

LIABILITY & LITIGATION

EMPLOYERS NEED TO RETHINK BENEFITS

Supreme Court's same-sex couples ruling adds clarity, raises questions

BY MATT DUNNING

In striking down the Defense of Marriage Act's exclusion of same-sex marriages from recognition under federal law, the U.S. Supreme Court set in motion a wave of needed revisions to employers' group benefit plans.

Prior to the high court's historic ruling last week, Section 3 of DOMA denied gay and lesbian couples the same rights and benefits afforded to opposite-sex married couples under more than 1,000 federal laws, including several statutes mandating certain employment-related benefits, experts said.

With Section 3 invalidated, experts said those benefits — such as continuing health care coverage for workers and their families under COBRA and guaranteed leave for family and medical emergencies under the Family and Medical Leave Act — will need to be made available to same-sex and opposite-sex married couples in equal measure.

For employers already voluntarily offering group health and retirement benefits to their employees'



AP PHOTO

The man waving the rainbow flag outside the Supreme Court building in Washington shows his support for the court's decision to overturn the Defense of Marriage Act.

See **MARRIAGE** page 29

AGENTS & BROKERS

Kohlberg positions RSC for growth

Purchase furthers trend of private equity buys

BY BILL KENEALY

Kohlberg & Co.'s purchase of Risk Strategies Co. positions the broker for rapid growth by acquisition and furthers the trend of private equity firms investing in commercial insurance intermediaries.

The deal, announced last week, gives Mount Kisco, N.Y.-based Kohlberg a majority of RSC stock.

Financial terms of the deal were not disclosed.

Boston-based RSC now will have "substantial additional equity capital" with which to make acquisitions and grow its market presence, the companies said.

"This is reflective of the continuing interest of private equity in the insurance brokerage space," said Timothy J. Cunningham, managing director of Chicago-based Optis Partners L.L.C., an investment banking and financial consulting firm.

In addition to capital sourced from the private equity firm's recently closed \$1.6 billion fund, Kohlberg Investors VII, RSC now can access a pool of M&A expertise at Kohlberg. The firm has completed 59 platform investments and 114 add-on acquisitions with an aggregate transaction value of about \$9 billion since it was founded in 1987.

As part of the deal, insurance

See **BROKER** page 29

Supreme Court raises standards to prove discrimination at work

BY JUDY GREENWALD

Employers scored two victories before the U.S. Supreme Court last week that legal experts say will enable them to more effectively defend themselves in employment lawsuits.

In its 5-4 ruling in *Maetta Vance v. Ball State University et al.*, the high court narrowed the definition of supervisor for purposes of discrimination cases.

And plaintiffs will find it more difficult to prove retaliation after the high court's 5-4 ruling in *University of Texas Southwestern Medical*

MORE RECENT HIGH COURT MOVES

Other recent significant Supreme Court actions include:

- In a ruling hailed as an important victory for employers, the Supreme Court said in a 5-3 ruling in *American Express Co. et al. v. Italian Colors Restaurant et al.* that class-action waivers in arbitration agreements are enforceable.
- The court ruled 5-4 in favor of a generic drug manufacturer in *Mutual Pharmaceutical Co. Inc. v. Karen L. Bartlett*, concluding that state laws that are based on the adequacy of a drug's warnings are pre-empted by federal law, which prohibits generic manufacturers from making any unilateral changes to a drug's label and thus protects them from liability. The plaintiff was a woman who was left severely disfigured and nearly blind after taking a generic drug.
- The court accepted for consideration an appeal of the January ruling by the U.S. Court of Appeals for the District of Columbia Circuit in *Noel Canning, a division of the Noel Corp. v. National Labor Relations Board*. The appeals court held that President Barack Obama's Jan. 4, 2012, appointment of three of the five NLRB members was invalid. The appeals court ruling called into question hundreds of NLRB decisions.



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Country profile of Paraguay; European regulator could delay Solvency II

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Renewal trends in property/casualty, primary and excess casualty, workers compensation and the D&O sectors

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SOCIAL MEDIA TECHNOLOGY LEVERAGE & ASSOCIATED RISKS DRAWING THE LINE

Striking a balance with social media in the workplace; security concerns with personal mobile devices; using social media to identify prospects and communicate with customers; brokers leverage social media; using social media for underwriting.

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NEWS

CATASTROPHES

STEEP CALGARY FLOOD LOSSES COULD MAKE IT REGION'S COSTLIEST DISASTER

BY SARAH VEYSEY

The recent severe flooding in Alberta, Canada could be the region's costliest-ever natural disaster.

Bank of Montreal said economic damages from the floods that began in late June likely will be between 3 billion Canadian dollars and CA\$5 billion (\$2.87 billion and \$4.78 billion).

Roughly 75% of the economic losses likely will be insured, which also would make the disaster one of the largest insured catastrophe losses for the nation.

Industry sources said it could take several weeks before the full extent of losses is known.

Preliminary estimates suggest that economic losses will fall into the multibillion-dollar range, said Steve Bowen, a London-based senior scientist with Aon Benfield's Impact Forecasting team, a unit of brokerage Aon P.L.C. While many losses will



AP PHOTO

Overflowing rivers from heavy rain in western Canada forced thousands from their homes, closed downtown Calgary, and sparked mudslides that closed the Trans-Canada Highway around Banff and Canmore.

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MIDYEAR RENEWALS

Terms and conditions tightened on renewing property business

BY BILL KENEALY

Ample capacity and relatively flat pricing have defined the commercial U.S. property insurance market in the first half of the year, but Superstorm Sandy has prompted tighter terms and conditions for some accounts during midyear renewals.

Erik Nikodem, Boston-based senior vice president and property division executive of U.S. and Canada region for American International Group Inc.'s property/casualty arm, said underwriters have sought to change terms and conditions for flood and named wind events in the Northeast.

"We have not been pushing rate as much as trying to get more robust deductibles in the Northeast," Mr. Nikodem said.

Steve Zimmer, Chicago-based senior vice president and national property practice leader for Wells Fargo Insurance Services USA Inc., said pricing varies depending on whether an account is catastrophe-exposed or has a previous loss history.

"At the end of the day, each account should be underwritten on its own merits, but if I had to put numbers to it, I'd say noncatastrophe accounts are down slightly to up 5%, while catastrophe-exposed (accounts) are up 5% to 15%," Mr. Zimmer said.

Owners of commercial property that suffered recent damage face the steepest increases. "Accounts with heavy losses that have catastrophe exposures, you are probably seeing somewhere north of 10% or 15% or even higher" at renewal, Mr. Zimmer said.

Al Tobin, New York-based managing principal of Aon Risk Solutions' property practice, agreed that loss history plays a big role in determining pricing.

"If you had a big loss from Sandy, you will have to pay more," Mr. Tobin said. "There's no getting away from that; but if you didn't have a large loss and are a catastrophe-exposed customer, you

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Comp insurers selectively choosing accounts to underwrite

BY SHEENA HARRISON

Insurers are being pickier than they have been in recent years in selecting accounts they'll underwrite for workers compensation coverage, while risky accounts are seeing midyear pricing increases of up to 10%, experts say.

"What we're seeing is a marketplace that (has been) fairly aggressive in terms of looking for increases and now has

become more selective in terms of what accounts are going to receive increases and what accounts will possibly receive a decrease in pricing," said Eric Silverstein, senior vice president and national accounts team leader with Lockton Cos. L.L.C. in Atlanta.

Sources from Lockton, Willis North America Inc. and Aon Risk Solutions say their clients have seen midyear workers comp rate hikes ranging from 2.5% to 5% for large accounts and 5% to 10% for mid-market employers.

The highest increases have been

in regions such as the Midwest, New York and California, where the state is working to implement a number of workers comp reforms adopted last year. Nationwide, employers and comp insurers continue to face pricing pressures from rising medical inflation, increasing comp claim severity due to an aging workforce, state regulatory changes and lagging investment income from lackluster interest rates.

While insurers have been successful in pushing comp rate increases, experts are reluctant to call the current pricing environment a hard market.

Pam Ferrandino, executive vice president and casualty practice leader for Willis North America in New York, said insurers are hand-picking the most attractive workers comp accounts based on their risk profiles.

Insurers are asking whether they can get what they consider to be a fair premium for the risks they're assuming, Ms. Ferrandino said. And if they don't feel they

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ONLINE
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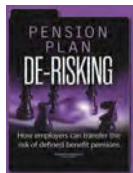
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WHITE PAPER

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outlines the advantages of the strategy and reviews its outlook.

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NEWS

PROPERTY/CASUALTY INSURERS

REGULATORY BURDEN A GROWING CONCERN AMONG INSURERS

AIG CEO says varying rules make compliance difficult

BY GAVIN SOUTER

SEOUL, South Korea — The aftermath of the global financial crisis has left insurers with increased regulatory burdens worldwide, but regulators and insurers still need to work together to resolve many outstanding issues, senior insurance executives say.

The heightened but disparate regulatory requirements are particularly burdensome for international companies and are resulting in higher costs for a broad range of insurers.

The varying regulatory expectations make compliance complex, said Robert Benmosche, president and CEO of American International Group Inc.

European and U.S. regulators in particular have different concerns regarding insurers; and regulators in Asia, who took a flexible approach in the past, are investigating whether to increase regulatory demands on insurers, Mr. Benmosche said in June during a panel presentation at the International Insurance Society's annual seminar in Seoul, South Korea.

In the United States, where AIG has been deemed a systemically important financial institution by the Financial Stability Oversight Council, the Federal Reserve is concerned with "run-on-the-bank" issues where investors collectively seek to take their money out of financial institutions during a crisis, he said.

And with the advent of Solvency II, Europeans are more concerned about the capital held by insurers, Mr. Benmosche said.

"For us to provide global products and markets, we have to bring that together ... when we have meetings with regulators. The Federal Reserve has to have a seat at the table," he said.

AIG has made considerable progress in assessing its own risks since it was bailed out in 2008 during the

See SEMINAR page 28



BLOOMBERG

"For us to provide global products and markets, we have to bring that together ... when we have meetings with regulators. The Federal Reserve has to have a seat at the table."

Robert Benmosche, American International Group Inc.

RISK MANAGEMENT

Nontraditional capital altering insurance market

BY SARAH VEYSEY

BRIGHTON, England — The entry of nontraditional third-party capital — particularly invested by pension funds — into the primary insurance market is good news for buyers and could reduce underwriting cycle volatility, according to broker and insurer executives.

Because some of that new capacity could remain in the market for the long term, that spells good news for insurance buyers, they said.

"I question whether there is ever going to be a hard market as we've seen in the past," said Stephen P.

McGill, group president of Aon P.L.C. and chairman and CEO of Aon Risk Solutions.

The effect of the entry of third-party capital, such as pension fund investment in the reinsurance industry, has been "quite profound" and could signify additional, sustainable capacity and new ways to meet insurance buyers' needs, he said.

Influx of new capacity is "a very significant change and should benefit buyers of insurance," said Steve Hearn, deputy CEO of Willis Global and deputy CEO of Willis Group Holdings P.L.C. in London.

The influx of new capital was the topic of broker and insurer CEOs gathered for a panel session at Air-mic Ltd.'s annual conference in Brighton, England, in June.

And Mr. Hearn said in a post-panel interview that he thinks the new capacity from the pension funds will remain long term, possibly branching out from their initial investment in property catastrophe business into other lines as their familiarity with the insurance industry grows.

Pension funds are driven by the need for yield, said John Doyle,

See AIRMIC page 33

WORKERS COMPENSATION

Road map shows path back to work

Communication boosts employee retention

BY SHEENA HARRISON

CHICAGO — Human resource managers need to communicate their expectations for workers compensation procedures before employees get hurt to reduce comp claims costs.

Margaret Spence, president and CEO of Douglas Claims & Risk Consultants Inc. in West Palm Beach, Fla., said companies should have a written road map that can be used to get employees back to work as soon as possible.

She recommended that such plans include immediate accident investigations and witness statements concerning work-related accidents.

Written return-to-work plans should be displayed for all workers so they're aware of a company's policies after a work accident, she said.

Employees also should be provided with post-accident documents that detail the company's expectations on treatment and returning to modified duties as they recover from an injury.

"Don't give employees the opportunity to say, 'I didn't know what to do,'" Ms. Spence said. "Tell them what we expect and how we expect it. Even in states where you don't get to pick the doctor the employee sees, we still get to create the policy around how the employee operates in our workplace."

She made the comments on workers comp best practices recently during the Society for Human Resource Management's 2013 Annual Conference & Exhibition in Chicago.

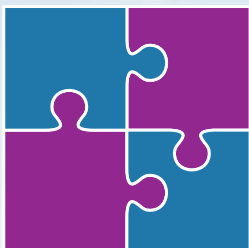
In a separate conference session, Aflac Inc. President Paul S. Amos II said employers need to educate their employees about health plan changes required under the Patient Protection and Affordable Care Act.

Mr. Amos said employers should provide detailed information to workers about how PPACA is changing their benefit structures and premiums, instead of choosing to opt out of providing coverage for employees while paying fines.

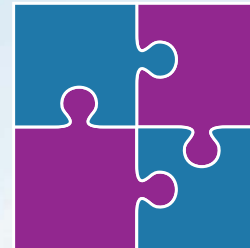
"If you believe in your employees and you want to retain them and

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KEYNOTE SPEAKER



Richard A. Victor has been the executive director of the Workers Compensation Research Institute since its inception in 1983. The institute, located in Cambridge, Mass., is an independent, not-for-profit research organization providing high-quality objective

information about public policy issues involving workers compensation systems. Dr. Victor is the author of numerous books and articles on workers compensation issues. Prior to working at the institute, Dr. Victor spent seven years conducting research at the Rand Corp. in both Washington, D.C., and Santa Monica, Calif. At Rand, he was a principal researcher at the Institute for Civil Justice.

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SMART ACT WILL HELP EMPLOYERS AVOID LARGE NONCOMPLIANCE FINES

Revisions to working Medicare law could mean big savings for smaller firms

BY SHEENA HARRISON

An upcoming change to the Medicare Secondary Payer Act could protect some employers from facing hefty fines if they fail to comply with the law — a protection that could particularly benefit mid-market companies with tight budgets.

Revisions to the act are taking place as the Centers for Medicare and Medicaid Services works to implement the Strengthening Medicare and Repaying Taxpayers Act, which was signed into law by President Barack Obama in January.

CMS holds insurers and self-insured employers responsible for paying for a Medicare beneficiary's medical treatment related to workers compensation or liability cases. The SMART Act includes several provisions meant to simplify the reimbursement process, typically related to claim settlements and judgments.

One key update to Medicare law, experts say, is language that allows CMS to be lenient in charging penalties for failure to report settlements that are eligible for Medicare reimbursement. Before the SMART Act was signed into law, CMS was required to charge a penalty of \$1,000 per claim per day that a settlement was not reported to Medicare. Under the act, CMS now has the ability to charge a penalty "up to" \$1,000 per claim per day.

That slight wording change could create big savings for smaller employers if they accidentally fail to report a Medicare-related claim settlement to CMS, particularly if that failure was not noticed for months or years after the claim is closed, said Michael Merlino, vice president of Medicare compliance for Sedgwick Claims Management Services Inc. in Atlanta.

That can happen in cases when a claimant gave an incorrect Social Security number to the insurer or employer — which prevents insurers or employers from checking the claimant's Medicare eligibility status — or if a company that normally follows CMS procedures inadvertently skips the reporting process for one claim, Mr. Merlino said.

"If a really large company got hit with a ... \$500,000 penalty, they could probably absorb that," Mr. Merlino said of claims that go unreported for long periods. "But if you're talking about a mid-market or smaller company, that's a lot of money."

The SMART Act also requires CMS to create regulations that would define "good faith" efforts that employers, insurers and third-party administrators can take to identify whether a claimant owes money to Medicare.

Those "safe harbor" provisions likely will become the best practices for Medicare Secondary Payer compliance and could help protect employers and insurers from fines if they follow Medicare procedures, said Michelle Allan, an attorney in the Medicare compliance group at law firm Burns White L.L.C. in Pittsburgh.

"I think as long as any payer or responsible reporting entity can demonstrate that they're making an effort to comply with reporting, Medicare may show them some leniency if there is perhaps an isolated event of noncompliance," Ms. Allan said.

Another provision of the SMART Act, set to take effect July 10, sets a three-year statute of limitations for CMS to seek reimbursement from claim settlements and judgments.

That limit can help give peace of mind to employers and insurers about how long they are responsible for Medicare-related claims after settlement, said Greg McKenna, counsel and head of governmental affairs for Itasca, Ill.-based Gallagher Bassett Services Inc.

The statute of limitations "gives employers a sense of the time frame ... that they are in the game for these kind of collections being pursued by (CMS) for collection of conditional payments," Mr. McKenna said.

Additional SMART Act provisions are expected to help ease the Medicare Secondary Payer compliance process, experts say. However, they say that it could be a long time before employers start to see the benefits, because CMS has yet to draft rules and regulations for some of the SMART Act amendments.

Sedgwick's Mr. Merlino said the regulation process was delayed as CMS focused most of its attention on implementing the Patient

SMART ACT PROVISIONS

★ Establishes a three-year statute of limitations for workers compensation and liability claims that can be eligible for Medicare reimbursement after settlement.

★ Allows the Centers for Medicare and Medicaid Services to be lenient in assessing penalties against insurers or employers that don't report settlements.

★ Creates a portal that allows settlement parties to determine how much of a settlement should be used to reimburse CMS for Medicare-related health care.

★ Establishes "safe harbor" provisions that payers can follow to ensure they're following Medicare Secondary Payer procedures in good faith.



"I think there was rightly great celebration in ... January when the legislation was passed and signed into law. But now it's a matter of really getting Medicare to do what the statute indicates."

Daniel Anders, MedAllocators Inc.

Protection and Affordable Care Act.

"I think there was rightly great celebration in ... January when the legislation was passed and signed into law," said Daniel Anders, compliance director for Medicare compliance firm MedAllocators Inc. in Lawrenceville, Ga. "But now it's a matter of really getting Medicare to do what the statute indicates."

One of those changes is a system that will allow settlement parties to determine how much a Medicare beneficiary owes to CMS prior to settlement.

Currently, parties that want to enter into a workers comp or liability settlement with a Medicare beneficiary must request an interim reimbursement demand letter from CMS. The amount gives an estimate of how much a claimant is expected to reimburse to Medicare, but CMS does not provide a final demand for reimbursement until an official settlement has been reached.

That can create a problem when a final demand from CMS is greater than the amount that the claimant and the insurer initially expected to pay to Medicare, experts say.

Under the SMART Act, CMS will create an Internet-based portal that will tell settlement parties the final amount due for Medi-

care reimbursement. After that, parties will have 120 days to settle with no further demands from CMS in relation to that claim.

That provision is expected to help decrease uncertainty in the settlement process.

"If we can get that final amount before settlement, it is going to make the vast majority of cases easier to settle," Sedgwick's Mr. Merlino said.

Although provisions still are being implemented, the SMART Act is expected to make the Medicare Secondary Payer compliance process easier for insurers and employers, MedAllocators' Mr. Anders said.

"Does it address all the issues that we have with MSP compliance? No," Mr. Anders said. "But it's a significant leap forward."

Employers should work with insurers, TPAs or other service providers specializing in Medicare Secondary Payer issues to ensure they understand how the act will begin to affect how claims are handled, said Robert Sokol, director of Medicare Secondary Payer compliance for Belleville, Ill.-based Allsup Inc.

"In general, I think it's important for all parties — employers, carriers, beneficiaries alike — to recognize their role in the process," he said.

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OVERSEAS EXPANSION CALLS FOR EXPAT HEALTH BENEFITS

Plans can include access to insurer's global networks, support services

BY MATT DUNNING

As mid-market companies contemplate expansion opportunities outside the United States, a key issue they will need to address is how best to offer employee health benefits for expatriates working temporarily in foreign countries, experts say.

Expatriate benefit plans, alternately referred to as "global benefit plans" or "international benefit plans," are designed to provide comprehensive health care coverage for employees working abroad, typically for periods of one to five years. Primarily, the plans provide coverage for medical care in most foreign jurisdictions and in the employee's home country, as well as ancillary benefits such as dental, vision, health and wellness management, chronic illness, emergency evacuation and repatriation services. Most U.S.-based expatriate health plans also can be expanded with coverage for third-country nationals and foreign-based employees working in the U.S.

"The whole reason a company puts in a plan like this is to solve for gaps in medical coverage," said Robyn Cameron, global leader of Mercer L.L.C.'s international consulting group in New York.

Expatriate health benefit plans purchased in the U.S. are best described as "hybrid policies" resembling a preferred provider organization for coverage within the U.S. and an indemnity-style plan for coverage abroad, experts say.

In addition to transferability of coverage across international borders, expatriate benefit plans typically include access to an insurer's global network of health care providers, along with detailed information and guidance on provider selection based on individual employ-

ees' needs and preferences. But unlike employees covered under a U.S.-based PPO with a direct-access provider network, expatriate plan participants are not necessarily required to utilize their insurer's global network to acquire covered medical care, experts say.

"A global network is developed to help an expatriate locate a suitable facility or provider, and in many situations to have the claim payment handled behind the scenes," said Pam Enright, senior vice president and director of Lockton Cos. L.L.C.'s global benefits practice in Kansas City, Mo. "Employers should consider an expatriate insurer's direct-pay capabilities within the cities/countries where their expatriates will be working. The total number of network providers is not always the best gauge, but rather the strength of the network in the pertinent locations."

Expatriate plans also generally include a range of administrative and support services, experts say, including management of benefits communications to expatriates, direct payment to international providers, 24-hour customer service and international claims management.

"You can't just throw employees into the local country medical plans," Ms. Cameron said. "For the expatriate assignment to be successful, you need to take the worry out of the equation for the employee, and that's what these types of plans do."

While expatriate health benefit plans have been available in the U.S. for decades, experts say many small and midsize employers still view the plans as cost-prohibitive. According to data compiled by Mercer, 53% of employers providing expatriate benefits saw premium rates for those benefits increase by 6% or more at their last renewal, with 20% of employers report-

ing premium increases of 11% to 15%.

Expatriate plans "are one of the most expensive products in the marketplace because they're global in nature," said Medha Rishi, vice president of global benefits at San Francisco-based Woodruff-Sawyer & Co. "That can deter a lot of employers from classifying an employee as an expatriate, and can encourage them to localize those employees as opposed to keeping them on a U.S. payroll."

Ms. Rishi said smaller employers often choose to cover expatriate employees through less expensive alternatives, such as relying on an employee's existing domestic health plan or purchasing local health coverage in the country in which the employee has been assigned.

However, experts say using local or domestic plans — or a combination thereof — to provide health benefits for long-term assignees can generate substantial gaps in their coverage.

"It doesn't really work that well when you take someone from the U.S. and put them on a policy in the host country, because if that employee gets really sick, they're probably going to come back to the U.S.," said Jennifer Walsh, senior vice president and employee benefits practice leader at Woodruff-Sawyer. "Coverage in the (U.S.) is typically not going to be part of a locally based health plan."

Similarly, many domestic health care plans exclude coverage for claims made in foreign countries, or place significant limitations on international coverage based on the nature of the claim, the country in which the claim was made and the length of time an employee has been overseas, experts say.

"Our recommendation to our clients is to consider a global option, and weigh the pros and cons," Ms. Enright said.



HEALTH REFORM EFFECT STILL AN UNKNOWN

It remains to be seen how U.S.-based expatriate health care plans will be affected by the Patient Protection and Affordable Care Act.

Beginning in 2014, self-insured expatriate group health plans governed by the Employee Retirement Income Security Act will be required to meet the same coverage mandates under the health care reform law that apply to domestic group health plans, including cost-free preventative health services, guaranteed coverage renewal, additional nondiscrimination rules and the elimination of excessive waiting periods.

However, certain types of expatriate health plans have been temporarily exempted from the reform law's employer mandates for plan years ending on or before Dec. 31, 2015. The temporary exemptions only are available to fully insured health plans covering employees working abroad for at least six months, as well as covered dependents.

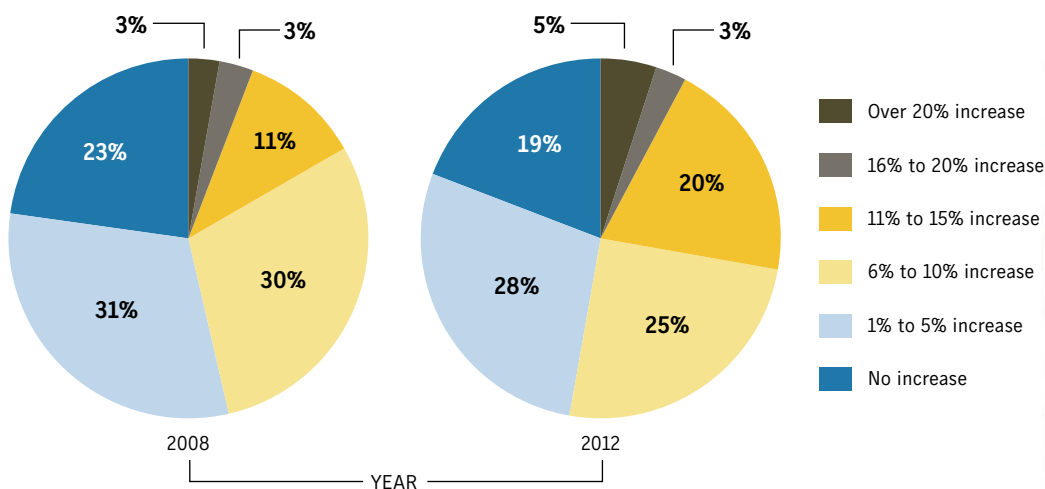
In a statement issued in March, the federal Treasury, Labor and Health and Human Services departments said the temporary exemptions had been granted in recognition of the "special challenges" firms face to have expatriate health plans comply with provisions of the health care reform law, including reconciling the new regulations' compatibility with foreign health and benefit laws.

"It may be difficult for certain preventive services to be provided, or even be identified as preventive, when such services are provided outside the United States by clinical providers that use different code sets and medical terminology to identify services," the departments said in the statement. "Further, expatriate issuers may face challenges and delays in communicating with enrollees living abroad and, due to the complex nature of these plans, standardized benefits disclosures can be difficult for issuers to produce."

By Matt Dunning

INTERNATIONAL MEDICAL PREMIUM INCREASES, 2012 VS. 2008

From 2008 to 2012, the number of employers reporting premium increases below 10% for expatriate health benefits shrank by 12%.



Source: Mercer L.L.C.



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Euro regulator review could delay Solvency II

■ The European insurance regulator has published results of its review of long-term guarantee rules for Solvency II, the proposed risk-based capital regulatory regime for insurers in Europe that has been delayed because of disagreement on how long-term guarantees should be treated. In its report, the regulator proposed that certain elements of the way long-term guarantee business would be treated should be amended. It suggested that some elements of the proposals, such as extending to long-term business an existing assessment for insurance and reinsurance annuities managed under a strict asset/liability matching regime, be excluded from the proposed rules.

Canada oil producers to pay more for spills

■ The Canadian government said it will raise the liability for oil spill cleanups off the country's East and Arctic coasts to 1 billion Canadian dollars (\$981.7 million), a more than 25-fold increase from its prior limit. Oil companies operating in Canadian waters must demonstrate they have at least CA\$1 billion in financial capacity and ready access to at least CA\$100 million (\$98.2 million). Currently liability for spills is limited to CA\$30 million (\$29.5 million) for spills off the East Coast and CA\$40 million (\$39.3 million) for Arctic spills, though oil producers face unlimited liability if they are proven to be negligent or at fault.

Reuters

FERMA board elects four members

■ Four Federation of European Risk Management Associations board members have been elected at the group's annual general assembly. At the meeting, Jorge Luzzi and Julia Graham were re-elected to the 12-member board after the end of their previous three-year terms. Mr. Luzzi, the current president of FERMA, is managing director of Pirelli Insurance & Reinsurance Co., the Ireland- and Switzerland-domiciled captive operations of Milan-based Pirelli S.p.A. Ms. Graham is chief risk officer of law firm DLA Piper L.L.P. in London. Anders Esbjörnsson, risk manager for Solna, Sweden-based NCC A.B., was newly elected to the FERMA board. Edwin V. Meyer, general manager for risk and insurance

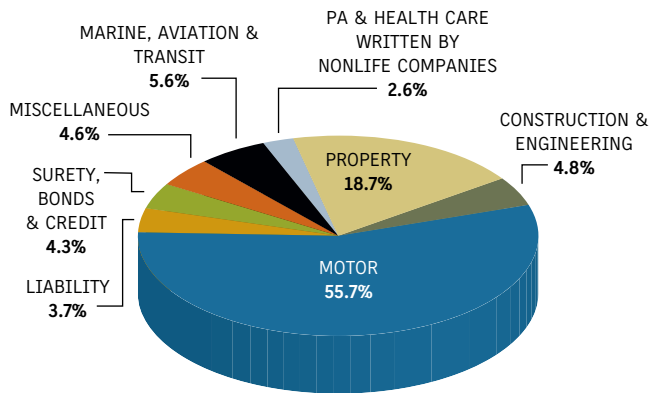
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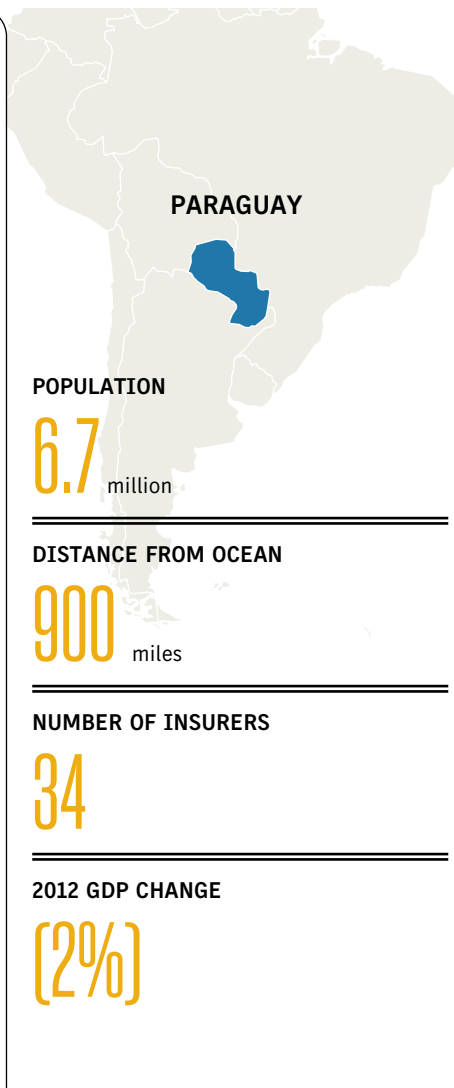
The property/casualty market in Paraguay is small and unsophisticated, as demand for insurance is low. The market is dominated by Spanish insurer Mapfre S.A., which has a 21.8% market share. While several other large insurers operate in the market, many small family-owned insurers, which rely heavily on reinsurance, also are present. While rates have been stable for the past three years, nonlife premiums have more than doubled over the past five years.

◀ 2012 P/C premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



MARKET DEVELOPMENTS

UPDATED JUNE 2012

■ In March 2013, Paraguay's senate passed a draft obligatory auto insurance law and it has been returned to parliament for final approval. Detailed regulations will be drawn up by the insurance regulator with assistance from insurer trade group Asociación Paraguaya de Compañías de Seguros.

■ In November 2012, the insurance regulator, the Superintendencia de Seguros, recognized the core principles of the International Association of Insurance Supervisors as the basis for the supervision of the market.

■ In December 2012, new rules governing disputes over reinsurance recoverables were passed. Among other things, the rules require reinsurers to pay all judicial costs and for the reinsurer to follow the fortunes of the insurer in any court decision.

■ Also in December, changes were made to rules governing insurance and reinsurance intermediaries. Intermediaries are now required to follow minimum corporate governance requirements formulated by the IAIS, disclose certain information to their clients, and make speedy collection of premiums and transfer of funds to insurers.

COMPULSORY INSURANCE

Classes of insurance that are compulsory include:

- Personal accident for passengers on public transportation
- Guarantee bond or professional liability coverage for insurance brokers
- Professional liability for external auditors
- Aviation liability
- Public liability for billboards on public highways in the capital city of Asunción

NONADMITTED INSURANCE

Unauthorized insurers cannot carry on insurance activity in Paraguay. At the same time, there is nothing in the law to indicate that insurance must be purchased from locally authorized insurers. This is generally interpreted to mean that insurers can issue policies from abroad without exception, if approached by a buyer and/or an intermediary.

INTERMEDIARIES

In general, brokers place business with locally authorized insurers, but some cases of business being placed overseas by brokers are said to occur that involve mainly those classes that are not offered in the local market. Multinational business is fronted out with a minimum local retention or none at all.

MARKET PENETRATION

Insurance spending makes up about 1.11% of gross domestic product. The low penetration reflects the general poverty in Paraguay and the current absence of compulsory third-party auto insurance.

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

management for Luxembourg-based steel company ArcelorMittal Group S.A., also was elected for the first time to the association's board.

Brokers see growth in emerging markets

■ The largest commercial insurance brokerages will derive an increasing share of their revenue from emerging markets, London-based financial services consultant Finaccord Ltd. concludes. Finaccord estimates global commercial nonlife insurance broking revenue totaled \$46.3 billion in 2012, up from \$41.9 billion in 2008, according to the analysis. While revenue from developed markets has increased only moderately or even declined, revenue from emerging markets has surged. Between 2008 and 2012, revenue from India, Argentina and

China has grown 36.3%, 28.0% and 22.4%, respectively, according to the analysis.

Global insurance premiums up 2.4%

■ Global insurance premiums written totaled \$4.613 trillion in 2012, up 2.4% compared with the previous year, according to a study by Swiss Re Ltd. Premium volume for nonlife business increased 2.6% to \$1.992 trillion, according to the Swiss Re sigma study. "Premium growth held up well given the challenging economic environment," Daniel Staib, a senior economist at Swiss Re and one of the authors of the report, said in a statement. "The nonlife market was supported by steady increases in risk exposures in emerging markets and by selective premium rate increases in

some advanced markets, particularly in Asia." Low interest rates continue to weigh on insurers' profits, Mr. Staib said.

Lloyd's market capacity, merger interest growing

■ Lloyd's of London is seeing high levels of interest in mergers and acquisitions, according to a report by Aon Benfield Analytics, a unit of Aon P.L.C. Three agencies that manage syndicates at Lloyd's have changed hands so far this year, and "at least two others are actively engaged in sales processes," according to the analysis. "Lloyd's remains attractive to would-be new participants. The entry criteria have not changed, but market conditions make the existing hurdles harder to clear" to launch a startup, according to the report. "These dynamics have

resulted in continued high levels of merger and acquisition activity." The Lloyd's market has record capacity this year, an estimated £25.1 billion (\$38.71 billion) at the start of 2013, according to the report.

A.M. Best upgrades Ironshore ratings

■ A.M. Best Co. Inc. said it has upgraded two ratings for several units of Hamilton, Bermuda-based insurer Ironshore Inc. Oldwick, N.J.-based Best upgraded the financial strength rating to A from A- and the issuer credit rating to A from A- for Ironshore Insurance Ltd. and its affiliated operating companies, Ironshore Indemnity Inc., Ironshore Specialty Insurance Co. and Ironshore Europe Ltd., the ratings firm said in a statement.

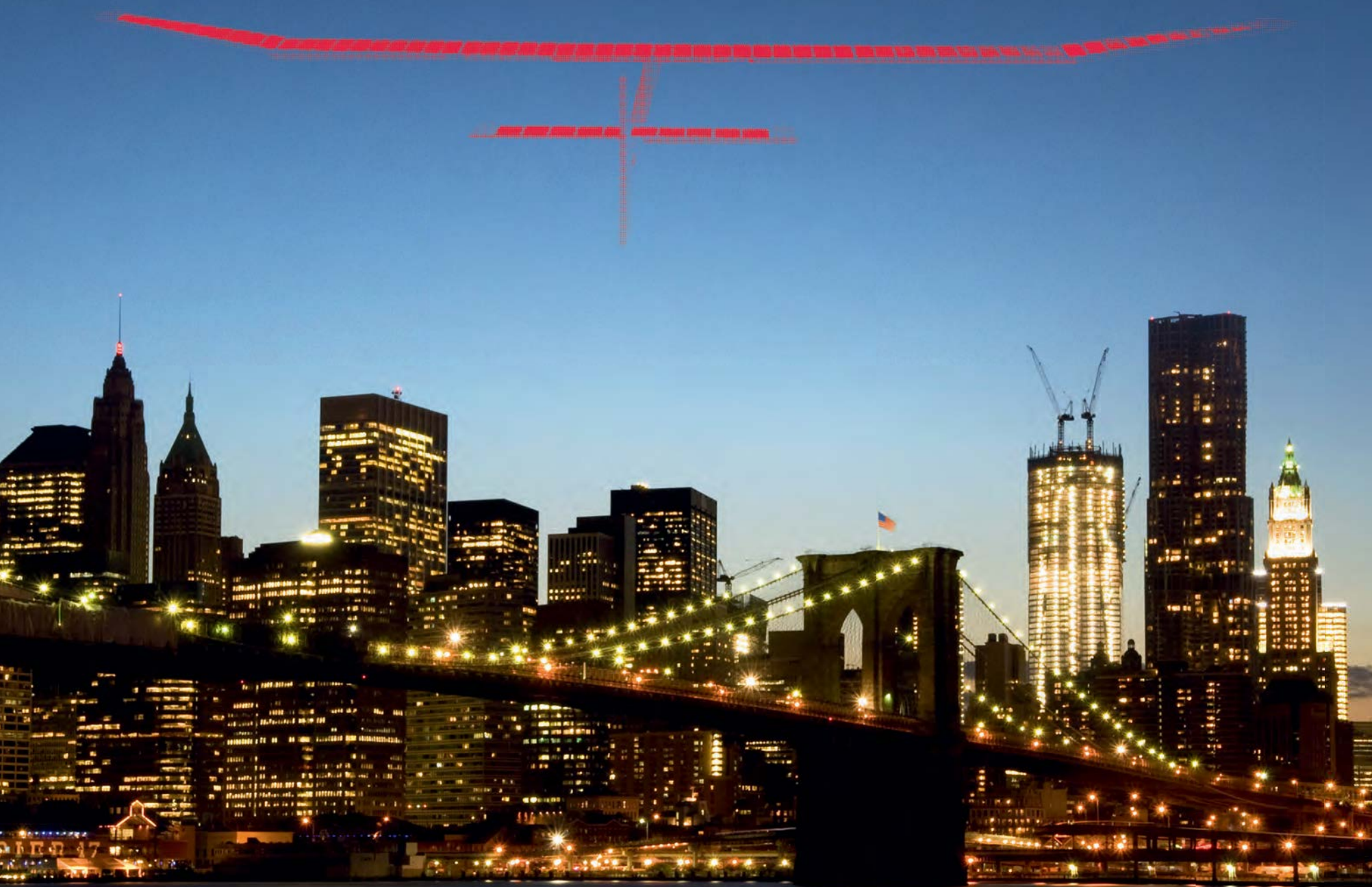
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EDITORIAL

DOMA RULING FORCES BENEFITS REDO

In analyzing last week's Supreme Court decision striking down the 1996 federal law that barred federal recognition of same-sex marriages, we are reminded of a famous quote by Sir Winston Churchill. In late 1942, shortly after Allied forces routed the German army in North Africa, the great British war leader said the victory was "not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning."

That observation certainly applies to the high court ruling declaring the Defense of Marriage Act unconstitutional.

At last, there is certainty that employer-provided benefits, such as health insurance, can be offered to same-sex couples in states where they can legally wed, without the value or cost being added to the employee's taxable income.

Similarly, same-sex couples married under state laws will be entitled to survivor benefits from an employee's pension plan.

That said, there are many open questions. For starters, in situations when employers withheld taxes for coverage provided to same-sex couples, will employers be required to refund taxes already paid in 2013, as well as perhaps for prior years?

That's a key question that cries for a fast response from the Internal Revenue Service.

Other questions also need regulatory guidance. How would benefits be treated in situations when a couple marries in a state in which same-sex marriages are recognized but work in a state where same-sex marriages are not?

At the same time, employers have much work ahead of them. They may need to amend their benefit plans, such as their flexible spending accounts, and rewrite benefit plan documents like beneficiary designation forms and summary plan descriptions. They also may need to reprogram tax reporting systems, as well as update benefit plan enrollment forms and notify employees that same-sex spouses have the same right to COBRA health care continuation coverage as opposite-sex spouses.

In short, regulators and employers have their work cut out for them, with analysis and action awaiting them.

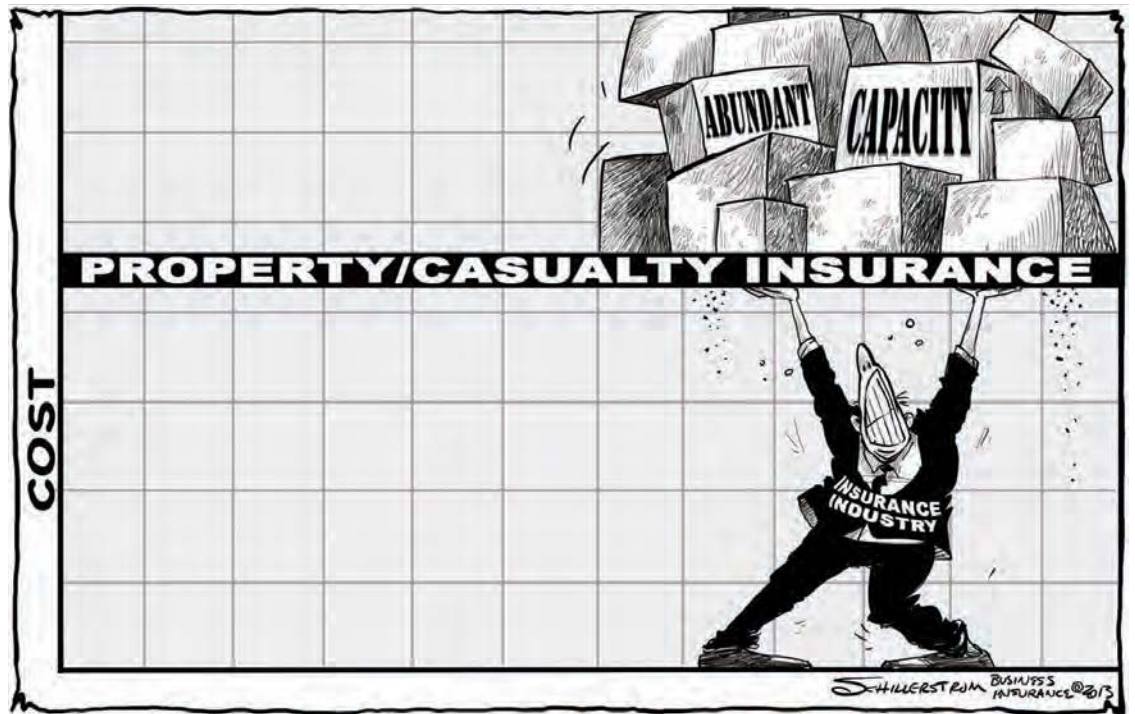
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SCHILLERSTROM



COMMENTARY

POSITIVE MINDSET CAN HELP INJURED WORKERS REBOUND

If we could transfer Aron Ralston's outlook to everyone recovering from a workplace injury, we could eliminate several billion dollars from the nation's workers compensation bill.

Mr. Ralston is the outdoorsman who amputated his right arm with a dull blade to free himself from a boulder that trapped him for more than five days in an isolated Utah canyon in 2003.

Actor James Franco portrayed Mr. Ralston in the critically acclaimed 2010 film "127 Hours." You would think a movie about a lone guy over five days might be dull. But the film is captivating.

Even more captivating is Mr. Ralston telling his story about how it finally came to him that the boulder about to end his life would help free him from nights spent shivering in the cold and long days with little food or water.

Normally, when I attend insurance conferences, my workload causes me to skip the entertaining keynote speeches. But during NCCI Holdings Inc.'s Annual Issues Symposium last month, I had time to listen to Mr. Ralston's story about his canyoneering accident.

Wow! What a story.

Mr. Ralston, an engineer, tried several strategies to free himself from the rock causing him excruciating pain. He chiseled away at it with his dull blade. He used climbing ropes to create a system he thought capable of lifting the rock off his arm. He also failed in a first attempt to amputate his arm. When he struggled to slice through



**ROBERTO
CENICERÓS**
SENIOR EDITOR

flesh he realized cutting through bone would be impossible.

But after accepting death, he finally realized he could break his arm bones using the boulder trapping him for leverage before cutting through his flesh.

After that, he still had to repel down a canyon wall, with his severed arm in a tourniquet and

he had to hike seven miles beyond that for help.

He almost didn't survive.

But today he talks about how the boulders encountered in life, the ones that trap you where you don't want to be, can also be the tools that free you.

His lost arm, he said, is just something that kept him pinned down and helped him understand the real importance of his loved ones. He is now raising a family and still enjoying outdoor adventures including mountaineering and serving on a search-and-rescue team.

In the workers comp world, the toughest claims to resolve involve humans struggling with depression, motivational issues and an array of psychosocial problems atop physical disabilities.

Helping them adopt an outlook like Mr. Ralston's could go a long way.

RISK IN FOCUS

Social Media Technology

Leverage & Associated Risks

Brokers tap social media to win clients

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Risk managers need to lead monitoring effort

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Social media helps insurers analyze claims

PAGE 16

Employers should draft new rules, train employees

PAGE 21



Drawing the line on social media

Digital revolution in the workplace challenges risk managers to strike a balance

BY JUDY GREENWALD

Risk managers are struggling with a series of challenging balancing acts regarding the explosion of social media in the workplace. One is between giving workers freedom of expression and protecting company assets, including trade secrets and proprietary information.

Another is to protect job applicants' privacy and ensuring they do not violate any nondiscrimination laws, while also conducting thorough background checks.

And yet another is the desire to take advantage of the promotion and marketing advantages proffered by social media networks but avoid the potential risks, which could include employees engaging in libel and misrepresentation.

Steps to address these issues include a clearly written, easily understood company social media policy that is supported by employee training, experts say.

One of the major problems faced by risk managers in dealing with social media is the risk of the inadvertent release of proprietary company information and trade secrets.

Employers are trying to figure out the balance "between an employee's freedom of speech and the

employee not sharing things about the workplace that would be embarrassing or inappropriate from the employer's point of view," said Nicholas Economidis, Philadelphia-based underwriter for professional liability and specialty lines at Beazley P.L.C.

Aaron K. Tantleff, senior counsel with law firm Foley & Lardner L.L.P. in Chicago, said if employees writing on social media sites write their posts rapidly while working without adequate thought, "or they don't think

about consequences as much as they would with an email or other correspondence," this increases the likelihood of inadvertently revealing confidential information or company trade secrets.

The rapidity with which communications are made via social media means they often are issued spontaneously. "What you have is what we used to refer to as the 11 o'clock email," said Phil Mayes, London-based senior vice president in the global technology and privacy practice of Lockton Cos. L.L.P.

We "want to make an immediate response" when what we should do is compose something and leave it in a draft folder "while we think about the wisdom of sending that particular email," Mr. Mayes said.

Meanwhile, "those things that you do on social networks can be discovered, they can be subpoenaed, they can be subject to court orders and search warrants" and in many cases are "much less ephemeral than people think," said Alan E. Brill, the Secaucus, N.J.-based senior managing director of secure information services at Kroll Ontrack Inc.

Driving this to some extent is the increased blurring of the lines between work and personal life that is often

SOCIAL MEDIA THREATS

Top five risks executives associate with social media usage

- | | | |
|---|--|-----|
| 1 | Leakage of confidential information | 55% |
| 2 | Inappropriate intellectual property distribution | 40% |
| 3 | Employee distraction from core tasks | 40% |
| 4 | Posted content reflecting negatively on company | 30% |
| 5 | Inappropriate employee discussions | 19% |

Source: McKinsey & Co. Global Survey results

See **SOCIAL** next page

Continued from previous page

PERSONAL MOBILE DEVICES RAISE SECURITY CONCERNS AMONG EMPLOYERS

Control of company data on workers' devices an issue

BY JUDY GREENWALD

Mobile technology, particularly in cases when an employee uses his or her own smartphone or mobile electronic device at work, raises questions of control, data ownership and security, experts say.

Issues arise regarding the extent to which companies can retain control over company data that is on workers' own mobile devices, said Aaron K. Tantleff, senior counsel with law firm Foley & Lardner L.L.P. in Chicago.

"You have to give consideration to whether or not the device is owned by the company or owned by the employee," and, if it is employee-owned, whether there are separate environments for personal and work data, Mr. Tantleff said.

Jason C. Schwartz, a partner with law firm Gibson Dunn & Crutcher L.L.P. in Washington, said: "One of the big issues there is the protection of confidential information, both for the employee who might depart, and also because it exposes the information to third parties who might steal it."

"It's imperative to make sure" that certain company policy requirements are in place regarding personal mobile devices, including the capability to remotely wipe the mobile device, especially if the employee leaves the company, said Matt Donovan, assistant vice president, technology and privacy underwriting leader at Hiscox USA in Atlanta.

"There are copious amounts of information being stored on mobile devices," Mr. Donovan

said. One would hope that security controls, including encryption, are in place, "but this may not always be the case," he said.

As a result, "I think, first and foremost, companies are looking at much broader exposure when their sensitive data is pretty much constantly in transit, with employees on the go and having access to that data in their pocket."

Mobile smartphone applications, and the malware that can accompany them, are a potential danger as well, said Bob Parisi, network security and privacy practice leader at Marsh Inc. in New York. An estimated 70 billion apps will be downloaded in 2013, or about 10 for every person alive today, he said.

Perimeter breakdown

Previously, data was protected by a perimeter, but with the "bring-your-own-device" phenomenon, "you essentially have exploded that perimeter" thereby "creating some very real exposures," Mr. Parisi said.

Phil Mayes, London-based senior vice president in the global technology and privacy practice of Lockton Cos. L.L.P., said companies are "becoming increasingly reliant and expect to have access to data on a 24/7, 365-day basis," which can cause problems in the event of system outages. "Then what you have is almost a redundant workforce.

"It's incumbent upon the risk management department to have a continuity process in place so they're not penalized by significant outages," Mr. Mayes said.



BLACKLISTED MOBILE APPS

Blue Bell, Pa.-based Fiberlink Communications, a mobile device management firm, has compiled this list of the most commonly blacklisted apps, based on more than 2 million devices it manages for businesses worldwide. Its top 10 blacklisted apps are:

IOS DEVICES

- ✗ Dropbox
- ✗ SugarSync
- ✗ BoxNet
- ✗ Facebook
- ✗ Google Drive
- ✗ Pandora
- ✗ SkyDrive
- ✗ Angry Birds
- ✗ HOC CER
- ✗ Netflix

ANDROID DEVICES

- ✗ Dropbox
- ✗ Facebook
- ✗ Netflix
- ✗ Google+
- ✗ Angry Birds
- ✗ Google Play Movies & TV
- ✗ Google Play Books
- ✗ Sugarsync
- ✗ Google Play Music
- ✗ Google+ Hangouts

inherent in the use of social media.

Joseph P. Cutler, counsel with law firm Perkins Coie L.L.P. in Seattle, said workers are "sharing information about their day, which can intermingle with what they're doing at work," and that can lead to them to inadvertently "cross that line" and reveal proprietary information.

A related issue is that social media is "hard to control," Mr. Cutler said. Employers are "unpopular if they block access to it, and yet there's not a lot to do to control what people do on it," he said.

"Companies are behind in training their employees and establishing good social media use policies," Mr. Cutler said. Policies that dictate the use of work-related social media as part of the terms of employment "are just as important as nondisclosure or noncompete agreements," he said.

Mr. Mayes said another issue is created by a "false degree of confidence." People do not realize, once a posting is sent to Facebook, "it is so easy for defamatory and proprietary information to leak out."

Mr. Brill said people "will sometimes say, 'I've set up my account so only my friends see this,'" but "some people who collect friends aren't very choosy about whom they approve of as friends."

"Completely innocent people can suddenly find that they're releasing information that should not have been released," Mr. Brill said, regarding releasing potentially sensitive company information. "If an employee in the midst of a merger or acquisition, for instance, starts sending messages such as, 'Here I am in beautiful downtown wherever,' that can be a signal as to who the acquisition partner is."

In fact, in some cases, "the employee doesn't necessarily have to take any action today where they are" because social media platforms can be tied automatically to the GPS in the cellphone, and a knowledgeable person can extract the geographical location, Mr. Brill said.

In the pre-employment context, another risk faced by employers is exploring personal social media postings by job applicants, which could ultimately lead to charges of discrimination when particular

information is revealed.

Jason C. Schwartz, a partner with law firm Gibson Dunn & Crutcher L.L.P. in Washington, recommended that a pre-employment Internet search of an applicant be conducted by someone other than the decision-maker who is doing the hiring and that personal information should not be considered in the hiring decision.

Although he said he thinks companies should screen a potential hire's public social media postings, Mr. Brill cautioned that in some jurisdictions it has become illegal for employers to ask workers for their social media passwords. Recently, Congress has proposed legislation on this issue regarding the request for social media passwords. "It's a different world, and things you might have done a year ago probably are now inappropriate, depending on where you are and what you're doing," he said.

There is also the danger of colleagues inadvertently revealing personal information such as sexual orientation, or of using social media to harass co-workers, experts say.

Criticisms about the company are an issue, too, experts say. They caution that in light of a recent National Labor Relations Board ruling on the issue, companies cannot keep employees from commenting on their company or their work conditions.

Bradford K. Newman, a partner with law firm Paul Hastings, Janofsky and Walker L.L.P. in Palo Alto, Calif., said the NLRB has been issuing "a series of puzzling decisions on what kind of social media policies may violate the (National Labor Relations Act), but I think employers are much more concerned about protecting their data than worrying about a potential technical violation of" the act.

Problems also may arise if an employee is involved with off-duty issues or activities that "the employer doesn't like, and at least arguably reflects upon the reputation of the employer," including comments against a religion or racial group, Mr. Schwartz said.

The company might reasonably say, "That's not consistent with our company values. It makes us uncomfortable," he said. In many cases, the permissible reaction could depend on the law in the state where the company is located, Mr. Schwartz said.

EMPLOYER SOCIAL MEDIA RISKS

Only one in five companies currently address social media risks as part of their audit process.

Social media risks are not assessed and there are no plans to start monitoring them	45%
Plan to start assessing social media risks in 2014	35%
Social media risks already are actively monitored	20%

Source: 2013 Internal Audit Capabilities and Needs Survey, Protiviti Inc.

Brokers tap social media to identify prospects, communicate with existing customers

BY JUDY GREENWALD

Many brokers are enthusiastically using social media to help them better communicate with clients and attract new prospects, experts say.

LinkedIn is probably the most popular social media network used by brokers, with Twitter the second-most popular, they say.

Eric Joost, New York-based chief executive, North America Specialties at Willis North America, said social media's use by brokers is "the natural extension of what we already do. Twenty years ago, it was paper. More recently, maybe what you see is a website or what we do over email," he said.

"We've got a lot of activity" on social media, including Facebook and Twitter, he said. "At the end of the day, it's just fundamentally more distribution" of "what we think, what we know or how we're reacting to certain things. To me, it's a content game and how you organize it, and how you deliver it.

"I think people are doing a better and better job in getting organized and relevant in how they distribute information" using LinkedIn and Twitter," Mr. Joost said.

Claude Yoder, New York-based global head of analytics for Marsh Inc., said, "It's very attractive, because you can create a much

more dynamic experience rather than serving (data) up with PowerPoint" or on paper.

"At Crystal & Co., our overriding desire is to build great relationships with our clients and prospects and we feel like the very best way to do that is face to face," said Gary Champion, the brokerage's New York-based senior managing director. "We think of (social media) as being an adjunct to the relationship, in helping us connect with both."

John Thorbahn, president of NFP Thorbahn in Norwell, Mass., a unit of National Financial Partners Corp., said, "We are a very strongly based people-oriented company, and we're always looking for better ways to communicate and connect with our customers and our community.

"Our employees were pushing me, and they were very eager" to use more social media to grow the company, he said. After an assessment, "we thought it was worth the time and commitment, if it was strategically managed," Mr. Thorbahn said.

"I'd say we're in the preliminary rounds of figuring out how to make it really work," said Dean Davison, director of communications at Kansas City, Mo.-based brokerage Lockton Cos. L.L.C. "I feel a little bit like people must

have felt in the early days of the telephone, when you had people saying, 'Why do I need a telephone? I can write a letter or go visit my client,' while others say 'Gosh, there's a million and one ways to use this,' and are trying to use all at once. It's just a balancing act, trying to get what's right, and what's right isn't always obvious."

While Lockton producers have found social media useful, "it's not a replacement, though, for traditional methods," Mr. Davison said. "When you approach a client in our business, you are asking them to place a significant amount of ... financial and business trust in you, and that's not an email (or) social media transaction."

LinkedIn and other social media tools "can spark a conversation, and help you find one another, but they can't replace the trust-building process that's vital to establishing long-term relationships," he said.

Carol Ziecik, vice president, corporate communications, at Southfield, Mich.-based Meadowbrook Insurance Group Inc., said the brokerage encourages its associates to use LinkedIn. "It's the most used professional social media channel," she said.

"It's a wonderful branding tool," Ms. Ziecik said. "By doing this training we endeavor to get our

associates promoting a consistent brand about the company and themselves."

Social media also has helped brokers generate new business.

"I'm sure we can't measure that," Willis' Mr. Joost said. "You certainly get anecdotal stories about opportunities that come at us because of our presence" on social media.

Some of the business-related groups at LinkedIn "are starting to get into a very good place," while "Twitter is very effective because it's very issue based," he said.

At Crystal & Co., the brokerage not only has its own LinkedIn page, "but we utilize the brand message to professionalize our associates' LinkedIn pages," Mr. Champion said. LinkedIn is used to connect with current clients and has been "extremely helpful" as an outreach tool as well, he said.

Mike Gelin, Miami-based vice president at CBIZ Benefits & Insurance Services of Florida, a unit of CBIZ Benefits & Insurance Services Inc., said, if a prospect has been given an award for a significant accomplishment, "then I'll reach out to them with traditional email" but also congratulate them via Twitter, Facebook or LinkedIn. "It's just another way to stay in front of the client and show your face," he said.



SOCIAL MEDIA PLATFORMS

The most important types of social media platforms for communicating via data, photos, videos or audio

- Social networking sites
- Blogs
- Social bookmarking
- Online photo and video sharing
- Wikis
- Microblogging
- RSS (rich site summary)

Source: Social Media Risk and Mitigation Guidance, 2012



Brokers look at new ways to leverage social media; some slow to adapt

Many insurance brokers see a bright future for the ongoing use of social media.

"There's no doubt" the brokers' use of social media will accelerate, said Claude Yoder, New York-based global head of analytics for Marsh Inc.

"I really do believe that the next three years will make even the rollout of the Internet look like a glacial case," he said. "All you have to do is look at computer sales versus tablet sales and you'll see a huge divergence in terms of growth."

Tablet shipments are expected to increase 58.7% this year over 2012 and to exceed portable computer shipments, according to a May forecast by San Mateo, Calif.-based International Data Corp.

Referring to the outlook of brokers using more social media, Regina Spratt, New York-based Marsh U.S. sales leader, said clients and prospects want more information before making decisions, and "they want different ways to gather information

and they want to be able to do that on their own and in their own way."

Marsh is "working to aggressively respond to that" through use of social media, she said. "I think that takes being nimble, and I think people who don't recognize that dynamic, that people want to be able to consume that information on their own, they will likely be less effective.

"As you watch and listen to the experts, this dynamic is becoming more and more real, that people want different ways to gather information and they want to be able to do that on their own and in their own way," Ms. Spratt said.

Nancy Gospo, vice president, marketing for brokerage Hub International Ltd. in Chicago, said, "We're constantly tracking to see how often and how frequently our producers are posting content and how many of them have optimized their profile" through the use of social media.

She said the brokerage would like to achieve "more active sharing" of content.

"There's a lot of value to more people within our organization sharing that within our networks," Ms. Gospo said. "It's being done today, but I think there's a great opportunity to expand on that."

John Thorbahn, president of NFP Thorbahn in Norwell, Mass., a unit of National Financial Partners Corp., said "Social media will allow us to expand our brand into some areas we're not currently known for at this time."

Mike Gelin, Miami-based vice president at CBIZ Benefits & Insurance Services of Florida, a unit of CBIZ Benefits & Insurance Services Inc., said, "In the future, I see more and more companies marketing and communicating via different social media networks, as they try to promote their business and their brand using the various platforms."

Not everyone is enthusiastic about social media, however. There tends to be a disparity among brokers on how they take advantage of social media, said Tom Kavanagh,

Chicago-based director, insurance practice, at PricewaterhouseCoopers L.L.P.

Some are doing a "fantastic job," particularly when it comes to branding and information dissemination, taking advantage of established social media platforms including Twitter, Facebook, YouTube and even Yelp, he said.

However, "there are also folks that don't engage with any of those tools for various reasons," Mr. Kavanagh said. It could be because they think they "are well established and have a robust book of business and don't feel the need to engage using those media. It could also be the insurance space is slow moving, particularly when it comes" to new technology, he said.

Mr. Kavanagh offered advice to those brokers who have not yet engaged in social media: "Unless they're getting ready to sell their book, I think they're missing out on a great opportunity to really differentiate themselves."

By Judy Greenwald

Insurers use social media in underwriting, claims, subrogation

Data gleaned can go beyond help with pricing to enable real-time management of risks

BY BILL KENEALY

Social media networks provide a rich source of data insurers can use to improve a variety of operational processes, but it will take time for insurers to fully utilize the data, experts say.

Karlyn Carnahan, principal at New York-based insurance advisory firm Novarica, a unit of Novantas L.L.C., said social media data already is paying dividends for insurers in areas such as underwriting, claims and subrogation.

"Social media is being used extensively in claims, especially in fraud," she said.

Mike Fitzgerald, senior analyst at Boston-based information technology consultant Celent L.L.C., said some interesting uses for social data involved underwriters at commercial lines insurers.

Mr. Fitzgerald said he knows of an underwriter who spotted a Facebook posting by a client, a general contractor, detailing the contractor's new foray into the roofing business. The client was unaware roofing was excluded in his existing policy and was able to adjust his policy at his subsequent renewal to reflect the proper coverages needed thanks to the eagle-eyed underwriter.

It is the immediacy of social data that enables insurers to shift underwriting from a static process reliant upon backward-facing data into a dynamic process reliant upon real-time data, Mr. Fitzgerald said.

"Social data can help insurers go beyond



underwriting and pricing to where you are really managing a risk," he said. "It turns insurance into much more of a real-time continuous product."

David Brisco, a San Diego-based subrogation and recovery attorney for law firm Cozen O'Connor, said companies can utilize social media to help with subrogation. In the wake of a tragic event such as a fire, claims and subrogation can glean important information from social media networks such as Twitter and YouTube.

"Bystanders are often taking video of a loss as it occurs," he said. "So social media

can help us gather information on the cause of a loss even before investigators arrive."

Mr. Brisco said he is familiar with a case in which insurance investigators scoured social media looking for a photograph of a utility pole thought to have started a wildfire near Malibu, Calif., that burned several homes. The investigators found a photo taken mere days before the fire of the suspected pole in a precarious position on the Flickr account of a nearby resident and photography buff.

"Photos from social media sites can be great for helping figure out causation," he said, adding that social media-derived evi-

dence also may help convince jurors usually indifferent to the plight of insurance companies if a case goes to trial. "It really helps tell a story to the jurors in regards to the totality of the loss."

One obstacle to greater usage of social data in subrogation underwriting is that it's currently being used in an ad hoc manner according to the whims of individual employees. "The challenge with social media usage on the underwriting side is that it is just not scalable," Ms. Carnahan said.

Mr. Fitzgerald agreed that insurers will need to find a way to automate the collection and analysis of social media data to derive its full value. "It's not being used widely enough, so it is not yet cost effective," he said.

He also said that the use of social media-derived data has thus far stood up to another perceived hurdle: the legal and regulatory environment.

"I am not aware of any regulatory body that had addressed the use of social data in underwriting," Mr. Fitzgerald said. "Moreover, it appears the courts have said that if you are using social data to fight fraud, you are on solid ground."

In addition to consuming outside social media data, Ms. Carnahan also sees potential for insurers to use social media to smooth internal communications and foster collaboration in complex areas such as claims and easing the information flow between all interested parties.

Monitoring company social media policies demands risk managers lead team effort

BY BILL KENEALY

Monitoring and adjusting a social media risk management policy requires a broad vision on the part of risk managers, as well as a willingness to embrace new technology and work within enterprise risk management frameworks, experts say.

Shawn Ram, managing director and national technology practice leader at Aon Risk Solutions in San Francisco, said a social media policy has to be plain and strict. What may seem like an innocuous tweet or Facebook posting to an employee can easily divulge valuable trade secrets or put an organization afoul of U.S. Securities and Exchange Commission rules regarding insider information.

"At its very core, managing social media risk starts with a policy inside an organization," Mr. Ram said. "However, it's one thing to create a social media policy. The difficulty comes in monitoring it."

Monitoring social media risk is a ceaseless process requiring the efforts of individuals throughout the enterprise. In addition to the risk management depart-

ment and natural allies in areas such as the finance and legal departments, prudent risk managers will build bridges to area such as marketing, communications and investor relations.

"Oftentimes, the group within an organization that is tasked with addressing this risk won't have all the skills necessary," Mr. Ram said, adding that companies should also leverage expertise from third parties if necessary. "If you have a social media account being managed by a third party, as many organizations do, you should have somebody managing that experience, so I would encourage risk managers to ask questions around social media expertise within their organizations."

Mr. Ram said risk managers also should prioritize getting buy-in from top executives about the unique array of challenges social media technology presents.

"The C-suite needs to be cognizant of the risks associated with social media and provide the resources necessary for risk professionals to manage this risk," he said.

Fortunately for risk managers, a wide variety of tools exist to monitor both internal and external social media activity.

While many monitoring tools are based on mature Web-crawling technology, some newer tools make greater use of semantic Web technology, Mr. Ram said.

"You need to take unstructured data from social media and structure it in a way that makes sense for your organization," he said.

"You need to take unstructured data from social media and structure it in a way that makes sense for your organization."

Shawn Ram, Aon Risk Solutions

Peter J. Gerken, senior vice president of risk transfer agency and insurance for Steel City Re L.L.C., a Pittsburgh-based broker/adviser specializing in corporate reputation measurement and risk transfer, said his company has created reputational value metrics that help risk managers track sentiment about their compa-

nies on a weekly basis. The metrics are expressed in two algorithmically based indices that track sentiment based on data pulled from public information.

One index known as the corporate reputation ranking measures the risk of reputation for a given public company, while the second index, a reputational value metric, ranks companies against peers in their given sectors. "We set algorithms that look at what a company's stakeholders do," Mr. Gerken said.

To help risk managers mitigate the risk further, the company also provides reputational value insurance through the syndicates of underwriters at Lloyd's of London and various insurers.

Nir Kossovsky, co-founder, CEO and director of Steel City Re, said reputational value insurance can help risk managers know that the messaging of a company's public relations and marketing team comports with the reality perceived by risk managers. "Overpromising is a huge risk," Mr. Kossovsky said. "The moment that your stakeholders figure out that you are painting a picture that is not substantive, they will punish you."

SOCIAL MEDIA



How companies are using **SOCIAL MEDIA NETWORKS** to monitor risks and complement their business activities

BUSINESS INSURANCE®

HOW COMPANIES ARE USING SOCIAL MEDIA NETWORKS TO MONITOR RISKS AND COMPLEMENT THEIR BUSINESS ACTIVITIES

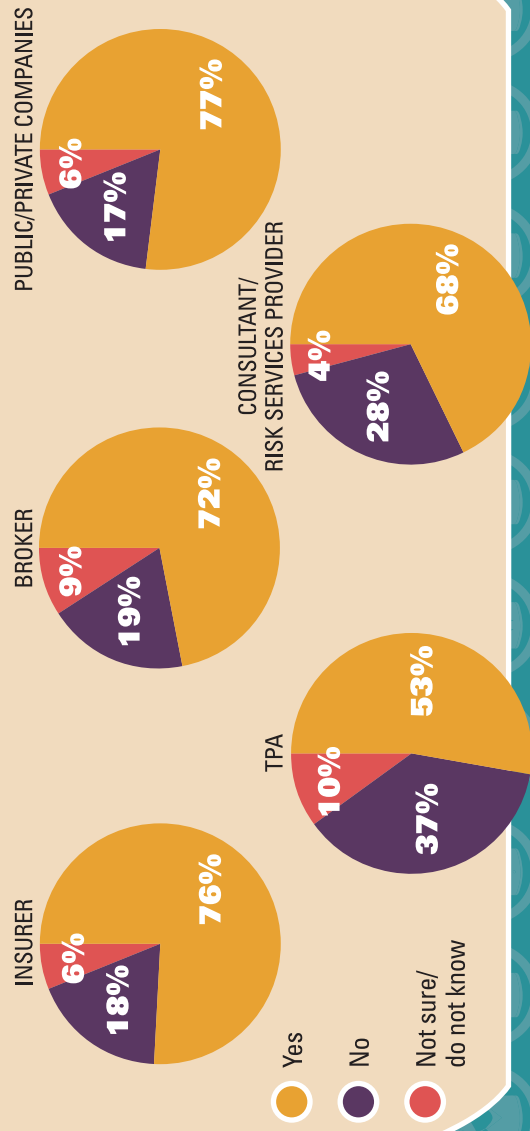
Business Insurance conducted an online survey in April 2013 of readers' social media usage.

A total of 1,405 individuals participated: 18% were CEO/owner/partner; 20% were senior-level executives (EVP, SVP, VP); 24% were director-level executives; 8% were manager-level executives and 30% were consultants, senior analysts and others in a nonsupervisory role. These participants represent 662 different companies, including insurance brokers (n=233 or 35%), public and private companies (n=226 or 34%), risk consultants/insurance services providers (n=93 or 14%), insurers (n=80 or 12%) and third-party administrators (a small sample of n=30, or 5%). The results presented here reflect company-level social media activities.



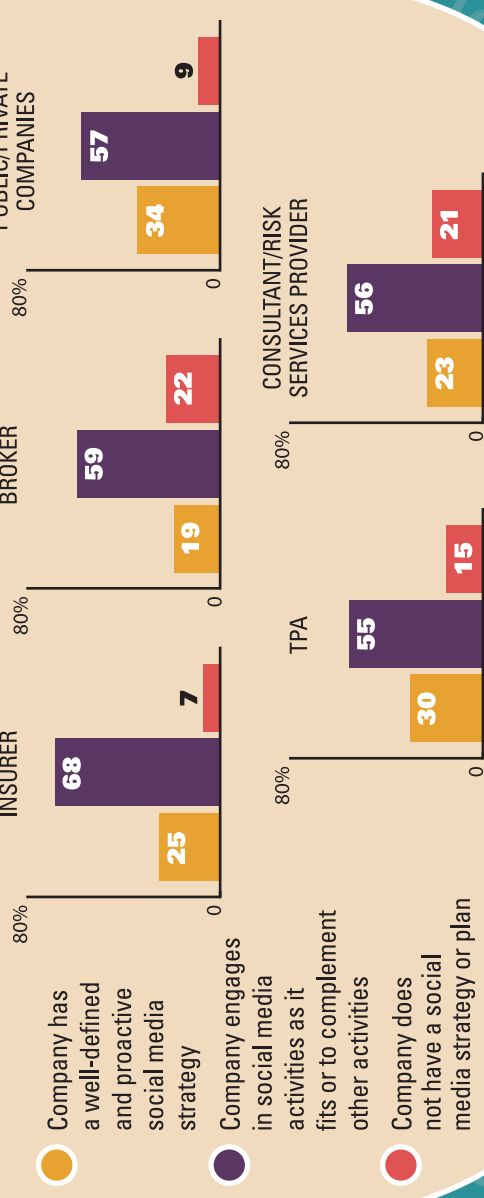
THERE IS HIGH ENGAGEMENT ACROSS COMPANIES, WITH NEARLY 70% OF COMPANIES ALREADY USING SOCIAL MEDIA ACTIVITIES.

Is your company currently engaging in social media activities for business purposes?



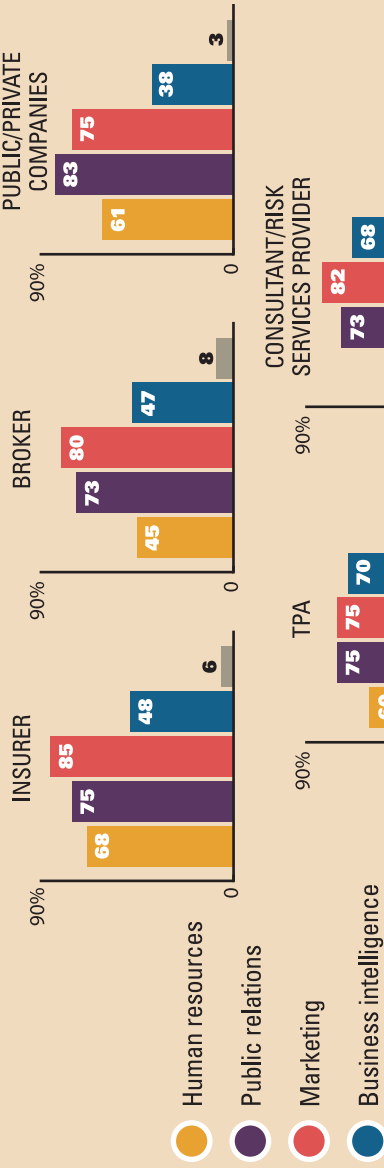
MOST COMPANIES USE SOCIAL MEDIA TO COMPLEMENT OTHER BUSINESS ACTIVITIES.

With respect to social media strategy, which of the following best applies to your company?



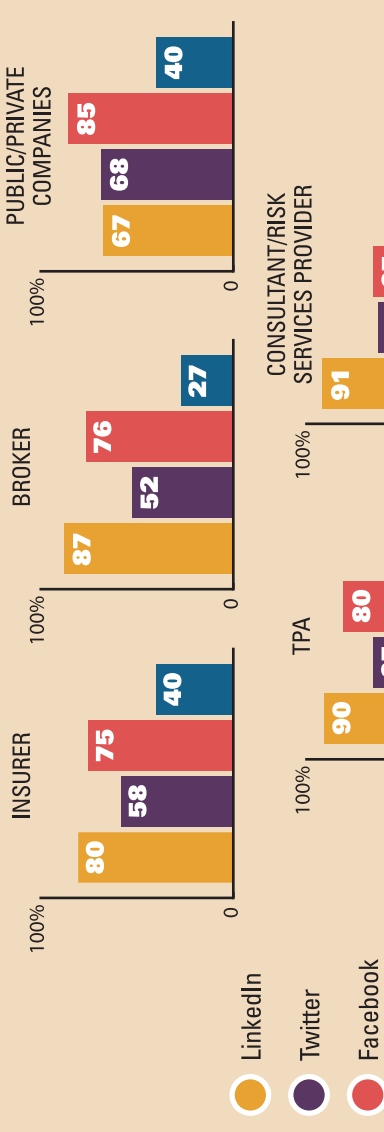
SOCIAL MEDIA IS A MULTIPURPOSE BUSINESS TACTIC MOST LIKELY USED BY MARKETING AND PUBLIC RELATIONS.

In which of the following business activities is your company currently using social media?



NEARLY 80% OF COMPANIES USE LINKEDIN AND FACEBOOK.

Social media networks with highest business usage



All others



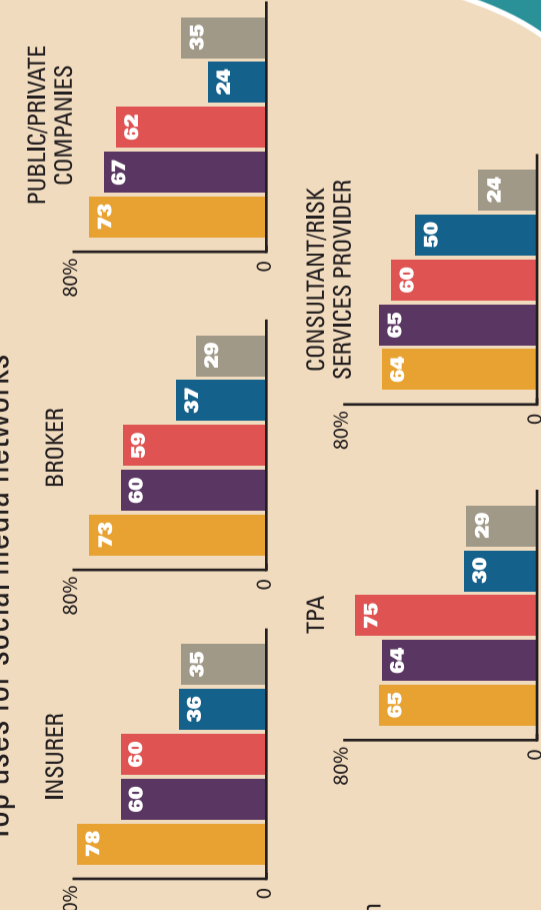
YouTube



SOCIAL MEDIA ENHANCES EXTERNAL AND INTERNAL COMMUNICATION, AND IT IS ALSO USED TO GAIN CONSUMER INSIGHTS.

Top uses for social media networks

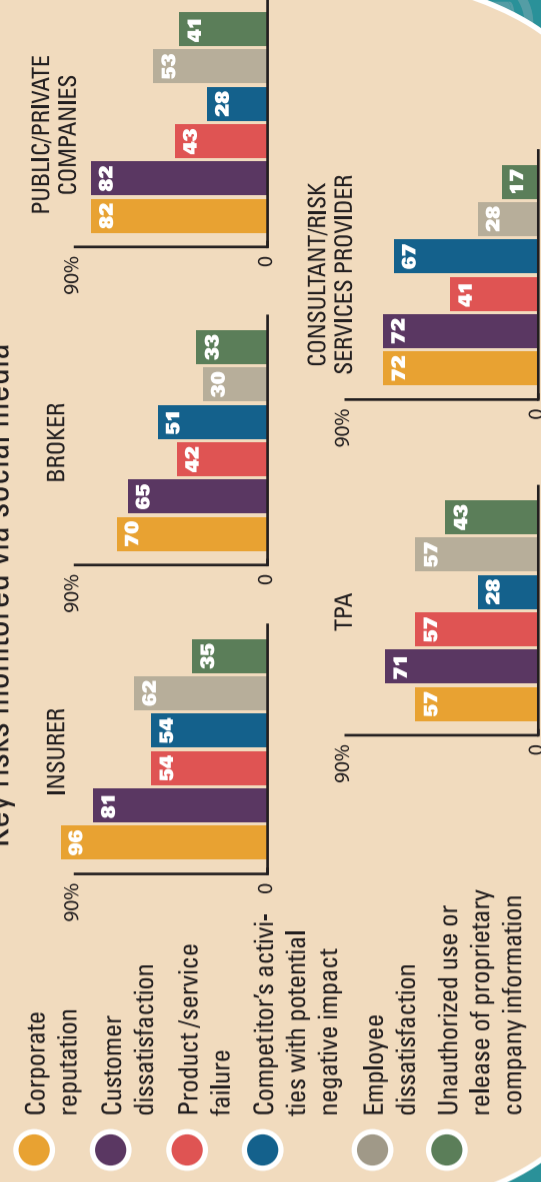
- To communicate and interact with current customers
- To communicate with the public at large
- To advertise or sell products and services
- To conduct research with potential customers
- To communicate with employees



SOCIAL MEDIA ALSO IS USED TO MONITOR RISKS, IN PARTICULAR, CORPORATE REPUTATION AND CUSTOMER DISSATISFACTION.

Key risks monitored via social media

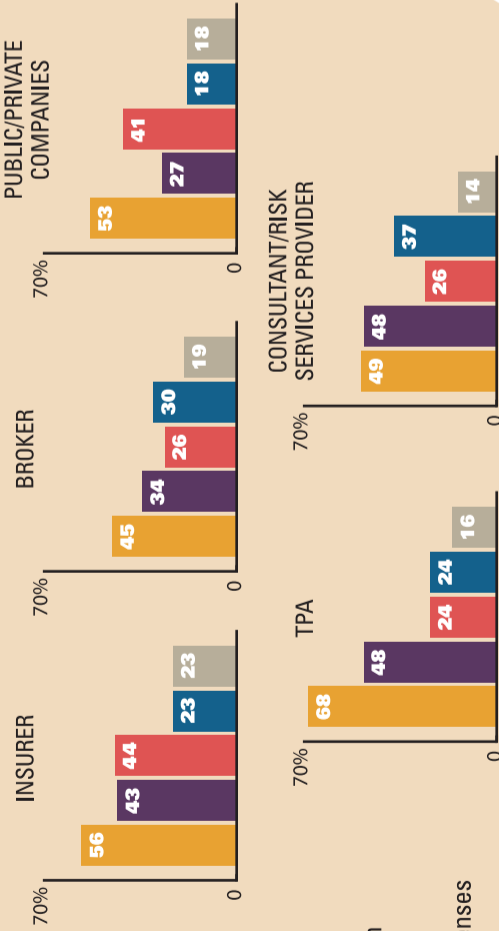
- Corporate reputation
- Customer dissatisfaction
- Product/service failure
- Competitor's activities with potential negative impact
- Employee dissatisfaction
- Unauthorized use or release of proprietary company information



SOCIAL MEDIA BENEFIT COMPANIES IN A VARIETY OF WAYS, FROM INCREASING WEBSITE TRAFFIC TO INCREASING LEAD GENERATION.

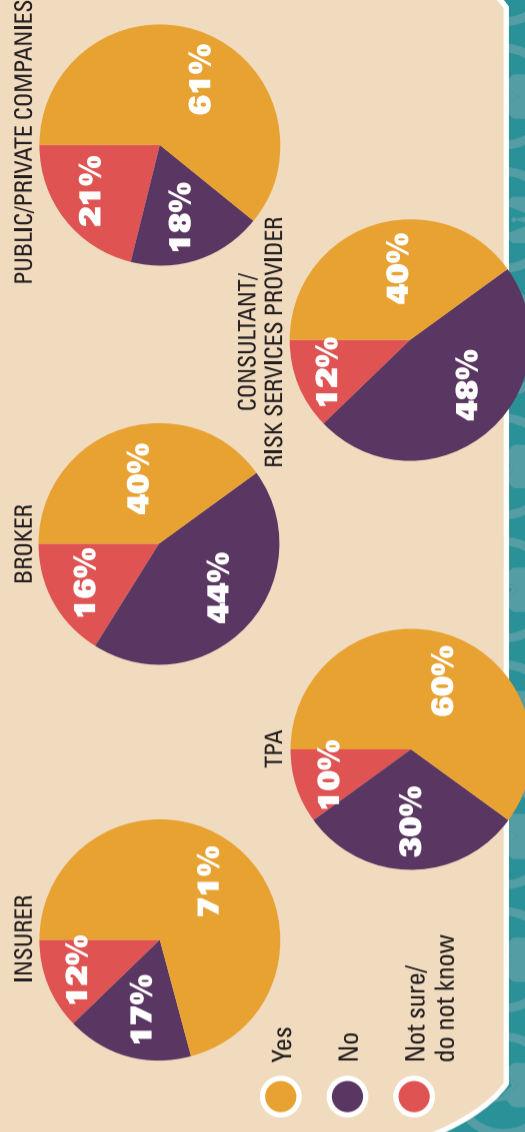
Benefits company has derived from using social media

- Increased website traffic
- Market insights
- Consumer insights
- Increase in lead generation
- Reduction of marketing expenses



BUSINESSES ARE IN THE PROCESS OF FORMALIZING THEIR SOCIAL MEDIA GUIDELINES.

Does your company have social media guidelines or policies for employees, executives and (if applicable) board of directors?



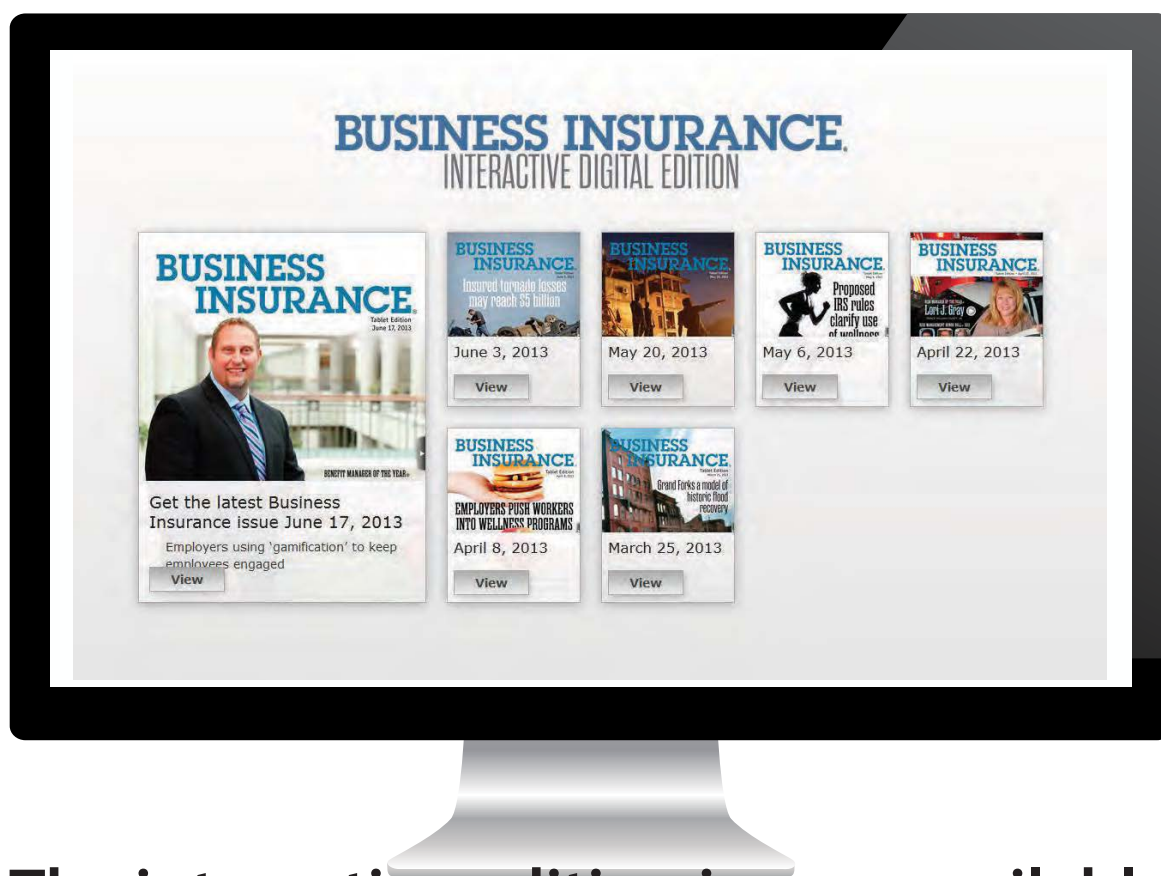
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DRAFT SOCIAL MEDIA POLICIES, TRAIN WORKERS ON AVOIDING PITFALLS

Rules should address proprietary information, harassment, discrimination

BY JUDY GREENWALD

A clear, well-worded company policy backed by adequate employee training can help avoid many of the potential problems caused by the use of social media.

“Unless you have a very strong social media policy, you don’t necessarily know what your employees are saying about your company or about your competitors, and so it just creates all kinds of risks,” said Scott L. Vernick, a partner with law firm Fox Rothschild L.L.P. in Philadelphia.

In developing a policy, risk managers must “find out how your company is using (social media), both in the (human resources) sense and in the operational sense, dealing with customers, dealing with vendors, dealing with employees,” said Alan E. Brill, Secaucus, N.J.-based senior managing director of secure information services at Kroll Ontrack Inc.

“Look at it and apply your expertise, not the expertise of a computer person, not the expertise of a teenager, but how does this change the risks of your company? Are people doing things that are inadvertently creating risks that you really would rather not have to face? While you cannot restrict workers’ personal activities, you can have rules about what they

can release about the company,” Mr. Brill said.

Joseph P. Cutler, counsel with law firm Perkins Coie L.L.P. in Seattle, said, “The best advice is to embrace social media” and monitor its use by your employees, as well as the interactions they have with the public through social media.

“Do not be afraid to set thoughtful social media policies that establish some boundaries and expectations for use,” Mr. Cutler said. “I don’t think that employers that ban the use of social media in the workplace are going to be ultimately successful, and they’re missing an opportunity to use it for the powerful thing that it is.”

Aaron K. Tantleff, senior counsel with Foley & Lardner L.L.P. in Chicago, said a social media policy often emerges from a firm’s human resources department, while the “bring-your-own-device” policy comes from the information technology department. The two policies should be coordinated, he said.

“A social media policy needs to go hand-in-hand” with a company’s information technology policy or a loophole could result, Mr. Tantleff said.

Mr. Brill said the human resources, risk management and legal departments should work together to “come up with a simple

series of guidelines. It should probably fit on one side of one piece of paper, and not in microscopically small letters,” he said.

“But it should be something that people could read and understand, and you should really consider making the policies so that you have guidelines, and you have a standard against which to measure activities and hold (employees) responsible for their actions,” Mr. Brill said.

A social media policy should clearly establish the type of information that is prohibited from being disseminated, including proprietary information and “anything that’s subject to some type of regulation,” Mr. Tantleff said. It also should establish rules against publishing discriminatory or harassing comments on social media, he said.

The policy also should establish that individuals disclose their relationship with the company “as well as make clear that their views are their own and not those of the employer,” Mr. Tantleff said.

The social media policy should “very carefully spell out” what must be approved in advance, Mr. Vernick said.

Rebecca L. Stuart, an associate with Wilson, Sonsini, Goodrich & Rosati P.C. in Palo Alto, Calif., suggested employers have social media policies in place addressing

when workers leave the company. “How can we be sure they haven’t offloaded things to their personal computer?” she asked.

“Companies need to be more aware of what’s going on in the post-employment context,” she said. Taking a “tough stance on proprietary information is really essential.”

Workers should be educated so they “really appreciate the danger” of exposing company data, said Phil Mayes, London-based senior vice president in the global technology and privacy practice of Lockton Cos. L.L.C.

“There’s a multiplicity of security solutions that are available, but what people too often miss is the softer side” around education and training, he said.

Once a social media policy is in place, workers “should get some good media liability training so they understand what the rules of the road are” and employment contracts should be modified “to clearly stipulate who’s responsible for what data,” and who has jurisdiction over it, Mr. Mayes said.

Companies should be alert to any mention of their company’s name on social media and pick up on themes that emerge involving the company and address those immediately. “This is something where you don’t wait until next week because it’ll be too late,” Mr. Mayes said.

Insurance also should be considered, experts say. Firms’ general liability policy may not cover claims related to social media, Mr. Tantleff said.

The right privacy and network security policies “will extend to online or offline exposures,” said Matt Donovan, assistant vice president-technology and privacy underwriting leader at Hiscox USA in Atlanta.

Companies should “analyze their exposures and see if risk transfer and purchasing the right insurance is right for them,” he said.

Nothing is totally safe, said Bob Parisi, network security and privacy practice leader at Marsh Inc. in New York. “There’s always a residual element of risk, and that’s where insurance comes in,” he said.

AVOIDING SOCIAL MEDIA PITFALLS

To avoid making mistakes in using social media, employers’ policies should:

- Be developed to recognize the company’s particular risks.
- Establish that social media use will be monitored by the firm.
- Set boundaries and expectations for employees.
- Be coordinated with the information technology department’s bring-your-own-device policy.
- Be expressed in language that is brief and easy to understand.
- Establish rules against discriminatory or harassing comments.
- Call for individuals using social media to disclose their relationship with the company.
- Require a statement that the views expressed are those of the individual, not the company.
- Spell out what must be approved in advance.
- Set rules for handling data when workers leave the company.



POLICING SOCIAL MEDIA RISKS

Trained staff and management support are the biggest obstacles companies face in actively monitoring social media usage and mitigating their risks.

What inhibits assessing social media risks?

Lack of trained staff	30%	██████████
Lack of management support	27%	██████████
Inadequate technology	18%	██████████
Lack of IT support	17%	██████████
Lack of data availability	14%	██████████
Perceived cost	11%	██████████
Human resources policies	10%	██████████
Other reasons	6%	██████████

Source: 2013 Internal Audit Capabilities and Needs Survey, Protiviti Inc.

Social media helps detect fraud



Mr. Rose

As fraudulent claims increase, insurers have new data sources to try and fight the fraud. From industry watch lists to mapping of hot spots, Stuart Rose, global insurance marketing manager at business analytics firm SAS, says data sources are growing rapidly.

BY STUART ROSE

The stories of dumb fraudsters, such as the street-racing siblings who recently posted their exploits on YouTube, populate the Web. Because there are so many such examples, it would seem insurance companies should invest in automated technologies or services to Google the names on every claim.

For every dumb fraudster, there are multiple smart ones who only can be detected by analyzing the information buried in claims data. Does that mean investigators should ignore social media? Absolutely not. As claims fraud grows, investigators need to expand their toolboxes.

Questionable insurance claims have increased 27% between 2010 and 2012, according to the National Insurance Crime Bureau. As fraud has grown, insurers have turned to new data sources to try to fight it. From traditional but now-digitized industry watch lists to geographic information systems' mapping of hot spots, data sources are growing rapidly.

Text analytics has tapped into the rich vein of unstructured data that resides in claims. Insurers can tease out the similar phrases and circumstances that are common to organized fraud. Link analysis helps spot otherwise hidden patterns of relationships between claimants.

A recent Coalition Against Insurance Fraud report states that 88% of the insurers surveyed say they are using anti-fraud technology. Meanwhile, other units within insurance companies have embraced social media to market prod-

ucts and build customer relationships.

So why not harness social media for investigations? Actually, the same Coalition Against Insurance Fraud survey says that 36% of companies say they do use social media as part of their investigations.

Use social media selectively

Is it helpful? If an investigator or automated fraud detection software has already flagged a potential problematic claim, running the claimant name through various search engines to find Facebook pages, Twitter accounts, Instagram sites and YouTube postings would be logical.

But paying to have every claimant's name searched is too expensive and too prone to mistaken identity issues. Rather than turning to social media first, the better choice is for insurers to look for ways to efficiently comb their own data, and deploy social media only after flagging a suspect claim.

The two most commonly used tools for working with their own data — and some outside data sources — are text analytics and link (social network) analysis. Text analytics analyzes unstructured data like claims notes, customer service logs, police reports and medical records. Social network analysis helps uncover organized fraud rings that might otherwise take years to identify. Social network analysis spots addresses, body shops, physicians, phone numbers and employers that multiple claimants have in common. Both types of analysis are designed

to use existing information to uncover possible fraud before payment is made.

With text analytics, an insurer can analyze written medical records and find that several rear-end accident "victims" have suspiciously similar diagnosis notes written on their medical records.

Social network analysis might then uncover that they are all seeing the same physician, even though many of them don't live nearby. One major insurer using both techniques avoided paying \$2.1 million in fraudulent claims the first year it used these techniques. In addition, it helped their investigators efficiently narrow the pool of suspect claims. By building predictive models against structured and unstructured (adjuster notes) data, the insurer finds about 100 suspicious cases a week. And 20 of those turn out to be worth further review.

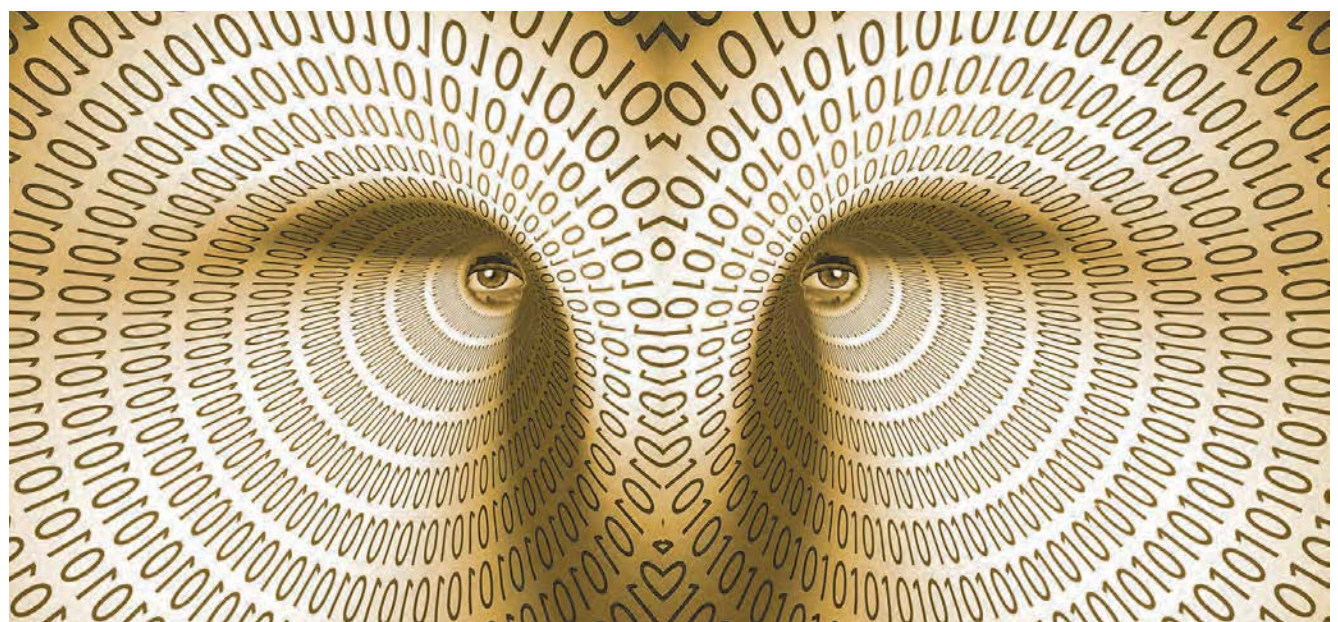
Cost-effective solution

While catching the workers compensation fraudster doing the limbo at a wedding despite a "career-ending" back injury makes for a great story, breaking up organized fraud through analytics is probably going to save more money in the long term.

Is it ever worth it to look through public postings on social media sites? Sure. Just don't spend money doing it until you've invested in more-proven techniques.

Stuart Rose is global insurance marketing manager at Cary, N.C.-based SAS. He can be reached at stuart.rose@sas.com or 919-677-8000.

While catching the workers compensation fraudster doing the limbo at a wedding despite a "career-ending" back injury makes for a great story, breaking up organized fraud through analytics is probably going to save more money in the long term.



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Trends in Workers Comp

Issue: August 12, 2013 Ad Closing: July 31

This *Business Insurance* special report looks at developments and regulations that have affected the workers compensation arena and what is new and innovative in employee safety and loss mitigation. Also included in this issue : **"Benefit Cost Control Providers,"** a special advertising section for your product or service that helps companies control their employee benefit costs.

Bonus distribution: Disability Management Employer Coalition International Conference, Vermont Captive Insurance Association Annual Conference. Advertisers in this issue will be included in the Advertising Readership Study.

Insurer and Reinsurer Capital Management

Issue: August 26, 2013 Ad Closing: August 14

This *Business Insurance* special report looks at capital management issues that insurers and reinsurers face in this difficult economic climate. Mid-year financial results also are included in this issue.

Bonus distribution: Rendez-Vous de Septembre

Marine Market Report

Issue: September 9, 2013 Ad Closing: August 28

This *Business Insurance* special report looks at the global economy and how trade and economic sanctions are affecting the marine insurance market. How are businesses protecting their cargo in ports around the world, and what are the latest developments in cargo theft and piracy.

Bonus distribution: International Union of Marine Insurance, The Entrepreneurial Insurance Symposium

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EMPLOYER INTEREST STILL STRONG IN PENSION DE-RISKING STRATEGIES

Q For years, employers have been de-risking their pension plans by offering to convert participants' monthly annuities to cash lump sums and transferring the obligations to pay promised benefits by purchasing group annuities. Why did this attract so much interest last year?

A Probably the two biggest reasons were major market movers and interest rate movements that reduced the relative premium of lump sum payments. In terms of market movers, publicized actions taken by Ford Motor Co., General Motors Co., Verizon Communications Inc. and others caused many plan sponsors to take notice and reconsider their own de-risking strategies.

Specific to lump sums, since lump sums are typically calculated using prior-year rates, falling rates allowed sponsors to pay lump sums at a discount relative to their current accounting liability. It is worth noting that the opposite is happening this year — very recent rising rates are causing some sponsors to consider delaying lump sum offers until 2014.

Q&A

Q The most popular technique is offering plan participants the option to convert their annuities to a cash lump sum. What percentage of participants have taken a lump sum? What factors affect the take-up rate?

A Based on our experience during 2012, the average voluntary acceptance rate for participants who received a lump sum offer was just above 60%, with over three-quarters of all windows having voluntary acceptance rates over 50%. Our detailed analysis found a num-

ber of influences on acceptance rates, including participant factors such as age and lump-sum amount, program design factors such as length of the offer period and accompanying participant communications, as well as the financial health of the sponsoring organization and regional differences in the preference for lump sums.

Q GM and Verizon purchased annuities from insurers, which then are responsible for paying benefits. Why haven't more employers used that strategy?

A In 2012, we saw more activity in the annuity placement market than has been the case for the last decade. Yet, it was still a very small portion of the overall number of plan sponsors — only about 10% of the number — that offered lump sums. This is driven by several factors. Primarily, annuity placements require a premium over liabilities. Funded status, while improving, is not yet high enough for many sponsors to annuitize retirees. However, interest in annuity placements is very high in 2013, and we expect to see significant activity.



JASON RICHARDS

TOWERS WATSON & CO.

Employers considering reducing the risk of their pension plans can expect a significant number of pension plan participants to accept offers to convert their monthly annuities to cash lump sums, says Jason Richards, senior retirement risk consultant in the St. Louis office of Towers Watson & Co. In an interview with *Business Insurance* Editor-at-Large Jerry Geisel, Mr. Richards discussed lump-sum acceptance rates and other pension de-risking trends. Edited excerpts follow.

Q Why have pension plan de-risking transactions slowed?

A The absence of large deals like GM and Verizon has led to the perception of reduced activity. However, there is still significant interest in de-risking strategies. It is possible that current conditions could push lump-sum windows into 2014 but accelerate demand for annuity purchases. In the first part of 2013, equity markets have risen by more than 15% and interest rates have

climbed over 50 basis points, leading to funded percentage improvements of 15% or more for many sponsors. If markets hold, we expect to see more sponsors actively pursue de-risking opportunities, whether through increased liability-driven investment allocations, the use of lump sums or transfers to insurance companies. By the end of 2013, we'll have a better sense if 2012 was the start of something big or just a temporary blip on the de-risking horizon.

COMINGS & GOINGS

UP CLOSE: EVAN SEKERIS

COLUMBIA, MD.-BASED DIRECTOR OF OPERATIONAL RISK
Aon Global Risk Consulting

PREVIOUS POSITION: Baltimore-based assistant vice president for policy analysis in the supervision department of the Federal Reserve Bank of Richmond.

LOOKING FORWARD TO: I am looking forward to building the new practice in the United States for operational risk. Aon has had an operational risk practice in London for some time, but nothing in the U.S. The U.S. regulatory expectations are very different from that in Europe. I joined Aon to come and build that practice.

CHALLENGES FACING INDUSTRY: There are two big challenges. First, it's the regulatory challenge. The regulations surrounding operational risk and the banking industry are very open-ended and imprecise. It leaves a lot up to interpretation. The second big challenge is dealing with the catastrophic losses of the financial crisis and integrating those in the models.

INDUSTRY OUTLOOK: Very positive. It's a growing industry and moving in the right direction.



WHAT I WOULD CHANGE: The regulations. You have to understand this industry was created by regulations. I would be more specific. I would clarify expectations.

ADVICE: Focus on the value of operational risk in the business as opposed to looking at it purely regulatory.

OUTSIDE THE INDUSTRY, A DREAM JOB: The job I had before, a university

professor.

HOBBIES: Biking and skiing.

THING MOST PEOPLE DON'T KNOW ABOUT ME: I am half Belgian.

WHEN I RETIRE: I hope not to retire. I want to keep being productive. I'd like to do research.

BEST CITY: San Francisco. I am hoping to move there.

THOUGHTS ON SMARTPHONES: They've changed my life — one indispensable tool.

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INSURERS

Liberty Mutual Holding Co.	Anita Glasmeier
Liberty Mutual Holding Co.	S. Colin Dowling
Firemen's Fund Insurance Co.	Andrew Torrance
Ace Ltd.	Lisa Humphrey

REINSURANCE

Cooper Gay Swett & Crawford Ltd.	Oliver Homer
Aspen Insurance Holdings Ltd.	Tom Luning

OTHER

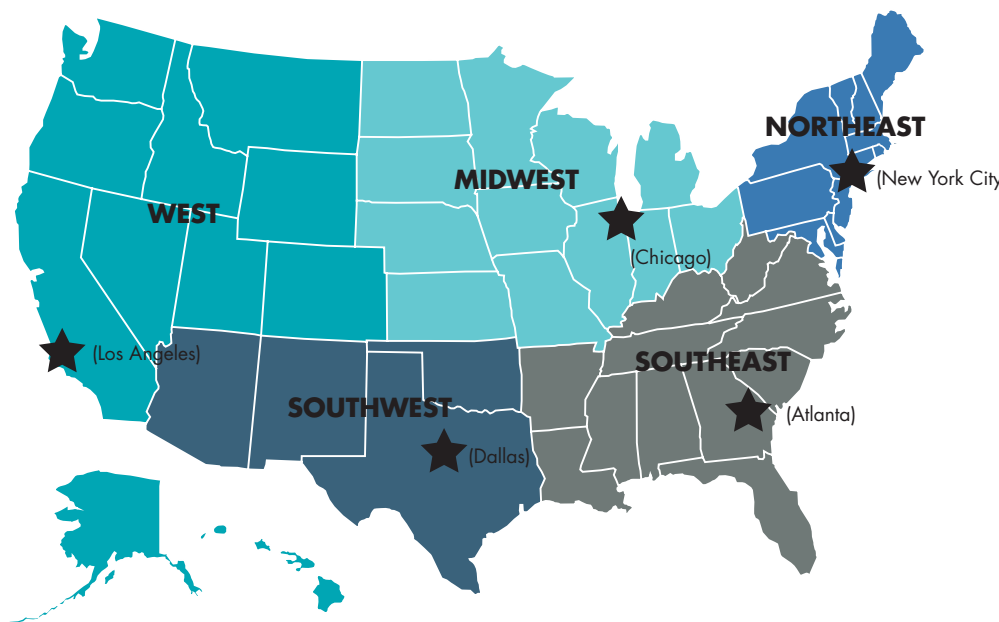
Mercer L.L.C.	David Stacey
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Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to: Kate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

There is still time to nominate a regional broker leader!

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- The Southwest region nominations will close on July 8, 2013
- The Southeast region nominations will close on July 29, 2013
- The Midwest region nominations will close on Aug. 16, 2013



About the Awards: A thorough review will be conducted by a panel of *Business Insurance* senior editors, who will consider various criteria including recent professional achievements, influence on the marketplace, and contributions to their community. Eight brokers will be honored in each region. The results will be announced online and the compilation of all 40 of the award winners will be in the Oct. 7, 2013 issue of *Business Insurance*. Honorees are selected from nominations submitted by readers of *Business Insurance*. Brokers must be age 40 or younger at the time of their nomination.

**Visit www.businessinsurance.com/40Under40
to download a FortyUnder40 Nomination Form today!**

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Digital Benefit Advisors launches private exchange

Digital Benefit Advisors Inc., a division of Atlanta-based Digital Insurance Inc., is launching a private insurance exchange to help employers of all sizes control rising health benefits costs through the use of defined contributions and consumerism.

Digital Benefits Marketplace, expected to be introduced in the coming months in many states across the country, will offer an array of benefits options, including health, life, disability, accident, critical illness, long-term care, dental and vision insurance, along with other products and services, the company said.

“Our private marketplace sets the stage for the next evolution in the benefits industry,” Mike Sullivan, Digital Insurance’s executive vice president and chief marketing officer, said in a statement. “As employers try to control costs and employees assume greater financial responsibility for health insurance, our nation is moving toward a consumer-driven system.”

Digital Insurance, which launched a private exchange in October in partnership with the Vermont Chamber of Commerce, also has been assisting other benefits brokers by serving as their administrative services provider for their smaller employer groups, CEO Adam Bruckman said.

Digital Insurance is a subsidiary of Fidelity National Financial Inc.

LIU environmental liability business expands

Liberty International Underwriters has expanded its environmental impairment liability operation in the Southwest.

The Liberty Mutual Insurance division is based in Houston and headed by underwriting manager Mike Padula, the insur-

PRODUCTS & SERVICES

Online portal for cosmetology sector insurance

Owners of beauty salons and barbershops can obtain insurance for their businesses online via eSalonInsurance.com, a Web portal launched by Connor & Gallagher Insurance Services Inc.

Modeled after the popular car insurance portal esurance.com, eSalonInsurance.com enables commercial insurance buyers in the cosmetology industry to get a quote and bind their coverage online in minutes via a streamlined application process, a spokesman said.

Customer service representatives also are available by online chat to offer help and answer questions.

General liability, workers compensation, crime and property policies are available. Minimum limits are \$1 million for general liability and \$35,000 for crime coverage. The Hartford Financial Services Group Inc. underwrites the program.

er said in a statement.

LIU’s range of environmental liability products include fixed-site pollution legal liability, contractors’ pollution liability,

storage tank third-party liability, contractors and professional services, and corrective action and cleanup.

“Environmental incidents often come with unexpected risks and many companies do not realize until it is too late that they have environmental exposure,” Mr. Padula said in the statement. “Many pollution events are not covered by a commercial general liability policy, and there may be unforeseen gaps in insurance coverage that leave a company paying out of pocket for an environmental claim.”

For more information, Mr. Padula can be reached by phone at 713-470-5833 or by email at michael.padula@libertyiu.com.

Group offers health cover for small-business owners

The National Federation of Independent Business will offer its members a range of personal health insurance plans.

The services will be available to NFIB’s more than 350,000 members through UnitedHealthcare affiliate UnitedHealthOne Agency, the NFIB said in a statement.

The options include copayment health plans similar to employer-sponsored coverage and high-deductible plans with health savings accounts.

Dental, vision, critical illness and disability insurance also will be available for NFIB members.

“The new program provides access to personal health insurance options for small-business owners that fit individual budgets and offer a network of quality health providers,” Mark Garzone, senior vice president of marketing for the NFIB, said in the statement.

The plans are underwritten by UnitedHealthcare’s Golden Rule Insurance Co., and insured NFIB members will have access to UnitedHealthcare’s hospitals, physicians and health care professionals nationwide, according to the statement.

DEALS & MOVES

Guy Carpenter launches mutual firm specialty practice

Guy Carpenter & Co. L.L.C. has launched a mutual company specialty practice.

The practice, which consists of a team of professionals based in Guy Carpenter offices throughout the country, is dedicated to helping mutual companies with challenges that include limitations on raising capital, changes in rating agency capital models, and new regulatory and compliance guidelines such as the National Association of Insurance Commissioner’s risk and solvency assessment, the reinsurance brokerage unit of Marsh & McLennan Cos. Inc. said in a statement.

“The new practice provides solutions for all these concerns and demonstrates Guy Carpenter’s long-term commitment to this distinctive market,” John Haldeman, executive vice president of the mutual company specialty practice, said in the statement.

The practice will make use of stable capital, including New York-based Guy Carpenter’s umbrella and property facultative facilities, as well as the regional accounts program that allows small to medium-size ceding insurers to purchase reinsurance at competitive terms and prices.

Heffernan buys middle-market insurance, benefits brokerage

Heffernan Insurance Brokers has acquired New York-based Consuasor Insurance Advisors Inc., the Walnut Creek, Calif.-based brokerage said.

Terms of the deal were not disclosed.

Consuasor, a middle-market commercial insurance and employee benefits broker founded in 2006, will relocate its New York operations to Heffernan’s offices in Manhattan, while the company’s Long Island branch will be rebranded as Heffernan’s 10th national location.

Marc Hudak, Consuasor’s president and CEO, will serve as regional senior vice president for Heffernan’s group benefits practice in New York.

“This acquisition substantially expands our company’s footprint in the region,” Heffernan CEO F. Michael Heffernan said in a statement. “It’s also a good fit, as (Mr. Hudak’s) former organization like ours, was thoroughly committed to quality client relationships, a positive work environment and giving back to the community.”

Corporate Synergies launches private health exchange

Benefits broker and consultant Corporate Synergies Group L.L.C. has launched a private health insurance exchange that will enable employers with 100 or more employees to offer workers a wide array of plans.

Through the exchange, SynergiesSelect, employers can decide how much they want to contribute toward coverage, with employees using the premium contributions to purchase health insurance offered by eight major insurers through the exchange.

“In our discussions with clients and others in the industry, the concept of a private exchange marketplace is what everyone is talking about,” Andrew Bloom, executive vice president of operations for Mount Laurel, N.J.-based Corporate Synergies, said in a statement.

“Employers get more predictable costs; employees get more choices,” Corporate Synergies Group CEO John Turner said.

Managing access to company data via mobile devices

TECHNOLOGY

HOW DOES IT WORK?



BILL KENEALY

BY BILL KENEALY

Employers that allow workers to access company information via personal mobile devices has broad implications for risk managers.

And to help risk managers better manage bring-your-own-device issues, a growing number of software providers are offering enterprise mobile device management solutions.

A recent report from Stamford, Conn.-based technology research firm Gartner Inc. found a vibrant marketplace for mobile device management solutions.

“Interest and adoption in mobile device management continues to grow at a fast rate, with companies looking for enterprise security and mobile optimization and enablement,” Gartner said in the report.

So what should a risk manager

expect in a such an offering?

Gartner said mobile device management solutions should include a variety of software, hardware, network and security management functions. In addition to supporting a large variety of mobile operating systems and hardware, tools also should enforce enterprise policies around encryption and authentication, Gartner said.

Moreover, such tools should be able to “containerize” applications to separate personal and enterprise data, the report says. Gartner recommends that offerings have robust security measures, enabling risk managers to remotely and centrally control activation, deactivation and password changes, as well as remotely lock and wipe devices.

The report, “Magic Quadrant for Mobile Device Management Software,” also examines the

offering from 18 mobile device management software providers in detail. In addition to well-known names such as Armonk, N.Y.-based IBM Corp., Santa Clara, Calif.-based McAfee Inc. and Walldorf, Germany-based SAP A.G., the report noted the rise of mobile device management-specific technology providers.

For example, the report cites the MaaS360 product from Blue Bell, Pa.-based specialist Fiberlink Communications Corp. for its cloud-based delivery model.

“Fiberlink’s MaaS360 is a pure MDM multitenant cloud services offering for organizations aiming to support corporate and personal devices,” the report said.

“MaaS360 supports containerization, enterprise app stores and mobile content management, including SharePoint access and sharing document links in email.”

PUBLIC NOTICES

LEGAL NOTICE

**To all persons or entities interested in the affairs of
 AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY
 Supreme Court of the State of New York, County of New York, Index No.: 400533/13
 Notice is hereby given:**

I. Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York, has been appointed by an order ("Order"), of the Supreme Court of the State of New York, New York County ("Court"), filed June 19, 2013, as the ancillary receiver ("Ancillary Receiver") of American Manufacturers Mutual Insurance Company ("American Manufacturers") and, as such, has been: (i) authorized and directed to immediately take possession of American Manufacturers' property and recover such other assets of American Manufacturers that are located in the State of New York; (ii) vested with all powers and authority expressed or implied under New York Insurance Law ("Insurance Law") Article 74, in addition to the powers and authority set forth in the Order; and (iii) authorized to pay such claims against American Manufacturers, or its policyholders, that are covered by the New York Security Funds. The Ancillary Receiver has, pursuant to Insurance Law Article 74, appointed Michael J. Casey, Acting Special Deputy Superintendent ("Acting Special Deputy") as his agent to carry out his duties as Ancillary Receiver. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038.

II. The Ancillary Receiver may deal with the property and business of American Manufacturers in its name or in the name of the Ancillary Receiver.

III. The officers, directors, shareholders, trustees, depositories, policyholders, agents, servants, attorneys, managers and employees of American Manufacturers and all other related persons are permanently enjoined and restrained from: (i) transacting American Manufacturers' business, except as authorized by the Ancillary Receiver; (ii) wasting or disposing of the property or assets of American Manufacturers that are located in the State of New York; (iii) interfering with the Ancillary Receiver in the possession, control or management of American Manufacturers' property or in the discharge of his duties.

IV. All persons are permanently enjoined and restrained from commencing any actions, lawsuits or proceedings against American Manufacturers, and all persons are permanently enjoined and restrained from commencing any actions, lawsuits or proceedings against the Superintendent as Ancillary Receiver or the New York Liquidation Bureau, its employees, attorneys or agents, with respect to this proceeding or in the discharge of their duties under Insurance Law Article 74.

V. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against American Manufacturers' property located in the State of New York or any part thereof.

VI. The parties to Julio Recciado, et al. v. BBR Contracting Corp., pending before the Honorable Joan M. Kenney, in Supreme Court, New York County, under index number 600653/06, are enjoined and restrained from proceeding with any court proceedings or other litigation related tasks or procedures, including but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 90 days from the date of Entry of the Order.

VII. All parties to actions, lawsuits and special or other proceedings other than, Julio Recciado, et al. v. BBR Contracting Corp., pending before the Honorable Joan M. Kenney, in Supreme Court, New York County, under index number 600653/06, in which American Manufacturers, its policyholders or insureds, are obligated to defend a party or to provide a defense of any matter against an insured pursuant to an insurance policy, bond, contract or otherwise, are enjoined and restrained from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days from the date of entry of the Order.

VIII. All persons or entities having property located in the State of New York and/or information belonging or related to American Manufacturers, including, but not limited to, insurance policies, underwriting data, claims files (electronic or paper) and/or software programs owned by, belonging to or relating to American Manufacturers shall preserve such property and/or information and, immediately, upon the Ancillary Receiver's request and direction assign, transfer, turn over and deliver such property and/or information to the Ancillary Receiver.

IX. Any bar date for the submission of claims that is established in the domiciliary liquidation proceeding shall also be effective in the ancillary receivership proceeding upon notice, as this Court shall, at the time of establishment of the bar date, determine to be proper and sufficient.

X. Immunity is extended to the Superintendent in his capacity as Ancillary Receiver of American Manufacturers and his successors in office and their agents and employees for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Article 74.

XI. American Manufacturers' license to do business in the State of New York is hereby revoked.

XII. The Ancillary Receiver may at any time make further application to the Court for such further and different relief as he sees fit.

XIII. All communications relating to American Manufacturers and to the Ancillary Receivership Proceeding thereof should be addressed to: **New York Liquidation Bureau, 110 William Street, New York, New York 10038, Attention: Jeanne Pannullo-Anderson, JPannullo@nylb.org.**

MICHAEL J. CASEY
 Acting Special Deputy Superintendent and Agent for the Superintendent as Ancillary Receiver of American Manufacturers Mutual Insurance Company

BENJAMIN M. LAWSKY
 Superintendent of Financial Services of the State of New York as Ancillary Receiver of American Manufacturers Mutual Insurance Company

LEGAL NOTICE

**IN THE MATTER OF THE LIQUIDATION OF WASHINGTON TITLE INSURANCE COMPANY
 Supreme Court County of New York, Index No.: 401396/12
 NOTICE**

Pursuant to an order of the Supreme Court of the State of New York, County of Nassau ("Court"), entered on November 18, 2011, the then-Superintendent of Insurance of the State of New York and his successors in office were appointed as liquidator ("Liquidator") of Washington Title Insurance Company ("Washington Title") and, as such, has been directed to take possession of Washington Title's property, liquidate its business and affairs, and dissolve its corporate charter pursuant to Article 74 of the New York Insurance Law ("Insurance Law"). The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Liquidator of Washington Title. The Liquidator has, pursuant to Insurance Law Article 74, appointed Michael J. Casey, Acting Special Deputy Superintendent, as his agents to carry out the responsibilities of the Liquidator, through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Liquidator has submitted to the Court a verified petition ("Verified Petition") seeking an order: (i) approving the Liquidator's report ("Report") on the status of the Washington Title liquidation proceeding ("Liquidation Proceeding") and the financial transactions delineated therein; (ii) terminating all insurance policies issued by Washington Title, effective as of 12:01 a.m. on July 1, 2013; (iii) establishing July 31, 2013 as the bar date ("Bar Date") for presentation to the Liquidator of all claims, other than claims for administrative expenses; (iv) authorizing and directing the Liquidator to consider for allowance only those claims for actual losses incurred and arising under policies issued by Washington Title that are presented to the Liquidator on or before the Bar Date; (v) barring and discharging all claims, other than claims for administrative expenses, reported after the Bar Date; (vi) authorizing the continued payment of administrative expenses; (vii) authorizing the Liquidator to distribute Washington Title's assets, consistent with this Court's orders and the priorities set forth in Insurance Law Section 7434, to those creditors of Washington Title with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available; and (viii) providing for such other and further relief as this Court deems appropriate and just.

A hearing is scheduled on the Verified Petition on the 29th day of August 2013, at 10:00 a.m., before the Honorable Richard F. Braun, JSC, New York Supreme Court at the Courthouse, IAS Part 23, 60 Centre Street, Room 418, in the County, City and State of New York, 10013. If you wish to object to the Verified Petition, you must serve a written statement setting forth your objections and all supporting documentation upon the Liquidator and seven business days prior to the hearing. Service on the Liquidator shall be made by first class mail at the following address:

**Superintendent of Insurance of the State of New York as Liquidator of Washington Title Insurance Company,
 110 William Street, New York, New York 10038, Attention: John Pearson Kelly, Esq., General Counsel**

In order to participate in Washington Title's Liquidation Proceeding all claims, other than claims for administrative expenses, must be presented to the Liquidator on or before the Bar Date, which is the last date set by the Court to present claims in Washington Title's Liquidation Proceeding.

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

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6665.

Dated: June 11, 2013, Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York as Liquidator of Washington Title Insurance Company

LEGAL NOTICE

**To all persons or entities interested in the affairs of LUMBERMENS MUTUAL CASUALTY COMPANY
 Supreme Court of the State of New York, County of New York, Index No.: 400534/13
 Notice is hereby given:**

I. Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York, has been appointed by an order ("Order"), of the Supreme Court of the State of New York, New York County ("Court"), filed June 19, 2013, as the ancillary receiver ("Ancillary Receiver") of Lumbermens Mutual Casualty Company ("Lumbermens") and, as such, has been: (i) authorized and directed to immediately take possession of Lumbermens' property and recover such other assets of Lumbermens that are located in the State of New York; (ii) vested with all powers and authority expressed or implied under New York Insurance Law ("Insurance Law") Article 74, in addition to the powers and authority set forth in the Order; and (iii) authorized to pay such claims against Lumbermens, or its policyholders, that are covered by the New York Security Funds. The Ancillary Receiver has, pursuant to Insurance Law Article 74, appointed Michael J. Casey, Acting Special Deputy Superintendent ("Acting Special Deputy") as his agent to carry out his duties as Ancillary Receiver. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038.

II. The Ancillary Receiver may deal with the property and business of Lumbermens in its name or in the name of the Ancillary Receiver.

III. The officers, directors, shareholders, trustees, depositories, policyholders, agents, servants, attorneys, managers and employees of Lumbermens and all other related persons are permanently enjoined and restrained from: (i) transacting Lumbermens' business, except as authorized by the Ancillary Receiver; (ii) wasting or disposing of the property or assets of Lumbermens that are located in the State of New York; (iii) interfering with the Ancillary Receiver in the possession, control or management of Lumbermens' property or in the discharge of his duties.

IV. All persons are permanently enjoined and restrained from commencing any actions, lawsuits or proceedings against Lumbermens, and all persons are permanently enjoined and restrained from commencing any actions, lawsuits or proceedings against the Superintendent as Ancillary Receiver or the New York Liquidation Bureau, its employees, attorneys or agents, with respect to this proceeding or in the discharge of their duties under Insurance Law Article 74.

V. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against Lumbermens' property located in the State of New York or any part thereof.

VI. The parties to Mt. McKinley Ins. Co., et al. v. Corning, Incorporated, et al., pending before the Honorable Eileen Bransten, in Supreme Court, New York County, under index number 602454/02, are enjoined and restrained from proceeding with any court proceedings or other litigation related tasks or procedures, including but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 60 days from the date of Entry of the Order.

VII. The parties to the action titled, Kenneth Halvorsen v. Bayrent Construction Corp., et al., pending in Supreme Court, Suffolk County, under index number 08721/02, two additional third-party actions brought under index numbers, 23-0125 and 2737, and the fourth-party action brought under index number 2070232; are enjoined and restrained from proceeding with any court proceedings or other litigation related tasks or procedures, including but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 60 days from the date of Entry of the Order.

VIII. All parties to actions, lawsuits and special or other proceedings other than, Mt. McKinley Ins. Co., et al. v. Corning, Incorporated, et al., pending before the Honorable Eileen Bransten, in Supreme Court, New York County, under index number 602454/02 and the action titled, Kenneth Halvorsen v. Bayrent Construction Corp., et al., pending in Supreme Court, Suffolk County, under index number 08721/02, two additional third-party actions brought under index numbers, 23-0125 and 2737, and the fourth-party action brought under index number 2070232, in which Lumbermens, its policyholders or insureds, are obligated to defend a party or to provide a defense of any matter against an insured pursuant to an insurance policy, bond, contract or otherwise, are enjoined and restrained from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days from the date of entry of the Order.

IX. All persons or entities having property located in the State of New York and/or information belonging or related to Lumbermens, including, but not limited to, insurance policies, underwriting data, claims files (electronic or paper) and/or software programs owned by, belonging to or relating to Lumbermens shall preserve such property and/or information and, immediately, upon the Ancillary Receiver's request and direction assign, transfer, turn over and deliver such property and/or information to the Ancillary Receiver.

X. Any bar date for the submission of claims that is established in the domiciliary liquidation proceeding shall also be effective in the ancillary receivership proceeding upon notice, as this Court shall, at the time of establishment of the bar date, determine to be proper and sufficient.

XI. Immunity is extended to the Superintendent in his capacity as Ancillary Receiver of Lumbermens and his successors in office and their agents and employees for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Article 74.

XII. Lumbermens' license to do business in the State of New York is hereby revoked.

XIII. The Ancillary Receiver may at any time make further application to the Court for such further and different relief as he sees fit.

XIV. All communications relating to Lumbermens and to the Ancillary Receivership Proceeding thereof should be addressed to: **New York Liquidation Bureau, 110 William Street, New York, New York 10038, Attention: Jeanne Pannullo-Anderson, JPannullo@nylb.org.**

MICHAEL J. CASEY
 Acting Special Deputy Superintendent and Agent for the Superintendent as Ancillary Receiver of Lumbermens Mutual Insurance Company

BENJAMIN M. LAWSKY
 Superintendent of Financial Services of the State of New York as Ancillary Receiver of Lumbermens Mutual Insurance Company



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SEMINAR

Continued from page 4

financial crisis, Mr. Benmosche said.

The insurer recently underwent a stress test that presumed a scenario where it would make no profit for two years, the Standard & Poor's 500 index halved, credit spreads would have a 400- to 500-point "blowout," unemployment would hit 12.5%, housing prices would fall 20% and there would be a catastrophe loss the size of Superstorm Sandy.

"At the end of all that, we can meet our capital requirements," Mr. Benmosche said. "If that stress test was run on AIG in 2007-2008, it would have set off alarms so loud that we couldn't hear."

Systemic designation

While insurers in the U.S. and elsewhere have concerns about being designated as globally important systemic insurers, that designation ultimately could provide a competitive advantage to insurers, as it signals that the insurer is well-capitalized, said Thomas Leonardi, insurance commissioner for Connecticut, who also spoke at the seminar.

Policyholders want to buy coverage from insurers that are financially stable, he said.

"Particularly on the life side, where people are buying a product for a 30- or 40-year promise, you want that financial stability; and if you say as a consumer this designation means the company has more supervision, that's a good thing. It has more capital. That's really good and, as it's potentially too big to fail, so the government is not going to let this company go," he said.

But John Fitzpatrick, secretary of the Geneva Association in Switzerland, said being designated as systemically important will

Execs differ on client benefits of Aon-Berkshire facility

SEOUL, South Korea — Broker facilities that offer guaranteed capacity for certain lines of business won't benefit clients, brokers or underwriters in the long term, a leading Lloyd's of London underwriter said.

"If you look back over time, when an underwriter gives away his pen to a broker without any limitations whatsoever, it has always — not often, always — ended in tears," said Stephen J.O. Catlin, chief executive of Hamilton, Bermuda-based Catlin Group Ltd.

Such facilities move underwriting decisions away from insurers, he said last month in referring to facilities such as the one that Aon P.L.C. and Berkshire Hathaway Inc. established recently in the London market.

"Every single person who has done this costs the carrier money, costs themselves money; and I find it very hard under those circumstances to find a way of justifying this predicated on 'It's good for the client,'" Mr. Catlin said.

Policyholders are better served by having a market that offers choice with underwriting decisions that are "close to the capital provider," he said during a session at the

International Insurance Society's annual seminar in Seoul, South Korea.

"If you create swathes of what I would call innocent, ill-advised capacity in the marketplace, you take away from the Lloyd's marketplace the very vibrancy that's made it work," he said.

Geoffrey Bromley, president of international at Aon Benfield in London, said the facilities are good for clients.

"We are in a position now where there's more data available where people can make more informed decisions on, if you like, a tracker-type participation than has historically been the case," Mr. Bromley said during the panel discussion.

The Aon facility will be part of better solutions for the broker's clients, Mr. Bromley said. It also will produce more business for the London market, he said.

"London's participation in much of my company's business, on the insurance side, is much lower than it has historically been, and I think we are looking for ways and opportunities to best utilize the expertise that exists in London," Mr. Bromley said.

By Gavin Souter

increase insurers' costs due to enhanced supervision, a new resolution process that will have to be adopted and higher loss-absorption capital requirements.

"Ultimately, it will just lead to higher capital requirements," Mr.

Fitzpatrick said at the seminar.

The International Insurance Society's annual seminar in Seoul attracted about 440 people. Next year's seminar will be held in London. Dates were not available at press time.

sumer-driven health plans, while 76% were not knowledgeable about health care exchanges. Meanwhile, only 26% of employers surveyed by Aflac said they fully understand PPACA.

In another presentation, pharmacy management experts said specialty drug costs are expected to account for 67% of prescription benefits spending by 2015, and that employers should monitor how such drugs are being prescribed to their employees.

Gregory Madsen and Michael Staab, co-CEOs of Innovative Rx Strategies L.L.C. in Deerfield, Ill., defined specialty prescriptions as those that cost more than \$600 for a 30-day supply, a category that often includes drugs used for conditions such as rheumatoid arthritis, multiple sclerosis and cancer treatment.

Employers should work with specialty pharmacies to distribute specialty medications rather than

working with general retail pharmacies for such drugs, Mr. Staab said. Such providers often have pharmacists who can provide guidance to patients about their prescriptions.

Employees should only receive 15 days worth of a specialty prescription when they first receive the medication, Mr. Madsen said. That's because 18% to 20% of patients do not refill their specialty prescriptions after the initial prescription.

By reducing the initial amount, companies can help limit their prescription spending to those employees who plan to keep taking the medications, Mr. Madsen said.

"If you structure your benefit right ... you can lower your initial cost of these things by about 7% to 10%," Mr. Madsen said.

About 15,000 people attended SHRM's 2013 conference in Chicago. Next year's conference is set for June 22-25, 2014, in Orlando, Fla.

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Butterfield

ROAD MAP

Continued from page 4

you believe that you're all about growing your company and corporate culture, I'll tell you that's a bad idea," Mr. Amos said of choosing not to provide group health benefits under the health care reform law. "Not because I'm not in support of that and not because it's not the right economic decision. It's the wrong decision for recruiting, retaining and employee morale."

Mr. Amos cited statistics from Aflac's 2013 WorkForces Report, a survey of about 1,900 employers and 5,300 employees. It found that 79% of employees said a well-communicated benefits program would make them less likely to leave their current positions.

Mr. Amos said that 72% of employees were not aware of con-

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MARRIAGE

Continued from page 1

same-sex partners, experts say the Supreme Court's ruling should provide some degree of administrative relief by ending the Internal Revenue Service's disparate taxation of those benefits.

"Obviously, this is very employee-friendly, as it will save some employees thousands of dollars in taxes each year," said Todd Solomon, a Chicago-based partner at McDermott Will & Emery L.L.P. "But it's also employer-friendly, because it takes a good bit of work to impute income and tax a benefit properly."

Less clear is the full extent to which employers' obligations to same-sex spouses under group health and retirement benefit plans governed by the Employee Retirement Income Security Act and other federal laws need to expand to comply with the Supreme Court's ruling, experts say.

Certain retirement benefits governed by ERISA that specifically provide spousal rights and responsibilities under employers' ERISA-governed retirement plans — such as rules governing joint and survivor annuities, hardship distributions and mandatory spousal consent — most likely will be extended to include valid same-sex spouses, experts said.

However, relevant agencies including the Internal Revenue Service and U.S. Department of Labor have yet to comment publicly on the ruling, let alone its implications for the employment benefit laws within their purview.

Experts say it will be up to those agencies to determine, for example, how much time employers will be given to review the design of their benefit plans and communication strategies for potential conflicts, as well as to make any changes necessary to bring their plans into compliance.

"It seems like it's going to be multiple agencies and multiple guidance publications that are going to be needed to really frame how this is all going to play out," said Steve Wojcik, vice president of public policy at the National Business Group on Health, a Washington-based advocacy group for large employers on national health policy issues. "For our members, they're still at the very general level of questioning in terms of what it is they need to do or change."

Perhaps the most urgent issue for employ-



AP PHOTO

Debbie Lohmeyer (right) and Tricia McMahon joined community members and local leaders last week in Portland, Ore., to celebrate the U.S. Supreme Court's ruling that overturned the Defense of Marriage Act, extending rights and benefits to eligible married same-sex couples.

ers, experts say, is the interplay between federal regulations governing employment benefits and the patchwork of varied state-level marriage laws across the nation.

To date, same-sex marriages have been declared legal in the District of Columbia and in 12 states. They are: Connecticut; Iowa; Maine; Maryland; Massachusetts; Minnesota; New Hampshire; New York; Oregon; Rhode Island; Vermont; and Washington.

For multistate employers, a key issue in need of quick clarification from the government is which states' marriage laws will control the employer's coverage obligations. Presently, it is unknown whether federal benefit laws will default to statutes in the state in which the employer is domiciled, the state in which the marriage was sanctioned or the state in which the couple

resides.

Providing such a definitive guide to interstate compliance obligations could be extremely difficult for regulators, at least in the short term, experts say. Susan Hoffman, a Philadelphia-based shareholder at law

firm Littler Mendelson P.C., said that DOMA's Section 2 provisions, which were not challenged in the case before the Supreme Court, will continue to permit states that oppose legalization of same-sex marriages to refuse recognition of valid marriages performed in other states.

"It's unclear what happens if, for example, you have employees in a state that permits same-sex marriage but covers them under a benefit plan based in a state that doesn't recognize same-sex marriage," Ms. Hoffman said. "You have all of these cross-border issues that, quite frankly, are probably not going to get resolved until someone brings a challenge to Section 2 of DOMA."

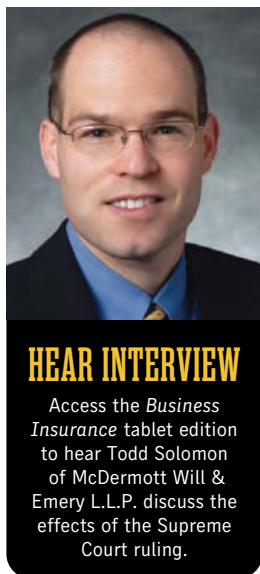
Another issue for regulators to sort out — and potentially the largest source of additional benefit costs for employer plan sponsors — will be the extent to which same-sex spouses' eligibility for benefits will be applied retroactively.

"On its face, the court's opinion appears to say that (Section 3) was always unconstitutional," said Jay Kirschbaum, St. Louis-based legal and research practice leader of Willis North America Inc. "Presumably, that would mean that the (decision's) application to federal benefits and the tax consequences would become effective now and going backward, but it's not yet clear how that's all going to pla

NEW BENEFITS FOR SAME-SEX COUPLES

The U.S. Supreme Court's overturning of Section 3 of the Defense of Marriage Act will result in a range of rights and benefits being extended to eligible married same-sex couples. In almost every case, however, further regulatory guidance is needed to determine eligibility criteria, as well as the scope of employers' added obligations.

- Eligibility for joint and survivor annuities, hardship distribution and early deferral of required minimum distributions under pension plans governed by the Employee Retirement Income Security Act
- Tax exemption for group health plan contributions
- Mandatory 401(k) beneficiary designation and right to consent
- Guaranteed unpaid leave for emergencies involving married spouses under the Family and Medical Leave Act
- COBRA continuation health care coverage
- ERISA-governed health and retirement benefits equal to benefits provided to opposite-sex spouses
- Protection from workplace discrimination on the basis of gender of an employee's spouse under Title VII of the Civil Rights Act
- Eligibility for tax-favored treatment for flexible spending accounts and health savings accounts
- Special group health benefit enrollment rights under the Health Insurance Portability and Accountability Act



HEAR INTERVIEW

Access the *Business Insurance* tablet edition to hear Todd Solomon of McDermott Will & Emery L.L.P. discuss the effects of the Supreme Court ruling.

BROKER

Continued from page 1

industry veteran Roger E. Egan has joined RSC's leadership team as executive chairman. Mr. Egan previously was CEO of Integro Ltd. and president of Marsh Inc.

"Risk Strategies Co. is a very successful middle-market company that has been growing and establishing the beginning of a national platform," Mr. Egan said.

"Our goal with Kohlberg was to find a firm known for great client service and build upon that."

Mr. Egan said that RSC, founded in 1997 and ranked No. 61 in the 2012 *Business Insurance* ranking of the top 100 U.S. commercial insurance brokers, would look to expand rapidly.

"We want to grow pretty quickly," he said. "Through a combination of acquisition and organic growth, we want to be in the top 25 brokers in the U.S. and from there, top 15."

Deals will be especially helpful as the company looks to establish a greater national presence, he said.

"Our geographic footprint is strong in many places, but needs to be amplified in New York,

Chicago and Southern California," Mr. Egan said, because they are large metropolitan areas and hubs of commercial insurance.

Scott Birnbaum, operating partner at Kohlberg, said mergers and acquisitions are a core competency of his firm and that the RSC deal contained privately held funds set aside expressly for acquisitions.

"Kohlberg has tremendous interest in M&A in terms of consolidating an industry sector," Mr. Birnbaum said.

"RSC will make acquisitions strategically; some will be large and some will be smaller. It has to strategically fit for us to pursue it,

but we are cautiously optimistic about the acquisition pipeline," he said.

The deal shows Kohlberg's positive outlook on the commercial insurance brokerage industry as a whole, Mr. Birnbaum said.

"We have spent a significant amount of time looking at the insurance brokerage industry," he said.

"We took a proactive approach to building a sizable presence in insurance brokerages."

Mr. Birnbaum also stressed that the deal leaves RSC's company's executive team, including RSC CEO and founder Michael Chris-

tian, intact while giving it greater resources to serve its clients, which are primarily middle-market and upper-middle-market firms.

"We think this is a great time to make such an acquisition," Mr. Birnbaum said.

"We have a great platform with RSC and a great team and a unique position in the market."

Mr. Cunningham also expressed optimism that with RSC, Kohlberg chose a good vehicle to enter the market.

"Risk Strategies is a good company," Mr. Cunningham said.

"They have a nice platform."

Auto liability, work comp drive casualty insurance price jumps

Terms and conditions tightening as underwriters adjust limits, rates; high-hazard industries get biggest rate increases

BY MIKE TSIKOUAKIS

Buyers of primary and excess casualty insurance received price hikes during the midyear renewal season, with automobile liability and workers compensation driving much of the increases.

Although rates were flat to up 5% for the majority of primary and excess casualty lines, companies in high-hazard industries — including construction, energy, trucking, railroad and pharmaceuticals — saw prices at renewal increase by 10% to 15%, depending on loss history.

Terms and conditions also have tightened somewhat as underwriters are adjusting limits and rates, especially for lines such as transportation, experts say.

Much of the casualty lines pressure is due to increasing workers compensation prices.

Warren Perkins, vice president and risk manager at Boh Bros. Construction Co. L.L.C. in New Orleans, said he expects rate increases during his casualty renewals in October.

“You can expect the (insurance) companies to be standing firm on trying to get increases on the casualty side,” Mr. Perkins said.

To keep workers comp costs down, insurers are underwriting multiline programs for buyers, said Pamela F. Ferrandino, New

York-based casualty practice leader of placement at Willis North America Inc.

“Sometimes you’ll see a false-positive rate trend in general liability, which is really just the carrier trying to make sure they are keeping the workers comp costs ... down,” Ms. Ferrandino said.

Casualty rates rose each quarter last year, “and we’re seeing that continue so far this year,” said Elizabeth Carabas, managing principal at Integro Insurance Brokers Ltd. in Portland, Ore. “We’re continuing to see average rate increases, certainly single-digit, on average of less than 5%.”

Major underwriters of guaranteed-cost workers compensation coverage are spreading rate increases across general and auto liability to increase profitability, she said.

Renewing auto liability insurance rates have increased more than 10%, the most among casualty lines except workers comp, said Kevin Brogan, head of national product practices and special risk for Wells Fargo Insurance Services USA Inc. in Chicago.

“The casualty marketplace is being driven pretty much by the auto line,” Mr. Brogan said. “I would go so far as to say it’s not firm,

it’s hard.”

A pure transportation risk will get rate increases starting at 10%, he said.

“We are still seeing some larger auto liability claims,” Ms. Ferrandino said of the higher frequency and severity of auto liability claims.

While telematics and other technology have provided anecdotal improvements in loss trends and data, actuaries have yet to link such data to auto liability rates, Ms. Ferrandino said.

Insurers are pushing for higher auto liability retentions and buyers are increasingly purchasing auto liability buffer policies, experts say.

Umbrella insurers are not always comfortable sitting atop a \$2 million attachment point if they are concerned about the size or type of a fleet, Ms. Ferrandino said. As a result, insurers often push up the attachment point to the level of the umbrella coverage.

Brian Winters, New York-based executive vice president of casualty for Zurich Global Corporate in North America, said that lead excess casualty insurers writing coverage for heavy transportation risks “are certainly looking for higher attachment points.

“In excess casualty, I think the markets have learned that long limits, \$25 million or more, with low attachment points, \$1 million or \$2 million, are a recipe for losing money over time,” Mr. Winters said, referring to heavy transportation risks. “We’re seeing our competitors, and even Zurich, offering shorter limits with higher attachments.”

With casualty coverage overall, “carriers are carefully drawing the box of what they want to write based on what they know and what they don’t know, and we see them very carefully parse out those risks that they’re uncomfortable with,” Ms. Ferrandino said.

While loss-affected business continues to see rate increases, plentiful capacity is limiting increases, Integro’s Ms. Carabas said.

Some excess liability insurers putting up more than \$50 million of capacity on an account may look to increase premium levels “to manage that outlay of capital a little better,” Ms. Carabas said.

Face-to-face meetings with insurers can help buyers tell their stories and place their casualty programs, “especially if there’s any changes in their risk profile from the prior year,” she said.

“The more you do to foster and build relationships and partnerships, the better position your business is going to be in when it’s underwritten by the underwriters,” Mr. Brogan of Wells Fargo said.

CASUALTY PREMIUM HIKES

Casualty rates overall
0 to +5%

High-hazard industries' prices
+10%-15%

Auto liability prices
+10%

PROPERTY

Continued from page 3

should have a good renewal.”

AIG’s Mr. Nikodem said catastrophe-exposed property owners willing to undergo loss mitigation efforts, such as moving critical electrical infrastructure out of basements and lower floors, will see their efforts reflected in property pricing.

“Along with our engineers, I am meeting daily with clients to talk to them about improving their risk,” Mr. Nikodem said. “I am finding a lot of desire and willingness on behalf of our clients to do things to mitigate losses should there be another event.”

Another primary factor dictating pricing is capacity.

“There’s quite a bit of capacity out there and pricing is always driven by supply,” Mr. Tobin said. “Insurers made money in the property business in 2012, so they had an appetite to write property business in 2013.”

David Finnis, Atlanta-based executive vice president and national property practice leader at Willis North America Inc., said aside from established insurers, China-based insurers and Berkshire Hathaway Inc. are beginning to offer capacity for U.S. commercial property.

“The capacity situation is driving the market,” Mr. Finnis said. “Everyone has had a great first

Girding against flood risks

The damage inflicted by hurricanes the past few years has risk managers, especially those in the Mid-Atlantic and Northeast regions, putting a higher premium on mitigating flood risks on commercial properties, said Brion Callori, Providence, R.I.-based senior vice president for engineering and research at FM Global.

Risk managers can take control by understanding the risks of their buildings and build resilient facilities, Mr. Callori said. “People are aware that the risk is real. I think that there is a lot of momentum building for mitigating against flood exposures.”

To guard against damage from flooding, risk managers are exploring acquisitions of flood-resistant doors and barriers and taking even more drastic steps such as reposi-

tioning data centers to upper floors of structures in order to keep valuable equipment above flood plains and avoid losses, Mr. Callori said.

“It’s amazing what clients are willing to do when they realize they have an exposure,” he said. “People are now raising equipment up in buildings and developing flood response plans.”

Nonetheless, Mr. Callori cautioned that risk managers should not fixate on just one type of loss and should instead be prepared for a broad range of perils.

“One of the key things to remember is that while Hurricane Irene was a big inland flooding event and Superstorm Sandy was a big coastal flooding event, we still haven’t seen a big wind event in the Northeast,” he said.

By Bill Kenealy

half and there is more capacity coming in and threatening people’s positions on their current programs.”

Mr. Tobin said the entrance of Berkshire Hathaway, which launched its commercial property/casualty insurance unit in June after recruiting several top execu-

tives from AIG, ultimately will benefit customers.

“Berkshire is bringing a serious balance sheet and some serious capital to the business,” Mr. Tobin said.

“They are in it for the long haul. You don’t hire that level of talent to go for a short-term play,” he said.

COMP

Continued from page 3

can, “most of them are saying, ‘I don’t want to write it,’” she said.

Many employers that are deemed to have less attractive risk profiles are getting their workers comp coverage underwritten by state fund insurers or are seeking alternative risk transfer vehicles, such as group captives, Willis and Lockton experts said. “If you’re the best risk, you’re not going to get an increase,” Mr. Silverstein said. “If you’re the worst risk, you’re going to get double the increase of the average.”

Brian Winters, New York-based head of casualty for Zurich Global Corporate, agreed that insurers have been more selective in their comp renewals. Mid-market accounts have seen an average pricing increase of about 10% and large accounts an average hike of 7%.

“Customers who have very good profiles and profitability, who really engage actively in claims and risk management practices ... are not getting those kinds of increases,” Mr. Winters said. “They might be getting single-digit rate increases (of) 2% to 5%. Customers who are having trouble with profitability or who have first-dollar programs and are not as engaged in safety and claims will be seeing significantly higher” rates.

Employers are working to position themselves for lower price

increases by raising their deductibles, taking on higher retentions and working with Zurich to improve their safety profiles, Mr. Winters said.

“They are ... spending more money today than I’ve seen in a while on things like loss prevention or loss control,” he said.

Safety has played a key role in keeping comp pricing down for Jack In The Box Inc., said Julie Nester, San Diego-based risk and claims manager. The fast-food chain has about 30,000 employees and has bought comp coverage from Ace USA for many years.

Ace recently held a meeting with Jack In The Box and the company discussed its safety program, as well as a franchising push that has reduced the number of covered workers, Ms. Nester said. She expects to see only a slight increase when Jack In The Box renews its comp policy in September.

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Mergers and acquisitions claims increasing D&O premiums

BY JUDY GREENWALD

Directors and officers liability rates are continuing to increase, with merger and acquisition activity claims a significant factor in the hikes.

Because M&A claims activity tends to be focused in the primary or low excess layers, excess layers continue to be competitive, experts say. Private companies also continue to see higher rates than their public company counterparts.

Meanwhile, the market is keeping a close eye on Berkshire Hathaway Inc.'s entry into the market.

Michael Lubben, director of risk management at Warroad, Minn.-based Marvin Windows and Doors Inc., a privately held firm, who works with New York-based broker Crystal & Co. Inc., said he sees that "prices are firming a bit" after years of declining rates.

Ann Longmore, New York-based executive vice president of FINEX North America, a unit of Willis North America Inc., said, however, "we are seeing very much of a bifurcated market between primary and excess, particularly once

we are past the first layer primary excess" layer.

Steve Boughal, New York-based vice president and chief underwriting officer of Hartford Financial Products, a unit of The Hartford Financial Services Group Inc., said primary rate hikes average in the 5% to 10% range, while the lower excess layers are seeing rate hikes averaging from zero to 5%. High excess rates tend to be flat, he said.

Experts say an important factor in the higher primary rates is that virtually all M&A deals result in litigation, and these tend to reside in the primary layer as high-frequency, low-severity claims. Brian Dunphy, New York-based managing director at Crystal, said M&A litigation is being filed much more quickly now after a deal has been announced than even 18 months ago.

Because about 80% of these merger objection cases are settled by paying off plaintiff attorneys rather than becoming shareholder claims, they are high-frequency, low-severity claims, which puts the "primary policy under the

most pressure," said Phil Norton, Chicago-based president of the professional liability division at Arthur J. Gallagher & Co.

In response, insurers over the past 12 months have been "successful in getting an additional higher retention for M&A claims," said Gary Phillips, New York-based vice president, Northeastern financial services practice leader for Lockton Cos. L.L.C.

Andy Brett, a broker with Miller Insurance Services L.L.P. in London, said insurers now are seeking retentions that are in the \$1 million to \$2 million range for companies with \$200 million to \$1 billion in capitalization.

Experts say rate hikes are higher among private companies than among public companies. Peter Taffae, a D&O insurance expert at Los Angeles-based wholesale brokerage Executive Perils Inc., said that while the overall increase averages 3% to 5%, private firms are seeing D&O increases of at least 10%.

Factors behind this include the inclusion of employment practices liability.

"Roughly two-thirds of the cost of those combined policies is coming from" the employment products liability portion, Mr. Norton said.

Broader policies, which unlike public companies include entity coverage, also are a factor. "Policies are very broad" and the plaintiffs bar is "very, very creative," said Anthony Komro, of Beazley P.L.C. in Chicago.

"In the private company and nonprofit space, the insurers are still recovering from the loss activity of the last couple of years with bankruptcy issues," said Colin Daly, Denver-based managing principal for Aon Risk Solutions' Financial Services Group.

Current trends are likely to continue for the rest of the year, experts say.

However, Kevin LaCroix, an attorney and executive vice president of RT ProExec, a division of R-T Specialty L.L.C. in Beachwood, Ohio, said the market hardening is not being driven by a capacity shortage.

"There continues to be ample capacity, and whatever you've got

a situation like that" there is a natural tendency to undercut rates. Insurers "keep talking the discipline game, but in the end they want to grow their top line," he said.

But Will Fahey, New York-based senior vice president in the management liability group at Zurich North America, said he does not anticipate rate moderation.

"Just because the insurers got single-digit increases last year doesn't mean the industry has addressed where pricing needs to be after eight years of a soft market cycle," he said.

Meanwhile, Brenda Shelly, New York-based D&O practice leader for Marsh Inc.'s FINPRO unit, said one possible area of future concern is recent comments by U.S. Securities and Exchange Commission Chair Mary Jo White.

She has talked about changing the agency's policy of permitting companies to settle litigation without admitting guilt.

This could have a "far-reaching impact" on policy contract language and on how claims are settled, Ms. Shelly said.

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FLOODING

Continued from page 3

not be covered by insurance, insured losses could reach about CA\$1 billion (\$956.1 million), he said.

In a statement, Intact Insurance, a unit of Intact Financial Corp. and Canada's largest property/casualty insurer, said "it will be difficult to fully assess and quantify the damage for a number of weeks."

The company said, "Intact Financial Corp.'s reinsurance coverage starts when damage reaches" CA\$100 million (\$95.6 million) pre-tax. "Beyond this amount, IFC's retention declines from 12% in a stepped manner."

Homeowners policies in Canada do not cover damage caused by overland flooding, according to the Insurance Bureau of Canada.

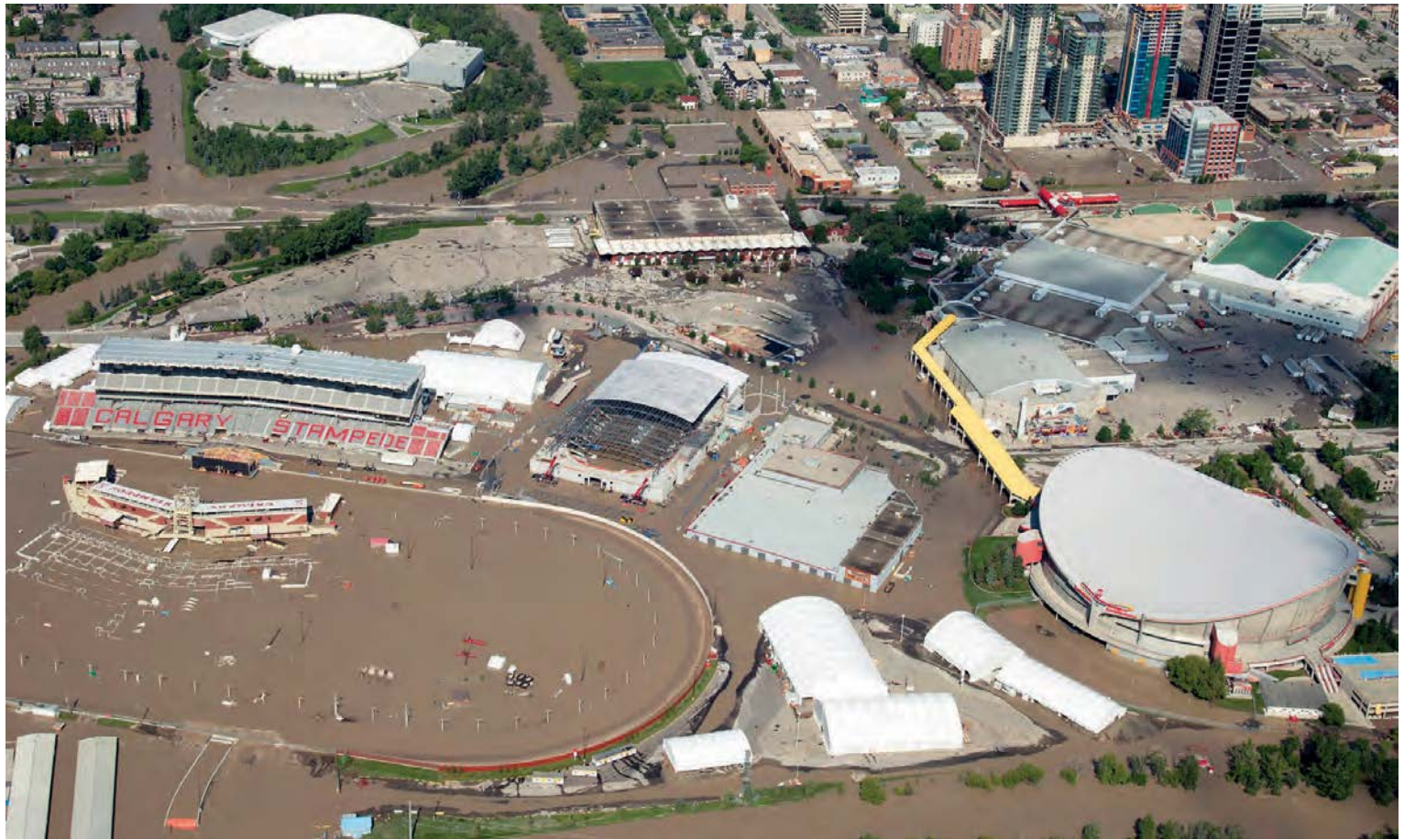
"However, some damage may be the result of sewer backup. Coverage for this type of damage is available but must be purchased as an add-on to a home insurance policy," said Bill Adams, vice president for the western and pacific region for the Canadian insurance bureau.

A spokesman for the bureau said the floods likely will result in significant rate increases for homeowners in affected areas.

The floods which, according to Risk Management Solutions Inc., resulted from an intense low-pressure system that brought unusually heavy rainfall to the region for about 36 hours. The system caused widespread flooding in downtown Calgary, Alberta, as well as surrounding areas.

RMS and other catastrophe modeling firms do not model Canadian floods.

Tens of thousands of Calgary-area residents were evacuated after several rivers burst their banks and a state of emergency



AP PHOTO



Heavy rain sent rivers over their banks and forced the evacuation of downtown Calgary in southern Alberta. The Saddledome (right), home of the NFL's Flames, had water up to the 10th row. Despite inundation of Stampede Park (left), officials vowed to hold the Calgary Stampede.

was declared, Mr. Bowen said. Most regional businesses were shut down, almost all public transportation was suspended and schools were closed, he said.

Significant flood damage also

was reported at the Scotiabank Saddledome stadium, home to the Calgary Flames hockey team.

"Preliminary reports suggest that the level of damage is much worse than the last major flood

event that occurred in 2005," Mr. Bowen said.

"That event damaged at least 40,000 homes in Calgary and forced the evacuation of 1,500 residents. Insured losses in 2005 were listed at \$275 million Canadian."

The floods caused power outages in Calgary, which is Canada's oil capital, and are suspected to have caused the spillage of 750 barrels of synthetic oil from a pipeline in northern Alberta, according to Calgary-based Enbridge Inc., which operates the pipeline that suffered the leak.

Enbridge said the leak might have resulted "from ground move-

ment on the right-of-way as a result of recent unprecedented precipitation levels which exceeded a 1-in-100-year event."

The energy company said it shut down all its pipelines in the area as a precaution.

In a statement, the company said the cost of containing and cleaning up the leak had not yet been estimated.

"Enbridge carries liability insurance for sudden and accidental pollution events, and expects to be reimbursed for its covered costs," which the company said is subject to a CA\$10 million (\$9.6 million) deductible.

COURT

Continued from page 1

Center v. Nassar.

In *Vance*, the court held that an employee is a supervisor for purposes of vicarious liability under Title VII of the Civil Rights Act of 1964 only if he or she has the power to make "tangible" employment actions against the victim, such as hiring or firing. The court said even if there is no tangible employment action, the employer may escape liability by establishing it exercised reasonable care to prevent and correct any harassing behavior.

The court said in cases when co-workers are inflicting psychological injury, employees may still prevail by showing the employer was negligent in permitting the harassment to occur. Its majority ruling criticized the Equal Employment Opportunity Commission's broader definition of supervisor as a

"study in ambiguity."

The ruling, which affirmed a decision by the 7th U.S. Circuit Court of Appeals in Chicago, said, "Under the definition of 'supervisor' that we adopt today, the question of supervisor status, when contested, can very often be resolved as a matter of law before trial.

"The elimination of this issue from the trial will focus the efforts of the parties, who will be able to present their cases in a way that conforms to the framework that the jury will apply."

The case involved an African-American food worker's allegations that she was the victim of racially based harassment by a white female whom she identified as a supervisor.

Bernard J. Bobber, a partner with Foley & Lardner L.L.P. in Milwaukee, who was not involved in the case, said the court accepted the 7th Circuit's definition of a supervisor and rejected the EEOC's definition, which employ-

ers do not like because the agency's definition "leaves lots of room for argument" about who is a supervisor.

"It's a good decision for employers" and "should provide some bright rules in those jurisdictions that aren't already required to follow that particular test," said Steve A. Miller, a partner with Fisher & Phillips L.L.P. in Chicago, who was not involved in the case.

In its 5-4 ruling in *Nassar*, which involved a charge of discrimination and retaliation by a physician of Middle Eastern origin, the court held that a defendant is not liable for an action if he would have taken the same action anyway for other, nondiscriminatory reasons. It rejected the standard that requires a plaintiff to prove only that discrimination was a motivating factor for an adverse employment action.

Lessening the causation rules in cases of wrongful employer conduct prohibited by Title VII of the Civil Rights Act of 1964 could "con-



"It's a good decision for employers" and "should provide some bright rules in those jurisdictions that aren't already required to follow that particular test."

Steve A. Miller,
Fisher & Phillips L.L.P.

tribute to the filing of frivolous claims, which would siphon resources from efforts by employ-

er, administrative agencies and courts to combat workplace harassment," said the majority opinion, reversing a decision by a panel of the 5th U.S. Circuit Court of Appeals in New Orleans.

"This case is a true watershed development in that it presents a dramatic shift in the court's approach to retaliation claims," said Gregory Keating, a shareholder with Littler Mendelson P.C. in Boston.

The court's ruling has "adopted a very strict test" for establishing causation, unlike several other cases decided by the court in recent years that made retaliation easier to establish, said Mr. Keating, who was not involved in the case.

Russell Cawyer, a partner with Kelly Hart & Hallman L.L.P. in Fort Worth, Texas, said, while the ruling will not reduce the number of retaliation charges filed by plaintiff attorneys, defendants will be more successful in having these cases dismissed.

Group health plan costs expected to rise 5.4% this year

■ Group health care plan costs are expected to increase an average of 5.4% in 2013 and 4.5% in 2014, a slight moderation from prior years as employer actions and health care market developments help hold down those increases, Price-waterhouseCoopers L.L.P. said. The analysis says the medical trend, or the cost of medical services that insurers assume in setting premiums, will increase an average of 7.8% in 2013 and 6.5% in 2014. But after employers make design changes, such as increasing plan deductibles, net plan costs are expected to increase only 5.4% this year and 4.5% next year, PwC said.

First-quarter net income \$14.4B for U.S. P/C insurers

■ Backed by strong underwriting results, net income for the U.S. property/casualty insurance sector rose 40.9% to \$14.4 billion in first-quarter 2013 compared with \$10.2 billion in first-quarter 2012, the Insurance Services Office Inc. and the Property Casualty Insurers Association of America said. First-quarter 2013 net written premiums increased 4.1% to \$117.1 billion. Reflecting premium growth, increased reserve releases and a decline in weather-related catastrophe losses, the property/casualty industry's \$4.6 billion gain in net premiums written marks its first profitable underwriting quarter since the fourth quarter of 2009, according to the report.

Workers comp pricing to improve throughout 2013: Fitch

■ With little sign that rising workers compensation pricing trends will reverse in the near term, insurer results will continue to improve during the remainder of 2013, according to Fitch Ratings Inc. An improvement in pricing for

workers comp insurers over two consecutive years comes after "a long period of declining premium rates," the ratings company said. "Workers compensation has been the worst-performing major commercial lines segment for some time," Fitch said in a statement. "However, the 2012 industry aggregate segment combined ratio improved to 110% from 117% in the prior year. Fitch projects a 105% workers compensation calendar year combined ratio in 2013."

Judge narrows Greenberg lawsuit against U.S. over AIG bailout

■ A federal judge has allowed former American International Group Inc. Chief Executive Maurice R. Greenberg to continue his multibillion-dollar lawsuit against the United States over the insurer's bailout, but it has taken away some of his claims. Judge Thomas Wheeler of the U.S. Court of Federal Claims said Mr. Greenberg's Starr International Co. may pursue claims over the government's taking of a 79.9% stake in AIG in September 2008 and a separate 1-for-20 reverse stock split in June 2009. The judge rejected the government's arguments that these claims should be dismissed because the stake already has been divested, and said such claims more properly belonged to AIG itself because shareholders all suffered the same type of harm.

Reuters

Bank of America rejects AIG bid to reopen \$8.5 billion settlement

■ Bank of America Corp. has rejected a bid to reopen negotiations into its proposed \$8.5 billion settlement with investors in mortgage securities, indicating it plans to take its chances that a New York judge will approve the deal. American International Group Inc. and the Federal Home Loan Banks of Boston, Chicago and Indianapolis, which object to the settlement, sent a letter to

Bank of New York Mellon Corp., the trustee overseeing the securities. The letter, which was filed in New York State Supreme Court, requested immediate settlement discussions.

Reuters

Obama administration finalizes prescription contraceptives rules

■ With a few modifications, the Obama administration on Friday finalized proposed regulations involving coverage of prescription contraceptives provided by group health care plans offered by religious organizations or nonprofit affiliates of religious organizations. Like the proposed rules, the final rules exempt religious organizations from the coverage mandate and make clear that religious employers would qualify for an exemption, even if they provide charitable social services to or employ those of different religious faiths. In the case of nonprofit affiliates, such as hospitals and universities, of religious organizations, full coverage with no copayments or deductibles of prescription contraceptives will have to be provided at no cost by insurers.

Liberty Mutual opens \$300 million office in downtown Boston

■ Liberty Mutual Insurance Co. Inc. has opened a new office in Boston. Construction on the \$300 million expansion project began in October 2010. Located at 157 Berkeley St., the 22-story building will be home to more than 600 new Liberty Mutual employees. "We are excited to celebrate our growth and investment in the economic future of the city we have been proud to call home for more than 100 years," said David Long, chairman and CEO of Liberty Mutual Insurance, in a statement Friday. "We are grateful for the support of Mayor (Thomas) Menino, Gov. (Deval) Patrick and their staffs, who helped make this project possible."

AIRMIC

Continued from page 4

CEO of global commercial insurances for American International Group Inc. in New York. And while their appetite to participate in the insurance market may rise and fall with market conditions, the fact that the amount they are investing is so small compared with their overall capital base means pension fund capital has the potential to become a long-term participant, he said.

Insurers have noted the trend of third-party capital investing in the reinsurance and insurance markets, said Thomas Hurlimann, CEO of global corporate business at Zurich Insurance Co. Ltd. "It is an additional competitor" for traditional insurers, he said.

Airmic's 50th annual conference attracted a record 875 delegates, 402 of whom were risk managers.

During the conference, Chris McGloin, vice president of risk management and insurance at London-based Invensys P.L.C. succeeded Nicholas Bailey, group risk manager for London-based BBA

Lloyd's closely watching Aon-Berkshire sidecar

BRIGHTON, England — While Aon P.L.C. says the majority of its clients have reacted favorably to its recent Berkshire Hathaway Inc.-funded sidecar deal, Lloyd's of London said it would closely monitor the structure and others like it.

In March, Aon announced a deal whereby Berkshire Hathaway would accept 7.5% of Aon retail placements in the London market where there is a Lloyd's participation.

The deal was "six months in the making," said Stephen P. McGill, group president of Aon P.L.C. and chairman and CEO of Aon Risk Solutions. And Aon thinks it is "good for clients, good for the London market and good for Lloyd's," he said.

"It has brought AA+ rated

capacity to underpin the subscription market," he said. By early June, more than 500 policies had been bound making use of the facility, Mr. McGill said, representing a take-up rate of more than 90%.

"I don't think there is a conflict of interest at all in the way it is being managed," he said.

Mr. McGill's remarks were made during a CEO panel discussion during Airmic Ltd.'s annual conference in Brighton, England, last month.

"There was a lot of communication going back and forth with Aon on this," said Vincent Vandendael, director of international markets at Lloyd's. A proliferation of such deals could have a "profound effect" on the Lloyd's market because it could risk the viability of

some of the market's smaller players who, typically, help to complete line slips, he said.

"There's a proliferation risk; that's the danger here," and Lloyd's is monitoring the situation closely, he said.

Insurers on the CEO panel said sidecars were another form of competition for traditional insurers. "I view this as Aon trying to bring a solution to clients," said John Doyle, CEO of global commercial insurances in the property casualty division of American International Group Inc. in New York.

A broker conference attendee, who asked not to be named, said his company expected to pick up business as clients expressed dissatisfaction with such deals.

By Sarah Veysey

Aviation P.L.C., as chairman of Airmic.

Helen Hayden, head of insurable

risk at London-based supermarket Tesco P.L.C., was appointed deputy chair.

Next year's event will be held June 16-18 in Birmingham, England.

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Psychic Sally sees money in her future

Responding to allegations that she is a fake, Britain's Psychic Sally sued her accusers rather than submit to a scientific examination of her gift, winning an out-of-court settlement of \$193,000.

The Daily Mail agreed to pay psychic Sally Morgan the damages as well as legal fees for a September 2011 article that alleged she used a hidden earpiece during a Dublin performance to dupe her audience into believing she was receiving messages from the afterlife.

Rather than suing to clear her name, Ms. Morgan could have definitively proven her talents had she agreed to take the \$1 million challenge offered by the James Randi Educational Foundation.

Mr. Randi is a magician and skeptic whose foundation offers \$1 million to anyone who can "produce evidence of paranormal abilities under controlled conditions," according to the foundation's website.

Ms. Morgan's decision to sue, however, may have been foresight. Maybe she knew her odds were better at winning the \$193,000 settlement than the \$1 million for performing under pressure.

Sports stars touting health exchanges

President Barack Obama's administration is turning to professional athletes to help with a public education campaign aimed at persuading healthy young adults to sign up for health insurance through exchanges.

Health and Human Services Secretary Kathleen Sebelius reportedly said recently that the administration is talking with the National Football League and other professional sports organizations about promoting the health insurance marketplaces that will start enrolling U.S. residents on Oct. 1.

Balancing the exchanges' risk profile early on will require attracting healthy, younger customers along with sick and older participants. So Ms. Sebelius is working on rolling out the educational campaign that is expected to include paid advertising and social media outreach.

That's where the sports stars come in. When Massachusetts passed its health care reform law in 2006, the Boston Red Sox filmed a commercial supporting it, which Ms. Sebelius said was very effective in getting uninsured residents to sign up for coverage via the exchange.

SUPERMAN BATTLE WOULD RESULT IN SUPER-SIZE DAMAGES



BLOOMBERG PHOTO

Henry Cavill plays Superman in "Man of Steel."

It might just be summer entertainment but, according to one disaster expert, if Superman weren't merely a fictitious superhero and the battles he wages with villain General Zod in the latest Superman film were real, the catastrophic damage to Metropolis would reach blockbuster proportions.

According to website BuzzFeed, models of the mayhem depicted in "Man of Steel" created by Charles Watson and Watson Technical Consulting show Superman and Zod's little dustup resulting in 129,000 dead, more than 250,000 missing (most of those also dead) and almost 1 million injured.

Physical damages to Metropolis would reach \$700 billion, with total losses of more than \$2 trillion.

In a blog post, Mr. Watson said modeling the destruction to Metropolis involved two simulations, one centered at 42nd Street and 6th Avenue in New York (Metropolis' real-life counterpart) and the other at Canal and Madison streets in Chicago. Damage was based on the blast effects (but not thermal or radiation effects) of a 20-kiloton nuclear bomb.

Why Superman didn't choose to battle General Zod in a less developed area might be a topic for discussion, but that's entertainment.

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New York bar fined for seeking British staff

A British bar in New York was served a \$2,500 fine after advertising a position that sought someone with knowledge of British culture. Bar owners Michael Colbert, originally from Wales, and wife, Jennifer, were fined by the New York City Commission on Human Rights for discrimination violations after the bar last year posted an ad looking for a bartender with specific skills, according to news reports.

"Energetic and enthusiastic men and women with an appreciation of craft beer, good food, whisky and real football (aka soccer)," the Craigslist ad read in part, according to The New York Times. "Being British definitely works in your favor."

The Long Bow Pub & Pantry in Brooklyn, self-proclaimed as New York's only Welsh bar, paid the fine after facing more than \$10,000 in fines plus legal costs if it were to take the case to trial, according to a statement on the bar's website. The settlement also included anti-discrimination training in addition to the fine paid by the Long Bow.

The bartender position reportedly has been filled by an Irish woman.



'Happy Birthday' suit challenges copyright

A suit filed in New York is seeking to end the party for a music publishing company that alleges it owns the copyright to the song "Happy Birthday to You."

The class-action complaint filed by Good Morning to You Productions Corp. seeks a declaration that Warner/Chappell Music Inc.'s claim to a copyright on "Happy Birthday" is invalid and that, in fact, the song is in the public domain.

The suit also seeks the return of millions of dollars in licensing fees that Los Angeles-based Warner/Chappell has collected in copyright fees on the tune.

New York-based Good Morning to You Productions is producing a documentary about the song tentatively titled, "Happy Birthday." The suit says the documentary maker paid Warner/Chappell \$1,500 for rights to use the song rather than face a \$150,000 penalty under the Copyright Act.

The suit argues that if a valid copyright on the song ever existed, it expired in 1921.

Warner/Chappell could not be reached for comment.

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