co. and Marsh & McLennan Cos. Inc., with which Mr. Hill worked during the time of the alleged fraud. The district alleges the brokers were paid millions in consulting and other fees for little in return.

See **INDICT** page 23

P/C INSURERS

Sale of AIG life unit may bring less cash

By COLLEEN MCCARTHY

NEW YORK—American International Group Inc.'s plan to sell its Asian life insurance unit to Prudential P.L.C. looks to move forward this week, although expected changes in the deal's financial terms could result in less cash for AIG with the same overall price, experts say.

Separately, AIG President and CEO Robert Benmosche told shareholders last week that the company is "performing well."

The U.K. Financial Services Authority reportedly agreed in principle to London-based Prudential's \$35 billion purchase of AIA Group Ltd. based on Prudential's agreement to restructure the deal to win FSA approval.

The proposed cash-and-stock deal for Hong Kong-based AIA, which is one of AIG's most prized assets, hit

\$23 billion

THE SIZE of the cash portion in London-based Prudential P.L.C.'s proposed \$35 billion cash-and-stock purchase of Hong Kong-based AIA Group Ltd. from American International Group Inc. under revised terms that were being discussed.

a snag in recent weeks and raised concerns that it might be in jeopardy.

This month, Prudential unexpectedly delayed the start of its rights issue—where it was looking to raise \$21 billion to fund the purchase. Prudential said the FSA had

concerns about its capital position, or how assets would be held and structured in the combined company.

However, Prudential reportedly is set to begin its rights issue this week and a prospectus containing details of the transaction is expected in the next several days.

In the original proposal, Prudential was to pay AIG \$25 billion in cash and the rest in preferred shares and other securities. Under revised terms that were being discussed, AIG would reduce the cash component by \$2 billion without changing the overall price.

Prudential, which had planned to issue \$5 billion in senior debt to fund part of its cash payment, instead would issue hybrid securities for \$5 billion, and AIG would

See **AIG** page 22

INTERNATIONAL

Insurers, reinsurers weigh Greek investment exposures

By MICHAEL BRADFORD

ATHENS, Greece—Insurers and reinsurers holding billions of dollars in sovereign debt issued by Greece and other E.U. member states are hoping financial support from the European Union and other sources will keep those investments safe from default.

The European Financial Stabilization plan announced by the European Union in Brussels last week consists of €500 billion (\$636.55 billion) in funds earmarked for government loan guarantees and other purposes. The International Monetary Fund is contributing €250 million (\$318.3 million) to the plan.

The stabilization plan comes after an E.U.-backed €110 billion

(\$140.04 billion) loan package was approved for Greece on May 7.

Insurers are hopeful that those actions will reduce the likelihood that Greece will default on its obligations or that debt holdings in other countries—Ireland, Italy, Portugal and Spain in particular—could be threatened by the same risk of default if the economic crisis that has plagued Greece spreads.

While insurers point out that in most cases the holdings represent a small percentage of their total investments, they nonetheless have billions of dollars at risk in sovereign bond holdings across the European Union (see chart).

The rescue plan has calmed but not erased default fears among

GREEK DEBT

Holdings in Greek sovereign debt by major insurance groups, in U.S. dollars

Allianz S.E.	\$4.20 billion
ING Groep N.V.	\$4.07 billion
Munich Reinsurance Co.	\$2.55 billion
Swiss Reinsurance Co.	\$800.0 million
AXA Group	\$636.6 million
Zurich Financial Services Ltd.	\$400.0 million
Aviva P.L.C.	\$222.3 million
Hannover Reinsurance Co.	\$44.6 million

Source: Company financial reports

insurers and reinsurers.

“Based on all the uncertainties, there is, of course, concern about

defaults,” said Roland Vogel, chief financial officer at Hannover, Germany-based Hannover Reinsurance Co. But the rescue package is encouraging, he said in an e-mail. “Short term, we feel that any default risk has decreased remarkably.”

Hannover Re’s debt holdings for Greece, Ireland, Italy, Spain and Portugal total €462 million (\$588.2 million), which is 2% of the reinsurer’s assets under management, Mr. Vogel pointed out. Potential defaults, therefore, are not a big concern, he said.

A problem could arise, though, if the rescue plan were found to be insufficient or if the euro suffers a significant fall because of uncertainties in Europe, said Mr. Vogel. Such conditions “could have a material

macroeconomic impact which subsequently could impact our investment portfolio,” he said.

David Prowse, London-based senior director at Fitch Ratings Ltd., said the risk of default should not be a big concern for insurers. “Insurance companies we rate typically have a very low exposure to Greek debt,” he said.

“I’m a little concerned that people get the wrong impression about who is exposed to debt in Greece and these other countries,” said Zurich-based Daniel Hofmann, chief economist for Zurich Financial Services Ltd. “The primary exposure is to banks that extended loans to

See **GREECE** page 21

Questions Answers

Hartford Financial Services Group Inc. last month revised its business plan to organize around three key customer growth opportunities: risk protection and benefits for businesses, wealth management, and consumer protection for affinity groups and select segments. Juan Andrade, Hartford’s president of commercial markets, discussed with Business Insurance Senior Editor Judy Greenwald how this plan will affect commercial customers.



Hartford realigns units

Q: As far as the commercial segment is concerned, what new areas do you anticipate you’ll be going into?

The most significant thing that we’re doing in the commercial parts is really bringing the disability in group life components of the life company into the property/casualty components as well, so we’re putting this all together as one entity. The idea behind all of this is really to try and leverage off each other, take advantage of the customer base that we have. Now along those lines, we will be looking at expanding some of our appetite in both the traditional property/casualty commercial products as well as at the group end of its products as well. We’re also going to be looking at additional opportunities within the disability space to be able to service our customers even better.

Q: There’ll be some specialty offerings that are not strategically key that you’ll no longer pursue. Could you talk about that?

In specialty, really the things that we’re going to be less

focused on are going to be monoline-type products, like monoline product liability, monoline excess casualty...It’s primarily those two lines that we will be de-emphasizing.

Q: How will your strong market position help you in pursuing this strategy?

As we looked at all of this, basically what we realize is that really nobody has more than a 5% market share in this country. We are about a 3% market-share player at this point in time; and so by being able to leverage off of the customer base that we have, we basically insure one out of every six businesses in the U.S. We also have a pretty unique product breadth. We can essentially provide anything short of credit- and deposit-type products for health insurance, so it’s about 90% of the products that most business owners have. And then we have an incredible distribution. So being able to leverage off of those three things is really

See **ANDRADE** page 21

P/C INSURERS

Liberty Mutual set to raise \$100M through IPO of unit

Listing seen as giving financial flexibility to mutual insurer

By JUDY GREENWALD

BOSTON—Liberty Mutual Group’s decision to take Liberty Mutual Agency Corp. public is a good strategy that is well-timed, observers say.

The move will give the mutual needed financial flexibility when the stock market is likely to be receptive, they say.

In a registration statement filed with the Securities and Exchange Commission last week, Liberty Mutual Agency said it plans to raise up to \$100 million in an initial public offering. The unit focuses on property/casualty Main Street business as well as individual and surety business.

Liberty Mutual Group said in a statement that it expects the IPO, which requires SEC review, to be completed during the third quarter. Observers note the insurer can postpone the IPO, though, depending on stock market conditions.

According to the S-1 filing, Liberty Mutual Agency had \$1 billion in net income in 2009 vs. a \$564 million loss in 2008. Its net premiums written were \$10.1 billion in 2009.

The offering will enable parent Liberty Mutual Holding Co. Inc. “to enhance its overall financial flexibility by enabling one of its significant business units to access the equity capital markets,” according

to the IPO document.

Liberty Mutual Holding says it intends to sell no more than a 20% equity interest in the unit and expects to maintain a controlling interest. The IPO does not specify how the proceeds would be used.

“It’s a terrific strategic move for them to be taking at this point,” said John L. Ward, CEO of Cincinnati-based Cincinnati Partners L.L.C. “The timing is good because the (financial) markets are on the rebound” and this year “is going to be a much bigger year for deal flow.”

Liberty Mutual Agency is one of its parent company’s four strategic business units. The others are personal markets, commercial markets and international, with each business unit operating independently.

Liberty Mutual chose Liberty Mutual Agency for an IPO because its other units “are more tied to the mutual company itself” and “they want to remain a mutual group,” said Alan Murray, senior credit officer at

Moody’s Investors Service Inc. in New York.

“This is probably their strongest performer,” Mr. Ward said. It has had excellent results in recent years and has “tremendous scale.” It is comprised of a “handful of regional insurance companies around the country that’s come together through strong organic growth and a series of strategic acquisitions.”

Having a publicly owned unit would give the mutual more



Mr. Dybdahl Mr. Zoldowski

Webcast to shed light on M&A liabilities

Risk managers’ insurance skills can add millions of dollars to their organization’s bottom line through creative uses of environmental insurance in property transactions.

Join *Business Insurance* on May 25 at 2 p.m. EDT/1 p.m. CDT/noon MDT/11 a.m. PDT for a live, interactive webcast, “Buyer Beware: Managing Environmental Liabilities in Mergers & Acquisitions,” sponsored by Zurich, to learn best practices in the due diligence process for uncovering environmental liabilities in M&A deals, when and how risk managers should be involved in the process, and the risk transfer and insurance tools that can help prevent a deal from being derailed.

Risks from environmental liability exposures can not only complicate deals, they can halt the economic benefits derived from development activities. To mitigate the downside and protect the value of opportunity, risk managers and the insurance industry can work together to find solutions.

Expert speakers for the webcast are David Dybdahl, president of American Risk Management Resources Network L.L.C., and Grant Zoldowski, manager of environmental compliance for United Rentals Inc. *Business Insurance* Senior Editor Joanne Wojcik will moderate the panel.

To register for the free webcast, please visit www.BusinessInsurance.com/webinars.

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Private investors eye workers comp firms

Health care reform, improving economy boost buyer interest

By ROBERTO CENICEROS

Health care reform and improving economic conditions are fueling increased private equity interest in workers compensation claims management and medical services companies, several sources said.

The number of recent deals may be limited, however, because few companies are up for sale and private equity investors already own many workers comp service providers, as exemplified by the recent \$1.1 billion sale of Sedgwick Claims Management Services Inc. by one set of private equity owners to another, sources said.

But economic forces now at work could lead private equity money to buy and combine large third-party administrators, said Thomas Watson, CEO of Avizent, a Dublin, Ohio-based risk management services company.

"We personally are exploring certain options along those lines," which would require private equity funding, Mr. Watson said.

Avizent, owned by Denver-based KRG Capital Partners L.L.C., is the nation's eighth-largest workers comp TPA and seventh-largest property/casualty TPA in 2010 rankings by *Business Insurance*.

So far, however, private equity investors have not communicated a desire to combine large TPAs, said

Alex Sun, CEO at Mitchell International Inc., a San Diego-based insurance claims services company owned by several private equity investment firms and led by Los Angeles-based Aurora Capital Group.

A major reason private equity funds' interest in workers comp claims management and medical services companies has grown is their expectation that the reforms and regulations will not significantly affect the treatment of injured workers, several sources said.

'The work comp space has a little more predictability in that it isn't directly impacted by Obamacare.'

Kent Spafford, One Call Medical Inc.

In contrast, health care reform is expected to force greater changes on group health care, which makes workers comp companies a more predictable endeavor, said Kent Spafford, CEO of One Call Medical Inc. in Parsippany, N.J.

"The work comp space has a little more predictability in that it isn't directly impacted by Obamacare," Mr. Spafford said. "I think workers comp isn't going to have the same regulatory issues that the rest of the health care services businesses will, trying to figure out what Obamacare is all about."

One Call Medical contracts with

about 3,000 diagnostic imaging and radiology centers nationwide while workers comp claims payers can access the network through its call centers, Mr. Spafford said.

New York-based Odyssey Investment Partners L.L.C. owns One Call, its third private investor owner.

"In each event, we continued to run the company the day after (the sale) just like we did the day before," Mr. Spafford said.

Private equity firms have been buying health care-related companies, including workers comp entities, for years because of the health care industry's growth and profit potential, sources said.

But interest in the workers comp segment has grown in the past six months or so because of health care reform and the ailing economy. Easing capital markets also are helping drive the trend by freeing up money for purchases, observers said.

The number of calls to his office from private equity funds inquiring about the workers comp industry, and Avizent in particular, have grown substantially during the past six months, Mr. Watson said.

"There is (private equity investment) expansion across a number of industries; but from what I am hearing, there is a lot of interest in our industry in particular," Mr. Watson said.

Private equity funds favor workers comp companies because they tend to provide core, must-have claims adjudication services for "blue chip" insurers and self-

See **EQUITY** page 25

Commentary

An intelligent approach to risk management

Think you know risk? Think you've figured out just what events might disrupt your well-crafted business plan?

Think again, say the authors of a new book, "Surviving and Thriving in Uncertainty." In their work, subtitled "Creating the Risk Intelligent Enterprise," Deloitte & Touche L.L.P.'s Frederick Funston and Stephen Wagner take the stance that conventional risk management has failed and a new approach is needed.

The recent financial crisis provided a convenient case for their arguments; but, in fact, the authors were at work on the book before the credit markets started coming undone in the fall of 2008.

While the book—published by John Wiley & Sons Inc.—is serious business, the authors have succeeded in keeping it from becoming a dry academic affair.

To me, one of the most fun aspects of the book and a recent conversation I enjoyed with Messrs. Funston and Wagner is their frequent interjection of "voices of experience," be they the thoughts on risk from corporate leaders or academics, or from such intelligent risk takers as mountaineer Jamie Clark or former race car driver Mario Andretti.

A common theme emerging from those voices is that risk takers like experienced mountain climbers "hope for the best but prepare for the worst," said Mr. Funston, a Deloitte & Touche principal. In contrast, one failure of many risk management efforts, according to Messrs. Funston and Wagner, is that many organizations fail to accurately assess what the worst could be.

Many companies, said Mr. Wagner, who retired in 2009 as managing partner of Deloitte's Center for Corporate Governance, put their emphasis on identifying the possible causes of negative outcomes, rather than focusing on all the possible negative outcomes the organization might face, regardless of cause.

I've written before about my fondness for stories that a buddy of mine and I refer to as "tales of incredible hardship."

Typically, these are stories of expeditions gone awry, adventures that went horrifically bad or voyages that turned deadly. Some end better than others, but typically the predicament the participants face seems to stem from crises beyond what they might have considered possible,



RODD ZOLKOS

Special Projects Editor Rodd Zolkos can be reached at: rzolkos@businessinsurance.com

be it a storm out of season or one very angry whale.

This kind of leads to the subject of risk modeling, and models' performance in the face of recent calamities.

In cases where the models haven't performed to the expectations of those relying on them, it's not that the models were flawed, Mr. Funston said. The failure was in the assumptions underpinning them. So then,

Typically the predicament the participants face seems to stem from crises beyond what they might have considered possible, be it a storm out of season or one very angry whale.

one of the first failures in assessing risk is a failure of assumptions.

There's far more to "Surviving and Thriving in Uncertainty" than I have space to address here, but among its key offerings is a list of 10 fatal flaws of conventional risk management, as well as 10 business skills for overcoming them.

And throughout, the book takes a point of view that while it's necessary for organizations to take risks, those risks must be addressed strategically.

"Too many CEOs say, 'Strategy's mine, risk is yours,'" said Mr. Funston. "There's no innovation that takes place without risk."

"The notion of risk intelligence is about the relationship of value protection and value creation," added Mr. Wagner. "You can't separate strategy and risk."

Business Insurance Webcasts & Webinars

Business Insurance's Webcasts are developed by *BI* editors to discuss the latest and most pressing issues facing our readers. *Business Insurance's* Webinars are educational and informative presentations by leading companies serving the risk management, employee benefits and commercial insurance communities. Both formats are presented live online and afterward are accessible on demand.

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Business Insurance OPINIONS

Regulators correct, on time with guidance

We applaud federal regulators for their timely and clear guidance to aid employers in complying with the health care reform law.

As we report on page 3, the Departments of Labor and Health and Human Services as well as the Internal Revenue Service last week issued guidance on a provision in the law that will require employers to extend coverage to employees' adult children up to age 26.

Most striking about the guidance is the speed at which it was provided—less than two months after President Obama signed the law. While speed isn't everything, it is important as promulgating guidance quickly enables employers to get a head start in preparing for the changes they will need to make to their health care plans.

Just as important as the speed at which they were delivered, however, is the clarity of the regulations. Employers know exactly what they must and cannot do to comply with the extension mandate.

We believe regulators' positions are fair and reasonable. A reading of the law makes clear, as the regulations affirm, that age is the sole criterion for ending coverage to an employee's adult children.

And while the law is silent on whether employers can impose special surcharges on employees for the expanded coverage, we believe regulators were correct in disallowing them. Clearly, such charges—if they were targeted to a single group and based solely on age—would be discriminatory.

A more difficult issue is the appropriate age for which employers should be required to extend coverage to employees' adult children. We don't know if age 26 was right or whether age 25 or age 27 would have been more appropriate.

What we do know is that the extension of coverage will ensure more young adults will have health insurance, which should mean more timely treatment of medical conditions and a reduction in the amount of uncompensated care. We hope that will offset the increased costs employers will incur in extending health coverage to more people.

Biggest risks may be inside an organization

BRIBERY, FRAUD, EXTORTION and money laundering. These are disturbing charges that would alarm anyone considering doing business with an individual accused of these things. Such allegations can be even more damaging when the charges are leveled at an organization's own risk management employees.

As we report on page 3, that is the situation confronting Detroit's public school system. Stephen Hill, former acting executive director of Detroit Public Schools, and Christina Polk-Osumah, its former risk finance manager, have been indicted and face trial in July.

According to the indictment, the pair diverted more than \$3.2 million in school funds to a Detroit-based wellness vendor in exchange for kickbacks totaling more than \$150,000. A separate civil suit alleges the pair organized improper wire transfers of more than \$57 million to seven providers—including brokers Arthur J. Gallagher & Co. and Marsh & McLennan Cos. Inc. Gallagher and MMC have denied any wrongdoing and MMC has filed a counterclaim.

If true, the charges are an egregious example of bilking a public school system—and not a particularly well-funded one at that. What makes the case shocking is that the accused were risk management officials, whose job is to protect people and property.

Before the alleged wrongdoing took place, Mr. Hill was named the 2005 Public Risk Manager of the Year. It's a reminder that sometimes the biggest risks organizations face come from within.

We believe the positions taken by the regulators are fair and reasonable.



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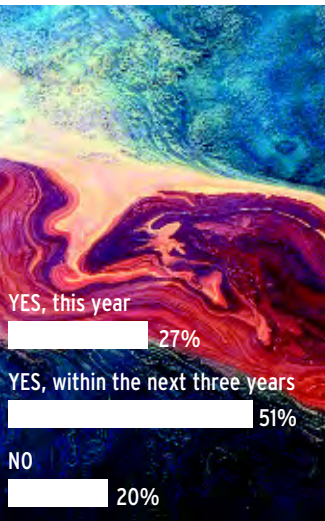
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THIS WEEK'S RESULTS

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NEXT WEEK'S QUESTION

Q: Will the Supreme Court's changing composition be favorable to businesses?

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Benefit plans need changes for high ranking

Employers that wish to earn a high ranking in the Human Rights Campaign Foundation's 2012 Corporate Quality Index must revise their health care plans and other benefits to include same-sex partners and spouses, say Todd A. Solomon and Brian J. Tiemann of the Chicago office of law firm McDermott Will & Emery L.L.P. That's because the Washington-based Human Rights Campaign has changed the evaluation criteria for its 2012 ranking, which could benefit employers that receive high marks, they say.

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Products & Services

Aon coverage backs spacecraft, tech investors

WASHINGTON—Aon International Space Brokers has introduced a policy for investors in spacecraft and other related technology.

Investment Protection Insurance covers investment losses in space satellites, failed launches and satellite assets, the Washington unit of Chicago-based Aon

Corp. said in a statement.

Due to a lack of insurance capacity and because of first-party rights to a spacecraft, investors previously could not protect their financial interests, which affected satellite operators' credit ratings, Aon said.

"Aon used its leverage with the insurance markets to introduce new capital, supporting both investors and operators by protecting their investments," Clive Smith, executive vp of Aon International Space Brokers, said in the statement.

Any damage to a satellite triggers a claim, and the policy will address fluctuations in a company's bond yield and share price before and after a launch or in orbit, the company said.

In an e-mail, Aon said all underwriters are A-rated companies.

For more information, contact Michael Hewins, chief commercial officer, at 312-381-1000 or michael.hewins@aon.com.

Recovery program bows for fire, water damage

GLENDALE HEIGHTS, Ill.—Munters Moisture Control Services, a unit of Amesbury, Mass.-based climate-control technology firm Munters Corp., has enhanced its emergency restoration services and disaster recovery plans.

Its two-part program, Code Blue, offers risk awareness and prevention with quick business continuity response in the event of fire and

water damage incidents, the Glendale Heights, Ill.-based company said in a statement.

Business or property managers complete an online risk awareness profile of a business and its risk management operations and Munters identifies key risks and devises a business continuity disaster recovery plan for the company.

Once an incident occurs, Code Blue identifies and sends emergency response teams to important areas to minimize damage and disruption, the company said.

Online registration for Code Blue and an initial risk assessment can be completed free of charge at www.munters.us/codeblue-us.

For more information, call 1-800-MUNTERS (686-8377).

Aetna has cross-border plan for Calif., Mexico

WALNUT CREEK, Calif.—Aetna Health of California Inc. has introduced a health plan for California and selected cities in Mexico.

Through a partnership with Sistemas Medicos Nacionales S.A. de C.V., a health maintenance organization provider with offices in Tijuana, Mexico, and San Diego, Aetna will offer employers the option of employees receiving care in California or in the Mexican cities of Mexicali, Tecate and Tijuana, the Aetna Inc. unit said in a statement.

Vitalidad Plus California de Aetna allows employers to select four copayment structures for their employees. The program provides members and their families full coverage of preventive care, including immunizations, child and adult wellness exams, and a primary care doctor can be selected in either country.

"People are more likely to get routine care and stay healthier when they have a primary care physician they can relate to," Beth Andersen, president of Aetna's Western region, said. "With access to Aetna's provider network in California as well as the SIMNSA network in Mexico, we believe we can help members achieve their optimal health."

The Walnut Creek, Calif.-based Aetna unit said documents and customer services are available in English or Spanish and that plan members are eligible to participate in its maternity, health management and wellness programs.

For more information, call Kathy Dibble, head of sales and service for the western region, at 805-376-5219.

HighRoads helps firms comply with health law

WOBURN, Mass.—Human resources information management software provider HighRoads Inc. has developed a technology-based tool to help employers comply with the health care reform law.

HR Compliance aims to simplify and automate updates of medical summary plan descriptions to comply with the law, the Woburn, Mass.-based company said in a statement.

"Employers already burdened with the complex process of developing (summary plan descriptions) for their benefits programs are now facing additional complexity as they work to integrate the new language which has resulted from the health care reform bill," CEO Michael Byers said in the statement.

The program is available as a hosted, online service or can be delivered by the HighRoads compliance team. It provides clients with compliant summary plan descriptions that can be printed, exported and stored electronically, HighRoads said.

For more information, contact Marc Salois, vp of sales, at 781-503-4080 or msalois@highroads.com.

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CLEANING UP

Many forgo environmental impairment cover despite lower rates, competition

By LOUISE KERTESZ

Rates for environmental impairment liability insurance have never been lower as coverage and capacity continue to broaden, brokers and insurers say.

Demand for environmental liability coverage, which fills the gap left by the standard pollution exclusion in general liability coverage for pollution cleanup contractors and site- or product-specific pollution, also has increased.

Still, many companies forgo the coverage during a struggling economy, experts say. "Many businesses don't understand their environmental exposures. And even though prices are dropping, companies do not want to spend the extra money on the coverage," said Anthony Lehen, managing director of the environmental risk and insurance group at Arthur J. Gallagher Risk Management Services Inc.

"The number of what I would call mainline carriers has probably doubled in the last 18 months," said Chris Smy, Atlanta-based global leader of the environmental practice at Marsh Inc. "Even Lloyd's syndicates are coming in, which we haven't seen before. Not only is there more capacity, to a very large extent they are all coming in offering very similar products, so it's a very competitive market that has driven down premiums and also broadened coverage terms," he said.

"There's been a real explosion of new carriers offering environmental products" compared with just five or six main insurers writing EIL coverage five years ago, said Michael Balmer, environmental practice leader at Willis North America in Boston, a unit of Willis Group Holdings P.L.C. "Around 30 different insurers can now offer some form of environmental coverage," he said.

"Rates across the board are dropping," said Mr. Lehen. "On average, I've seen 50% to 100% drops; and you get broader coverage for less premium," he said.

"The market is as soft as I've ever seen it," said Ken Ayers, managing director of Aon Environmental Services Group in Nashville, Tenn. At renewals after three-year programs, "we've seen 20% to 30% reductions in premiums."

"The market is very, very competitive and we've had a lot of premium reductions," said Rick Hawkin-

berry, senior vp-environmental practice at Willis North America in Pittsburgh. "Insurers are getting aggressive to hold onto their business at renewals."

One client told Mr. Hawkinberry that "the fact that the market is more competitive, companies can use that to their advantage to maintain what they had at a lower premium or obtain higher limits or enhanced coverage for the same premium."

But John Gibson, senior vp and global product line manager for environmental at the Chubb Group of Insurance Cos. in Whitehouse Station, N.J., warned that caution should be used in choosing an insurer. "You still want to make sure that you've got a financially strong and stable carrier with expertise and global capabilities and a long track record in paying claims fairly and

'The market is very, very competitive and we've had a lot of premium reductions. Insurers are getting aggressive to hold onto their business at renewals.'

Rick Hawkinberry, Willis North America

hassle-free," Mr. Gibson said.

At Chartis Inc., the largest writer of environmental impairment liability coverage, "rates are down slightly, but we're seeing them stabilize as 2010 has come into play," said Kimberly Hanna, executive vp and chief operating officer of Chartis' environmental division in New York. "Where we have determined that the rate is not adequate, we walk away."

"Rates over the past two years have fallen, so there is very little room left (to reduce prices) and remain a viable market going forward," she added. "We're not always the cheapest, but you're paying for the value-added programs that newer entrants can't afford."

Ms. Hanna said those services include access to crisis management specialists who respond to an incident at prenegotiated rates, regardless of whether it is covered by the policy; access to indoor air quality specialists to address issues including mold damage; and the industry's largest claims management

operation.

Capacity "varies from carrier to carrier, but we are able to layer programs to \$200 million or \$250 million," Marsh's Mr. Smy said.

"Clients buy varying limits based on the size of their business," said Ken Cornell, senior vp at Allied World Assurance Co. Holdings Ltd. in Pembroke, Bermuda. He established Allied World's New York-based environmental division last October.

"One trend I do see is that larger companies are looking to buy comprehensive environmental programs, which require multiple markets to layer their capacity. To me, that's the new big deal in the environmental field—a number of carriers providing layers of capacity that can range well over \$100 million in total," Mr. Cornell said.

Another trend is that smaller companies are buying environmental liability coverage.

"The new pollutants of this decade are water and lead," said David Dybdahl, president of Ameri-

can Risk Management Resources Network L.L.C., a wholesale environmental brokerage based in Middleton, Wis. Water leaking into a built environment causes mold, and "court cases are coming in supporting the exclusion of mold-related losses" from traditional general liability policies, he said.

As a result, it's not just the Fortune 1000 company that needs an EIL policy with a \$150,000 premium, it's "Joe the plumber who needs a \$2,500 contractors pollution liability policy," Mr. Dybdahl said.

Because there are no standard forms for EIL policies, brokers must wade through several policies with terms that are not strictly comparable, he said. "We're all struggling to figure out how to write a \$2,500 policy and cover the transaction costs," Mr. Dybdahl said.

"Buyers have a huge range" of options, said Aon's Mr. Ayers. "There are 100 to 150 different

See **LIABILITY** page 14

Environmental
Risks

SPOTLIGHT

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DAMAGE RULES
INCREASE LIABILITY**
PAGE 14

**CHINESE DRYWALL
SUITS FOCUS ON
POLLUTION EXCLUSION**
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Environmental liability insurers

Company/Address	Phone/Web site	First environmental insurance policy issued	Total environmental liability staff	Minimum policy premium	Environmental liability claims limits	Primary officer
ACE Group 436 Walnut St., Philadelphia, Pa. 19106	215-640-1000 www.ancelimited.com	2002	123	N/P	N/P	William Hazelton, senior vp-ACE Environmental Risk
Beazley Group P.L.C. 30 Batterson Park Road, Farmington, Conn. 06032	215-446-8444 www.beazley.com/environmental	2010	6	\$3,600	\$20,000,000	John Beauchamp, Jayne Cunningham, Jerry Sullivan
Berkley Specialty Underwriting Managers L.L.C. 3 Ravinia Drive, Suite 500, Atlanta, Ga. 30346	404-443-2040 www.berkleysum.com	2006	50	\$5,000	\$10,000,000	Kenneth J. Berger, president
Chartis Inc. 175 Water St., 12th Floor, New York, N.Y. 10038	800-348-4314 www.chartisinsurance.com/us/environmental	1983	300 ¹	Various ²	N/P	Russell Johnston, president/CEO
Everest National Insurance Co. 477 Martinsville Road, P. O. Box 830, Liberty Corner, N.J. 07938-0830	908-604-3000 www.everestnational.com/national/fac_environmental.shtml	2000	12	\$5,000	Up to \$6,000,000 each occurrence/ pollution condition	Jeff Foering, vp-environmental
Freberg Environmental Insurance 1451 Larimer St., Suite 200, Denver, Colo. 80202	800-377-4152 www.feiinsurance.com	1991	40	\$500	\$16,000,000	Stacy D. Brown, president
Great American Insurance Group 401 Plymouth Road, Suite 100, Plymouth Meeting, Pa. 19462	888-828-4320 www.greatamericaninsurance.com/environmental.html	N/P	30	N/P	\$25,000,000 to \$50,000,000	John W. Reynolds, president
Hudson Environmental 17 State St. 29th Floor, New York, N.Y. 10004	212-978-2808 www.hudsoninsgroup.com	2004	12	\$2,500	\$10,000,000	Steve Porcelli, senior vp
Ironshore 1 State Street Plaza, New York, N.Y. 10004	646-826-6600 www.ironshore.com	2009	35	\$5,000	\$32,000,000	Joe Boren, CEO, environmental division
Liberty International Underwriters-Environmental 55 Water St., 18th Floor, New York, N.Y. 10041	212-208-4100 www.liu-usa.com	2001	40	N/P	Capacity up to \$25,000,000	William McElroy, senior vp
Navigators Insurance Co. 6 International Drive, Rye Brook, N.Y. 10573	914-934-8999 www.navg.com	2008	8	\$1,500	N/P	Adrien Robinson, vp-environmental practice leader
Philadelphia Insurance Cos. 1 Bala Plaza, Suite 100, Bala Cynwyd, Pa. 19004-0950	800-873-4552 www.phly.com	2009	25	\$3,000	N/P	Susan Doering, vp/director
RLI Environmental Liability 9150 South Hills Blvd., Suite 290, Broadview Heights, Ohio 44147	440-746-0999, ext. 1776 www.rlienvironmental.com	2009	7	\$2,500	\$10,000,000	Craig Lass, director
RSUI Group Inc. 945 E. Paces Ferry Road, Suite 1800, Atlanta, Ga. 30326-1125	404-231-2366 www.rsui.com	1998	25	\$2,500	\$5,000,000	Nancy Davies, senior vp/professional department manager
Starr Indemnity & Liability Co. 399 Park Ave., 8th Floor, New York, N.Y. 10022	646-227-6400 www.starr-international.com	2009	13	N/P	\$25,000,000	James Vendetti, senior vp/ chief underwriting officer
Torus Insurance 5 Harborside Financial Center, 29th Floor, Jersey City, N.J. 07311	201-743-7700 www.torusinsurance.com	2010	6	\$2,500	Up to \$10,000,000	David Perez, president/chief underwriting officer- global casualty
XL Insurance Co. 505 Eagleview Blvd., Exton, Pa. 19341	800-327-1414 www.xlenvironmental.com	1984	160	\$2,500	Up to \$50,000,000 per occurrence	Richard Corbett, president, XL Environmental
Zurich North America 1400 American Lane, Schaumburg, Ill. 60196	866-219-3402 www.zurichna.com/environmental	1992	N/P	N/P	Capacity of \$50,000,000	Julie Dunai, senior vp-head- environmental practice

¹ Estimated ² Commercial general liability and pollution legal liability, \$20,000; commercial general liability and professional liability, \$20,000; contractors pollution liability, \$5,000; contractors operations and professional services, \$20,000 (claims-made); \$22,500 (occurrence only for the contractors pollution liability); pollution legal liability, \$10,000. N/P=not provided.

Source: BI survey

Researched by Kevin Edison

Visit www.businessinsurance.com/directories for more information and to access the full searchable Directory of Environmental Liability Insurers. *Business Insurance* now offers the option to purchase the entire online directory as an Excel file or as a PDF.

Max Capital Group Ltd. and Harbor Point Limited have merged to form **Alterra Capital Holdings Limited.**

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CONTINUED FROM PAGE 11

types of pollution policies.”

Admitted carriers such as Chubb use a standard policy, “and then it’s heavily manuscripted” for the specific client’s risk needs, Mr. Gibson said. “Each risk policy will look different.” Basic pollution coverages offered by Chubb are site liability for many industries and contractors pollution liability.

A significant development is that more insurers are offering a combined GL and pollution policy in the nonadmitted market, which AIG established in the 1990s, said Mr. Lehnen. “This route is where

the growth of environmental insurance is,” he said. “When it’s the nonadmitted market, carriers can get creative.”

The combined policy, which “works best for middle-market companies up to \$500 million to \$600 million in revenues,” is the fastest-growing environmental product at Chartis, the property/casualty unit of American International Group Inc., Ms. Hanna said.

Last year, Gallagher “bound several accounts on the combined form for the price that standard markets would charge for liability coverage alone,” Mr. Lehnen said. “It’s a no-brainer for clients to

choose the combined form. Everybody buys GL; and if you can combine pollution (coverage) in there, it’s a much easier sell than a stand-alone policy.”

“Buying a whole different pollution policy is a burden for many companies,” said John O’Brien, president of Hamilton, Bermuda-based Ironshore Inc.’s environmental division, established in New York last year, which offers the combined product, as does Allied World.

Insurers also are developing environmental policies for specific industries rather than relying on their standard pollution liability

forms. For example, “the health care sector has been targeted before, but what we’re seeing is an appetite for insurers to develop new policy forms for health care entities,” said Willis’ Mr. Balmer.

Ironshore offers coverage for pollutants that present environmental impairment liability exposures for hospitals, assisted living communities, skilled nursing and hospice services, and other medical operations.

Rates are based on factors that include the number of hospital beds, said Mr. O’Brien. “The policy speaks in a language unique for that specific industry” to better match a buyer’s specific needs, he said.

In April, Chartis expanded its Pollution Legal Liability Select product, introduced as an industry first 15

years ago, which allows a company to choose from a menu of coverages. Among other enhancements, the policy contains an option to replace damaged property with “green” or “environmentally preferable” products.

Aon’s Mr. Ayers said that for the first time in 15 years, he is seeing large companies buy insurance to meet the government-required financial assurance that they have the funds to clean up hazardous waste. “Until recently, larger companies have almost always used their balance sheets to meet that guarantee. The economy has hit balance sheets hard,” he said.

While ample capacity, lower pricing, coverage expansion and more competition have been a boon to companies that buy environmental impairment liability cover, a recent report said companies with emerging complex risks likely will face rate re-evaluations this year. Those risks include nanotechnology materials; climate change; and nuclear, biological, chemical and radiological terrorism, according to a report by Marsh Inc., a unit of Marsh & McLennan Cos. Inc.



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Environmental liability rules begin in Europe

Few companies buy stand-alone coverage as awareness lags

By **MICHAEL BRADFORD**

European risk managers face expanded liability under the European Union’s environmental liability directive, but they are not rushing to buy the coverage that insurers are developing in response to the regulations.

The directive establishes a “polluter pays” principle of strict liability for environmental damage caused by companies that pollute as part of their normal business operations and fault-based liability for damage to natural habitats and species.

As E.U. member states have transposed the local regulations, insurers have not been far behind in offering new products to address the risks, although risk managers have been slow to take up the coverage.

“I think people are now at a point where they can engage with the insurance market if they want,” said Gary Marshall, chairman of the industrial manufacturing special interest group at the London-based Assn. of Insurance & Risk Managers and group risk manager at Polestar Group Ltd., a Dunstable, England-based printing company. “Some may be choosing not to because they” don’t want to put money “into an insurance product where they don’t necessarily see a threat.”

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*Employers turn to consultants
for health care reform answers*

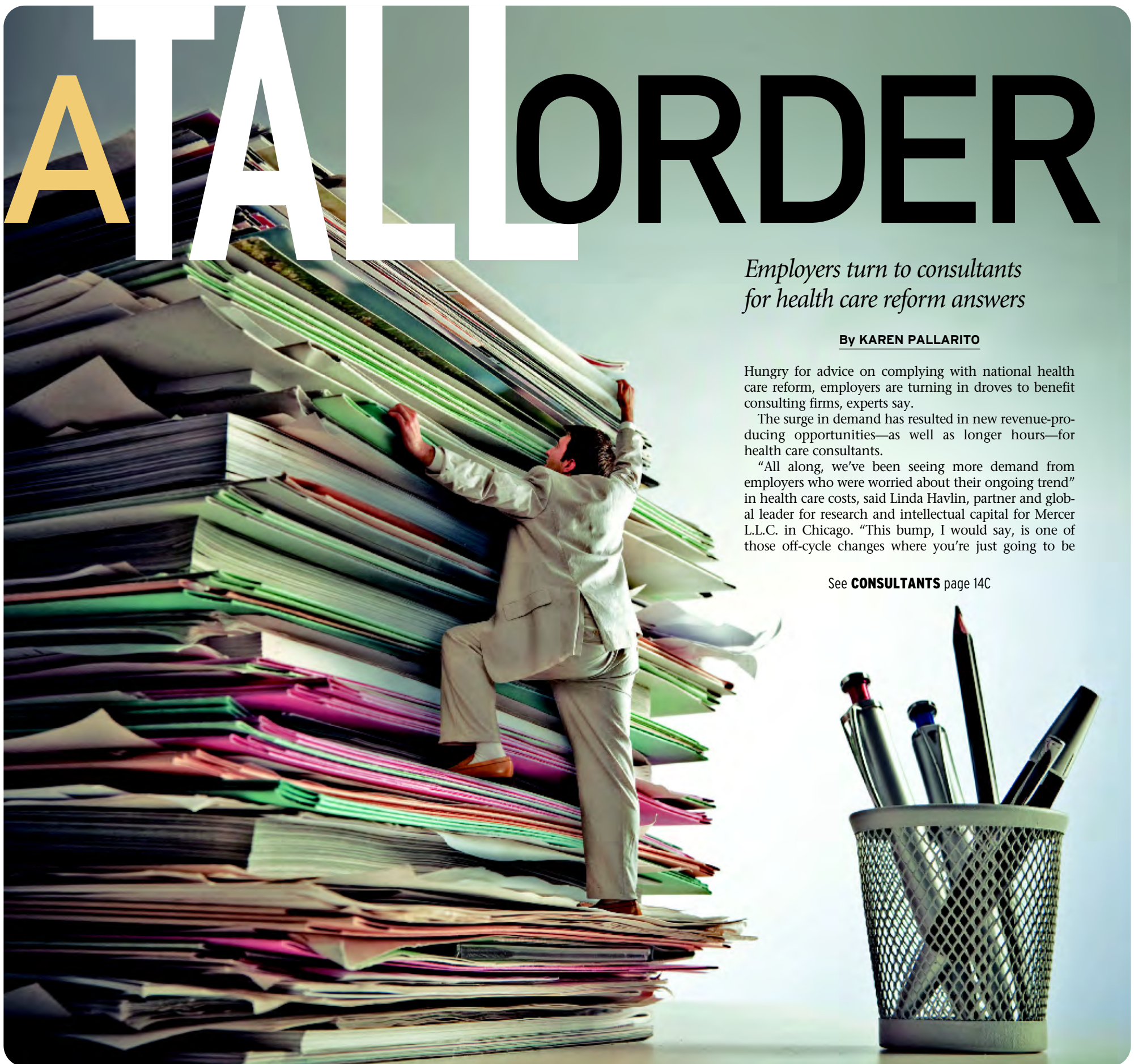
By **KAREN PALLARITO**

Hungry for advice on complying with national health care reform, employers are turning in droves to benefit consulting firms, experts say.

The surge in demand has resulted in new revenue-producing opportunities—as well as longer hours—for health care consultants.

“All along, we’ve been seeing more demand from employers who were worried about their ongoing trend” in health care costs, said Linda Havlin, partner and global leader for research and intellectual capital for Mercer L.L.C. in Chicago. “This bump, I would say, is one of those off-cycle changes where you’re just going to be

See **CONSULTANTS** page 14C

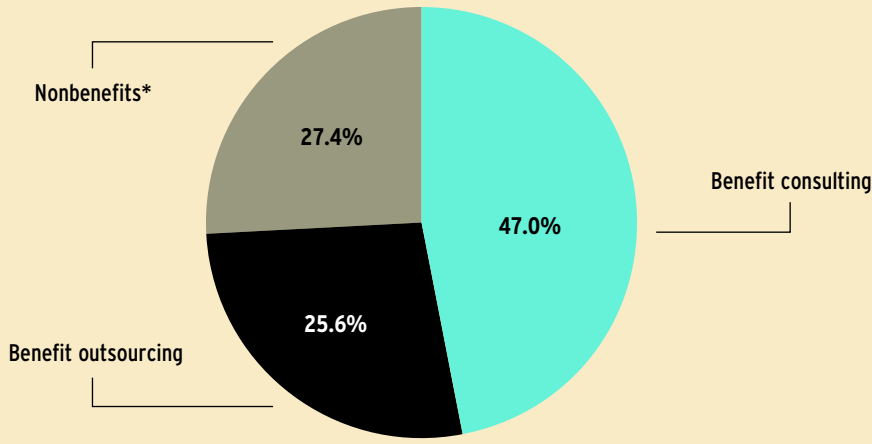


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BENEFIT SERVICES

Percentage of service offered by all companies listed



*Includes claims administration, compensation consulting, insurance commissions and other nonbenefit consulting, including the brokering and placement of benefits

Source: BI survey

BENEFIT CONSULTING CLIENTS

Ranked by number of clients, as of Dec. 31, 2009

COMPANY

PricewaterhouseCoopers Human Resource Services

17,000

Alexander Forbes Ltd.

4,297

Buck Consultants L.L.C.

4,000

Hewitt Associates Inc.

3,000

Lockton Benefit Group

2,936

*As of Dec. 31, 2008

Source: BI survey

World's largest employee benefit consultants

Ranked by worldwide benefit consulting revenues*

Rank	Company/Address	Phone/Web site	2009 benefit consulting revenues	2008 benefit consulting revenues	% change	Benefit consulting	2009 benefit outsourcing revenues	Principal officers
1	Towers Watson & Co. 875 Third Ave., New York, N.Y. 10022 ¹	212-725-7550 www.towerswatson.com	\$2,150,000,000 ^{1,2}	\$1,524,000,000 ³	41.1%	N/R	N/A ³	John Haley, CEO
2	Mercer L.L.C. 1166 Ave. of the Americas, New York, N.Y. 10036	212-345-7000 www.mercer.com , www.imercer.com	\$1,697,511,000	\$1,916,014,000	-11.4%	53.0%	\$617,353,000	M. Michele Burns, chairman/CEO
3	Hewitt Associates Inc. 100 Half Day Road, Lincolnshire, Ill. 60069	847-295-5000 www.hewitt.com	\$1,011,781,000 ⁴	\$1,094,323,000 ⁴	-7.5%	33.0%	\$1,549,991,000 ⁴	Russ Fradin, chairman/CEO
4	Aon Consulting 200 E. Randolph St., Chicago, Ill. 60601	312-381-4800 www.aon.com	\$958,665,000	\$998,095,000	-4.0%	76.0%	\$191,364,000	Andrew Appel, chairman
5	Deloitte Consulting L.L.P. 1633 Broadway, New York, N.Y. 10019	303-312-4194 www.deloitte.com	\$946,162,623 ⁵	\$1,004,418,920	-5.8% ⁵	N/R	N/R	Sabri Challah, vice chairman/ global practice leader- human capital
6	PricewaterhouseCoopers Human Resource Services 300 Madison Ave., New York, N.Y. 10017	646-471-3000 www.pwc.com/us/hrs	\$900,000,000	\$840,000,000	7.1%	N/R	N/A	Michael Rendell, global leader-human resource services
7	Buck Consultants L.L.C. 1 Pennsylvania Plaza, New York, N.Y. 10119-4798	212-330-1000 www.buckconsultants.com	\$413,000,000 ²	\$430,000,000 ²	-4.0%	100%	N/A ²	Manoj Sharma, COO
8	Gallagher Benefit Services Inc. 2 Pierce Place, Itasca, Ill. 60143	630-773-3800 www.gallagherbenefits.com	\$291,229,853	\$262,661,784	10.9%	88.0%	N/A	James W. Durkin Jr., president
9	Alexander Forbes Ltd. Alexander Forbes Place, 61 Katherine St., Sandown 2196, South Africa	27-11-269-0000 www.alexanderforbes.co.za	\$272,923,048 ^{6,7}	\$267,929,300 ^{6,8}	1.9%	85.0%	\$38,549,446 ^{6,7}	Anton Ossip, COO-Alexander Forbes Ltd.
10	Ernst & Young L.L.P. - Performance Reward & Human Capital 1101 New York Ave., N.W., Washington, D.C. 20005	202-327-6000 www.ey.com	\$190,043,763	\$196,646,869	-3.4%	100%	N/A	James Bosserman, director-Americas performance & reward

*Excludes revenues from claims administration, compensation consulting, insurance commissions and other nonbenefit services, including brokering and placement of benefits. 1 Towers, Perrin, Forster & Crosby Inc. and Watson Wyatt Worldwide Inc. merged in January 2010. 2009 revenues are pro forma to reflect the merger. 2 Fiscal year ending 6/30. 3 Watson Wyatt Worldwide only. 4 Fiscal year ending 9/30. 5 BI estimate. 6 Fiscal year ending 3/31. 7 Converted at applicable rate, South African rand=\$0.1264. 8 Converted at applicable rate, South African rand=\$0.1105. N/R=Not reported. N/A=Not applicable.

Source: BI survey

Researched by Kevin Edison and Karen Tucker

Visit www.BusinessInsurance.com/directories for more information and to access the full searchable Directory of Employee Benefit Consultants. Business Insurance now offers the option to purchase the entire online directory as an Excel file or as a PDF.

Consultants: Employers seek help on health reform

CONTINUED FROM PAGE 14A

working faster and harder," she said. "We don't staff to anticipate times like this and so, yeah, there is a ramp-up and people are definitely working harder right now in order to keep up with the demand."

Many firms prepared for the onslaught last year by assembling expert teams to provide input on legislative, tax, compliance and actuarial issues.

"The question everybody's asking is, 'What does this mean to me and my plan and my associates and how I run my employee benefits plan?' and then the follow-on is, 'Should I dump my medical plan?'" said Mike Brewer, president of Lockton Benefit Group in Kansas City, Mo.

To stay ahead of the curve, PricewaterhouseCoopers L.L.C. convenes weekly teleconferences of its "water cooler group," 60 health, legislative and economics experts who share insights on health care reform and client experiences, said Mike Thompson, a PwC principal and practice leader in New York.

Educating employers and keeping them in the loop on the law's various nuances is a must. To get the word out, consultants are using newsletters, e-mail, teleconferences, webcasts and Web page updates.

"They don't have the luxury of time to really read 2,000 pages (of health care reform legislation), so they're relying on us to kind of triage it for them," said Edward Kaplan, senior vp and national health practice leader for Segal Co. in New York.

Sue Good, manager of total com-

penetration for Arapahoe County in Littleton, Colo., which provides benefits to 1,500 of its 1,900 employees, said she knows what to expect and what changes to plan for because of Lockton's health reform newsletters and webcasts.

Mike Craford, managing principal at Craford Benefit Consulting, a San Rafael, Calif., firm that targets companies with 250 to 5,000 employees, prefers face-to-face client meetings to address their specific issues, although he also uses newsletters and e-mail.

Consulting firms are supplying background information and general guidance as a value-added service to existing and prospective clients. The real revenue-boosting potential arises from detailed, customized analyses and advice that individual employers are requesting. Generally speaking, that work is not covered under existing contracts, although exceptions exist.

In April, a Citigroup Inc. analyst, who maintains a "buy" rating on Lincolnshire, Ill.-based Hewitt Associates L.L.C., noted that "the recently passed U.S. health care reform could serve as a nice source of upside" to the firm's health care consulting practice and could "help its benefits unit as well."

Towers, Watson & Co., another publicly traded consulting firm, recently reported a decline in third-quarter net income on costs related to the merger of Towers, Perrin, Forster & Crosby Inc. and Watson Wyatt Worldwide Inc. However, in a statement, the company credited an increase in revenues from health and group benefits for offsetting



'We don't staff to anticipate times like this and so there is a ramp-up and people are definitely working harder right now in order to keep up with the demand.'

Linda Havlin, Mercer L.L.C.

slight declines in other segments.

In the near term, employers want to know what they have to do to expand coverage to young adults under age 26, remove lifetime limits and preserve their "grandfathered"

status exempting them from certain new provisions of the law. Employers that provide retiree drug benefits are seeking guidance about whether to retain those benefits.

Segal's Mr. Kaplan advises employers that offer retiree benefits to take advantage of the law's early retiree reinsurance program, even though not all program details are clear.

Health care reform also is resulting in new administrative rules and requirements. For example, employers must begin reporting the value of health care benefits on workers' Form W-2. Earlier this month, rules were issued detailing requirements that employers extend health coverage to workers' adult children up to age 26.

Long-term decisions are more complex. Most consultants expect health care reform will increase health plan costs, forcing companies to make trade-offs.

In the future, Colorado's Arapahoe County may do financial modeling to assess its health benefits strategy, Ms. Good said.

Towers Watson advises clients to examine their health programs from a "total rewards perspective," said Mark Maselli, Parsippany, N.J.-based leader of health and group benefits for North America. To invest more heavily in health benefits, for instance, some employers may decide to reduce their commitment to compensation programs or retirement benefits, he said. Conversely, some firms may choose to scale back health benefits to free dollars for other programs.

Because of the sour economy, layoffs, reduced 401(k) contributions and other reductions, some employers don't want to alter their health benefits plans, Mr. Craford said. Other employers are using the economy and health care reform "as a jumping-off point to actually

communicate changes to their employees that they may have wanted to make," he said.

Ken Sperling, global leader of Hewitt's health care consulting practice in Norwalk, Conn., expects each employer to attack the cost issue differently. "Some might adjust their plan design, some might adjust their contribution schedules, and others will look toward care management programs and health improvement programs to try to impact the size of the pie as opposed to how you slice it up," he said.

While exiting the health plan business remains a topic of discussion, consultants said they expect most large, self-insured companies to stay the course. Health benefits are, for many, a significant recruitment and retention tool. Others, however, may find that the math simply doesn't add up.

"Employers can drop coverage today with no penalty," Mr. Sperling said. "Why would you consider dropping coverage when there's a penalty" under the new law?

Industries with large numbers of lower-paid, part-time workers such as retail, manufacturing and hospitality, face tougher choices, consultants said.

In a recent survey, Mercer found that about half of all large employers—those with at least 500 employees—offer coverage to part-time employees who work 30 hours or more a week. The rest don't cover any part-time employees, require them to work more than 30 hours a week to qualify for coverage or impose other eligibility requirements.

For employers maintaining their benefits, Mr. Brewer urges them to aggressively pursue strategies to bend the cost curve. "By our measure, that's renewed interest in wellness initiatives," he said.

Economy, health care reverse slide in demand for consultants

Benefit consultants say they are seeing business pick up due to primarily to the health care reform law.

"I don't think that you could ask for a more dramatic change over the last 12 months," said Chris Michalak, Chicago-based executive vp of client relationship management and business development for Aon Consulting, who said clients were spending "very carefully" at this time last year.

When the economy soured, consultants say some employers put noncompliance projects on hold or tried to negotiate lower fees as their budgets took a hit. Other employers either scaled back or tried to do without consultants, experts say.

But that's no longer the case. Consultants said two factors are helping to drive the consultancy market: economic recovery and health care reform legislation, which has driven a wave of business from employers trying to decipher specifics of the federal law.

"What's driving business is the need for creative ideas and tactical execution in handling these changes," said Craig Hasday, New York-based president of Frenkel Benefits L.L.C. "The quality brokers and consultants are set for significant increases

in revenue in the year...because clients need the advice."

With only a slow recovery in the economy, most if not all the new business is coming from helping employers with the new health care reform law. Some say it's starting to boom.

"If it was the economic recovery alone, the change (in consultant business) would be gradual," said Mr. Michalak. "The legislation is really pushing things along. The health bill still needs to be dissected by the employer marketplace. We are doing myriad work in that area for our clients. Clients are very hungry for information on what this means to them."

Aside from health care, Gene Wickes, Denver-based managing director of the benefits segment with Towers Watson & Co., said demand for other consulting services remains slow.

"Companies are hiring fewer workers and the job recovery is slow," Mr. Wickes said. "If you look at the elements of this economic recovery, you will see that unemployment is still up. Companies are in no rush to hire."

The increase in consulting business is "blurred by the health care reform" law, said Mike Brewer, Kansas City, Mo.-based

president of Lockton Benefit Group. "We know we are going to see our numbers rise as employers bring on more employees," he said. "Health care reform is creating a lot of business for us, but we think the employment side is starting to increase as well. As employers hire and their costs go up, they are going to seek the expertise we can provide."

While last year's merger of Towers, Perrin, Forster & Crosby Inc. and Watson Wyatt Worldwide Inc. to form Towers Watson could have been expected to result in some consultants being laid off, that was not the case.

"Even when we had the merger, we saw some layoffs among corporate functions due to the recent merger, but not in our benefits consulting staff," Mr. Wickes said.

"When a recession hits initially, our business goes up. Then there's a lag," said Mr. Wickes, whose staff has remained stable and is likely to grow further when overall business picks up.

While health care consulting work has risen, demand for other services is flat.

Anything that is deemed discretionary has been put on hold, said Mr. Michalak. "Things that aren't seen as vital are not on the table right now; anything like capital

projects, major changes to companies' benefits, we are not doing right now."

"There's lower demand right now for big projects, outside of healthcare," Mr. Wickes said.

Even pension redesigns that have kept consultants busy during the past few years are slowing down, Mr. Brewer said. "Our retirement practice is gearing up for pending legislation and changes, but we won't see lots of pension redesign. It's not happening as much as it was," he said.

But the sole focus on health care may not last long, said Mr. Michalak, adding that the health care changes likely will cause shifts to other parts of benefits packages offered by employers.

"When there is a significant change to one element of the rewards portfolio, there will be other changes to other aspects," he said. "It will be interesting to see how health care will affect the other parts of the rewards portfolio."

"Our jobs just got harder and there's more to do," said Mr. Brewer. "We have a massive piece of legislation and we have clients that want to know what this means for them. We are going to be busy. Consultants will be around for a long time."

—By Louise Esola

Smaller benefit consultants offer personal touch, customization

By JOANNE WOJCİK

As the nation's leading benefit consultants merge and grow, some benefit managers are seeking out smaller firms that offer similar service with a greater personal touch.

In many cases, boutique benefit shops are the offspring of mergers, formed by former employees of major consultants who left to cultivate an idea that may have been difficult to grow in a corporate environment.

Because of their smaller size, these consultants usually charge less, which makes them attractive to benefit managers with tight budgets. In addition, because they usually have fewer clients, they can spend more time with them.

While smaller firms can compete with large consultants on price, talent and time, they generally do not have the capacity to offer call centers, outsourcing and retirement plan administration that benefit managers—especially those at growing companies—may need.

Virginia Nisbet, director of health strategies at Brinker International Inc., a Dallas-based casual dining company, whose brands include Chili's and On the Border, with more than 1,700 restaurants and 125,000 employees, said she has found that bigger is not always better when it comes to benefit consultants.

Ms. Nisbet, who uses Holmes Murphy Texas, the Dallas branch of Des Moines, Iowa-based broker Holmes Murphy & Associates Inc., said she often is approached by larger consultants but tells them that “for the price I’m paying and the product I’m getting, I’m happy.”

“The bigger consulting houses have more off-the-shelf products,” she said. Smaller consultants “work harder for your business and are willing to give you more customization without the customized price,” Ms. Nisbet said.

“We’re cheaper, about half the cost of the big consultants,” said Maria Ferrera, owner and president of Ferrera Consulting Ltd. in Oak Park, Ill., a sole proprietorship she formed after her former post as director of customer coalitions at Indianapolis-based WellPoint Inc. was eliminated. Besides WellPoint, Ms. Ferrera also worked for New York-based Towers, Perrin, Forster & Crosby Inc. prior to its merger with Watson Wyatt Worldwide Inc.; Aon Consulting, a division of Chicago-based broker Aon Corp.; and CCA Strategies L.L.C., a boutique benefit consulting firm also based in Chicago.

She has found many benefit managers willing to hire independents or small firms that have the necessary expertise for specialized projects.

For example, Ms. Ferrera, who specializes in analytics and care management, recently landed a contract with the Chicago office of Unilever United States Inc., a unit of Anglo-Dutch food and consumer product maker Unilever N.V., to collect information on health benefits available in other countries where Unilever operates.

“The other thing is when you are small and independent, what you see is what you get. Unfortunately, with a lot of large consulting firms, they bring out the big names to sell the company, but those aren’t the ones who are doing the work,” Ms. Ferrera said.

When presenting to large clients, Patrick J. Haraden, senior vp of employee benefit services at Boston-based Longfellow Benefits, points out that even though they may hire a large consultant, “that doesn’t mean they’re getting the A team. Depending on the size of the client, they’re probably getting the C team, people they’ve never met, likely junior associates,” he said.

“When we meet with clients, we bring the A, B and C teams so they can meet all of the people who will be servicing their account,” he said.

Maureen Cotter, president of Maureen Cotter & Associates Inc. in Dearborn, Mich., said she left Watson Wyatt to form a consulting firm because she felt clients needed more creative solutions than they were getting from large consultants.

“When I looked at market conditions five years ago, it felt like there was a real opportunity to consult with clients who wanted better value, more creative solutions, and who were not so wedded to putting all of their business with one firm. They were seeking expertise and didn’t want their work to be pushed onto junior consultants,” she said.

‘The bigger consulting houses have more off-the-shelf products.’ Smaller consultants ‘work harder for your business and are willing to give you more customization without the customized price.’

Virginia Nisbet, Brinker International Inc.



Larger consultants often have business models that are based on standardization and replication, she said. “Clients need really creative solutions now, more than ever, but they’re getting standard boilerplate from the big consultants.”

“There are so few firms left that entrepreneurs like me see this as an opportunity to provide better value to clients,” Ms. Cotter said, noting that the biggest demand she sees is from employers with 1,000 to 5,000 employees.

“They’re too small for the big firms, and they don’t get the level of service and sophistication that they need from brokers,” Ms. Cotter said.

Creative solutions was the reason Michael Vittoria, director of human resources at Sperian Protection USA Inc., a Smithfield, R.I.-based personal protective gear manufacturer with 1,500 employees in eight states, chose Cranston, R.I.-based Primarily Care Inc. to design Sperian’s benefits program in the late 1990s.

“We were one of the early adopters of consumer-driven health care because Ed Belt from Primarily Care presented the idea. We were among the first in Rhode Island,” Mr. Vittoria said. “You’re not going to get that from a large consultant. They are not going to risk their reputations on an idea that may not work, even if they have a customer that’s willing to try it because there’s too much at risk in preserving the brand.”

Mr. Belt, a former executive with Blue Cross & Blue Shield of Rhode Island, also designed a

Bigger is not always better

When Ciara Smyth joined Boston-based publisher Houghton Mifflin Holding Co. Inc. as executive vp and chief human resources officer in 2007 after its acquisition of Riverdeep Holdings Ltd., she expected the newly merged company to keep Houghton’s benefits consultant.

Houghton Mifflin, which had 3,000 employees, was using a large, national benefits consultant, while Riverdeep, with just 350 employees, used Longfellow Benefits, a small benefits brokerage and consulting firm in Boston.

However, Ms. Smyth severed ties with the larger consultant after about six months and hired Longfellow.

The large consultant had been paid on a fee-for-service basis, which meant that “every time they showed up to talk about strategy, they charged us fees. Then they also collected commissions as our broker. It was a very expensive model,” Ms. Smyth said.

She also felt that the larger consultant wasn’t offering innovative solutions to escalating health care costs, which exceeded \$60 million annually.

Ms. Smyth put the company’s benefit consulting contract up for bid with explicit instructions that proposals offer “something with a very different look and feel.”

However, the large consultant “came back with more of the same. They were way too conservative,” she said. “It was almost like they cut and paste (the same proposals) for everybody. I never got the sense from them that they cared about the issues my business faced.”

By contrast, Longfellow “is like an extension of my department,” which has just four employees, Ms. Smyth said. “They’re embedded in the team.”

She also doesn’t get billed every time she sits down with Longfellow’s consultants to discuss the publisher’s benefit needs.

Houghton Mifflin, which now has nearly 4,000 employees after acquiring another firm to become Houghton Mifflin Harcourt Publishing Co., has introduced consumer-driven health benefits, an incentive-driven wellness program and tiered premium contributions based on salary.

—By Joanne Wojcik

had a standard preferred provider organization deductible when, in fact, Sperian was paying claims between \$500 and \$5,000 for individuals and \$1,000 and \$10,000 for families out of the HRA.

Sperian switched to Washington-based Mercer L.L.C. three years ago when its benefit consulting and administration needs outgrew the capabilities of Primarily Care.

“We left them because our business needs grew to the point that they couldn’t handle it,” Mr. Vittoria said. Larger consultants “can bring a lot more to the table.” Still, he sometimes misses being the “big fish” in Primarily Care’s smaller pond.

“We were a big account for them, so we got a lot more time and attention,” Mr. Vittoria said. “Our employees knew (Mr. Belt) and he knew them. Sometimes, on the strategic design side, that knowledge of the business is important.”

By contrast, “the big guys are very top-down focused on the numbers. They don’t understand the true culture of an organization and how employees will react,” Mr. Vittoria said.

Ms. Cotter said client time is a definite strength of smaller consultants.

“For a smaller, niche provider like myself, we can really spend the time with the client to understand the culture and tailor the solutions,” she said.

“Incubation is a very fun way of doing business,” said Marcia Benshoof, president of IMA of Colorado Inc. in Denver. Although the unit of IMA Financial Group Inc., which has 500 employees in offices in four states, does not consider itself a boutique, it also doesn’t consider itself a national consulting house.

“We’re large enough that we have resources, yet we’re still of the size and minimalness where we can be very close to the customer and have decisionmakers sit down with customers,” Ms. Benshoof said.

Similarly, Holmes Murphy Texas was formed to provide some of the consulting services of a large, national firm, but on a more casual, intimate basis, said Den Bishop, president. Although the 80-person firm is a branch of a much larger company, Mr. Bishop considers it a “boutique” operation because of its size and the fact that it operates autonomously from its parent, which is a property/casualty and employee benefits broker.

“One of the things we did when we set this up is we looked at how we were structured to hit the sweet spot between the big consulting firms and traditional brokers,” Mr. Bishop said. “We wanted to find a way to cross-pollinate information as best we could. I talk about our culture as somewhat organized chaos. Ultimately, there’s only one layer of separation between the day-to-day work for any customer,” he added.

Holmes Murphy also encourages its consultants to be creative, a trait that led to landing one of its largest clients, Dallas-based Texas Instruments Inc.

“About 15 minutes into a 45-minute presentation, things were terribly dull, so the consultant changed it up and asked them, ‘Do you really want us to answer these questions or do you want to know what we think?’” Mr. Bishop said. The consultant then put the presentation aside and described a wellness program Holmes Murphy had devised that uses clinical measures to track and slow the progression of disease.

“Because of that freedom to take a chance, we ended up with one of our largest customers,” Mr. Bishop said.

hybrid self-insurance program for Sperian that used a large-deductible health plan linked to a health reimbursement arrangement to fund the deductible. The arrangement was virtually invisible to employees, who still thought they



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Directive: Buyer awareness lags new rules

CONTINUED FROM PAGE 14

Peter den Dekker, president of the Federation of European Risk Management Assns. and corporate risk manager at Stork B.V. in Naarden, Netherlands, said a recent FERMA survey of a small number of risk managers showed “a very limited number have bought stand-alone protection” to address potential liabilities stemming from the directive and are “relying on their current insurance cover.”

“Very few have stand-alone policies,” said Sylvie Monereau, an environmental underwriter with AXA Corporate Solutions in Paris.

“We quote a lot,” but few buyers have purchased it, she said.

“From what we see, there is not such a great demand” for coverage related to the directive, said Carmen Bell, policy adviser and environmental liability expert at the Comite Europeen des Assurances, the Brussels-based group that represents insurers and reinsurers in Europe. “We’re not sure if that is because operators lack awareness or just think they don’t need it.”

In the 1990s, European governments began to address environmental issues through legislation, said Simon White, London-based environmental branch manager for

XL Insurance. “The environmental liability directive is an extension of these environmental laws that were already in place.”

The latest directive, however, expands liability set down by previous laws, Mr. White said. Under the directive approved in 2004 and since implemented across the European Union, environmental damage does not have to be linked to a pollutant, but can be tied to any type of incident that caused the damage, such as a fire, he said.

“It’s still very much an educational process,” Mr. White said. “For companies that have a dedicated risk manager, there is a lot of focus

on” making sure the company complies with environmental regulations, he said.

However, risk managers don’t seem to be “aware of how much of a strict regime is now in place and the cost of responding to that regime if you have a problem,” Mr. White said.

For some companies, environmental risk was well-managed under regulations in place before the directive was implemented and remains so under the latest environmental liability directive, experts said.

“Insurers invested quite a lot of time to analyze the impact and solutions” related to the directive, said Jürg Busenhardt, Zurich-based vp of Swiss Reinsurance Co.’s casu-

alty center, liability Asia and Europe. The result has been new products or endorsements to existing coverage that respond to liabilities under the directive, he said.

On the other hand, operators are rightly focusing on the potential impact on their businesses, said Mr. Busenhardt, who also heads Swiss Re’s Center of Competence for Environmental Liability. “This is part of the operator’s risk management process; this will include the decision whether to transfer the risk to insurers.”

Ms. Monereau pointed out that environmental regulations in some countries, France and Germany in particular, were so strict even before the European Union environmental directive that risk managers were well-prepared for it with comprehensive coverage already in place.

“They were used to having some protection beginning in the 1990s,” Ms. Monereau said of French and German risk managers.

“Some member states, through culture and tradition, have stronger environmental liability regimes,” including Spain and Italy, agreed the CEA’s Ms. Bell.

“There has been a whole raft of liability laws in the last 15 years that have made businesses wake up” and carefully address their environmen-

‘If a company has a pollution incident, they are looking at a very complex claims process and cleanup’ under the directive.’

Simon White, XL Insurance

tal exposures, said Mr. Marshall. The focus of environmental regulation has shifted in that period to greater oversight and continuous monitoring and away from regulatory actions taken after a problem occurs, he said.

Some insurance buyers, though, may not realize the significance of the exposure they face under the directive, Mr. White suggested.

“If a company has a pollution incident, they are looking at a very complex claims process and cleanup” under the directive, said Mr. White. A lot of companies do not have the proper expertise in-house to handle the claims and cleanup process effectively, he said.

Risk managers need to make sure their companies are aware that a pollution incident as defined by the directive can cost a significant amount of money, said Mr. White. “It will have a detrimental impact on the balance sheet and will be a challenging and complex claim.”

Though some risk managers are not buying additional coverage for environmental liabilities as outlined by the directive, others see it as a smart move in the uncertain economy, Mr. White said.

“A lot of companies are tightening their belts” and buying coverage for environmental risks as a way to bring some certainty to their balance sheet exposures, he said.

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Pollution exclusion in focus in Chinese drywall litigation

Various courts to decide if damage will be covered

By JEFF CASALE

As litigation involving Chinese drywall makes its way through the courts, the pollution exclusion in an insured's policy will be in focus in the judicial crosshairs.

Homebuilders, homeowners and commercial contractors are in limbo whether damage caused by the

tainted drywall and its removal will be covered by their respective insurers. In nearly all cases involving Chinese drywall, experts say a court's decision will vary by state and, in some cases, by jurisdiction within that state.

As defined by the Insurance Services Office Inc., standard pollution exclusions in a general liability policy define "pollution incident" as an "emission, discharge, release or escape of pollutants into or upon land, the atmosphere or any watercourse or body of water provided that such emission, discharge,

release or escape results in environmental damage."

Further, the exclusion states that pollutants include "any solid, liquid gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste."

Lawyers, risk management consultants, brokers and insurers agree that the terms of the exclusion are broad. Some, however, say the exclusion shouldn't apply in cases involving Chinese drywall because it never was meant to apply to a situation like this.

"Insurers believe that (using the pollution exclusion) is their best likelihood of success to bar coverage," said Matthew L. Jacobs, a partner in Jenner & Block L.L.P.'s Washington office and a member of its insurance litigation and counseling department. "I think it's completely inapplicable in this situation, but I think insurers are betting on defining the pollutant as gases, vapors and fumes...and that the drywall constitutes a pollutant."

More than 500 million pounds of the tainted drywall was imported into the United States between

2004 and 2007, most of it traced to Chinese subsidiaries of German manufacturer Knauf Plasterboard Tianjin Co. Ltd. Consumers who bought homes built with the drywall, mainly in the Southeast, allege a sulfuric-type gas released by the drywall not only emitted a noxious smell but also damaged wiring and some appliances.

According to studies commissioned by the U.S. Consumer Product Safety Commission, Chinese drywall contains hydrogen sulfide gas, a component that corrodes copper and silver when released, possibly due to exposure to heat and humidity.

More than 3,000 lawsuits have been filed in U.S. courts on the issue affecting nearly 100,000 homes. Insurers also have filed lawsuits against builders (see story, page 19).

Craig Stanovich, principal and consultant with Holden, Mass.-based Austin & Stanovich Risk Managers L.L.C., said insurers have relied on the language within the pollution exclusion that focuses on

'Insurers believe that (using the pollution exclusion) is their best likelihood of success to bar coverage.'

Matthew L. Jacobs,
Jenner & Block L.L.P.

release of a contaminant or irritant to deny coverage to builders and homeowners.

"Industrial pollution was the intent of the pollution exclusion," Mr. Stanovich said, meaning that it was designed to protect insurers against discharge of pollutants from manufacturers, such as an oil spill. "If you read the exclusion literally, you'll see that's what it was designed for. The intent of the exclusion was never to apply for something like this. I think insurers intend to use it as a defense until judges uphold it."

In March, a New Orleans Parish Civil District Court ruled that Audubon Insurance Co.'s pollution exclusion in its homeowners policy could not be used as an "affirmative defense" to deny coverage of a Chinese drywall claim. The case, *Simon Finger and Rebecca Finger vs. Audubon Insurance Co.*, hinged on an all-risks policy the couple purchased from Baton Rouge, La.-based Audubon, a subsidiary of American International Group Inc.

Audubon denied the claim, citing its pollution and contamination; gradual or sudden loss; and faulty, inadequate or defective exclusions as the reason for denial. However, Judge Lloyd J. Medley ruled that the burden of proof is on the insurer to define what claims are denied,

Continued on next page



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Insurers target drywall supplier in additional court cases

Chartis Inc. and several subsidiaries are among insurers attempting to deny coverage of tainted drywall damage under pollution exclusions.

In February, Chartis and four subsidiaries filed a lawsuit in U.S. District Court for the Middle District of Florida against Miami-based drywall and building materials supplier Banner Supply Co., advising they would deny coverage of umbrella policies based on their total pollution exclusion.

Banner and four of its subsidiary Florida offices were named in 146 lawsuits related to Chinese drywall in 2009, according to court documents. Chartis notified Banner

in a reservation-of-rights letter that its umbrella policy may not indemnify tainted drywall claims.

New York-based Chartis then filed suit and alleged no coverage was available and it had no duty to defend Banner.

"There is an actual, present and bona fide controversy between the parties concerning the alleged coverage obligations of plaintiffs to defend and to indemnify defendants with respect to claims involving allegedly defective drywall," Chartis said in its suit.

Chartis and its subsidiaries said in the complaint that umbrella policies with a total pollution exclusion bar coverage for any "bodily

injury and property damage associated with defective drywall arising from actual, alleged or threatened discharge, dispersal, seepage, migration release, or escape of pollutants as that term is defined by each policy."

The insurer also said the "mere presence of defective drywall is not property damage, and there is no coverage under the policies for any costs arising out of the process of repairing or replacing drywall."

In New Orleans, a judge ordered that Chartis' complaint be added to the Chinese-Manufactured Drywall Products Liability Litigation case No. 2047 class action because "all actions share factual questions."

Chartis' legal team, led by Chicago-based Hinkhouse Williams Walsh L.L.P., said in an April motion that "none of the actions involved in claims addressing whether the damage at issue was covered by the terms of specific commercial general liability insurance policies, nor whether the named defendants might be defended or indemnified by their insurers."

"Florida courts have consistently held on many occasions that the total pollution exclusion is unambiguous and bars coverage in" similar circumstances. "(Our) lawsuit simply asked the court to apply well-established precedent on this issue. Louisiana simply has no nexus whatsoever to the policy interpretation issues presented in the case."

—By Jeff Casale

Continued from previous page

adding that "exclusions must be interpreted as narrowly as possible to provide maximum coverage for the insured."

Louisiana's judicial climate typically is favorable to the policyholder, Jenner & Block's Mr. Jacobs said, adding that Florida is more pro-insurer. But he said the Chinese drywall event is similar to previous issues with polyurethane, which has been found to include carbon monoxide, nitrogen oxide and hydrogen cyanide, yet it is used in products such as sealants and adhesives.

"The difference is, on polyurethane there is a warning label on it that says it's toxic," Mr. Jacobs said. "Drywall doesn't have that...This exclusion was intended for the purpose of industrial pollutants when it was written. They didn't know it would be applying to Chinese drywall."

In 1997, the Louisiana Department of Insurance formed an 18-member Absolute Pollution Exclusion Task Force, which was made up of members from the insurance industry, industry trade associations, agent associations and policyholder associations.

The task force was to investigate policy form language and claims settlement practices regarding pollution exclusions.

The task force found the exclusions "have been used to disavow coverage even though there was no underlying pollution incident which would justify the use of the exclusion." The task force also said its members were "concerned that the broad definition given to the term 'pollutant' creates an opportunity for abuse."

Doug Garfinkel, executive vp at AmWINS Brokerage of Illinois in Chicago, said there has not been an "abrupt rush" to amend pollution exclusions on policies, though the broker has seen "specific language excluding coverage for Chinese drywall coverage."

"With pending litigation, insurers may be hesitant to specifically modify their current policies until courts adjudicate the intent and scope of the various pollution exclusions," Mr. Garfinkel said. "I suspect if insurers modify the language further, plaintiffs will attempt to show the courts that such actions only validate their claims that coverage should be affirmed."

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Insurers target drywall supplier in additional court cases

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NEW JOB TITLE: New York-based executive vp, North American practice leader of Willis Risk Solutions

PREVIOUS POSITION: Newtown Square, Pa.- and Walldorf, Germany-based vp of global risk management for SAP A.G., an international business software company

GOALS FOR NEW POSITION: My goal is to reinvigorate the value proposition and reinforce Willis' commitment to leadership in the large-account space.

CHALLENGES FACING INDUSTRY: I think the regulatory pressures on the industry are the most significant issue it faces today. As an example, the potential impact on multinational risk managers, brokers and insurers from the Solvency II legislation in Europe will be enormous. In addition, with the ban on contingent commissions set to be lifted for the "big three" brokers, the issue of broker compensation and transparency is once again on the front burner.

CAREER HIGHLIGHT: I am very proud of helping create the

successful enterprise risk management function and process at SAP. Seeing the incredibly positive impact that resulted as the organization moved from reactive to proactive was amazing.

WHAT DID YOU WANT TO BE WHEN YOU GREW UP: I wanted to be an architect. I have always been fascinated by the design, construction, history and aesthetic of buildings.

OUTSIDE THE INDUSTRY, A DREAM JOB: A university professor, either risk management or history. I really enjoy mentoring students and colleagues and have found it to be incredibly rewarding, both personally and professionally.

CAN'T-MISS TELEVISION SHOW: "Modern Family." It's the funniest show on TV since "Seinfeld."

E-MAIL OR PHONE, AND WHY: I love the efficiency of e-mail to keep the flow of business moving—especially internationally. However, I have learned that key messages are best delivered personally....There is no substitute for real human interaction to ensure effective communication.

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Greece: Insurers, reinsurers look to E.U.

CONTINUED FROM PAGE 4

these countries and hold sovereign paper as assets. The banks are much more exposed than insurers.”

He pointed out that insurers hold sovereign debt because it meets regulatory requirements that call for local assets to back up liabilities.

“Do we hold it because we thought we could pick up yield? No. We have sizeable books of business in these countries. Regulators require us to hold assets issued by the countries’ lenders...This is a matter of matching assets with liabilities. It is not an asset holding driven by return,” Mr. Hofmann said.

The market’s default concerns so far are limited to Greece, Mr. Prowse said. Sovereign debt issued by other E.U. countries identified as potential trouble spots continues to hold investment grade ratings, which suggests a low default risk, he said.

Most insurers have greater exposure outside Greece to sovereign debt in Portugal, Spain and other countries that some fear could experience falling debt values, according to Mr. Prowse.

That’s true for Zurich, which has an exposure of \$400 million to sovereign debt in Greece, while holding \$7.2 billion in sovereign debt in Italy. Its exposure in Spain is

\$2.6 billion.

Munich Re holds €5 billion (\$6.37 billion) in Italian debt and €2.5 billion (\$3.18 billion) in Ireland’s debt.

Andrew Moss, CEO of London-based insurer Aviva P.L.C., told journalists during an earnings call last week that he believes there’s little chance that investments in debt issued by Greece or other countries are in danger.

“We still think the chances of that defaulting actually are relatively low,” Mr. Moss said of Greek bonds. “As you get into other countries, we genuinely believe—and I think the markets are saying this in

terms of the way they are pricing the debt—the possibilities of default are very, very low.”

Mr. Prowse acknowledged that problems in Greece’s economy are not likely to happen in isolation. If the “contagion” spreads, he said, it could cause concern around sovereign debt in other countries.

But even in a worst-case scenario, Mr. Hofmann suggested insurance buyers would be in little danger of any effect from a potential default on sovereign debt by Greece or other E.U. countries. Insurers weathered the financial crisis in good shape and policyholders did not see problems with capacity or pricing as a result, he said.

The problems in Greece have contributed to a decline in the val-

ue of the euro, which could have implications for insurers, sources said.

“For some it makes their numbers look better,” said Mr. Prowse. “If they are reporting in euros and have income in dollars, that will translate better in euro terms.”

“As we earn a large portion of our profits in currencies which have hardened against the euro, a further weakening of the euro would have a positive impact,” said Mr. Vogel of Hannover Re.

Mr. Prowse pointed out that while the exchange-rate risk from a declining euro is not in itself a big problem for insurers, the cause of the decline could be important. “It has been falling,” he said, and “the causes of that fall could have an impact.”

Andrade: Realignment

CONTINUED FROM PAGE 4

what this strategy is all about.

Q: How will the strategy build on your current distribution relationships?

At the core of the strategy are, really, our distributors. I mean, we wouldn’t be able to do this without them, and really the whole aim that we have here is try to become a lot more relevant in their space, trying to become a much more significant player within our independent agency distribution.

Q: How long will it take to put the strategy in place?

We’re already in the process of doing that. The organizational structure and the strategy was announced on April 1...I can tell you that already in the commercial market space there’s a tremendous amount of work taking place between the group benefits and the group life side as well as the traditional property and casualty commercial products to make all of this happen.

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AP PHOTO

An explosion and fire on the Deepwater Horizon rig, which early estimates say could cost insurers up to \$3 billion, is expected to drive up insurance rates.

Energy: Massive Gulf spill roils insurance renewals

CONTINUED FROM PAGE 1

"The combined effect of what would have been a generally soft market with the inevitable reaction to the ongoing incident—it's going to be challenging to sort through all this stuff in a very short period of time," said Bruce Jefferis, Houston-based global CEO of Aon Energy, a division of Aon Risk Services Ltd.

In addition to the Deepwater disaster, a semisubmersible rig off the coast of Venezuela sank last week. Market observers expect the loss of another rig, which one underwriter said was valued at \$235 million, to increase the likelihood that offshore buyers would face higher rates this year.

Most observers had expected softer pricing in the offshore market, after last year's dramatic market hardening was followed by a benign hurricane season. Bertil Olsson, Houston-based managing director of the energy practice at Marsh Inc., said rates were falling by 10% to 30% for offshore risks before the Deepwater explosion and fire.

But afterward, many underwriters said the market no longer will be

'Buyers felt the market was softening and they could get a better deal if they renewed in May or June. However with the intervention of the Deepwater Horizon, that tactic has backfired.'

Dominick Hoare, Lloyd's of London

driven by the windstorm component of the coverage; rather, it will be driven by operational risks including fires, explosions, losing control of a well and other nonhurricane risks.

Dominick Hoare, joint active underwriter at Watkins syndicate 457 at Lloyd's of London, said he initially expected the Deepwater incident to stabilize pricing for windstorm coverage and significantly increase rates for the opera-

tional risk component of offshore energy programs.

"It's an odd one, because the buying expectation was for a reduction and now suddenly they're facing rises of 15% (to) 50%, depending on what (the risk) is," Mr. Hoare said.

One offshore energy company risk manager said buyers now face operational risk rate increases between 10% and 25%.

"Certain underwriters were already looking at having a difficult underwriting year and they haven't even gotten into the hurricane season yet," said the risk manager, who asked not to be named because the firm is in renewal negotiations.

Many companies have not yet renewed their coverage. Mr. Hoare said a significant number of companies have negotiated one- or two-month extensions to push their renewal dates later into the spring.

"Buyers felt the market was softening and they could get a better deal if they renewed in May or June," he said. "However with the intervention of the Deepwater Horizon, that tactic has backfired."

Mr. Hoare said coverage for drilling contractors and control-of-well expenses were the areas most likely to be targeted by underwriters for rate increases.

He and others also said liability rates would increase after the Deepwater incident, which already has spawned more than 100 lawsuits.

The oil spill also might prompt underwriters to more closely examine the differences between deep- and shallow-water facilities. Hurricane damage mostly has affected shallow-water, "shelf" assets, so deep-water rigs previously were perceived as safer, Aon's Mr. Jefferis said.

When the market was hard last year, many offshore energy companies opted to retain more of their windstorm risk. Mr. Olsson said the Deepwater incident also has caused energy companies to re-evaluate their retention levels for windstorm and operational risks.

"I think some say, 'Maybe we should look for more coverage' and others say, 'We're actually comfortable; our view on this hasn't changed,'" Mr. Olsson said.

AIG: Terms may change in unit sale

CONTINUED FROM PAGE 3

backstop \$2 billion of that offering, Reuters reported last week, citing people familiar with the negotiations. But if Prudential can raise the funds in the market without using the AIG backstop, then AIG would get the original cash amount.

In shifting to junior debt, Prudential would be able to report the securities as statutory capital for regulatory purposes, analysts said.

Observers said although the revised terms are meaningful, they do not weaken the deal to sell AIA dramatically.

"The cash component is certainly important, because for AIG cash is king," said John L. Ward, CEO of Cincinnatus Partners L.L.C. in Cincinnati. "However, this is not a huge upset, and it's still a good deal for AIG if the modifications can be kept in balance," he said.

"I think it's still an attractive price from AIG's standpoint," said Bill Bergman, an analyst with Morningstar Inc. in Chicago.

If AIG agrees to accept less cash and the overall price remains the same, it likely would try to renegotiate and "sweeten" other terms related to the equity-linked securities component of the deal to "balance out the overall offer," Mr. Ward said.

When the deal was announced initially, AIG said it planned to monetize the \$10.5 billion in face value of Prudential securities over time and use the net proceeds to repay its outstanding debt to the U.S. government stemming from its September 2008 bailout.

The large cash component was a big draw for AIG because it would enable the insurer to more quickly repay the government. When the definitive sale agreement was announced in March, AIG said \$16 billion of the cash from the sale,

which would be the largest so far in AIG's restructuring efforts, would be used to redeem the Federal Reserve Bank of New York's preferred interest in AIA. The remaining \$9 billion would be put toward its outstanding debt under the New York Federal Reserve Board's credit facility.

Still, several observers said they do not expect the modifications to be a significant setback in terms of AIG being able to repay its loan.

Even with regulatory approval, the deal faces other hurdles, as Prudential must secure approval of 75% of its shareholders.

Prudential and AIG have targeted a third-quarter closing for the deal, and failure to do so would result in Prudential paying a \$226.8 million termination fee.

Several analysts say they expect the deal to move forward.

"The deal falling through is not a major concern right now," said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York.

If the deal did collapse, AIG would be forced to explore other options. Before Prudential's offer, AIG was planning an initial public offering of AIA. It could revive those plans should the deal fall through, Mr. Gallant said.

AIG also could try to find another buyer for AIA, but "assuming they took the highest bid, they may not get the same price," Mr. Gallant said. "Its difficult to predict how the market will respond down the road, so it's certainly better for AIG to finalize this deal, rather than have to explore other options."

AIG and Prudential declined to comment.

Meanwhile, AIG's Mr. Benmosche last week said the insurer's first-quarter 2010 net income of \$1.45 billion is a sign of progress.

"First-quarter results show you that our operating companies are performing well, and you can see that across the board," Mr. Benmosche said at AIG's annual shareholder meeting in New York. "We're seeing better retention of our business, better retention of our employees and you see our customers are coming back as our sales are going up."

Kagan: High court nominee seen as unknown, but tort work praised

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making it tough to identify her views. She did, however, work on tort issues in the White House more than decade ago.

Victor Schwartz, general counsel for the Washington-based American Tort Reform Assn., commended Ms. Kagan, for her willingness to listen to views that she did not necessarily share during her tenure as an adviser in the Clinton administration.

"I worked with Elena from about 1995 until about 1998 on tort reform issues, when she was assistant White House counsel and that was part of her portfolio," said Mr. Schwartz, who also is a partner in the Washington office of Shook, Hardy & Bacon L.L.P.

"Her views were distinctly pro-plaintiff, but she would listen and we could exchange thoughts. The

bottom line is that President Clinton signed the General Aviation Revitalization Act, the Volunteer Protection Act and the Biomaterials Assurance Access Act. He vetoed product liability, and Elena had a clear hand in that," Mr. Schwartz said of President Clinton's 1996 veto.

Afterward, Mr. Schwartz worked with Ms. Kagan and her boss to arrive at a product liability bill that "I believe the president would have signed but some in the business community believe did not go far enough," he said.

"The bottom line is that Elena, unlike some strong ideologically pro-plaintiff people, would exchange views and listen; she was a two-way communications device and not a radio like some with whom I've dealt," Mr. Schwartz said.

A former U.S. attorney general

said Ms. Kagan's Clinton administration experience might reveal her approach to tort reform.

"She was in the Clinton White House and in the domestic policy area, and they were no fans of tort reform," said Richard L. Thornburgh, who headed the Justice Department under President George H.W. Bush and now is of counsel in the Washington office of the law firm K&L Gates L.L.P.

"I would assume she would reflect that on any occasion where she was called upon to pass upon questions that involve tort reform," he said.

But Mr. Thornburgh also noted that solicitors general represent the federal government, and "lawyers who represent the government don't necessarily present their own views."

The leader of a consumer rights group that opposes tort reform also

praised Ms. Kagan.

"I think, generally, consumer groups are positive about her selection," said Joanne Doroshow, executive director of the New York-based Center for Justice & Democracy. "It's difficult to know how she might come out on specific issues, but in general everybody's pretty supportive of her nomination," she said.

"It's a good sign that she was against" the product liability reform legislation that President Clinton vetoed, Ms. Doroshow said.

"As a scholar, she has not opined on tort reform issues," said James Copland, director of the Center for Legal Policy at the free-market oriented Manhattan Institute in New York. "I think we're really reading tea leaves. I wish it were something they would ask her questions about—she doesn't have a record one way or another in terms of her

public writing," he said.

Mr. Copland said "it is an interesting question of what her position would be on pre-emption questions" dealing with federal pre-emption of state law. "She's generally been a fairly strong proponent of federal power," he said.

Several business groups declined to comment on the nomination.

A spokesman for the American Insurance Assn. in Washington noted Ms. Kagan's lack of a paper trail on insurance-related issues.

"Until she has her confirmation hearing, it is difficult to assess how she could potentially rule on insurance and financial services matters because she doesn't have much of a record," said the AIA spokesman. "Her work at Harvard and most her of writings focus on First Amendment issues, which doesn't offer much insight," he said.

Indict: Ex-risk management officials charged

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Shortly after being named the 2005 Public Risk Manager of the Year by the Public Risk Management Assn., Mr. Hill left Michigan's largest school district to work in the Detroit office of Gallagher. Eight months later, in May 2006, he joined Marsh Inc., where he returned to the school district as its acting executive director of risk management until Feb. 1, 2007.

"Stephen Hill was chosen as the 2005 Public Risk Manager of the Year by a panel of his peers before any of these charges came to light. It is unfortunate that he is now involved in this scandal," Lisa Lopinsky, PRIMA's executive director, said in an e-mail.

"A small percentage of the conduct alleged in the indictment occurred within the time period Mr. Hill was employed at Gallagher," the Itasca, Ill.-based broker said in a statement. "Gallagher has conducted a full investigation and had no knowledge of Mr. Hill's alleged criminal conduct, nor does the indictment implicate Gallagher in any way."

No-bid deals

According to the indictment, rather than using competitive bidding, Mr. Hill hired Bond, White, Washington & Washington Inc., a Detroit-based wellness vendor that does business as Associates for Living, without a contract to conduct a health improvement and assessment pilot study for nearly 3,000 district employees from November 2005 through March 2006.

Associates For Learning proposed a \$150,000 fee for its services, but sent invoices, per Mr. Hill's advice, totaling more than \$3 million, for which either Mr. Hill or Ms. Polk-

Google search finds scandal before job offer extended

CHICAGO—Cook County, Ill., officials considered hiring Stephen Hill in March as head of risk management, but reconsidered after discovering he was being sued by his former employer for theft and that he was under federal investigation for fraud, a county spokesman confirmed.

Mr. Hill, Detroit Public Schools' former risk manager, since has been indicted by a federal grand jury on six counts of bribery, fraud, money laundering and conspiracy charges.

After Mr. Hill passed a background check, Cook County's chief financial officer reportedly wanted to hire him to become the county's new head of risk management starting in April.

But before a formal job offer was extended, the chief of staff for Cook County Board President Todd Stroger reportedly conducted a Google search of Mr. Hill's name and found news of the scandal and took no further action to hire Mr. Hill.

—By Sally Roberts

Osumah authorized wire transfers, rather than going through the district's accounts payable procedures. In return, Mr. Hill received more than \$158,000 in kickbacks, prosecutors allege.

Sisters Sherry and Gwendolyn Washington, co-founders of Associates for Living, also were indicted.

The eight-count indictment alleges bribery, fraud, extortion and money laundering. Each count carries a maximum 20 years in prison if found guilty.

Trial on the charges has been set for July 6.

"Stealing funds from a public school in these times is particularly egregious, as it threatens to rob our children of their futures and ultimately compounds future crime problems," U.S. Attorney Barbara L. McQuade said in announcing the indictments.

The investigation is ongoing, a

'Stephen Hill was chosen as the 2005 Public Risk Manager of the Year by a panel of his peers before any of these charges came to light. It is unfortunate that he is now involved in this scandal.'

Lisa Lopinsky,
Public Risk Management Assn.

U.S. Attorney's Office spokeswoman said.

"By bringing to justice those who have sought to enrich themselves at the expense of our children, we

hope to send a message that the level of corruption that has been allowed to flourish in Detroit Public Schools in the past will no longer be tolerated," Robert Bobb, emergency financial manager of the district, said in a statement. "We will continue to work quickly and aggressively to root out corruption wherever we find it."

Attempts to reach the attorneys for Mr. Hill, Ms. Polk-Osumah and the Washingtons were unsuccessful.

Civil suit

In addition to Associates for Living, Gallagher and Marsh, other vendors alleged to have conspired with Mr. Hill and Ms. Polk-Osumah are Spectrum Financial Group Inc., New Bridge Multimedia Inc. and Long Insurance Services L.L.C., all based in Detroit; and eCare Solutions Inc., a division of Thiensville, Wis.-based Health & Wellness Solutions Inc.

Gallagher and Marsh specifically are alleged to have received millions of dollars from the district for services that were either not performed or were billed at inflated rates, the suit says.

In Gallagher's case, DPS alleges that between June and December 2005, Gallagher received \$6 million in wire transfers for work on an emergency management information system, with no written contract between the two parties to perform such services. Furthermore, the district said Gallagher "failed to perform all or any of the services it promised to provide under any agreement or understanding (even if unauthorized) that may have been reached."

According to the civil suit, Mr. Hill personally authorized three wire transfer payments to Gallagher for work on the EMIS—two of which totaled \$1.7 million and were authorized days before he left to join Gallagher.

In a statement, Gallagher said:

"DPS has previously confirmed in writing that Gallagher delivered everything it was supposed to provide to DPS. Gallagher is vigorously defending this case on the grounds that Gallagher performed its contract with DPS, and earned what was paid; did not violate any duties to DPS; and did not engage in any wrongful conduct."

In Marsh's case, the district alleges that it paid the broker more than \$17 million for insurance products and consulting services from June 2002 through June 2008, most by wire transfers. "In each such instance, the value, if any, of the products and/or services that the Marsh defendants provided was woefully inadequate in relation to the payments rendered," the district alleges.

In addition, Mr. Hill, who at the time was working for the school district as a full-time Marsh employee, authorized a \$450,000 wire transfer to Marsh on Aug. 30, 2006, as a prepayment for casualty consulting services for July 2006 through July 2007, for which the district says there was no written contract and that Marsh never intended to provide services equivalent to the value of what was paid.

A Marsh spokesman said the broker believes the allegations "are without merit" and has filed a counterclaim against the district seeking \$300,000 in unpaid fees.

According to Marsh's February 2009 complaint, the district agreed to pay \$450,000 in quarterly installments for brokerage services from July 1, 2007, to June 20, 2008, but never paid Marsh. As a result, Marsh resigned as the district's broker effective Feb. 28, 2008. Marsh says the district still owes it \$300,000.

A trial on the Detroit district's civil suit is set for Oct. 4, said Jerome Watson of Miller, Canfield, Paddock & Stone P.L.C. in Detroit and the district's attorney.

Parity: Groups seek delay of rules covering mental health treatment

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Human Services after they had determined that "without prompt guidance, some members of the regulated community may not know what steps to take to comply with the requirements" of the MHPAEA. Briefing on the case is completed and a ruling is forthcoming.

A spokeswoman for the Labor Department said it is not unusual for comment letters to request that regulations be delayed, but she was uncertain as to how likely that was to actually happen.

But Kathleen Mahieu, health management practice leader at Hewitt Associates Inc. in Norwalk, Conn., said she'd be surprised if they didn't grant the delay because of the sheer volume of comments that were submitted—approximately 5,450, according to the DOL—and the fact that health care reform has taken center stage.

"I can't imagine they'll be able to review all of those comments and create final regulations that reflect those comments by July 1 with

everything else that's going on," she said. "What employers must do to comply (based on the interim final rule) is much more extensive than what we saw under the original legislation."

Moreover, "a lot of what they're doing on parity is going to impact what employers and insurers do on health care reform," Ms. Mahieu said. For example, "will complying with parity affect their ability to be grandfathered?"

"I would hope that they would consider extending the effective date," she said.

Because the interim final rule was not issued until Feb. 2, much later than had been expected, many employers had attempted to comply with the law using their own best judgment, said Kathryn Wilber, senior counsel, health policy at the ABC in Washington. Unfortunately, that judgment proved wrong and now employers are scrambling to comply, she said.

Sharon Cohen, an attorney with Towers Watson & Co. in Arlington, Va., said that when her firm ana-

lyzed some employer plans, it found that while they may meet the quantitative tests, such as cost-sharing, they often fail the nonquantitative tests, which includes the use of medical management.

Under the interim final rule, employers must provide essentially the same level of coverage for behavioral health care as for medi-

'A lot of what they're doing on parity is going to impact what employers and insurers do on health care reform.'

Kathleen Mahieu, Hewitt Associates Inc.

cal/surgical care. In addition, they cannot subject behavioral health care treatment to any more stringent medical review requirements than those imposed on medical/surgical benefits, she said.

"The interim final rules go above and beyond where we expected them to go," said Steve Wojcik, vp for public policy at the National Business Group on Health, a con-

sortium of the nation's largest employers based in Washington.

"It's going to require a lot more plan changes to ensure compliance, so we feel there's more time needed. NBGH also is asking for a delay because of the complexity of implementing both mental health parity and the health reform law," he said.

Stella Antonakis, senior consul-

tant in national clinical practice at Buck Consultants L.L.C.'s in San Francisco, said employers using behavioral health carve-out models are being challenged by a provision in the interim final rule requiring that the same deductible be applied to medical/surgical and behavioral health benefits.

"It doesn't preclude employers from having carve-outs, but some

are concerned administratively about how they will meet the requirements and are worried about noise from employees if the vendors are not able to share information" about claims that apply to the deductible, she said.

"The concern has more to do with medical plan sharing information. Historically, the behavioral health vendors have been more open. Medical vendors are not as flexible," Ms. Antonakis said.

Gretchen Young, senior vp for health policy at the ERISA Industry Committee in Washington, said application of the single deductible for medical and mental health coverage also is one of its biggest concerns.

"For us, this just came out of left field," she said.

She added that the final interim regulations failed to define a health plan, so it is unclear at this point whether parity also applies to retiree-only plans as well as those covering active employees.

"Perhaps it is unprecedented" for the agencies to delay implementa-



Pamela Fink, meeting in April with the media at her Fairfield, Conn., home, alleges MxEnergy Holdings Inc. fired her because of her genetic history and undergoing a double mastectomy.

mance review that was “negative and scathing,” according to the complaint. In March, her employment was terminated and she was told her position had been eliminated.

“We believe she was fired because of the positive test” as well as the mastectomy, said Gary Phelan, a partner with Outten & Golden L.L.P. in Stamford, Conn., and Ms. Fink’s attorney.

Should the EEOC find in her favor, Mr. Phelan said the federal agency first would try to settle the case. If that is unsuccessful, the agency could either file its own suit or permit Ms. Fink to proceed with her lawsuit.

“From our perspective it’s an extremely strong case with precedent-setting potential,” he said.

A spokeswoman for MxEnergy said the company does not comment on personnel matters. “However, we can say that we look forward to presenting the ample evidence that we have in this case when it is appropriate,” she said.

Commenting on the complaint, employment attorney Clifford S. Anderson, a partner with law firm Hellmuth & Johnson P.L.L.C. in Eden Prairie, Minn., said that “it does appear that the plaintiff has established a prima facie case” of discrimination.

But, he added, “Until you get both sides of the story, it’s always difficult to judge where there’s actual discrimination going on.”

“Like so many employment discrimination cases, it’s going to be fact-intensive and turn on what the actual facts are,” Mr. Anderson said.

—By Judy Greenwald

Genetics, mastectomy led to firing: Suit

A Connecticut woman who says she was fired because of her genetic history has filed a complaint with the Equal Employment Opportunity Commission that alleges violation of the Genetic Information Nondiscrimination Act.

Pamela Fink filed a joint affidavit April 27 with the EEOC and Connecticut’s Commission on Human Rights and Opportunities, alleging violations of GINA, the Americans with Disabilities Act and Connecticut’s Fair Employment Practices Act. The filing is apparently the first publicly released GINA-related complaint.

According to the complaint, Ms. Fink received consistently favorable performance reviews as a director of public relations and marketing communications at Stamford, Conn.-based MxEnergy Holdings Inc., a natural gas and electricity supplier.

After learning she tested positive for BRCA2, the breast cancer Type 2 susceptibility protein, Ms. Fink took a medical leave to have a preventive double mastectomy last October.

In January, the day before she was to have a second and final surgery related to her double mastectomy, she was given a midyear perfor-

GINA: Claims alleging genetic discrimination rising

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about 80 GINA-related claims, said Peggy R. Mastroianni, the agency’s associate legal counsel. Typically, she said, such claims also cite Americans with Disabilities Act violations.

“We are now seeing more charges that allege not only improper acquisition or disclosure, but adverse employment actions,” such as discharges, although it is unclear whether the adverse employment action “stems from the GINA part of the claim or the ADA part of the claim,” Ms. Mastroianni said.

She and others say they expect more GINA-related claims.

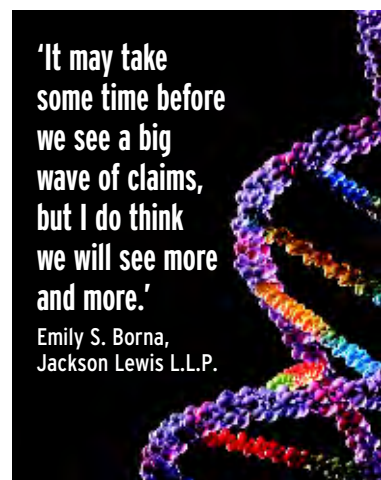
Paul E. Starkman, a partner with law firm Arnstein & Lehr L.L.P. in Chicago, said there will not necessarily be a tidal wave of GINA litigation, but as more people become aware of it, employers will “be getting more and more inquiries and complaints, and they will be opening themselves up to potential claims and litigation” if they fail to take the appropriate steps.

“It may take some time before we see a big wave of claims,” said Emily S. Borna, a partner with law firm Jackson Lewis L.L.P. in Atlanta, “but I do think we will see more and more.”

She said a particular challenge for employers is what to do when genetic information is volunteered, and then there is an adverse job

action. “Then it becomes a burden for the employer to show” the genetic information “doesn’t factor in,” Ms. Borna said.

Wendy Lazerson, a partner with law firm Bingham McCutchen L.L.P. in East Palo Alto, Calif., said “employers have to be careful” of being “set up” by employees volun-



teering genetic information and then alleging that was the cause of a subsequent adverse job action.

“I think the EEOC, under the current administration, is being very proactive” in pursuing claims under its jurisdiction, said Daniel J. Burnick, a shareholder with law firm with Sirote & Permutt P.C. in Birmingham, Ala. In addition, more employees “are looking to the

EEOC and/or the court system in an attempt to either protect their jobs or receive compensation should they lose their jobs.”

Ilyse W. Schuman, a shareholder with law firm Littler Mendelson P.C. in Washington, said some employers are not well-prepared to deal with GINA.

“I’m not sure that employers actually realize either the depth, or the breadth, of GINA’s reach in terms of the genetic information it includes, for example family medical history as well as the individual’s own genetic information and...the fact that GINA includes not only nondiscrimination requirements but also restrictions on the collection and disclosure of genetic information,” Ms. Schuman said. “It’s critical that employers educate themselves and train their managers on the application of the new law to reduce any potential exposure they may have.”

The law passed during a period of “economic turmoil,” so “I don’t think (employers have) put as much emphasis on it as perhaps they should,” Mr. Starkman said. “I don’t see this huge swell of compliance activity to make sure that they’re not going to run afoul of it later.”

“Going forward, employers will have to change their policies in order to prohibit discrimination based on genetic information,” said Erin T. Fitzgerald, an associate with law firm Fox Rothschild L.L.P. in

Philadelphia. “They’ll have to have the proper notices posted in the workplaces and, if they have any sort of wellness program, they’ll need to ensure that also complies with GINA.”

Employers should be sure genetic information is disseminated only on a need-to-know basis, said Clifford S. Anderson, a partner with law firm Hellmuth & Johnson P.L.L.C. in Eden Prairie, Minn.

“You can’t take adverse action” against an employee based on information you do not have, he said.

Under GINA, employers must not ask for personal medical information during annual enrollments and, if they ask for it afterwards, do not provide any sort of incentive, such as a reduced premium, for answering genetic-related questions, said Leslye Laderman, St. Louis-based national leader of compliance services in Buck Consultants L.L.C.’s health and productivity practice. Employers’ vendors also should be made aware of this, she said.

However, Dennis Westlind, a partner with law firm Stoel & Rives L.L.P. in Portland, Ore., said, “The number of employers who are using genetic information in employment decisions is small to minuscule.”

“I really don’t expect it to be a growth industry for employment lawyers,” Mr. Westlind said. “This is not going to be the next ADA or the next Title VII” of the Civil Rights Act.

Liberty: IPO would add flexibility

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financial flexibility, observers say.

Liberty Mutual Group’s acquisitions of SAFECO Corp. in 2008 and Ohio Casualty Corp. in 2007 had to be funded through cash and debt offerings, Mr. Murray said. The IPO “provides them with some measure of financial flexibility,” he said.

The parent company’s inability to access the equity capital markets has clearly put “some degree of strain on the company’s capital structure,” which “has been an incremental concern” to Moody’s, Mr. Murray said.

“Liberty Mutual is generally viewed as having a very favorable operating risk portfolio and good asset quality on the investment side of the balance sheet,” said John Wicher, principal of John Wicher & Associates Inc. in San Francisco. “But at the end of the day, given their mutual holding company structure, they don’t have access to the capital markets.”

“They’re doing the proper thing from a balance sheet perspective” by providing additional capital support to the enterprise, he said.

Use of proceeds

Gerry Glombicki, a director at Fitch Ratings in Chicago, said Liberty Mutual could use the proceeds to pare its debt or, if it considers itself to be underleveraged, take on more business or “pursue something externally.”

“It all depends on how much cash they get,” Mr. Glombicki said.

In its commercial segment, Liberty Mutual Agency is the fifth-largest U.S. writer of commercial lines property/casualty insurance distributed through independent agencies, based on 2008 net written premiums, according to the insurer’s filings with the SEC.

The commercial segment generated \$4.6 billion, or 45% of its total net written premiums in 2009. About 95% of its commercial lines accounts have annual premiums of less than \$15,000.

Liberty Mutual Agency is the second-largest U.S. writer of surety business, based on 2008 net written premiums. The segment posted \$707 million in 2009 net written premiums, or 7% of its total.

It also is the third-largest U.S. writer of personal lines property/casualty insurance distributed through independent agencies, based on 2008 net written premiums. This business generated \$4.7 billion, or 46% of its total net written premiums, in 2009.

In addition to these operating segments, its “corporate and other” segment generated \$162 million in net premiums written, or 2% of its total, in 2009. This reflects the results of external reinsurance, intersegment reinsurance arrangements, runoff operations, net realized investment income, and interest and other expenses.

News In Brief

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general insurance as part of restructuring its senior management and refining its regional structure, the insurer said. Mr. Greco now is CEO of global life business. He will succeed John Amore, who will serve as a senior adviser to Zurich's group executive committee. Kevin Hogan, former CEO Americas for global life, will replace Mr. Greco as CEO of global life. The appointments are effective July 1. Zurich also named several people to regional executive positions.

Family medical costs top \$18,000: Milliman

Average medical costs for a typical U.S. family of four enrolled in an employer-sponsored preferred provider organization plan rose \$1,303 this year to \$18,074, the largest dollar increase since the Milliman Medical Index began in 2005. The costs, which include employer and employee premium contributions, copayments and deductibles, grew an average 7.8% this year, up from 7.4% last year, Milliman Inc. said. Now averaging \$10,744, the average employer share surpassed \$10,000 for the first time for the typical family of four's PPO coverage, Milliman said. The "2010 Milliman Medical Index" is available online at www.milliman.com.

Insurers refuse boycott of Iran-linked investments

Nearly 300 insurers have refused to agree to a moratorium on investments in companies that the California insurance commissioner says do business with Iran, the state agency said. In February, California Insurance Commissioner Steve Poizner released a list of 50 companies that he said do business with the Iranian oil, natural gas, nuclear and defense sectors. Mr. Poizner asked California-licensed insurers to eliminate investments in those companies and pledge to avoid such investments in the future. That prompted five insurer trade groups to file a petition with the California Office of Administrative Law seeking to invalidate the regulations as illegal. Last week, Mr. Poizner released a list of 296 companies that have refused to agree to the moratorium, including MetLife Inc.,

SAFECO Corp. and Hartford Financial Services Group Inc.

Partner Re names CEO successor

Partner Re Ltd. said Costas Miranthis will succeed Patrick Thiele as the Bermuda-based reinsurer's president and CEO. Mr. Miranthis, now president and chief operating officer, will take on the CEO role effective Jan. 1, 2011. The reinsurer said Mr. Thiele plans to retire at year-end.

Cat bond reinsures Chartis for U.S. hurricanes, quakes

Chartis Inc. said it has obtained \$425 million in reinsurance through its first catastrophe bond program. The bond, issued through special-purpose vehicle Lodestone Re Ltd., closed significantly larger than its target size of \$250 million, the property/casualty insurer said last week. The transaction provides Chartis subsidiary National Union Fire Insurance Co. of Pittsburgh, Pa., with fully collateralized coverage against losses from U.S. hurricanes and earthquakes on a per-occurrence basis until May 2013. The bond will use an index trigger with state-specific factors.

Arizona to privatize state workers comp fund

Arizona Gov. Jan Brewer has signed legislation that will privatize the state's workers compensation fund. The bill, which passed the Arizona Legislature last month, will privatize the Arizona State Compensation Fund as a mutual insurance company by January 2013. The fund provides workers compensation coverage to 40,000 Arizona businesses and is the largest workers comp insurer in the state.

Noted

Munich Reinsurance America Inc.'s catastrophe bond covering a North Carolina state wind pool closed at \$305 million, significantly larger than its target size, GC Securities Ltd. said....**Specialty insurer Ironshore Inc.** said it has raised \$250 million in additional capacity through a private debt offering to "fuel growth" and "further develop our specialty platforms." The senior unsecured notes, due in 2020, are guaranteed by Ironshore and offer a coupon rate of 8.5%, the company said in a statement....**XL Insurance** said Bob Shine has been named executive vp and chief casualty underwriting officer of its North American property/casualty unit in New York, effective June 14.

Age 26: Adult child coverage rules issued

CONTINUED FROM PAGE 3

issue," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

But other pricing strategies will be permitted. For example, employers could base employee premiums on the number of covered dependents.

"You could have more premium tiers," said Chris Renz, a partner in the San Francisco office of Mercer L.L.C.

An example in the regulations of a permitted premium structure says premium levels can be set for employee-only coverage, the employee plus one dependent, the employee plus two dependents and the employee plus three or more dependents.

Such a tiered structure is legal because "the terms of dependent coverage for children do not vary based on age. Although the cost of coverage increases for tiers with more covered individuals, the increase applies without regard to the age of any child," according to the regulations.

Alternatively, employers could absorb the additional cost, which the government estimates will average about 0.7%, or boost employees' premiums for dependent coverage.

Experts say the regulations affirm the intent of the law: That the age of an employee's adult child up to age 26 is the sole determining factor when employers can stop providing coverage to the adult children.

As for notification requirements, employers with calendar-year plans could provide notice of the coverage during their open enrollment period, which typically is in October or November, and give employees the opportunity to make their benefit plan selections for the next year.

While the adult child provision can be part of open enrollment materials, the information about the provision and enrollment opportunity must be "prominent," according to the regulations.

On the other hand, the notice and enrollment opportunity could be provided as late as the first day of the plan year that begins after Sept. 23. For calendar-year plans, that would be Jan. 1, 2011. In that case, that enrollment right would last 30 days and coverage would be retroactive to Jan. 1.

Communicating the extension-of-coverage provision will be chal-

lenging, Mercer's Mr. Renz said. For example, employers have to explain that employees' children who previously lost coverage because they aged out will again be eligible to enroll if they are younger than 26.

Even employees' children who never had coverage through the employer could be eligible. That could happen, for example, if an employee with a 24-year-old child were hired this year by a business that previously halted coverage for employees' children at age 23.

"Explaining this all very clearly will be a communications challenge," Mr. Renz said.

Major self-funded employer speeds coverage expansion

HARTFORD, Conn.—United Technologies Corp. will extend health care coverage to employees' adult children up to age 26, on July 1, six months before the new health care reform law requires it.

Hartford, Conn.-based United Technologies, which has about 72,500 U.S. employees and \$52.9 billion in worldwide revenues in 2009, is the first major self-funded employer to announce accelerated adoption of the young adult mandate.

"We think this is the right thing to do for our employees and is consistent with our practices of providing our employees with very competitive benefits," J. Thomas Bowler Jr., United Technologies senior vp-human resources and organization, said in a statement.

The extension will occur in two steps. Effective immediately, United Technologies will continue coverage of employees' adult children enrolled in its plans who would have lost coverage for reasons that include graduation from school. Then on July 1, coverage will be offered to employees' adult children up to age 26 regardless of whether they are now covered, unless they are eligible to enroll in another employer's health care plan. The coverage extension will be provided with no change in the premium employees pay for dependent coverage.

Previously, United Technologies stopped coverage of employees' children at age 19, or 23 if the child was a full-time college student.

—By Jerry Geisel

Equity: Investors eye workers comp firms

CONTINUED FROM PAGE 6

insured clients, Mr. Sun said.

"Private equity investors always like to know (that the services provided by an acquired company) are not discretionary purchases," Mr. Sun said. "These are core to the operation of (an insurance) client. They love that."

Private equity interest also has risen because of expectations that

claims activity will rise as the economic slump ends, reversing an industrywide slump in claims volume because of the nation's high unemployment rate, several observers said.

That would drive revenues in a largely fee-for-service industry, sources said.

"They all know that the (market) cycle is going to turn and they are all sort of saying, 'If we are going to

get in, we want to get in right now,'" Mr. Watson said of private equity buyers' interest in workers comp companies.

Executives operating companies purchased by the funds say the transactions are usually a "nonevent." They say private equity investors tend to keep the same management while improving technology in which the insurance industry has been slow to invest.

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AP PHOTO

San Diego Padres pitcher Tim Stauffer used his iPhone to help self-diagnose his appendicitis.

APPENDICITIS? THERE'S AN APP FOR THAT

Employee benefit managers who are skeptical about the accuracy of self-diagnosis of illnesses via the Internet need look no further than San Diego Padres pitcher Tim Stauffer.

The resourceful Mr. Stauffer used his iPhone to look up a medical website and entered the symptoms that were keeping him up one night last week, according to the San Diego Union-Tribune.

As it turns out, Mr. Stauffer was suffering from appendicitis.

"He had himself diagnosed," Todd Hutcheson, the Padres head trainer, told the Union-Tribune. "He said, 'I think I have appendicitis.'"

Mr. Stauffer called Mr. Hutcheson at 3:15 a.m. and told him about his self-diagnosis and later headed to St. Mary Medical Center to get the final word. An examination by medical professionals found that he did indeed have an inflamed appendix.

Doctors then surgically removed his appendix and the 27-year-old was put on the Padres' disabled list—a blow to the team that credited his pitching for the Padres' early season success.

But when his baseball days are done, Mr. Stauffer has shown that he has some medical diagnostic skills as long as his iPhone is nearby.

Business Insurance END PAGE

Contributing: Jeff Casale, Judy Greenwald, Mark A. Hofmann, Mike Tsikoudakis



COURTESY OF MEL NUDELMAN

Hartford employees, U.S. Paralympic Team athletes and Larry the Stag celebrate the insurer's 200th birthday by ringing the NYSE opening bell.

Hartford marks 200-year milestone

Hartford Financial Services Group Inc. celebrated 200 years of incorporation with an event-filled birthday bash.

In commemoration of the milestone, Hartford's CEO Liam E. McGee and Chief Financial Officer Christopher J. Swift rang the opening bell at the New York Stock Exchange on May 10, the Hartford, Conn.-based insurer said in a statement.

Reports say more than 800 employees from nearly 100 offices gathered for birthday cake as they watched their leaders ring the bell on Wall Street.

Outside the NYSE, NASCAR driver Clint Bowyer's No. 33 Sprint Cup Chevrolet Impala, sponsored by Hartford, was on display, along with sporting activities such as wheelchair basketball in honor of the U.S. Paralympic Team, for which

Hartford is a founding partner.

Additionally, Hartford said it will sponsor employee community service programs, where thousands of employees are expected to participate.

Incorporated on May 10, 1810, Hartford said it has been part of several historic events in U.S. history, such as providing contract bonds for the construction of Hoover Dam in 1931 and the Golden Gate Bridge in 1937. It also insured Abraham Lincoln's Springfield, Ill., home in 1861 and paid out nearly \$2 million after the Great Chicago Fire of 1871.

"For 200 years, this iconic American company has helped its customers achieve what's ahead, earning a reputation for trust, integrity and customer service excellence," Mr. McGee said in the statement.

King, kingdom joust over fall from noble steed

Call it a royal pain.

Frank Kaszycki of Deer Park, Ill., was hired last year by Medieval Times in Schaumburg, Ill., to play King Philippe in a medieval-themed entertainment. According to published reports, part of the role included riding a horse and speaking in the Medieval Times Dinner and Tournament. The show features actors portraying knights, royalty and other medieval types performing medieval acts, like jousting and simulated combat while patrons enjoy a four-course meal.

Mr. Kaszycki, however, had no experience riding horses. Earlier this year, according to reports of a suit he filed in Cook County Circuit Court last week, a fellow cast member was instructing Mr. Kaszycki in horsemanship in the absence of his regular trainer. The suit holds that the horse stopped and reared, throwing Mr. Kaszycki to the ground, where the horse fell on him.

According to published reports, he's suing Medieval Knights L.L.C. and Medieval Times U.S.A. Inc. for negligence and failing to control the horse and seeking in excess of \$50,000 for his alleged injuries.

While that's not exactly a king's ransom, the faux King Philippe might be able to live royally for at least a while if the court finds merit in his case.



WAYNE PARHAM PHOTOGRAPHY

Waitresses at Heart Attack Grill dress as nurses to serve their 'patients.'

JUDGE FINDS CURE FOR 'HEART' WOES

After an apparent heart-to-heart talk, the owners of the Heart Attack Grill and the Heart Stoppers Sports Grill have reached an agreement in a trade infringement dispute.

The owner of the Heart Attack Grill, a Chandler, Ariz.-based restaurant, sued the owners of Delray Beach, Fla.-based Heart Stoppers this year.

According to court papers, Heart Attack Grill is a "medically themed" hamburger grill and restaurant that has featured high-calorie foods with names such as the Quadruple Bypass Burger and Flatliner Fries since 2005.

Other features include wheelchair service for patrons, waitresses dressed as nurses and free food to anyone who weighs more than 350 pounds. All customers are "patients" who are dressed in hospital gowns with their food orders

written on hospital-style wrist bands.

After inquiring about a franchise in Florida, Heart Stoppers opened a "substantially identical" restaurant in December, the Arizona restaurant said in its suit.

Heart Stoppers filed a counterclaim, but ultimately succumbed.

With all parties' approval, a West Palm Beach, Fla., federal judge issued a final judgment that permanently enjoins Heart Stoppers from using any of Heart Attack Grill's trademarks.

But Florida "patients" can rest easy—Heart Attack Grill reportedly plans to open a branch in Orlando.

No word on what the American Heart Assn. thinks about the dispute involving Heart Attack Grill and its slogan, "A taste worth dying for."



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2010 BENEFIT INSIDER DEMOGRAPHIC EDITORIAL CALENDAR

Date	Ad Close	Benefit Insider Editorial Content
Jan 18	Published	Rethinking Health Care <i>Bonus Distribution: EHHCC, IBI/NBCH</i>
Feb 15	Published	Benefits for a Diverse Workforce <i>Bonus Distribution: NBGH</i>
Mar 15	Published	Value-Based Plan Design <i>Ranking/Directory: Consumer-Driven Health Care Plan Providers</i> <i>Bonus Distribution: IHPM</i>
Apr 19	Published	Benefits Communications & Technology <i>Ranking/Directory: Employee Benefits Software</i>
May 17	Published	Benefit Consulting <i>Ranking/Directory: Benefits Consultants/Outsourcing Providers</i> <i>Bonus Distribution: AHIP, World at Work</i>
Jun 21	Jun 9	Supplemental Benefits: Life, Disability, Dental & Vision <i>Ranking/Directory: Dental Plan Providers</i>
Jul 19	Jul 7	Pensions & Savings Plans <i>Ranking/Directory: 401(k) Plan Providers</i>
Aug 23	Aug 11	Health Care Cost Control Strategies <i>Ranking/Directory: PBMs</i>
Sep 20	Sep 8	Prescription Drug Benefits
Oct 18	Oct 6	Alternative Benefit Financing
Nov 15	Nov 3	Wellness Benefits <i>Bonus Distribution: NBCH</i>
Dec 13	Dec 1	Behavioral Health & Work/Life Benefits

Note: Editorial Content and Bonus Conference Distributions are subject to change.

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