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DISABILITY CLAIMS SNAPSHOT

Number of disability claims the Social Security Administration processes annually:

2009	2,812,918
2010	3,161,314
2011	3,390,936
2012	3,206,869
2013	2,970,000*

*Estimated

WORKERS COMPENSATION

Poor job market complicates comp claims

BY ROBERTO CENICEROS

Grim employment prospects for some U.S. residents have caused Social Security disability benefit applications to surge, which has ramifications for workers compensation claims payers.

Insurers and Medicare set-aside service providers say they have seen a trend of workers comp claimants — particularly those in their 50s and younger who have been hardest hit by a lack of employment prospects — among the increased number of people filing for Social Security disability benefits.

Coinciding with the country's labor doldrums, the trend complicates workers comp claim settlements and adds to their expense because of Medicare Secondary Payer compliance requirements.

Compliance includes a requirement that workers comp claims payers fund all future medical

See **DISABILITY** page 30

RISK MANAGEMENT

BANGLADESH FACTORY DISASTER PUTS REPUTATIONS AT RISK

Global firms scramble to improve offshore safety

AP PHOTO

Rescuers dug for weeks after an eight-story building housing several garment factories collapsed in Savar, Bangladesh, in April.

BY RODD ZOLKOS

The recent collapse of a Bangladesh clothing factory complex that killed more than 1,100 has brought new attention to supply chain risks associated with Western companies outsourcing production to low-wage countries, including risks to their brand reputations.

Reputational risks eventually may be the force that drives U.S. and European retail firms to push for improved workplace conditions and safety with their suppliers in Bangladesh and elsewhere, experts say.

"There's no doubt that there's the element of reputational risk that's coming to the fore now around supply chains," said Tom Teixeira, partner in Willis Group Holdings P.L.C.'s Willis Group Solutions consulting unit in London.

"We're seeing that there is that recognition that supply chain

See **SUPPLY** page 30

IN OR OUT

Some of the companies participating and not participating in the Bangladesh factory safety pact

Participating:

- Abercrombie & Fitch Co.
- Benetton Group S.p.A.
- Hennes & Mauritz A.B. (H&M Group)
- Loblaws Inc.
- PVH Corp.
- Marks & Spencer P.L.C.
- J. Sainsbury P.L.C.
- Tesco P.L.C.

Not participating:

- Gap Inc.
- J.C. Penney Co. Inc.
- Sears Holding Corp.
- Wal-Mart Stores Inc.

HEALTH CARE REFORM

Reform law may slash COBRA usage

Subsidies will prompt more use of exchanges

BY JERRY GEISEL

The need for the COBRA safety net is expected to shrink dramatically next year when the health care reform law will enable many COBRA beneficiaries to buy federally subsidized health coverage through public insurance exchanges.

Enacted in 1986, COBRA has helped millions of group health plan participants retain, almost always at their own expense, employment-based coverage after layoffs, marital separation, divorce or death.

Under provisions of the Patient Protection and Affordable Care Act that go into effect in January 2014, and clarified by recent Internal Revenue Service proposed regulations, lower and middle-income employees who quit or are laid off, or employees' widowed or divorced spouses who are eligible for COBRA but do not enroll, will be entitled to premium subsidies to buy health insurance in public exchanges that begin operating next year.

The subsidies will be so generous "that COBRA will kind of whither on the vine," said Steve Wojcik, vice president of public policy at the National Business Group on Health in Washington.

The premium subsidies will be

See **COBRA** page 29

INTERNATIONAL

Country profile of Czech Republic; Aon political violence map

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U.S. MID-MARKET

Firms look at workforce restructuring with eye toward health care savings

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Q&A: DANIEL S. GLASER

Marsh & McLennan Cos. Inc. chief talks about interest rates, potential business risks and more

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Crain NEWSPAPER

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CYBER RISKS

STATES TAKE ON CYBER SECURITY

Governments grapple with mitigation efforts; states mull buying cyber insurance; Obama's cyber protection order; U.S. cyber security bill; E.U. security strategy.

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NEWS

CATASTROPHES

Cat modelers increase transparency

Models made more accessible as buyers push for data

BY BILL KENEALY

As hurricane season approaches, third-party catastrophe modelers are upgrading their offerings, affording risk managers and insurers a greater array of data and more control over the assumptions that underpin the models' predictions.

"The trend is that the models are becoming more open and more accessible," said Bill Keogh, Stamford, Conn.-based reinsurance broker and risk management advisory firm TigerRisk Partners L.L.C.

"As time goes by, modeling companies seem to be more willing to share more details about how they came up with their assumptions behind some of the really important assumptions that drive results," he said.

Alan Calder, London-based group head of catastrophe risk management at Aspen Insurance Holdings Ltd., credits the rise in model transparency to demands from users in the wake of large losses in recent years.

INNOVATIONS

Recent or upcoming catastrophe model upgrades by the three largest U.S. providers

RISK MANAGEMENT SOLUTIONS INC.: To release RMS version 13 in July, which will update the company's North Atlantic hurricane forecasting.

AIR WORLDWIDE CORP: AIR version 15 incorporates lessons learned from the 2011 Tohoku earthquake in Japan, including adding data for tsunamis.

EQECAT INC: Version 13 of its Risk Quantification & Engineering Catastrophe Risk Modeling Platform released in January, including a new financial model and updating 178 country/peril models.

"From the customer point of view, there certainly is awareness that numbers coming out of the model are not necessarily all of the answer," Mr. Calder said. "There have been too many surprises and different issues people have now become aware that they require some ability to get inside the black box and customize parts of it."

Mr. Keogh agreed that users are taking a more active role concerning the risks they are modeling, but he said time and resources are needed to understand the models' nuances.

"Building models is a very complex pursuit," Mr. Keogh said. "You want to take advantage of the asset, but not necessarily buy off on every assumption."

Scott Clark, risk and benefits officer at Miami-Dade County Public Schools, said he has been using the blended approach for some time.

Mr. Clark said he employed a second outside modeling firm to validate the outcome of modeling

See **MODELS** page 32

WORKERS COMPENSATION

Fla. comp case may lead to higher costs

BY SHEENA HARRISON

Insurers and employers are awaiting a rehearing on whether Florida's limit on temporary workers compensation benefits is unconstitutional, arguing that an earlier ruling could raise the state's comp system costs by $65 million a year.

Though an earlier ruling in *Bradley Westphal v. City of St. Petersburg et al.* applies only to Florida, claimant attorneys and advocates could see the case as a model to challenge temporary total disability benefit time limits in other states, said Trey Gillespie, senior workers comp director in Austin, Texas, at the Property Casualty Insurers Association of America.

WESTPHAL FALLOUT

According to an April report by NCCI Holdings Inc.:

- February decision by the Florida 1st District Court of Appeal in *Bradley Westphal v. City of St. Petersburg* would raise Florida workers compensation system costs by $65 million, or 2.6%, annually, by extending temporary total disability benefits.
- *Westphal* would raise Florida's TTD benefit time limit to 260 weeks from 104 weeks, if upheld in a rehearing by the appellate court.
- About 7% of Florida comp claims would see longer benefits as a result of the ruling.

"I suspect that the plaintiffs bar in those jurisdictions will look at the *Westphal* decision and try to see if some of the legal arguments are … applicable" in other states, Mr. Gillespie said.

It also is likely that employers would see higher experience modification factors and premiums for their Florida workers comp policies, since *Westphal* as it stands would increase claim costs, said Pati Caldwell, senior risk consultant with Willis North America Inc. in Tampa, Fla.

In February, Florida's 1st District Court of Appeals ruled that a 104-week limit on TTD benefits was unconstitutional and left injured workers without recourse if their benefits ran out before being declared eligible for permanent total disability benefits. *Westphal* involved a permanently disabled firefighter who received no

See **WESTPHAL** page 29

P/C INSURERS

Takaful capacity increases with demand

London-based firm offers Sharia-compliant cover

BY SARAH VEYSEY

Increased demand for Sharia-compliant insurance coverage for large and medium-size commercial risks has prompted the launch of a managing general agent in London and likely will lead to more insurers offering Sharia-compliant products, experts say.

The demand for takaful insurance — coverage that complies with Islamic law, or Sharia — has been increasing over the past few years, although the volume of premiums written currently remains small within the context of the global insurance market, said Mahesh Mistry, a director of analytics at A.M. Best Co. Inc.

Many takaful operators are trying to build up franchises in the

See **TAKAFUL** page 29

40 UNDER 40 NOMINATION DEADLINE APPROACHING

The deadline is fast approaching for the first round of nominations for the 2013 *Business Insurance* 40 Under 40 Regional Broker Leaders Awards.

The deadline to nominate brokers in the U.S. Northeast is May 24. Nominations will close June 14 for the West, July 8 for the Southwest, July 29 for the Southeast and Aug. 16 for the Midwest.

2013 BUSINESS INSURANCE FORTY 40 UNDER REGIONAL BROKER LEADERS

Business Insurance's 40 Under 40 Regional Broker Leaders Awards recognize exceptional services, expertise and leadership among retail commercial insurance brokers younger than 40 as of Oct. 1.

For more information and to download a nomination form visit *www.BusinessInsurance.com/40under40*.

Entries may be emailed to *Business Insurance* Editor Gavin Souter at *gsouter@businessinsurance.com* or mailed to: *Business Insurance*, ATTN: 40 Under 40 Regional Broker Leader Awards, 150 N. Michigan Ave. 18th Floor, Chicago, Ill., 60601.

CORRECTION

An article in the May 6 issue, "Recovering Economy Creates Employment-Related Risks," misstated the name of Bhushan Sethi's employer. Mr. Sethi is a New York-based financial services people and change practice leader at PricewaterhouseCoopers L.L.P.

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ONLINE FEATURES

SOLUTION ARC

Dealing with emerging risks during a recovering economy

This new solution arc discusses the ways to contend with emerging risks as the economy improves.
www.BusinessInsurance.com/EmergingRisksArc

VIDEO

Challenges of better economy

Business Insurance highlights the issues risk managers face as the economy recovers in this new video.
www.BusinessInsurance.com/video

WHITE PAPER

Avoiding damage to reputation

This *Business Insurance* white paper explains what's at stake for companies, how to manage the risk and what insurance can help restore a damaged reputation.
www.BusinessInsurance.com/ReputationDamageWP

WEBINAR

Wellness engagement, ROI

Learn how to design and implement a wellness program that achieves strong engagement among employees — and measurable ROI to show senior managers — at this live webinar at 2 p.m. EDT May 23.
www.BusinessInsurance.com/WellnessWebinar

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NEWS

HEALTH CARE BENEFITS

Essential benefits pose dilemma

Employers seek greater clarity on reform law mandate

BY LOUISE KERTESZ

Despite rules that require mental health, behavioral health and substance abuse treatment be included as essential health benefits in 2014, employers say they need more clarification on the benefits that will vary greatly by state.

Final rules the U.S. Department of Health and Human Services issued in February say mental and behavioral issues must be included in 10 categories of essential health benefits that individual and non-grandfathered small-group health plans must offer in 2014. The rules also require that mental health benefits be paid at parity with medical benefits, following a similar 2008 mandate on large employers.

But the rules allow each state to mandate which mental/behavioral services to provide, so the cost and coverage effect on small employers will vary.

In addition, the rules say essential benefits must be equal in scope to benefits offered by a "typical employer plan." To meet the requirement, each state designates a benchmark plan or defaults to the plan sold to most small groups in that state.

"You're going to have a patchwork quilt across the country," said Julie Clements, deputy director of regulatory affairs at the American Psychiatric Association in Arlington, Va. "We've been trying to get clarification (from HHS), but what's problematic is that how good the mental health benefit is going to be in each state will be a function of (yet-to-be-issued additional) federal guidelines" and the different state mandates.

ESSENTIAL HEALTH BENEFITS

Starting next year, small-group and individual health plans must offer what the government has designated as "essential health benefits" that fall in 10 categories to meet requirements of the Patient Protection and Affordable Care Act. They are:

1 Ambulatory patient services
2 Emergency services
3 Hospitalization
4 Maternity and newborn care
5 Mental health and substance use services, including behavioral health treatment
6 Prescription drugs
7 Rehabilitative and habilitative services and devices
8 Laboratory services
9 Preventive and wellness services, and chronic disease management
10 Pediatric services, including oral and vision care

Source: Centers for Medicare and Medicaid Services

Helen Darling, president of the National Business Group on Health in Washington, said a "standard," comprehensive package of mental health services would include managed coverage from inpatient hospitalization to cognitive therapy with a defined endpoint.

"What are essential health benefits? That's the 64-million-dollar question," said Sharon Cohen, a principal at Buck Consultants L.L.C. in Washington. HHS needs to "push forward with details and standards."

"About 48 states require some type of coverage for mental health and substance abuse," but the range varies greatly, said Amy Bergner, managing director at PricewaterhouseCoopers L.L.P. in Washington.

For example, according to the Centers for Medicare & Medicaid Services website, Alaska mandates coverage of mental health and behavioral health outpatient and inpatient services, but it excludes treatment performed and billed by residential facilities, she said.

Massachusetts requires coverage of at least 16 diagnoses in the Diagnostic and Statistical Manual of Mental Disorders, but many states don't go as far, Ms. Clements said.

Illinois already requires parity for all small groups, "so in 2014 no new benefits would need to be added to any small-group plans," a spokeswoman for Blue Cross and Blue Shield of Illinois said. "Illinois small-group plans will not see an increase in premiums" as a result of the federal rule. "One percent is generally the cost that other states may incur when adding mental health parity benefits to small-group

See **ESSENTIAL** page 28

PROPERTY/CASUALTY INSURERS

Technology innovation driving industrywide changes

BY BILL KENEALY

LAS VEGAS — The likelihood that technological advances are changing the nature of commercial insurance was a persistent theme at this year's ACORD LOMA Insurance Systems Forum.

Indeed, the effect of technologies as diverse as social media, predictive analytics and self-driving cars was examined in detail at the annual gathering May 6-8 at the MGM Grand Resort in Las Vegas.

During a panel discussion of insurance industry analysts, Kimberly Harris-Ferrante, vice president and distinguished analyst at Stamford, Conn.-based technology research firm Gartner Inc., said one of the most marked changes she detected within the insurance industry during the past year was a belated yet burgeoning awareness among insurers that technology-driven change is inexorable.

"The awareness of the magnitude of change is greater now than in the past," she said. "Insurance companies are no longer in denial."

Chuck Johnston, Hartford, Conn.-based research director at insurance advisory firm Celent L.L.C., a member of Marsh & McLennan Cos. Inc.'s Oliver Wyman Group, said chief information officers at insurance companies are beginning to regard innovation as a prerequisite of the job, even at the cost of disrupting long-standing business practices.

"There is a growing recognition

See **ACORD** page 32

HEALTH CARE BENEFITS

Critical illness insurance takeup spikes

Often voluntary, cover helps close cost gap

BY JOANNE WOJCIK

Employers' growing adoption of consumer-driven health plans is helping to drive sales of critical illness insurance as a supplement to help with employees' higher out-of-pocket costs, experts say.

In fact, critical illness insurance has been identified as the potentially top-selling voluntary benefit product over the next two to three years, according to the "Worksite/Voluntary Product Trends 2012 Frontline Report" by Eastbridge Consulting Group Inc. of Avon, Conn.

Critical illness insurance sales increased 20% in 2011, totaling $243 million, according to Eastbridge, a marketing advisory firm serving insurance and financial services organizations in the United States and Canada.

"The implementation of consumer-driven health plans has very much helped employers to get comfortable with voluntary benefits in the workplace because they see them as a way to provide employees with gap protection," said Alyssa Williamson, a consultant in Mercer L.L.C.'s integrated benefits practice in Atlanta.

Usually offered as a voluntary product to employees, most critical illness policies pay a lump sum following the diagnosis of any specified illness, such as cancer, heart attack, stroke, paralysis or kidney failure. In addition to an indemnity payment, some policies also provide a daily benefit during treatment. Others pay a per-diem

See **CRITICAL** page 28

BROKER SURVEY LAUNCHED

Business Insurance has launched its annual survey of agents and brokers to rank global and U.S. firms. In addition, this year we are introducing expanded regional rankings. For more information, contact Research Director Angelina Villarreal at *avillarreal@businessinsurance.com*.

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GROWING DATABASES NEED EXPANDED PROTECTION

Cyber security budgets should match evolving needs

BY JOANNE WOJCIK

The recent cyber attack on the daily deals website *LivingSocial.com* demonstrates the vulnerability of online business operations, Internet security experts say.

The April breach involved the release of more than 50 million customer names, email addresses, birthdates and encrypted passwords, the Washington-based company reported.

But any business with an information technology system connected to the Internet could fall prey to attacks by outside intruders aiming to damage or steal sensitive company information, those experts warn. Midsize companies should implement an enterprisewide cyber security program that includes the deployment of data loss prevention software, encryption and other anti-intrusion technologies such as firewalls to detect, trace and halt data breaches caused by outside intruders, experts advise.

Small and midsize businesses are especially vulnerable to data and intellectual property theft because they generally do not have robust security systems in place to prevent them, said Jody Westby, founder and CEO of Global Cyber Risk L.L.C., a Washington-based firm that provides cyber security and advisory services to businesses and governments worldwide.

Further, a recent study by the Traverse City, Mich.-based Ponemon Institute L.L.C. found that more than one-half of small and midsize U.S. businesses have experienced at least one data breach.

"Large companies tend to have broader and deeper IT security staff than small and midsize companies do," Ms. Westby said. By contrast, small and midsize companies tend to rely on outside IT service and security providers, she said.

"As they grow, they may decide they need a server in-house to host their own website, and they might hire some IT guy. If that IT guy is fairly proficient, he will try to keep up with security. But it takes a while for midsize companies to realize they need both a chief information officer and a chief information security officer," she said. "When you start throwing in these advance threats, people aren't used to thinking about all the security issues that go with them."

"Hackers are coming from everywhere," Ms. Westby said. "You may have a hacker in Bulgaria using technology developed in Russia."

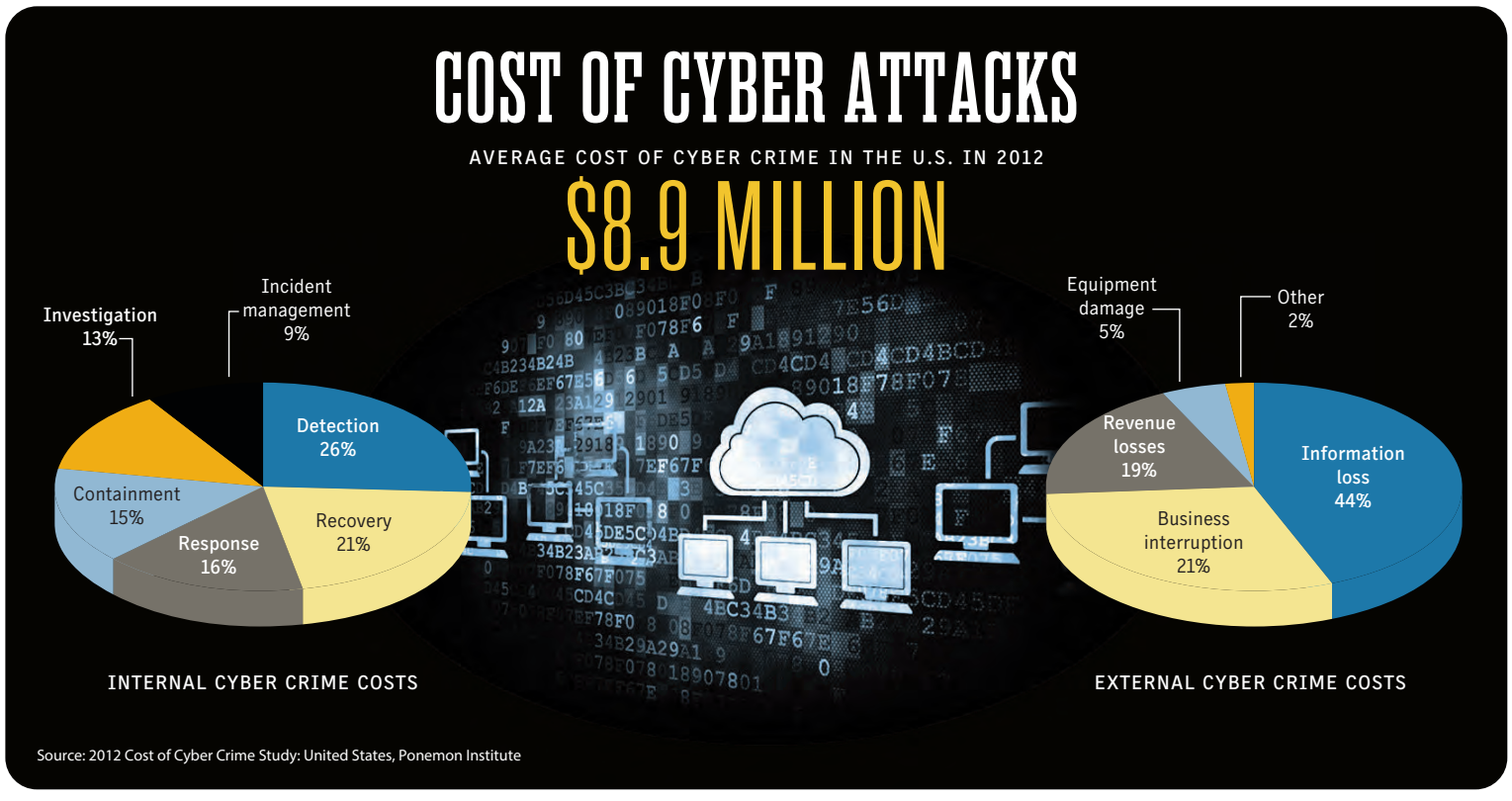
Regardless of the country of origin, these outside intruders "are all going after confidential and proprietary data that they can sell. First it was credit card data. Now it's medical information, which sells for more on the black market than credit card data. Better yet, if they get the plans for the next major aerospace weapon that a defense contractor is building, that sells for huge amounts of money," Ms. Westby said.

Beyond stealing valuable company information, some cyber attacks, known as denial-of-service attacks, are perpetrated to overwhelm a company's website and shutting it down so it cannot conduct business, she added.

"A lot of organizations have lots and lots of data, and just the sheer amount that companies have access to is growing, especially in the category of unstructured data," said Larry Ponemon, founder and chairman of the Ponemon Institute. "You think of things in tables ... That's structured data. But we also have data in PowerPoints, attachments to emails, source code. This is a treasure trove of unstructured data. If you have access to this unstructured data, that's where you find really valuable information, like financial information before the release of a 10K. This is becoming clutter to a lot of organizations. But one document could be worth millions of dollars. The technology (that) bad guys are using is surgical. Documents labeled 'confidential' and 'top secret' are easy for them to find because they're labeled as such."

Many midsize companies lose track of where their data is being stored and processed because they use outside IT service providers and cloud vendors, according to Ms. Westby.

"The growth in business process outsourcing brought in a lot of complex issues, like offshore software development," she said. "At the same time, you have these criminals who have been outpacing all of that. It's especially risky for midsize companies that have grown fast and have not invested in their IT systems and security architecture."



STAY ALERT FOR POTENTIAL INSIDE JOB

While most enterprisewide cyber security programs focus on threats to high-tech intellectual property posed by outsiders, they also should examine any insider threats that may be lurking within organizations, cyber security experts advise.

Organizations need to be very careful about which employees are given access to sensitive company information, said Ben Beeson, a partner at Lockton Cos. L.L.P. who leads the Kansas City, Mo.-based insurance broker's global technology and property practice from London.

"It's about understanding people and your processes internally — who gets access, who's touching it. Have privileged access for some people, because people are the biggest risk, particularly on the inside," Mr. Beeson said.

Companies should consider conducting thorough background checks on information technology security personnel before hiring them, said Greg Bangs, vice president and crime and kidnap and ransom product manager at Chubb Specialty Insurance, a unit of Chubb Corp. in Warren, N.J.

"The bad guys are using a two-pronged attack method. An insider or someone gets a job as a programmer or database administrator who gives credentials to an outside hacker. It's a low-tech tactic combined with high-tech tactics," said Larry Poneman, founder and chairman of the Ponemon Institute L.L.C. in Traverse City, Mich., whose February study "The Risk of Insider Fraud" found that small and midsize businesses are more vulnerable to cyber threats from inside their organizations because they often lack the internal controls necessary to protect their high-tech intellectual property.

In the event the need arises to prosecute perpetrators of such intrusions, midsize organizations also should establish relationships ahead of time with the appropriate law enforcement agencies, their Internet technology service providers and legal counsel in the jurisdictions where they are doing business, recommends Jody Westby, founder and CEO of Global Cyber Risk L.L.C., a Washington-based firm that provides cyber security and advisory services to businesses and governments worldwide.

By Joanne Wojcik

"Our motto is 'we build trust.' And trust is something Zurich started building with us from the very beginning."

Lou Haddad, President & CEO
Armada Hoffler

Armada Hoffler has developed and built more than 25 million square feet of commercial real estate, making them one of the largest general contractors nationwide. Since 2002, Zurich has provided construction insurance solutions and now proudly handles surety bonding as well. We help Armada Hoffler build projects on time and within budget, while maintaining the utmost focus on worker safety, job site security and subcontractor protection. This allows Armada to continue building strong structures, as well as relationships. Watch the video to learn how Zurich helps keep Armada's business moving forward.
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EMPLOYERS WEIGH BENEFITS OF PART-TIME WORKFORCE

Restructuring seen as workaround to minimize health reform costs

BY MATT DUNNING

Many midsize employers say they are considering restructuring their workforces in order to mitigate projected cost increases associated with new health care coverage requirements beginning in 2014, according to several recent surveys.

While the potential for savings is substantial, benefits experts say employers should not let the desire to rein in health care costs blind them to the potential business and regulatory risks of making sudden, drastic changes to their staffing strategies (see related story).

Beginning next year, employers with more than 50 full-time workers — defined as employees working 30 hours or more per week — will be required to offer health benefit plans to 95% of their qualifying employees under the Patient Protection and Affordable Care Act or else incur a $2,000-per-employee tax penalty.

The new coverage requirement is of particular concern for employers in industries dominated by part-time employees, many of whom have traditionally been excluded from group health eligibility, experts say.

"There are seven or eight critical industries being impacted by this," Christopher Ryan, vice president of strategic advisory services at Automatic Data Processing Inc. Those industries include hospitality, food service, educational services, health care and manufacturing, Mr. Ryan said.

Considering that between 7% and 8% of employees work between 30 and 35 hours per week, and that 72% of the country works for an employer with more than 50 full-time workers, according to ADP's research, "it becomes a huge number of lives that are going to be eligible for health care benefits starting next year," Mr. Ryan said.

To manage the costs associated with an influx of new members to their group health benefit plans, 32% of mid-market employers said they believe their peer companies will likely reduce the number of coverage-eligible employees by shifting workers to part-time schedules totaling fewer than 30 hours, according to a March 2013 study by New York-based Willis North America Inc. Another 22% said peer employers are likely to cut staff altogether.

However, experts say an employer considering shifting some or all of its full-time staff to part-time schedules — or cutting staff entirely — should weigh any projected savings in its health care expenses against the financial costs of the potentially negative effects those changes could have on their broader business operations.

"For every business, there's an optimal mix of full-time and part-time staffing, and if you're off in one direction or the other, it's going to have an adverse impact," said Tracy Watts, a Washington-based senior partner at Mercer L.L.C.

In particular, overinvesting in part-time workers could be detrimental to an employer's overall productivity and profitability, Ms. Watts said. Part-time employees who are less motivated and/or less experienced than full-time workers may take longer to complete the same amount of work at the same level of quality, and could be more prone to costly errors.

Those effects can quickly translate to millions of dollars in lost revenue, wiping out any savings achieved through limiting access to group health benefits, Ms. Watts said.

"We've worked with a fair number of employers that have gone too far in the direction of part-time staffing to save money on benefits, and it's come at a huge cost from a productivity and profitability standpoint," Ms. Watts said.

Employers also should carefully consider how any planned changes to their staffing strategy in response to the health care reform law's coverage requirement will be communicated to its employees and the public at large, experts say.

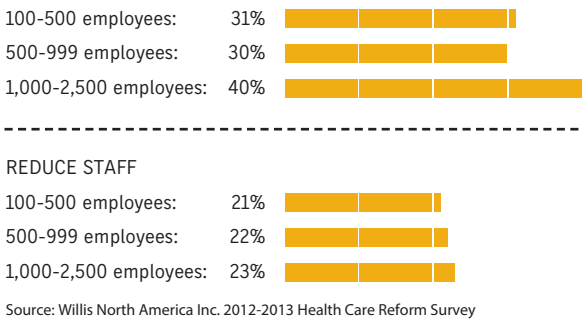
Several high-profile employers, including Darden Restaurants Inc. and Regal Entertainment Group, have incurred intense criticism from employees and customers recently over reports of wide-sweeping staffing changes in response to the health care reform law's coverage mandate.

"The way companies convey these kinds of things is incredibly important," said Andrea Kinkade, president and CEO of Maumee, Ohio-based Kaminsky & Associates Inc. Specifically, Ms. Kinkade said, it is crucial from a public relations and compliance standpoint that employers planning to execute broad changes to their workforce structures in response to the reform law frame their plans as a measure to avoid incurring the tax penalty prescribed by the law rather than the related increase in health care costs.

"You have to make sure that anyone who is communicating with your employees about your hiring practices or your benefits eligibility knows what to say and what not to say," Ms. Kinkade said.

WORKFORCE RESTRUCTURINGS

Significant percentages of midsize employers expect their peers to restructure their workforces in order to minimize the cost of expanding their group health benefit plans as prescribed by the health care reform law.



Source: Willis North America Inc. 2012-2013 Health Care Reform Survey

POTENTIAL ERISA ISSUES COULD SURFACE

Beyond potentially detrimental effects on an employer's business operations, reducing employees' hours or cutting staff to avoid an influx of new members to a group health benefit plan could have substantial legal ramifications.

Section 510 of the federal Employee Retirement Income Security Act generally prohibits companies from taking adverse employment actions against their employees in order to prevent them from exercising their rights under an ERISA-governed benefit plan. It also says employers are barred from "interfering with the attainment of any right to which such participant may become entitled under the plan."

However, experts note, the U.S. Supreme Court's 1997 decision in *Inter-Modal Rail Employees Association v. Atchison, Topeka and Santa Fe Railway Co.* grants an employer some degree of flexibility to restructure its workforce in the course of making "fundamental business decisions."

"If there were another legitimate business reason that's part of that decision ... that may reduce an employer's ERISA 510 liability," said Diane Dygert, a Chicago-based partner at Seyfarth Shaw L.L.P.

To date, the U.S. Department of Labor has not issued formal guidance regarding potential conflicts between the Section 510 provisions of ERISA and employers' staffing decisions in reaction to the health care reform law.

"Realistically, the DOL already has too much on its plate," said Andrea Kinkade, president and CEO of Maumee, Ohio-based Kaminsky & Associates Inc. "They're probably not going to start auditing employers to find out if they adjusted their workforce solely to avoid paying for benefits, but they could eventually do that if they wanted to."

Even absent an emphasis on enforcement by the DOL, Ms. Dygert said employers would be wise to factor the potential for civil litigation into their cost/benefit calculations.

"We can't assure employers that (the issue) won't be raised," Ms. Dygert said.

By Matt Dunning

Who insures you doesn't matter. Until it does.

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Aon's map tracks terrorism vulnerabilities

Forty-four percent of countries have an identifiable risk of terrorist attack, according to Aon P.L.C.'s 10th annual terrorism and political violence map. Published in collaboration with London-based Risk Advisory Group P.L.C., the map shows that the threat of terrorist attacks is particularly prevalent in African countries, especially those in North Africa, Aon said in a statement. The countries most affected by the threat of terrorism are Afghanistan, India, Iraq, Nigeria, Pakistan, Russia, Somalia, Syria, Thailand and Yemen, according to the map, which color-codes risks faced by 200 countries and territories. The map measures three perils: terrorism and sabotage; strikes, riots, civil commotion and malicious damage to property; and insurrection, revolution, rebellion, mutiny, coup d'etat, war and civil war. It is available at *www.aon.com/terrorismmap*.

France passes reform to hire-and-fire rules

The French parliament passed a landmark reform of the country's labor code as part of President Francois Hollande's efforts to convince European partners he is determined to revamp the eurozone's second-largest economy. The law makes it easier for firms to make layoffs or reduce pay and working hours in economic downturns but raises the cost of employing staff on widely used very short-term contracts. The reform passed through the upper house with 168 votes for and 3 against. Many companies say the measures will help them better manage costs.

Reuters

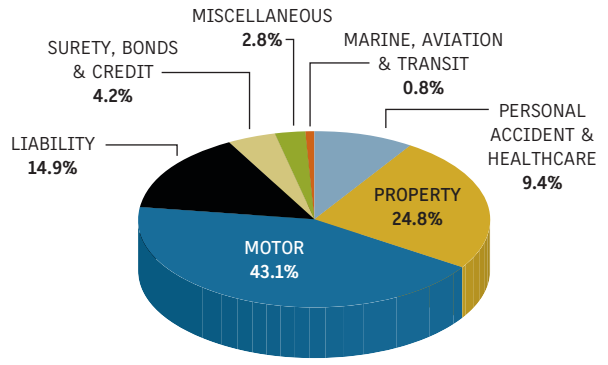
PROFILE: CZECH REPUBLIC

$4.25 BILLION

◀ 2011 P/C premiums

The Czech Republic's insurance market continues its slow evolution from a post-communist duopoly to a free and competitive market. Ceska Pojistovna, which is controlled by Generali, and Kooperativa Pojistovna and their group companies control about 70% of the property/casualty sector. Brokers, however, have brought competition to the market, and commercial and industrial insurance rates are falling by 5% to 15%. The property/casualty market contracted by 1.4% in 2012, and no growth is expected in 2013.

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

POPULATION
10.51 million

AREA
30,450 square miles

P/C MARKET WORLD RANKING
30

NUMBER OF INSURERS
53

MARKET DEVELOPMENTS

UPDATED MARCH 2013

- The government says it intends to introduce an insurance premium tax. The likely timetable is for legislation to be passed in early 2014, and for the tax to be levied starting on Jan. 1, 2015. There is no indication of how much the tax will be.
- A new environmental regulation that transposes a European Union directive into Czech law confirms that insurance is an acceptable form of financial security for remediation and environmental damage costs.
- A decision on whether to introduce a new system for employers liability insurance has been postponed until 2015. Currently, the coverage can be written by only two insurers that act as agents for the Ministry of Finance.
- A new civil code will go into effect on Jan. 1, 2014. The code is not expected to have a significant effect on legal liability risks, but it may introduce some uncertainty into calculations for third-party bodily injury awards.

COMPULSORY INSURANCE

Compulsory coverage includes:

- Auto third-party liability
- Employers liability
- Nuclear liability
- Air carriers and aircraft operators liability
- Shipments of waste
- Huntsmen's third-party liability
- Clinical trials liability

NONADMITTED

Unauthorized insurers are not allowed to carry on insurance activity in the Czech Republic. There is nothing in the law, however, to indicate that most insurance must be purchased locally. This is generally interpreted to mean that insurers can issue most types of policies from abroad, if approached by a broker or buyer.

INTERMEDIARIES

Insurance intermediaries must be authorized by the Czech National Bank to do business in the Czech Republic. As an exception, intermediaries in other European Economic Area states are allowed to conduct business in the country, provided they have notified their home country supervisory authority.

MARKET PRACTICE

Most foreign multinational business is either fronted or written on a freedom-of-services basis elsewhere in the European Union. Few local companies insure outside the Czech Republic.

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

JLT buys Jakarta-based health management firms

London-based brokerage Jardine Lloyd Thompson Group P.L.C. has acquired two employee benefits businesses in Indonesia: PT Gesa Assistance and PT Global Asistensi Manajemen Indonesia, which trades as Medilum. Terms of the deals were not disclosed. The two Jakarta-based businesses, which offer health care management and third-party administration services, employ more than 300 staff and have a network of about 1,000 health care providers, JLT said in a statement. The combined business, which will be known as PT JLT Gesa, will be headed by CEO Ramly Hassan, who previously was president and CEO of Gesa.

Zurich profits slip, reserve release declines

Zurich Insurance Co. Ltd. posted a fall in profits in the first quarter, with lower net releases of reserves compared with the prior year offsetting fewer natural catastrophes. Europe's third-biggest insurer by market capitalization posted a net profit of $1.06 billion for the first three months of the year. The company's combined ratio was 94.9% compared with 94.6% last year, as lower investment yields, lower net releases of reserves and higher commissions outweighed an absence of catastrophes and good weather conditions. The reserve releases had an impact of $24 million on the bottom line, compared with $138 million in the prior-year quarter, according to financial chief Pierre Wauthier. The insurer saw a decline of nearly $200 million in investment income in the first quarter to $1.57 billion.

Reuters

Cambodian roof collapse highlights safety issues

Three people were killed last week when the ceiling of a warehouse fell in at a shoe factory in Cambodia, a government minister said, adding to concern about safety standards at Asian factories producing clothes cheaply for Western consumers. Cambodia has seen a rush of investment in recent years, especially into the shoe and garment sector, with Western and Asian firms attracted by its low-cost labor. Ith Sam Heng, minister of social affairs, told Reuters another six people had been injured in the incident at the plant in the Kong Pisei district of Kampong Speu province, 30 miles west of the Cambodian capital of Phnom Penh. "We will investigate the case and we will take measures against those involved," he said, meaning anyone who might be held responsible for poor safety standards.

Reuters

RenaissanceRe names CEO successor to Currie

RenaissanceRe Holdings Ltd. CEO Neill Currie will retire on July 1 and will be succeeded by Kevin O'Donnell, the Pembroke, Bermuda reinsurer said in a statement. Mr. O'Donnell, who joined Pembroke, Bermuda-based RenaissanceRe in 1996 as an international and ceded reinsurance underwriter and has since served in various positions at the firm, is currently president and global chief underwriting officer of the reinsurer. As part of the transition, Mr. Currie, who was a co-founder of the company in 1993, has agreed to operate in an advisory capacity until the conclusion of his contract in February 2014. "I have absolute confidence that Kevin and his executive team will continue to build long-term value in RenaissanceRe," Mr. Currie said in a statement.

Tokio Millennium Re moving domicile

Hamilton, Bermuda-based Tokio Millennium Re Ltd. said it plans to move its place of incorporation to Switzerland from Bermuda as part of a larger restructuring effort. The reinsurer said the move is part of a long-term strategy to diversify its product offerings and geographic reach and aligns it with a larger globalization effort of parent Tokio Marine Holdings Inc. Tokio Millennium Re will move its headquarters to Zurich by October.

Charlestown, Massachusetts. Thousands of confidential patient documents found in a field six miles from hospital.

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EDITORIAL

FACTORY COLLAPSE EXPOSES RISKS

The Bangladesh factory collapse, which killed more than 1,000 last month, resulted in widespread condemnation of garment factory conditions in Bangladesh by organizations inside and outside the country. Western companies that use Bangladeshi suppliers were quick to react, with many signing an accord to improve worker safety in the country and others undertaking immediate safety reviews of their suppliers there.

The swift reaction by Western companies should be welcomed on humane grounds, but it also makes good business sense. Bangladesh and other developing countries have long been a source of cheap manufactured goods for global markets, and companies that use those offshore resources need to maintain those supply chains.

Even more importantly for those firms to protect their reputations, however, they need to be seen as caring for the workers at companies with whom they have a business relationship. While consumers like to have access to cheap goods, they don't like to face some of the grim realities that underlie that access — and when they are confronted with those realities, they can be quick to spread the blame.

Ultimately, the actions taken so far by U.S. and European retailers have been reactive in nature; none of the new safety reviews or accords will lower the death toll from the collapse.

To convince skeptical observers they are serious about worker safety, companies need to extend those safety measures to all suppliers, wherever they are located. Only then will they be in a position to say they have managed risks to their supply chains and their reputations.

LETTERS

ACORD: TELEMATICS EVOLVING

To the editor: The global nonprofit organization serving the insurance and related industries, the Association for Cooperative Operations Research and Development, recently announced its plans to bring together a working group made up of insurers and third-party service providers to define a standard of data analytics for use in the insurance telematics industry.

James Bielak, program manager at ACORD, has expressed insurers' initial reluctance to partake in the working group. With telematics starting to become more prevalent in the industry, many fear that taking part and sharing information in such discussions will result in revealing their data analysis "crown jewels."

Insurers are primarily concerned with competition, therefore partaking in setting a standard should be high on their agenda to ensure that a defined model is "best of breed." However, this requires a certain level of openness from the industry. The alternative is a subset of insurers defining standards for the wider industry, which could prove restrictive if based on legacy attitudes toward the cost of data transit and management of "big data."

A data measurement standard based upon low-quality data — which

See **LETTERS** page 30

Please send your letters to:
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SCHILLERSTROM

COMMENTARY

OKLAHOMA COMP REFORMS MERITED WEIGHTIER ANALYSIS

ROBERTO CENICEROS
SENIOR EDITOR

While one of the most significant workers compensation bills ever adopted anywhere in the United States advanced through Oklahoma's Legislature, the shallow depth of local news reports was stunning.

One reason, I suppose, is that there was greater interest outside of Oklahoma in the legislation signed into law last week than there was curiosity within the state.

Business interests and workers comp watchers across the country were eager to see if Oklahoma would allow employers to adopt an alternative to the state's traditional workers comp system.

But news organizations inside Oklahoma mostly provided the state's citizens with short information bits on a weighty, 208-page bill that created at least 169 new sections of law containing many far-reaching changes on how injured workers will be treated.

Those changes hold substantial public policy implications that deserved more illumination within Oklahoma than the mere rewriting of press releases by news organizations.

Just a few of the issues the new law addresses include how work-related disabilities will be evaluated; whether mental injuries will be compensated; and how cardiovascular, respiratory and pulmonary disease are to be treated.

There is language addressing the limiting of benefits for injured workers, benefit payments to foreign aliens, the limiting of state control over benefit plans, child support payments, who is responsible when an employer can't meet its obligations, injured claimants' ability to access courts, and on and on.

Yet the rewriting of superficial press releases passed for reporting on the topic.

I noticed most of those press releases from supporting businesses and politicians played up the law's replacement of the judicial system with an administrative system for adjudicating claims. They talked about corralling runaway costs but provided little detail on how system changes are expected to work.

Most news reports mirrored those statements without offering much more. There was little or no analysis and not much discussion on what one side or the other will lose or gain.

I don't blame employers for wanting a chance to improve matters in Oklahoma or for implementing a system that may work to their advantage, especially employers who have experienced positive results from their ability to opt out of the work comp system in neighboring Texas.

But with so much at stake for Oklahoma, I blame the state's lackluster media for failing to provide insightful reports that might have generated public discourse on some important points.

Then again, in a world increasingly satisfied with short, punchy news reports, a dense, 208-page bill on an arcane topic is hard to adequately explain.

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CYBER RISKS

Obama's order on cyber security raises questions
PAGE 16

Privacy concerns may stall passage of federal cyber bill
PAGE 17

E.U. plans extensive breach notification regulations
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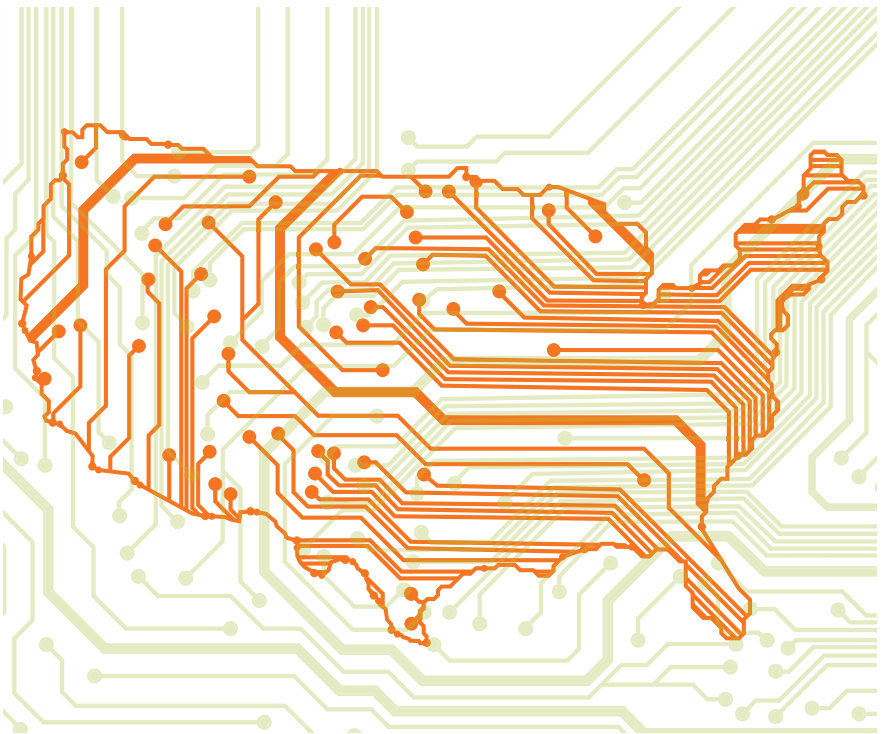
STATES TAKE ON CYBER SECURITY

Government entities grapple with improving mitigation efforts as threats escalate

BY JUDY GREENWALD



States are struggling with many of the same challenges that face their business counterparts in the private sector when it comes to cyber security. The risks associated with cyber security are illustrated by a situation that occurred in South Carolina, which announced in October 2012 that about 3.6 million Social Security numbers and 387,000 credit and debit card numbers were exposed in a cyber attack. State officials also later revealed that some companies' business identification numbers had been stored in the database that was breached.

States "have been pretty remarkable" in light of the challenges they face, but South Carolina's experience "is evidence that there are significant problems," said Doug Robinson, executive director of the Lexington, Ky.-based National Association of State Chief Information Officers.

Theresa Masse, Oregon's chief information security officer, said compared with the private sector, "we have a lot more information out there," which "makes it easier for the bad guys to get information" and then "more quickly and easily target people."

Furthermore, states have experienced significant budget cuts during the past few years, leaving them with fewer resources than in the past, Ms. Masse said.

There is a spectrum, said William Pelgrin, president and CEO of the East Greenbush, N.Y.-based Center for Internet Security, which operates the Multi-State Information Sharing & Analysis Center.

"There are many states and local governments that are as sophisticated as many of the large, private-sector companies, and there are others that are really more at the beginning stages of that development," Mr. Pelgrin said. "So what you've got is a very diversified environment out there relative to our preparedness."

According to a survey by the state chief information officers association released in October, while 92% of state officials think cyber security is very important to the state, only 24% are very confident in how they are protecting state assets against external threats.

Mr. Robinson said, "The reality is, there are a number of challenges states are facing, including growing information technology security risks, foreign nation state cyber espionage and cyber hacking." Probably the fastest-growing and most problematic issue is criminal hacking, which was the case in South Carolina, he said.

States are "inherently open, unlike other organizations" to their citizens, "so that can be problematic," Mr. Robinson said.

The problems faced by the states are very similar to those faced in the private sector, Mr. Pelgrin said. "The actors may change a little bit, but the consequences and the targets are very similar," he said. While governments are doing much to address the issue, "we still have a long way to go," he said.

The state chief information officers association report — which was issued with New York-based Deloitte L.L.P. and based on a survey of 48 states and two territories' chief information security officers — focuses on four key areas: insufficient funding for cyber security; the fact that many chief information security officers operate in a highly distributed model with little direct authority; the wealth of personally identifiable information held by the states; and an "endless" stream of new cyber security regulatory requirements.

Efforts to address the technological threats facing the states include the Washington-based National Governors Association's creation of the Resource Center for State Cybersecurity, led by Maryland Gov. Martin O'Malley and Michigan Gov. Rick Snyder.

"The overall goal of the resource center is to help governors create the most robust policy environment possible to protect our infrastructure, our government and our citizens from cyber threats and data breaches," Gov. O'Malley said in a statement when the center was launched in October. "This project is a significant step because it marks the first major focus on the role of states in protecting cyber security infrastructure."

The state chief information officers group is working closely with the state cyber security resource center, Mr. Robinson said.

The nonprofit Center for Internet Security, established in 2000 to help organizations improve their cyber security and compliance positions, has "very strong partnerships with the Department of Homeland Security," Mr. Pelgrin said, and the center's Multi-State Information Sharing and Analysis Center has been designated by the department as a central resource to help state and local governments improve their cyber security.

The center also has a trusted purchasing alliance, which leverages state and local governments' purchasing power to lower prices for cyber security efforts. This enables them to introduce measures such as encryption easily and "in a very cost-effective way," Mr. Pelgrin said.

John Stephenson, director of communications and technology at the Washington-based American Legislative Exchange Council, said his organization also is "looking at public-private partnerships as one of the best solutions to the issue of cyber security."

STATES MULL BUYING CYBER INSURANCE COVERAGE

More states are considering purchasing cyber insurance, although it remains a topic of debate.

Oregon is among the states considering buying the coverage. Theresa Masse, Oregon's chief information security officer, said most states are self-insured, "and there's kind of a limited pool of money."

However, insurance is appearing "on more folks' radar screen. When we see the costs that can be associated with a major breach as we saw in South Carolina, it raised a lot of awareness, particularly among state and local governments, that it can be extraordinarily expensive if you incurred a major breach. There are a lot of costs, and the government hasn't got a lot of money," she said.

The South Carolina Department of Revenue said in October that about 3.6 million Social Security numbers and 387,000 credit and debit card numbers were exposed in a cyber attack, and that some companies' business identification numbers also had been stored in the database that was breached.

Ms. Masse said insurance's "time has come, and I think it's important for state and local governments to start having the conversation around 'Should we be doing something?' even if you don't have a full-blown policy" but do have coverage for certain aspects, such as credit monitoring or notification. "Even if you can't cover everything, at least look at some of the things that might have a higher ticket value."

Ms. Masse said she is holding discussions with her broker "and trying to understand the return on investment," because of the scarcity of funds. "We haven't made any final decisions, but it's certainly on the radar screen."

The risk manager for one state, who asked not to be identified, said he has obtained a commercial insurance policy offering $2 million in limits for coverage that includes forensic investigations to determine the cause of breaches, notification costs, credit monitoring for a year and business interruption expenses.

However, Michigan Chief Security Officer Daniel J. Lohrmann said Michigan is not considering purchasing insurance, although it may reconsider doing so in the future. Right now, "we're working on a number of initiatives to strengthen" cyber security, he said. "We tend to be self-insured in Michigan," he said.

"Most states are in a position where, if they were to buy insurance" and there was a breach, the question that would arise is, "You spent a million on an insurance policy. Why didn't you spend a million on fixing the vulnerability or mitigating the risk?" Mr. Lohrmann said. "Any precious funds they have, they're trying to spend on actually trying to mitigate the risk.

"It may very well be (states) get to the point where they buy cyber insurance," he said. "I think right now, they are really playing catch up. Frankly, they're behind where the private sector is."

By Judy Greenwald

STATES' CYBER CONCERNS

Most important cyber security issues:

- 92% of state officials think cyber security is very important.
- 24% of state chief information officers are very confident about protecting their state's assets against external threats.
- 50% of state chief information officers manage a team of one to five cyber security professionals.
- 32% of them think their staff has the required cyber security competency.
- 14% of state chief information officers think they receive appropriate executive commitment and adequate funding for cyber security.
- 86% of them indicate lack of sufficient funding is the key barrier to addressing cyber security.
- 70% of state chief information officers have reported a data breach of government files.
- 82% of them think "phishing and pharming" are their top cyber security threats.

Source: 2012 Deloitte-National Association of State Chief Information Officers Cybersecurity Study

RISK IN FOCUS

Cyber protection order has broad application

Many organizations may be affected by Obama's security directive

BY JUDY GREENWALD

President Barack Obama's executive order to strengthen the cyber security of the nation's critical infrastructure leaves many private-sector businesses with unanswered questions regarding its effect on them, experts say.

The order, issued in February, requires federal agencies to produce unclassified reports of threats to U.S. companies that will be shared with targeted entities in a timely manner. It also expands the federal Enhanced Cybersecurity Services program to enable sharing cyber threat information to assist critical infrastructure companies in their cyber protection efforts.

In addition, the order calls for the National Institute of Standards and Technology to work collaboratively with critical infrastructure shareholders to develop a cyber security framework within the next year.

Meanwhile, experts warn the passage of the proposed Cyber Intelligence Sharing and Protection Act could make the executive order moot. Although the Act recently passed the House, it slowed in the Senate and is under committee review.

AP PHOTO

President Obama's executive order requires federal agencies to produce unclassified reports of threats to U.S. companies.

"There are basically three categories of business that could be impacted to varying degrees" by the executive order, said David N. Fagan, a partner with law firm Covington & Burling L.L.P. in Washington.

"The first and most direct is companies that operate critical infrastructures," he said. "The second category is companies that do not have critical infrastructure, but are in sectors that are regulated by the federal government." The third category is other businesses, where the executive order's effect is "going to be more attenuated," he said.

"It's important to have the federal government mobilize around what it can do to help the critical commercial infrastructure," said Harriet Pearson, a partner with Hogan Lovells US L.L.P. in Washington. Ms. Pearson said the order is "not trying to solve everything around cyber security. It's aiming at what are the most important parts of the digital infrastructure that are in the private sector's hands. That's a very big subject."

Shellye Archambeau, CEO of Palo Alto, Calif.-based consulting firm MetricStream Inc., said the executive order's call for a framework "so that we can establish the right way in which government and the public and private sectors can come together on this matter" is positive.

Ms. Archambeau said she has feared there will be a major cyber security breach and then a "knee-jerk reaction because of pressure and public outcry, and we will not be able to take the time to be as thoughtful as we will need to be to protect privacy." Because of this, Ms. Archambeau said, "it's important that we spend the time now to get it right."

Ms. Pearson said a couple of the questions arising from the executive order are "what constitutes a critical infrastructure and the process by which it will be defined" and the process through which companies are included in that category, which may be of concern to businesses. "The hope is that the process is a good one," she said.

Toby Merrill, Philadelphia-based vice president of Ace Professional Risk, part of Ace Ltd., said there are many sectors that "may not have thought of themselves as critical infrastructure that are now going to be falling under the direction of this order," such as financial services firms.

"The first thing I would do if I were sitting in the shoes of any organization that looks at this" is determine whether it "falls within the umbrella of what's defined as critical infrastructure, and that definition is broader than I've ever seen it before," he said, noting the executive order lists 16 sectors. "To me, that's a real eye opener," Mr. Merrill said.

Mr. Merrill said the question that arises is, "What does it mean if a firm is now considered part of the critical infrastructure and the repercussions if it does not provide information to the government?" Organizations must plan ahead, he said, "because it is not something

any organization can flip a switch on and be prepared. These things take time. There's writing of policies and procedures within an organization that can't be implemented very quickly."

Business is also concerned that a "check-the-box standard" will develop that "may or may not improve security. People will be watching and hoping that what emerges will be something useful from that process," Ms. Pearson said.

Referring to the executive order's information-sharing provision in cases where the federal government learns companies are the target of cyber threats, Lisa J. Sotto, a partner with Hunton & Williams L.L.P. in New York, said businesses "will not be able to sit idle and just absorb the information."

"I think it's critically important for companies to take action in this area because we are being overrun by cyber threats and cyber attacks," she said.

Chris Bronk, a fellow of information technology at Rice University in Houston, said he was concerned about the lack of funding behind the executive order.

"If you don't put any resources behind it, how are you going to get anything done? The executive order says there should be a lot more sharing going on," Mr. Bronk said. "How do you build the apparatus" to accomplish this? "Who's going to pay for it, and how's it going to work?"

Mr. Bronk said the more due diligence companies embark on now, the less of a struggle they will have in dealing with what comes down from Washington.

"Individual organizations need to confront this problem and put resources behind it, and industries need to coalesce task forces, information sharing organizations and technical working groups around this set of problems," he said.

Ms. Pearson said, however, that as an executive order, rather than legislation, the order has "limited statutory authority" and cannot, for example, limit organizations' liability.

Ms. Sotto said the executive order can have "a pretty significant impact or none at all, depending on when legislation happens, because legislation could make it moot."

"It's been clear for a long time now that President Obama is very focused on this issue and is frustrated by the inability of Congress to rally around the issue, so I see the executive order, really, as a throwing down of the gauntlet in front of Congress to say, 'It's time,'" he said.

Challenges hold up passage of federal cyber security legislation

BY JUDY GREENWALD

Controversial federal legislation intended to protect the nation's critical infrastructure from cyber attacks has been approved by the House of Representatives, but it remains questionable whether the bill will become law this year.

Experts say the Obama administration has indicated it would veto the legislation, which is opposed by privacy advocates, even if the Senate ultimately passes it.

The legislation passed the House last month with a 288-127 vote, but the Senate has not yet scheduled a debate on the bill. Meanwhile, advocates of the bill say there is a critical need to establish a U.S. cyber security framework.

Privacy advocates say they are concerned that the Cyber Intelligence Sharing and Protection Act that passed in the House would allow companies to share cyber threat data with the government and other businesses, without first taking steps to remove personally identifiable information.

CYBER SECURITY BARRIERS

Survey respondents identified the top five challenges that states and businesses face to address cyber threats.

1.	Lack of sufficient funding	86%
2.	Increasing sophistication of threats	52%
3.	Inadequate availability of cyber security professionals	46%
4.	Lack of visibility and influence within the enterprise	42%
5.	Emerging technologies	36%

Source: 2012 Deloitte-NASCIO Cyber Security Study

The San Francisco-based Electronic Frontier Foundation said in a statement, for example, that the act overrides other laws including the Communications Policy Act that allow lawsuits against companies that go too far in divulging private information.

"CISPA also creates broad immunity for companies against both civil and criminal liability," the foundation said. It "provides more legal cover for companies to share large swathes of potentially personal and private information with the government."

Meanwhile, the White House said in a statement in April that while the House Permanent Select Committee on Intelligence adopted several amendments in an effort to incorporate the administration's privacy and civil liberty concerns, additional improvements still are needed and "if the bill, as currently crafted, were presented to the president, his senior advisers would recommend that he veto the bill."

Many prominent businesses support the legislation, including AT&T Corp., the Boeing Co. and Verizon Communications Inc., according to the select committee. The bill also has the support of TechNet, a Washington-based policy and political network of technology CEOs whose members include Yahoo Inc., Google Inc. and Microsoft Corp.

Tom Srail, Cleveland-based senior vice president of FINEX North America at Willis North America Inc., said everyone with a

See **LEGISLATION** next page

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RISK IN FOCUS

CHANGE COULD COME SLOWLY

Legislation that permits sharing cyber breach information eventually will become law, even it does not happen in the near future, experts say.

Julian Sanchez, a research fellow with the Cato Institute in Washington, said, "While it does seem like the Senate is not in a huge hurry to take this up," at "some point, some version of this is going to come back."

Gerald J. Ferguson, a partner with law firm Baker & Hostetler L.L.P. in New York, said the proposed the Cyber Intelligence Sharing and Protection Act "is critical for the administration in advancing the goals that it announced in the State of the Union address and the cyber security executive order," which the administration issued in February.

"It's a framework to permit sharing of information on cyber risks between the government and key industry players, and without this piece in place, I don't see how the administration is going to be able to accomplish its broader goals in terms of developing a national cyber security strategy," Mr. Ferguson said. "So I think the administration is going to hold its nose a little bit and sign a bill, even if they would prefer greater protection for civil liberties."

David LeDuc, senior director of public policy for the Washington-based Software and Information Industry Association, said: "Something has to get done. Everybody realizes this is something we have to do."

By Judy Greenwald

LEGISLATION

Continued from previous page

stake in cyber security "needs to enhance their response. We're dealing with significant threats that cost a lot of money and harm to a lot of people."

However, Jamie Barnett, a partner with law firm Venable L.L.P. in Washington, who is a retired rear admiral in the U.S. Navy, said, "Any time that the government and private entities are sharing information back and forth, it does raise privacy concerns, and privacy and security are actually two sides of the same coin."

Industry is concerned that, "if there is cooperation with the government, there be limitations on liability for cooperating," said Joseph T. Lynyak III, a partner with law firm Pillsbury Winthrop Shaw Pittman L.L.P. in Los Angeles, who said he would like to see federal cyber security legislation passed.

"We're going to have to slowly but surely work our way through what's acceptable conduct and what's not," he said. "We're really going to be taking baby steps in order to work through the conduct, ability to look at data, and the ability to delete data as appropriate."

CYBER INTELLIGENCE SHARING AND PROTECTION ACT

The Act, which passed the House in April and now is under review in a Senate committee, would:

- Permit the federal government to share classified cyber threat intelligence with the private sector and allow private sector entities to share cyber threat information with one another and the federal government on a voluntary basis.
- Protect private-sector entities from civil or criminal liability if they, in good faith, share cyber threat information with other private entities and with the federal government. Information shared by the private sector must be limited to cyber threat information, and may be used only for limited purposes, including cyber security and investigations and prosecution of cyber security crimes.
- Require the Director of National Intelligence, working with the Secretary of Homeland Security and the U.S. Attorney General, to establish and periodically review policies and procedures for the receipt, retention, use and disclosure of cyber threat information shared with the federal government.
- Require the issuance of two reports by the Inspector General of the intelligence community to congressional intelligence committees, and by the Civil Liberties Protection Officer of the Director of National Intelligence and the Chief Privacy and Civil Liberties officer of the Department of Justice to Congress to analyze the information shared with the federal government under the measure.
- Sunset five years after its enactment.

Source: House Republican Conference

However, he added, "one of the important points for private business is the insulation from liability for cooperating with the government on the government's effort to maintain information security."

Chet Wisniewski, Vancouver, Canada-based senior security adviser for Sophos Inc., a network security firm, said the privacy issue is the only partisan part of the bill. Mr. Wisniewski said, "Even if we can't get a perfect bill passed," if we could at least get some cyber security bill passed, we can start working on the issue, recognize any flaws and fix them. "But right now, we have nothing."

He said in one situation recently encountered by his firm, a small company was the target of malware aimed at stealing credit card information. Although Sophos was aware of another 50 to 60 of its customers that could be hit by the same tactic, "we legally couldn't disclose the details of that to other customers because of our contract to respect privacy, so we were kind of stuck."

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E.U.'s broad security framework faces long path to approval

BY JUDY GREENWALD

The European Commission has developed an ambitious cyber security strategy with an accompanying legislative proposal, but experts caution that the entire process still is in its early stages.

The European Union strategy and a proposed directive for consideration by the E.U. legislature would require an estimated 42,000 companies from 27 E.U. member states to alert regulators when they have suffered a significant cyber security breach incident.

It also would require E.U. members to appoint a national authority responsible for network and information security and to set up a computer emergency response.

Furthermore, anything approved by the European Parliament would still have to be subsequently approved by E.U. member states.

Some experts criticize the European Union's approach as being overly broad.

"It's quite an ambitious set of proposals that cover a lot of ground," said Mark Young, a senior associate with law firm Covington & Burling L.L.P. in London.

Mr. Young said the directive requires the 27 E.U. member states to share intelligence with one another, "and that's obviously quite a controversial topic."

Stephen Wares, who leads Marsh Inc.'s cyber risk practice in London, said the strategy "will make it much easier for business to operate across the European Union and for (information technology) vendors to sell their products in the European Union, if we got some harmonization" around security practices.

"It should be possible to build better network security standards" once data breach incident data is aggregated, which will "allow insurers to price their insurance products a lot better and address different industries" in a "much more knowledgeable way," Mr. Wares said.

However, Jim Halpert, a partner with law firm DLA Piper in Washington, said, "It's not generally clear how the European standards would be developed," and whether they would be consistent with or different from international standards.

"It's also unclear how the (breach) reporting would really work and whether it would be a two-way street" between the European governments and business, he said. "But this is a very long road, and it's just beginning, so there can be a lot of changes here," Mr. Halpert said.

The European Union proposal is "ambiguous to the point of very possibly, or quite likely, creating an overly regulatory framework," said David LeDuc, senior director of public policy for the Washington-based Software and Information Industry Association.

Mr. LeDuc said his organization feels strongly that any cyber security framework should "embrace innovation and retain a certain level of flexibility" and avoid creating specific sets of standards and a "check-the-box" approach.

But Mr. Wares said the proposal is "in a very, very early draft stage, and there's a long, long way to go before it gets to implementation. So there is plenty of time for various industry groups to do whatever lobbying they deem necessary in order to get to a place where they feel comfortable with it."

Kevin Kalinich, Chicago-based national managing director for network risk at Aon Risk Solutions, said, "It's broad, but it also leaves some room for discretion." The validity of the criticism that it is overly broad "will depend on how they enforce it," he said.

Jerry Irvine, chief information officer for Chicago-based Prescient Solutions, an information technology outsourcing company, said in light of the E.U. strategy's "desired outcome of being a framework for each of the E.U. states, it's very difficult for them to get too specific in it. They're trying to give the E.U. states the ability to get in and do their own thing, but wanted to set some sort of guidelines."

It is "simply a framework. It's really not the end process, and part of the problem with that is that each of the European countries is going to develop their own standards at a very high cost," Mr. Irvine said.

E.U. CYBER SECURITY GOALS

The goals of the European Union cyber security plan call for:

- Each member state to adopt a network and information security strategy and designate an authority with adequate financial and human resources to prevent, handle and respond to network information security risks and incidents.
- Create a cooperative mechanism among member states and the European Commission to share early warnings on risks and incidents through a secure infrastructure, and to cooperate and organize regular peer reviews.
- Operators of critical infrastructure in sectors including financial services, transportation, energy and health, and information service providers including e-commerce platforms, cloud computing firms, search engines and social networks, and public administrations, must adopt risk management practices and report major security incidents on their core services.

Source: The European Commission

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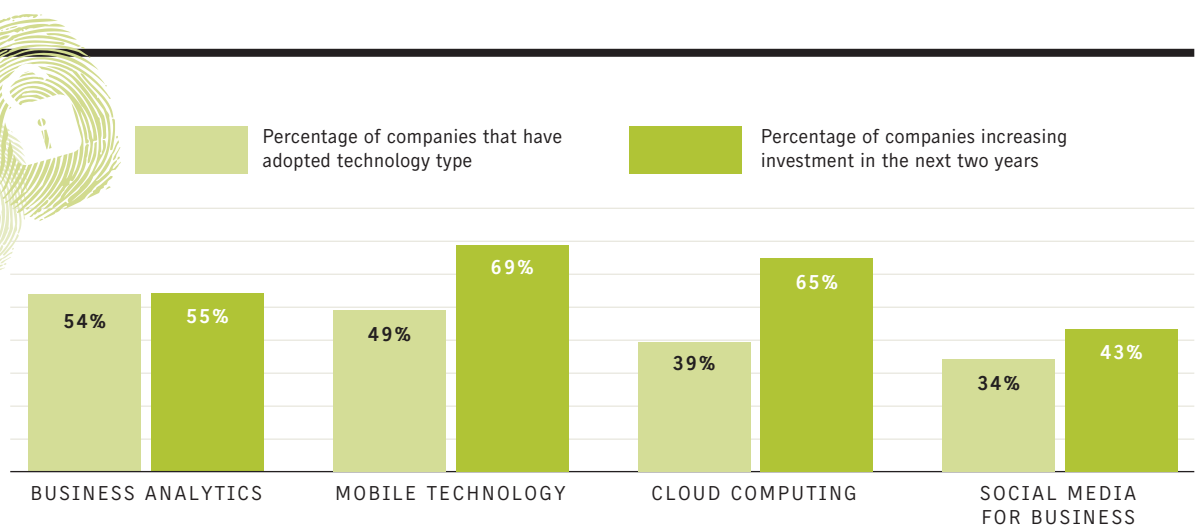
Company	Website	Cyber risk products offered	Cyber risk policy first offered
Ace USA	*www.acegroup.com/us-en*	Ace Privacy Protection, Ace Digital DNA, Ace DigiTech	1998
Allied World Assurance Co.	*www.awac.com*	Techtonic 5.0, Privacy 403v2, Privacy 101	2005
American International Group Inc.	*www.aig.com/us/cyberedge*	CyberEdge	1999
Arch Insurance Group Inc.	*www.archinsurance.com*	NetSafe	2002
Argo Pro	*www.argolimited.com*	information & Professional Risk Playbook (iPRP)	2012
Ascent Underwriting, trading division of Safeonline L.L.P.	*www.ascentunderwriting.com*	CyberPro	2013
Axis Insurance Co.	*www.axiscapital.com*	Axis Pro PrivaSure, Axis Pro PrivaSure Breach Response	2009
Beazley P.L.C	*www.beazley.com/tmb*	Beazley Breach Response, information security and privacy insurance with electronic media liability coverage	2006
CFC Underwriting Ltd.	*www.cfcunderwriting.com*	CPM (cyber, privacy and media risks)	2000
Chubb Corp.	*www.chubb.com*	CyberSecurity by Chubb	2001
CNA Financial Corp.	*www.cna.com*	NetProtect	2003
Crum & Forster Holdings Corp.	*www.cfins.com*	Crum & Forster Technology Errors and Omissions Protection Agreement, Crum & Forster Technology & Privacy Professional Liability policy	2008
Digital Risk Managers	*www.drisk.com*	WebNet Protection	2000
Euclid Managers L.L.C.	*www.euclidmanagerskc.com*	ClickStream connected services, HyperDrive technology services	2004
The Hartford Financial Services Group Inc.	*www.thehartford.com*	Data privacy and network security liability coverage, CyberChoice 2.09	2008
Hiscox USA	*www.hiscoxusa.com*	Technology, privacy and data breach protection	1999
Liberty International Underwriters	*www.liu-usa.com*	LIU Data Insure, LIU Tech Insure, LIU DataPro Insure	2004
Markel Insurance Co. Inc.	*www.markelcorp.com*	DataBreach, InfoPro	1986
The Navigators Group Inc.	*www.navg.com*	Professional liability, technology, media and cyber liability coverage	2010
NAS Insurance Services Inc.	*www.nasinsurance.com*	NetGuard Plus, e-MD, BrandGuard, TechGuard	N/A
Philadelphia Consolidated Holding Corp.	*www.phly.com*	Cyber security liability	2008
RSUI Group Inc.	*www.rsui.com*	Cyber liability	2011
The Travelers Cos. Inc.	*www.travelers.com*	CyberFirst, CyberFirst Essentials, Wrap+ CyberRisk, SelectOne CyberRisk, Executive Choice CyberRisk	1999
XL Insurance Co.	*www.xlinsurance.com*	Eclipse Pro	2008
Zurich North America	*www.zurichna.com*	Zurich Security and Privacy Protection	2009

INCREASING ADOPTION INCREASING RISK

Cyber risk is expected to increase as more businesses adopt mobile and cloud technology.



Source: "Fast Track to the Future: The 2012 IBM Tech Trends Report," International Business Machines Corp.

TOP VULNERABILITIES

Top mobile application vulnerabilities

Type	% of apps experiencing
Unauthorized access	18%
Cross-site scripting	15%
Sensitive information disclosure	12%
Insecure session handling	11%
Cookie handling	9%
Improper encryption	9%
Poor logging practices	8%
Autocomplete in sensitive form fields	6%
Clear text credentials	6%

Source: "HP 2012 Cyber Risk Report," Hewlett-Packard Co.

TYPES OF ATTACKS

Most common types of cyber attacks companies experience

Type of attack	% of companies experiencing
Viruses, worms, trojans	100%
Malware	95%
Botnets	71%
Web-based attacks	64%
Stolen devices	46%
Malicious code	38%
Malicious insiders	38%
Phishing, social engineering	38%
Denial of service	32%

Source: "2012 Cost of Cyber Crime Study: United States," Ponemon Institute L.L.C.

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INSURANCE SECTOR GRAPPLES WITH LOW INTEREST RATES

Q&A

DANIEL S. GLASER

MARSH & McLENNAN COS. INC.

Daniel S. Glaser, has been president and CEO of Marsh & McLennan Cos. Inc. since January. Prior to his promotion he held several senior management positions at MMC and its brokerage unit. He recently spoke with *Business Insurance* Senior Editor Roberto Ceniceros about interest rates and potential business risks. Edited excerpts follow.

Q Interest rates have to turn up at some point. Will that create risks for businesses?

A I'm looking forward to the day that the central banks start raising rates. This has been a six-year period of almost unprecedented low rates on a global scale. But as places like Japan have demonstrated, 10 years of very low interest rates did not spur much growth. Low interest rates have created some stability and demand, but they haven't spurred growth. We can look at all the good things a low-interest-rate environment creates. But certainly it creates discontinuities.

Q Do you think an upturn in interest rates is far off and that rates remaining low are a bigger concern?

A I think it is a long way off. The general view is that we probably won't see much change in the U.S. until the back end of 2014, and that's probably optimistic. We're in a good news/bad news society. For every two pieces of good economic news, you hear two pieces of bad economic news. So I think we're a long way off.

Q What risks do corporations face from an extended period of low rates?

A On the good news side, financing is not expensive and the access to capital is coming back, hopefully, for upper-middle-market and large companies, and even for individuals. But low interest rates tend to put business deal risk on the back burner. It lets people focus a little more on potential reward outcomes (in business deals). I would say that risks should remain on the decision-making page along with potential rewards.

Cheap financing doesn't change the basic value of a business deal just because you can finance it at a lower cost. It doesn't make a bad deal a good deal. There is some risk around that.

I also think that, in general, a low-interest-rate environment creates economic discontinuities. The biggest one in our space would be (defined benefit) pension assets versus liabilities.

Market returns over the last several years have been pretty good both in equities and bonds, and so the asset side has improved. But every year there's a reset in terms of the liabilities you're trying to meet. And because short-term interest rates drive the discount rate of calculating liabilities, the liability mountain has been rising faster than asset return.

If interest rates come back 100, 200 basis points all of a sudden, (defined benefit pension) plans will look like they're fully funded.

Q What is the effect of low interest rates on insurance companies?

A The good news side is that low interest rates bring insurance companies into the back-to-basics-mode thinking of 'we have to make money on underwriting.' So they focus on underwriting. Part of the mild hardening that you see is being driven off the persistent low interest rates as much as the loss environment.

Our calculations within Marsh & McLennan are that for every 1 (percentage) point of yield in interest rates, U.S. property/casualty insurance companies would benefit 4 points in combined ratio. Think about what 4 percentage points on combined ratio would do, and you know maybe rising interest rates would temper market hardening by creating a little more flexibility (for underwriters).

I'm an optimist, so I tend to look at the good news story. The good news story is underwriters are underwriting.

From a Marsh & McLennan perspective, rising rates would be good for our business on two fronts. One, we handle a lot of premium flow, and we generally are not earning as much money on the float that we used to earn. Secondly, the pension expense has risen four years in a row. Rising interest rates could abate that type of exposure for us.

COMINGS & GOINGS

UP CLOSE: KIMBERLY MASHBURN-LEE

ATLANTA-BASED SENIOR CONSULTANT AND HEAD OF CLINICAL STRATEGIES

Spring Consulting Group L.L.C.

PREVIOUS POSITION: Atlanta-based vice president of strategic client solutions for Chicago-based Pacific Resources Benefits Advisors L.L.C.

GOALS FOR NEW POSITION: To dig a little deeper into the clinical component. Most of the time, the focus is on claims management. I really want to work with insurers on improving the return-to-work process and the clinical indicators.

CHALLENGES FACING INDUSTRY: We always have to go back to health care reform and the uncertainty with what is going to happen, especially as employers make decisions on whether to go with exchanges or stay with their regular programs. Making sure employers have the information is important.

FIRST INDUSTRY JOB: I was with Unum to head the clinical and vocational programs for disability claim management.

WHAT SURPRISED ME: Coming out of the clinical world, what surprised me the most was the volume of claims that come in from employers and the various reasons employees are absent from work.

OUTSIDE THE INDUSTRY, A DREAM JOB: I would want to be a professional golfer.

HOBBIES: I am not a good golfer but I enjoy playing. That's the primary one. The other hobbies are wine tasting. My husband and I enjoy learning about wines.

WHEN I RETIRE: Both my husband and I really enjoy our jobs. I really can't see myself fully retiring. I would say I would want to continue consulting. I would like to have more time to travel internationally, though.

BEST CITY: Boston. Friendly people and great restaurants. A lot of history, too.

ON A SATURDAY AFTERNOON: Playing golf or planting flowers.

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Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to: Anna Gaynor, *Business Insurance*, 150 N. Michigan Ave., Chicago, Ill. 60601-7524. ***agaynor@businessinsurance.com***.

CYBER LIABILITY INSURERS

Cyber risks have evolved significantly over the past 10 years and are now a major exposure for corporations large and small. Once seen largely as an irritant caused by independent hackers working from their bedrooms or basements, cyber and data breaches increasingly are the work of criminals and organized activist groups. Those breaches can put corporate reputations at risk, jeopardize business relationships, lead to regulatory sanctions and result in millions of dollars in costs.

Numerous examples over the past year alone show how costly data breaches can be for corporations and organizations when their cyber security measures are compromised and private information, such as Social Security numbers and credit card numbers, is accessed. Faced with a web of state data protection laws specifying remediation efforts, organizations are forced to pay notification and credit monitoring expenses, often for millions of affected individuals.

Organizations can turn to their traditional liability insurance policies for some coverage for cyber risks, but they need to carefully assess the wordings of those policies to ascertain the extent of the coverage available. For example, some errors and omissions insurance policies may offer coverage for data breaches only if negligence is proved.

As with most evolving liabilities, specialty insurance products targeting cyber risks have been developed to offer coverage that often is broader than existing liability policies and is specifically crafted to respond to data breaches. A growing number of insurers offer cyber insurance, and significant primary and excess limits are available.

The following pages contain information on insurers offering cyber insurance and the products they provide.

For more information on advertising in all of our *Business Insurance* Special Advertising Sections, call 312-649-5224 or email *advertising@businessinsurance.com*.

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Don't Just Ask. Act.

Brokers have made it clear – in both formal surveys and informal conversations – that they want to work with carriers who are clear about the type of business they want. They are adamant that carriers not waste their time. OBPI's broker-focused approach ensures that the company's targeted products and services are robust enough to provide exceptional coverage, yet flexible enough to be tailored to the most challenging risks. To ensure that this remains the case, OBPI has remodeled its approach to the way it manages its business. It has chosen to concentrate its efforts on specialized retail and wholesale brokers who have been approved for direct access, and then works exclusively with this very targeted group. This further strengthens the relationship between brokers who are looking for a service-driven carrier and a company that is dedicated to a solutions-based approach to developing coverage.

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Consistency Counts.

As a dedicated specialty insurance provider, OBPI has a singular focus on the marketplace. The organization has been built around a core of experienced leaders who have spent the majority of their careers in the professional insurance arena. This has allowed them to maintain a consistently disciplined approach to underwriting business, which has served them well in the turbulence of the protracted soft market. As the industry emerges from a period of unprecedented uncertainty, OBPI's depth and background has it well-positioned to successfully compete in the marketplace. Coupled with their commitment to innovate with the customer's point of view in mind, OBPI appears ready to further strengthen its position as a market of choice for discriminating brokers.

OBPI is determined to provide an entirely better insurance experience.

Don't Think You Need to Protect Your Data? Think Again.

Information systems are the backbone of today's businesses. Whether a company sells products or provides services, these systems generally are used to store client data, intellectual property, trade secrets and more. They help to streamline transactions and manage information. However, they also represent high-value targets for hackers. Data is currency, and a data breach can substantially damage a firm's finances while also undermining its reputation and potentially impacting the future of the organization.

What Can Go Wrong?

A laptop can be stolen. A password can be left on a desk. A mobile phone can be misplaced. These are just a few examples of how the doorway to a breach can be opened. As cyber criminals become more sophisticated, their options for accessing private systems will continue to expand. Last year, U.S. businesses reported over 550 breaches involving over 126 million individual records, with a per-record cost of $318. That's the bad news. The (potentially) good news is that it's estimated that 90% of these breaches were avoidable if the proper data protection protocols had been in place. These can include such basics as employee education and training on data safety best practices, data and disk encryption, email authentication, and use of a Secure Socket Layer (SSL) for all data collection forms.

Response to a Breach.

Data breaches often trigger legally required responses. In addition, a complete investigation into the data security system to determine where/how the breach occurred may be needed, as well as additional actions based on the size and severity of the breach event. The potential costs can be cumulative – and staggering. In 2011, the business impact of data breaches on U.S. business was estimated at $6.5 billion.

The Case for Expertise.

Managing the business is what business owners do. It's becoming increasingly obvious that managing their data is becoming a critical component of that function. Carriers with the experience and expertise to understand potential exposures can provide a valuable service in this process by developing coverage to address those risks. Brokers should consider looking to carriers with the expertise necessary to play a key role in an overall data security program for their clients.

Contact

David Molitano, Vice President,
OBPI Content, Technology
and Services
dmolitano@onebeaconpro.com
or 617.725.6203

Please refer to the actual policy for exact coverage descriptions and limits; exclusions and deductibles may apply. Coverages are subject to policy terms and conditions and may not be available in all states.

OneBeacon PROFESSIONAL INSURANCE®

WHAT WE DO

OBPI is a solution-based organization in a specialty insurance marketplace that's growing increasingly more complex. Their experience and expertise allows them to assess a risk from every possible point of view. Their size and deep bench strength give them the advantage of being able to quickly focus on responses to their customers. The breadth and depth of their coverages allows them to work with companies that operate in environments where lines of business are often blurred.

WHAT WE OFFER

Through its affiliated writing companies, OBPI provides stand alone and integrated coverages for a variety of professional, health care, private and not-for-profit organizations. OBPI specializes in offering a variety of professional liability solutions as well as employment practices liability insurance, management liability and tailored products for complex organizations including health care provider excess insurance and HMO reinsurance. General liability, property and workers' compensation coverages are also available for financial institutions.

With twenty lines of business, a service-focused mindset, and a determination to match coverage to need, OBPI is carving out space as a go-to carrier for brokers with complex accounts requiring creative, innovative solutions.

WHERE WE FOCUS

Emerging exposures are often not identifiable as belonging to specific types of businesses. OBPI recognizes this, and has developed a wide range of solutions that can be tailored to provide coverage across a spectrum of industries. Issues related to data breaches, employment practices or management liability, for example, have no geographic or business-specific boundaries. OBPI's response to this is to carefully craft coverage to meet each individual risk.

SPECIALIZED PROTECTION AND FEATURES

Every situation requires specialized protection. OBPI's coverages are robust enough to cover the most difficult risks, yet flexible enough to be tailored for the most complex.

CONTACT

Fred Bautista, Senior Vice President, OBPI Business Development

fbautista@onebeaconpro.com or 860-321-2540

For a complete, at-a-glance look at OBPI's coverages and services, go to www.onebeaconpro.com/whatwedo

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As the recent Ponemon study reported, a data breach has a significant impact on customers' trust and loyalty to an organization. They found that 15 percent (of customers) said they would terminate their relationship and 39 percent said they would consider ending the relationship in response to being notified of a breach by an organization.

Because of the reputation harm, Ponemon points out that the costs of the data breach need to be measured beyond the costs of breach response. They find that 70% of the costs are associated with these "indirect costs," as opposed to only 30% of the costs associated with direct costs (legal expenses, data restoration, customer notification, etc.).

Where typical cyber liability insurance policies focus on the 30% costs associated with breach response, BrandGuard™ provides the breach response coverage, PLUS coverage for a loss in profits during recovery.

So when you're evaluating your cyber liability options, do the math. Calculate the costs of IT, customer notification, the legal expenses, and government fines. Then add in the costs of losing customers, a damaged reputation, and a hit to profitability. If you're insurance only handles the breach, you're not getting full cyber coverage.

BrandGuard™ protects your profits while you restore your operations and your reputation.

NAS INSURANCE SERVICES

AT A GLANCE:

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CONTACT:

Michael Palotay, Senior Vice President
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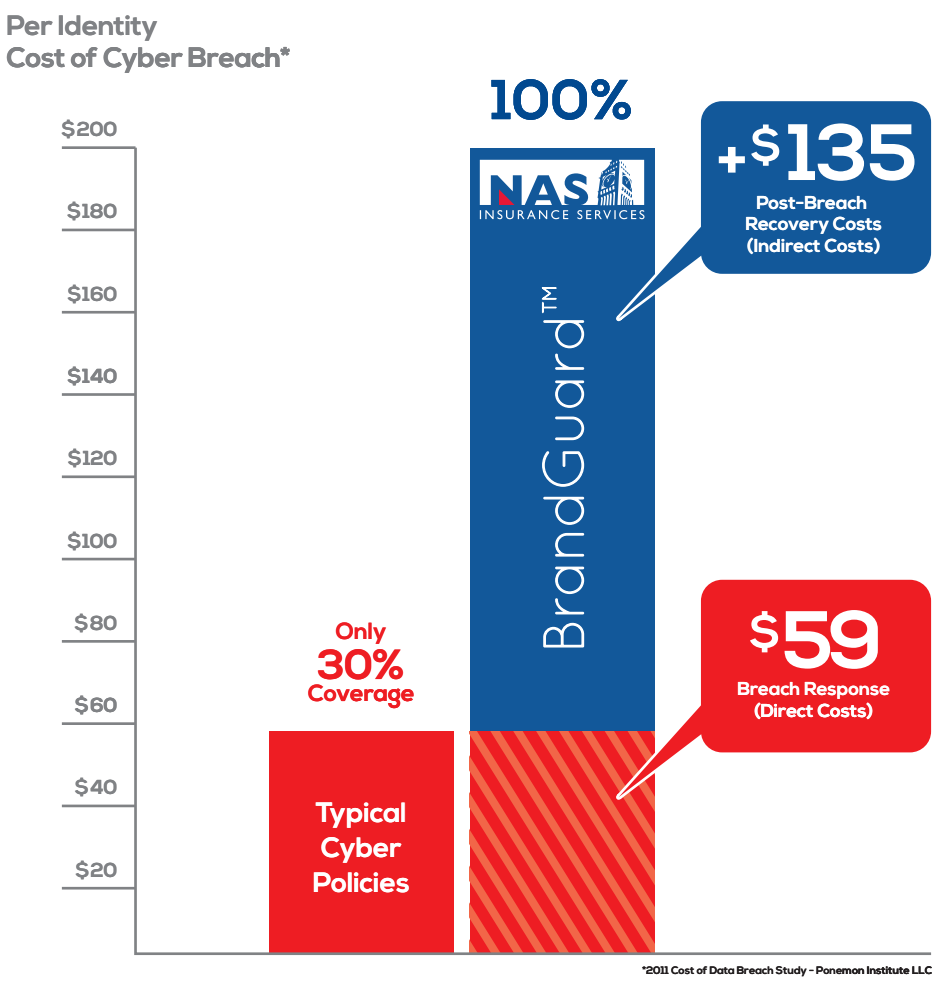


Typical cyber liability insurance policies focus on the costs associated with breach response, but that's only part of the equation. BrandGuard™ from NAS Insurance gives you breach response, plus coverage for a loss in profits during recovery.

Does your policy go beyond the breach?

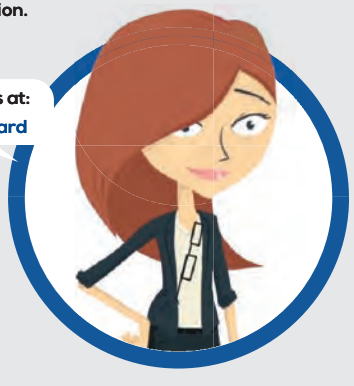
The recent Ponemon study* of the costs of a cyber breach finds that the indirect costs of lost customers and lost revenue is much greater than just the direct costs of handling the breach.

So when you're evaluating your cyber liability options, do the math.

Calculate the direct costs of IT, customer notification, the legal expenses, and government fines. Then add in the indirect costs of losing customers, a damaged reputation, and a hit to profitability. If you're insurance only handles the breach, you're not getting full cyber coverage.

BrandGuard™ protects your profits while you restore your operations and your reputation.

For more information, visit us at:
nasinsurance.com/BrandGuard



NAS INSURANCE SERVICES

MARKET PULSE

Ace offers package policies for health care facilities

■ Ace Group Holdings Inc. has launched two package policies tailored for health care organizations.

The programs cover risks associated with the False Claims Act, credentialing and clinical trials, and antitrust enforcement, the insurer said in a statement. Called Ace Express Private Health Care Protection Policy and Ace Express Not-For-Profit Health Care Protection Policy, the packages are available to hospitals and health care facilities, long-term care facilities and other medical facilities, including ambulatory surgery centers, hospice organizations and physical therapy clinics.

"The exposures faced by those in the health care marketplace are always evolving, and there are additional regulations coming in 2014," said Keith Lavigne, senior vice president, Ace USA Professional Risk.

Each package includes directors and officers and organization liability, employment practices liability, fiduciary liability and crime. For additional information, contact Mr. Lavigne at 212-703-7192 or keith.lavigne@acegroup.com.

LIU offers coverage for midsize marine firms

■ A business owner policy designed to cover marine liability and property-related risks for small and midsize marine businesses has been launched by Liberty International Underwriters, the global specialty unit of Boston-based Liberty Mutual Group Inc.

The policy also provides access to optional additional coverage, including general liability.

"Small-business owners want a comprehensive policy that encompasses multiple coverages," Don Harrell, New York-based senior vice president of LIU marine, said in a statement.

The basic policy includes marine general liability; hull and protection and indemnity; marine excess liability; and mobile equipment and/or tools. The coverage is aimed at businesses that include ship repairers/ship builders, marina operators, marine builders, marine artisans, marine contractors, consultants/ inspectors and scientific/research/educational. In addition, LIU provides a broad range of other marine insurance products such as ocean and project cargo, marine liability, marine builder's risk, hull and machinery, and coverage for yachts.

For more information, contact Don Harrell at donald.harrell@libertyiu.com or at 212-208-2862.

PRODUCTS & SERVICES

Zurich, Aon cover long-term care facilities

Zurich North America said it has partnered with Aon P.L.C. to offer a program of commercial insurance products designed specifically to meet the needs of nonprofit long-term care organizations.

The program — designed in tandem by Zurich's commercial programs and direct markets practice and Aon Affinity, Aon's consumer, associations and groups practice — will provide primary and excess property and general liability insurance, as well as specialty coverages including professional liability, crime, inland marine and fleet automotive coverage.

The program will be available through membership in LeadingAge, a Washington-based professional association of more than 6,000 nonprofit organizations nationwide.

Beazley, Acturis partner for marine cargo insurance

■ Beazley P.L.C. said that its U.K. marine team will begin offering its marine cargo insurance on the Acturis Ltd. online platform at the end of May.

The Acturis system is intended to be more accessible and deliver contract certainty for brokers, Beazley said in a statement. "By making our product available online, we are extending greater choice to our distribution partners," said Stephen Smyth, U.K. marine cargo underwriter. "They can trade with us through Acturis when it is convenient to do so, but are still able to deal with the underwriters direct" if their inquiry is more complex or contains exceptional items.

The product covers risks associated with international import, export, goods in transit and stock throughput. The program also will provide cover for exhibitions, demonstrations, engineers' tools and equipment and sales representatives samples up to an agreed limit on each section, at no additional cost.

AIR Worldwide offers real-time climate risk analytics

TECHNOLOGY
HOW DOES IT WORK?

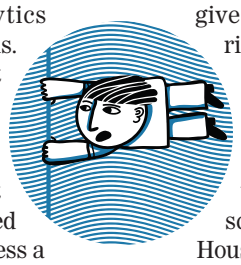
BILL KENEALY

BY BILL KENEALY

In an effort to provide corporate risk managers a more complete picture of the risks facing them in real time, Boston-based catastrophe modeling firm AIR Worldwide Corp. has unveiled a new service: Real-Time Climate Risk Analytics.

The effort is intended to help corporate risk managers' need for fresh data and analytics between formal updates to climate models.

Explaining the subscription offering last month at the Risk & Insurance Management Society Inc.'s annual conference in Los Angeles, Peter Dailey, vice president and director of atmospheric science at AIR Worldwide, said the service is aimed squarely at risk managers looking to assess a range of catastrophe loss scenarios in real time.



He offered the example of a risk manager overseeing multiple manufacturing facilities in a large area as a hurricane approaches. The risk manager could track the potential impact of the storm using Real-Time Climate Risk Analytics and make more informed decisions about shutting down.

The innovation behind the service is a newly developed application called ClimateCast. The Web-based tool is updated four times daily using data from various meteorological organizations including the National Hurricane Center.

The information derived from ClimateCast then is augmented with information obtained from AIR's Catastrophe Risk Engineering services, which assigns a team of engineers to physically examine a structure and provide site-specific risk assessments, and data from the AIR's catastrophe loss models to give risk managers a customized view of the risks facing their assets in real time.

Aside from an imminent danger, Mr. Dailey sees the offering helping risk managers with strategic planning. He noted that Real-Time Climate Risk Analytics uses historical data and simulated storm scenarios. For example, a risk manager in Houston could use the tool to gauge projected losses if a storm equivalent to the Category 4 hurricane that leveled nearby Galveston, Texas, in 1900 were to hit the area today.

"We've combined these unique capabilities into a new analytical tool to help companies better understand the climate's influence on current and future risks," Mr. Dailey said. "We're confident the applications will help risk managers do their jobs more effectively and make more informed and confident risk management decisions."

DEALS & MOVES

PRIMA to partner with Public Entity Risk Institute

The Public Risk Management Association will take over the operations of the Public Entity Risk Institute beginning June 5.

Under the arrangement, Alexandria, Va.-based PRIMA will manage all new PERI programs for public entities and nonprofits and provide staff support to PERI's board, PRIMA said in a statement. The two organizations also will collaborate on programs that support PRIMA's mission of advancing the knowledge and practice of public risk management.

The new operating model will see a majority of the seven-member PERI board appointed by PRIMA, with the remainder being independent directors. Marshall Davies, PRIMA's executive director, also will serve as PERI's executive director, according to the statement.

PERI, an independent risk management resource for public entities and nonprofit organizations, selected PRIMA as its partner organization after a competitive selection process in which it sought an organization that could raise risk management awareness, provide accessible risk management education, and serve as a resource center and clearinghouse for PERI products, PRIMA said in a statement.

StoneRiver flood services unit buys CSC's Flood BPO

Oakland, Calif.-based insurance software provider StoneRiver Inc. said its National Flood Services Inc. subsidiary has acquired the flood insurance business process outsourcing unit of Falls Church, Va.-based software and services firm Computer Sciences Corp.

Financial terms of the transaction were not disclosed.

While NFS will assume control of the insurance processing and management platform developed by the CSC unit, known as Flood BPO, NFS said it will continue to support both platforms and existing customers will remain on their existing platforms.

Based in Kalispell, Mont., with Florida service centers in St. Petersburg, Coral Springs and Lakeland, National Flood Services helps property/casualty insurers and governmental entities outsource flood insurance-related tasks. "The acquisition combines the industry-leading technology and customer service capabilities of NFS with Flood BPO's deep experience in government contracting and commercial BPO services," StoneRiver said in a statement.

AmTrust buys property insurer serving smaller entities

AmTrust Financial Services Inc. has purchased Mutual Insurers Holding Co. and its subsidiary, First Nonprofit Insurance Co., the companies said.

Chicago-based FNIC — a major property/casualty insurer for small businesses, nonprofits and governmental entities — wrote $70 million in premiums in 27 states in 2012.

Based in New York, AmTrust Financial Services is a multinational insurance holding company that offers specialty property/casualty products through its insurer subsidiaries.

Lines of coverage offered include workers compensation, commercial auto, general liability, extended service and warranty coverage.

First Nonprofit will operate under the name First Nonprofit Group and will be based in Chicago.

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BUSINESS INSURANCE

CRITICAL

Continued from page 4

benefit while a covered individual is hospitalized.

Because workers purchase most critical illness policies on an after-tax basis, even in cases when the premium is paid via payroll deduction, the benefits are not subject to federal or state income tax.

When purchased on an individual basis, critical illness insurance is typically underwritten to reflect the risks of the individual buying the coverage. However, it is generally available on a guaranteed-issue basis to employer groups with at least 100 employees. Typically, 10% to 15% of employees enroll in the coverage, which can cost anywhere from $20 to $40 a month for about $15,000 in coverage, depending on group demographics.

The benefits under a critical illness policy are paid directly to the insured and can be used for any purpose, such as covering deductibles or medical copayments, travel expenses or other out-of-pocket costs associated with treating a covered illness. These include paying for child care expenses while an individual receives cancer treatment or for home modifications made necessary for an individual whose mobility is impaired following a stroke.

Although employees historically have paid the full cost of the voluntary benefit, some employers in recent years have picked up part of the tab for critical illness insurance to encourage employees to enroll in consumer-driven health plans.

"We're actually seeing a lot more interest in employer-paid products," said Lydia Jilek, head of voluntary products and strategies at ING U.S. in Minneapolis. "There can be an employer-paid base level of coverage — say $3,000 or $5,000 — and then a base buy-up, typically in $1,000 increments."

As consumer-driven health plans gain in popularity, some of the health insurers administering these products have begun branching out into the critical illness insurance market.

"We made a decision to partner with American Heritage Life Insurance Co., a division of The Allstate Corp. that had the paper, filing and underwriting expertise for the product, to make critical illness insurance available to Aetna plan members," said Jeff Brown, head of voluntary benefits and consumer services at Hartford, Conn.-based Aetna Inc. "This product is worth more to consumers when deployed with one of our medical plans. We're also able to position it as part of a broader-based consumer-directed strategy."

Brokers and benefits consultants also are increasingly recommending critical illness insurance to their group health benefits clients as insurers cut back on broker compensation in response to new minimum medical loss ratio requirements set by the Patient Protection and Affordable Care Act.

Under the law, insurers that underwrite group health insurance for employers with 100 or more employees must spend 85% of premiums collected on health care and health improvement expenses, reducing the amount available to pay as commissions to brokers. Critical illness insurance and other voluntary benefits products are exempt from this minimum medical-loss ratio requirement.

HSA's cover critical illness

Critical illness insurance is one of a handful of supplemental health insurance policies that workers covered by high-deductible health plans linked with health savings accounts can purchase under Internal Revenue Service rules.

An HSA is a tax-exempt trust or custodial account that members of a high-deductible health plan can set up to pay medical expenses within the deductible. However, if an individual has other insurance to cover expenses within the deductible amount, he or she will lose the tax-favored status of HSA contributions.

In 2013, the minimum annual deductible for an HSA-qualified high-deductible health plan for individuals is $1,250 and $2,500 for families. These minimum deductibles will remain the same next year.

Besides critical illness, other types of insurance permitted with high-deductible health plans linked to HSAs are accident, disability, dental, vision and long-term care, as well as insurance that pays a fixed amount per day of hospitalization.

"As more clients move to health savings account plans, it (critical illness insurance) is one of the few types of coverage that do not jeopardize the tax advantages of that plan," said Beth Grellner, health and group benefits practice leader for the St. Louis office of Towers Watson & Co.

By Joanne Wojcik

ESSENTIAL

Continued from page 4

plans," she said.

In Minnesota, most small-group plans cover state-mandated comprehensive mental health benefits, said a spokeswoman for the Minnesota Council of Health Plans. "The biggest change by far is the fact that health history can't be used to set rates," she said.

Despite "all the noise" around the health care reform law, employers have not voiced particular concern about the cost of adding mental health services, said Craig Hasday, chief operating officer of Frenkel Benefits L.L.C. in New York.

"It's not a major cost driver, but it's not something (employers) can ignore. Hopefully this won't sneak in and bite them," Ms. Cohen said.

Members "are focused on overall compliance, so this is one concern among many," said Neil Trautwein, vice president and employee benefits policy counsel at the National Retail Federation in Washington. The requirement to offer mental health coverage "at parity is something that the market will struggle to manage the cost of. The parity requirement could be a bridge too far."

"We always worry about the flexibility that employers have to make sure the benefits are well managed, that people are receiving medically appropriate care," Ms. Darling said.

"A high percentage of our members — 78% — already provide behavioral health coverage," said Terri Rhodes, education director at the Disability Management Employer Coalition in San Diego. "Thirty percent to 50% of people with a chronic illness like diabetes and hypertension also have some sort of depression or mental disability associated with it. How do we provide services to those employees that keep them at work and productive?"

All plans need to be in compliance with the rule for the plan year that begins on or after Jan. 1, 2014. But plans do have "a little safe harbor in 2014" to lower any limits incrementally, Ms. Cohen said. "For the first year, HHS has said they would look at good faith compliance."

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COBRA

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available to former employees with household incomes up to 400% of the federal poverty level, which is $45,960 for an individual and $94,200 for a family of four this year. The final subsidy would be based on the individual's income that year.

In addition, subsidies will be available to employees who lose group coverage due to a reduction in their work hours. Under recently proposed IRS rules, those employees would have to both satisfy the 400% federal poverty level test and have a COBRA single-coverage premium that exceeds 9.5% of their income to receive the federal subsidy.

In the case of employees' widowed or divorced spouses, the COBRA premium also would have to fail the 9.5% affordability test for those individuals to be eligible for federal premium subsidies to purchase coverage in an exchange.

The premium subsidies would make exchange-purchased health coverage much cheaper than COBRA, in which beneficiaries pay the full premium or as much as 102% of the group rate for coverage that employers provide to active employees.

In fact, lower-income COBRA beneficiaries who receive the federal subsidy could buy in some cases a year of health insurance through an exchange at a price that would be about the same as they would have to pay for one or two months of COBRA coverage, said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

"This will allow COBRA beneficiaries to obtain coverage far more within their financial needs. This is one of the high points of the health care reform law," said Gretchen Young, senior vice president of health policy with the ERISA Industry Committee in Washington.

While the savings of rejecting COBRA coverage in favor of federally subsidized exchange policies could amount to thousands of dollars a year for many COBRA beneficiaries, they have gotten little public attention.

"They have not been spotlighted very much," said Amy Bergner, managing director of human resources with PricewaterhouseCoopers L.L.P. in Washington.

Even those aware of the subsidy provisions often have not assessed the positive financial implications, Mr. Stover said.

"This is a win-win situation for both employers and COBRA beneficiaries," Mr. Wojcik said.

Employers also will save money if a significant percentage of beneficiaries reject COBRA in favor of subsidized exchange coverage. That is due to the adverse selection inherent in COBRA. Because COBRA is so expensive, those opting for coverage are those most likely to use health care services. Benefits experts have said, for every $1 employers collect in COBRA premiums, they typically pay out $1.50 in claims.

While it is not known how many beneficiaries will reject COBRA in favor of subsidized exchange coverage, evidence from a 2009 economic stimulus law suggests federal premium subsidies could significantly affect coverage takeup rates.

Under the stimulus law, the government temporarily paid 65% of the COBRA premium for laid-off employees. Just prior to passage of that law, an average of 19% of laid-off employees opted for COBRA coverage, according to an Aon Hewitt survey. However, after the 65% federal premium subsidy took effect, the COBRA takeup rate for involuntarily terminated employees doubled to 38%, according to the Aon Hewitt analysis of COBRA enrollments among 200 large employers.

Even with the apparent financial advantages, employers still will have to mount a concerted communications effort to overcome beneficiaries' inertia toward COBRA enrollment.

"The process for enrolling in COBRA is simple. Enrolling in exchanges will be a brand new experience and may be more complex," said Michael Thompson, a PwC principal in New York.

Employers should provide real, side-by-side examples comparing what COBRA beneficiaries eligible for premium subsidies would pay for exchange coverage and for COBRA coverage, said Ben Lupin, senior vice president of compliance with Corporate Synergies Group L.L.C. in Mount Laurel, N.J.

"You want to help educate" the COBRA beneficiary, Mr. Lupin said.

PAYING FOR HEALTH INSURANCE POLICIES ON PUBLIC HEALTH EXCHANGES

The health care reform law sets limits that vary by household income on how much in premiums lower- and middle-income individuals would pay for exchange coverage.

Individual income level	Premium as a percentage of annual income*	Maximum annual health premium
150% of the federal poverty level	4%	$689.40
200% of the federal poverty level	6.3%	$1,447.74
250% of the federal poverty level	8.05%	$2,312.36
400% of the federal poverty level	9.5%	$4,366.20

Note: Federal poverty level is $11,490 for an individual in 2013.
*Example for silver health care plan
Source: Patient Protection and Affordable Care Act

TAKAFUL AT A GLANCE

Takaful is a mutual insurance concept that complies with Sharia. Its key points are:

- Losses are shared, and liabilities are spread across a pool. Participants agree to give a certain proportion of their takaful installments to cover defined losses of fellow participants.
- There are several ways in which takaful can be implemented. These include a profit-sharing method whereby any surplus generated by the takaful operation is shared between policyholders and the takaful operator.
- Some conventional commercial insurance companies have entered the takaful market by opening "window" operations.
- Takaful insurers can purchase reinsurance known as retakaful.

TAKAFUL

Continued from page 3

market, and many are writing large commercial risks and competing against conventional insurance players, Mr. Mistry said.

And in areas where there is potential demand for Sharia-compliant capacity, takaful business is growing more quickly than conventional insurance, he said.

Earlier this month, XL Group P.L.C. announced it would provide capacity to a London-based managing general agent, Cobalt Underwriting Services Ltd., which will underwrite Sharia-compliant commercial insurance lines including property/casualty, construction, marine, financial institutions and trade credit coverages.

Cobalt will provide up to $300 million capacity per risk and coverage will be offered worldwide, except for the United States and Canada.

In a statement, Cobalt said it had been established "in response to the limited Sharia-compliant commercial insurance currently available in the London market."

Susan Dingwall, a partner at law firm Norton Rose L.L.P. in London, which advised on the launch of the MGA, said it would be "a real boost to the development of the commercial market for Sharia-compliant insurance."

The potential market is significant given that total global Islamic financial assets stood at an estimated $1.631 trillion in 2011, according to Norton Rose.

"We see significant demand for Islamic insurance from our clients and also believe that a strong Sharia-compliant market will support the development of Islamic asset management," Nigel Denison, a director at the London-based Bank of London and The Middle East P.L.C., said in a statement.

Terry Masters, leader of Aon Benfield's ReSolutions team, which acted as the insurance industry advisor to Colbalt, said the ability to offer Sharia-compliant commercial insurance capacity was of growing importance.

Richard Bishop, CEO of Cobalt, said he first had been asked to provide London market insurance coverage for an Islamic bank's U.K. insurance needs in 2007, but there was insufficient Sharia-compliant capacity available at that time.

In 2011, he was involved in the launch of a Sharia-compliant brokerage offering takaful and retakaful coverage in the London market. But Mr. Bishop said he became aware that an underwriting platform was needed to work with the global insurance market to provide Sharia-compliant coverage.

Mr. Bishop said the demand for Sharia-compliant insurance has been growing for several years. And the recent political upheaval known as the Arab Spring in many areas of the Middle East, has increased pressure on buyers to ensure that their assets are Sharia-compliant, he said.

Mr. Bishop

Local takaful markets are not necessarily "geared up for that," Mr. Bishop said.

"Many of the buyers that we expect to create demand (for Sharia-compliant coverage) will currently be buying conventional insurance" because of the lack of available Sharia-compliant capacity for large commercial risks, said Jason Harris, chief executive for international property and casualty insurance for XL.

"But we think that by working with Cobalt, we'll be able to provide better solutions," he said.

WESTPHAL

Continued from page 3

disability payments for nine months after his TTD benefits ran out.

The court granted Mr. Westphal 260 weeks of TTD benefits based on Florida's TTD time limit that was in effect before the 104-week limit was enacted in 1994.

An en banc rehearing of the case was ordered following a request from several insurance and trade groups, including PCI, the American Insurance Association, the National Federation of Independent Business, Publix Super Markets Inc., the Florida Chamber of Commerce, Associated Builders and Contractors of Florida and United Parcel Service Inc. A date for the rehearing has not been set.

Rather than striking down the 104-week limit, Florida could use legislative or judicial measures to devise a safety net for injured workers who have not been declared permanently disabled after their temporary benefits run out, said Ken Stoller, Washington-based assistant general counsel for the AIA. "It seems like the appropriate response —instead of invalidating the current system — should have been to create a stop-gap measure for claimants who haven't reached maximum medical improvement," Mr. Stoller said.

In an analysis last month, NCCI Holdings Inc. said the original ruling in *Westphal* could increase Florida workers comp costs by 2.6%, or $65 million a year. The longer benefit duration would affect mainly claims that receive at least 98 weeks of temporary disability benefits, which represent about 7% of Florida's temporary indemnity benefit costs, according to Boca Raton, Fla.-based NCCI.

James F. Fee Jr., president of Florida Workers' Advocates, contends that the earlier ruling in *Westphal* benefits only severely injured workers and would not significantly affect insurers and employers if it is upheld. "Only the most severely injured of individuals end up in a situation where there are medical opinions to support payment after 104 weeks," said Mr. Fee, who is a partner at Miami-based law firm Druckman & Fee P.A.

While Ms. Caldwell agreed *Westphal* affects a small subset of workers, she said the original ruling would result in higher benefit costs and could delay settlements.

Although *Westphal* is being reheard, insurers already have paid extended TTD benefits to workers reaching the 104-week limit that was struck down, Ms. Caldwell said.

If *Westphal* is upheld, it likely would affect only open and future workers comp claims, said Sal Richardson, managing partner for litigation at Fort Lauderdale, Fla., law firm Adelson, Testan, Brundo, Novell & Jimenez.

However, he said reaffirming *Westphal* could prompt more attempts to roll back workers comp reforms in Florida during the past several years.

Westphal "is being used as a catalyst, I think, to review all of those decisions," Mr. Richardson said.

DISABILITY

Continued from page 1

needs for work-related injuries or illnesses suffered by claimants who automatically become eligible for Medicare health insurance benefits after receiving Social Security disability insurance for 24 months.

The Medicare Secondary Payer compliance requirement kicks in when an individual merely applies for Social Security benefits, regardless of whether they have been approved to receive those benefits, said Rosey Atkins, MSA product manager in Tampa, Fla., for medical cost-containment company Rising Medical Solutions Inc.

It was once expected that a need for Medicare set-aside arrangements would be limited mostly to cases with claimants nearing retirement around age 65, Ms. Atkins said.

"In the last three or four years, I have seen an increase of younger claimants coming through where I have had to project costs for a Medicare set-aside," she said. "In the 55-year-old range, we are seeing an increase."

Others agree.

"It's very odd, but in the past year we have seen a lot of younger claimants," said Kristine M. Wilson, chief operating officer and general counsel for Medicare secondary payer adviser Tower MSA Partners L.L.C. in Delray Beach, Fla.

The monetary amount that claims payers must set aside to meet the future medical expenses of younger people, in contrast to those who are 65 or older, increases significantly because of a longer life expectancy, sources said.

"It's not uncommon for us to be dealing with MSAs where we have a 30-year life expectancy funded into an MSA, which is truly significant," said Kathleen Wyeth, Medicare specialist for insurer Accident Fund Holdings Inc. in Lansing, Mich. "People in their 50s are not uncommon," particularly since the economy turned downward.

Beginning with the start of the Great Recession in late 2007, people in their 50s have been among workers finding it harder to find employment once laid off, providing an incentive for them to seek Social Security disability benefits, particularly when returning to work will more likely mean reduced wages, several sources said.

"Unemployed workers in their 50s were about a fifth less likely than those age 25 to 34 to become re-employed between 2008 and 2011, and they experienced steep wage losses," according to a report

HEAR MORE

Access the *Business Insurance* tablet edition to hear Kathleen Wyeth of Accident Fund Holdings Inc. talk about complications arising from increasing Medicare set aside arrangements.

from the Washington-based Urban Institute, which conducts social and economic policy research.

Meanwhile, some claimants needing medical care file for Social Security disability while their workers comp claims are being contested by payers, sources said. To bolster their chances of qualifying for the disability benefits and possibly winning their case for workers comp benefits, attorneys may advise them to seek additional medical treatments. That can force workers comp payers to fund Medicare set-aside arrangements based on an estimated value of future medical care inflated by the additional treatments that claimants received to bolster their chances of qualifying for Social Security disability.

"Medicare set-asides do indeed make (workers comp claim) settlements more complicated," Ms. Wyeth said.

At the end of 2011, more than 9.8 million U.S. residents received Social Security disability benefits, with 89% of the awards going to disabled workers, a majority of whom suffered musculoskeletal or connective tissue injuries, according to a recent report from the U.S. Social Security Administration.

In contrast, about 7.8 million people received Social Security disability benefits in December 2006, a year before the official start of the recession.

The number of workers seeking Social Security disability benefits is related to recent labor-market factors, but congressional revisions during the 1980s and an increase in benefit amounts since then have encouraged a longer-term trend of more people seeking benefits, said Harry Shuford, chief economist at Boca Raton, Fla.-based rating and research organization NCCI Holdings Inc.

The changes expanded the ailments qualifying for the disability benefits to include injuries such as arthritis and back pain.

The ability to receive Medicare health coverage after two years of qualifying for Social Security disability benefits also makes the benefits more attractive than looking for another job, particularly when fewer available jobs provide health benefits, Mr. Shuford said.

But there may be slight relief ahead for workers compensation payers.

Social Security Administration data shows that the number of disability claims the agency processed peaked in 2011 at nearly 3.4 million. That number is projected to fall to just less than 3 million by the end of 2013.

Additionally, U.S. Labor Department reports released this month show job market improvement. Claims for unemployment benefits fell to their lowest level since 2008, and employers added 165,000 jobs in April.

But other Labor Department data shows a still-difficult jobs picture. The employment-to-population ratio, for example, stood at 58.6% in April, down from 63.4% at year-end 2006.

"The economy does continue to grow at a modest pace," Mr. Shuford said. "It's encouraging, but it's (still) nothing to go out in the streets and celebrate."

SUPPLY

Continued from page 1

affects your reputation," said Linda Conrad, director of strategic business risk at Zurich Financial Services Ltd. in New York. "We think there's going to be a bit of a movement in the health and safety area," she said. "A lot of companies are starting to develop suppliers' codes of conduct."

Following the April disaster, several companies took that step by signing the Accord on Fire and Building Safety in Bangladesh, a five-year binding agreement. A statement last week from IndustriALL Global Union, one party pushing the agreement, said 37 major firms had committed to the factory and worker safety improvement pact. Most major European retailers signed it, but many U.S. retailers decided not to join.

Among those not signing on was Wal-Mart Stores Inc., which last week announced its own safety plan to inspect all of its suppliers in Bangladesh. While it believes its plan meets or exceeds the IndustriALL plan, Wal-Mart said in a statement that it "looks forward to continuing to participate in the continued discussion" about the accord. The Bentonville, Ark.-based retailer said if its concerns about issues such as governance and dispute resolution could be addressed in the worker safety pact, it would join the effort.

Ms. Conrad said she also expects to see major purchasers band together to force improvements in

AP PHOTO

Bangladeshi soldiers and other rescuers searched for survivors after the collapse of a building killed more than 1,100 people in April.

offshore supplier working conditions. She cited the example of U.S. universities that have signed on to the Designated Suppliers Program, under which university licensees are required to source most university logo apparel from suppliers determined to comply with specified labor standards.

Companies' increased attention to workplace conditions — and resulting improvements — seem to occur country by country as criticisms over the factory conditions at low-cost suppliers emerge. For example, in China Apple Inc.'s big supplier Foxconn was criticized widely last year for its working conditions.

"I think we're going to see — and we're are seeing already — some trends toward making improvements to the factories in some of these low-cost countries," said Eric J. Wieczorek, associate director in the supply chain risk analysis practice at Navigant Consulting Inc. in Lawrenceville, N.J. "Just like Apple did with its supply base."

Tom Varney, Chicago-based head of risk consulting for Allianz Global Corporate & Specialty, said he thinks consumer-driven industries like retail are responding quicker.

"Almost on a country-by-country basis as these types of issues surface, eventually everybody really addresses it," said Gary S. Lynch, managing director and global leader of risk intelligence and supply chain resiliency at Marsh Inc.'s risk consulting practice in New York.

Despite the risk to their reputations, Mr. Lynch said he doesn't expect apparel companies to move away from Bangladesh suppliers.

"At the end of the day, this is seen as a margin issue," Mr. Lynch said. With margins slim in the apparel industry and wages a primary cost, "I think you'll see most of them stay put."

However, he said he does expect to see an aggressive push for more corporate supply chain responsibility, Mr. Lynch said.

"What's most troubling about supply chain risk is that the customer-facing company bears the lion's share of the risk for an operational failure while having a limited amount of operational control," said Nir Kossovsky, CEO and director of Steel City Re in Pittsburgh, a broker/adviser specializing in corporate reputation measurement and risk transfer. That mismatch between the exposure and control is a source of the reputational risk companies face in their supply chains, he said.

Addressing that risk is "an interesting mix of expectation management and operational controls," Mr. Kossovsky said. To reduce their risks, companies must acknowledge that there will be a crisis at some point because of their limited control over suppliers, while signaling to stakeholders they are authentically committed to managing ethics, innovation, quality, safety, sustainability and security along that supply chain, he said.

"There are solutions now that are being developed from an insurance point of view that could provide coverage for a falloff in sales as a result of a reputational event in the supply chain," Willis' Mr. Teixeira said.

"If (buyers) can show they've done as much as they can and they've got a good risk management approach, including regular audits," they should be able to buy such coverage, he said.

LETTERS

Continued from page 12

is anything less than one-second data logging — will inherently bias how the data is subsequently processed. Without high-frequency GPS data, pioneering contextualized analytical techniques cannot be applied, therefore restricting the ability to build robust, reliable driver profiles. The seismic data analogy suggested by Mr. Bielak, equivalent to that used in the mining and oil industry, only works because it requires all of the raw unprocessed sensor data to be retained and presented in an agreed data standard. Analysts are then free to apply any technique they develop to extract valuable information from the data.

In its relative infancy, the telematics market needs to retain the freedom to evolve and not be restricted by overzealous basic data standards that are methodology-dependent. The onus is on insurers to be more demanding of their telematics data suppliers to insist on high-resolution sensor data that will continue to service their changing needs for many years into the future.

ACORD may be able to encourage cooperation at this device data level so the industry can benefit from larger aggregated data sets sooner than will happen if the insurers work in complete isolation.

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LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT • SOUTHERN DISTRICT OF NEW YORK

In re CHARTIS EXCESS LIMITED
Debtor in a Foreign Proceeding.

In a Case Under Chapter 15 of the Bankruptcy Code
Case No. 13-10888 (SHL)

NOTICE OF ORDER GRANTING RECOGNITION OF A FOREIGN MAIN PROCEEDING AND RELATED RELIEF

NOTICE IS HEREBY GIVEN THAT, in connection with the petition filed on March 25, 2013 (the "Petition") by Alexander Rosati (the "Petitioner"), in his capacity as the duly authorized foreign representative, as defined in section 101(24) of title 11 of the United States Code (the "Bankruptcy Code"), of Chartis Excess Limited (the "Company"), the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") has issued an Order Granting Recognition of a Foreign Main Proceeding and Related Relief (the "Order") [Docket No. 15], which provides, among other things, that:

1. The proceeding (the "Irish Proceeding") concerning the Company's scheme of arrangement (the "Scheme") under sections 201 and 202 of the Companies Act 1963 (as amended) of Ireland in the High Court of Ireland is granted recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code;

2. All relief afforded a foreign main proceeding pursuant to section 1520 of the Bankruptcy Code is granted to the extent set forth therein;

3. Sections 361 and 362 of the Bankruptcy Code apply with respect to the Company and all of the property of the Company that is within the territorial jurisdiction of the United States in relation to the Scheme Business (as defined in the Petition);

4. The Scheme (including any modifications or amendments thereto) is given full force and effect in the United States, and is binding on and enforceable against any person or entity that is a Scheme Creditor (as defined in the Petition);

5. Any proceeding (including, without limitation any arbitration, mediation or judicial, quasi-judicial, administrative or regulatory action, proceeding or process whatsoever) that was pending immediately prior to the April 1, 2013 in the U.S. by or against the Company is continued by or against American International Reinsurance Company Ltd ("AIRCO"); AIRCO is substituted for and shall replace the Company in relation to all such proceedings; AIRCO is entitled to all defenses, claims, counterclaims and rights of set-off which would have been available to the Company in relation to any such proceedings; and each party to any such proceeding is entitled to all defenses, claims, counterclaims and rights of set-off which would have been available to such party against the Company in relation to such proceedings; and

6. Every Scheme Creditor that has a claim of any nature or source arising out of the Scheme Business and that is a party to any action or other legal proceeding (including, without limitation, arbitration or any judicial, quasi-judicial, administrative action, proceeding or process whatsoever) pending in connection with the Scheme Business in which the Company is or was named as a party, or as a result of which a liability of the Company may be established, is required to place the Company and the Petitioner's United States counsel (Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, NY 10112, Attn: Francisco Vazquez, Esq.) on the master service list of any such action or other legal proceeding, and to take such other steps as may be necessary to ensure that such counsel receives: (a) copies of any and all documents served by the parties to such action or other legal proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or legal proceeding; and (b) any and all correspondence, or other documents circulated to parties named in the master service list.

Copies of the Order, the Scheme and the Petition are available upon written request to the undersigned counsel.

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IN BRIEF

Asian insurers offer capacity for global property risks

■ Asian insurers, including several based in China, are offering significant capacity for international property risks, according to brokerage executives at Marsh Inc. The insurers, which include Beijing-based People's Insurance Company of China and Shanghai-based China Pacific Property Insurance Co. Ltd., are taking up to 10% lines on property placements up to $1 billion. The Chinese insurers are not writing most casualty lines, but they will consider directors and officers liability risks. Duncan Ellis, U.S. property practice leader at Marsh in New York, said his team secured capacity for about a dozen large international clients through Asian insurers.

House once again votes to repeal health reform law

■ For the third time, the U.S. House of Representatives has voted to repeal the Patient Protection and Affordable Care Act. By a 229-195 margin last week, the House approved the repeal measure, H.R. 45, introduced by Rep. Michele Bachmann, R-Minn. However, it is unlikely to be considered by the Senate, where Democrats are in the majority, and the White House has said President Barack Obama would veto the bill if it reaches his desk.

Wage-and-hour lawsuits increase by 10% in 2012

■ A record high of 7,764 federal wage-and-hour lawsuits were filed under the Fair Labor Standards Act for the year ended March 31, said law firm Seyfarth Shaw L.L.P. , which said it based its report on data from the Washington-based Federal Judicial Center. This is a 10% increase from the 7,046 cases filed for the comparable period in 2012, according to Seyfarth Shaw. In 2012, cases had increased just 1% from 7,008 for the period ending in 2011.

Workers comp combined ratio, premiums improve in 2012

■ The state of the workers compensation insurance market is "encouraging," with the line's combined ratio improving by 6 percentage points and premium volume up 9% in 2012, NCCI Holdings Inc. President and CEO Stephen J. Klingel said at NCCI's 2013 Annual Issues Symposium in Orlando, Fla. Lost time claim frequency dropped an estimated 5% during 2012, and the rate of growth in medical severity also slowed, going up by only 3% in 2012, Mr. Klingel said. Meanwhile, nationwide workers comp net premium volume rose 9% to $35.2 billion during 2012, NCCI's chief actuary, Dennis Mealy, said during NCCI's "State of the Line" presentation.

Employers getting tough on wellness participation

■ Employers are taking an ever-harder line with their workforces when it comes to incentivizing engagement in health and wellness management, says a May study by the Chicago-based Midwest Business Group on Health that surveyed 94 employers of varying sizes. More than 37% of employers said they are pairing their existing wellness rewards with penalties for nonparticipation; 6% said they exclusively use such disincentives to drive employee engagement; and more than 28% said they plan to begin tying wellness rewards to their employees' progress in meeting targeted health outcomes.

Senate FSA bill would end 'use-it-or-lose-it' rule

■ Legislation introduced in the Senate would end a decades-old Internal Revenue Service rule that requires the forfeiture of unused health care flexible spending account contributions. Under that 1984 rule — often called the "use it or lose it" rule — unused FSA contributions must be forfeited at the end of a plan year. Under S. 966, introduced by Sens. Ben Cardin, D-Md., and Mike Enzi, R-Wyo., employers could return as taxable cash FSA contributions that remain in an account at the end of a plan year

MODELS

Continued from page 3

runs conducted in 2011 that indicated a $1 billion increase in the probable maximum loss compared with the previous insurance renewal.

Armed with new data from the second modeler that showed a PML close to the previous range, he returned to his primary modeling provider, Risk Management Solutions Inc., which confirmed that its new PML was erroneous. The error was a result of the new version interpreting Insurance Service Office Inc. building codes at the lowest settings for building construction.

When the model was rerun with RMS' own codes, the PML was at a similar prior-year level.

Bill Churney, Boston-based senior vice president at catastrophe modeling firm AIR Worldwide Corp., said he sees certain clients that want more information about the assumptions underlying model output, but users' ability to process that information varies.

"Some people are still relatively new in using model output in decision-making," Mr. Churney said. "On the other end of the spectrum are companies that have been using models for some time and are eager to dig in on the details of the model."

While the scientific and technical expertise required to open models and customize them according to unique specifications previously resided mainly with large insurers and reinsurers, recent modeling firm advances are making it easier for a broader base of users, Mr. Calder said.

"We are reaching a takeoff point where customization is becoming more feasible," he said. "Up until now, it has been more difficult for the general property/casualty marketplace."

Mr. Keogh said blending data from separate sources makes sense given the inherent complexity of catastrophe modeling.

Claire Souch, London-based senior vice president of model solutions at RMS, said the company recently released a new risk management environment, RMS(one), that enables clients to manage all of their risk models, exposures and analytics in a single place.

"In the past few years, we've seen our clients stretch the limits of the technology they have to run their catastrophe models on," she said. "We have also seen the need for our clients to keep all of their exposures in one place and have much more transparency into our catastrophe models."

Ms. Souch noted that the RMS(one) platform enables users to use catastrophe models from other outside providers.

"Increasingly, users want to use views of risk from other perspectives," she said. "There are definitely more people using a multiple-model approach today than in the past."

Mr. Clark said he would like to see the modeling firms give more credence to risk managers' efforts to secure properties against loss. In the case of Miami-Dade County Schools, this entailed an extensive retrofitting of existing schools and replacing outdated schools with structures built to withstand hurricanes.

"One of our concerns years ago when modeling came into fashion was that we were concerned about companies that just relied upon the model and didn't reflect what we were doing from an owners' standpoint by investing in our infrastructure," Mr. Clark said, adding that he is waiting to find out how RMS 13 may address those concerns.

ACORD

Continued from page 4

that disruption is OK," he said. "Businesses must move."

Matthew Josefowicz, partner and managing director at Novarica, a division of New York-based Novantas L.L.C., cautioned that ambitious technology-centric plans can be stymied by cultural inertia at large organizations.

However, he did say that the industry as a whole has made progress on the "bread-and-butter" issues, such as replacing legacy core policy administration, claims and underwriting systems.

With modern core systems in place, insurers can turn their attention to more transformative technology efforts, such as automating the underwriting process.

Mr. Josefowicz said such innovations are not evenly distributed throughout the industry. While direct writing of policies with limited human intervention is now common in areas such as personal lines automobile, automated underwriting of large commercial polices is, for now, just an aspiration for most insurers.

"Further out on the horizon, there is the potential for fully automated underwriting in more lines of business," he said.

During a separate panel discussion, Donald Light, San Francisco-based director-Americas property/casualty practice for Celent, agreed that commercial lines insurers willing to make the necessary investments can replicate the successful use of social media and analytic technologies by leading personal lines insurers.

Mr. Light said commercial insurers should target lines of business that are most apt for automation, such as lines that have large numbers of submissions but low premium levels. "The best bets are the high-volume products," he said.

About 1,300 people, including insurance company executives and technology providers, attended the ACORD LOMA Forum. Keynote speakers included investigative journalist/author Bob Woodward, social media expert and author Charlene Li and theoretical physicist and futurist Michio Kaku.

Next year's event will be held in May in Orlando, Fla.

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OFF BEAT ;-)

Contributing: Matt Dunning, Judy Greenwald, Mike Tsikoudakis

Skimpy blouses leave Virgin staff feeling exposed

Virgin Trains, owned by Virgin Group Ltd. mogul Sir Richard Branson, is in dispute with its employees over uniforms that leave little to the imagination.

Female staff of Virgin Trains said the blouses, part of the new uniforms that were to launch earlier this month, are reportedly "skimpy" and "revealing" and would allow male passengers to discern the color of the bra worn underneath.

The launch of the new uniforms has been delayed until May 27 after the complaints that the blouses are too "flimsy," according to news reports.

To accommodate female staffers, Virgin is reportedly offering $31 for employees to purchase light-colored bras that won't show through the material.

"Our female staff are upset because they feel Sir Richard is cutting corners by asking them to wear flimsy blouses which are skimpy," Manuel Cortes, leader of the Transport Salaried Staffs' Association trade union, told the Evening Standard.

"Female employees who are concerned about the new blouse will be offered a £20 ($31) voucher to buy suitable undergarments," said Andy Cross, Virgin's business support director, on a staff website.

N.H. city takes on parking Robin Hoods

Real-life Robin Hoods are being hunted — not by the Sheriff of Nottingham, but by the city of Keene, N.H.

The group, which refers to itself as Robin Hood and the Merry Men and Women, patrols the streets of Keene and feeds people's parking meters before a ticket can be issued by parking enforcement officers. Once the meter is paid, the group reportedly slips a card under the windshield wipers saying, "Your meter expired; however, we saved you from the king's tariffs."

The city of Keene sued the group of six people in May.

In the suit, the city alleges that since December, the six Robin Hooders have "regularly, repeatedly and intentionally taunted, interfered with, harassed and intimidated the (three parking enforcement officers) in the performance of their employment duties by following, surrounding, touching or nearly touching, and otherwise taunting and harassing ... and video recording the (parking enforcement officers) at close proximity as they perform their duties."

The group reportedly responded that it has prevented approximately 4,000 violations from being issued.

DR. PHIL SAYS GAWKER STOLE HIS MANTI TE'O SCOOP

AP PHOTO

Manti Te´o had claimed he fell in love with Lennay Kekua, despite having never met her in person. It turned out to be a widely publicized online hoax.

TV psychologist Phil McGraw gives advice on relationships, but his own relationship with a media firm could use some fixing. "Dr. Phil" has filed a copyright infringement lawsuit against New York-based Gawker Media L.L.C. claiming its Deadspin website inappropriately ran his scoop interview with the man who says he fooled Heisman Trophy runner-up Manti Te'o into thinking he was his fake dead girlfriend, Lennay Kekua.

The suit was filed by Mr. McGraw's Wichita Falls, Texas-based firm Peteski Productions Inc. in federal district court in Texarkana, Texas.

The lawsuit says Deadspin copied two episodes of the "Dr. Phil Show" that aired on Jan. 31 and Feb. 1 that contained an exclusive interview with Ronaiah Tuiasosopo, who had perpetrated the hoax on the Notre Dame football star. It says the second show was aired on the Deadspin website before the original interview was seen by 98% of Mr. McGraw's television viewers.

"Gawker deliberately set out to 'get the jump' on the rest of the country and 'scoop' Dr. Phil with his own content. They did not earn that right, they stole it," according to the lawsuit, which seeks unspecified damages.

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

Lunch-hour parties ticket to wellness

With so many health-conscious employers focused on motivating their employees to get more exercise during the workday, the recent rise in popularity of lunch-hour dance parties may be perfectly timed.

Since last summer, a handful of event promotion companies in New York have been organizing midday dance parties in nightclubs and concert venues around the city, according to a New York Times report.

The events are intended to provide the city's working stiffs a way to break free from their desks for a short while and exert some energy. While drinks are served — the events are often sponsored by liquor companies such as Absolut Vodka — quantities are typically limited to one serving, according to the Times' report.

Though generally open to the public, attendees are often discouraged from using the dance parties as networking events.

"Networking is fine, I'm a big networker myself, but it's work," Sascha Lewis, the co-founder of an online cultural events calendar that began hosting its "Lunch Break" series in 2012, said in an interview with the Times. "Let's just call this what it is: a fun, daytime party for people to enjoy themselves for an hour."

Buffett gives kids investment gems

Apparently, it really is never too early to start thinking about investing. Fresh off of his introduction to millions of Twitter users earlier this month, Berkshire Hathaway Inc. Chairman and CEO Warren Buffett is taking his economics and investment know-how to yet another previously unengaged audience: small children, according to a Reuters report.

"My First Berkshire ABC," written by Nancy Rips and illustrated by Tom Kerr, is an alphabetized children's guide to some of Mr. Buffett's core business strategies and high-profile investments, including Dairy Queen, Geico, Wells Fargo & Co. and The Coca-Cola Co.

"Part of what Warren talks about is investing in things that you know," Mr. Kerr told Reuters. "Virtually everything in here is something that somebody can relate to and touch and understand."

The book sold more than 1,000 copies at Berkshire's annual shareholders' meeting in Omaha, Neb., this month, Reuters reported.

DON'T MISS YOUR BEST JULY OPPORTUNITIES

Issue: July 1
Ad Closing: June 19

Business Insurance examines how social media has complicated the work of risk managers. Companies face a heightened risk of employee privacy and data breaches, brand reputation threats and property rights questions, along with the risk of data loss from personal mobile devices.

Not all social media use is risky. Brokers in the industry are finding ways to use social media for better connections to clients and prospects.

And the industry is looking at ways to monitor the information from social media to turn a potential liability into an asset.

Issue includes an exclusive data poster on social media.

42nd Annual
BROKER TRENDS AND PROFILES

Issue: July 15, 2013
Ad Closing: July 3

Business Insurance takes its annual look at the trends and innovations coming from the broker community. This issue also contains profiles of the Top 10 Global Brokers, and the multiple annual rankings:

- **Top 10 Global Brokers**
- **Top 100 Brokers of U.S. Business**
- **Top 10 Benefits Brokers and more!**

Also included in this issue:

"A Guide to Benefits Brokers"
A special advertising section to help companies find the benefits broker they need.

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