

## HEALTH CARE BENEFITS

### Cost-conscious employers revisit HMOs

But networks consider quality as key factor

BY SHELBY LIVINGSTON

Health insurers and employers are limiting plan members' choice of doctors and hospitals in a revamp of the once-popular health maintenance organization model that focused on runaway health costs.

Now, however, provider networks are being tightened to include only those lower-cost doctors and other providers who also produce better outcomes and improve patient satisfaction.

In late June, citing high costs and massive projected losses, Blue Cross and Blue Shield of Minnesota said it will offer only a narrow-network HMO to state residents who don't have employer-sponsored coverage. More than 100,000 people will have to find new coverage for 2017, according to the insurer.

BCBS has company in shifting to narrower networks, which limit

See **NARROW** page 22

## INTERNATIONAL

# INSURERS IN STATE OF FLUX AS 'BREXIT' CONFOUNDS MARKET

U.K. decision to leave E.U. may upend strategies

BY SARAH VEYSEY

Insurers in the United Kingdom, the European Union and the United States face what looks to be an extended period of uncertainty after the U.K.'s vote to leave the E.U.

The June 23 referendum, in which 52% of voters decided to leave the economic, political and trading bloc, shocked financial markets around the world, resulting in two days of major declines. Insurer and bank stocks helped the markets regain some of the lost ground last week.

Now insurers and intermediaries must weigh whether to shift operations, redomicile or wait until the picture becomes clearer before making any decisions, experts say. Amid fears that other countries also might leave the bloc, Scotland was



AP PHOTO

Thousands protesting Britain's exit from the European Union gather on College Green across from Parliament.

investigating how to remain in the E.U. despite the overall U.K. vote.

U.S. insurers and brokerages that use U.K. units as their Euro-

pean hubs also will seek clarity on future rules (see related story).

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## U.S. brokers to feel it more than insurers

BY MARK A. HOFMANN

The United Kingdom's vote to leave the European Union looks to have a greater immediate effect on insurance brokers than insurers as the U.S. market has largely taken a business-as-usual stance following last month's referendum.

Despite the vote, observers point out that the U.K.'s withdrawal from the trading bloc is still not guaranteed and that it would take at least two years. Several U.S.-based insurance enterprises responded that they don't intend to change the way they do business in the wake of the decision.

"From the underwriting perspective, there are some E.U. overlaps, but frankly, I don't think the U.S.-U.K. underwriting relationship will be impacted," said Ashley Craig, a partner in the Washington office of Venable L.L.P. and co-chair of the law

See **EFFECT** page 22

## BREXIT FALLOUT

### Article 50

To begin the formal process of leaving the European Union, the United Kingdom must inform the European Council it is invoking Article 50 of the Lisbon Treaty on European Union. Once Article 50 is triggered, the E.U. must negotiate a withdrawal agreement, over two years, with the member state.

### Solvency II

Solvency II, the risk-based capital regulatory regime for insurers and reinsurers, went into effect in January. Legal sources said it is likely the U.K. would seek equivalence with Solvency II — such as that currently granted to Bermuda and Switzerland — to enable U.K. insurers to operate in Europe without needing to be regulated by each member state.

### Passporting

E.U. financial services regulation is based on the principles of mutual recognition, passporting and a single license. Currently, when a firm is granted a license by a regulator in another E.U. member state, it can conduct business in other E.U. member states without having to obtain local authorization, meet differing local rules or hold local capital.

### Laws

Many areas of U.K. law are derived wholly or in part from E.U. law. These include some areas of employment law, such as discrimination and maternity rights, and some health and safety laws.

### The effect

A snap survey of 1,092 U.K. businesses conducted by the London-based Institute of Directors last week found that 22% are considering moving some operations out of the U.K. Additionally, 64% said they believe the referendum result would be negative for their business, and 24% said they would put a freeze on recruitment.

## INTERNATIONAL

Finance ministers agree in principle to work on a Canada Pension Plan enhancement

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## DEALS & MOVES

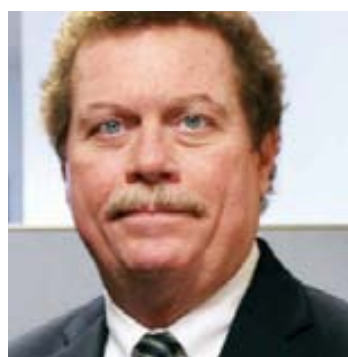
Arthur J. Gallagher & Co. acquires Wisconsin-based provider of benefits consulting and brokerage services

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Hiscox Ltd. is the lead insurer for terrorism coverage for Istanbul's Ataturk Airport

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## Q&A: JOHN W. RUSER

The recently appointed president and CEO of the Workers Compensation Research Institute discusses his goals for the research organization, including his aims to broaden its research offerings, to reach a wider audience and to provide research findings that are used in public policy debates to improve workers comp systems.

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## COMMENTARY

JUDY  
GREENWALD  
SENIOR EDITOR

Before the events leading up to the termination of a South Tampa, Florida, restaurant employee, who was fired after one episode of acting inebriated after taking a prescribed anxiety medicine, she was considered an excellent employee. Employers should make exceptions in their employment decisions in such cases rather than stick to the letter of the law.

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# ENJOY A BETTER VIEW OF RISKS ACROSS YOUR BUSINESS.

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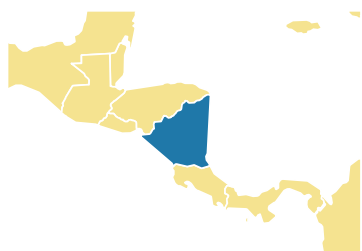
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Medicare Secondary Payer has had a costly effect on claims settlements. Work remains in mitigating claims managers' risks of MSP liabilities and improving efficiency, says David Farber of King & Spalding L.L.P. **15**

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### All the rage in wellness

A U.K. program encourages women to pummel pillows with baseball bats, scream really loud and pop balloons. **28**

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# NEWS

## WORKPLACE SAFETY

# OSHA STEPS UP ENFORCEMENT ON HEAT-RELATED HAZARDS

New reporting rules show true frequency of heat stress

BY GLORIA GONZALEZ

Sizzling summer weather makes it critical for employers to protect their employees from heat stress hazards, particularly with an expected increase in heat-related federal workplace safety citations. The U.S. Occupational Safety and Health Administration's severe injury reporting rule, which took effect Jan. 1, 2015, requires employers to report the hospitalization of a single employee rather than three or more employees as previously required, experts said. "A lot of these heat illness admissions to the hospital were going unnoticed by OSHA because it was one or two people and therefore they had no obligation to report it to OSHA," said Craig Halpern, Denver-based vice president, risk control, IMA Financial Group Inc. "But now that we have the obligation to report every hospitalization, I have the feeling that they're probably seeing more and more of these, and that may be the impetus for the emphasis on it." In 2015, OSHA received reports of more than 200 heat-related worker hospitalizations and at least eight deaths associated with heat exposure, according to the agency. "I would suspect we're likely to see more heat-related issues



In 2015, OSHA received reports of more than 200 heat-related worker hospitalizations and at least eight deaths associated with heat exposure.

reported to OSHA," said Charles Keller, a partner with Snell & Wilmer L.L.P. in Phoenix. "Then the inquiry becomes: 'What were you doing at the job site? Were employees given the proper training? Were employees given the proper access to water? Were employees given the proper access to breaks and shade to minimize the possibility of a heat-related illness?'" Although there is no standard governing such hazards, OSHA has cited employers in recent

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### STAY COOL

- National Institute for Occupational Safety and Health recommendations to avoid heat stress include:
- Acclimate workers to hot environments.
  - Develop a work/rest regimen.
  - Provide cool water and encourage workers to drink five to seven ounces of fluid every 15 to 20 minutes.
  - Provide a cool rest area.
  - Train employees on heat stress risk, symptoms and prevention methods.
  - Establish a screening program to identify health conditions aggravated by exposure to heat.

## CAPTIVES

# Captives may offer cyber cover alternative

BY DONNA MAHONEY

SOUTHAMPTON, Bermuda — Despite the difficulty of quantification, ongoing cyber breaches are fueling interest in and placement of some cyber-related risks in captive insurers. "Everything we do now at work is on a computer that is tied to your company's network," said John Masters, Hamilton, Bermuda-based senior underwriter with American International Group Inc. "There is more acceptance by company senior executives that the risk is there, causing more interest in acquiring cyber liability insurance."



The cyber liability insurance market, which had about \$2 billion in gross premiums in 2014, is projected to reach \$7.5 billion by 2020. More than 60 insurers offer stand-alone cyber coverage, and more are entering the market, Mr. Masters said. As cyber breaches have proliferated, interest has developed in the manufacturing industry for captive coverage of bodily injury and property damage as a result of a cyber breach. Other industries are examining covering reputational risks, he said of the risk that the massive 2013 Target Corp. data breach put on top of company executives' radars.

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## P/C INSURERS

# Rhode Island offers insurers runoff options

Solvent entities can transfer liabilities

BY DOUGLAS McLEOD

Insurers looking to restructure or exit lines of business may get help from Rhode Island, which is considering its first license application for a specialty insurer formed to take advantage of the state's unique insurance portfolio runoff law. Rhode Island last year became the first U.S. state to allow solvent insurers and reinsurers to terminate their liabilities on blocks of commercial property/casualty business by transferring them to a state-licensed company to be wound up, either in traditional runoffs or under accelerated commutation plans. In other states, insurers may run off discontinued business in-house, retaining the liabilities during the process. Formal, regulator-approved runoff and commutation plans generally involve financially troubled or insolvent insurers. London-based Pro Global Insurance Solutions P.L.C. now is seeking to license ProTucket Insurance Co., which will assume runoff portfolios in protected cells and expects to complete its first deal next year, said Mory Katz, managing director of the consultant's operations in New York. Several insurers have expressed interest in runoff options under Rhode Island's Regulation 68, including transfers to third parties such as ProTucket or to an insurer's own Rhode Island-based affiliate, market sources say.



"There's been a lot of buzz" about the law, said Carolyn Fahey, Woodbridge, Virginia-based executive director of the Association of Insurance and Reinsurance Run-Off Companies Inc., a 47-member group of mainly insurers and reinsurers. "They have really provided a very useful tool for companies looking to restructure their operations," Ms. Fahey said. "The U.S. market needs something like that." Rhode Island originally developed Regulation 68 in 2004 to govern solvent whole-company commutation plans. To date, only one company, GTE Reinsurance Co.

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ONLINE  
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## GALLERY

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Sketches of the top risk management and insurance news.

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Rankings of the top U.S. TPAs, including 2015 revenue in our comprehensive guide to third-party administrators.

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## NEWS MIDYEAR RENEWALS

## PROPERTY

## Competitive market drives down property insurance prices

BY MARK A. HOFMANN

The buyer's market in commercial property insurance is alive and well.

Property rates continued to drop generally by single digits during this year's midyear renewals, risk managers, brokers and insurers say.

They also say capacity remains more than plentiful, and competition is still the name of the game among underwriters.

But there are signs that the rate decreases are beginning to narrow, and for good reason: Underwriters can't afford to trim them much more.

For now, however, "the buyers' market continues and there is no end in sight," said David Finnis, Atlanta-based executive vice president and head of property broking at Willis Towers Watson P.L.C.

Buyers agree.

"We found the property market incredibly soft" when renewing a property program in May, said Mark S. Humphreys, vice president of litigation and risk management at Santa Monica, California-based Watt Cos. Inc.

Most of Watt's assets are on the West Coast, which means the commercial real estate firm has "a huge earthquake exposure," Mr. Humphreys said. But he found that all rates were lower than those of last year, even for earthquake.

In fact, Watt increased its earthquake limits \$15 million at a price



lower than it paid last year; overall, the company reduced its rate by about 5%, Mr. Humphreys said.

"Companies are finally looking at engineering data and pricing the risk accordingly," said Mike Liebowitz, senior director of insurance and risk management at New York University. He said NYU enjoyed single-digit rate decreases for its July 1 property renewal, despite the fact that "we're the insured that had the big flood loss" from Superstorm Sandy in 2012.

"But I think there's going to be a bottom where we begin hitting minimum premiums," Mr. Liebowitz said.

While saying that insurers in general and American International

Group Inc., the university's main insurer/property insurer, "has treated me extremely fairly," it's because "they're understanding the risk better, which enables them to treat me fairly."

"Insureds are getting the credit for doing the good things," which Mr. Liebowitz said "makes good business sense."

On average, property rates are down 7% to 9%, said Rick Miller, national property practice leader at Aon Risk Solutions in Boston. He said some clients are completing their fourth renewal with lower rates amid strong competition, plentiful capacity, and broad

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## GENERAL LIABILITY

## Liability rates still falling in most areas

BY ROB LENIHAN

Many organizations are seeing decreases in their commercial liability coverage at midyear renewals, but there are distinct exceptions.

"Probably with the exception of New York-area construction, the market is still very soft," said Frank Scott, senior vice president of USI Insurance Services L.L.C. in West Orange, New Jersey. "Rates are down, depending upon the account, high single digits into the double digits. New York construction continues to be a challenge, with increases growing into the low double-digit mark. And the market is also contracting there."

Mark Moitoso, senior vice president and analytics practice leader at Lockton Cos. L.L.C. in Kansas City, Missouri, had a similar view.

"I think when you have ample capacity, there's competition" for new and renewal business. "Broadly speaking, we still continue to see a downward trend in most lines of coverage, with the exception of commercial auto."

"In general, it's a flat market," said Joseph Peiser, executive vice president and head of casualty broking at Willis Towers Watson P.L.C. in New York. "So most accounts are either renewing as is" with slight increases or decreases, depending on their exposures.

"The exceptions are truckers, companies with large fleets of vehicles and energy companies, particularly energy companies that are in exploration" for new sources, he said.

Mr. Peiser said the trucker and large-fleet increases are due to an uptick in both personal and commercial vehicle losses.

"All insurers are telling us the same story," he said. "New York City construction is also what we call a tight market that is driven entirely" by the state Scaffold Law, "which drives many workers comp losses to be general liability losses. So that's a unique statutory issue."

Otherwise, general liability "clients who have had loss issues and done nothing to mitigate them are going to see some challenges," he said. "They're not going to get the advantage of good rates."

"While we say the market is soft and competitive, the companies that continue to have the best risk

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## DIRECTORS &amp; OFFICERS LIABILITY

## D&amp;O buyers see double-digit decreases

BY JUDY GREENWALD

Buyers are enjoying competitive rates when renewing their directors and officers liability insurance, particularly in their excess coverage.

Despite the overall soft pricing, more challenging sectors that include life science and financial service firms may benefit less from the soft market, observers say.

Most experts estimate buyers are seeing decreases up to 15% depending on the risk, with the excess layers particularly competitive.

Mark Humphreys, vice president of litigation and risk management

at Santa Monica, California-based real estate development and investment firm Watt Cos. Inc., said an area of uncertainty for risk managers right now is the impact of Britain's vote to leave the European Union.

"Nobody knows how the Brexit is going to affect the global insurance market," said Mr. Humphreys, who said his firm experienced essentially flat D&O rates when renewing May 1.

"The D&O market continues to be a highly competitive space in virtually all segments," said Frank Baron, New York-based head of management solutions at Zurich North America.

There is ample capacity with sta-

ble demand among publicly held companies, with about 5,300 such companies and no huge growth in initial public offerings, said Gregory Spore, New York-based Northeast FINPRO placement leader at Marsh L.L.C.

Marsh public company clients that renewed in this year's and last year's first quarter experienced an overall 4.8% rate reduction, he said.

"It's very much a buyer's market now," said Brian Wanat, New York-based CEO of the U.S. financial services group at Aon Risk Solutions. "The only difference between this cycle and the soft

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### WORKERS COMPENSATION

# COMPETITIVE MARKET FAVORS WORKERS COMP BUYERS

Many insurers offer early renewal or lock in multiyear contracts to keep policyholders

BY STEPHANIE GOLDBERG

Many employers renewing their workers compensation coverage at midyear are benefiting from increased competition, with pricing that is the same or slightly less than a year ago.

"It's very much a buyer's market, so we've been able to secure rate decreases on a significant number of our clients' programs," said Christopher Flatt, managing director and leader of Marsh L.L.C.'s Workers' Compensation Center of Excellence in New York.

Most employers are seeing workers comp rates that range from flat to decreases as large as 5%, experts say.

However, employers with an unfavorable loss experience or a large number of workers in an urban area are less likely to secure significant rate decreases, he said.

Meanwhile, insurers are offering "really aggressive collateral terms for the best-performing companies" as well as "early renewal strategies or multiyear rate commitments" to keep current customers, said Mark Moitoso, Boston-based senior vice president and analytics practice leader at brokerage Lockton Cos. L.L.C.

Rates vary from flat to a decline of 10% across Lockton's portfolio, depending on the underwriter's profitability and the client's loss experience, he said.

In California, employers may see rate reductions greater than 5% as a result of S.B.

863, said Pamela Ferrandino, executive vice president and senior principal of national casualty at Willis Towers Watson P.L.C. in Hartford, Connecticut.

The law that took effect in 2013 increased benefits for injured workers and included several changes — such as independent medical and bill reviews — to reduce costs. The Oakland, California-based Workers' Compensation Insurance Rating Bureau said in November that S.B. 863 could help reduce system costs by \$770 million a year.

Rate decreases may also be greater for real estate companies and financial institutions "because a lot of the newer carriers or merged carriers are broadening their appetite to write large, guaranteed-cost business in that sector, and they're being competitive about it," Ms. Ferrandino said.

#### 'Plenty of capital out there'

The workers comp market is likely to remain very competitive for at least the rest of this year, experts said.

"There's plenty of capital out there," said Gary Pearce, chief risk compliance and privacy officer at Troy, Michigan-based temporary staffing firm Kelly Services Inc. "If you're a good risk and you can prove you're a good risk, then you become attractive to underwriters."

Mr. Pearce added that "collateral is not the obstacle it used to be to (changing insurers),

*"It's very much a buyer's market, so we've been able to secure rate decreases on a significant number of our clients' programs."*

Christopher Flatt,  
Marsh L.L.C.'s Workers' Compensation Center  
of Excellence

so the buyer side is more liquid, if you will, than it was in the past."

Still, Kelly Services renewed its workers comp coverage Jan. 1 with Chubb Ltd., previously Ace Ltd., in what he described as a "high-level agreement" that's managed from "a multiyear perspective."

According to the Boca Raton, Florida-based National Council on Compensation Insurance Inc., private workers comp insurers' combined ratio improved to 94% in 2015 from 100% in 2014.

NCCI Chief Actuary Kathy Antonello in May called it "one of the best underwriting results we've had in decades."

The improved performance has led comp insurers to be "more thoughtful about having broader account strategies vs. simply line-of-business strategies to win over business," Mr. Moitoso said.

Insurers are willing to be "more aggres-

sive on rates for comp to be able to secure, maybe, a rate increase on a companion line (within property/casualty) that hasn't necessarily performed as well," such as commercial auto insurance, Mr. Flatt said.

For Syracuse, New York-based Giovanni Food Co. Inc., efforts to improve safety programs and reduce exposures have allowed the private-label food manufacturer to secure lower workers comp prices, Nicole Bryant, human resources manager, said in an email.

The company, Ms. Bryant said, has implemented a return-to-work program; improved a program aimed at decreasing slips, trips and falls; and is working to enhance a program centered on team-based safety behaviors.

The efforts have benefitted Giovanni Food "either through a reduction in our (experience modification) rate or through safety credits received via state-approved safety programs that we have established," she said of the coverage provided by MEMIC Group.

Transparency and documentation "are critical aspects to getting the best terms and conditions in the marketplace," Mr. Moitoso said. "Saying you have great safety procedures" but being unable to "formally show an underwriting company how that's actually executed is not going to get you the score you need" to reduce workers comp rates.

### REINSURANCE

# Reinsurers cut rates again but see signs of stabilization despite low losses

BY SARAH VEYSEY

While reinsurance rates generally fell at the midyear renewals, there were some signs of stabilization, and many reinsurers declined business where they did not consider the rates to be adequate.

Reinsurance demand increased as cedents took advantage of low rates and some bought on a decentralized basis — bucking buyers' recent trend of consolidating their programs, sources said.

An abundance of capacity from traditional and nontraditional sources continued to "exert (downward) pressure on rates for the majority of classes and territories," said James Kent, New York-based president of Willis Re North America and co-president of Willis Re, the reinsurance arm of Willis Towers Watson P.L.C.

But the trend that began last year of reinsurance rates stabilizing in pockets — notably in U.S. peak property catastrophe zones



AP PHOTO

Large first-half catastrophe losses, such as the Alberta wildfires, helped boost demand for reinsurance.

and hurricane-prone Florida — continued this year as demand increased while reinsurers cut the capacity they offered for business they considered to be inadequately priced, Mr. Kent said.

Overall, rate declines started to moderate in 2015 "and this moderating trend was even more pro-

nounced at the midyear renewals in 2016," said Greg Hendrick, Hamilton, Bermuda-based executive vice president and chief executive of reinsurance at XL Catlin.

In some cases, reinsurers were more likely to "reduce lines or decline programs where final terms fell below their indicated

#### CAT BOND MARKET

**\$6.2 billion**

Total 2015 nonlife catastrophe bond issuance, the first decline since 2011.

**\$2 billion**

First-quarter 2016 cat bonds issued, a record for the period.

#### Outlook

Insurance-linked securities are expected to transition slowly beyond catastrophes to life and accident and casualty exposures.

Source: Willis Capital Markets & Advisory

"price reductions are slackening" and U.S. international casualty markets are "largely flat."

June 1, a major renewal data for U.S. property catastrophe treaties, saw overall rates fall an average of 3%, said David Flandro, London-based global head of analytics at JLT Re, the reinsurance brokerage arm of Jardine Lloyd Thompson Group P.L.C.

Since then, the trend has been that "the decrease in the decrease was decreasing," he said.

Non-U.S. businesses renewing July 1, when more international reinsurance renewals are completed, saw sizeable decreases, he said.

Large first-half catastrophe losses, such as the Alberta wildfires and an earthquake that hit Japan, helped boost demand for reinsurance, Mr. Flandro said.

In addition, low rates prompted some insurers to buy more reinsurance and some to deconsoli-

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## Hiscox leads insurance coverage for Turkey's Ataturk airport

■ Hiscox Ltd. said it is the lead insurer for terrorism cover for Istanbul's Ataturk Airport, where 43 people killed and hundreds wounded during a terrorist attack last week. Richard Halstead, line underwriter for war, terrorism and political violence for the London-based company, said the coverage includes property damage and business interruption. Mr. Halstead said there was not a great deal of physical damage and the airport was able to reopen fairly quickly, limiting the market loss. He added that the exposure is "well within the arena of what we would typically write on an airport, which is of course a high threat target anywhere around the world and especially in Turkey." The company has had a relationship with the airport dating back to 2005, Mr. Halstead said. The broker is London-based United Insurance Brokers Group, and Hiscox writes this business through Lloyd's of London.

## Cleveland ups liability coverage for Republican convention

■ Cleveland is gearing up for potential problems at the upcoming Republican National Convention, scheduled for July 18-21, by purchasing a \$50 million liability insurance policy, a city spokesman said. The city's control board approved payment of a \$9.5 million initial fee to Aon Risk Solutions Northeast Ohio; the money will cover the city's insurance premium and fee for brokering the \$50 million policy, he said. The city had approved the purchase of a smaller \$10 million insurance policy with a \$1.5 million fee in March, the spokesman said. The city expects to host more than 50,000 visitors during the four-day convention, which will take place primarily at Quicken Loans Arena, home of the Cleveland Cavaliers basketball team. The insurance will be purchased with money from a federal security grant the city received for hosting the convention, the spokesman said.

## 90 risk management professionals earn inaugural RIMS certification

■ The Risk & Insurance Management Society Inc. said 90 out of 123 professionals passed the exam for the inaugural class of the RIMS-Certified Risk Management Professional certification, held April 10 in San Diego. Certification holders came from the United States, Canada, France, South Africa, Aruba and the United Arab Emirates. "No matter the industry or country, professionals are constantly challenged to prove the value they can add to their organizations," RIMS CEO Mary Roth said in a statement. "The RIMS-CRMP certification allows risk professionals to show leadership that they possess a deep understanding of risk management concepts and the ability to implement them."

## Vermont marks 35th anniversary as captive insurer domicile

■ Vermont, which is the largest U.S. captive domicile and the third-largest worldwide, marked the 35th anniversary of the effective date of its landmark 1981 captive insurer statute. "Vermont had a trail-blazing law," said Sandy Bigglestone, director of captive insur-

ance with the Captive Insurance Division of the Vermont Department of Financial Regulation in Montpelier. While both Colorado and Tennessee passed captive measures earlier, Vermont's law, which the Risk & Insurance Management Society Inc. helped to draft, was far more attractive to buyers, captive experts said at the time, with lower captive capitalization requirements and no requirement for prior approval for rates and forms. Vermont's first captive, First Charter Insurance Co., sponsored by the BF Goodrich Co., was licensed just over two months after the law took effect. The biggest captive formation years were in 2003, when 77 captives were licensed; and 2002, when 70 captives were licensed. Currently, Vermont has 589 captives, Ms. Bigglestone said.

## Lockton names successor to chief executive Lumelleau



Mr. Spencer



Mr. Lumelleau

■ Glenn A. Spencer will succeed John L. Lumelleau as president and CEO of the Kansas City-based Lockton Cos. L.L.C. on May 1, 2017, the broker said. Joining Lockton in 2005, Mr. Spencer currently serves as Lockton's global chief operating officer and president of U.S. operations. Mr. Lumelleau will continue as president and CEO, positions he has held since 2002, until his retirement on April 30, 2017, Lockton said in a statement. Lockton added that he will remain a special adviser to the broker during his retirement.

## UnitedHealthcare can be sued by out-of-network system

■ The U.S. District Court in Dallas has ruled that out-of-network hospital system Texas General Hospital L.P. can sue UnitedHealthcare Inc. for \$104 million in unpaid hospital bills and that it can bring multiple claims under federal and state law to recover reimbursements the health insurer failed to make over a three-year period. Texas General Hospital, based in Grand Prairie, Texas, provided health care services to nearly 2,000 UnitedHealthcare plan members between February 2012 and June 2015, for which the hospital billed the insurer \$139.2 million, according to its lawsuit. Texas General is not included in UnitedHealthcare's provider network, so patients were required to assign their benefits to Texas General prior to getting treated. The hospital also received coverage verification and precertification from UnitedHealthcare before services were rendered. But UnitedHealthcare never fully paid up, according to the suit. The health insurer to date has only reimbursed Texas General for \$30.1 million of the total amount billed, according to court documents.

## State cracks down on Berkshire over unregulated comp policies

■ The California Department of Insurance has issued cease-and-desist orders to two Berkshire Hathaway Inc.-owned companies in the wake of a June decision regarding Shasta Linen Supply Inc. California Insurance Co. and Applied Underwriters Captive Risk Assurance Co. must "cease and desist from issuing or renewing any

workers compensation policy that uses an unfiled and unapproved ancillary or collateral agreement consistent with" Insurance Commissioner Dave Jones' June 21 decision, the state's Department of Insurance said in a statement. Mr. Jones ordered California Insurance Co. to provide a refund to Shasta Linen Supply after it sold the Sacramento, California-based business an unfiled and unapproved insurance program, records show. Applied Underwriters Captive Risk Assurance Co. sold the business a retroactive nonlinear insurance policy called EquityComp, which hadn't been submitted for review, records show. The EquityComp policy "essentially left a California small family-owned business self-insured," according to the statement.

## Interim CEO wins the job at claims manager Crawford

■ Crawford & Co. has named Harsha V. Agadi president and CEO. Mr. Agadi has served as interim president and CEO of the Atlanta-based claims manager since August of last year, when Jeffrey Bowman stepped down after nearly eight years at the helm. At that time, Crawford said Mr. Agadi, a board member since 2010, was to be interim CEO while Crawford searched for Mr. Bowman's replacement. "During Harsha's interim leadership period, he made some tough but necessary changes that helped move Crawford toward profitable growth," Charles H. Ogburn, Crawford's nonexecutive chairman of the board, said in a statement. A Crawford spokeswoman said Mr. Bowman's departure was "a mutual decision" between him and the board.

## XL Catlin expands inland marine, snags from rivals for team

■ XL Catlin has expanded its inland marine business in the U.S., the company said in a statement. Chicago-based Janelle Levesque joins from Chubb Ltd., where she was an underwriter for inland marine. San Francisco-based Frank Basich was a senior inland marine underwriter at Allianz Global Corporate & Specialty S.E. San Francisco-based Anda Serban was an inland marine underwriting specialist at CNA Financial Corp. San Francisco-based Zac Miyashiro was a senior ocean marine underwriter at Chubb Ltd. Dallas-based Shawn Langenegger joins from AGCS, where he was inland marine team leader. New York-based Paul Vogler was executive underwriter at Hartford Financial Services Group Inc. "Industry statistics indicate these regions have the highest concentration of available commercial inland marine premium," Michael Perrotti, senior vice president and XL Catlin's inland marine practice leader said in the statement.

## Terrorism insurance takeup rates rising again after TRIPRA passage

■ The takeup rate for terrorism coverage in property insurance policies increased to 61% in 2015, according to a report released by Marsh L.L.C. The rate had dropped to 59% in 2014 after remaining steady at 62% for the two previous years, Marsh noted in its 2016 Terrorism Risk Insurance Report. Marsh attributed the uptick in part to the passage of the Terrorism Risk Insurance Program Reauthorization Act in 2015, which extended the federal government terrorism backstop through 2020.

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### 2016 Women to Watch

Do you know a woman leading the way in commercial insurance, risk management, employee benefits or related fields, such as consulting and law? Then nominate them as one of ***Business Insurance's* Women to Watch**.

Candidates are judged on their accomplishments, expertise and leadership. Honorees will be recognized in the December 5 issue of *Business Insurance* and at our annual **Women to Watch Conference and Gala** December 12-13 in New York.

#### ENTRY REQUIREMENTS

Submit nominations online at:

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Entry deadline is Friday,  
August 5, at 11:59 p.m. EDT.

BUSINESS INSURANCE

WOMEN  
TO WATCH

## Canada pensions could see change

■ Canada's finance ministers have agreed in principle to work on a Canada Pension Plan enhancement starting Jan. 1, 2019, that would increase income replacement from one-quarter to one-third of pensionable earnings, according to a statement issued by the Department of Finance Canada. This means that a Canadian citizen with 50,000 Canadian dollars (\$38,780) in constant earnings throughout his or her working life would receive a yearly pension benefit of around CA\$16,000 (\$12,410) instead of the CA\$12,000 (\$9,307) they currently receive, according to the statement. The agreement would also increase the maximum amount of income subject to the federal program by 14% — projected at roughly CA\$82,700 (\$64,142) in 2025.

## European floods could hit insurers

■ Rating agency A.M. Best Co. Inc. said it did not expect to downgrade any insurers as a result of flood losses caused by storms Elvira and Friederike, which hit parts of France and Germany in quick succession at the end of May and beginning of June. Insured losses are expected to be between €900 million and €1.4 billion (\$1.01 billion to \$1.58 billion) in France and about €1.2 billion (\$1.35 billion) in Germany, Best said in the note "French and German Floods to Dampen Insurers' H1 2016 Earnings; Negative Rating Actions not Anticipated." In France, about half of the insured losses likely will be picked up by the Caisse Centrale de Reassurance S.A., the country's state-backed reinsurer. In Germany, Best said, there is no flood insurance backstop so flood typically is excluded from many coverages, but can be bought as a policy extension.

## China's Fosun plans Ironshore listing 'ASAP'

■ Fosun Group, China's biggest private conglomerate, will list U.S. property/casualty insurer Ironshore Inc. "as soon as possible" this year, Guo Guangchang, the company's billionaire co-founder and chairman, told Reuters ahead of a Reuters Newsmaker event in Beijing. Mr. Guo, a self-styled student of U.S. investor Warren Buffett, said the size of the offering will be decided by the market, "the bigger the better." Fosun International Ltd. earlier had said it would spin off Ironshore, which it spent

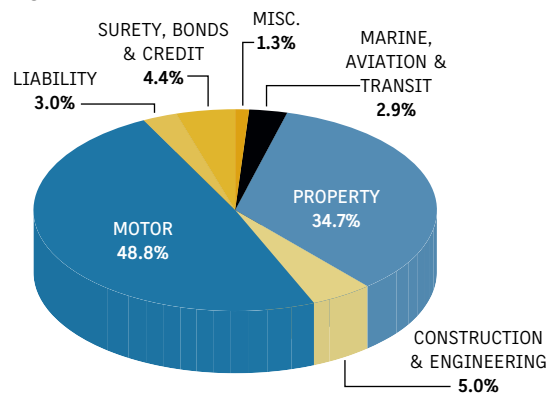
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**\$138.4 MILLION**

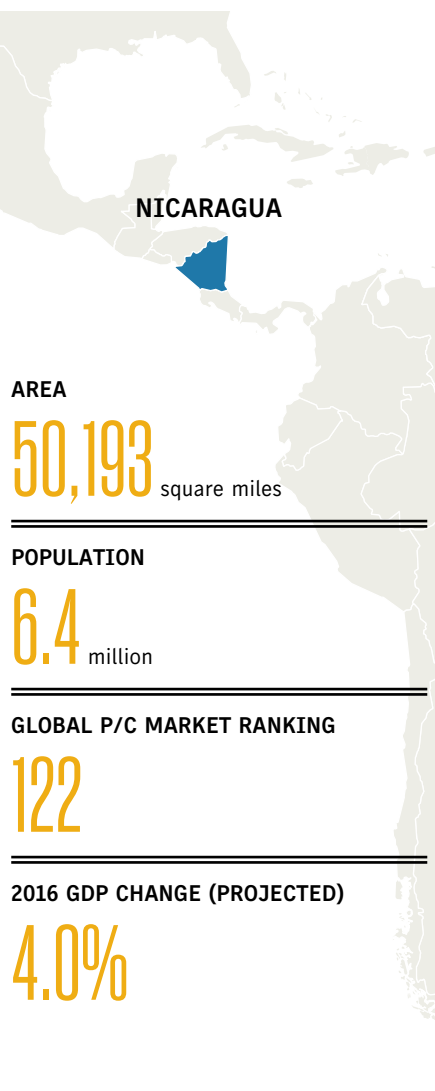
### 2015 P/C gross premiums

An independent state since 1821, Nicaragua spent time under U.S. control until 1932, when the Somoza regime came into power. The regime ruled until a 1979 coup, with democracy restored in 1990. A largely mountainous country, there are 18 active volcanoes in Nicaragua, which is also subject to earthquakes and hurricanes. The poor nation is rife with corruption and saddled with a large external debt and a stalled Nicaragua Canal construction project, limiting growth potential in insurance, where each company can set its own rates

### MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



### MARKET DEVELOPMENTS

UPDATED  
FEBRUARY 2016

- A resolution issued in September updates regulations dating to 2006 for allowable investments by insurers and reinsurers and their limits in domestic and international markets.
- A July 2015 resolution establishes minimum capital and registration requirements for reinsurance, fronting and coinsurance arrangements and brokers.
- A June 2015 resolution sets guidelines and reporting requirements for marketing micro insurance products.
- In April 2015, Nicaragua became the first Central American country to join the CCRIF SPC, formerly known as the Caribbean Catastrophe Risk Insurance Facility.

### COMPULSORY INSURANCE

- Workers compensation under a state scheme
- Liability for owners of passenger vessels
- Personal accident liability for owners of passenger vehicles
- Errors and omissions, or a bond, for insurance intermediaries
- Professional liability, or a bond, for reinsurance brokers
- Third-party liability tied to professional licenses

### NONADMITTED

Unauthorized insurers cannot operate in Nicaragua, except for cover, including agricultural policies, that cannot be obtained in the country. Likewise, buyers may not place business abroad without a special license issued by the Superintendency of Banks and Other Financial Institutions.

### INTERMEDIARIES

Agents and brokers must be authorized by the superintendency. Registered brokers can place business with nonadmitted insurers only when the cover is licensed. Brokers involved in nonadmitted placements do not have to warn buyers that their insurer is not subject to local supervision.

### MARKET PRACTICE

Despite these prohibitions, a considerable amount of nonadmitted cover, particularly health insurance, is placed on the "grey market." Foreign insurers cannot write cover directly, but a branch or representative office of foreign insurers can. Fronting also is a popular way around the regulations, particularly for large risks. Fines for noncompliance range from \$100 to \$100,000 and loss of license.

Information provided by Axco Insurance Information Services.  
[www.axcoinfo.com](http://www.axcoinfo.com)

\$2.3 billion over two years to acquire, through a separate listing on the New York Stock Exchange or Nasdaq.

Reuters

## Allianz specialty unit makes executive moves

■ Allianz Global Corporate & Specialty S.E. has appointed Paul O'Neill to the role of chief underwriting officer specialty and to the board of AGCS effective Oct. 1. The unit of Munich-based Allianz S.E. said Mr. O'Neill, currently global head of marine and energy, will succeed Bill Scaldaferrri, who will take over board responsibility for North America from Art Moosmann on July 1. Mr. Moosmann will retire from the AGCS board in

December. Mr. O'Neill, who will be based in London, will be replaced as global head of marine and energy by London-based Simon Buxton, currently AGCS global head of reinsurance, on Oct. 1. Mr. Buxton's successor will be announced in due course, AGCS said in a statement.

## Cooper Gay names chief innovation officer

■ Cooper Gay Swett & Crawford Ltd. has appointed Peter Hacker as group chief innovation officer. The London-based reinsurance, wholesale and specialty brokerage said Mr. Hacker, co-founder and partner at think tank Distinction Global, an advisory unit of the Cologne, Germany-based Cyber Crime

Institute, would take the new post immediately. Based in London, Mr. Hacker previously was head of the communications, technology and media practice at Jardine Lloyd Thompson Group P.L.C. in London. "Appointing an individual of Peter's caliber is a statement of intent and offers a glimpse of the future ambitions for our business," Steve Hearn, group CEO of Cooper Gay, said in a statement.

## Mexican insurer gains access to Lloyd's market

■ Specialty insurer and reinsurer Sompo Canopus A.G. and Mexico City-based insurer Grupo Nacional Provincial SAB have formed a strategic partnership to enable the companies to develop new busi-

ness and insurance products for the Mexican market. The partnership also would enable GNP to broaden its portfolio to include international risks through participation in Sompo Canopus' multi-line Lloyd's of London syndicate 4444, the companies said in a joint statement. GNP underwrites commercial and personal lines insurance including property/casualty, auto, life and health and posted premium volume of \$2.73 billion for 2015, according to the statement.

## Signs point to decline in Chinese hacking

■ U.S. Assistant Attorney General John Carlin said Chinese hacking activity appears to have declined since the Chinese govern-

ment vowed last September to stop supporting the hacking of U.S. trade secrets. The assertion supports findings released in June by cyber security firm FireEye that breaches attributed to China-based groups had plunged by 90% in the past two years. "Generally, people have seen a change in activity," Mr. Carlin said at the Center for Strategic and International Studies think tank in Washington. But "there is debate about how long lasting" the apparent reduction in activity will be, Mr. Carlin said, adding that the private sector and U.S. intelligence officers were likely better positioned to assess hacking trends.

Reuters

## Berkshire specialty unit opens German office

■ Berkshire Hathaway Specialty Insurance Co. has opened an office in Düsseldorf, Germany, in coordination with its affiliate Berkshire Hathaway International Insurance Ltd. and announced executive appointments. Jörg Bechert was named senior vice president, head of executive and professional lines, Berkshire Hathaway said in a statement. Ulrich Kütter was named senior vice president, head of marine, Northern Europe; Leander Metzger will serve as senior vice president, head of property, Northern Europe; and Robert Scherf will serve as vice president, head of human resources, Northern Europe, according to the statement.

## China closes in on cyber security law

■ China has moved closer to adopting a controversial cyber security law after its parliament held a second reading of the draft rules, which carry significant consequences for domestic and foreign business and threaten greater censorship. The draft, presented before the standing committee of the National People's Congress, requires network operators to comply with social morals and accept the supervision of the government and public, official news agency Xinhua said. It also reiterated that Chinese citizens' personal data, as well as "important business data," must be stored domestically, adding that those wishing to provide that information overseas faced a government security evaluation. China enforces widespread controls over the internet that it has sought to codify in law, but Chinese laws often go through multiple readings and drafts before they are adopted.

Reuters

## Accenture looks to Israel to boost cyber security

■ Seeking to shore up the cyber security services it provides to customers, Accenture P.L.C has acquired an Israeli company and is establishing a research and development center in the country. Accenture, a professional services firm whose competitors include

IBM Corp. and India's Infosys Ltd., did not disclose financial details of its acquisition of Tel Aviv-based Maglan, which provides cyber forensics and simulation services, malware defense and research on intelligence threats. It employs about 30 people, who "are extremely expert ... from Israel's military and intelligence complex," Omar Abbosh, Accenture's chief strategy officer, told Reuters. Israeli cyber security firms, many of

which have military roots, have attracted growing foreign investment over the past few years, raising a record \$540 million in 2015.

Reuters

## Swiss Re shuffles global executive ranks

■ Swiss Re Ltd. has appointed Steve Arora global head of casual-

ty. Mr. Arora, who currently is head of Japan for Swiss Re, will replace Jayne Plunkett, who has been named regional president and CEO of reinsurance for the Asia region at Swiss Re, the reinsurer said in a statement. Swiss Re also said Atsuhiko Dodo, who is head of client markets for property/casualty business in Japan, has been appointed country president there. All moves will take effect July 1.



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# WORKERS COMP INSTITUTE AIMS TO BROADEN ITS AUDIENCE

**Q** What attracted you to the WCRI?

**A** Its reputation, its clear mission to improve workers compensation systems and its focus on research. It's great to be working with such an intelligent and talented group of colleagues who are committed to publishing high-quality, credible and independent research. Along those lines, what has been most eye-opening has been the tremendous support for the research from stakeholders in the workers compensation community. That support indicates the value they attach to the work that we do.

**Q** What is one of your goals for the next year in your new position as president?

**A** My main goal moving forward is to continue producing credible, independent and high quality research, while identifying new impactful areas of research. Producing impactful research means providing research findings that are used in public policy debates to improve workers comp

## Q&A

systems. The research that I described previously is in areas that we believe are getting a substantial amount of attention in the policy arena. Also important is our suite of core benchmarking studies that allow stakeholders to make comparisons of workers comp system performance across states and within a state over time. These studies allow stakeholders in a state to answer questions such as how does my state workers comp system compare to others according to a wide variety of metrics? Also, how has my state been doing over time? Our research tends to be very scholarly and technical. One goal

of mine is to provide new products that are consistent with our rigor but that reach a broader set of stakeholders. We will experiment with research briefs and videos that crisply deliver our research findings.

**Q** What are the main workers comp issues that the WCRI will research this year?

**A** Over the next two years, we plan to conduct research on treatment guidelines. First, we'll catalog how treatment guidelines are implemented across states and describe their general characteristics. With that information, we can then assess impact of guidelines on procedures, costs and injured-worker outcomes. With regard to worker outcomes, we intend to expand our set of worker outcome surveys that assess how injured workers fare in the workers compensation system. These important surveys measure workers' recovery of health, access to medical care, return-to-work timing and earnings loss. There has also been a lot of interest in how health care markets are



JOHN W. RUSER

### WORKERS COMPENSATION RESEARCH INSTITUTE

Mr. Ruser recently spoke with *Business Insurance* Staff Reporter Donna Mahoney about his goals and the WCRI's efforts to bring useful information to the workers compensation community. Edited excerpts follow.

John W. Ruser is the president and CEO of the Workers Compensation Research Institute, an independent, nonprofit research organization based in Cambridge, Massachusetts. Prior to his designation as president in January, he held the position of executive director when he joined the organization in May 2015. Mr. Ruser has also worked for the U.S. Bureau of Labor Statistics and the U.S. Department of Commerce.

impacting workers compensation. We will look at the impact of the growth of high-deductible group health plans on case shifting to workers compensation, and also assess the impact of the growth in accountable care organizations and the consolidation of health care on workers compensation prices.

**Q** What do you enjoy most about working for the WCRI?

**A** One of the things that I enjoy most about working for WCRI is that while having a mission similar to the U.S. Bureau of Labor Statistics ... in providing objective information and research, we are able to focus that research and information where the public policy debates are occurring. As a result, we make a tangible difference in improving workers compensation systems and the outcomes of injured workers.

## COMINGS & GOINGS

# UP CLOSE: JAMES HARRIS

SAN DIEGO-BASED SENIOR VICE PRESIDENT OF BUSINESS DEVELOPMENT  
ACI Specialty Benefits Corp.

**PREVIOUS POSITION:** Mountain View, California-based head of sales, marketing and business development at Concern: Employee Assistance Program

**LOOKING FORWARD TO:** Working with a fantastic group of group-thinking, technology-savvy, customer-focused people.

**ON LEADERSHIP:** Lead by example. To have a strong vision and to translate that vision to time-specific action items. Really be a resource for the team.

**CHALLENGES FACING INDUSTRY:** There is a real challenge in continuing to educate companies about employee assistance programs ... to really help the market increasingly understand the value of the employee assistance program; how it helps companies not only attract but retain talent, that the collaboration with the employer-sponsored program really leads to a more focused employee, a reduction in absenteeism (and) an employee who is more present of mind. These employees also have a higher level of life satisfaction.



**CRYSTAL BALL:** I see more adaptation of more robust (employee assistance programs). You will see more focus on individual industries ... one size does not fit all.

**FAVORITE QUOTE:** "You never get a second chance to make a first impression."

**OUTSIDE THE INDUSTRY, A DREAM JOB:** I love the idea of remodeling homes. Or being a musician, touring around.

**HOBBIES:** I'm a frustrated golf fanatic. I'm into sports. I love a basketball game. I love a good workout. I love to try anything once. I went skydiving. I'm waiting to go zip-lining.

**PETS:** I rescued a female Maltese. Her name is Koko. She's my heart.

**FAVORITE MEAL:** Blackened filet mignon with a nice Australian lobster tail, sautéed mushrooms, asparagus tips and a wedge salad.

**FAVORITE BOOK:** "The Hunt for Red October" by Tom Clancy.

## Professional Moves & Promotions

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|------------------------------------------------|---------------------|
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| Jardine Lloyd Thompson Group P.L.C.            | Mark Shumway        |
| Lockton Cos. L.L.C.                            | Alex Michon         |
| <b>INSURERS</b>                                |                     |
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| QBE North America                              | Nathan Bleich       |
| Starr Cos.                                     | Brian Inselberg     |
| XL Catlin                                      | Brian Benjamin      |
| <b>REINSURANCE</b>                             |                     |
| Aon P.L.C.                                     | Luke Foord-Kelcey   |
| <b>OTHER</b>                                   |                     |
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| McDonald Hopkins L.L.C.                        | Samuel D. Goldstick |
| Milliman Inc.                                  | Dennis Sain         |
| Origami Risk L.L.C.                            | Neil Scotcher       |
| Wilson Elser Moskowitz Edelman & Dicker L.L.P. | Paul White          |

*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: Joyce Famakinwa, *Business Insurance*, 150 N. Michigan Ave., Chicago, Ill. 60601-7524. [jfamakinwa@businessinsurance.com](mailto:jfamakinwa@businessinsurance.com).

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# Cyber Attack

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**Leslie Lamb** | Director of Global Risk and Resiliency Management  
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### FEATURING:

**Stacy Cannady** | Technical Marketing Engineer, Trusted Computing Group | Cisco Systems Inc. (The Cloud)

**Dawn-Marie Hutchinson** | Executive Director, Office of the CISO  
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**Matthew McCabe** | Senior Vice President  
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EDITORIAL

## MAKING A DIFFERENCE THE RIGHT WAY

**T**op benefit managers have a difficult job but, when they execute the right strategy, they can make a big difference for employers and employees. That's particularly the case when it comes to health care. Over the past several years, employers have increasingly addressed the problem of rising health care expenses by shifting more of the costs to employees. That's proved an effective short-term strategy for cutting costs, but it's often been at the expense of worker satisfaction and long-term worker health.

It's not easy to develop benefit strategies that tackle complex issue in effective and affordable ways, so when they arise it's worth taking notice.

Philia Swam of LarfargeHolcim U.S., *Business Insurance's* 2016 Benefit Manager of the Year®, developed such a strategy for her employer by concentrating on creating a healthy workforce in addition to revamping the firm's benefits offerings to save on costs. The fact that she implemented the strategy in the wake of a major merger, which creates benefits challenges in itself, makes her achievements doubly impressive.

One of the keys to her and LarfargeHolcim's success in implementing the changes was not being afraid to invest money to encourage people to lead healthier lives. Most people would agree that the best way to reduce health care costs is to make sure that people don't get sick in the first place, but they often need incentives to make the necessary changes to improve their health.

In conjunction with the introduction of high-deductible health plans, Ms. Swam and her team developed and implemented significant financial incentives to encourage LarfargeHolcim employees to monitor their health more effectively and boost their physical activity. Money was also made available to identify and better manage chronic conditions, which are notoriously expensive to treat over the long term.

In our special profile in this issue of Ms. Swam and the LarfargeHolcim benefits program, you will find numerous examples of creative ways to address the thorny problems that today's benefit managers face.

Congratulations to Ms. Swam, and we hope you enjoy reading about her achievements.

*Business Insurance* welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters.

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SCHILLERSTROM



COMMENTARY

## PLAYING BY THE RULEBOOK DOESN'T YIELD BEST RESULT

**A**t one point in the classic, eerily prescient 1946 political novel "All the King's Men" by Robert Penn Warren, cynical governor Willie Stark, who is based on Louisiana Gov. Huey Long, has a conversation with an idealistic doctor.

Willie tells the doctor that things change: "Because what folks claim is right is always just a couple of jumps short of what they need to do business. But folks in general, which is society, Doc, is never going to stop doing business."

What brings that to mind is what happened to Lisa Caporicci, an employee at a South Tampa, Florida, restaurant operated by Denver-based Chipotle Mexican Grill Inc., who was terminated after one episode of acting inebriated after taking a prescribed anxiety medicine, according to the U.S. District Court in Tampa's May 27 ruling in *Lisa Caporicci v. Chipotle Mexican Grill Inc.*

Before the events leading up to her termination, Ms. Caporicci had been considered "really good at her job" and was being "watched carefully for a promotion."

But then Ms. Caporicci took a brief Family Medical Leave Act leave to adjust to her new medication, and was terminated just four days later.

Ms. Caporicci sued Chipotle on grounds including violating the Americans with Disabilities Act and retaliation for exercising her FMLA rights.

The court dismissed the FMLA charge on the basis she was not eligible for FMLA protection because she had worked for just under 11 months, not the minimum 12 months required.

As to the ADA claim, Judge Charlene Edwards Hon-



**JUDY GREENWALD**  
SENIOR EDITOR

eywell said in her ruling, "Courts are split on the question of whether a termination based on conduct related to, or caused by, a disability constitutes unlawful discrimination."

However, most courts have held "an employer may discipline or terminate an employee for workplace misconduct even when the misconduct is a result of the disability."

The judge concluded Ms. Caporicci had violated the company's drug and alcohol policy by coming to work while under the influence of the medication, and therefore the firm had a justifiable, nondiscriminatory reason for her termination. Ms. Caporicci is appealing the ruling to the 11th U.S. Circuit Court of Appeals in Atlanta.

Chipotle may have been legally justified in its action. Nevertheless, one can't help but be suspicious of her termination's coincidental timing with her taking her FMLA leave.

And in any case Ms. Caporicci was taking medication for a medical condition, not shooting up with illegal drugs. She deserved another chance.

This is one case that called for a bit more compassion and, to quote Willie Stark, a business being willing to take "just a couple more jumps" and doing what is right.

# Risk managers face new liabilities in web of medical payment rules

Medicare Secondary Payer requirements have had a costly effect on claims settlements. While the Strengthening Medicare and Repaying Taxpayers, or SMART, Act helped solve many significant problems, risk managers face a new set of liability risks that have arisen over the past four years. David Farber, a partner at King & Spalding L.L.P., outlines the issues that risk managers need to address.

In the past 10 years, Medicare Secondary Payer issues have become a dominant concern. During that time, Congress has driven seismic changes in the MSP landscape, which have given MSP issues a key role in the resolution of any case involving a Medicare or Medicaid beneficiary. No risk manager can chance being unaware of the legal requirements and the effect of MSP on case closures, risk management operations and claims department budgets.

The last decade has brought significant clarity to many of the issues that plagued MSP compliance years ago. But numerous issues remain, adding to claims resolution costs, and others are emerging as major business threats. Here is a look at the changes and five major MSP business threats facing risk management departments:

Congress enacted the MSP statute in 1980 and updated it in 2003 to clarify that settling parties still were subject to MSP laws. In December, Congress enacted Section 111 of the Medicare, Medicaid and SCHIP Extension Act, which required risk managers and other entities paying a settlement, judgment or award to a beneficiary report the payments to Medicare or face a \$1,000 per day per claim penalty. Once implemented by the Centers for Medicare and Medicaid Services in 2011 and 2012, a flood of data regarding potential secondary payer collections became available, helping CMS increase collection of MSP “conditional payments,” amounts paid by Medicare for health care related to an injury that is the subject of a settlement, judgment or award.

In response to Section 111, self-insured claims managers, third-party administrators and insurance industry representatives formed the Medicare Advocacy Recovery Coalition, which between 2009 and 2012 worked with Congress to enact the Strengthening Medicare and Repaying Taxpayers Act. The legislation helped eliminate several major MSP risks facing industry, including the late reporting penalty and transaction costs associated with small MSP claims. In addition, the legislation required Medicare to create an electronic “portal” to ensure prompt communication of MSP liability amounts so parties could resolve all claims at the time of settlement. The

SMART Act has saved industry tens of millions of dollars by eliminating potential liabilities, expediting settlements and reducing extensive transaction costs and delays.

But a new set of risks has arisen in the four years since the SMART Act’s enactment, putting millions of dollars at stake.

The five biggest disruptions to claims administration are:

**Part C/Part D:** In the past several years, a number of Medicare Advantage insurers (private insurers who, for a fixed per-member-per-month fee from CMS, agree to cover all Medicare beneficiary claims otherwise covered by Medicare Part A and Part B) have sued insurers, those who are self-insured and plaintiffs’ attorneys to recover payments for medical costs later addressed by a settlement, judgment or award.

The insurers claim they are acting on behalf of the CMS for purposes of recovery, a position they believe entitles them to seek what amounts to double damages. Though the case law is mixed, with decisions in the U.S. Court of Appeals for the 6th and 9th circuits rejecting these claims, the 3rd Circuit allowing them and the 11th Circuit considering the issue, insurers have met with success in many district courts. These claims, often brought months or years after a settlement, cause risk managers to reopen closed cases. Though these cases have involved MA plans, claims by Medicare Prescription Drug benefit insurers are soon to follow. At issue are billions of dollars of potential liability to insurers and those who are self-insured.

Unfortunately, there is no simple way for settling parties to determine whether an MA Plan is involved in a case at the time of settlement. While CMS freely gives Section 111 information to MA plans, it does not collect information from those plans to share with parties negotiating claims. It will fall to MARC, working with Congress, to resolve these issues.

**Liability “set-asides”:** For five years, CMS has threatened to expand its “future medicals” policy and “Medicare set-aside” process applicable to

workers’ compensation settlements to liability settlements as well. The implications of having to navigate the costs of future medicals in liability cases, particularly when the metrics are set by CMS as is the case in workers compensation, would significantly increase settlement costs and delay settlements in many cases.

Similar to a rule it proposed in 2014 and withdrew in 2015, CMS announced last month that it was considering expanding its voluntary Medicare set-aside arrangements amount review process to include proposed liability insurance (including self-insurance) and no-fault insurance set-asides. Every risk manager has a stake in how this issue is resolved.

**Treasury debt collection:** Every year hundreds of insurers and those self-insured face Treasury collection efforts for unknown MSP debts. While most amounts are not large, they can add up to hundreds of thousands of dollars. Claims departments can rarely identify the related MSP claim. Treasury says it has no information and refers inquiries to CMS, which says all information is in the hands of Treasury. While MARC has initiated a partnership with CMS and the Treasury to improve the debt collection system, Treasury debt collection remains a major MSP risk.

**Ongoing responsibility for medicals:** Every quarter, hundreds of thousands (and soon millions) of claims will be reported to CMS under Section 111 as “ongoing responsibility for medicals.” This requirement is wasteful for companies that have internally closed the claims but, under state laws must continue the reporting process. It also often results in CMS wrongfully denying beneficiaries’ Medicare coverage unrelated to the claim in the report. There have been hundreds of cases of CMS denying beneficiaries coverage for cancer care because the beneficiary has an ongoing responsibility for medicals claim from a workers compensation injury. Beneficiaries with no other choice file complaints with state regulators against their employers or insurers.

Ongoing responsibility reporting translates to an incalculable loss of goodwill, transaction costs and time and effort for all claims managers, who continue to work with CMS to reform the reporting process and find a reasonable date upon which such reporting can end.

**The portal:** On Jan. 1, CMS implemented the SMART Act portal. Though the portal provides extensive information to beneficiaries and allows them to seek final conditional payment statements before settlement, it does not give insurers all the data necessary to make MSP payments at the settlement table. Though the portal has saved millions in MSP repayment transactional costs as it was phased in the past three years, more improvement is needed. MARC continues to work on this issue, but risk managers are paying unnecessary transactional costs in settling cases involving Medicare in the meantime.

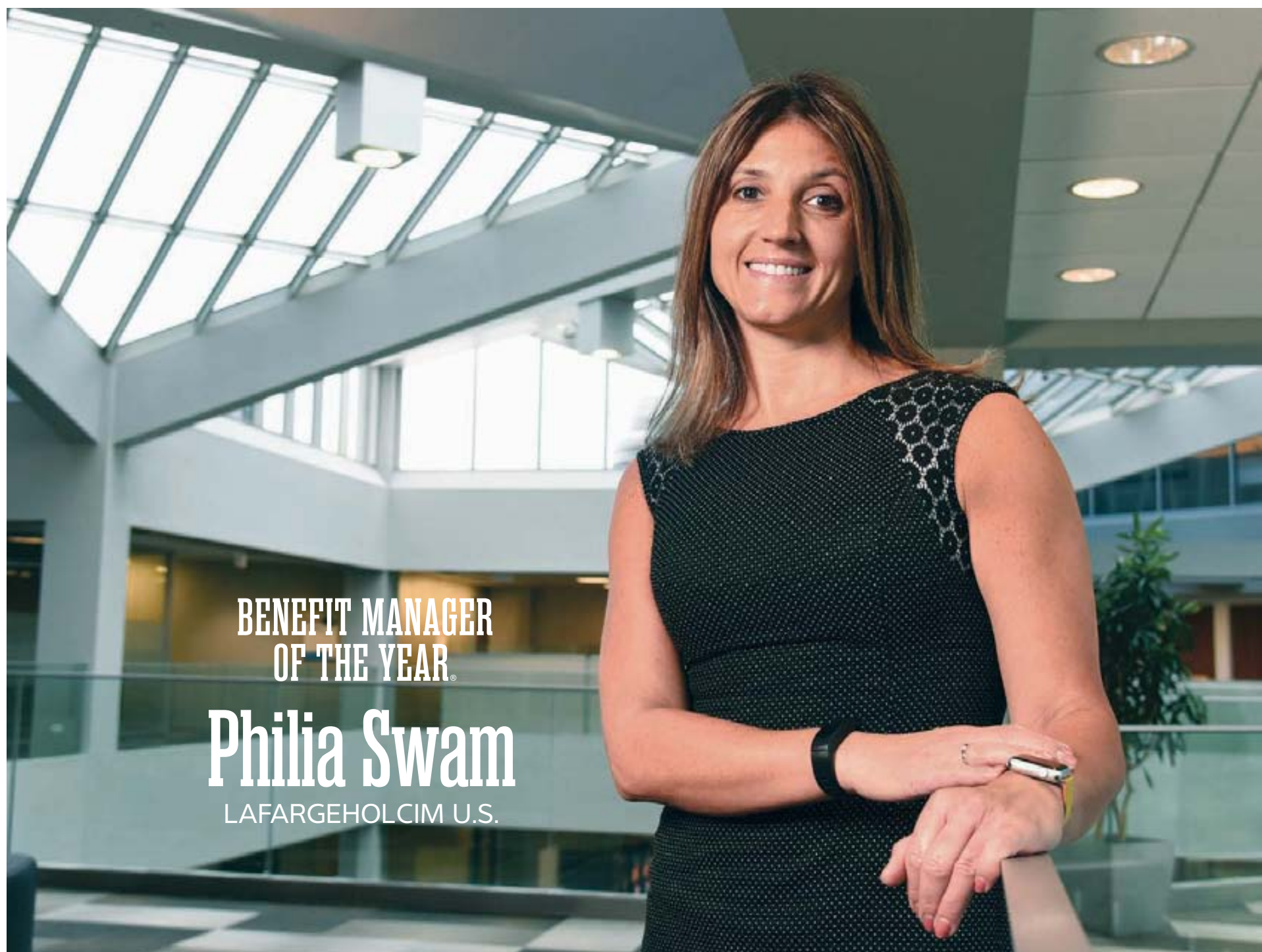


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## HEAR MORE

David Farber, a partner at King & Spalding L.L.P., discusses what risk managers need to know about the inefficiencies of the Medicare Secondary Payer system and how to improve them with *Business Insurance* Managing Editor Mary Jane Grandinetti.





MICHAEL MARCOTTE

BENEFIT MANAGER  
OF THE YEAR®  
**Philia Swam**  
LAFARGEHOLCIM U.S.

# A healthy enthusiasm for well-being

Manager's zeal and know-how pay off for LafargeHolcim and employees

BY JERRY GEISEL

**F**or Philia Swam, improving employees' health and wellness has been the passion driving her career. For much of her 18 years with LafargeHolcim U.S. and predecessor company Lafarge North America Inc., Ms. Swam has launched a slew of initiatives to control the costs of LafargeHolcim's health plans, which cover about 13,000 U.S. employees and dependents, while increasing the company's focus on wellness.

"We have shaped our health and wellness culture to focus on early preven-

tion and detection of chronic conditions," said Ms. Swam, who is manager of health, wellness and group benefits at LafargeHolcim U.S. in Chicago.

Last year, LafargeHolcim switched its U.S. employees to high-deductible consumer-driven health plans, but it also gave employees a powerful financial incentive to participate in wellness programs — sizeable company contributions to health savings accounts.

For example, the company contributes \$650 to each employee's HSA, and their spouses receive an equal contribution if they are screened for metabolic syndrome, which includes checking waist

#### LAFARGEHOLCIM LTD.

The company is the result of the July 2015 merger of cement manufacturers Lafarge S.A. and Holcim Ltd.

**Worldwide headquarters:**  
Jona, Switzerland

**U.S. headquarters:**  
Chicago

**Employees:**  
115,000 worldwide, including  
7,500 in the United States

**2015 worldwide revenue:**  
\$30.22 billion

circumference, blood pressure, blood sugar, triglycerides and HDL cholesterol levels.

If they have no more than two of the five risk factors and test negative for exposure to tobacco smoke, they receive the full HSA contribution.

If they have three risk factors and/or test positive for nicotine, they must complete health coaching to get the full \$650.

That incentive clearly is attractive, as 95% of employees participate in LafargeHolcim's on-site health screening programs, which Ms. Swam said will improve employees' overall health and detect medical problems early on, saving the company money in the longer term.

"If you have metabolic syndrome, you are two to four times more likely to get heart disease, kidney disease, a stroke, cancer and diabetes. Our position was that for a majority of our population, those conditions are preventable and reversible. Why wouldn't we focus on them, because we know most people can make a change?" Ms. Swam said.

Giving employees a strong financial incentive to have wellness exams is one of several initiatives Ms. Swam has put in place to improve employee's health while also controlling company costs, for which *Business Insurance* has named her the 2016 Benefit Manager of the Year®.

Another initiative, a nurse engagement plan through health insurer Aetna Inc., gives employees with chronic conditions such as asthma, diabetes and high blood pressure easy access to Aetna nurses.

"The goal is for the health plan enrollees to get help and support to better manage the condition and get care, avoid problems and enjoy better health," Ms. Swam said.

Employees and spouses who enroll in Aetna in Touch Care receive a \$75 company contribution to their HSAs.

The results, she said, have been "incredible." Last year, 79.2% of the population with acute or chronic health conditions participated in Aetna in Touch Care.

Also incredible, she said, is that the wellness program efforts helped limit LafargeHolcim's health plan costs to an increase of just 3.8% last year.

Colleagues credit Ms. Swam's successes to her fervor for health care and ongoing commitment to make needed changes.

"She is passionate about health and wellness, and has a high-energy drive. That is what has made her so successful," said Laureen Strohl, LafargeHolcim's director of compensation and benefits in Chicago.

"She has great business sense combined with a passion for the



Philia Swam's team (from left), Bill Walton, Lisa Leitheiser, Ms. Swam and Wendy Calcagno show off their commitment to wellness.

wellness of employees," said Chris Mack, LafargeHolcim's director of industrial relations in Chicago.

"It is not just a job; health and wellness are one of the passions of her life," said Alexis Langlois, the company's Chicago-based regional head of human resources and integration for North America.

Ms. Swam's "biggest accomplishments are all due to her ability to embrace and introduce change. She is not afraid of trying new ways," said Wendy Calcagno,

LafargeHolcim's health and wellness coordinator in Southfield, Michigan.

Dave Ratcliffe, a principal at Xerox HR Services in Washington and a LafargeHolcim health care consultant, attributes Ms. Swam's successes to her vision and ability to get the backing of top company management.

"She is prepared to take on aggressive and cutting-edge strategies and to make them happen," Mr. Ratcliffe said. "She is

Ms. Swam's "biggest accomplishments are all due to her ability to embrace and introduce change. She is not afraid of trying new ways."

Wendy Calcagno,  
LafargeHolcim U.S.

confident in her ability to win top management support, and she gained their full support."

Ms. Swam, who also has overseen moving retirees to a private health insurance exchange while expanding voluntary benefits for U.S. employees of the company that provides cement, concrete, aggregates and asphalt to a variety of industries, said her efforts are ongoing.

"While we continually monitor health care changes that occur in our industry and the U.S. marketplace, we must also measure our competitiveness from an internal perspective. We want to make certain we use our health care dollars wisely, ensure that we receive value for our health care spending and offer health care benefits consistent with the marketplace," Ms. Swam said.

## HIGH-DEDUCTIBLE HEALTH PLANS REAP BIG SAVINGS WHILE SOWING CASH TO HELP WORKERS CHANGE THEIR WAYS

While LafargeHolcim U.S.' move to high-deductible health plans last year shifted substantial costs to U.S. plan participants, the building materials manufacturer also took steps to ease that financial burden.

Under one of the new plans, HealthChoice, the annual deductible for single coverage is \$2,600, while the deductible for family coverage is \$5,000. Once deductibles are met, the employee picks up 30% of claim costs, up to an out-of-pocket maximum of \$6,500 for single coverage and \$13,000 for family coverage.

The other plan, HealthChoice Plus, has a deductible of \$1,750 for single coverage and \$3,500 for family coverage. After that, employees pay 20% of out-of-pocket expenses up to a maximum of \$5,750 for single coverage and \$11,500 for family coverage.

Previously, the company offered traditional preferred provider organization health coverage with little or no deductibles and flat dollar copayments, said Philia Swam, LafargeHolcim's U.S. manager of health, wellness and group benefits in Chicago.

While earlier plan changes had brought down annual cost increases to an average of 4.7% from 2007 to 2014, from 13.3% from 2001 to 2006, more changes were needed to reduce LafargeHolcim's exposure to a health care reform law provision that imposes a stiff excise tax on plan premium costs that exceed certain levels, Ms. Swam said. In 2015 alone, the plan design changes saved LafargeHolcim \$5.4 million.

At the same time, LafargeHolcim added features to reduce employees' cost burden.

For example, the company contributes up to \$650 to the health savings accounts of employees who get screened for certain conditions. That same \$650 contribution also is available to employees' spouses who have the screenings.

HSA contributions also provided for employees who engage in other health related activities. For example, employees and spouses who participate in a company Get Active program are each eligible for up to a \$300 HSA contribution, while a \$150 HSA contribution is offered to pregnant plan participants who complete an Aetna

maternity management questionnaire within the first 16 weeks of pregnancy, and a \$75 HSA contribution is provided to employees participating in an Aetna program that counsels those with chronic problems, such as high blood pressure.

LafargeHolcim purchases stop-loss insurance from Aetna that covers individual claims that exceed \$2 million and self-insures claim costs below that amount.

"We elect to have a high (stop-loss) threshold because most of our high-dollar claimants usually peak at about \$500,000 to \$750,000 for catastrophic incidents," Ms. Swam said. "We prefer to pay a lower stop-loss premium and accrue the cash reserves ourselves."

Shifting to high-deductible health plans was the "right decision for our benefit plan strategy of continuing to change employee/family consumer behavior, and (we) decided that implementing HSAs would help our employees save money for health costs that occur today and in the future," Ms. Swam said.

By Jerry Geisel

**\$5.4M**

What plan design changes saved LafargeHolcim in 2015 alone.

# For retirees, a move to private health exchanges with cash to cover the shift

BY JERRY GEISEL

*“Our retirees worked for us for very long periods of time — in many cases, their entire careers. We wanted to be able to provide them with something to help offset the cost of coverage.”*

Philia Swam,  
LafargeHolcim U.S.

One of the biggest benefits trends in recent years has been employers dropping retiree health coverage and moving retirees to private exchanges.

Last year, LafargeHolcim U.S. joined that movement.

For decades, the building materials manufacturer provided the coverage directly to both pre- and Medicare-eligible retirees and their spouses.

But with costs soaring, that could not continue.

“The cost of coverage was becoming unaffordable for both retirees and the organization” said Philia Swam, manager of health, wellness and group benefits at LafargeHolcim U.S. in Chicago.

One potential approach was to stop offering retiree health coverage, but “we didn’t think that would be fair,” Ms. Swam said. “Our retirees worked for us for very long periods of time — in many cases, their entire careers. We wanted to be able to provide them with something to help

offset the cost of coverage.”

What was fair, Ms. Swam said, was switching retirees and their eligible dependents to a private insurance exchange, a move that some of LafargeHolcim’s competitors already had made.

“We looked at what was going on in the marketplace. Many of our cement industry competitors already had made that leap,” Ms. Swam said.

LafargeHolcim U.S., a unit of LafargeHolcim Ltd. that was established last year with the merger of Lafarge S.A. and Holcim Ltd., made the switch in two steps. At the end of 2014, legacy company Lafarge ended coverage for Medicare-eligible retirees and dependents. Instead, it set up health reimbursement arrangements for all eligible U.S. retirees.

For Medicare-eligible retirees who worked for the company before last year’s merger, the company credited each retiree’s HRA with \$1,950. It added another \$1,950 if the retiree had a spouse.

Then, at the start of this year,

LafargeHolcim took the same approach for pre-Medicare eligible retirees who worked for Lafarge before it merged with Holcim. It stopped offering retiree health care coverage, but put \$7,000 into an HRA for each retiree and another \$7,000 for their spouse.

For Medicare-eligible retirees who had worked for Holcim, the company contributes \$8 a month times their years of service and for pre-Medicare-eligible retirees the company contributes \$4 per month times their years of service.

The subsidies for legacy Holcim U.S. retirees are lower because it did not provide the same level of subsidies that legacy Lafarge extended to its retirees, she said.

Medicare-eligible retirees can tap those HRA contributions to purchase coverage in a private health insurance exchange, OneExchange, offered by Willis Towers Watson P.L.C., as well as pay out-of-pocket medical expenses.

Pre-Medicare eligible retirees can use the contributions to get coverage in OneExchange or to secure

coverage in the public health insurance exchanges authorized by the 2010 health care reform law.

“Depending on the state in which the retiree lives, options are vast. This gives individuals much more flexibility,” Ms. Swam said. “Most retirees have at least 20-plus plan options to choose from in the pre- and post-65 markets.”

By contrast, prior to moving to OneExchange, pre-Medicare-eligible retirees had two plans from which to choose and Medicare-eligible retirees had just one.

At the same time, LafargeHolcim U.S. can much better predict its costs because its contributions for coverage are fixed. Previously, costs for pre-Medicare-eligible retirees were, for example, rising about 8% annually, she said.

In addition, human resources staffers now have more time to handle other issues, Ms. Swam said.

In all about 800 pre-Medicare-eligible retirees and spouses and 4,000 Medicare-eligible retirees and spouses now receive coverage through OneExchange, Ms. Swam said.

## A desire to see Cadillac tax parked

Preventive medicine seen as better cost control

BY JERRY GEISEL

If there is one change Philia Swam would like federal lawmakers to make in the 2010 health care reform law, it would be repealing the Affordable Care Act’s Cadillac tax.

Under that provision, a 40% excise tax is to be imposed on the portion of group health plan premiums that exceeds \$10,200 for single coverage and \$27,500 for family coverage starting in 2020.

Backers of the tax argue, among other things, that the threat of the tax will encourage more employers to adopt more cost-efficient plans.

But Ms. Swam, manager of health, wellness and group benefits at LafargeHolcim U.S. in Chicago, disagrees.

“When has a tax changed behavior? We made proactive changes a long time ago without facing tax implications by focusing on changing health behavior,” she said, referring to several company initiatives, such as wellness programs, intended to improve employees’ health and reduce increases in health plan costs.

Ms. Swam also questions another widely held ACA assumption: With more people getting cover-

age due to federal premium subsidies, there will be a significant reduction in uncompensated care, a cost that some believe providers have tried to offset by boosting charges for insured patients.

“I’m still not convinced that people are rushing out to find coverage, subsidy or no subsidy, because the public marketplace is still evolving and is complex to use,” she said.

For employers, the law has significantly increased their administrative burdens, Ms. Swam said.

“New taxes, fees, more reporting to the government has complicated matters,” she said. “In addition, to managing health plan costs and the health of employees and their dependents, we now have to perform so many administrative tasks that we didn’t have to do before.”

Still, she said, the requirement that preventive services be fully covered is a positive aspect of the health care reform law.

“In order to reduce health care costs over the long term, individuals should be taking preventive measures to learn about their health early on and taking action to mitigate future risks from occurring,” Ms. Swam said.

In addition, she supports the ACA ban on denying coverage for



MICHAREL MARCOTTE

Philia Swam (center) is photographed with Laureen Strohl, director of compensation and benefits and Brett Baker, head of Great Lakes Region, aggregates and construction materials, LafargeHolcim U.S.

pre-existing medical conditions.

Requiring insurers to cover people with pre-existing conditions allows “individuals to get treatment without fearing that they won’t have coverage for specific health conditions they may have,” she said of the company that became LafargeHolcim Ltd. last year with the merger of Lafarge S.A. and Holcim Ltd..

Health plan changes that legacy company Lafarge had to make to comply with the law were relatively minor, Ms. Swam said. For example, Lafarge had to remove a \$2 million lifetime limit on partici-

pants’ claims to comply with the ACA bar on such limits effective in 2014.

Just two Lafarge plan participants hit that maximum dollar coverage limit between 2004 and 2010, which Lafarge eliminated in 2011.

In addition, Lafarge in 2011 amended its health plans to allow employees’ adult children to receive coverage up to age 26. Previously, Lafarge, like many employers, ended coverage when employees’ children turned 19, though it continued coverage up to age 25 for employees’ children who

were full-time students.

The financial impact of extending coverage to employees’ older children also was minor, Ms. Swam said.

Colleagues say Ms. Swam’s ability to plan ahead eased the changes to comply with the health care reform law.

“She is proactive. She has a great ability to stay on top of changes that will need to be made and to keep top management abreast of what will need to be done,” said Laureen Strohl, director of compensation and benefits in Chicago of LafargeHolcim U.S.

# Company reinvests savings into critical care, accident policies for employees

**W**hen LafargeHolcim U.S. moved to consumer-driven, high-deductible health plans last year for its employees, it spent \$2 million of the cost savings on added benefits.

The company used a portion of the money to purchase on behalf of every employee and dependent enrolled in its health plans three new health care-related policies: a hospital indemnity policy, a critical illness policy and an accident policy, written by Aetna Inc. and Allstate Benefits, a unit of The Allstate Corp.

The coverage provides a cash benefit to offset a portion of expenses that fall under plan deductibles or coinsurance, said Philia Swam, LafargeHolcim's U.S. manager of health, wellness and group benefits in Chicago.

For example, if an employee is hospitalized, he or she is eligible for \$1,000 to help offset the hospital bill from the hospital indemnity plan's insurer, Aetna.

The reason for adding the coverage was basic, Ms. Swam said.

"We know we made significant plan design changes. We know we are shifting a significant amount of costs to participants that they never have had before," she said. "We want to be able to take some of that burden off employees by providing them with these policies that offer cash to cover expenses associated with particular medical situations."

In addition, cash payments are offered for employees to have certain preventive services, which can save money for the company and employees, Ms. Swam said.

For example, a \$400 cash benefit per family to apply to the cost of certain preventive medical, dental and/or vision services.

"It is our way of saying thank you for having a preventive care screening," Ms. Swam said.

There is an additional bonus to offering the policies: reducing the likelihood that the health plan will trigger the Affordable Care Act's Cadillac tax, Ms. Swam said.

The 40% excise tax is to be imposed on the portion of group health plan premiums that exceed \$10,200 for single coverage and

\$27,500 for family coverage, effective in 2020.

But the cost of voluntary plans, which include LafargeHolcim's hospital indemnity, critical illness and accident plans, are excluded when calculating the excise tax.

"These plans are separate from medical and are not used for Cadillac tax calculations," Ms. Swam said.

By Jerry Geisel

## BENEFITS MANAGEMENT HONOR ROLL ADDS 1

**B**usiness Insurance named Mike Greenberg, the New York-based vice president of benefits at Hudson's Bay Co., to the 2016 Benefits Management Honor Roll.

Mr. Greenberg joined the Toronto-based retailer in 2014 and was tasked with harmonizing all U.S. employee benefits, benefits administration and benefit communications for Hudson's Bay's Saks Fifth Avenue and Lord & Taylor stores by Jan. 1, 2016.

Officials at Hudson's Bay, however, declined to allow Mr. Greenberg to comment on specifics of the integration efforts recognized by an independent panel of judges composed of 2015 winners of the Business Insurance honors and benefits industry professionals.



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## DID YOU KNOW?

■ LafargeHolcim Ltd. has a **presence in 90 countries**, supplying cement, concrete, aggregates and asphalt for the building, infrastructure, distribution and retail, oil and gas, and affordable housing industries.

■ Has **2,500 plants worldwide** — more than 1,500 that produce ready mix concrete, more than 600 that produce aggregates and more than 200 cement and grinding operations.

■ its products have been used in the **construction of the One World Trade Center** in New York and the National Museum of the American Indian in Washington.

Source: LafargeHolcim Ltd.

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## Career dedicated to improving health

**P**hilia Swam responds quickly when asked why she has spent most of her professional career working for one company — building materials manufacturer Lafarge North America Inc., once a unit of Paris-based Lafarge S.A. and now LafargeHolcim Ltd. following its 2015 merger with Swiss-based Holcim Ltd.

“There is no greater satisfaction than getting an email or phone call or being stopped by someone who says, ‘Thank you for saving my life or my spouse’s life,’” says Ms. Swam, manager of health, wellness and group benefits at LafargeHolcim U.S. in Chicago.

“Being part of the team that creates the programs and opportunities for our people to get healthy and change their lives for the better is what makes me get through some of the most challenging days,” said Ms. Swam, in charge of LafargeHolcim’s U.S. medical, life, disability, wellness and employee assistance plans.

Ms. Swam’s first experience with employee benefits came in graduate school. After graduating in 1994 from Flagler College in St. Augustine, Florida, where she majored in business administration and English, she attended Towson University in Maryland, where she got her master’s degree in human resources and organizational development in 1996.

Then, Ms. Swam began working in HR for a small perfume and cosmetic bottle manufacturer in Baltimore.

Two years later, she heard of an opening for an HR manager at Lafarge’s construction materials division in the eastern U.S. She was hired and has been there since.

In 2002, she was promoted to manager of strategic staffing. In 2004, she was named director of health, wellness and group benefits. Following last year’s merger, her title was changed to manager of health, wellness and group benefits for the U.S. unit though her responsibilities remain the same.

In those 18 years, Ms. Swam, 43, has been involved in several U.S. employee benefits projects, including developing an aggressive wellness incentive program, case management for costly claims, moving retirees to private health insurance exchanges and implementing full replacement high-deductible health plans.

“This is where the fun really began: implementing our on-site health screening program, physical activity challenges, education and marketing campaigns to create awareness of personal health, prevention and early detection,” said the 2016 *Business Insurance* Benefit Manager of the Year®.

The results are major. For one, the percentage at which health plan costs had been rising annually has been halved, saving the company millions.

Colleagues praise her drive and commitment.

“She is a very fast-paced person. She has a lot of energy. She has a commitment to the field. She is great at articulating and promoting her ideas,” said John Stull, CEO of LafargeHolcim’s U.S. cement unit in Chicago.

Off the job, Ms. Swam, who in 2011 was named to *Business Insurance*’s Benefit Management Honor Roll®, enjoys cooking, fitness and exercise, spinning, running, strength training and reading.

Ms. Swam lives in Jefferson, Maryland, with her 10-year-daughter, Alexandra, and travels to Chicago as necessary.

She says her favorite place is the beach at St. Augustine, Florida, where one day, she hopes to retire.

By Jerry Geisel



MICHAEL MARCOTTE

Ms. Swam’s first experience with employee benefits came in graduate school.

## Coaches on call with playbook on building a healthy lifestyle

**W**hat if an employee wants to lose weight, stop smoking or eat healthier?

At LafargeHolcim U.S., U.S. employees have access to a program to help them achieve those and other health improvement objectives that is free.

Under the program offered through the Cleveland Clinic Wellness Institute, employees can select the coaching program in which they want to enroll and a coach. The experts include registered dietitians and certified health coaches with master’s degrees in fields such as exercise science, psychology and health

and nutrition.

The coaches use employee health statistics to develop programs to help workers meet goals such as losing weight, reducing glucose levels or stopping smoking, said Philia Swam, the company’s Chicago-based U.S. manager of health, wellness and group benefits.

The coaches and participants interact via email as often as the employee wants.

That interaction, program participants have told Ms. Swam, has been invaluable.

“On several occasions, I have been told by employees that their health coach has become part of their family, that the coach provided such wonderful support and helped change not only the employee’s health, but impacted the entire family unit,” Ms. Swam said.

In addition, participants receive at no cost a Garmin activity tracker that, for example, sends out an alert after a prolonged period of physical inactivity.

The program, launched in 2011, currently has about 850 participants.

By Jerry Geisel

### MEDICAL CONSULTS A CALL OR VIDEOCONFERENCE AWAY

**G**iving employees powerful financial incentives — substantial employer contributions to employees’ health savings accounts — to take better care of themselves is just one way LafargeHolcim Ltd. is trying to control health costs.

Last year, the company launched a telemedicine program intended to give employees an alternative to expensive emergency room or urgent care visits for medical problems that happen when their doctors’ offices are closed, such as nights and weekends.

Instead, the Teladoc Inc. program — offered by LafargeHolcim’s health plan provider, Aetna Inc. — allows employees to call or have videoconferences with board-certified physicians about medical problems.

After filling out a medical profile when they sign up for the program, employees can dial a toll-free number to consult Teladoc physicians about conditions such as respiratory, ear and urinary tract infections; allergies; sore throats, colds and flu; and pink eye.

Teladoc doctors, who have access to the employees’ medical profiles, can call in a prescription to a pharmacy.

The employee’s cost for the consultation and assistance is \$40, a fraction of the cost of a hospital emergency room visit, with the added bonus of also saving time traveling to be examined.

The cost to LafargeHolcim of the offering was not disclosed.

In the first four months of this year, LafargeHolcim health plan participants tapped Teladoc for 141 consultations, up from 81 for all of 2015. Philia Swam, LafargeHolcim’s U.S. manager of health, wellness and group benefits in Chicago, would like to see usage grow.

“Our plan is to continue to promote the program and encourage utilization in lieu of urgent care, ER visits or if the member can’t get a physician’s appointment for treatment of conditions such as ear infections, sinus issues, skin rashes — conditions that may need urgent care, but not ER visits,” Ms. Swam said.

By Jerry Geisel

### OTHER COVERAGE

Other key health care-related benefits for U.S. employees of LafargeHolcim Ltd. include:

#### Dental: Aetna PPO

- Diagnostic and preventive services covered in full with no deductible.
- Basic and major services, such as fillings, extractions and crowns 80% covered, with a \$100 deductible for single and \$200 deductible for family coverage.
- Annual maximum benefit of \$1,650 per person
- Orthodontics covered at 80%, with a lifetime maximum of \$2,000.
- Monthly employee premiums for those who earn less than \$75,000 a year: \$12 for single coverage and \$39 for family. For employees who earn \$75,000 or more a year: \$17 for single coverage and \$55 for family.

#### Vision: Vision Service Plan

- Routine annual eye examination offered through a VSP provider fully covered after a \$10 copayment, but those not using the VSP network would receive a \$50 allowance toward the cost of the exam.
- Lenses and frames costs vary by prescription and provider.
- Monthly premium for the basic plan: \$7.50 for single and \$22.85 for family coverage. For the richer buy-up plan, monthly premium: \$10.54/single and \$32.70/family.

## PANEL OF JUDGES SELECTS HONOREES

*Business Insurance* established the Benefit Manager of the Year® award in 2005 to recognize excellence and innovation in employee benefits management. The Benefit Management Honor Roll® was added in 2010 to honor other outstanding benefits professionals. Honorees are selected by a panel of independent judges, including the previous year’s winner and benefits experts. Judges for the 2016 awards were:

### JUDGES

**Kari A. Aikins**, assistant director of human resources at Western Kentucky University and a member of *Business Insurance*’s 2015 Benefit Management Honor Roll®.

**Amy Bergner**, managing director at PricewaterhouseCoopers L.L.P.

**Rick Chelko**, president of The Chelko Consulting Group L.L.C. and past president of the Worldwide Employee Benefits Network Inc.

**Deborah Forbes**, executive director of the Committee on Investment of Employee Benefit Assets Inc.

**Brian J. Marcotte**, president and CEO of the National Business Group on Health.

**Bonnie C. Sawdey**, senior vice president and chief people officer of Crawford & Co. and *Business Insurance*’s 2015 Benefit Manager of the Year®.

**Marty Webb**, vice president of benefits at AT&T Inc. and a member of *Business Insurance*’s 2015 Benefit Management Honor Roll®.

### METHODOLOGY

The judges scored each nominee according to how well he or she:

- Innovatively and effectively applied benefits programs to solve major problems for his or her organization.
- Exhibited leadership in achieving change within his or her organization.
- Skillfully used technology to administer benefits programs and/or identify and address major problems such as health care cost drivers.
- Established and/or led a benefits communication strategy to effectively inform employees of benefits program changes.
- Developed his or her career and promoted the advancement of the benefits profession.

## Arthur J. Gallagher offers terrorism insurance model

Arthur J. Gallagher, the international brokerage arm of Arthur J. Gallagher & Co., has launched a risk-modeled terrorism solution for U.K.- and U.S.-domiciled clients.

It allows locations to be geocoded, visually mapped and values-aggregated before analytics determine proximity to potential terrorist targets, Gallagher said in a statement. Disaster scenarios are run to determine probable maximum loss and specific vulnerabilities, allowing Gallagher provide advice on how to choose the best limits and types of coverage, according to the statement.

Underwriters on the program offer limits up to £230 million (\$314.6 million) per individual location for material damage and business interruption, £100 million (\$136.8 million) for terrorism liability, and up to £5 million (\$6.8 million) each for threat, loss of attraction, denial of access, and chemical, biological, radiological and nuclear defense, a spokeswoman for Arthur J. Gallagher said in an email.

“Businesses and individuals are becoming more likely to be exposed to multiple, complex terrorist attacks, such as those seen recently in mainland Europe in both Paris and Brussels. The changing nature of threats presents different challenges to businesses and demands an equally dynamic response from those specializing in risk management and insurance,” London-based Paul Bassett, managing director of crisis management at Arthur J. Gallagher, said in the statement.

## Allianz, specialty broker offer drone coverage

German insurer Allianz S.E. and specialty risk broker Transport Risk Management Inc. have teamed to develop an insurance program that provides liability and hull coverage for commercial unmanned aerial systems exposures.

The policy covers all uses and all models and includes worldwide coverage for operators, manufacturers, retailers and service providers, as well as online training, online safety support and online flight support, Conifer, Colorado-based Transport Risk said in a statement about the Unmanned Risk Management program.

Liability coverage is available up to \$500 million, and hull physical damage coverage is available up to \$10 million, according to the statement.

## P/C reinsurers get dedicated platform

Knightsbridge Technology Group L.L.C., a reinsurance software provider, said it has launched a business and accounting solution designed exclusively for property/casualty reinsurance companies.

The GenSphere Reinsurance System allows the processing of all reinsurance business on one integrated platform. It combines accounting requirements and the detailed business activities needed by reinsurers, including financial and



## Energy sector programs expanded

**\*** Energi of Canada Ltd. has launched property/casualty programs for energy businesses in parts of western and Atlantic Canada.

The program will provide risk management solutions and insurance offerings for energy-related risks in fuel distribution, fuel transportation, energy contractors, renewable energy and alternative energy solutions, Toronto-based Energi of Canada said in a statement.

The program will be offered in Alberta, British Columbia, Nova Scotia, New Brunswick and Prince Edward Island first, expanding to other provinces in the coming months, according to the statement.

“Our expansion into other parts of Canada is an exciting step forward for us, and we trust that brokers and customers will see the value and support we bring to the energy insurance business,” Tony Passarelli, Energi of Canada’s general manager and vice president of distribution, said in the statement. “We hope to continue our international growth and eventually offer our full coverage line to clients throughout Canada.”

statutory compliance, New York-based Knightsbridge said in a statement.

“Integration among underwriting, claims and technical accounts handling within other reinsurance systems has always been extremely rudimentary,” Joe Plasencia, Knightsbridge president and CEO, said in the statement. “GenSphere gives reinsurers comprehensive data analysis and quicker monthly/quarterly closing cycles in a proven, fully integrated and streamlined system, with full

regulatory compliance. The integration within GenSphere also lessens the number of business resources required to run the system.”

## Cat modeler AIR beefs up earthquake, storm models

AIR Worldwide has expanded and enhanced its earthquake and typhoon models for Southeast Asia.

The new earthquake model features the ability to account for the tsunami and liquefaction subperils for Indonesia, the Philippines and Taiwan. The updated typhoon model features a new precipitation-induced flooding module built using high-resolution data and also a probabilistic storm surge module for Hong Kong, the Philippines, and Taiwan.

“Southeast Asia has some of the fastest-growing economies. Located partly on the Ring of Fire, it’s seismically one of the most active regions in the world, with earthquakes of magnitude 8.0 or larger occurring once every eight to 10 years, on average,” Jayanta Guin, executive vice president and chief research officer at AIR Worldwide, said in a statement. “On the atmospheric side, more than 25 tropical cyclones typically form each year in the Northwest Pacific. A wealth of data has become available due to the number of catastrophes in this region, and AIR scientists have been conducting extensive research over the past 10 years to better understand these events.”

The AIR Typhoon Model for Southeast Asia — part of AIR’s Northwest Pacific Basinwide Typhoon Model — provides a probabilistic approach for determining the likelihood of losses from typhoon winds, precipitation-induced flooding, and storm surge. Loss data from the Southeast Asia insurance market was used to validate model results.

## Financial wellness product delves beyond retirement

Mercer L.L.C. has launched Mercer Financial Wellness, a digital platform that allows employers to offer employees access to expert providers of financial services.

Mercer Financial Wellness includes tools to help manage financial accounts, retirement counselors, credit score management, and unsecured personal loans, Mercer said in a statement.

“Employees are increasingly interested in their employer providing benefits that help them with their overall financial wellness, moving beyond the focus on retirement to address a wide range of individual financial needs from individual coaching to challenges facing new families to better debt management,” Tom Murphy, Mercer’s U.S. defined contribution and financial wellness leader, said in the statement.

“Our goal is to provide an integrated experience that drives behaviors to optimize the financial well-being of individuals at every stage of their lives. This kind of holistic approach has the potential to dramatically strengthen and distinguish employer value propositions.”

## DEALS & MOVES

### Gallagher acquires benefits broker and consultant

Arthur J. Gallagher & Co. has acquired The Buchholz Planning Corp.

Terms of the transaction were not disclosed.

The Buchholz Planning Corp. is a Madison, Wisconsin-based provider of employee benefits consulting and brokerage services for middle-market and large health care businesses and individuals in the U.S., Gallagher said in a statement.

Buchholz President and CEO William Buchholz, his partners and his associates will continue to operate at their current location. They will operate under the name The Buchholz Planning Corp., a division of Gallagher Benefit Services Inc., a Gallagher spokeswoman said in an email.

### Property/casualty insurer buys workers comp firm

AmTrust Financial Services Inc. has acquired workers compensation solutions provider Total Program Management L.L.C.

Founded as a managing general agency in 2005, Ronkonkoma, New York-based Total Program Management was responsible for insurance premium totaling \$47.1 million in 2015, New York-based AmTrust said in statement, noting that it has been the insurer for the majority of premiums written.

Further terms of the deal were not disclosed.

“The acquisition of TPM represents AmTrust’s continuing strategy to vertically integrate product distribution and expand the company’s valuable fee-based businesses,” AmTrust Chairman, President and CEO Barry Zyskind said in the statement.

### Broker Risk Strategies acquires professional liability agency

Risk Strategies Co. has acquired Dallas-based McLaughlin Brunson Insurance Agency L.L.P.

Terms of the deal were not disclosed.

McLaughlin Brunson Insurance Agency is a provider of professional liability, property/casualty and health insurance. The firm serves architects, engineers and accountants in Texas and Oklahoma.

McLaughlin Brunson Insurance Agency will operate under the name McLaughlin Brunson, a Risk Strategies Co. and continue with current staff under the leadership of Joe A. Bryant and John Krantz, Boston-based Risk Strategies said in a statement.

### Regional insurance agency expands with purchase

Cross Insurance, a subsidiary of Cross Financial Corp., has acquired Pittsfield, Massachusetts-based Bardwell, Bowlby & Karam Insurance Agency Inc.

Terms of the deal were not disclosed.

Bardwell, Bowlby & Karam is an independent regional property/casualty retail insurance agency that focuses on financial services and risk management, Bangor, Maine-based Cross Insurance said in a statement.

Bardwell, Bowlby & Karam will continue under the same leadership and staff, according to the statement. The agency will join with Cross Surety Inc. to offer bonding services, the statement said.

# NARROW

Continued from page 1

the doctors patients can see and hospitals they can use without paying higher out-of-network charges. On public insurance exchanges established under the health care reform law, about half of plans had a narrow network in 2015, and median premiums for narrow networks were as much as 23% less than those for broad-network plans, according to a McKinsey & Co. study.

Employers are showing greater interest as well. In 2015, 26% of large employers offered “high-performance networks” — or narrow networks based on quality and cost — in some or all of their plans, according to the Washington-based National Business Group on Health.

“We think that there’s going to be a strong future,” for high-performance networks, said Steve Wojcik, NBGH vice president of public policy.

The tactic, which sources say limits waste-ful use of health care services, is not without its controversy.

Narrow networks, made popular by HMOs that became prevalent in the 1980s and

1990s, resulted in consumer rebellion against the limited choices of doctors and hospitals. Some critics say the approach often requires patients to travel farther to get care, and others argue many narrow networks lack enough specialists.

“Consumer choice was extraordinarily high on the consumer preference list” a few decades ago, said Dr. A. Mark Fendrick, director of the Center for Value-based Insurance Design at University of Michigan in Ann Arbor and a professor of internal medicine and health management and policy.

But as health costs have risen and individuals’ share of the costs increased, there’s been “a shift in terms of consumers willing to give up ultimate unlimited choice to be able to save some out-of-pocket expenses,” he said.

For example, out-of-pocket spending for hospitalizations of patients with private health cov-

erage rose 37.3% from 2009 to 2013, when it reached \$1,013 on average, according to a study published in June by JAMA Internal Medicine and conducted by researchers with the University of Michigan.

“This is a much more blunt instrument to try to control demand by the employees,” versus high-deductible health plans, which attempt “to get employees to use less of all

care,” he said.

“A narrow network to us from a design standpoint is if we could have certain hospitals that we steer our employees to that says this is a good hospital for this type of procedure, we know your procedure is going to be even better ... so we will incent you to go to those good hospitals,” said Carol Partington, employee benefits and compensation manager at Oak Brook, Illinois-based Elkay Manufacturing Co., a maker of stainless steel sinks.

Elkay introduced a narrow network for specialty surgeries, such as heart or knee surgery, in January. For employees who use one of the in-network hospitals, determined by Blue Cross Blue Shield based on outcomes data, Elkay will pay 90% of the employee’s cost after the deductible, rather than the usual 80%.

Elkay, however, does not have a narrow network for primary care visits.

“It made more sense for the specialty surgeries because those are where your costs are,” Ms. Partington said.

But few other employers use narrow networks because “there are not a ton of high-performing networks out there that have demonstrated over time that they are effective,” said Dan Graovac, Boston-based principal of health exchange solutions with Xerox HR Services.

For a large employer with employees

across the country, the narrow network strategy is more difficult to pull off.

“They need coverage across many states, and so oftentimes these broad networks are still the general preference of the employers that we work with,” said Trevis Parson, Philadelphia-based chief actuary of health and group benefits at Willis Towers Watson P.L.C.

Even so, experts expect high-performance networks to grow in popularity, especially as employers remain cost-conscious.

“There’s a cost gap that employers are still continuing to have to solve, and they are not just looking at the dollar side of the cost equation anymore; they are also looking at the use side of the cost equation,” Mr. Parson said. “Where do we avoid unnecessary readmissions? How do we manage our message to employees and our contracts with providers in a way that puts programs in place that push away unnecessary use of services and drive better outcomes?”

And as HDHPs have become more widespread — 83% of large employers said they would offer an HDHP in 2016, according to the 2015 NBGH study — it’s likely narrow networks also will become more common, said Sandra Morris, former senior manager of U.S. benefits design at Procter & Gamble Co. and now the owner of consulting firm About Quality Benefits Design L.L.C. in Cincinnati.

37.23%

Increase in out-of-pocket spending for hospitalizations of patients with private health coverage from 2009 to 2013.

# EFFECT

Continued from page 1

firm’s international trade group. “At least in the near term, nothing’s going to change from an underwriting perspective. We’re not certain if this Brexit vote will stick or not, so there’s a lot left to be determined going forward.”

While observers said the odds were slim, the U.K. Parliament could overturn the referendum. There was talk last week of launching another vote on whether to stay or leave the economic, political and trading bloc in which what is known as passporting — or being allowed to do business anywhere in the E.U. with regulatory approval of one member country — has furthered services that include insurance.

“It’s highly likely that those passporting rights will remain, via the European Economic Area, because the insurance sector is critical to the European economy as a whole,” said Joseph Ferraro, a partner in the London office of Willkie Farr & Gallagher L.L.P. “Even though the regulatory and political situation is currently in flux, London will continue to attract the best and brightest within the insurance industry.

“Basically, most U.S. insurers would only have to establish a regulated subsidiary in one European state and use that as a vehicle for the E.U.,” said Andrew Tromans, another London-based Willkie Farr partner.

In a London address before the vote, American International Group Inc. CEO Peter Hancock left open the possibility that AIG could move its London hub elsewhere in the E.U.



AP PHOTO

The New York Stock Exchange, along with other financial markets, was initially rocked by the U.K. vote to leave the E.U. The referendum’s effects on U.S. insurers are not expected to be known for a while.

But after the vote, AIG said in a statement: “We will closely monitor the progress of the U.K.’s negotiations with the E.U., and participate in the debate with the government and trade bodies as appropriate. We will continue to evaluate our options as the shape of the future relationship between the U.K. and E.U. becomes clearer.”

Analysts foresee a greater impact on insurance brokers, at least initially.

“The U.S. property/casualty insurers and insurance brokers are probably a relative safe haven given their almost total lack of exposure and relatively little interest rate risk because they do not have spread-based business,” Paul Newsome, managing director at Sandler, O’Neill & Partners L.P. in

Chicago said in a research note.

While saying insurers that include Travelers Cos. Inc. would be “insignificantly impacted,” he said global insurers such as Chubb Ltd., XL Catlin and Navigators Group Inc. and global brokers such as Marsh & McLennan Cos. Inc., Aon P.L.C., Willis Towers Watson P.L.C. and Arthur J. Gallagher & Co. “are more impacted in our opinion given their exposure to European currency and economic activity in Europe.”

“The global insurance brokers typically have more of their expenses than their revenues in pounds, so the weaker pound typically boosts margins, helping offset more difficult” foreign exchange issues, Keefe Bruyette & Woods Inc. said in a research note.

“On the other hand, lower exposure unit growth and less inflation are revenue headwinds for the brokers.”

“In terms of the U.S. (insurance) market, if the barriers go up in Europe, the clients I deal with have always done business in the U.S., in Latin America, Asia; they can redirect their business to markets they’re familiar with,” said Kevin Mattessich, a partner at Kaufman Dolowich & Voluck L.L.P. in New York.

“I don’t think you’ll see a dramatic change in the short term,” said Daniel Bruce, co-founder of London-based BaxterBruce Ltd., an insurance industry consultant recently acquired by Chicago-based Crowe Horvath L.L.P. “I don’t think it would make any

sense to do anything dramatic at this stage.”

“In some ways uncertainty could help brokers, because they have to help clients navigate them,” said Julie Herman, director-financial services ratings at Standard & Poor’s Corp. in New York. She said a broker’s job is to help clients “navigate through destruction.”

Observers also downplayed the impact of the vote on Aon, which redomesticated from Chicago to London in 2012.

Largely echoing Aon CEO Greg Case’s comments on the company’s most recent earnings call before the vote, Ms. Herman said “there’s not that much impact on Aon overall.”

“Aon’s incredibly innovative; Aon’s got its local brokers,” said Mr. Mattessich. “Do they suddenly get shut out of Germany” if the U.K. leaves the E.U.? That shouldn’t happen “unless there’s another real vicious trade war, if not a hot war.”

Aon declined further comment.

“The process for exiting the E.U. will take many years, and we do not expect to see any material changes immediately, or expect the way in which we do business, as a firm, or our industry at large, to change,” Itasca, Illinois-based Arthur J. Gallagher & Co. Inc. in a statement.

“London is a critical global market for financial services, insurance and consulting; and it will continue to be core to our operations,” Dan Glaser, president and CEO of New York-based Marsh & McLennan, said in a statement. “Our clients in the region will need our guidance and solutions more than ever to navigate their changing landscape.”

In a statement, Willis said it is “monitoring the situation closely.”

# CLASSIFIEDS

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### LEGAL NOTICE

IN THE MATTER OF THE LIQUIDATION OF  
PROFESSIONAL LIABILITY INSURANCE  
COMPANY OF AMERICA  
Supreme Court County of New York  
Index No.: 400986/10

#### NOTICE

Pursuant to an order of the Supreme Court of the State of New York, County of New York (the "Court"), entered on February 10, 2014 (the "Liquidation Order"), the Superintendent of Financial Services of the State of New York and his successors in office were appointed as liquidator (the "Liquidator") of Professional Liability Insurance Company of America ("PLICIA") and, as such, were directed to take possession of PLICA's property and liquidate its business and affairs pursuant to Article 74 of the New York Insurance Law (the "Insurance Law"). The Liquidator has, pursuant to Insurance Law Article 74, appointed Scott D. Fischer, Special Deputy Superintendent, as her agent 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 an affirmation ("Affirmation") seeking an order: (i) approving the form of the Insurance Guaranty Association Early Access, Disbursement, Reimbursement and Refunding Agreement for Professional Liability Insurance Company of America, attached as Exhibit A to the Affirmation (the "Early Access Agreement"), and the entry of the Liquidator, the Illinois Insurance Guaranty Fund (the "Illinois Fund") and the Missouri Property & Casualty Insurance Guaranty Association (the "Missouri GA") and, together with the Illinois Fund, the "Guaranty Associations") into, and performance by the Liquidator and the Guaranty Associations of their obligations under, the Early Access Agreement; and (ii) authorizing the Liquidator to make disbursements to the Guaranty Associations in accordance with the Early Access Agreement.

A hearing is scheduled on the Affirmation on the 15th day of September, 2016 (the "Return Date"), at 9:30 a.m., before the Honorable Michael D. Stallman, J.S.C., Supreme Court of the State of New York at the Courthouse located at 60 Centre Street, Room 130, New York, New York, 10007.

If you wish to object to the relief sought, you must (i) serve a written affidavit setting forth your objections and attaching all supporting documentation as exhibits upon the Liquidator at least seven (7) days prior to the Return Date and (ii) submit the original affidavit and all exhibits, together with an affidavit of service, to the IAS Motion Submission Part at the Courthouse located at 60 Centre Street, Room 130, New York, New York 10007 on or before the Return Date. Service on the Liquidator shall be made by first class mail or overnight courier at the following address: Superintendent of Financial Services of the State of New York as Liquidator of Professional Liability Insurance Company of America, 110 William Street, New York, New York 10038, Attention: General Counsel.

The Affirmation is available for inspection at the above address and at [www.nyfb.org/ProfLiab.htm](http://www.nyfb.org/ProfLiab.htm). In the event of any discrepancy between this notice and the documents submitted to the Court, the documents control.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6809.

Dated: June 24, 2016; Maria T. Vullo, Superintendent of Financial Services of the State of New York as Liquidator of Professional Liability Insurance Company of America.

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AP PHOTO

Thousands of “Remain” supporters gather outside the Scottish Parliament in Edinburgh in the wake of the U.K.’s “Brexit” vote. Scotland overwhelmingly voted to stay in the European Union and has been making inquiries into how it can remain in the trade bloc.

“Lloyd’s will press ahead by implementing our contingency plan, which is designed to ensure we can continue to trade in our key European markets.”

Inga Beale  
Lloyd’s of London

# BREXIT

Continued from page 1

One day after the vote, U.K. Prime Minister David Cameron, who spearheaded the campaign to remain in the E.U., announced his resignation effective in October, by which time he said the ruling Conservative Party likely would have a new leader.

He did not invoke Article 50 of the Lisbon Treaty, which would start the two-year clock to formally leave the E.U. (see box, page 1), leaving that to his successor.

There also is a chance that the U.K. Parliament, which earlier pledged to abide by the result, could overturn the decision.

In the interim, the U.K remains an E.U. member, and politicians and lobby groups said they hoped to continue their access to the single market for goods and services, among other things.

“It is obviously quite a fluid” situation at the moment, said Stephen Netherway, partner and head of the insurance sector group at law firm CMS Cameron McKenna L.L.P. in London, but he said many insurers have U.K. exit contingency plans.

“Single-market access is vital” for insurers in the United Kingdom that trade with Europe, Mr. Netherway said.

The question of whether insurers will be able to continue to trade on a single passport basis is “the big elephant in the room,” said James Bateson, global head of financial institutions at Norton Rose Fulbright L.L.P. in London.

While it was uncertain over whether passporting rights could be preserved, Mr. Bateson said U.K. insurers may be required to put up collateral in E.U. member states — as they already must do in the United States.



The E.U., however, has been working to persuade the U.S. to reduce collateral obligations on E.U. insurers, so philosophically

the bloc may have a problem with asking U.K. insurers to post large collateral sums, he said.

In an open letter published in the Financial Times, Lloyd’s of London CEO Inga Beale said how the British exit, known as Brexit, will affect access to the single market is “the most important question for chief executives throughout the sector.”

“Lloyd’s will press ahead by implementing our contingency plan, which is designed to ensure we can continue to trade in our key European markets,” she said.

Still, Ms. Beale stressed that swift progress on single-market negotiations is vital.

Labor leaders reportedly warned, however, that Britain would not be allowed to “cherry-pick the bits you want” on single-market access. Several E.U. leaders expressed similar sentiments.

In a statement, International Underwriting Association CEO David Matcham said passporting rights are “vitally important” to the group’s London-market members.

“Preserving this advantage must be a top priority in the exit negotiations,” he said.

Currently, insurers domiciled in an E.U. member state can use the so-called passporting rights to sell their goods throughout the E.U. without being regulated by each country.

Non-E.U.-domiciled insurers and brokers with bases in London likely will review whether to redomicile to an E.U. member state to have certainty that their ability to passport will be preserved, Mr. Netherway said.

Many large, multiline insurers currently have just one headquarters in an E.U. member state and use passporting to write business throughout the trading bloc, said Ivor Edwards, European head of corporate insurance at Clyde & Co.

L.L.P. in London. Many insurers that have their base in the U.K. are considering setting up in other European countries to continue to access European markets, he said.

It is “clearly a long runway” before the future nature of the U.K.’s relationship with the E.U., and its effect on insurers, will be known, said Thomas Dawson, a partner at Drinker Biddle & Reath L.L.P. in New York.

It is “too soon to say what the positive or adverse effects will be” on insurers, he said.

Many insurers that use the London insurance market as “a jumping-off point” into the E.U. also have platforms elsewhere in Europe or in Bermuda, which already has regulatory equivalence with Solvency II, Mr. Dawson said.

The effects of the Brexit vote spread to Australia, where Sydney-based QBE Insurance Group Ltd. said in a statement that the U.K.’s decision to leave the E.U. “may require a revised approach in relation to approximately £500 million (\$683.8 million) of insurance and reinsurance premium” that QBE gets through U.K.-regulated entities under the current E.U. passporting rules.

“Should E.U. passporting rules not be preserved, QBE will be required to renew this business into newly established licensed E.U. entities,” QBE said.

Still, QBE said the minimum two-year withdrawal from the E.U. would give it enough time to ensure its commitments to European customers are uninterrupted.

Mr. Dawson said there even could be some benefits to U.K.’s withdrawal from the E.U., including building a market for insurance-linked securities without having to wait for E.U. approvals.

The U.K.’s vote to leave the E.U. may “not be all doom and gloom” for the insurance industry, he said.

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## BUSINESS INSURANCE

### 2016 PCI Annual Meeting Show Daily October 24-25, Dallas TX

Monday and Tuesday at the event, *Business Insurance* will provide extensive coverage with a BI distribution team ensuring each issue gets into the hands of attendees. Don't miss the opportunity to advertise in the recap of the 2016 Property Casualty Insurers Association of America Annual Meeting.

The image displays two sample issues of the *Business Insurance* magazine, dated Monday, October 24, 2016, and Tuesday, October 25, 2016. Both issues are part of the 2016 PCI Annual Meeting coverage.

**Monday, October 24, 2016 Issue:**

- IN BRIEF:** All must also reports to cover property in risk. In an effort to expand risk coverage, insurers introduced by New York, Ohio, and 14 other states. In Ohio, most state-owned risks to cover public-owned property risks. In N.Y., the state-owned risks to cover property owned by the state or a public entity.
- U.S. insurance and firms to develop drug rights:** The U.S. insurance industry has formed a task force to develop a new federal regime for the development of new drugs.
- Internal to start when cyber insurance coverage:** The U.S. insurance industry has formed a task force to develop a new federal regime for the development of new drugs.
- Times of change defining industry's future:** The U.S. insurance industry has formed a task force to develop a new federal regime for the development of new drugs.
- Sector must adapt to continuing challenges:** The U.S. insurance industry has formed a task force to develop a new federal regime for the development of new drugs.
- PCI PRIORITIES:** Focus on cyber security risks, starting property risks.
- OUT & ABOUT:** Independent rights, activities and doing risks.
- PCI SCENE:** Photos from the area and conference risks.

**Tuesday, October 25, 2016 Issue:**

- IN BRIEF:** U.S. must avoid isolationism to address global risks. The U.S. insurance industry has formed a task force to develop a new federal regime for the development of new drugs.
- Insurance industry moves into a digital age:** The U.S. insurance industry has formed a task force to develop a new federal regime for the development of new drugs.
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# BERMUDA

Continued from page 3

Still, an Aon P.L.C. survey released in April found that only 40% of respondents bought cyber insurance.

The “intimidating task of understanding the risk” is what keeps many companies from putting cyber risks in a captive or purchasing commercial insurance, said Peter Mullen, CEO of captive and insurance management at Aon Global Risk Consulting in Pembroke, Bermuda. He said clients were buying excess coverage and reinsurance.

While just a dozen of 1,110 clients had put some type of cyber risk in their captives 18 months ago, that rose to more than two dozen as of last December, he said during the June 13-15 Bermuda Captive Conference.

“It’s not a huge number, but the adoption rate is definitely growing,” Mr. Mullen said.

“Companies always have the risk. They can either be self-insured and buy excess (insurance) or not buy coverage at all,” Mr. Mullen said. “From a captive perspective, we see steady growth for captives that are writing cyber.” However, if there were “a great big claim for property damage or bodily damage, it will change how captives are used.”

# HEAT

Continued from page 3

years for heat-related fatalities or serious injuries under the Occupational Safety and Health Act’s general duty clause, which requires employers to provide a place of employment free from recognizable hazards causing or likely to cause death or serious harm.

In September 2014, Jose A. Gonzalez, OSHA’s assistant area director in Mobile, Alabama, investigated heat stress conditions at an unnamed local plastics recycling facility and found workers were exposed to numerous hazards, including no controls to prevent heat exposures, no potable water, no place to cool down, inadequate ventilation and no training on heat-related hazards. When he asked the supervisor about the hazardous conditions, the supervisor said his employees were Mexicans — 95% of the employees were Hispanic — used to working in such conditions, Mr. Gonzalez told attendees of the American Society of Safety Engineers annual conference in Atlanta last week.

The employer was cited under the general duty clause for heat stress hazards, as well as for non-heat-related violations, and faced a \$124,400 proposed fine ultimately reduced by about 50% after the employer took abatement actions including developing a comprehensive heat stress program, installing drinking fountains and



“Willful takes a more blatant disregard for compliance — it’s almost like a cavalier attitude. A willful heat stress could be the kiss of death for a company from the standpoint of being unable to bid for work down the road.”

Gary Auman,  
Dunlevey, Mahan & Furry

ice machines, implementing a monthly safety meeting and hiring a local physician to educate employees on recognizing and preventing heat stress, he said.

To bring a general duty clause citation, the agency has to show there is a hazard along with reasonable steps to avoid the hazard. For heat stress safety guidance, OSHA relies on recommendations from the National Institute for Occupational Safety and Health, according to Gary Auman, director at Dunlevey, Mahan & Furry in

Dayton, Ohio.

Many of the citations generated by heat stress-related fatalities or serious injuries have been deemed serious violations that carried relatively small fines, up to \$7,000, but there have been instances where they were deemed willful violations worthy of higher penalties.

In September 2014, Occupational Safety and Health Review Commission Administrative Law Judge Peggy Ball upheld a willful citation issued under the general duty clause featuring a \$70,000 penalty against the U.S. Postal Service after the heat-related death of a 55-year-old letter carrier, according to legal documents. The employee had been off work for five weeks with a knee injury and alerted his supervisor to feeling ill, but the supervisor did not remove the employee from his route or arrange for any assessment or evaluation of his condition. The postal service did nothing to acclimate the employee back to work.

“Willful takes a more blatant disregard for compliance — it’s almost like a cavalier attitude,” Mr. Auman said. “A willful heat stress could be the kiss of death for a company from the standpoint of being unable to bid for work down the road.”

Heat stress-related penalties will increase as OSHA’s civil penalty structure changes on Aug. 1, with the existing \$70,000 cap for repeat and willful violations rising to \$124,471 and top fines for serious and other-than-serious violations rising to \$12,471 from \$7,000.

## MIDYEAR RENEWALS

# REINSURANCE

Continued from page 6

date, such as buying by line of business or regionally to take advantage of lower pricing, he said.

“The property catastrophe market seems to be reaching a capacity supply/demand balance, as the level of reinsurance pricing declines has certainly eased from the 10% to 15% range at June 1, 2014, to the 5% to 10% range at June 1, 2015, to a 0% to 5% range this June 1,” Stephen Korducki, Tampa, Florida-based executive vice president of BMS Intermediaries Inc., a unit of BMS Group Ltd., said in an email.

In addition, capacity from nontraditional sources such as insurance-linked securities and collateralized reinsurance continued to grow, but at a slower rate than recent years, Mr. Korducki said.

Some new programs, however, did not achieve the terms cedents were seeking, and some placements were withdrawn from the market, said XL Catlin’s Mr. Hendrick.

Terms and conditions have been largely constant, Mr. Kent said.

Still, reinsurers’ greater willingness to tailor coverage to buyers’ individual requirements has, for example, resulted in catastrophe programs with worldwide coverage rather than the traditional split between the U.S. and the rest of the world, Ms. Mowery said.

With several years of soft reinsurance rates, some cedents increased their retentions while others purchased “new underlying layers beneath their in-force attachment point,” Mr. Kent said.

Some buyers also have purchased multiyear deals, probably because they sense the market is “nearing its bottom,” said Nick Cook, CEO of BMS Group.

“We would have expected more customers to take advantage of cheap pricing and buy more limit,” but that trend has not happened, he said.

In addition, some insurers have sought “greater control of their facultative purchases, either by limiting the panel of acceptable reinsurers their underwriters can use or by buying treaties ... to reduce the need for facultative reinsurance,” Mr. Hendrick said.

For specialty lines, capacity is plentiful and rates have fallen for many lines, said Rick Welsh, CEO of London-based risk analytics firm Sciemus Ltd. Rates for marine and energy have declined sharply, he said, while less commoditized classes of business that include cyber coverage have shown smaller declines.

# RUNOFFS

Continued from page 3

Ltd., has been wound up under the law.

As of August 2015, though, Regulation 68 was amended to allow any U.S. insurer or reinsurer, including U.S. units of foreign insurers, to transfer closed books of business or any “reasonably specified groups of policies” through novation — or substituting a new contract for the previous contract — to a Rhode Island-licensed insurer for runoff. These “insurance business transfers” can consist of any commercial property/casualty business except life and workers compensation, and the policies must have expirations dates at least five years before the filing date of the transfer plan.

Transfer plans have to clear several hurdles, including approvals from the transferring insurer’s home state regulator and from the Rhode Island Insurance Division in Cranston, notifying policyholders and final approval from a Rhode Island state judge, who must find the plan does not adversely affect policyholders.

Companies that have completed a transfer can later adopt a commutation plan for the transferred business, but commutations require additional regulatory and

“We are not planning on becoming a jurisdiction where you can go and dump your company. We don’t want to do anything behind the scenes. We intend to have conversations with any domestic regulator that has concerns.”

Elizabeth Kelleher Dwyer,  
Rhode Island Insurance Division

court approvals and must have the support of 50% of policyholder creditors by number and 75% by claim value.

Regulation 68 is modeled on Part VII of the U.K.’s Financial Services and Markets Act 2000, which has produced hundreds of insurance business transfers to date with no financial problems, a review last year by Ernst & Young L.L.P. said.

The Rhode Island law is broader than the only similar U.S. statute, Vermont’s Legacy Insurance Management Act, which allows transfers only of closed nonadmitted commercial policies and excludes reinsurance contracts with active unpaid premiums outstanding, according to Ernst & Young.

Policyholder protection is the pri-

mary issue for regulators and courts handling such transfers, and the multiple levels of review are one of Regulation 68’s strengths, said Luann Petrellis, a consultant at Ernst & Young’s insurance advisory practice in New York.

“There is significant up-front planning involved in these transactions,” and that planning should address any concerns regulators may have, she said.

Rhode Island regulators included the home-state approval provision in Regulation 68 to be sure all regulatory issues are covered in an insurance business transfer, said Elizabeth Kelleher Dwyer, Rhode Island’s superintendent of banking and insurance.

“We are not planning on becoming a jurisdiction where you can go and dump your company,” Ms. Dwyer said. “We don’t want to do anything behind the scenes. We intend to have conversations with any domestic regulator that has concerns.”

While not available to financially troubled insurers or reinsurers, Regulation 68 could provide significant benefits for active underwriters planning to restructure parts of their business or withdraw from certain lines, experts agree.

The novation of old business through a transfer relieves an insurer of ongoing liabilities, potentially freeing up capital for

new business, Bala Cynwyd, Pennsylvania-based consultant RunOff Re.Solve L.L.C. said in an analysis.

A large insurance group with multiple books of business in runoff in different subsidiaries could simplify the process by consolidating the business in a Rhode Island insurer, Ernst & Young’s review noted.

“The true benefit is that it increases the options available to companies with portfolios in runoff,” said Andrew Rothseid, RunOff Re.Solve’s founder and principal.

The amount of business Regulation 68 brings to Rhode Island remains to be seen. Estimates of the size of the U.S. runoff market are difficult to come by, though Pro Global’s Mr. Katz said business eligible for a Regulation 68 transfer is “easily in the tens of billions, possibly as much as \$100 billion.”

Both Mr. Katz and Ms. Petrellis said several insurers have expressed interest in such a transfer, and Mr. Katz said he expects other third-party runoff managers to step into the Rhode Island market. While Regulation 68 has been on the books for nearly a year, such transfers take months to finalize, and many insurers may be waiting for someone else to jump in first, they suggested.

“Once somebody paves the road, then a lot of others will rush in,” Mr. Katz said.

# PROPERTY

Continued from page 4

terms and conditions.

There are “lots of choices for the clients,” he said. “Lots of competition.”

“It continues to be a slow and gradual falling off the cliff,” said Alexandra Glickman, area vice chairman and managing director-practice leader of real estate and hospitality at Arthur J. Gallagher Risk Management Services Inc. in Glendale, California. For the first five months of the year, “the average rate decrease for noncombustible assets has been approximately 10%.”

“(Catastrophe)-driven accounts have seen more of the rate reductions,” said Duncan Ellis, New York-based U.S. property practice leader at Marsh L.L.C.

In addition, he said, a “fair amount of competition” has entered that market.

“There’s going to come a point where companies will have to evaluate where to put their capital; do you come out of property and go into cyber or some other line?” he said. “We don’t see any of that happening yet.”

“We find decreases are slowing down in the smaller middle market

## SOUND RISK MANAGEMENT BREEDS BIGGER SAVINGS

Even in today’s relatively soft property insurance market, risk managers can make their business more attractive to underwriters, insurers say.

Information and risk improvement are key factors, and improving a company’s risk profile shouldn’t depend on the current state of the market, underwriters say.

“Risk improvement should be agnostic to market cycles,” said Mike Turner, executive vice president of FM Global in Johnston, Rhode Island. “Underwriters like to see consistency” in a company’s performance, he said.

“If a client is going to focus on risk improvement and good dialogue with their underwriters on what it takes to improve their profile, the

great risk managers really facilitate that kind of dialogue with underwriters,” he said.

The quality of data provided to the underwriter also should not depend on market cycles.

“It’s not unique as to where we are in the market now,” said Derek Talbot, Chubb Ltd.’s Philadelphia-based division chairman of North America property.

“It’s just being as transparent” as possible.

“The more complete the data is, typically the better the result will be” for renewing business, Mr. Talbot said.

“Risk improvement and strong communication is probably the winning formula for clients throughout market cycles,” Mr. Turner said.

By Mark A. Hofmann

accounts — that market has been softer a longer period,” said Willis Towers Watson’s Mr. Finnis. “The issue is there’s not much left to cut out if those programs.”

Still, he said, some larger

accounts are still enjoying decreases of 10% to 12.5%.

“The market remains competitive, and it’s still a soft market,” said Mike Turner, executive vice president at FM Global in John-

# D&O

Continued from page 4

market of the ’90’s is the prevalence of multiyear deals” at that time, although “those are starting to creep back” as well, he said.

Aon’s recent D&O pricing survey found that the price per \$1 million for publicly held clients that renewed in the first quarter this year and last year decreased 6.7%.

“In both public and private, we are continuing to see downward pressure on pricing, although not dramatic drops,” said Kevin LaCroix, executive vice president of RT ProExec, a division of R-T Specialty L.L.C. in Beachwood, Ohio.

That is particularly true for publicly held companies’ excess coverage, he said.

“The excess market is very aggressive, and there’s ample capacity, which is driving rates down,” said Jennifer Sharkey, Boston-based area executive vice president of insurance and risk management at Arthur J. Gallagher & Co.’s management liability practice. “There are not as many insurers looking to write primary.”

Brian Dunphy, senior managing director of the management and professional risk group at Crystal & Company in New York, said while rates overall are down 3% to 6% on a blended basis, they are down 1% to 5% in primary layers and could be down 3% to 10% in excess layers.

## E&O RATE CHANGES VARY BY PROFESSIONAL SECTOR

While errors and omissions rates remain soft at midyear renewals, experts say it’s difficult to make overall statements due to the disparate sectors covered by E&O policies.

“If I had to give a generalization, it’s still a pretty stable market,” said Dan Knise, president and CEO of McLean, Virginia-based specialty broker Ames & Gough.

“There’s plenty of capacity,” which tends to hold rates down, he said. “Incumbents are seeing flat to 2% rate increases, but new insurers are willing to come in at 2% to 4% and even as much as 5% below expiring” pricing, Mr. Knise said.

“It’s still a good time to be a buyer,” he said. “Prices are still relatively stable and quite low when you look at where the rates were eight or 10 years ago.”

In some cases, however, excess markets are walking away from certain risks that other markets are happily accepting, said Rob Yellen, New York-based executive vice president of Willis Towers Watson P.L.C.’s FINEX North America.

Meanwhile, “terms and conditions remain broad, and coverage

“The E&O market is still competitive, but it’s not nearly as competitive as the (directors and officers liability) landscape, because E&O is bucketed more distinctly” based on the type of business, said Brian Dunphy, senior managing director of the management and professional risk group at Crystal & Company in New York.

Rates for general professional liability and commercial lines can range from a 5% decrease to a 5% increase, and usually are driven by factors that include whether there has been a significant change in the size and scope of what the company does, and whether they have moved into riskier service or product areas than the previous year’s renewals, said Robert Parisi, managing director at Marsh L.L.C. in New York.

By Judy Greenwald

enhancements can continue to be negotiated on most policies,” except for classes or companies that have claims issues, said Mr. LaCroix.

In some cases, observers say, excess insurers are dropping down and providing additional coverage in excess of sublimits within primary policies.

ston, Rhode Island. “The major change is the pace of reductions has certainly decreased. It’s the result of several years of compounding of reductions.”

Mr. Turner said that could indicate the bottom of the market cycle as underwriters suggest changes in terms and conditions rather than “giving up premium.”

He said rates were flat to down 5%.

“It’s quite similar to this time last year,” said Derek Talbot, division chairman of North America property at Chubb Ltd. in Philadelphia. “There is abundant capacity on both the insurance and reinsurance sides across all market segments. That capacity has certainly put continued pressure on rates. Companies are certainly making sure they’re holding on to their existing books of business. I think most companies are focused on protecting their existing portfolios.”

“In general, our top line is up,” said FM Global’s Mr. Turner. “We always have very high retention rates and our new business is better than in the past.”

“That says change might be in the wind,” he said. “So far this year, our retention rate is about 98%. Clients are savvy enough, so now they want to be in the right place when the market changes.”

“They’re trying to differentiate themselves,” Mr. Spore said of excess insurers. “There’s very little turnover in the primary. There’s much more turnover in excess, which is more commoditized.”

One area of continuing relative hardness is for life sciences companies. This includes pharmaceutical firms going into Phase III clinical trials, during which a drug or treatment is given to large groups of people to confirm its effectiveness, said Carolyn Polikoff, San Francisco-based corporate and executive protection practice leader at Woodruff-Sawyer & Co.

“If that’s the only drug or treatment at that company, they can go out of business” if the trial is unsuccessful, while it could hurt the financials of firms that have other products as well, said Ms. Polikoff.

Big banks may also have some difficulty getting reduced D&O rates, although “that’s probably not as bad as it used to be a couple of years ago,” said Ms. Polikoff. Some experts also cite energy companies as potentially challenging risks because of low oil prices affecting their financials.

However, Marc London, New York-based head of Beazley P.L.C.’s U.S. management liability team, said underwriters are looking “relatively favorably” even at “companies that would present as being difficult risks.”

How long will the ongoing soft D&O prices last?

“I’ve got to believe we’re close to the bottom,” Mr. Wanat said.

# LIABILITY

Continued from page 4

management programs and the best loss histories are getting the best terms and conditions in the marketplace,” Mr. Moitoso said. “Those that have poor loss histories and not the best risk management processes in their organization will always struggle to find the best terms and conditions because that’s how the underwriting community responds.”

Mr. Peiser said outside of automobile losses, the frequency of general liability losses is decreasing.

“A lot of the loss-control measures that have been pushed for the last 20 years are actually having an effect,” he said, citing improved ergonomics and safety signage around maintenance work as examples.

USI’s Mr. Scott said buyers are aware of what’s going on in the market.

“The educated buyer is looking at what they can get from the marketplace. They’re talking to their brokers and, where possible, they’re wrapping their renewals early in favorable terms,” Mr. Scott said.

Most buyers “are looking for alternatives,” Mr. Peiser said. “They may not move (to a different insurer), but we’re seeing a significant uptick in marketing of their programs.”

## Cyber blind spots

While more buyers are purchasing cyber coverage amid a growing number of hacking events, they’re still not buying enough limits, Mr. Scott said.

“Even with the rise of cyber extortion, which is actually a big area now, as well as the social engineering, everybody thinks they have their systems locked down, and are not purchasing the coverage. It’s amazing,” he said.

John Lucker, global advanced analytics and modeling market leader at Deloitte Consulting L.L.P., said insurers can use cyber coverage to differentiate themselves.

“It’s not just about selling cyber insurance coverage,” he said. “It’s about establishing relationships with service providers and selling cyber remediation services or cyber assessment services or cyber security services.”

Mr. Peiser said he believes general liability market pricing will change only with a dramatic shift in loss trends.

“It would need to be a mass tort along the lines of an asbestos or environmental — like we experienced in the mid-’80s — that comes out of nowhere,” he said. “Absent that ... I think it’s going to be more of the same next year.”



## Stress coaching is all the rage

**A**lthough workplace wellness programs continue to grow, not everyone is keen on hitting the bike path or stretching on a yoga mat.

For those special few, News U.K.'s The Sun website reported on two pioneering Brits whose nascent program could become all the rage in wellness.

Tailored for women, the entrepreneurs have hired two well-being coaches who host Tantrum Club "rage workshops" where participants are encouraged to pummel pillows with baseball bats, scream really loud, stomp on pop paper and write angry thoughts on balloons before popping them.

Creators Adele Theron and Bridget Hunt told the Sun: "Swallowing back your emotions in all the things that happen every single day vs. actually feeling those emotions and having a right to your emotions is causing an epidemic of stress-related illnesses in the UK.

"If you suppress your anger, your frustration or your sadness — you also suppress your joy, your happiness and your fulfillment."

## Thankless situation for loyalty programs

**G**ood manners could be costly. Citigroup Inc. last month filed a lawsuit against AT&T Inc. in the U.S. District Court for the Southern District of New York — all for saying "thanks."

The bank alleges that the telecommunications company's new customer loyalty program is "confusingly similar" to its own loyalty, reward and redemption programs, according to the lawsuit.

Seeking injunctive relief and damages for trademark infringement, false designation of origin and unfair competition, Citigroup

said in the lawsuit that it "has been financially damaged and will continue to be damaged financially" as a result of "AT&T thanks."

Citigroup said in the lawsuit that "consumer confusion or mistake or deception" is likely, and exacerbated by the fact that the companies have a history of co-branding credit cards and services.

"This may come as a surprise to Citigroup, but the law does not allow one company to own the word 'thanks,'" AT&T said in a statement. "We're going to continue to say thanks to our customers."



## FORCES BATTLE IN STAR WARS TRADE SECRETS SUIT



JOE SEER/SHUTTERSTOCK.COM

A blockbuster legal dispute is brewing between a group of former employees and the company that created Star Wars' famed R2-D2.

**T**wo former employees of the model-making company that gave the universe Star Wars' iconic droid R2-D2 allegedly went over to the dark side by poaching a key client, swiping proprietary information, and then leaving to form a rival outfit, according to a \$3 million complaint filed in Los Angeles County Superior Court.

McCune Masterworks is suing the company's former shop supervisor, production designer and vendor for misappropriation of trade secrets and unfair competition, and other claims, charging that Monty Shook, Jack Edjourian and John Ferrari conspired to destroy McCune's business by creating a competing company to steal a longtime client.

Messrs. Shook and Edjourian worked with the late Grant McCune for more than 20 years on such projects as Spiderman, Rambo and Iron Man 2.

Mr. Edjourian did a stealth job for SBIZ in 2012, the complaint said, and set up a plan to leave McCune and take the client with them.

Before shifting into hyperdrive, the defendants gathered "valuable proprietary information" including confidential client project details and vendor lists. The complaint alleged that Shook and Edjourian copied pertinent information and then "tried to cover their tracks" by wiping a hard drive clean.

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

## Teen plays risky game of ding dong ditch

**I**t may just sound like a harmless prank, but a game of ding dong ditch has led to a \$50,000 lawsuit in Illinois.

Shorewood, Illinois, insurance agent John Wright alleges that a neighborhood teen rang his doorbell and ran off so many times that it left him with emotional stress and health problems, according to website Patch.com.



According to a suit filed in Will County, Illinois, Court this month, Mr. Wright suffered severe anxiety,

weight loss, sleeplessness and emotional distress after the alleged doorbell-ringing campaign by a 14-year-old neighbor.

He also claims to have lost \$30,000 of income as a result.

Mr. Wright eventually called the police, and the teen — whose father is also a local insurance agent — confessed to ringing the bell at least once.

Children's games: They are not just child's play.



## Banks buy cover for stashed cash

**I**t's logical that a bank would be a place where cash is stashed, but Europe's economics may have lead to too much of a good thing.

The glut of euros in some German banks has grown so fat that some are paying insurers to help protect it.

European insurance executives told Reuters the banks are hoarding billions of euros of cash in vaults to avoid paying a penalty by parking it at the European Central Bank.

On large amounts, these can cost less than half the price of keeping the money at the ECB. Partially driving the move is the central bank's negative deposit rate of 0.4 percent, which translates into a charge of €4 (\$4.50) a year on each €1,000 (\$1,125) deposit at the central bank, Reuters reported.

Storing and moving billions of euros of banknotes also presents a logistical challenge because banknotes are heavy to move in large quantities. Two billion euros in 200 euro notes, for example, weighs roughly 11 tons.

The cash may also be stolen or even catch fire, two of the chief risks that insurers protect banks against.

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### 2016 SPEAKER PREVIEW



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Chairman, President & CEO  
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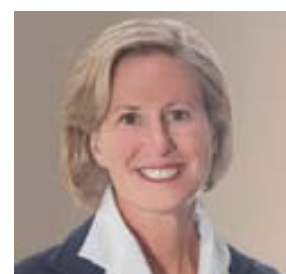
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