$5

Business Insurance

May 30, 2011

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In Brief

Brighter outlook for P/C insurers: S&P

Standard & Poor's Corp. raised its outlook on share prices in the property/casualty insurance industry to positive from neutral, saying recent catastrophes will help insurers increase their prices. "We believe the record level of worldwide catastrophe losses experienced year to date, including an estimated $3 billion from tornadoes in Joplin, Mo., will lead to a firming of rates for many lines of coverage," Catherine Seifert, insurance analyst at S&P Equity Research Services, said in a statement.

Wash. lawmakers OK workers comp reforms

Washington state legislators approved a workers compensation reform bill that its backers say will save the state's

See **IN BRIEF** page 21

SPOTLIGHT

MIDDLE-MARKET BENEFIT ADMINISTRATION

Smaller firms move to self-funding employee benefits; midsize companies share experience of self-insurance; more employers invest in wellness efforts.

PAGE 9

PROPERTY/CASUALTY INSURERS

AIG gets closer to independence

Insurer, Treasury sell $9B in shares

By SONJA RYST

NEW YORK—American International Group Inc. took another significant step toward ending its bailout saga with last week's sale of 300 million shares, though full independence for the company remains far off, observers say.

See **AIG** page 20

EMPLOYMENT PRACTICES

Immigration law ruling raises employer fears

Legal patchwork could arise after high court decision

By JUDY GREENWALD

WASHINGTON—A U.S. Supreme Court decision upholding an Arizona immigration law could result in employers facing a patchwork of onerous anti-immigration laws unless Congress decides to take action, attorneys say.

Furthermore, the court's 5-3 decision last week in *Chamber of Commerce of the United States of America et al. vs. Michael B. Whiting et al.* gives implicit approval to a sometimes unreliable federal immigration verification system, which also can cause problems for employers, observers say.

In its ruling, the high court upheld lower court rulings that found that Arizona's 2007 Legal Arizona Workers Act is not pre-empted by federal law.

Under the Arizona law, employers that violate the law a second time by knowingly hiring an illegal immigrant can lose their business license.

The Arizona law requires that after hiring an employee, all Arizona employers must verify their employment eligibility using E-Verify, according to the ruling.

Congress established E-Verify, an Internet-based system under which an employer can verify an employee's work authorization status, in the 1996 Illegal Immigration Reform and Immigrant Responsibility Act.

In ruling on the Arizona law, the high court said the 1986 Immigration Reform and Control Act expressly pre-empts "any state or local law imposing civil or criminal sanctions (other than through licensing and similar

See **IMMIGRANT** page 21

RETIREMENT BENEFITS

New policy allows firm to transfer pension risk

More employers expected to follow manufacturer's lead

By JERRY GEISEL

HICKORY, N.C.—More employers are likely to follow a North Carolina manufacturer's lead in using an innovative product to transfer pension plan risk to a third party but still offer the plan to its employees, experts say.

Prudential Retirement, a unit of Newark, N.J.-based Prudential Financial Inc., announced last week that Hickory Springs Manufacturing Co. had purchased Prudential's "portfolio protected" buy-in policy. That effectively transferred to Prudential the liability for about $75 million in pension benefits earned by about 1,000 retirees in the plan offered by the diverse Hickory, N.C.-based company.

$75M

Amount paid by Hickory Springs Manufacturing Co. for Prudential's "portfolio protected" buy-in policy.

Under the arrangement, Hickory Springs transferred just less than $75 million from its pension plan to Prudential Insurance Co. of America, which holds the assets in a separate account. Under pension rules, the value of the account is counted as an asset in Hickory

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NEWSPAPER

Business Insurance

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video

VIEWS FROM 2011 RIMS: *Business Insurance* talks with insurance brokers and insurers about the effect on the market of recent earthquakes in Japan and New Zealand, flooding in Australia, tornadoes in the U.S. and other natural catastrophes. *www.BusinessInsurance.com/video.*

MOST POPULAR STORIES
Week of May 23, 2011

1. Sales agents weren't snorting drugs in photos: Munich Re's ERGO
2. Panel advances bill to eliminate Illinois' workers comp system
3. Tornado devastates Joplin, Mo., 116 dead
4. Video: Tornado devastation in Joplin, Mo.
5. AIG readies share sale, clarifies Chartis comments to investors
6. Firm buys Prudential policy to hedge pension risks
7. In pictures: Tornado damage at Joplin, Mo., hospital
8. Insured losses in Joplin tornado could reach $3B: EQECAT
9. Firing of tweeting newspaper reporter upheld by NLRB
10. Standard & Poor's sees brighter outlook for P/C insurers

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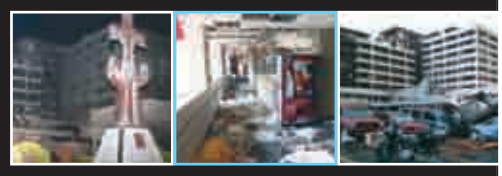

VIEW PHOTOS of St. John's Regional Medical Center in Joplin, Mo., to see the destructive power of the EF5 tornado that struck the city on May 22 at *www.BusinessInsurance.com/photos.* Photos courtesy of Sisters of Mercy Health System.

NOW ON DEMAND: How to manage social media risks. *www.BusinessInsurance.com/webcasts.*

READ: Comp Time, the award-winning workers compensation blog by Senior Editor Roberto Ceniceros.

DIRECTORY: *BI*'s Directory of Risk Management Consultants is updated for 2011. Available in the Research Center.

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Aon Risk Solutions

Challenge or *opportunity?*

Business leaders across the globe identified economic risk as the greatest threat faced today, and emphasized the need to innovate, mitigate technology failure and manage talent to compete in the future, according to the findings of Aon's 2011 Global Risk Management Survey.

Looking beyond the Top 10 Risks, "out of sight, out of mind" appears to be the mentality. Counterparty credit risk at #32? Terrorism risk at #45? Organizations must assess all viable risk events in order to be prepared for the next Black Swan before it strikes.

How does your organization compare? Check out the Top 10 Risks by industry and register for your copy of Aon's Global Risk Management Survey report at **aon.com/globalrisksurvey**

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CATASTROPHES

Missouri tornado may cost $3 billion

Deadly twisters continue to strike in several states

By MATT DUNNING

JOPLIN, Mo.—As the search for survivors in tornado-ravaged Joplin, Mo., continued into the weekend, estimates said insured losses could be the highest resulting from a single tornado in U.S. history.

As of late Friday, more than 130 people were confirmed dead as a result of the EF5 tornado that struck May 22 with winds above 200 mph. Another 156 still were missing.

The storm flattened roughly 2,000 homes, businesses, schools and churches, as much as one-third of the city. Catastrophe modeler EQECAT Inc. estimated insured losses from the storm could be as high as $3 billion, which the Oakland, Calif., firm said in a statement would make it the costliest single tornado in recorded U.S. history.

$3B

EQECAT's estimate of insured losses resulting from the storm, which would make it the costliest single tornado in recorded U.S. history.

Other catastrophe modelers, Missouri state officials and insurers said last week that it was too early to know total losses resulting from the tornado.

The state's largest property insurer, Madison, Wis.-based American Family Mutual Insurance Co., estimated that it had received nearly 1,500 claims—including 103 for commercial properties—in three days after the Joplin storm.

Bloomington, Ill.-based State Farm Mutual Automobile Insurance Co. said it had received more than 2,800 damage claims, 600 of which were for destroyed homes.

Joplin's Chamber of Commerce estimated that some 300 businesses were hit by the tornado, which destroyed an area 6 miles long and three-quarters of a mile wide.

"Given the catastrophic damage and scope of the impacted area, all indications suggest that this was a multibillion-dollar event and possibly the costliest tornado ever recorded," said Steve Bowen, a senior meteorologist with Chicago-based Impact Forecasting L.L.C., the catastrophe modeler for Aon Benfield Inc.

That is in addition to a series of April tornadoes that hit the U.S. South and Midwest, which modelers estimated resulted in insured losses ranging from $3.5 billion to $6 billion.

After the Joplin disaster, more than a dozen other people died last week when tornadoes struck in Kansas, Arkansas and Oklahoma.

"It's starting to feel like death by a thousand cuts," said Duncan Ellis, U.S. property/casualty practice leader for the New York-based Marsh & McLennan Cos. Inc. brokerage Marsh USA Inc.

It is difficult to forecast exactly how much of an impact this year's historic run of deadly tornadoes and storms will make on the property/casualty market in the longer term, but some sort of impact is almost certain, he said.

"We were already starting to see rates hardening," Mr. Ellis said. "I have to think this will add to that effect."

Among badly damaged buildings in Joplin was St. John's Regional Medical Center, where the more than 200 mph winds tore off the hospital's roof, shattered nearly all the windows and wrecked much of the interior. Five

See **TORNADO** page 18

AP PHOTO

Eleven residents of the Greenbriar nursing home were killed and the facility was destroyed earlier this month by a tornado that swept through Joplin, Mo., packing winds in excess of 200 mph.

CYBER RISKS

Ms. Riechert

Mr. Brill

BI webcast examines social media pitfalls

Worried about social media risks arising from workplace use of Twitter and Facebook? Having a solid social media usage policy for employees is vital to minimizing the exposures, experts say.

In crafting such a policy, employers need to consider legal issues, potential risk exposures and corporate culture, Melinda S. Riechert, a partner at Morgan Lewis & Bockius L.L.P., said during a *Business Insurance* webcast last week titled "Friends and Foes: Social Media Risk Management Best Practices." The webcast offered several real-world scenarios in which social media activity can create exposures for employers, as well as practical tips for crafting social media usage policies to avoid problems. For instance, what if a manager puts a racist joke on his Facebook page and a subordinate sees the joke and reports it to human resources? Can the company terminate the manager?

And once a policy is in place, "my strong recommendation is that you find some way to get this policy to the employees, and even better, get them to sign some kind of acknowledgement that they received it," Ms. Riechert said, adding that there are tools available for monitoring employee adherence to the policy.

To support a comprehensive social media policy, Alan S. Brill, senior managing director for technology services at Kroll OnTrack Inc., emphasized that organizing a crisis management team and testing plans in advance can greatly lessen damages.

Before outlining the steps that should be taken after an incident, he stressed that the team should include representation from several departments, including counsel, information technology, human resources, public relations and management. *Business Insurance* Senior Editor Judy Greenwald moderated the webcast.

To view the 75-minute webcast, visit *www.businessinsurance.com/webcasts*.

—By Mallory Gillikin

Twitter ruling provides guide for employers

Reporter's tweets do not constitute protected speech

By MATT DUNNING

WASHINGTON—Employers recently got additional clarity on the legality of firing employees over social media activities, when a federal labor board ruled that an Arizona newspaper was justified in firing a reporter over the content of messages he was posting to Twitter.

In September 2010, the Tucson, Ariz.-based Arizona Daily Star fired its crime and public safety reporter for repeatedly publishing what the paper deemed to be "unprofessional and inappropriate tweets" via his account with the microblogging platform Twitter, including references to his position at the paper and links to its website, according to an advisory memo the National Labor Relations Board issued last month.

The board found that the unnamed reporter's termination did not violate a provision of the National Labor Relations Act that protects communications by employees as long as they relate to—or seek to involve other employees in a discussion of—working conditions or employment terms. The NLRB has sided with workers in a few previous cases where social media-related conduct was seen as protected.

According to the NLRB's memo, in January or February 2010, the

See **TWEETS** page 18

CAPTIVES

European captives may need capital boosts

Solvency II to spark reviews by owners of captive viability

By SARAH VEYSEY

Many captive owners likely will rethink the viability of the company-owned insurers once the impact of Solvency II becomes clearer, experts say.

While captives are likely to be treated with the "principle of proportionality" under Solvency II, the risk-based capital regime for insurers and reinsurers in Europe that goes into effect in 2013, they still must comply with reporting and governance requirements. To do so, experts say, many captives may have to increase the amount of capital they hold.

Solvency II will apply to captives with premiums of more than €5 million ($7.1 million) and based in domiciles that fall under the scope of the European Union.

A report published this month by Oldwick, N.J.-based A.M. Best Co. Inc. said many owners will have to inject more capital into their captives under Solvency II.

The report, "Solvency II to Transform the E.U. Captive Industry," said in getting ready for Solvency II, captives should "prepare for a worst-case scenario—no grant of proportionality—and try to mitigate the new regime's effects."

Under the principle of proportionality, regulators will take into account the size and complexity of insurers' businesses when applying capital and governance requirements.

The parents of the approximately 20% of captives that are inactive or little used need to consider whether it is worthwhile to inject more capital into their captives and comply with the various corporate governance requirements of Solvency II, said Carlos Wong-Fupuy, an analyst at Best in London and one of the authors of the report.

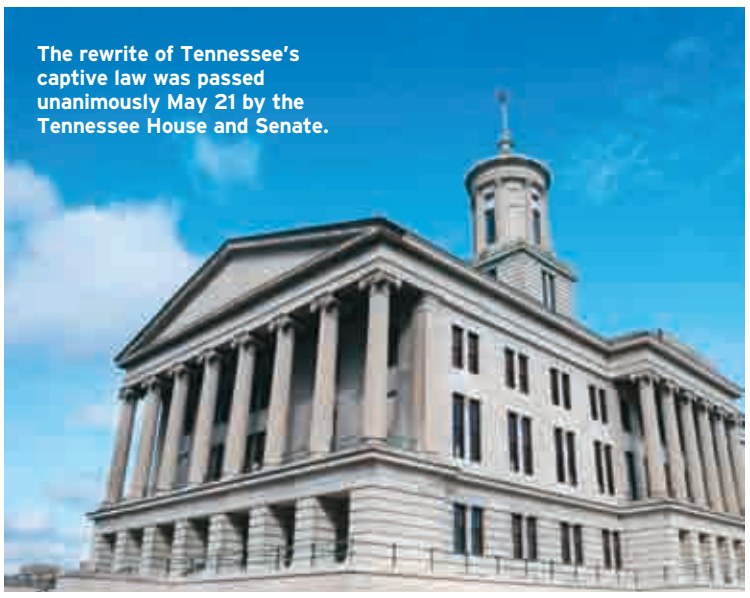
Lawmakers on the European Commission have said it is likely that captives will be treated with "proportionality" under Solvency II. But that proportionality likely will be based on the complexity of risks underwritten within a captive rather than its size, said Mr. Wong-Fupuy.

The "proportionality principle" is not, therefore, likely to be applied in a "blanket" fashion to captives within the European Union, he said.

"We think captives will be assessed individually," with no "generic exemption" for captives

See **SOLVENCY** page 6

CAPTIVES



The rewrite of Tennessee's captive law was passed unanimously May 21 by the Tennessee House and Senate.

Tennessee overhauls law in effort to lure captives

Revisions will allow variety of structures, coverage options

By RODD ZOLKOS

NASHVILLE, Tenn.—A major rewrite of Tennessee's captive law is aimed at reinvigorating the state as a captive insurance domicile, with some provisions expected to be particularly appealing to large Tennessee employers.

The bill passed unanimously May 21 by the Tennessee House and Senate would allow formation of protected cell captives, branch captives and special-purpose financial captives in Tennessee.

KEY POINTS

Provisions included in rewrite

- Captives can provide workers compensation insurance to self-insureds and excess and stop-loss workers comp coverage to non-self-insureds.
- Allows formation of protected cell captives, branch captives and special-purpose financial captives.

H.B. 2007 also would allow captives to provide workers compensation insurance to employers

See **TENNESSEE** page 17

Errors & Omissions

A chart in the May 23 issue, "HDHPs Gain Ground," which contained details on health plan enrollment, incorrectly suggested that the figures referred to the actual percentages of employees enrolled in various health care plan designs. The figures in the chart referred to the percentages of employers reporting which plan design had the highest employee enrollment in 2009 and 2011.

RETIREMENT BENEFITS

Auto enroll drives plan participation

By JERRY GEISEL

Aided by increased employer adoption of automatic enrollment programs, a record percentage of employees are participating in 401(k) and other defined contribution plans.

An Aon Hewitt Inc. analysis released last week found that in 2010, an average of 75.8% of eligible employees participated in their company's defined contribution plans, up from 73.7% in 2009 and 67.2% in 2005.

Aon Hewitt says the increased participation rate is due in large part to increased employer adoption of automatic enrollment programs. Under such programs, employees who don't choose one way or another are automatically enrolled unless they specifically object.

Sixty percent of the 120 employers whose plans were analyzed had an automatic enrollment feature in 2010, up from 24% in 2006. In 2006, Congress passed legislation removing certain roadblocks that discouraged employers from offering automatic enrollment, while later Labor Department rules gave employers offering automatic enrollment programs protection from fiduciary liability if they met certain requirements.

Among employees subject to automatic enrollment, 85.3% participated in the plan, about 18 percentage points higher than those not subject to automatic enrollment. Typically, employers only offer automatic enrollment to new employees.

While participation in defined contribution plans is rising, employee contributions are not. In 2010, employee pretax contributions averaged 7.3% of pay, unchanged from 2009 and down from an average of 7.7% in 2007.

Aon Hewitt says the growth in automatic enrollment programs may adversely affect the average employee contribution rate. That's because contribution rates for employees subject to automatic enrollment averaged 6.8% of pay, compared with an average contribution rate of 7.8% for those who actively enrolled. The reason for the big contribution difference rate between the two groups is that most employers with automatic enrollment programs set the default contribution rate at 4% of pay or less.

In addition, just under 30% of defined contribution plan participants don't contribute enough to receive a matching employer contribution, the analysis found.

MERGERS & ACQUISITIONS

TPA deals limit employers' choices

By ROBERTO CENICEROS

MANDEVILLE, La.—Avizent's purchase last week of F.A. Richard & Associates Inc. shows that consolidation among independent third-party administrators is continuing and narrowing employers' choices—particularly for employers with nationwide operations, sources said.

Dublin, Ohio-based TPA and risk management services provider Avizent, the marketing name of Frank Gates Service Co./Attenta, did not disclose terms of its purchase of Mandeville, La.-based FARA, which also provides several property/casualty services including workers compensation claims administration and managed-care products.

$135M

The combined entity of Avizent and F.A. Richard & Associates Inc. is expected to produce $135 million in revenue in 2011.

The combined entity is expected to produce $135 million in revenue in 2011, said Thomas W. Watson, Avizent's president and CEO. About 50% of that revenue should flow from "pure" claims management services for various property/casualty lines with approximately three-quarters of that coming from workers comp business.

Avizent, which has 40 offices, and FARA target primarily middle-market accounts, although Avizent also manages claims for "some of the largest companies in the U.S.," Mr. Watson said.

FARA, with 19 U.S. offices, also has large risk management accounts, said Joe Picone, chief claims officer of Willis North America's strategic outcomes practice in Glen Allen, Va.

Last week's deal is smaller than the December $278 million

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Kelly Ravanis is Vice President and Corporate Segment Leader for ACE in Boston. She and her team focus on providing innovative insurance solutions for their clients in the Northeast. Kelly is one of 16,000 ACE employees worldwide who take on the responsibility of risk so our clients can take on the responsibility of making things happen. We call this *insuring progress*. As we celebrate our 25th anniversary, we invite you to find out how our people can work for you. Visit us at acegroup.com

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Solvency: Some European captives may need capital

CONTINUED FROM PAGE 4

from Solvency II rules, he said.

According to research by the international captive practice of brokerage Willis Group Holdings P.L.C., under the fifth quantitative impact study into Solvency II's effects, the minimum regulatory capital requirement for captives would increase an average of five times vs. current minimums.

The results of QIS 5 were published by the Frankfurt, Germany-based European Insurance and Occupational Pensions Authority in March.

Willis has been working with captive owner clients on the structure and strategy of their captives as well as the benefits those captives deliver to the parent companies, representatives of Willis' captive practice said in an emailed response.

Some already have taken steps, such as buying more reinsurance or increasing reserves, to be ready for Solvency II's requirements, they said.

Most captives within the European Union likely will be able and willing to inject more capital if necessary under Solvency II, said James Mounty, head of structured risk at brokerage Miller Insurance Services Ltd. in London.

Federation of European Risk Management Assns.

But he said that the reporting requirements under Solvency II are an area of concern for captive owners.

He said that FERMA, in conjunction with the European Captive Insurance & Reinsurance Owners' Assn, are lobbying regulators to limit the amount of information that captives will have to make public, among other issues.

> 'As with any regulatory change, captive owners will have to look again and see whether their captives are still viable.'
>
> Bryan Joseph, PricewaterhouseCoopers L.L.P.

He explained that since most captives do not write insurance for the general public, they should not be required to disclose as much information as traditional insurance companies writing third-party business.

For many smaller captives, the Solvency II compliance requirements may prove onerous, Mr. Mounty said.

While the principle of proportionality will be applied to captives, "the level of that proportionality is in question," he said.

While proportionality may result in capital requirements that are less onerous for captives than traditional insurance and reinsurance companies, the reporting requirements that Solvency II will bring will increase the regulatory burden on many captives, said Bryan Joseph, global actuarial leader at PricewaterhouseCoopers L.L.P. in London.

While Omnibus II, the proposed directive that would phase in certain Solvency II requirements, may provide some relief and give captives more time to comply with certain elements of Solvency II, it will not remove the reporting and disclosure requirements, he added.

"As with any regulatory change, captive owners will have to look again and see whether their captives are still viable," said Mr. Joseph.

There are several steps that captive owners can take to mitigate the effect that Solvency II will have on their capital requirements, such as buying more reinsurance, he added.

Still, there is unlikely to be a significant movement of captives away from domiciles within the European Union in the short term because of fears over the upcoming Solvency II rules, said Mr. Wong-Fupuy.

Furthermore, he said, even if domiciles outside the European Union choose not to adopt Solvency II or equivalent rules, there is likely to be a greater shift toward risk-based capital regulation around the world.

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Commentary

Good business moves can offer added value

RODD ZOLKOS

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

If you're involved or simply interested in the captive insurance industry, you're probably well aware of an article that appeared a few weeks back in a certain national newspaper of record.

The article caused a bit of a stir, starting with its headline: "Seeking Business, States Loosen Insurance Rules."

From there it detailed how states are "aggressively" positioning themselves to allow companies to avoid the time and expense of going offshore to set up captives, instead affording them the opportunity to "conduct Bermuda-style financial wizardry" in the comfort of the U.S. of A.

In particular, the article singled out some special-purpose financial captives, a structure traditional insurers often use as a vehicle for freeing up capital.

It's been my good fortune to cover captives since nearly my first day here at *Business Insurance*. I've enjoyed witnessing the creativity, the problem-solving and the commitment to the captive industry often displayed by the risk managers, regulators, captive managers and others involved in the captive sector.

I've seen that commitment often manifest itself in a desire to advance the overall state of the captive insurance art, with risk managers helping educate peers on captive use while captive regulators willingly work with counterparts in "competing" domiciles to promote the best possible regulation and reduce the likelihood of captive company failures.

I recall one of my first experiences covering a business story. It wasn't the sort of story I particularly wanted to write at the time, a fact evidently reflected in my product.

The result was a chat with an editor who counseled me that none of us came into journalism concerned about the well-being of poor downtrodden old General Motors. (This was, of course, at a time when "All the President's Men" was still a recruiting film for journalism schools. After the events of the past couple of years, such concern for GM might be more commonplace.)

Ultimately, our discussion led me to realize that rather than responding to a business assignment by recoiling from having to write about "the Man" (again, I was much younger), it was important to recognize the role business plays in the world at large and our community in particular, and not to blind myself to the occasional possibility that a good business story could also involve something that's in the common interest.

In light of all this, I've found our annual Risk Manager of the Year issue this month an even more interesting read than usual. Because, you see, a common element running through the profiles of Risk Manager of the Year Lisa L. Havens and Risk Management Honor Roll members Francoise Carli, Daniel Desjardins, Michael Lusk and Laurie Solomon was their innovative use of their companies' captives.

> Beyond their roles in creating stronger, better businesses, there occasionally are other ways captives serve the common good.

Sure their captives have allowed them to get better control of risks and finance exposures more efficiently. But their captive success also has allowed them to devote money saved to patient care, create a crop insurance program for South American soybean growers or to reinsure group annuity products for pension plans.

Of course these captives exist to advance business goals, not as philanthropic organizations. But even beyond their roles in creating stronger, better businesses, there occasionally are other ways they serve the common good.

Sometimes, it is possible to do good by doing well, at least from what I've seen of the captive industry.

Where there's a risk

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Business Insurance OPINIONS

Immigration ruling adds more burdens

LAST WEEK'S U.S. Supreme Court decision upholding Arizona's 2007 Legal Arizona Workers Act will likely cause significant problems for many employers.

The court held that the law, under which businesses could lose their licenses for repeatedly hiring illegal immigrants, is not preempted by federal law.

Under the 1986 Immigration Reform and Control Act, states cannot impose civil or criminal sanctions on those who hire unauthorized immigrants. But a "savings clause" excepts "licensing and similar laws," and this is the justification the majority cited as the basis for its decision.

All employers can do is make their best effort.

What this means is that states are free to enact their own laws imposing sanctions for employers who hire illegal immigrants. In fact, several already have and last week's ruling will encourage more to do so.

That leaves multistate employers with a daunting compliance task.

Another complicating factor is the Supreme Court's implied blessing of E-Verify, a federal Internet program under which employers verify individuals' employment eligibility. But, as experts note, the information it provides is not always reliable, which causes problems for employers and employees.

Furthermore, as the U.S. Chamber of Commerce and Justice Stephen Breyer in his dissenting opinion stated, employers worried about violating state law are likely to err on the side of discrimination rather than risk incurring the "business death penalty."

Unless Congress comes up with a uniform federal law, all employers can do is make their best effort to follow individual state laws while being cognizant of the dangers of discrimination.

Clear communication vital for plan changes

THE U.S. SUPREME COURT decision on CIGNA Corp.'s conversion of its traditional final average pay pension plan to a cash balance plan and how that conversion was communicated is important for several reasons.

The most important point is that participants who want damages as a result of misleading summary plan descriptions must prove that they suffered actual harm, rather than, as the trial judge ruled, "likely harm," a fuzzy standard that strikes us as difficult to prove or disprove and one that would lead only to more litigation.

Also rejected was a suggestion by the U.S. solicitor general that summary plan descriptions can be enforced as the terms of a plan. If that were the case, Justice Stephen Breyer wrote in the 8-0 ruling, summary plan descriptions would be rewritten in dense legal language. With that, their function—providing employees clear, concise information about benefit plans to employees—would be lost.

Surely just as important as the decision itself is a message about benefit communications that this case delivers to all employers.

Employees sued CIGNA, charging that the summary plan descriptions about the late 1990s plan conversion did not explain that the new plan was in some ways less generous than the prior plan.

It probably is human nature to want to put a positive spin whenever there is change. Employees deserve to know in the clearest ways possible the positive and negative aspects of benefit plan changes.

That is a challenge that employers—for their own interest and the interest of their employees—must strive to meet.

WRITE

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THIS WEEK'S RESULTS

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YES 88%

NO 12%

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Q: Have you ever been asked to sign a policy on use of social media at work?

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Specialty drugs require attention

Employers' cost for specialty pharmaceuticals is rising due to new drugs and an aging workforce, but they don't work for some patients, says Matthew Zubiller of McKesson Health Solutions. Tests can determine which patients should take certain drugs, but the challenge is making sure that the tests are done. In this Perspective, Mr. Zubiller provides questions that employers can ask their health plan providers to make sure medications are prescribed only for patients who will benefit from them.

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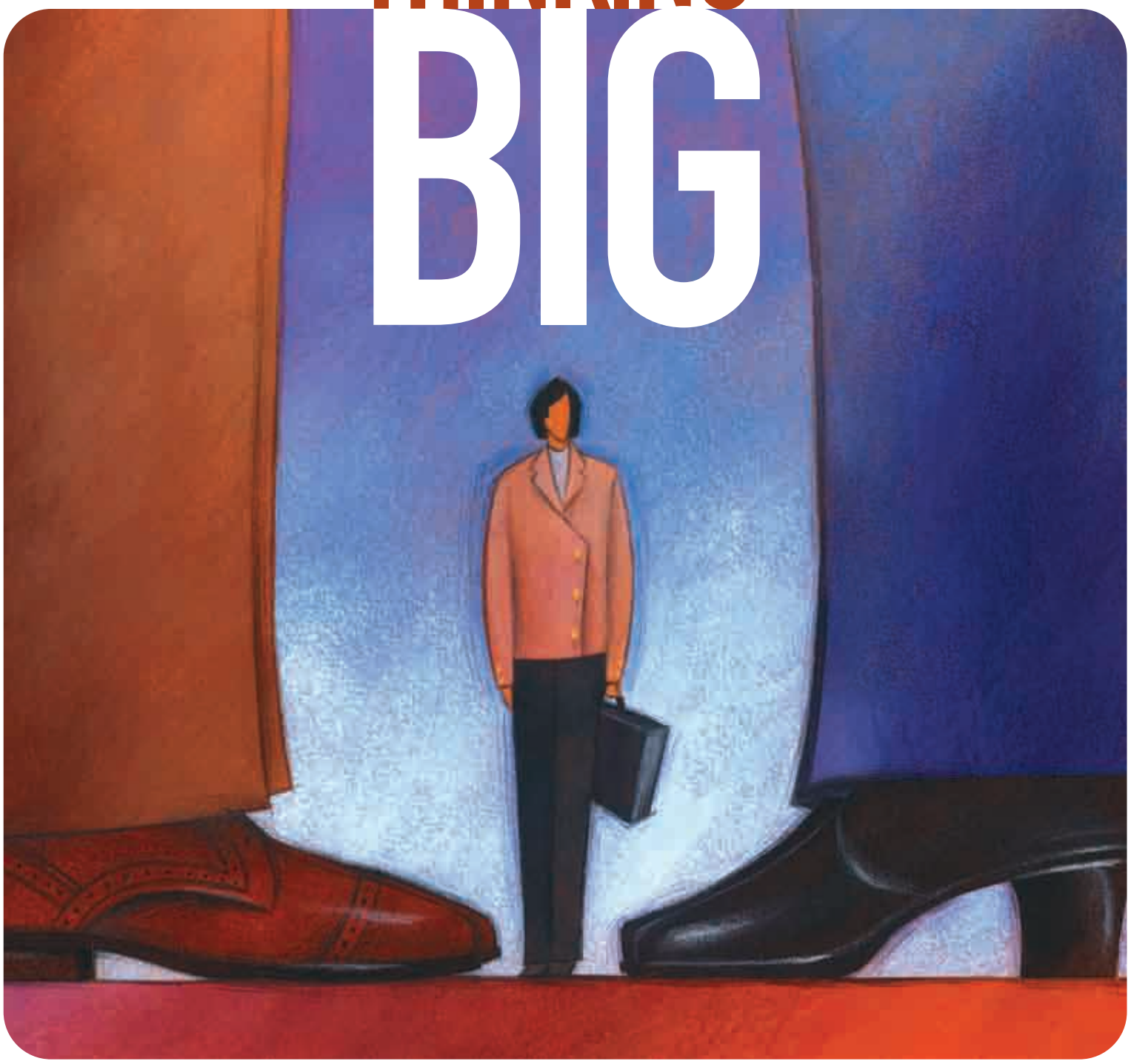

Smaller firms try self-funding benefits

Annual premium hikes push some companies to seek alternatives

By JOANNE WOJCIK

Once reserved primarily for large employers, self-funding benefits is gaining popularity among small and midsize firms that have become frustrated by years of premium hikes in the insured market that have increased costs by double digits.

By self-funding employees' health care expenses, employers save money by avoiding payment of state insurance premium taxes and becoming exempt from costly state mandates. They also have greater flexibility in plan design and have ready access to claims data so they can make informed decisions about where to direct cost-containment efforts.

But self-funding also can expose employers to catastrophic claims, and requires compliance with the Employee Retirement Income Security Act.

Employers can tap stop-loss insurance, a form of reinsurance that caps liability for large claims, to help reduce this risk. And brokers and consultants that traditionally catered to mostly large employers are more willing to entertain the needs of smaller and middle-market clients as they move to self-funding, a switch that many group insurance experts expect will accelerate with implementation of federal health care reform.

As insurers separate commissions from premiums to meet new minimum medical loss ratio requirements set by the Patient Protection and Affordable Care Act, brokers are being forced to switch to fee-based compensation. To justify their pay, many brokers are offering self-funded alternatives.

"We can sell it as a better way to control costs and be more conscientious of

See **SELF-FUNDING** next page

'We can sell it as a better way to control costs and be more conscientious of wellness.'

Paul Shaheen, Horton Group

Middle-Market Benefit Administration

SPOTLIGHT

MID-SIZE FIRMS SHARE EXPERIENCE OF SELF-INSURANCE
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MORE EMPLOYERS MAKE INVESTMENT IN WELLNESS
PAGE 11

Self-funding: Smaller firms looking for alternatives to avoid annual rate hikes

CONTINUED FROM PREVIOUS PAGE

wellness. At the same time, the client is looking for more transparency and control," said Paul Shaheen, vp at Chicago-based Horton Group, where about half of its employer clients with 150 or fewer employees self-insure.

While 82.1% of employers with 500 or more employees self-insure their health benefits, just 25.7% of firms with 100 to 499 employees do so, and only 13.5% of those with fewer than 100 employees self-fund, the U.S. Department of Health and Human Services said in a recent report to Congress.

But the percentage of smaller and midsize self-insured employers could grow if attractively priced stop-loss coverage at lower attachment points were to become widely available, the report said.

Stop-loss usage rising

That already is occurring, according to a recent survey by Wilton, Conn.-based D.W. Van Dyke & Co. Inc. showing a more than 10% jump in the sales of stop-loss coverage this year over last year. It was the largest increase in medical stop-loss purchases since DWVD & Co. began tracking them in 2002.

"There is no question we are seeing clear signs that self-funding is currently in a growth mode and has been for the past year," DWVD & Co. President Chris Koehler said in a statement.

Brokers, consultants and third-party administrators across the country say they are fielding more calls from employers nationwide—some with as few as 50 employees—that are interested in benefits self-funding.

"At this point in time, health reform is the biggest driver of the growth of the self-insurance market," said Marie Harshbarger, U.S. midmarket segment leader at Aon Hewitt Inc. in Chicago. "Before, it was just negotiating their renewals and tweaking the plans or cost-sharing. Now it's expanding beyond that. Employers are looking at their options."

Self-funding benefits "is rapidly expanding. It's been one of our fastest-growing products," said Christopher DeRosa, Irvine, Calif.-based regional vp at CIGNA Corp., which offers programs tailored to small and midsize employers.

"We're adding about 10 employers a month in the 200-and-under group life market," said Marty Joseph, president of Benefit Administrative Systems L.L.C., a Homewood, Ill.-based TPA. "Employers are frustrated with the rate increases from carriers on the fully insured side."

"There's never been a more active period in recent history driving interest in self-funding" than the past six months, said Mike Ferguson, chief operating officer of the Self-Insurance Institute of America Inc. in Greenville, S.C. Most of SIIA's employer membership is middle-market companies with 200 to 1,000 employees, he said.

Even small and midsize employers in California, where fully insured health maintenance organizations have controlled the market for decades, are showing interest in benefits self-funding, according to HealthLeaders-InterStudy's recent California Health Plan Analysis.

With HMO premiums rising, "a lot more small and middle-market employers are kicking the tires on self-insurance," said the study's author, Chris Lewis, senior market analyst at HealthLeaders-Interstudy based in Nashville, Tenn.

> **'Self-funding gives employers a chance to look at a unit of health care and figure out how they're going to pay for it. They're in the driver's seat.'**
>
> Michael Reid, twentytwenty Insurance Services Inc.

Transparency

Michael Reid, director of operations and client services at twentytwenty Insurance Services Inc. in Lakewood, Calif., said he is seeing interest in self-funding among employers with as few as 100 employees.

"Employers have grown really exhausted by the annual increases they've been experiencing (for fully insured health benefits). They're at the point of maybe taking on more risk by self-funding. When I talk to them about it, I compare it to buying a home rather than renting. The return is greater transparency. Self-funding gives employers a chance to look at a unit of health care and figure out how they're going to pay for it. They're in the driver's seat," Mr. Reid said.

The availability of stop-loss coverage to shield employers from potentially devastating claims makes the switch to self-funding more palatable for even the most risk-averse small and midsize employers, according to self-funding experts.

"Though risk tolerance levels vary, most employers that are self-insured, until they get large enough to absorb random large claims, typically buy stop-loss," said Philip Curran, managing director of Craford Benefit Consultants in Charlotte, N.C.

In today's stop-loss market, employers can find coverage with attachment points as low as $10,000, said Dennis Donahue, managing director of Wells Fargo Insurance Services USA Inc. in Chicago. The industry rule of thumb is to buy specific stop-loss coverage that kicks in at approximately 10% of an employer's annual health care expenditures, he said.

Even though the elimination of annual and lifetime coverage limits under PPACA has increased stop-loss premiums by about 1% to 2%, the cost of such a backstop is relatively affordable, self-funding experts report.

"Health reform is affecting pricing, but not as much as many think," said Diane Wells, vp of stop-loss at OptumHealth Financial Services in Golden Valley, Minn., a subsidiary of UnitedHealth Group Inc. OptumHealth provides stop-loss coverage with attachment points as low as $20,000 to the self-funded employer market.

Historically, one obstacle that small and midsize employers have faced in obtaining medical stop-loss coverage is providing insurers with sufficient prior claims experience, something their fully insured carriers have been reluctant to share.

"Very few carriers will let loose of that information," said Philip Kurtz, president of Benefit Informatics Inc. in Tulsa, Okla.

Fortunately, the availability of health risk assessments and biometric screenings are enabling small and midsize employers to secure stop-loss coverage much more easily, according to self-funding experts.

In fact, some stop-loss insurers are insisting that employers require plan members to complete such medical questionnaires prior to locking in the final premium rates.

"Sometimes, individual health profiles are necessary to give stop-loss carriers sufficient data" to underwrite an employer's program, said Karen Vines, vp in charge of the Wichita, Kan.-based benefits operation of broker IMA Financial Group Inc.

"You can see the logic here. If you have a workforce that is at risk for any chronic conditions, (health risk assessments) and biometric screenings provide valuable insight," said George Pantos, executive director of the Healthcare Performance Management Institute in Bethesda, Md.

Mid-sized employers report cost cuts after moving to self-insurance

Meritrust Credit Union decided to move to a self-funded plan for its 128 employees after failing to see results of its company wellness program reflected in its fully insured health plan premiums.

"We have a very progressive wellness program here, and our old plan was holding us back," said Byron Stout, vp of human resources at the Wichita, Kan.-based financial services firm. "It was time to marry the two together and not only control expenses, but get the data to forecast and provide benefits that better meet the needs of our employees and their families. We now feel we control our own destiny."

Enactment of federal health care reform also played a role in Meritrust's decision.

"With the true unknown impact of health care reform act upon us, we felt strongly the best way to meet that challenge was to unbundle ourselves from the fully funded wagon and position our plan with the most flexibility possible," Mr. Stout said.

> **-30%**
>
> Even after losing its grandfathered status, buying stop-loss coverage with a $50,000 attachment point and meeting the reform law's benefit requirements, Meritrust is spending 30% less this year than it did on its fully insured plan last year.

Even after losing its grandfathered status, buying stop-loss coverage with a $50,000 attachment point and meeting the reform law's benefit requirements, Meritrust is spending 30% less this year than it did on its fully insured plan last year.

While "it can be scary making the leap" to self-insurance, Meritrust's experience demonstrates that "the water is great on the other side," Mr. Stout said.

When Houston-based Crescent Directional Drilling L.P. made the jump to self-funding four years ago, initially it "was a wash" in terms of plan costs, but at least it stopped rate increases of 15% to 20% annually, said Tad Roane, chief financial officer.

The company also taps stop-loss coverage with an attachment point of $85,000.

This year, the firm switched third-party administrators to Cincinnati-based United Medical Resources Inc., which gives plan members access to UnitedHealth Group Inc.'s provider network. The move will provide the drilling firm with approximately $350,000 in savings through greater discounts, a move the company could not have made when it was fully insured.

The drilling firm also is counting on UMR's wellness outreach to reduce costs further by engaging more of its 350 employees.

"Only 15% to 20% of our employees took advantage of our wellness program" previously, Mr. Roane said. "The employee culture is very anti-doctor. It's difficult to get them to go in for checkups."

—By Joanne Wojcik

66%

A survey of more than 450 companies found that 66% of companies with "strong leadership and cultural support" for a wellness program reported improvements in health risks from 2009 to 2010, compared with just 26% of companies with little or no senior-level participation in the program.

How to make wellness plans pay

Participation from execs, rewards help generate return on investment

By MATT DUNNING

As employee health care costs rise every year, more midsize companies are turning to wellness programs to try to limit those increases.

Data from Buck Consultants L.L.C. indicates that interest in corporate wellness programs has risen steadily in the past four years. In 2007, just 49% of companies surveyed had some form of wellness program. Last year, 66% had a wellness program in place, said Barry Hall, principal of clinical health consulting for the Secaucus, N.J.-based firm.

Whether an employer's aim is to shrink health care renewal rates, boost productivity, reduce absenteeism, engender a sense of community or all of the above, wellness providers and consultants warn that simply having a program in place does not guarantee success.

A clear picture of employee health risks and program components best suited to address them, as well as maximized accessibility and flexibility of those components, are some of the elements necessary to realize a significant return on an investment in a wellness program, experts say.

Above all, wellness administrators and consultants say, a program's success depends greatly on the patience and diligence of the employer.

"It's a strategy, not a silver bullet," said Gregg Kamas, vp and health risk management practice leader at Denver-based brokerage IMA Financial Group Inc.

One mistake that Mr. Kamas said too many middle-market employers make is pulling the plug on a program before it matures.

Years of steep cost increases in its employee health care plan prompted IMA to switch in 2007 from fully insured to a self-funded, unbundled plan plus a wellness program for its 500 employees. After a year, the company actually saw its renewal rate increase substantially. While the 25% increase in 2007 was more than double its 10.2% rise in health care costs the previous year, Mr. Kamas said much of the increase was driven by unmet needs and untreated conditions that were discovered in the first year of the health risk assessments.

'It's an investment. If all you want to do is reduce costs for this year, that's going to be extremely difficult. You have to have a longer view of it to make it work.'

Gregg Kamas, IMA Financial Group Inc.

In 2008, IMA had just a 4.2% health plan cost increase over 2007, and the company has been able to reduce its costs by more than $600,000 annually every year since, he said.

"It's an investment. If all you want to do is reduce costs for this year, that's going to be extremely difficult," Mr. Kamas said. "You have to have a longer view of it to make it work."

As any savings are tied to employee engagement, senior-level support and participation are vital to a program's success.

A survey of more than 450 companies released in March by the Edina, Minn.-based Health Enhancement Research Organization found that 66% of companies with "strong leadership and cultural support" for a wellness program reported improvements in health risks from 2009 to 2010, compared with just 26% of companies with little or no senior-level participation in the program.

Moreover, companies whose senior leaders not only invest in comprehensive wellness programs but actively participate in them are 10 times as likely as those with little or no support to see "substantial positive impact on their medical plan cost trend," according to the survey.

"You can directly link the senior-level engagement in a program with the results, both from a health standpoint and a cost standpoint," said Jerry Noyce, HERO's president and CEO.

"It's no longer something you do to employees," said Kathie Lingle, director of Scottsdale, Ariz.-based Alliance for Work-Life Progress, a professional association for wellness administrators and consultants. "You have to do it with your employees."

Perhaps the biggest difference between large employers' wellness programs and their middle-market counterparts is the percentage of firms funding their health care coverage internally. Middle-market companies that can self-insure their employees likely will see a greater, more immediate effect on their renewal rates, but fully insured companies also can experience a reduction in premiums, expert say.

Jack Gibson, president of the 55-employee Dallas-based International Risk Management Institute Inc., said the organization's 100% employee engagement rate in its wellness program directly led to a sharp reduction in its health plan renewal rates after just one year in action.

"The underwriter told us that it was because they were impressed that we had 100% participation in the program," Mr. Gibson said. "We had been seeing premium increase in the range of 30% to 40%. After that first year, it dropped down to 12.4%."

Aside from the obvious benefit of becoming healthier, most companies rely on some form of financial incentive or reward to motivate employee participation in wellness programs. How those incentives are structured should vary greatly according to the size and internal culture of the employer, say several wellness providers and consultants.

Mr. Gibson said IRMI offered to pay 15% of an employee's annual health care premium if they participated in a yearly health risk assessment, plus another 10%—or all of the employee's share of the premium—if the worker took up at least one other regular wellness activity.

At the 3,000-employee health care and wellness provider Vitality Group based in Chicago, a much more sophisticated and diverse rewards system was needed to draw the interest of a wider population.

"What we find is that it's critical for employers to have a program that's truly customizable," said Art Carlos, president and CEO of Vitality Group.

To encourage employee participation, Vitality set up a system in which workers accumulated points based on activities in which they participate, including classes, exercise and diet programs. Instead of cash or premium credits, the points are redeemable at an in-house, online marketplace stocked with electronics, vacations and other consumer goods.

Additionally, the company changes the point value of activities based on an individual worker's health risk assessment. In the five years Vitality has run a wellness program, employee participation has hovered around 85%, where the industry average for middle-market employers is closer to 20%, Mr. Carlos said.

"The goal, ultimately, is to create the greatest behavioral change possible," Mr. Carlos said. "A program that is overly generic in any respect, whether it's incentives, activities or education initiatives, will have a very limited level of engagement and, ultimately, a very limited lifespan."

Business Insurance

CASE STUDY

EMPLOYMENT PRACTICES LIABILITY [BEST PRACTICES]

Employers struggle to control wage-and-hour litigation

By JUDY GREENWALD

Wage-and-hour lawsuits are becoming a major concern for employers as more suits are filed, observers say.

The complexity of federal and state laws, the relative ease of winning class action certification and workers laid off as a result of the weak economy have led to more litigation in recent years, observers say.

For example, the Department of Labor said there were 40,000 wage-and-hour complaints during fiscal 2010, up about 15% from the roughly 35,000 complaints in fiscal 2009.

Many claims fall into two major categories: misclassification of workers as exempt, and unpaid overtime, observers say.

However, employers can minimize the chances of litigation by taking steps that include periodic audits to determine whether employees are being properly classified, as well as careful record-keeping.

When employers are sued, experts say settling the case may be the wiser course.

Wage-and-hour litigation is the fastest-growing type of class action, legal experts say.

15%
There were 40,000 wage-and-hour complaints during fiscal 2010, up about 15% from the roughly 35,000 in fiscal 2009.

"If you asked me what was the headache that kept folks up at night five years ago when it comes to workplace-related lawsuits, I'd say employment discrimination lawsuits," said Gerald L. Maatman Jr., a partner with law firm Seyfarth Shaw L.L.P. in Chicago.

"Today, the headache that keeps people awake at night" is wage-and-hour litigation, he said.

"If you're interested in saving money and avoiding the courthouse, I think that's the No. 1 issue right now," Mr. Maatman said. "Every year we think we're at the top of the bell curve, but we haven't reached that yet."

"It's one of the biggest threats to employers from an employment law standpoint," said Brian T. McMillan, a shareholder with Littler Mendelson P.C. in San Jose, Calif. "Plaintiff attorneys have kind of stumbled upon what is now the litigation du jour," which can mean "enormous liability" for employers as well as plaintiffs' ability to recover attorney fees, he said.

Among reasons for the lawsuits' growth is establishing a class action under the Fair Labor Standards Act is relatively easy under the federal rules of civil procedures, said Paul J.

See **SUITS** page 14

Misclassification, overtime lead claims [PAGE 14] | How to avoid getting sued [PAGE 15]
Settlement caps legal costs [PAGE 16] | Labor Department eyes wage-and-hour laws [PAGE 16]

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CASE STUDY

Suits: Firms struggle with litigation

CONTINUED FROM PAGE 12

Siegel, a partner with Jackson Lewis L.L.P. in Melville, N.Y.

The FLSA, which was created in 1938 to protect industrial workers from exploitation, guarantees employees time-and-a-half-pay for hours worked beyond a 40-hour week, unless they are salaried and fall into one of three main exempt categories: professional, executive or administrative.

Observers say even if the time at issue is just a few minutes per worker, a class action can add up to substantial costs for employers when multiplied by thousands of workers.

"While hopefully few people are discriminated against, everybody receives a paycheck, and therefore can be in a group together," Mr. Siegel said.

"Success begets copycats," Mr. Maatman said.

Successful litigation in the early part of this decade has attracted attorneys to the area, Mr. Maatman said. In addition, plaintiffs attorneys realized "it didn't take money to be able to bring these sorts of cases" the way it does to bring large-scale cases alleging discrimination or violation of the Employee Retirement Income Security Act, where plaintiffs must invest in expert testimony and pay for it from their own pocket, he said.

Expert testimony unnecessary

"They can do without an expert" in wage-and-hour suits and "can get a class certified pretty quickly," Mr. Maatman said. "So when a client walks into their office and says, 'This is how I was paid,' they can sue on behalf of that client and anyone else in the common payroll system," he said.

'You have employees who are not working in centralized locations where they can be monitored' and their hours worked tracked easily. Working with email and BlackBerrys 'tend to be outside the traditional norms, which makes it harder for employers to control and record those' specific hours worked.

Michael C. Schmidt, Cozen O'Connor P.C.

Furthermore, unlike discrimination cases that must first be presented to the Equal Employment Opportunity Commission, a plaintiff attorney can see a client on Monday and file suit on Tuesday, said Mr. Maatman. It is a "much, much more user-friendly system for the plaintiffs' system," he said.

The weak economy also has played a role in rising litigation as laid-off workers go after their previous employers, said Lawrence S. McGoldrick, of counsel at Fisher & Phillips L.L.P. in Atlanta.

The complexity of the rules, which vary among the state and federal laws and are easy to inadvertently break, also are a factor, legal observers say.

"There is no turnkey solution that you can just plug in," said Phillip Schreiber, a partner with Holland & Knight L.L.P. in Chicago.

"It's hard to be in full compliance, even for a good employer," Mr. McGoldrick said.

"When you consider whether or not an individual is properly classified as an exempt vs. nonexempt for overtime, it's nothing that they can just look up and get a definitive answer for," Mr. McMillan said. "The decision rests upon a specific case-by-case actual analysis as to what the particular employer does day in and day out, so it's difficult, even as a lawyer, to provide guidance."

The nature of today's jobs also is a factor.

"You have employees who are not working in centralized locations where they can be monitored" and their hours worked tracked easily, said Michael C. Schmidt, a member of law firm Cozen O'Connor P.C. in New York.

Working with email and BlackBerrys "tend to be outside the traditional norms, which makes it harder for employers to control and record those" specific hours worked, he said.

In addition, budget-stretched state and federal governments are targeting independent contractors to make sure the contractors pay their fair share of payroll taxes. They are not just looking to do justice but "also seeking to get back revenue," said Mr. Schmidt.

The Labor Department also has been active on the issue, observers say.

Location matters

The employer's location also makes a difference, legal experts say.

"An employer needs to consider where in the country your facilities are located," said Mr. Siegel. "If you're in California, if you're in Florida or New York City, you're going to see far more" wage-and-hour activity than in other parts of the country. In some cases, it is a reflection of local laws; and in others, of the local bar, Mr. Siegel said.

Many point to California as being particularly difficult for employers.

Mr. McMillan said the state "has just so many specific wage-and-hour rules and regulations that a lot of employers that have all the intent of wanting to comply with the law don't often know about all the specific rules, and therefore it's difficult for them to comply with all the technicalities."

Insurance coverage is not widely available, observers say. According to a December study by Sterling, Mass.-based Betterley Risk Consultants Inc., some insurers offer only defense coverage or defense and settlement insurance, but both often are subject to sublimits.

Most wage-and-hour suits involve job classification, overtime

By JUDY GREENWALD

Misclassifying employees as exempt and not accounting for overtime are two of the most prevalent claims in wage-and-hour litigation, legal observers say.

An issue related to misclassification is the "substantial number of cases" in which the employer is accused of classifying employees as independent contractors, said Paul J. Siegel, a partner with Jackson Lewis L.L.P. in Melville, N.Y.

In addition, "There are a growing number of off-the-clock work cases" in which employees worked hours not reflected on their time sheet, he said.

Such cases can include employees using a BlackBerry or computer at home, or coming in early or staying late without being on the clock, Mr. Siegel said.

Another area of dispute is where a time clock rounds off a worker's start time, such as rounding off a 7:55 a.m. start to 8 a.m., said Marlene S. Muraco, a shareholder with Littler Mendelson P.C. in San Jose, Calif.

A common charge of this type is a "donning and doffing" complaint, the time workers take to put on and remove specialized clothing and equipment.

This issue also can arise when workers need significant time to get to their work station, such as taking a shuttle from a parking lot or walking several minutes to reach the time clock, said Enzo Der Boghassian, a partner with Proskauer Rose L.L.P. in Los Angeles. Another issue is when an on-call employee actually starts work, he said.

Unless there are special circumstances, "the employer can't deduct travel time that is not commuting time and occurs during an employee's regular work hours," such as travel between company headquarters and a worksite, said Daniel L. Kuperstein, an associate with Fox Rothschild L.L.P. in Roseland, N.J.

Wage-and-hour complaints can include missed meals. In California for instance, workers are required to have a 30-minute meal period that generally must be taken before the fifth hour of work, said Brian T. McMillan, a shareholder with Littler Mendelson in San Jose, Calif.

Another area is equipment for those who work outside traditional office settings, said Mr. Der Boghassian. If a laptop, cell phone or other electronic device is essential to the worker's job "and if the employer fails to provide the equipment and/or to pay for the services, it's possible the employee could claim (the employer was) required to shoulder the business expense," he said.

"Commissions tend to be a source of trouble" as well, said Mr. Der Boghassian. "Employers sometimes fail to calculate the commission earnings or take the commission earnings into account when calculating overtime wages," he said.

CASE STUDY

How to avoid suits alleging wage-and-hour violations

By JUDY GREENWALD

Employers should keep good records, periodically audit their employee classification and record-keeping, and practice diligent supervisor training to avoid wage-and-hour lawsuits, observers say.

A recent U.S. Supreme Court decision on arbitration should prove helpful as well.

Employers should keep good records of employees' wages, when they started work, hours they worked and break time, said Daniel L. Kuperstein, an associate with law firm Fox Rothschild L.L.P. in Roseland, N.J.

To avoid misclassification cases, employers should bear in mind that "jobs don't stay static, companies don't stay static," said Gerald L. Maatman Jr., a partner with Seyfarth Shaw L.L.P. in Chicago.

"Consider having a policy that requires employees to notify their supervisors or other members of management when time cards don't accurately reflect whatever records they're keeping," said Brian T. McMillan, a shareholder at Littler Mendelson P.C. in San Jose, Calif.

When employees are working off the clock, employers should be aware that federal and state laws may differ when it come to meal or rest breaks and stay up to date on regulations, Mr. Maatman said.

Companies also should have a complaint or grievance procedure for workers who feel they are not being paid appropriately, he said.

Martha J. Zackin, of counsel at Boston-based Mintz, Levin, Cohn, Ferris, Glovsky & Popeo P.C., said employers should have policies clearly stating that employees' "work-sponsored BlackBerry should be left in the office. They shouldn't check their email" at home and should carefully track the time worked when they are out of the office.

Firms should educate managers about how to keep good time records, said Lawrence S. McGoldrick, of counsel at Fisher & Phillips L.L.P. in Atlanta.

Employers should make sure employees are not being required by supervisors to work off the clock, said Phillip Schreiber, a partner with law firm Holland & Knight L.L.P. in Chicago.

"It's one thing when you tell your employees you don't want them to perform work after hours," but quite another if a manager or supervisor sends workers emails late at night and expects a response, said Michael C. Schmidt, a member of law firm Cozen O'Connor P.C. in New York. "So what you say needs to comport with what you're doing and vice versa."

Sometimes "employers will start paying overtime to somebody just because it's a gray area and they want to be on the safe side of the gray area," said Mr. McGoldrick.

Mr. Kuperstein said employers also should examine independent workers' contracts to determine if they establish an employee relationship. In addition, employers must be aware that contracted firms that provide workers in their locations—such as security guards—could be held liable in wage-and-hour suits depending on state law, he said.

Meanwhile, observers say the U.S. Supreme Court's decision last month in *AT&T Mobility L.L.C. vs. Vincent and Liza Concepcion*, in which it upheld class action waivers in arbitration agreements, is positive for employers.

That was a "game-changing decision" that will "significantly impact the ability of plaintiffs to be able to bring class actions," said Marc E. Bernstein, of counsel with law firm Paul, Hastings, Janofsky & Walker L.L.P. in New York.

Employers would be "well-advised" to have their arbitration agreements include specific wage-and-hour language in light of the decision, said Enzo Der Boghassian, a partner with Proskauer Rose L.L.P. in Los Angeles. "So long as the employer is comfortable" with paying arbitration costs, it can have peace of mind knowing it is insulated from class action lawsuits, he said.

STRATEGIES

Expert tips on avoiding litigation over employees' wages and hours worked.

- Keep accurate records of hours worked.
- Educate managers about good record-keeping.
- Keep job descriptions up to date.
- Notify management when time cards don't match other records.
- Stay up to date on regulations.
- Do not require employees to work off the clock.
- Make sure contracts for independent contractors do not make them employees.
- Institute an internal procedure to handle complaints.

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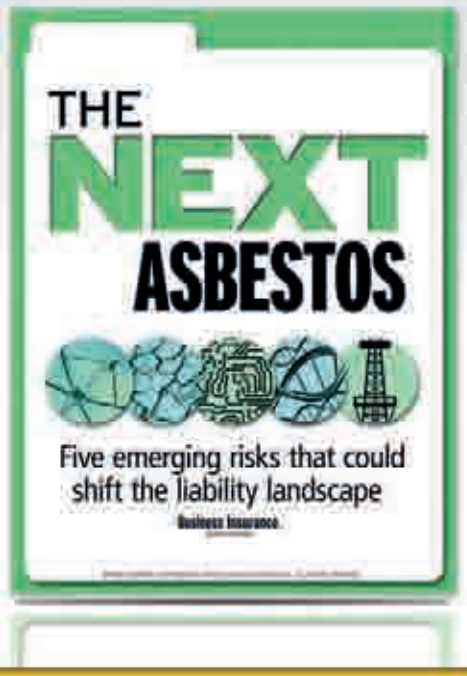

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CASE STUDY

Employers settle suits to limit legal costs

By JUDY GREENWALD

Most wage-and-hour litigation is settled, many legal experts say.

Michael C. Schmidt, a member of law firm Cozen O'Connor P.C. in New York, said such suits tend to get resolved because "they're so costly" and because of the potential for significant legal costs.

Gerald L. Maatman Jr., a partner with law firm Seyfarth Shaw L.L.P. in Chicago, said it is important for employers to look at the facts right away, and determine what is at issue and whether the claim is viable. "Evaluate your exposure on an early basis; and if there is liability or problematic facts, then engage in a resolution exit strategy," he said.

Brian T. McMillan, a shareholder with Littler Mendelson P.C. in San Jose, Calif., said employers sometimes "become vulnerable" because they have failed to comply with highly technical rules.

As a result, "it's often in the employer's interest to pursue a settlement, especially where the facts are simply not in their favor," Mr. McMillan said.

Keeping such litigation from becoming a class action is an important consideration, Mr. Maatman said.

"If the case can be fractured and only involve a few people, it's generally easy to dispose of it quickly at a reasonable cost, as opposed to the exposure created" when there is a class of employees and "it turns into a very, very large problem," Mr. Maatman said. "So getting your arms around the class aspects of the case early" is important, he said.

David L. Barron, a member of Epstein Becker & Green P.C. in Houston, said class certification is "where the fight is, oftentimes."

"The employer is more than happy to resolve the individual employee's claim, but dealing with a potential class action is another matter," he said.

Martha J. Zackin, of counsel at Boston-based law firm Mintz, Levin, Cohn, Ferris, Glovsky & Popeo P.C., said standing up for principles is "great, but they cost you, and you need to pick and choose what principles you want to pay to support."

But if an employer is considering settling a wage-and-hour dispute, there's another question to ask: Is it "going to spawn more cases of a similar nature?" said Marc E. Bernstein, of counsel at Paul, Hastings, Janofsky & Walker L.L.P. in New York.

Using an experienced attorney also is important, experts say.

Ms. Zackin said in a case she is handling, the company initially used its regular attorney to handle a wage-and-hour case, which "got them in a lot more trouble than they needed to be in."

"You've got to be willing to fight hard" to defend the company and take depositions of lots of employees, said Lawrence S. McGoldrick, of counsel at Fisher & Phillips L.L.P. in Atlanta.

"Make the other side work and also test their evidence." If an employee claims he put in 50 hours a week, for instance, and the time record says it was only 40 or 42, question what the worker did during the unaccounted-for time, Mr. McGoldrick said.

DOL program may spur suits

The U.S. Department of Labor has been demonstrating a strong interest in wage-and-hour laws, observers say.

Although the department rarely conducts audits or files lawsuits, the agency under the Obama administration has been issuing statements that are far less pro-employer than those issued by the agency under the Bush administration, observers say.

"The DOL just issues interpretive bulletins, sometimes seemingly out of the blue, and, as a consequence, the law changed that day" and may be "the opposite of what it was yesterday," said Paul J. Siegel, a partner with Jackson Lewis L.L.P. in Melville, N.Y.

Attorneys also point to the DOL wage and hour division's Bridge to Justice program, a collaborative effort with the American Bar Assn. that launched in December and refers workers to ABA-approved attorneys.

"I think you're going to see a significant increase in lawsuits in this area" as a result of this referral program, said Phillip Schreiber, a partner with Holland & Knight L.L.P. in Chicago.

The federal agency also recently launched its first smartphone app, a time sheet it says will help employees independently track the hours they work and determine the wages they are owed, which it says "could prove invaluable during a wage and hour division investigation when an employer has failed to maintain accurate employment records."

—By Judy Greenwald

UP Comings & Goings CLOSE

KAREN VINES

NEW JOB TITLE: Wichita, Kan.-based vp, benefits division for IMA Financial Group Inc.

PREVIOUS POSITION: Wichita, Kan.-based director of business development and client services for IMA of Kansas Inc.

LOOKING FORWARD TO: In my new role, I want to create more emphasis on how we are looking to evolve our benefits process. For example, in 2007 we developed a health risk management practice to bring more consulting services to clients. We want to think outside the box and create more consulting services for our clients.

INDUSTRY OUTLOOK: Regardless of what happens with health care reform, it's creating the right conversations in our country on how we finance health care. There will be some great things that will come out of this dialogue.

BEST THING ABOUT A BAD ECONOMY: I think it does create an environment where we all, from a business perspective and a personal perspective, take a hard look at finances and budget. You step back and analyze things at a deeper level than when things are running smoothly. You can see what your company is really doing.

ADVICE: With all of the conversations going on related to health care reform, it seems a little uncertain. This is a time to look at our benefits industry with a real fresh perspective. Start thinking outside of the box.

OUTSIDE THE INDUSTRY, A DREAM JOB: When my creative side of my brain forges ahead, I would say my fantasy is being an interior designer.

HOBBIES: My two grandkids. I really enjoy watching them grow up. I also love to garden and read.

FAVORITE BOOK: I am a big Stephen King fan. If I had to pick one it would be "The Stand." I love his creative mind.

FAVORITE MEAL: I am big fan of Mexican food.

ON A SATURDAY AFTERNOON: I am either chasing after my grandkids or running errands.

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TPAs: Fewer choices for employers

CONTINUED FROM PAGE 4

cash acquisition of Specialty Risk Services L.L.C. by Sedgwick Claims Management Services Inc., several sources said. But it is "fairly comparable" to Gallagher Bassett Services Inc.'s purchase in October of GAB Robins North America Inc.'s TPA business, Mr. Watson said.

Revenue pressures

Several industry observers including Mr. Watson said they expect industry consolidation to continue because TPAs are under pressure to increase revenue and some smaller firms lack the technology needed to compete.

"There are a lot of (factors) that are going to cause the shrinkage (in TPA options) to continue," Mr. Watson said.

Sources also said the acquisitions allow large, independent TPAs—those not owned by insurers—to increase revenue when it is difficult to do so by raising prices. But that also means employers' choices are shrinking and some already are seeing limited options to meet specific needs.

For example, very few options exist for contracting with TPAs capable of managing U.S. Longshore and Harbor Workers' Compensation Act business, known as USL&H claims, said Ellen Vinck, director of risk management for BAE Systems Ship Repair Inc. in San Diego and a former president of the Risk & Insurance Management Society Inc.

Avizent and FARA serve companies in various industries, but providing products for marine-related clients historically has been one of FARA's core strengths, according to its website.

Ms. Vinck contracts with both for TPA services. She said their combination is not an immediate concern for her, but it will further limit her options should she seek bids from TPAs capable of managing USL&H and state workers compensation claims.

"For us, it does limit the playing field," she said. "Those were two viable Longshore administrators that are now one organization."

Overall, large nationwide employers unhappy with their TPAs have fewer choices, Mr. Picone said.

"There is a horse race now to be one of the next leaders (in the TPA industry) and the question is who will be one of the top 10 TPAs over the next few years," he said.

Smaller, regional employers have greater choices because there are more regional TPAs capable of managing their claims than large TPAs that have the resources needed to service nationwide employers, said Charles F. Martin, managing director of the risk consulting practice for Marsh USA Inc. in Norwalk, Conn.

Several insurers, however, have shown increased interest in providing stand-alone TPA services without requiring employers to also purchase the insurer's coverage, said Paul Braun, managing director of casualty claims for Aon Global Risk Consulting in Los Angeles.

So there are choices, Mr. Braun said.

But in general, insurer-owned TPAs are not as aggressive in pursuing stand-alone business, nor have they priced their services as competitively as the independents, brokers said.

Kim Grieve, manager of workers comp and disability management for the University of California's Irvine Medical Center, said TPAs that can meet her employer's requirement to manage a wide range of claims—including workers comp, medical malpractice, general liability and professional liability—are "very few and far between," Ms. Grieve said.

She said she also is concerned that shrinking TPA competition could cause service levels to deteriorate.

"Anytime TPAs merge or organizations (in other industries) merge, I worry that quality suffers," Ms. Grieve said. "When you limit competition, you are limiting a lot of service deliverables."

However, Avizent's Mr. Watson said TPA mergers will help consumers.

"You are seeing stronger management come into some of the bigger TPAs," Mr. Watson said. They are "more well-run and organizationally effective and should result in lower costs."

Additionally, Avizent's acquisitions of compatible companies have been strategically spread over time so service does not suffer, he said.

Avizent, which is owned by KRG Capital Partners L.L.C., a Denver-based private equity firm, said its purchase of independently owned FARA, expands its footprint in the U.S. West and "significantly increases (its) operational scale in the Southeast and Northeast, where both companies have extensive resources."

Mr. Watson also said he doesn't foresee a need to eliminate existing FARA offices located in 10 states.

"This was much more of a revenue play for us than a cost synergy play, so I am not at this point (seeking) out any office consolidation at all," Mr. Watson said.

TPA CONSOLIDATION

Recent deals consolidating third-party administrators

- Dublin, Ohio-based **AVIZENT**, the marketing name of Frank Gates Service Co./Attenta, said May 24 that it had acquired **F.A. RICHARD & ASSOCIATES INC.** for an undisclosed sum.
- Memphis, Tenn.-based **SEDGWICK CLAIMS MANAGEMENT SERVICES INC.** announced in December that it had purchased rival claims administrator **SPECIALTY RISK SERVICES L.L.C.** for $278 million.
- Itasca, Ill.-based **GALLAGHER BASSETT SERVICES INC.** announced in October 2010 the acquisition of **GAB ROBINS NORTH AMERICA INC.**'s third-party administrator assets and managed-care operations for an undisclosed sum. Gallagher Basset is a unit of insurance broker Arthur J. Gallagher & Co.

'Anytime TPAs merge or organizations (in other industries) merge, I worry that quality suffers. When you limit competition, you are limiting a lot of service deliverables.'

Kim Grieve,
University of California's Irvine Medical Center

Tennessee: State overhauls law in effort to lure captives

CONTINUED FROM PAGE 4

and affiliates that otherwise qualify with the state as self-insureds, and to write excess or stop-loss workers compensation coverage for employers not qualifying as self-insureds.

The workers comp provision should prove attractive to large employers able to qualify as self-insureds in Tennessee, said Gary Osborne, president of Montpelier, Vt.-based USA Risk Group Inc.

"You no longer need a front of any kind," Mr. Osborne said. "It really does take workers comp into your own hands."

While the provision isn't unique to Tennessee, it should prove attractive to large employers in the state such as automobile manufacturers, Mr. Osborne said. "We're interested," he said. "We've got a couple of (companies) in Tennessee we think this could be very beneficial to."

Les Boughner, executive vp and managing director of Willis Group Holdings P.L.C.'s North American captive practice in Burlington, Vt., was restrained in his assessment of the workers comp provision's likely impact. "There's already insurance legislation to the effect that you can become a qualified self-insurer," he said. "I don't know if it's something revolutionary."

"The other thing I think will be interesting to see is presumably you're going to have to capitalize the captive to support statutory limits," Mr. Boughner said.

But, from a captive industry perspective, he welcomed the Tennessee legislation.

"We think first of all it's great because it's a clear indication of a vibrant captive industry," Mr. Boughner said.

Gov. Bill Haslam included updating Tennessee's captive insurance law and revitalizing the state's captive domicile in his legislative package this spring.

"We really wanted it to be as good as any law in the country, and we think it is," said Kevin M. Doherty, a partner at Nashville law firm Burr & Forman L.L.P. who wrote the first draft of the legislation.

With the revisions to Tennessee's captive law, there is "no need to go offshore or to another state, if you're a Tennessee business especially," Mr. Doherty said. "And I would hope that people from outside Tennessee will choose Tennessee as a domicile."

As part of revitalizing the domicile, Tennessee appears to be committed to building a captive regulatory staff. "It's important that you have somebody there that talks captives," Mr. Osborne said.

An adequate infrastructure—of regulatory staff and captive service providers—is essential to a domicile's success, Mr. Boughner said. "You write all those new captives, then you've got to regulate them," he said. "And you have to support them."

The captive measure provides that premium taxes paid by Tennessee captive insurance companies be devoted to administering captive regulation in the state.

Julie Mix McPeak, commissioner of the Tennessee Department of Commerce and Insurance, has indicated that she intends to add staff dedicated to captive insurance regulation, Mr. Osborne said. "I understand they're looking to hire one or two dedicated people immediately," he said.

"We are happy that Gov. Haslam's captive insurance legislation passed," Ms. McPeak said in an email. "It will go a long way toward modernizing the law that Tennessee has used to regulate this segment of its insurance industry, and will help produce a strong, vibrant marketplace within the state.

"Now that the bill has passed, the work of implementing it gets under way," Ms. McPeak said. "Our next step is to promulgate rules to fortify our regulatory framework to be able to accept applications from companies by July 1."

$250,000

Under Tennessee's revised captive law, the minimum capital and surplus for single-parent captives would be $250,000.

4

After reaching a peak of 16 captives in 1990, the Tennessee domicile gradually withered until just four captives remained at the end of 2010.

The revisions to Tennessee's captive law were based largely on captive laws in Vermont and South Carolina, Mr. Osborne said, and the measure could make Tennessee, with South Carolina, a domicile of choice for companies in the South interested in forming captives. He noted that a number of Tennessee businesses have captives in Vermont or South Carolina.

Mr. Boughner said he doubted whether many Tennessee companies with captives elsewhere would return home. He said the Tennessee domicile's greatest appeal most likely will be for local businesses forming their first captive. "When you talk about switching domiciles, it doesn't happen very often," he said.

Under Tennessee's revised captive law, the minimum capital and surplus for single-parent captives would be $250,000; for association, industrial insured and protected cell captives, $500,000; and for risk retention groups $1 million. The state's insurance commissioner may require additional capital and surplus based on the type and volume of business in the captive.

The minimum annual premium tax is set at $5,000 in the revised captive law with an annual maximum of $100,000. The annual maximum aggregate premium tax on protected cell companies would apply to each cell and not the protected cell captive as a whole.

Tennessee initially passed a captive law in 1978, following Colorado as the second U.S. state to allow captive formations. But as captives faded as a priority for the state, Tennessee lost ground to other U.S. domiciles such as Vermont. After reaching a peak of 16 captives in 1990, the domicile gradually withered until just four captives remained at the end of 2010.

Tornado: Insured loss total builds

CONTINUED FROM PAGE 3

patients and one visitor were killed, but the hospital said in a statement that more than 180 patients were safely evacuated from the building.

"It's like a bomb went off in there," hospital President and CEO Gary Pulsipher said during a news conference, adding that it was not known if the 370-bed facility could be salvaged.

> 'It's like a bomb went off in there.'
>
> Gary Pulsipher,
> St. John's Regional Medical Center

"We're just not sure of the structure, whether it would support another facility or if we'll have to rebuild," Mr. Pulsipher said.

Lynn Britton, president of the St. Louis-based Sisters of Mercy Health System, said a temporary hospital would be erected on the St. John's site by the end of the week. During the early crisis, temporary hospital operations reportedly were set up in a home improvement store spared by the storm.

AP PHOTO

Beverly Winans and her daughter last week at the site of Ms. Winans' Joplin, Mo., home. A tornado struck the city causing up to $3 billion in insured losses.

ONLINE PHOTO GALLERY

VIEW PHOTOS of St. John's Regional Medical Center in Joplin, Mo., to see the terrifying and destructive power of the EF5 tornado that struck the city on May 22. Photos courtesy of Sisters of Mercy Health System.

Tweets: Twitter firing ruling provides more guidance for employers

TROUBLESOME TWEETS

Some of the "unprofessional and inappropriate tweets" in 2010 that resulted in the firing of an Arizona Daily Star reporter include:

AUG. 27: "You stay homicidal, Tucson. See Star Net for the bloody deets."

AUG. 30: "What?!?!? No overnight homicide? WTF? You're slacking Tucson."

SEPT. 10: "Suggestion for new Tucson-area theme song: Droening (sic) pool's 'let the bodies hit the floor'."

SEPT. 10: "I'd root for daily death if it always happened in close proximity to Gus Balon's."

SEPT. 10: "Hope everyone's having a good Homicide Friday, as one Tucson police officer called it."

CONTINUED FROM PAGE 3

reporter posted a snide remark about the Daily Star's copy editors concerning headlines that had run in the sports section. The paper's editors reprimanded the reporter and told him he was prohibited from "airing his grievances or commenting about the Daily Star" in any public setting.

Several months later, the reporter posted several messages related to his work as a crime reporter for the paper, including tweets intended to be humorous references to Tucson's homicide rate (see box).

On Sept. 21, 2010, a local television news station posted a tweet containing a misspelled word, which the reporter lampooned in a tweet of his own, calling the station's staff "stupid TV people." The next day, the news station's producer emailed the Daily Star's staff to complain about the "unprofessional" tweet. The reporter was fired on Sept. 30.

The newspaper is owned by Davenport, Iowa-based Lee Enterprises Inc.

While the NLRB stood behind the Arizona Daily Star in its decision, attorneys versed in social media and employee practices litigation say the paper ought to count itself fortunate.

In its advisory memo, the NLRB noted that the Daily Star did not have an internal policy specifically addressing social media, and that the paper could have found itself in violation of the labor relations act after its managers forbade the reporter from publicly airing any grievances he had about the paper.

"I cringe when I read about a human resources manager saying that an employee can't tweet about anything work-related or air his grievances in a public forum," said Ricki Roer, a partner in the labor and employment practice group at the White Plains, N.Y.-based law firm Wilson Elser Moskowitz Edelman & Dicker L.L.P. "It's not that the Daily Star got away with one, but that would not be a gross overstatement."

She noted that the controlling factor in the case was still the reporter's posts, not the paper's lack of a NLRB-compliant social media policy.

> 'Commenting flippantly about Tucson's homicide rate with links to the articles is something that falls far afield of any arguable protected action.'
>
> Ricki Roer,
> Wilson Elser Moskowitz Edelman & Dicker L.L.P.

"Commenting flippantly about Tucson's homicide rate with links to the articles is something that falls far afield of any arguable protected action," Ms. Roer said.

The importance of training on the law for employees and management is the key lesson in the Arizona Daily Star case, said Bethesda, Md.-based social media attorney Bradley S. Shear, Bethesda, Md.-based managing partner of the Law Office of Bradley S. Shear L.L.C. Employees need clear boundaries, and employers need to make certain those boundaries are legal. Though neither was a controlling factor in the paper's case, Shear said, "it was close."

"If you're going to have your employees utilizing a certain medium or technology, you have to give them tools to do that," Mr. Shear said. "This company didn't do that."

The NLRB's advisory opinion in the Daily Star case contrasts sharply with at least one other recent decision. The board filed suit against the Buffalo, N.Y.-based Hispanics United of Buffalo nonprofit organization for firing five employees accused of harassing a sixth employee via Facebook. In that case, an employee posted on her Facebook page an allegation that the organization did not do enough to help the organization's clients. Five employees took to the site to defend their job performance and criticized working conditions, which included workloads and staffing issues.

But, as Melinda Reichert of Palo Alto, Calif.-based Morgan, Lewis and Bockius L.L.P. said, the discussion turned nasty and was construed by the managers of Hispanics United as harassment directed at the employee originally mentioned in the post. Ms. Reichert said the NLRB's decision to file a complaint seemed, based on the facts presented in the board's memos, to be at odds with its decision on the Arizona Daily Star case.

"I would argue that if the posts were in fact inappropriate, the employer should be able to discipline for them, as they did in the Arizona (Daily) Star case," she said.

Products & Services

Iron-Starr ups capacity for financial lines

HAMILTON, Bermuda—Iron-Starr Excess Agency Ltd. has increased its financial lines capacity to $25 million.

The limit increase allows access to capacity from multiple insurers through one policy form and is written on a gross-limit basis, the Hamilton, Bermuda-based specialty lines managing general agency, said in a statement.

"Iron-Starr's syndicated approach to providing capacity enables insureds to manage global exposures to individual insurance carriers and, hence, counterparty credit risk," said Stuart Anderson, senior vp of Iron-Starr's financial lines division.

Iron-Starr, a joint venture formed in 2009 by Ironshore and C.V. Starr & Co. Inc., writes catastrophic excess casualty insurance.

For more information, contact Mr. Anderson at 441-279-7019 or *stuart.anderson@ironstarrexcess.com*.

Zurich offers real estate environmental policy

SCHAUMBURG, Ill.—Zurich North America Commercial has introduced a policy for commercial real estate owners facing environmental risks.

The Zurich Choice Real Estate Environmental Liability policy addresses environmental exposures such as indoor air contamination from mold, asbestos, lead and vapor intrusion, the Schaumburg, Ill.-based unit of Zurich Financial Services Group said in a statement.

The coverage is for property owners, property managers, operators and developers of commercial real estate to reduce their environmental risks along with exposures arising from tenant operations, neighboring properties and building maintenance, Zurich said.

The policy offers coverage for on- and off-site cleanup costs resulting from unknown contaminants as well as new pollution events. It includes aggregate limits for crisis management expenses, green remediation and meeting green building standards, according to the statement.

For more information, contact Ken Ratajczyk, head of Zurich's environmental practice, at 847-605-4132 or *ken.ratajczyk@zurichna.com*.

All-risk D&O cover offered by Willis

LONDON—Willis Group Holdings P.L.C. has developed all-risk coverage for company directors and officers.

Directors' All Risk Cover, developed by Willis' London-based financial, executive risk and professional liability unit FINEX Global, aims to abate the indemnification uncertainty in D&O insurance, Willis said in a statement.

"In traditional D&O insurance policies, insurers expect and routinely require companies to indemnify their directors wherever possible before insurers' obligation to pay is triggered," Francis Kean, executive director of FINEX Global, said in the statement. "In practice, this means that directors and officers may be left without cover whilst insurers and companies argue over whether a particular loss is or is not indemnifiable."

The DARCSTAR cover includes a clause giving access by directors and officers to the insurers, D&O cover on all risks unless excluded, no compulsory deductibles or retentions, and clear triggers for internal and external investigation costs, Willis says.

Allianz S.E., QBE Insurance Group Ltd. and XL Group PL.C. are leading underwriting of the coverage, according to the statement.

For more information, contact Mr. Kean at +44-20-3124-7078 or *Francis.Kean@willis.com*.

Assurex offers fuel price protection

REDWOOD CITY, Calif.—Insurance brokerage network Assurex Global is offering a fuel price protection program through a partnership with a hedging firm.

Pricelock Inc., a Redwood City, Calif.-based online provider of fuel hedging and price protection, has formed an alliance with Assurex to provide access to Pricelock's fuel price protection program, the Columbus, Ohio-based brokerage network and Pricelock said in a statement.

Once gas or diesel prices increase above the protection price a client has selected, Pricelock will provide a cash payment of the difference.

Pricelock compares the protection price to the U.S. Department of Energy's national average for gas and diesel prices, according to the statement.

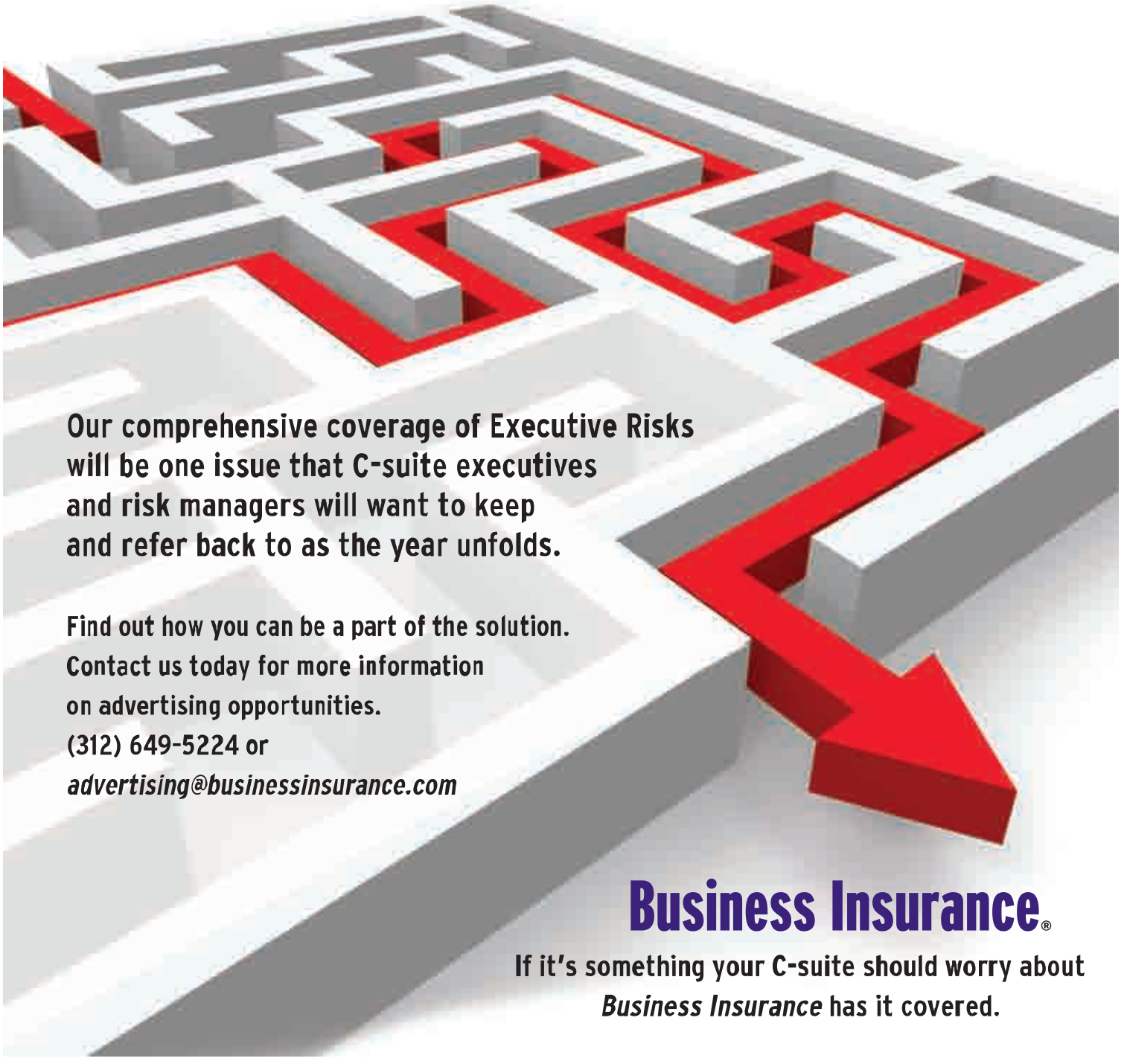
For more information, contact Tripp Dunman, managing director at Pricelock, at 913-469-5501 or *tdunman@pricelock.com*.

TO SUBMIT ITEMS

BI's Products & Services column reports on new product offerings. Please send Product & Services news to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. 60601 or email *mtsikoudakis@businessinsurance.com*.

HELP YOUR CLIENTS NAVIGATE THE EXECUTIVE RISKS MAZE

On June 20th *Business Insurance* will take a whole new approach to covering the topic of Executive Risk: Our entire issue will be devoted to all aspects of executive risk and will help you navigate the maze of risks that executives can face.



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AIG: Stock sale furthers insurer's repayment of federal bailout

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In last Tuesday's share sale, which raised about $9 billion, New York-based AIG sold 100 million shares while the U.S. Treasury Department sold 200 million shares, and underwriters of the sale have the option to buy an additional 45 million shares.

Depending on the outcome of that overallotment, the stock sale reduces Treasury's ownership stake in AIG to at most 77% from the 92% it held as a result of the federal bailout of AIG.

The deal priced late Tuesday at $29 per share. One day after the sale, AIG shares were trading at $28.28. They ended the week at $28.88, down 6.2% from the previous week's close.

The offering price valued AIG shares at more than one-third less than where they had traded in January, when Treasury announced that it planned to exit its investments in AIG over time depending on market conditions.

"The sale didn't meet expectations," said David Merkel, a principal at Baltimore-based investment advisory firm Aleph Investments L.L.C. While AIG did make an effort to communicate what it has been doing to strengthen the business, it encountered a "'show me" response from investors. "There's a little distrust," he said.

Market players were concerned when AIG made changes in recent months in its core commercial property/casualty unit, Chartis Inc., including boosting reserves by $4.6 billion in February. Then at the end of March, AIG named Peter D. Hancock CEO of Chartis, replacing Kristian P. Moor, who was named vice chairman. And in April, AIG said it agreed to transfer the bulk of Chartis' legacy asbestos-related liabilities to Omaha, Neb.-based reinsurer Berkshire Hathaway Inc.'s National Indemnity Co.

AIG'S STOCK OFFERING

American International Group Inc.'s share sale to partially repay its 2008 bailout by the federal government included:

SIZE: 100 million shares offered by AIG and 200 million shares offered by the U.S. Treasury Department. Participating banks can buy up to 45 million additional shares.

PRICE: $29 per share

SHARE VALUE AFTER ONE DAY OF TRADING: $28.28 at market close

TREASURY'S STAKE IN AIG AFTERWARD: Between 74% and 77%, depending on how banks exercise their option

TREASURY'S STAKE IN AIG BEFORE THE STOCK SALE: 92%

Source: AIG and Treasury statements

When Treasury sells AIG stock again is 'going to be proportionate to how much demand there is for shares and how much the U.S. government is willing to accept that they lose money.'

David Merkel, Aleph Investments L.L.C.

Timing of sale

Why are AIG and Treasury selling shares now?

"One, the government was able to sell a material position at a slight gain," said a market source close to the share sale who asked for anonymity.

He also said "it's in everyone's interest" to increase the number of AIG shares in the market. A stock's price can swing dramatically when only a few of its shares are changing hands.

Goldman, Sachs & Co., J.P. Morgan Securities L.L.C. and other financial services firms involved in the deal did not respond to requests for comment. A spokesman for AIG declined comment.

Things have looked up for AIG since June 2009, when the Congressional Budget Office estimated that TARP would end up subsidizing AIG by about $35 billion. In March of this year, the CBO lowered its estimate to $14 billion.

While it remains to be seen how much Treasury's holdings in AIG will be worth down the line, it's clear that the company has already returned a significant portion of its government aid, in large part by selling off American Life Insurance Co. for $16.2 billion in November and raising about $17.8 billion by selling two-thirds of its shares in Asian life insurer AIA Group Ltd. in a public offering last year.

Treasury and the Federal Reserve Bank of New York's remaining outstanding investments in AIG totaled about $82.5 billion before the offering, which reduced that number by about $5.8 billion.

The share offering is "another step toward independence for AIG," said Bruce Ballentine, a senior credit officer at Moody's Investors Service Inc. in New York.

Julie Burke, managing director at Fitch Ratings Inc. in Chicago, said AIG has made "tremendous progress" over the past year in its efforts to restructure and improve its operations.

But AIG has far to go before it can attain complete liberty.

After last week's stock deal, Treasury said in a statement that its remaining investment in AIG through TARP amounts to roughly $53.1 billion. It's an open question as to when—and for how much—Treasury will unload its approximately 1.46 billion remaining shares of AIG common stock.

Mr. Merkel noted that the government can't sell any additional shares for the next four months. Treasury agreed with the investors in this first round not to rapidly add AIG shares to the market, as doing so could hurt the value of shares already on the market.

When Treasury sells AIG stock again is "going to be proportionate to how much demand there is for shares and how much the U.S. government is willing to accept that they lose money," Mr. Merkel said.

David Paul, a principal at Alirt Insurance Research L.L.C. in Windsor, Conn., said the key issue is what happens once the government exits AIG ownership entirely.

"It's a question of how well they clean up their business and how profitable it will be going forward," Mr. Paul said.

Pension: Innovative deal transfers plan liabilities

CONTINUED FROM PAGE 1

Springs' pension plan.

Each month, Prudential draws an amount from the account needed to pay the retirees their monthly pensions and transfers it to the Hickory Springs plan. The company then issues the pension checks to the retirees.

Through the arrangement, Hickory Springs is shielded from risks associated with a defined benefit plan. It no longer faces the possibility of having to kick in extra money to its plan if, for example, retirees live longer than expected or the value of plan assets fall due to a slide in the equities markets.

"We have promised a pension to these individuals and we are not moving away from that promise," said Hickory Springs Chief Financial Officer Steve Ellis. But now, "I will sleep very well knowing this has been done," Mr. Ellis added, referring to the Prudential arrangement.

For an insurer like Prudential, the appeal of offering the product is that the pension assets it receives and the investment income generated on those assets will exceed the value of the liabilities it guarantees.

"Prudential's price—in this case a $75 million single premium—is designed to be sufficient to cover the present value of covered benefit payments and provide for an appropriate return on capital to Prudential. Prudential's earnings will emerge through time as the difference between the net investment income of the assets supporting the transaction and the guaranteed payments due Hickory through time," said Dylan Tyson, a vp with Prudential Retirement's pension and structured solutions unit in Iselin, N.J.

Transferring pension plan longevity and investment risk in exchange for a fixed payment is likely to appeal to a growing number of plan sponsors, Prudential executives and others say.

"We have been discussing this with a lot of people. Now that the first transaction has been announced, I expect the conversations we've been having to increase," Mr. Tyson said.

"We think this is a positive development. Sponsors are looking to reduce their exposure" to financial volatility, said Kevin McLaughlin, a principal with Mercer L.L.C.'s financial strategy group in New York.

PENSION LIABILITY TRANSFER

How Prudential's "portfolio protected" buy-in policy works

- An employer transfers a portion of pension plan assets to cover benefits earned by a designated group of plan participants, such as retirees, to a separate account established by Prudential. The account is considered a plan asset.
- Prudential invests the assets as it chooses. Prudential transfers money each month from the account to the employer's pension plan to pay retirees' monthly benefits.
- After making the initial transfer of plan assets to Prudential, the employer has no obligation to make additional contributions to cover benefit payments for designated participants, resulting in a fixed liability.

"We see buy-in as another useful addition to the suite of tools available to help plan sponsors manage pension risk. We expect growing demand for this product over time and that further innovations will emerge," Mr. McLaughlin said in a statement.

That volatility can be enormous. Many employers had to ramp up their pension contributions after the Great Recession and the accompanying plunge in the equities markets that battered the value of plan assets, turning overfunded plans into significantly underfunded ones.

Last year, for example, 100 U.S. employers with the largest pension plans contributed a record $59.4 billion to those plans, nearly double what they contributed during 2008, according to analysis this year by actuarial consultant Milliman Inc.

In separate research, Mercer found that plan sponsors in the S&P 1500 contributed about $72 billion to the plans in 2010, far more than the $43 billion they estimated they would have to funnel into their plans.

Given the volatility of plan contributions, fixing the size of the obligation through a pension buy-in program is something that has "broad appeal," said Ari Jacobs, retirement strategy leader with Aon Hewitt Inc. in Norwalk, Conn.

While the concept of pension buy-ins has been discussed for years and used by some employers in the United Kingdom, employer interest significantly increased after the 2008 recession, which reinforced the financial risks associated with offering a pension plan, said Mike Archer, a senior retirement consultant with Towers Watson & Co. in Parsippany, N.J.

Still, the pension buy-in concept will not be for every employer, experts say.

Aon Hewitt's Mr. Jacobs noted that the policy will hold little interest for very large employers whose pension plan obligations are small relative to the overall company's size, allowing them to weather fluctuations in costs of required contributions.

A key variable affecting employer interest will be size of their pension liabilities relative to their size, Towers Watson's Mr. Archer said.

In addition, employers have other ways to reduce pension plan risk, said Mercer's Mr. McLaughlin. For example, employers, especially those with a large proportion of retirees in their plans, could reduce their holdings of equities and load their plan portfolios with bonds of varying maturities to reduce investment risk volatility, experts say.

"It is not a solution for everyone," as you have to pay a premium, Mr. McLaughlin said.

Boston-based BCG Terminal Funding Co. served as a consultant to Hickory Springs on the project.

News In Brief

CONTINUED FROM PAGE 1

disability system $1.1 billion over the next four years. H.B. 2123 passed the Washington state House on a 69-26 vote and the Senate on a 35-12 vote last week, wrapping a three-week effort to revamp the state's system. Gov. Christine Gregoire is expected to sign the bill into law.

Lawsky confirmed as N.Y. regulator

The New York state Senate unanimously confirmed Benjamin M. Lawsky as superintendent of the state's new banking and insurance regulator. Mr. Lawsky will head the Department of Financial Services, which Gov. Andrew M. Cuomo recently created by merging the New York State Banking Department and the New York State Department of Insurance.

Retroactive benefits upheld for coal miners

A section of the Patient Protection and Affordable Care Act that makes it easier for coal miners to tap benefits for black lung disease has survived an employer's constitutional challenge. In a decision last week, the 7th U.S. Circuit Court of Appeals ruled that the miner's widow can press her argument that she is entitled to survivor benefits. While the nation's health care reform law mandates a host of changes, a lesser-known section of the law established a presumption that a mine worker with 15 years of service who contracted a lung disease contracted it on the job. PPACA made the presumption retroactive to claims filed after Jan. 1, 2005.

White Mountains sets up Lloyd's syndicate 1945

White Mountains Insurance Group Ltd. said it will set up a syndicate at Lloyd's of London. White Mountains said Sirius International Insurance Corp. has received approval in principle from Lloyd's Franchise Board to set up syndicate 1945. Sirius is a unit of reinsurer White Mountains Re Ltd. The syndicate will underwrite insurance and reinsurance in the accident and health and contingency lines, which will be transferred from Sirius' London branch office.

$2.4B in early retiree funds paid out by CMS

The Centers for Medicare & Medicaid Services says it has paid out nearly half of a $5 billion fund created by the health care reform law that partially reimburses employers and other organizations that have early retiree health care plans. As of May 3, just more than $2.4 billion had been paid out, up from $1.8 billion as of March 17, according to CMS.

TSR predicts more active Atlantic hurricane season

The 2011 Atlantic hurricane season is likely to be more active than average, according to catastrophe mapper and predictor Tropical Storm Risk. It said Atlantic basin and U.S. landfall hurricane activity this year likely will be 25% above the long-term norm.

California leads nation in cargo thefts

California led the nation in cargo thefts last year, with 247 of 747 U.S. thefts that were estimated at $171 million, according to a report released last week by the National Insurance Crime Bureau.

Ryan Specialty launches life science MGU

Ryan Specialty Group L.L.C. has launched LifeScienceRisk, a managing general underwriter that specializes in insurance for generic pharmaceuticals, medical devices and nutritional supplements. The MGU is writing the coverage on behalf of Catlin Specialty Insurance Co., a unit of Catlin Group Ltd., and is available on a nonadmitted basis in all states except Delaware and Rhode Island.

Energy market outlook favors buyers: Marsh

Most energy insurance buyers will see favorable conditions for the rest of this year despite the recent string of natural catastrophes that has affected other lines of coverage, a Marsh Inc. report says. Underwriters are raising rates in some segments of the energy market and are becoming more disciplined on pricing, according to Marsh's latest "Energy Market Monitor."

Immigrant: Ruling raises fears among employers

CONTINUED FROM PAGE 1

laws) upon those who employ, or recruit or refer for a fee for employment unauthorized aliens."

According to the opinion, the U.S. Chamber of Commerce had argued "that the Arizona law's provisions allowing the suspension and revocation of business licenses for employing unauthorized aliens were both expressly and impliedly pre-empted by federal immigration law, and that the mandatory use of E-Verify was impliedly pre-empted."

But the Supreme Court disagreed. The majority said the Washington-based Chamber of Commerce "and the United States as amicus argue the Arizona law is not a 'licensing' law because it operates only to suspend and revoke licenses rather than to grant them." However, the high court ruled, "this is contrary to the definition that Congress itself has codified.…It is also contrary to common sense. There is no basis in law, fact or logic for deeming a law that grants licenses a licensing law, but a law that suspends or revokes those very licenses (is) something else altogether."

Arizona's procedures "simply implement the sanctions that Congress expressly allowed Arizona to pursue through licensing laws," the majority ruled, saying the state "went the extra mile in ensuring its law closely tracks (the Immigration Reform and Control Act's) provisions in all material definitions."

Consistent with law

On the E-Verify issue, the high court ruled that Arizona's requirement that employers use it "is entirely consistent with the federal law.…In fact, the federal government has consistently expanded and encouraged the use of E-Verify," the high court ruled.

The Chamber of Commerce and Justice Stephen Breyer, in his dissenting opinion, argued that employers "will err on the side of discrimination rather than risk the 'business death penalty' by 'hiring unauthorized workers.'"

However, the majority, in the opinion written by Chief Justice John Roberts, responded by saying license termination "is not an available sanction" for simply hiring unauthorized workers, and only "far more egregious violations of the law trigger that consequence.…An employer acting in good faith need have no fear of the sanctions."

Justice Elena Kagan did not participate.

Reacting to the ruling, the Chamber of Commerce's National Chamber Litigation Center issued a statement that said, in part, the decision "does not give states or local governments a blank check to pass any and every immigration law," which "continues to be predominantly a federal concern."

> **'I think it's entirely possible that (the ruling) will have a discriminatory effect.'**
>
> Robert Whitehill, Fox Rothschild L.L.P.

David A. Selden, a partner with the Phoenix-based Cavanagh Law Firm P.A., who filed the original lawsuit on behalf of two Arizona business groups, said the decision in the immediate future "is going to result in a lot of states enacting a lot of different immigration laws with penalties against employers."

In the longer term, it "will increase pressure on Congress to reform federal immigration laws, because having a patchwork of 50 different immigration laws in the different states is burdensome for large and small businesses to have to worry about complying with," Mr. Selden said.

This is a "wake-up call" to Congress, said Elena Park, a member of Cozen O'Connor P.C. in West Conshohocken, Pa.

The decision "also shows the importance" of employers conducting self-audits and "by having comprehensive hiring practices so they're prepared" if there is workforce enforcement action, said Mr. Selden.

E-Verify concerns

Observers say one major concern is the ruling's implicit endorsement of E-Verify, which is a voluntary federal system, but mandated by Arizona law. Mississippi, Utah and Virginia also have such a mandate, according to the ruling.

John Doran, a shareholder with Greenberg Traurig L.L.P. in Phoenix, said, "The obligations that are required under Arizona law, including a mandatory use of E-Verify, create significant burdens for employers and, frankly, you wonder if all of a sudden, you have a national E-Verify mandate" as a result of the ruling.

Observers say the E-Verify system is flawed and prone to error. "It isn't quite as effective as people might think it is," said Craig Peterson, an attorney with Dorsey & Whitney L.L.P. in Minneapolis.

"They do get it wrong, and when they do get it wrong, there are serious consequences," said Robert Whitehill, a partner with Fox Rothschild L.L.P. in Pittsburgh, of the E-Verify system.

Furthermore, Mr. Whitehill said, "I think it's entirely possible that (the ruling) will have a discriminatory effect." The ICRA achieved a "balance between thwarting undocumented workers and thwarting discrimination; and now that balance, I think, has been tipped in a way that there'll be more of an impetus for employers to discriminate, which I think is unfortunate."

David Grunblatt, a partner with Proskauer Rose L.L.P. in Newark, N.J., said employers "will err on the side of compliance, even if it violates the rights of the individual, because their bigger fear" is of the state government.

Business Insurance gives away iPad at RIMS

Business Insurance awarded an Apple iPad in a prize drawing at the Risk & Insurance Management Society Inc. Annual Conference & Exhibition in Vancouver, British Columbia, in May.

Sheryl Bittick, real estate practice leader at Gem Insurance Agencies L.P. in Houston, was the lucky winner.

MIAMI-DADE COUNTY

TV fashion guru Carlos Mejia was charged with filing false insurance claims.

Tune in for courthouse fashion tips

A Spanish-language TV "fashion guru" may be able to dish on the appropriate dress for a criminal court hearing, according to a recent blog.

The United Auto Courts Report, says Miami-based United Automobile Insurance Co., is a blog that's designed to sound the alarm on rampant personal injury insurance scams in car accidents in Florida.

To that end, the blog recently reported the arrest of Carlos Mejia, a 27-year-old celebrity known as the fashion guru on Univision's "Escándalo TV."

The blog said the TV star was arrested in early May and charged with filing false claims. He allegedly submitted forged bills and counterfeit documents to claim lost wages totaling $2,500, according to evidence United Automobile said its investigators uncovered.

"When his alleged employer was contacted, it knew nothing about it and indicated that (a) signature was a fake," according to the blog posting. "It just goes to show how prevalent insurance fraud is in the South Florida community."

Mr. Mejia has helped the rich and famous, such as Eva Longoria and former Major League Baseball player Sammy Sosa, choose clothing. He also teaches people to look good on the cheap and dishes on celebrity dress at award shows.

After his arrest, United Auto Courts Report posted a question and an answer: "What's the right thing to wear to a criminal court hearing? That question can be answered by Carlos Mejia, the fashion guru."

Business Insurance END PAGE

REUTERS/LANDOV

Singer Rob Zombie is leading a class action lawsuit that looks to recover unpaid music royalties.

Night of the living litigants

Heavy metal rocker and horror film director Rob Zombie is leading a class action lawsuit for unpaid music royalties.

In the suit against Universal Music Group, Mr. Zombie, his band White Zombie, rock band Whitesnake, and folk musician Dave Mason accuse UMG of not paying to license their tunes as digital downloads and ringtones, according to news reports.

The suit, filed in federal court in San Francisco, noted that in a ruling involving rapper Eminem, the 9th US. Circuit Court of Appeals ruled last year that music royalties are to be paid each time a song is downloaded.

The suit reportedly said that "plaintiffs here allege, and the 9th Circuit found, that digital download and ringtone income received by UMG derives from a license."

The musicians also accuse UMG of deliberately miscalculating royalties, claiming in the suit that UMG "analyzed internally the financial consequences of its misconduct and cast it in terms of the additional profit to be made by UMG by avoiding its contractual obligations."

According to reports, UMG said the lawsuit is riddled with flaws and it will defend itself vigorously.

Mr. Zombie, born Robert Cummings, and friends reportedly are seeking restitution, damages, an injunction and declaratory relief for the music company's alleged breach of contract that could amount to the tens of millions of dollars.

Contributing: Jeff Casale, Roberto Ceniceros, Judy Greenwald, Mike Tsikoudakis

Insurer hit for repairs of hot car

A Michigan insurer isn't getting justice and is suing to force the law to help.

In a recent response to a lawsuit in Detroit, the U.S. Justice Department said it is refusing to pay $750,000 to Motors Insurance Corp. Group for a stolen Ferrari that an FBI agent crashed.

Further, the Justice Department reportedly insisted it is immune from tort claims when certain goods are possessed by law enforcement.

In 2003, the Ferrari F50 was stolen from a dealer in Rosemont, Pa., and recovered five years later in Kentucky, according to court documents. The FBI kept the car in Lexington, Ky., as it continued its criminal investigation.

Assistant U.S. Attorney J. Hamilton Thompson reportedly said he rode with FBI Agent Fred Kingston, who was moving

the car from a garage, when "we went around a curve and the rear of the car began sliding."

The Ferrari fishtailed, slid onto a curb, and hit a row of bushes and a small tree, Mr. Thompson said, according the Associated Press, citing an email released by Southfield, Mich.-based Motors Insurance.

Motors Insurance, the dealer's insurer, estimated that the 1995 model was just one of 50 in the United States and determined it was a total loss.

When the government refused the insurer's $750,000 claim, Motors Insurance sued this year.

A judge has set a June 13 hearing in the case.

METS OWNERS BALK AT FRAUD COVER

The owners of the New York Mets reportedly investigated fraud insurance to cover millions they invested with disgraced businessman Bernard L. Madoff.

An executive at Sterling Equities, owned by Fred Wilpon and Saul Katz, reportedly met with an insurance broker in 2001 and reported back on what fraud insurance would cost and protections that included Ponzi schemes.

Although Messrs. Wilpon and Katz did not buy the insurance, the court-appointed trustee seeking $1 billion in compensation for Madoff victims accused the Mets owners of wrongdoing in a lawsuit.

Irving Picard argued that their insurance investigation "establishes incontrovertibly" that they were on "notice" of Mr. Madoff's "possible fraud," according to court papers.

Mr. Picard said the men "were aware of facts that caused them to consider obtaining insurance to cover a Ponzi scheme or insolvency, but there is no evidence that these facts led them to do any diligence." He also said they decided against buying the insurance because their Madoff holdings were so great that they amounted to "an uninsurable risk."

However, Greg Nero, general counsel for Great Neck, N.Y.-based Sterling Equities, told the New York Daily News that "they didn't go shopping" for insurance. He said a "trusted colleague" recommended they consider fraud insurance, but they decided "not to purchase it because they trusted Mr. Madoff—and believed that they did not need it."

The men do not owe the Madoff victims any recompense and are themselves victims of the Ponzi scheme because they lost "over half a billion dollars" the day the fraud was disclosed, according to court papers.

AP PHOTO

New York Mets Chief Operating Officer Jeff Wilpon, from left, President Saul Katz and owner Fred Wilpon lost millions of dollars in the Madoff scandal.

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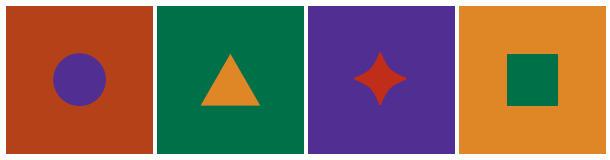

Corporate C- Suite

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Industry Financials: First-Half Results	Aug 22/29	Aug 17
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Case Study: D&O Best Practices	Oct 17	Oct 5
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Brokers

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Brokers *(continued)*

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Year-in-Review: Best & Worst of 2011	Dec 12	Nov 30
Case Study: E&O Best Practices		
Market SourceBook 2012	Dec 19/26	Dec 7

Insurers/Reinsurers

Feature	Issue	Close Date
Mid-Year Market Report & Legislative Roundup	July 4/11	June 23
Broker Trends & Profiles	July 18	July 6
Case Study: E&O Best Practices	July 25	July 13
London & Lloyd's Market Report	Aug 1	July 20
Catastrophe Management & Disaster Planning	Aug 15	Aug 3
Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
Special Report: Alternative Risks	Sept 5	Aug 24
Global Programs Reinsurance: Rendez-Vous Report	Sept 26	Sept 14
Excess & Surplus Lines Report	Oct 10	Sept 28
Reinsurance: Trends & Issues	Oct 24	Oct 12
Special Report: Construction Risks	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9
Readers Choice Awards	Nov 28	Nov 16

Insurers/Reinsurers *(continued)*

Feature	Issue	Close Date
Women To Watch	Dec 5	Nov 22
Year-in-Review: Best & Worst of 2011	Dec 12	Nov 30
Case Study: E&O Best Practices		
Market SourceBook 2012	Dec 19/26	Dec 7

Middle Market

Feature	Issue	Close Date
Case Study: E&O Best Practices	July 25	July 13
London & Lloyd's Market Report	Aug 1	July 20
Catastrophe Management & Disaster Planning	Aug 15	Aug 3
Health Care Reform: Compliance		
Industry Financials: First-Half Results	Aug 22/29	Aug 17
Health Care Reform: Impact on Employers		
Special Report: Alternative Risks	Sept 5	Aug 17
Workers Comp and Safety Management	Sept 12	Aug 31
Global Programs Reinsurance: Rendez-Vous Report	Sept 26	Sept 14
Middle-Market Risks	Oct 3	Sept 21
Professional Liability	Oct 31	Oct 19
Special Report: Construction Risks	Nov 14	Nov 2
Industry Financials: Nine Month Results	Nov 21	Nov 9

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