

## \$1.9 MILLION

Amount P.F. Chang's China Bistro Inc. sought to recover from insurers in a cyber breach claim.

### CYBER RISK

## Cyber policies start to show their limitations

Risk managers urged to review coverage

BY JUDY GREENWALD

Policyholders should be aware of potential gaps in their cyber insurance as standardized language is still in the early stages of development and policies can vary greatly in what they do and do not cover.

Experts say because standard policy language has not yet developed for cyber risks, risk managers should watch out for inadequate sublimits and that the insurance is highly unlikely to cover property and bodily injury losses.

The warnings followed what may be the first ruling involving a cyber insurance policy.

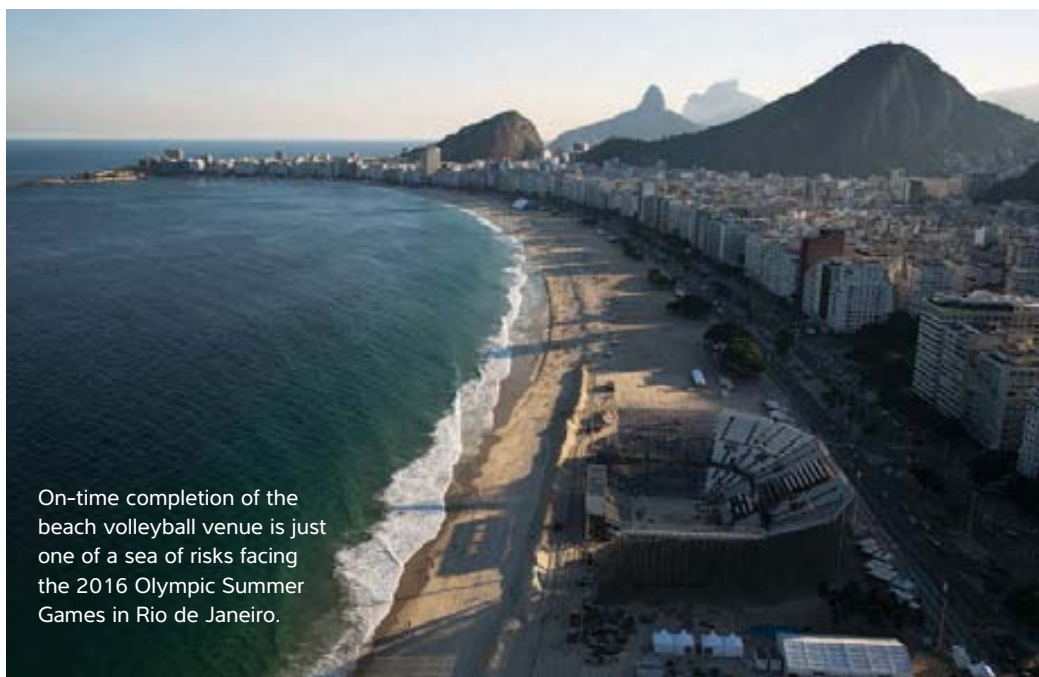
In the case, a federal judge in Phoenix ruled against Scottsdale, Arizona-based P.F. Chang's China Bistro Inc. in a coverage dispute with a Chubb Ltd. unit (see story, page 38). P.F. Chang's is appealing the ruling to the 9th U.S. Circuit

See **CYBER** page 38

### INTERNATIONAL

## GLOBAL INSURERS GET SET FOR BRAZIL OLYMPICS RISKS

From Zika to terrorism, threats abound



AP PHOTO

On-time completion of the beach volleyball venue is just one of a sea of risks facing the 2016 Olympic Summer Games in Rio de Janeiro.

BY SARAH VEYSEY

About \$1 billion in insurance is in place to protect athletes going for the gold as well as organizers, sponsors and broadcasters at the 2016 Olympic Games, which kick off in Rio de Janeiro next month.

The buildup to the Brazil games has been marked by fears about risks that include terrorism, political unrest, the Zika virus and water pollution.

The policy taken out by the International Olympic Committee, underwritten by Swiss Re Ltd. and Munich Reinsurance Co., covers the committee should the games be canceled due to a natural catastrophe, civil unrest, pandemic or

See **OLYMPICS** page 39

### HEALTH CARE INSURERS

## Antitrust ruling on big mergers expected soon

Regulators signal some competition concerns

BY SHELBY LIVINGSTON

A U.S. Justice Department decision on the proposed mergers of Aetna Inc. and Humana Inc., and Anthem Inc. and Cigna Corp., could come as soon as this week.

Hartford, Connecticut-based Aetna met earlier this month with Justice Department officials to make its case for its \$37 billion merger with Louisville, Kentucky-based rival Humana, just two weeks after a similar meeting involving the \$54 billion merger of Indianapolis-based Anthem and Bloomfield, Connecticut-based Cigna, Bloomberg reported.

The meetings to address antitrust concerns sparked doubt about the Aetna-Humana deal's chances of approval and sent several health insurers' stock prices lower. While such meetings are common in major mergers, they also show the process is in its final stages, antitrust experts and industry analysts say.

"I think it's very likely the DOJ has come to a tentative conclusion as to where it stands" and "what and how many markets are problematic," said Thomas Greaney, an antitrust expert and co-director of the Center for Health Law Studies at St. Louis University School of Law.

The Justice Department's

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### INTERNATIONAL

The estimated tab for insured losses from May's wildfires in Alberta, Canada, approaches \$3 billion

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### DEALS & MOVES

Zurich reduces exposure to African market by selling off operations based in South Africa and Botswana

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### NEWS IN BRIEF

Chubb unit scores partial win in coverage dispute over botched Facebook IPO

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## Q&A: JULIO PORTALATIN

President and CEO of Mercer L.L.C. considers the ramifications for the defined benefits market of rate hikes past and present that lawmakers have forced employers with pensions to pay the Pension Benefit Guaranty Corp. In addition, he reports a positive start to the consulting firm's growing business in the private health exchange arena.

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## COMMENTARY

MARK A. HOFMANN

SENIOR EDITOR

The cast of players in this year's ranking of top U.S. and world insurance brokers is vastly different from *Business Insurance's* first rankings, which were published decades ago, proving that the brokerage sector remains a vibrant landscape that's driven by "creative destruction." And, it's far from stodgy, contrary to popular misconceptions about the industry.

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Earthquakes are the main natural threat to the country, mostly an arid plateau with mountain

and desert regions. Catastrophic flooding from spring runoff is common but largely confined to rural areas. 10

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Singer files suit

Singer Darlene Love filed a lawsuit recently against HGTV, claiming the home improvement channel used her voice without permission. 40

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NEWS

SAFETY

EMPLOYERS SEE SOME SUCCESS IN NEGOTIATING DOWN OSHA FINES

Admission of guilt helps set the right tone

BY GLORIA GONZALEZ

Employers that face significant penalties for federal workplace safety violations often win reductions in proposed fines during informal talks with regulators, but settling citations is not as easy as it once was.

Companies that are cited by the U.S. Occupational Safety and Health Administration have 15 business days from receipt to comply, request a conference with OSHA's area director or file a notice to contest the findings before the Occupational Safety and Health Review Commission.

OSHA routinely agrees to reduce civil fines during informal settlement talks in exchange for companies agreeing to immediately correct hazards, according to a June report by the Washington-based Center for Progressive Reform, which blamed the practice on budgetary constraints and limits on the agency's authority, such as its inability under federal law to order employers to immediately fix dangerous conditions (see box).

"It's a matter of resources, but it's also a matter of policy," said Tom McGarity, professor of law at the University of Texas' School of Law in Austin and report co-author. "At the ground level, enforcement doesn't always hap-



pen as you might expect."

In practice, securing a significant fine reduction during the informal conference process has gotten much more difficult since a 2010 OSHA memorandum changed the agency's penalty policies, including requiring the approval of regional administrators for any reduction above 30%, legal experts say.

"When I was head of OSHA, I

See CITATIONS page 37

OSHA DEALMAKING

Fines initially proposed by the U.S. Occupational Safety and Health Administration concerning workplace fatalities were reduced by as much as half as a result of negotiating with the federal safety agency.

	Willful citations	Total citations
Cases	239	1,773
Median reduction	\$17,000	\$1,600
% reduction	47%	25%

Source: Center for Progressive Reform analysis of fines over 7½ years

HEALTH CARE BENEFITS

Bill would enhance attractions of FSAs, HSAs

BY JERRY GEISEL

Employer advocates are cheering House passage of legislation that would restore employees' ability to tap their flexible spending accounts, health savings accounts and health reimbursement arrangements to pay for over-the-counter medications.

While the measure also would nearly double maximum annual HSA contributions to \$6,500 for single coverage and \$13,100 for family coverage, observers say it has little chance of being enacted into law.

In a surprise move, the House of Representatives earlier this month

ACCOUNT CHANGES

What the Restoring Access to Medication and Improving Health Savings Act would do:

- Repeal Affordable Care Act provision that bars participants in FSAs, HRAs and HSAs from tapping account balances to pay for over-the-counter medications.
- Allow employees 55 and older to make an additional \$1,000 catch-up contribution to their HSAs if they have a spouse who's-55 or older.
- Nearly double the maximum contribution to HSAs to \$6,500 for single coverage and \$13,100 for family coverage.

on a 243-164 vote approved H.R. 1270, which would repeal a provi-

sion in the 2010 health care reform law that bars employees from tapping their FSAs, HSAs and HRAs to pay for OTC expenses.

The measure, which would go into effect in 2017, also would allow employees with a spouse who is 55 or older to make an additional \$1,000 catch-up contribution to their HSAs.

Employer advocates hailed the bill.

"It is very much common sense for employees to be able to use their accounts for OTC medications without having to get a prescription from their doctors, which

See OTC page 37

WORKERS COMPENSATION

Gender bias suit may trigger comp reforms

Calif. disability ratings targeted for change

BY STEPHANIE GOLDBERG

Legal and legislative pressure to end alleged gender bias in California's workers compensation system could lead to higher administrative and permanent disability costs.

Some sources say a recent lawsuit, which alleges that guidelines used to assess permanent impairment discriminate against female workers with breast cancer as well as other conditions, highlights a significant problem.

But others say few injured workers would be affected.

Still, if the suit or related efforts to change the state's law are successful, increased litigation will likely follow.

California is one of about a dozen states that use the fifth edition of the American Medical Association Guides to the Evaluation of Permanent Impairment to assess and rate permanent impairment for injured workers. Some sources say there is gender bias in the guide.

The sixth and most recent edition of the AMA Guides, which is used in about 20 workers comp systems, to some extent addressed concerns that older editions lacked an unbiased rating system, sources said. California does not automatically use an updated version of the AMA Guides when it's published.

The alleged bias was at the heart of the lawsuit filed earlier this month in Los Angeles County Superior Court.

For example, the suit states that the fifth edition of the AMA Guides suggests a 0% impairment rating for a mastectomy resulting from occupational breast cancer in women past childbearing age, but the sixth edition suggests a 10% to 15% impairment rating, depending on the level of mobility affected.

The lawsuit, brought against the California Division of Workers' Compensation, the Workers' Compensation Appeals Board and others, has named three plaintiffs, including two female law enforcement personnel and a telecommunications company technician, as well as the California arm of the Service Employees International Union, which represents about 497,000 women. Two named plain-

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NEWS

HEALTH CARE BENEFITS

PROPOSAL ADDS TWIST  
TO HEALTH PLAN OPT OUT RULES

Employers may have to tweak incentive strategies

BY JERRY GEISEL

Proposed IRS regulations that could penalize employers offering financial incentives to certain employees to opt out of company-provided health insurance plans also would shield employers from a health reform law affordability penalty in some cases.

Under the Patient Protection and Affordable Care Act, employers face a \$3,240 penalty for each employee whose single-coverage premium exceeds 9.66% of household income — if the employee enrolls in a public exchange health plan and receives a federal premium subsidy.

While few employers require employees to pay premiums that would trigger the ACA affordability penalty, rules the IRS proposed earlier this month and effective in 2017 would significantly increase the likelihood of triggering the affordability penalty.

Under the rules, employers running the affordability test would have to count the payments they offer to employees who opt out of their health plans, as well as premiums employees are required to make to receive employer coverage.

In explaining how the health plan

See **INCENTIVES** page 36



WORKERS COMPENSATION

States seek to clamp down on opioid abuse

BY DONNA MAHONEY

A New York law limiting new opioid prescriptions to just seven days expands states' efforts to prevent overprescribing, but a more comprehensive approach is seen as the best way to limit usage of the potentially addictive drugs.

New York Gov. Andrew M. Cuomo has signed S.B. 8139 that allows first-time opioid prescriptions to include only enough pills for seven days, a reduction from 30 days. Refills are allowed only with further consultation with the prescribing physician or clinician.

"The passing of this bill in New York is a long overdue and cer-

tainly appropriate measure and follows what has happened in Massachusetts, Maine and Connecticut," said Joe Paduda, Skaneateles, New York-based president of CompPharma L.L.C., a workers comp pharmacy benefit management consortium.

The New York law, signed into law in late June and effective July 22, is similar to one in Massachusetts that went into effect in June and also limits first-time opioid prescriptions to seven days. Following the March vote in Massachusetts, Maine and Connecticut also passed similar seven-day lim-

See **OPIOIDS** page 36

OPIOID  
USAGE

Formulary management and other factors are credited for a decline in the usage of opioid analgesics in workers compensation claims.

**2.9% decline**

Utilization of opioid analgesics per claim

**3.8% decline**

Number of opioid prescriptions per claim

**0.9% increase**

Average days' supply per prescription

Source: Helios Workers Compensation Drug Trends Report 2015

P/C INSURERS

Insurers  
optimistic on  
flood cover bill

Change to NFIP would ease open market

BY MARK A. HOFMANN

Advocates for creating a role for private insurers in the U.S. flood insurance market remain hopeful that Congress will approve legislation designed to do just that before the end of the year.

They point out that the House of Representatives voted 419-to-0 in favor of the Flood Insurance Market Parity and Modernization Act more than two months ago. The bill would allow private flood policies to fulfill the National Flood Insurance Program purchase requirement when applying for a loan. Though a similar measure in the Senate hasn't been taken up by the Banking, Housing and Urban Affairs Committee, supporters hope that lawmakers will act on

the measure, even if they wait for the post-election lame duck session.



The NFIP, which is more than \$20 billion in debt, will expire Sept. 30, 2017, unless it is reauthorized. The program has been allowed to lapse in the past as lawmakers disagreed over whether to expand the program to include windstorm coverage as well as flood, only to be extended as is.

Tom Glassic, vice president-policy and government affairs in the Washington office of the Property Casualty Insurers Association of America, said it's rare that an issue that doesn't have to be resolved for 14 months — reauthorization of the NFIP — is being discussed already. "These are positive things," he said. "There's no conversation of 'if' from anybody."

With reauthorization looming, the Senate Small Business Committee held a hearing on the affordability of flood insurance last month. Though NFIP reform proponents welcomed the hearing, they don't hold out hope that it will lead to action by itself.

"Will the hearing spur Senate action?" asked Tom Lantos, vice president-federal affairs for the Washington-based American Insurance Association. "That would be a stretch. But that does not mean the Senate still can't act."

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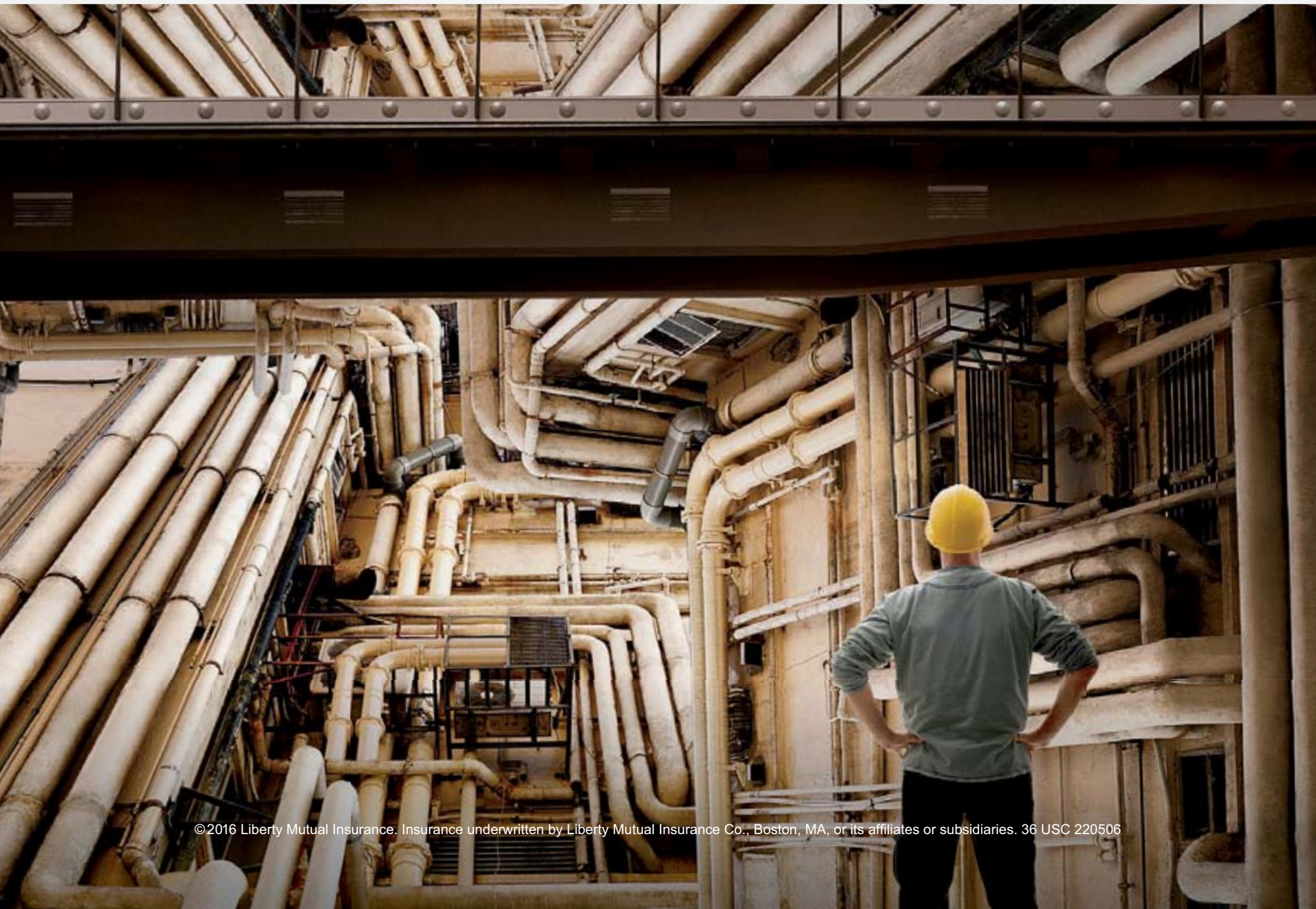


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## SAFETY

# EMPLOYERS CUT LOSSES BY INCLUDING WORKERS IN SAFETY STRATEGIES

Lego, Caterpillar report successes after change in approach

BY GLORIA GONZALEZ

ATLANTA — Employers are engaging their employees in health and safety efforts and working to overcome a “culture of fear” that prevents workers from helping to correct hazards and behaviors that could lead to workplace incidents, experts said.

Maria Brunel, senior vice president of workforce strategies for Marsh Risk Consulting in Los Angeles, said she is “seeing more of a push toward involving employees in the solution.”

For example, employers are recruiting employees to fix specific hazards such as a lack of machine guarding or a failure to properly shut off machinery and prevent restarts before completing maintenance — two of the top 10 most frequently cited standards by the U.S. Occupational Safety and Health Administration.

“As adults, we do better in a collaborative environment where we feel we have some control over our destiny rather than the old thought process of ‘I’ll tell you what to do and you get it done,’” she said.

Engaging employees in health and safety efforts is critical because they are best positioned to identify risks and suggest potential solutions, stakeholders say.

The Lego Group’s safety and risk



AP PHOTO

As safety efforts at Lego have evolved from the manufacturing floor to the sales floor, the costs of liability and workers comp claims have decreased.

management philosophy evolved as the company changed the focus of its U.S. operations from manufacturing and distribution to retailing its toy products at more than 90 locations, with the two groups working together to engage and empower employees, Janice Favreau, assistant risk manager for Lego Systems Inc. in Enfield, Connecticut, told attendees of the American Society of Safety Engineers’ annual conference in Atlanta last month. The company engages employees in many ways, including creation of a proactive safety committee that raises awareness of issues such as

ergonomics hazards and an internal blog where employees report safety risks, with improvements made in response to their reports and suggestions.

“We like each store to be seen as a hub of safety,” she said. “Safety, while there is an overall policy, is decentralized to the extent that each store is empowered with its own set of challenges and opportunities. But we also want to encourage dialogue from the store to corporate because we realize that knowledge comes from the folks that are out there on the floor. It’s their information that we take to form policies.”

Lego’s efforts to engage its employees have paid off since the current effort launched in 2012, officials said. Lost-time incidents had consistently averaged 10 per year through 2014, but the number of these incidents was cut in half in 2015, and the company has not experienced a lost-time incident so far in 2016, said Daniel Hayden, Lego’s senior health and safety consultant in Enfield.

Total reported incidents rose from 47 in 2012 to 185 in 2015 and 109 to date in 2016, he said. “Once we started to convince people that (they’re) not going to get in trouble for reporting an incident, injury or even a near miss — wow, did that really start to spike,” he said.

In the past five years, Lego’s average paid general liability claim decreased from \$25,000 to \$300, while its average paid workers comp claim dropped from \$2,000 to \$1,400.

“When it comes time to market the account ... it’s all about the story,” said Justin Porter, a Philadelphia-based consultant with Aon Risk Solutions. “When the safety department works as closely with risk management as they do at Lego, it just makes that story that much stronger.”

Employee engagement also requires overcoming “a culture of fear” that sometimes prevents

employees from reporting or correcting unsafe behaviors and a willingness on the employer’s part to listen to employees’ concerns, experts say.

“We don’t always do things correctly when we are on autopilot, and we all have blind spots,” said Michael Williamsen, senior safety consultant with Caterpillar Inc. in St. Louis.

Caterpillar’s blind spot came to light during an intensive examination of its Mississippi operations, which revealed that some employees were not reporting their injuries — a fear driven by prior leadership, which was focused more on hitting certain metrics than preventing injuries, said Anthony Whirley, group manager for Caterpillar in Booneville, Mississippi.

Caterpillar embarked on a cultural transformation, which included conducting perception surveys measuring areas such as employee attitudes toward safety, discipline and safety climate and forming a continuous improvement team to focus on the results.

The team quickly honed in on fixing a perceived problem related to discipline — a question asking employees whether they thought penalties should be assessed for safety and health violations garnered some of the lowest scores — and recommended an action plan to address peer and supervisor intimidation, Caterpillar officials said.

Mr. Whirley said he has seen signs this effort is having an effect, recounting two situations in which hourly employees corrected managers on unsafe behaviors.

“That’s doing the right things for the right reasons,” he said. “That’s the type of culture that’s going to prevent and get us to zero injuries.”

## WORKERS COMPENSATION

## California still has a ways to go in reducing comp costs

BY DONNA MAHONEY

ANAHEIM, Calif. — California’s workers compensation reforms have resulted in improvement in certain areas, but experts say the state still has the costliest system in the United States.

In California, where reforms were implemented in 2013, medical trends are stabilizing with fewer spine surgeries and a reduction in the use of opioids, showing that many elements of the reform effort are working, said Alex Swedlow, president of the California Workers’ Compensation Institute.

When compared with other states, however, California has the highest rate and frequency of permanent and partial disability claims and has the highest workers comp premium rates

in the country, he said.

Although the claim numbers are high, the state also provides injured workers with a high rate of care, according to the CWCI study of 2014 data.

The study found that 85% of all workers comp care was approved and administered quickly. The remaining 15% was approved mainly by nonphysician-level utilization review entities such as nurses and case managers, a small percentage of which went to physician utilization review.

“There is a perception in the media that insufficient care is being provided to injured workers, but this data proves otherwise,” Mr. Swedlow said last week during the CWCI’s annual conference in Anaheim, California.

However, Edward Canavan, Riverside, Cali-

fornia-based vice president of workers compensation practice and compliance at Sedgwick Claims Management Services Inc., said CWCI numbers do not include some cases that are difficult to track.

Mr. Canavan said though the data shows that only 4.2% of care is denied, it doesn’t account for litigated cases, when plaintiff attorneys often add injuries not included in the original claim. For example, he said, if a worker hurts his wrist, a lawyer can add shoulder and arm issues to litigation.

“So when you talk about the 4%, it does not have the cases that are contested where there is no way to relate it back to the injury and these cases are where the perception that care

“There is a perception in the media that insufficient care is being provided to injured workers, but this data proves otherwise.”

Alex Swedlow,  
California Workers’  
Compensation Institute

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## Insurer scores partial win in Facebook IPO dispute

■ A Chubb Ltd. unit has won a partial victory in litigation against Beazley Group P.L.C. over Facebook Inc.'s 2012 botched initial public offering. U.S. District Court Judge Jed Rakoff in New York ruled that Ace American Insurance Co. is not obligated to indemnify Nasdaq under the professional services exclusion in its directors and officers' liability policy, although he also ruled that the issue of how much Beazley is entitled to reimbursement of defense costs must still proceed to trial. In a first for a U.S. stock exchange, Nasdaq in 2015 agreed to pay \$26.5 million to settle a class action lawsuit in its bungling of Facebook's \$16 billion initial public offering. Judge Rakoff held in his ruling that the professional services exclusion "unambiguously applies." However, he affirmed an Oct. 21, 2015 order and Dec. 20, 2015, opinion by his court, that Ace breached its duty to advance defense costs to Nasdaq, with Beazley serving as Nasdaq's "assignee." A trial date on the issue of how much Beazley may be entitled to in unreimbursed attorneys fees and costs has yet to be set by the court.

## Alliant buys Chicago broker, plans Midwest expansion

■ Alliant Insurance Services Inc. is expanding in the Midwest with the acquisition of the insurance brokerage operation of Chicago-based financial services firm Mesirow Financial Holdings Inc. Terms of the deal were not disclosed. Mesirow Insurance Services had about \$104 million in U.S. brokerage revenue in 2015, according to the *Business Insurance* ranking in this issue. Mesirow Insurance will continue to operate under its existing organizational structure, and the division's leadership team and employees will join Alliant, the Newport Beach, California-based brokerage said in a statement. Mesirow Insurance also will continue to operate satellite offices in Illinois and Denver.

## Dark days forecast for multiemployer pension plans

■ Many of the nation's multiemployer pension plans are massively underfunded with little likelihood that funding will improve anytime soon, according to an analysis released by New York-based Moody's Investors Service Inc. The analysis of 124 multiemployer plans, which cover about 60% of the 10.4 million people enrolled in the nation's nearly 1,400 multiemployer plans, found the plans had \$337 billion in unfunded liabilities in 2014, up from \$284 billion in 2013 and double the \$164 billion in 2008. In all, the plans were just 47% funded in 2014, down from 48% in 2013 and 56% in 2008. In addition, the report said, "Given anemic stock market and fixed income returns in 2015, coupled with falling discount rates, we believe MEPP funding levels will be lower in 2015 than 2014, perhaps significantly so."

## KKR agrees to invest in specialty brokerage

■ Dallas-based U.S. Risk Insurance Group Inc. has entered into a definitive agreement with Kohlberg & Co. L.L.C. for a "significant transaction and partnership" with the Mount Kisco,

New York-based private equity firm. Terms of the agreement were not disclosed. Kohlberg, through its \$1.6 billion private equity fund, Kohlberg Investors VII L.P., will invest in U.S. Risk and reserve substantial additional equity capital to support the company's growth initiatives, U.S. Risk said in a statement. The transaction is expected to be completed during the third quarter, U.S. Risk said, subject to regulatory approval. Randall Goss, U.S. Risk's founder, chairman and CEO, will remain in his current position following the transaction and will continue to be the company's largest individual stockholder.

## Former Risk Manager of the Year® Lance Ewing moves to new post

■ Lance J. Ewing has joined Cotton Holdings Inc. as executive vice president of global risk management and client services. Mr. Ewing, whose appointment was effective July 1, served as president of the Risk & Insurance Management Society Inc. in 2003-2004 and was named *Business Insurance's* Risk Manager of the Year® in 2007. He most recently was a vice president at American International Group Inc., and



Mr. Ewing

previously was vice president-risk management at Caesars Entertainment Corp. Katy, Texas-based Cotton Holdings provides disaster recovery services, construction, roofing, logistics, culinary services, and environmental and health safety services globally. "This company has a lot of thought leadership in how to not just to respond to crisis situations but also the prevention of them through the crisis management standpoint," Mr. Ewing said in an interview. "I'm thrilled to be back on the risk management side."

## Insurance Information Institute taps new CEO from Zurich

■ Sean Kevelighan has been named president and CEO of the New York-based Insurance Information Institute effective Aug. 8. He succeeds Robert Hartwig, who is joining the University of South Carolina's Darla Moore School of Business in Columbia, South Carolina, where he will also be co-director of the school's Risk and Uncertainty Management Center. Mr. Kevelighan previously served as global head of public affairs for Zurich Insurance Group Ltd., where he was responsible for setting the corporation's global public policy and corporate responsibility agendas, said III in a statement. "Over nearly two decades, Sean has attained impressive accomplishments in public affairs and communications as well as a deep technical knowledge of insurance issues," Bruce Kelley, president and CEO of EMC Insurance Cos. in Des Moines, Iowa, and chairman of III's board of directors, said in the announcement. "Sean is an ideal fit for the CEO role due to his success as a media spokesperson in both corporate and government settings, as well as his international insurance industry experience."

## Suit against Berkshire Hathaway over pensions freeze can continue

■ Employees of a company bought by Berkshire Hathaway Inc. can sue Berkshire on the grounds that it violated the Employee Retirement

Income Security Act by freezing the purchased company's pension plan, the 5th U.S. Circuit Court of Appeals in New Orleans ruled. The unanimous ruling involves a pension plan and a 401(k) plan offered by Acme Brick Co., a subsidiary of Justin Industries Inc., which Berkshire acquired in 2000 under an agreement that restricted Berkshire from causing Acme to reduce benefit accruals in the pension plan or contributions to the 401(k) plan. Prior to Berkshire's acquisition, Acme matched 50% of employees' 401(k) plan contributions up to 5% of employee compensation. A group of Acme employees challenged various actions reducing those benefits and freezing its pension plan, including a threat by Berkshire to divest Acme, but the U.S. District Court for the Northern District of Texas dismissed their challenge. The 5th Circuit disagreed, saying, "Plaintiffs entire theory rests on the premise that the amendment allegedly caused by Berkshire, whether 14 years after the merger or 40 years after the merger, is unreasonable under the circumstances and violates the merger agreement and the plans," the appeals court said. As a result, "plaintiffs have pleaded sufficient facts to assert a plausible claim to relief against Berkshire."

## Legal pioneer Arthur Olick dies, established first asbestos trust

■ Arthur S. Olick, one of Anderson Kill P.C.'s first partners and a longtime chair of its bankruptcy and restructuring group, died July 2 at the age of 85 of complications from multiple sclerosis, the law firm announced. He was a former federal prosecutor who joined New York-based Anderson Kill — which became Anderson Kill & Olick P.C. — in 1974 and retired in 2010. He was one of the nation's foremost



Mr. Olick

bankruptcy attorneys and a pioneer in the formation of asbestos bankruptcy trusts, including the Manville Reorganization Trust, and the orderly dissolution of major law firms, the firm said in a statement. Mr. Olick also represented celebrities including Zsa Zsa Gabor, Peter Max, Don McLean, Meatloaf and Gloria Swanson on various commercial matters. More recently, Mr. Olick had concentrated on insurance recovery.

## First-quarter cat losses batter property/casualty insurers

■ Increased catastrophe losses helped drive U.S. property/casualty insurers' net income for the first quarter of 2016 down 26.6% from that of the same period a year earlier to \$13.31 billion, according to a study by Verisk Analytics Inc.'s ISO unit and the Property Casualty Insurers Association of America. Net written premium grew 3.2% to \$130.07 billion, a slowdown in growth from the 3.8% growth rate registered in the first quarter of 2015. Insurers' net investment income, which consists primarily of stock dividends and bond interest, fell 6.6% during the first quarter of 2016 compared with the corresponding quarter in 2015 to \$10.89 billion. Insurers also sustained a 51.3% drop in realized capital gains, which fell to \$2.29 billion. Direct insured property losses from catastrophes striking the United States totaled \$4.8 billion in the first quarter of 2016, up \$1.2 billion from \$3.6 billion in the first quarter of 2015 and \$1.7 billion above the \$3.1 billion average first-quarter direct catastrophe losses for the past 10 years, the study report said.

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## Canada wildfire tab nears \$3 billion

■ The May wildfires around Fort McMurray, Alberta, caused an estimated CA\$3.58 billion (\$2.77 billion) in insured damage, making them the costliest event in terms of insured damage in Canadian history, said the Toronto-based Insurance Bureau of Canada. The figures were tallied by Toronto-based Catastrophe Indices and Quantification Inc., which delivers detailed analytical and meteorological information on Canadian natural and man-made catastrophes. CatIQ Managing Director Carolyn Rennie broke down the losses by line of coverage at a news conference: The fires resulted in 27,000 personal property claims averaging CA\$81,000 (\$62,726) per claim, more than 12,000 auto insurance claims, averaging CA\$15,000 (\$11,616) per claim, and more than 5,000 commercial insurance claims that averages over CA\$250,000 (\$193,600) per claim. The fires caused more than twice as much insured damage as the next costliest event, the 2013 floods in southern Alberta, which resulted in about CA\$1.7 billion (\$1.32 billion) in insured damage, IBC said.

## Cyber is 'fire insurance' of the 21st century

■ The growing threat of hacking and a duty to protect data more stringently will accelerate demand for cyber insurance in Europe, insurer Allianz S.E. said as it launched its first product aimed at Germany's small-to-medium-sized manufacturers. Cyber insurance has been slow to take off in Europe with fewer than one in 10 firms having taken out a policy, said Christopher Lohmann, head of the region Central and Eastern Europe at Allianz Global Corporate & Speciality S.E. But he believes greater awareness among companies and new regulation, such as Germany's IT security law, which came into force last year and orders 2,000 providers of critical infrastructure to report serious breaches, will spur demand. "There are many reasons to believe that cyber insurance will evolve into the fire insurance of the 21st century," he said.

Reuters

## Insurer names leader of European casualty

■ Allied World Assurance Co. Holdings A.G. has named London-based Darren Jacobs senior vice president of general casualty for

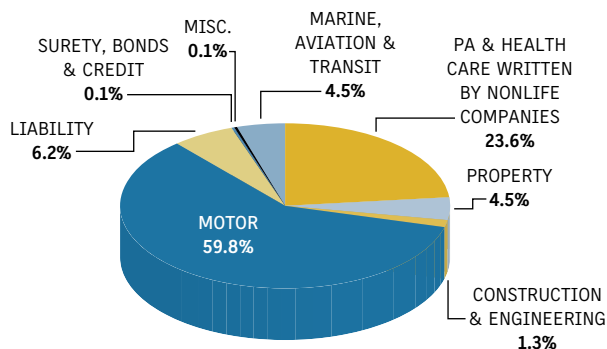
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**\$5.41**  
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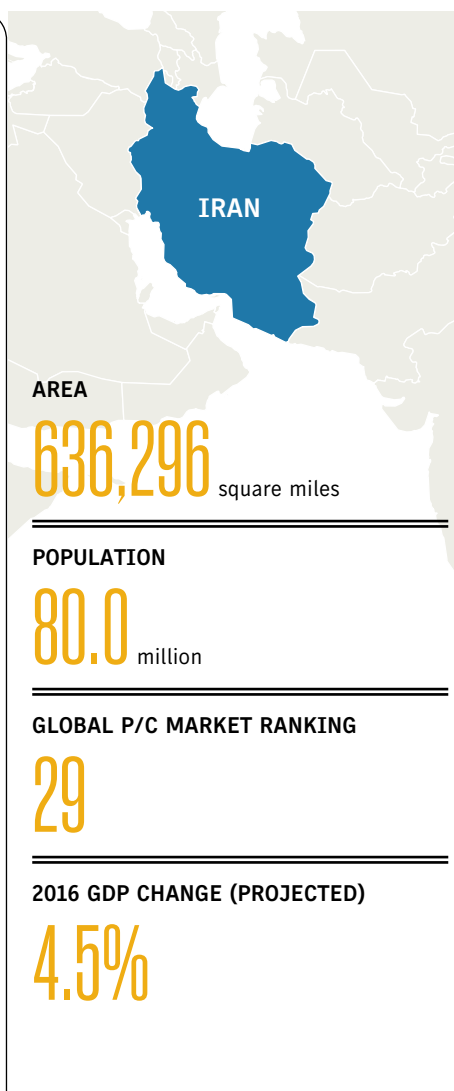
Iran's sluggish economy and insurance markets anxiously await a definitive agreement abolishing international sanctions stemming from its nuclear ambitions. Although there's movement in that direction, required payment in U.S. dollars remains a major obstacle. Earthquakes are the main natural threat to the country, mostly an arid plateau with mountain and desert regions. Catastrophic flooding from spring runoff is common but largely confined to rural areas.

◀ 2015 P/C gross premiums

### MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



## MARKET DEVELOPMENTS

UPDATED  
FEBRUARY 2016

- The Joint Comprehensive Plan of Action, implemented in January, was the first step in lifting sanctions against Iran, including those prohibiting underwriting services, insurance and reinsurance, imposed to curb its nuclear program. Besides the need to work out the details, U.S. sanctions preventing U.S. companies from re-entering Iran remain in place.
- Though several insurers report they are looking at opportunities in Iran, none has made the move yet.
- Iran had set its value added tax at 9% for the fiscal year ended in March 2016, up from 8% a year earlier.
- In December 2014, insurance supervisor Bimeh Markazi, which is also the state reinsurer, adopted the European Union's Solvency II capital requirements for insurers.

### COMPULSORY INSURANCE

- Motor third-party liability
- Third-party liability for train owners and operators
- Construction insurance for publicly funded projects, a contractual obligation
- Marine cargo import insurance, required by banks when a letter of credit is issued
- Shipowners liability for marine oil pollution

### NONADMITTED

Unauthorized insurers cannot carry on insurance activity in Iran except for life or personal injury cover for foreign workers living in Iran. Likewise, buyers cannot place business with nonadmitted insurers for anything other than foreign worker coverage.

### INTERMEDIARIES

Agents and brokers have to be authorized in accordance with the Central Insurance of Iran Establishment and Insurance Operation Act of 1971. Except for the foreign worker cover, intermediaries cannot place business with nonadmitted insurers. Still, agents that do so do not have to warn buyers that their insurer is not subject to local supervision.

### MARKET PRACTICE

In practice, insurers abide by these rules. Though there are no set penalties for noncompliance, local courts are unlikely to recognize the validity of a nonadmitted policy in a dispute. Further Bimeh Markazi may apply sanctions against the insurer/insured for any breach.

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

Allied World Europe. Mr. Jacobs will lead the insurer's primary and excess casualty operation in London, Allied World said in a statement. Mr. Jacobs replaces Denis Burton, who has left the company. Previously, Mr. Jacobs was head of global corporate/chief underwriting officer, Middle East at Zurich Insurance Group Ltd., according to the statement.

## Nat cats cause \$27B in first-half losses

■ Insured losses from natural catastrophes were \$27 billion for the first half of 2016, up from \$19 billion a year earlier, according to statistics from Munich Reinsurance Co. Overall, losses from natural catastrophes in the first half of 2016 totaled \$70 billion, up from \$59 billion in the first half of 2015, Munich Re said in a statement. The reinsurer said the largest loss-

es stemmed from earthquakes in Japan and Ecuador in April, storms in Europe and the United States, and wildfires in Canada. During the first half of 2016, 3,800 people died in natural catastrophes, significantly fewer than the 21,000 who died in the first half of 2015, according to Munich Re. "These events clearly show the importance of loss prevention, such as protection against flash floods or the construction of earthquake-resistant buildings in high-risk areas," Torsten Jeworrek, board member with responsibility for reinsurance at Munich Re, said in the statement.

## Worker pinning death leads to fine in Canada

■ An Ontario decorating company has pleaded guilty and been fined CA\$100,000 (\$77,440) for the death of a temporary worker struck by a

truck at a loading dock. Dream Party Decor was convicted of failing to comply with Section 56 of Ontario's Industrial Establishments Regulation, which requires a signaler to be present when the operator of a vehicle does not have a clear view of the vehicle's path when reversing, according to the Ontario Ministry of Labor. The truck reversed and struck and pinned the worker between the truck and the loading dock edge, with the worker suffering fatal injuries, according to the ministry.

## Electronic platform up and running

■ The first risk was bound on the London Market Group's electronic trading platform, the Placing Platform Ltd., on July 11, the group said. Within an hour of its launch, the first stand-alone terrorism risk — brokered by Marsh L.L.C. and

underwritten by Chaucer P.L.C. — was bound via the platform. Stand-alone terrorism is the first class of business to go live on the system, which was formed by the market group's member associations: the International Underwriting Association, Lloyd's of London, the Lloyd's Market Association and the London & International Insurance Brokers' Association. "This represents an exciting step as we push to increase the speed and efficiency of our marketplace to the benefit of clients. We look forward to extending this across further lines of business," Mark Weil, CEO of Marsh U.K. & Ireland, said in a statement.

## France Telecom trial sought over suicides

■ Paris prosecutors want France Telecom S.A., the former monopoly now known as Orange

S.A., and its former boss Didier Lombard to go on trial for psychological harassment in connection with a wave of staff suicides in 2008-2009, sources said. Mr. Lombard was head of the firm when more than 30 employees committed suicide during that period, a decade after privatization. Unions said forced relocations and impossible performance targets were behind the deaths. Two sources close to the investigation and a judicial source said the Paris prosecutor had recommended magistrates send Mr. Lombard and the firm to trial to face accusations of psychological harassment. They said six other executives, three still with Orange, should face the same harassment charge or lesser charges including aiding harassment. A judge will now decide whether to follow the prosecutor's advice or dismiss the case.

Reuters

## XL Catlin exec moves into reinsurance role

■ Christophe Chandler has been appointed head of specialty reinsurance-London, a new position at XL Catlin. Mr. Chandler, previously underwriting director for reinsurance for XL Catlin in Bermuda, will relocate to London, the company said in a statement. Mr. Chandler "has an excellent reputation and proven track record in the Lloyd's, Bermuda and continental European marketplaces," Jonathan Gale, XL Catlin's chief executive for reinsurance-London, said in the statement.

## Canada privacy laws held to tougher standard

■ Canadian officials expressed concern in an internal memo the European Union may hold personal-data transfers to their country to the tougher standards of the bloc's new Privacy Shield pact with the United States. That potentially affects the operations of Canadian businesses handling trans-Atlantic data, according to the memo, obtained under access-to-information laws. The E.U.-U.S. Privacy Shield limits how American firms handle European personal data. It replaces Safe Harbour, the framework that the E.U.'s top court struck down last year on concerns about intrusive surveillance. In a February memo, Canadian officials said Privacy Shield, which was provisionally adopted that month, may become the new standard and result in Canada's privacy law being "scrutinized" when the E.U. reviews whether the law adequately protects European data.

Reuters

## London underwriters bolster group board

■ Six London insurance market executives have been elected to the board of the International Underwriting Association. Five of the six formally were elected after having been co-opted to serve on the association's board in the last 12 months, the London-based IUA said in a statement. They are:

James Waterhouse, president and CEO of Arch Insurance Europe Ltd.; Jon Hancock, managing director at RSA U.K. Commercial; Brian Kirwan, CEO of Allianz Global Corporate & Speciality U.K.; Mark Chapman, group chief information officer of Global Aerospace Underwriting Managers Ltd.; and Dirk Herrenporth, managing director of Munich Reinsurance Co.'s U.K. general branch. In addition, Rob Wilson, business development manager at Chubb

Global Markets, was newly elected to the board, the IUA said.

## Berkshire unit enters Australian A&H market

■ Berkshire Hathaway Specialty Insurance Co. has launched accident and health insurance products in Australia, including corporate travel, group personal accident, expatriate, inpatriate, jour-

ney and voluntary workers insurance coverages, the company said in a statement. Daniel Kenny has been appointed head of accident and health, and Shaun Higgerson has been named senior underwriter for accident and health. Previously, Mr. Kenny was national manager, broker market, accident and health, at Chubb Insurance Co. Australia, while Mr. Higgerson was a senior development underwriter at Chubb Ltd. Both executives are based in Sydney.



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MTG-3015 (8/16)

# PBGC RATE HIKES COMPLICATE COMPANY PENSION DECISIONS

**Q** As recently as 2005, the premium employers with defined benefit pension plans had to pay the PBGC, the federal agency that guarantees plan participants' benefits, was \$19 per participant. Since then, however, Congress has raised rates several times. Under legislation Congress passed in 2015, the premium will rise to \$80 per plan participant by 2019. Are these kind of rate hikes justified?

**A** Some of the hikes in the past were justified. They helped to financially shore up the PBGC. However, the most recent ones seemed to be more for offsetting government spending than for proper funding of the PBGC. The PBGC's most recent financial report underscores the point that its trust fund for the single-employer insurance program does not face an immediate or long-term threat of default. Even the PBGC's own analysis does not call for an increase in premiums for single-employer pension plans. So the message for Congress in my view could not be any clearer: Stop raising single-employer plan premiums and consider even rolling

## Q&A

back the recent increases because of the lack of need to ensure proper funding.

**Q** Are rate hikes counterproductive?

**A** There is no question they add to the cost of maintaining a defined benefit plan. The hikes certainly are counterproductive, as they give plan sponsors incentives to transfer liabilities off their balance sheets or leave the system entirely. That ultimately reduces private pension plan coverage, which the PBGC was established to protect.

**Q** What can be done to at least curb rate hikes?

**A** Ending the practice of double counting would help by discouraging the assumption that those funds are available for other purposes.

The funds can only be used by the PBGC to help secure the pension benefits of participants in underfunded pension plans of failing companies.

However, the rates keep being raised ... due to the illusion that those funds are available for other purposes — which they are not.

Unfortunately, that continued practice will lead to companies having to make continual decisions as to the future viability of defined benefit programs.

**Q** Is there a future for defined benefit plans?

**A** It depends on whether current alternatives to the plans provide good outcomes. The jury is still out on that one. I'm talking mostly about defined contribution plans, such as 401(k) plans. Defined benefit plans are an effi-



JULIO A. PORTALATIN

MERCER L.L.C

Federal lawmakers over the past few years have repeatedly raised premiums employers with pension plans pay the Pension Benefit Guaranty Corp. Julio A. Portalatin, president and CEO of Mercer L.L.C. in New York, discusses what's driving those premium hikes and the negative consequences of escalating premiums in an interview with Editor-at-Large Jerry Geisel. Edited excerpts follow.

cient vehicle for providing lifetime income for participants.

**Q** Mercer several years ago set up a private health insurance exchange. In those exchanges, employees, and in some cases, retirees, can choose from many plans. How has that worked out?

**A** In just over three years ... about 1.4 million active employees and dependents are part of Mercer Marketplace. We have added 220-plus employers spanning more than 25 industries. Employer size ranges anywhere from 100 to 100,000 or more employees. We have three years of data behind us

now. On cost reductions, so far, we are pleased with the results. Clients have saved up to 15% on their benefit plans in the first year, the average being 9% to 10%. That equates to nearly \$1,000 of savings per enrolled employee. That is nothing to sneeze at.

The other thing is that while this year's health benefit cost increases have been on average about 4.5% in the entire market, clients in the Mercer Marketplace have experienced on average only a 1.6% increase. So, not only is there a first-year savings, but we also cut into the rate of increase in the future to about one-third of what the rest of the market experiences.

## COMINGS & GOINGS

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NEW YORK-BASED SENIOR VICE PRESIDENT AND HEAD OF U.S. PRIMARY CASUALTY

Aspen Insurance

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**LOOKING FORWARD TO:** Developing a strong team known for profitable growth, and offering the (excess and surplus) marketplace alternative solutions for opportunistic risks.

**ON LEADERSHIP:** Show by example. My most important leadership trait is to work harder than I expect everyone else to work.

**CHALLENGES FACING INDUSTRY:** Passing the baton of knowledge among generations and balancing the importance of millennials' energy and input to the process with the experience of seasoned professionals.

**CRYSTAL BALL:** I see the market becoming more global and the world becoming a smaller and smaller place.

**FIRST INDUSTRY JOB:** National accounts casualty brokerage trainee with Johnson & Higgins.



**ADVICE:** Learn as much as you can. Ask questions and listen. Question conventional wisdom and hang in there. Things do not happen overnight.

**OUTSIDE THE INDUSTRY, A DREAM JOB:** A winemaker in the Italian countryside.

**HOBBIES:** Wine and beer making, carpentry.

**PETS:** Dog person. My standard poodle, Samuri, is part of my family. He is almost human. Sometimes there are cool cats, but they act like dogs.

**DON'T LEAVE THE HOUSE WITHOUT:** The keys, because getting locked out stinks.

**PET PEEVES:** Fans wearing a jersey to a sporting event that is for a team that is not competing.

**FAVORITE SONG:** "Brown Eyed Girl" by Van Morrison, (dedicated to) my wife of 30 years, Saint Paulina.

**COPING WITH MONDAYS:** Start thinking about Friday night.

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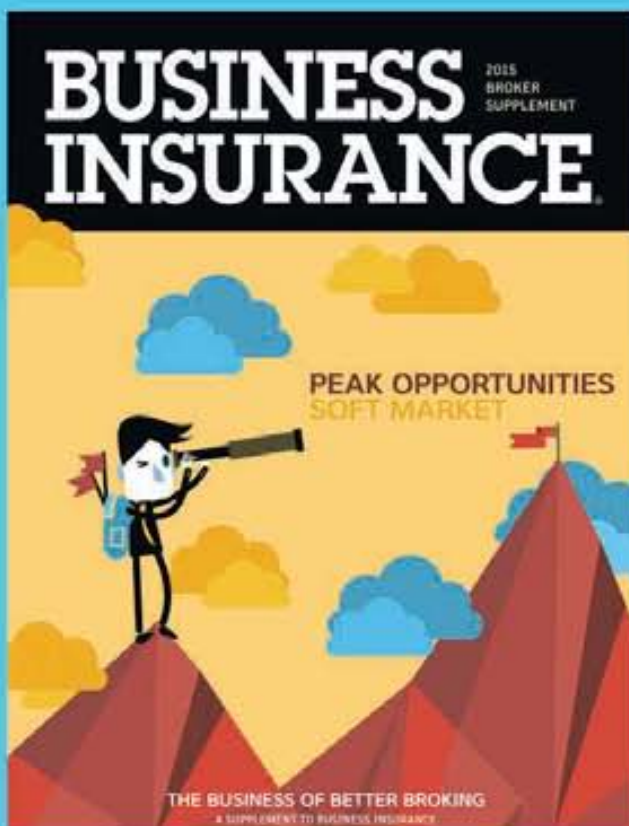
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EDITORIAL

## CYBER COVER STILL A WORK IN PROGRESS

**W**hile it's hardly a jungle out there in the cyber insurance marketplace, the fact remains that the development of cyber insurance policies is still in its early stages. This means, first of all, that standard policy language is still evolving. And this in turn means it behooves risk managers to closely examine policy language to make sure it provides the coverage they need, expect and want.

Unlike property insurance policies, which can be virtually interchangeable, cyber insurance policies at this point in their development are heavy manuscripted and can differ greatly.

This lesson was learned the hard way by Scottsdale, Arizona-based P.F. Chang's China Bistro Inc. when the U.S. District Court in Phoenix ruled in May that its policy with a Chubb Ltd. unit did not provide coverage for assessments made by Bank of America Merchant Services L.C.C., which facilitated the processing of credit card transactions with the banks that issued the credit cards.

Observers have noted that it is likely the company had assumed — probably not unreasonably — that the coverage was there, but Chubb said it was not, and the Arizona court unfortunately agreed.

But there are other possible “gotchas” in today's policies as well, experts point out. Risk managers, for instance, should be sure their policies provide adequate sublimits for notification costs. And first-time policyholders in particular should be on the alert for the retroactive dates in their policies.

Risk managers should also not be fooled or misled by insurers' fulsome marketing copy, which can promise them the world, or by their policy's declaration page, which can make expansive promises that are not reflected deeper in the policy. As has often been said, the devil is in the details, and risk managers must examine policy language in microscopic detail.

Then there are risk managers' “wish lists” that include coverage for physical damage and personal injury caused by cyber events, which is not standard in today's cyber policies.

Yes, eventually — perhaps — cyber policies will be as predictable as other policies. But that day has not yet arrived.

All this means that while it may not be a jungle out there, obtaining cyber coverage is likely to be something of an adventure for some time to come.

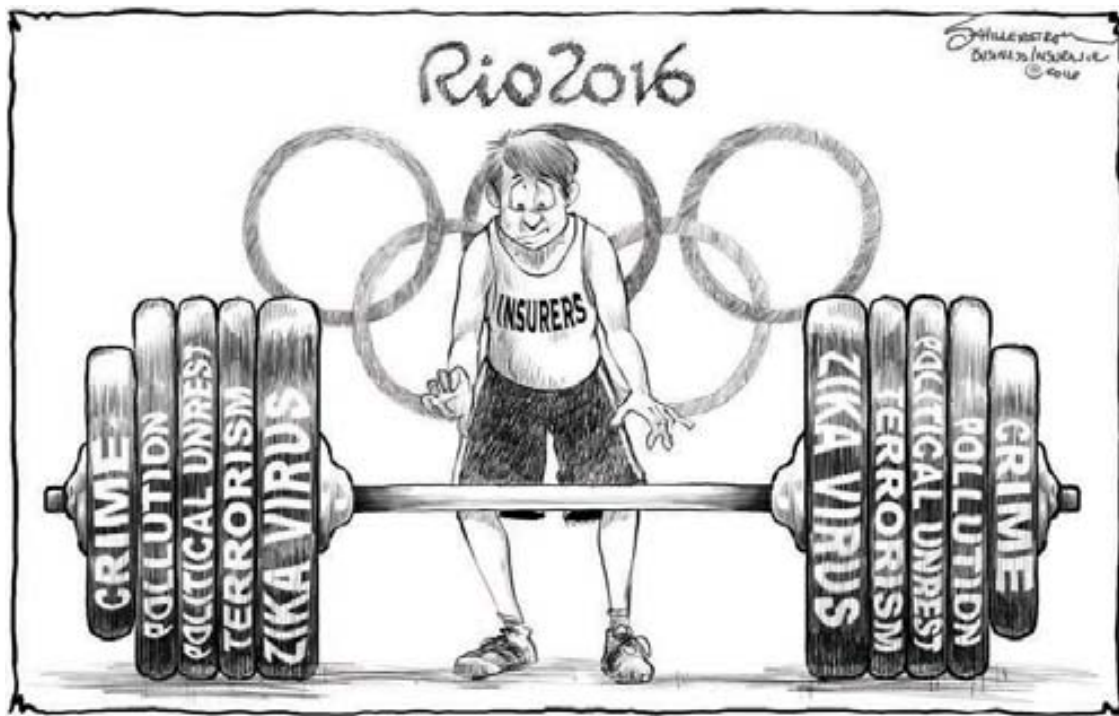
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SCHILLERSTROM



COMMENTARY

## ‘CREATIVE DESTRUCTION’ CATALYZES BROKER EVOLUTION

**A**nyone who wants proof that the property/casualty insurance industry is far from the stodgy enterprise it may appear to be in popular culture need look no further than this issue's ranking of the top brokers, both worldwide and in terms of brokering U.S. business.

In fact, what's listed may serve as further proof of economist Joseph Schumpeter's theory of “creative destruction.”

Writing in the 1940s, Mr. Schumpeter described a “gale of creative destruction” in which mutations would change an economic structure from within, destroying the old one and replacing it with a new framework.

The top 10 brokers in this year's list may be household names now — at least in risk managers' households — but they weren't always. When *Business Insurance* first published its ranking of U.S. brokers in 1972, Marsh & McLennan Cos. Inc., Alexander & Alexander Services Inc., Johnson & Higgins, Frank B. Hall & Co. Inc., Fred S. James & Co. Inc. and Corroon & Black Corp. topped the list.

All but Marsh & McLennan are gone for a variety of reasons, notably mergers.

When *BI* separately began ranking the world's largest brokers in 1983, those six brokers, together with London's Sedgwick Group P.L.C. and Willis Faber P.L.C. and Chicago's Rollins Burdick Hunter Co., which would later become Aon Corp., represented nine of the 11 largest brokers in the world. A 1999 article in *Business Insurance* noted that of world's top 20 brokers featured in *BI*'s 1990 ranking, 11 had



**MARK A. HOFMANN**  
SENIOR EDITOR

become part of either Marsh & McLennan or Aon.

And nearly 20 years later, the changes atop the chart continue. Though Marsh & McLennan and Aon have remained on top of the rankings for years, there's constant movement even among the top 10 brokers.

New factors have altered the brokerage market. Bank-affiliated brokers and private-equity backed bro-

kers play roles no one would have foreseen a few years ago. In fact, two of this year's top 10 — BB&T Insurance Services Inc. and Wells Fargo Insurance Services USA Inc. — are affiliated with banks.

One of the top 10, Hub International Ltd., was acquired by private equity firm Hellman & Friedman L.L.C. in 2013 and has continued its strategy of aggressively seeking acquisitions.

And it is not alone. As Phil Trem, senior vice president at Marsh Berry & Co. Inc., observes elsewhere in this issue, private-equity-backed brokers were involved in 212 of the 456 deals in the broker and agent sector last year. In 2006, there was a grand total of one such deal.

No one can predict what the list of the top 10 brokers will look like even five years from now, let alone 10. But it's a pretty safe bet that it will be shaped considerably by the gales of creative destruction.

# Attorney fee rulings set to alter execution, costs of comp cases

A long-standing principle governing workers compensation cases provides access to an attorney who will help the injured worker litigate the case efficiently and capably. To give attorneys incentive to take on such cases and to ease the burden on an injured worker to find a capable attorney, attorneys receive their fees from the worker's damage award. Jim Woods and Jeyshee Ramachandran of Mayer Brown L.L.P. discuss states' attorney fee schedules and their effect on these comp cases.

Many states, including Florida and Utah, have implemented mandatory schedules for how attorneys' fees should be awarded in workers compensation cases. Courts in these states, however, recently struck down the schedules. The Florida court ruled the statute was unconstitutional for denying due process by precluding consideration of whether a fee award is reasonable to compensate the attorney. The Utah court also held its mandatory fee schedule unconstitutional, ruling, in part, that it impaired workers' access to capable attorneys. The Florida case and the reasoning from the Utah case, which mirrors the analysis of the Florida court, are set forth below.

## Florida

On April 28, the Supreme Court of Florida held in *Marvin Castellanos v. Next Door Co. et al.* that the statute mandating a conclusive attorney fee schedule for workers compensation claims was unconstitutional. It remanded the case to the judge of compensation claims for the entry of a reasonable attorney's fee.

The statute allows for the payment of attorney's fees according to a set schedule:

Any fee approved by a judge must be equal to 20% of the first \$5,000 of the benefits secured, 15% of the next \$5,000 benefits secured, 10% of the remaining amount secured to be paid during the first 10 years after the date the claim is filed, and 5% after 10 years. The judge of compensation claims cannot approve any amount in excess of that permitted by Section 440.34 of the statute.

That goes to the heart of the case. Marvin Castellanos was injured while working at Next Door and won his workers compensation suit. But because of Section 440.34 limits, Castellanos' lawyer received only \$1.53 per hour for 107.2 hours of work.

The JCC found that it was "highly unlikely that (Castellanos) could have succeeded and obtained the favorable result he did without the assistance of capable counsel." Bound by the fee schedule, the

judge found that Castellanos could recover only \$164.54 in attorney's fees, despite calling the result "absurd" and saying "lawyers can't work for \$1.30 an hour."

## HEAR MORE

Jim Woods, a partner with Mayer Brown L.L.P. in New York, discusses attorney fee schedules as they pertain to litigation in Florida and Utah with *Business Insurance* Managing Editor Mary Jane Grandinetti.

In striking down the law, the majority opinion of the Supreme Court of Florida notes that the right to a reasonable attorney's fee when successful "has been considered a critical feature of the workers compensation law since 1941." Section 440.34, however, "does not allow for any consideration of whether the fee is reasonable or any way for the JCC or the judiciary on review to alter the fee."

The court held that while the schedule does standardize fees (a purpose behind Section 440.34), it disregards the time and effort expended by an attorney. Further, any worry the Florida Legislature had regarding excessive fee awards when enacting the schedule is mitigated by other provisions. For example, time and labor required, the complexity of the case and the skills required to competently render legal service are all considered when deciding whether a fee award is reasonable.

Further the court held that there is no reason-

As in Florida, the Utah Supreme Court focused on the policy reasons in invalidating the fee schedule. It reasoned that the fee schedule failed to protect "unsophisticated litigants with limited bargaining power."



able basis to assume that the conclusive fee schedule prevents excessive fees. After all, it does not adjust fees downward where the recovery is high.

And the court held that individual determinations can be made, but the imprecision of Section 440.34's fee schedule prevented the lower courts from doing anything about the unreasonableness of the resulting fee.

## Utah

On May 18, 2016, the Utah Supreme Court in *Injured Workers Association of Utah, et al. v. State of Utah*, invalidated an attorney fee schedule law. Similar to the Florida law, the Utah regulation dictated that attorneys representing injured workers in compensation claims receive their fees out of the worker's award. Specifically, the regulation provided that attorneys may be granted a fee of 25% for the first \$25,000 awarded to the worker, 20% for the next \$25,000 and 10% of the amount awarded in excess of \$50,000. Fees were capped at \$18,590, with some exceptions.

As in Florida, the Utah Supreme Court focused on the policy reasons in invalidating the fee schedule. It reasoned that the fee schedule failed to protect "unsophisticated litigants with limited bargaining power." Because of the fee schedule, "many attorneys are economically unable or unwilling to take on injured workers' cases." Indeed, the Utah Supreme Court found that affected the "quantity" as well as "quality" of lawyers willing to take the cases. The court indicated its hope that "the absence of a fee schedule will allow injured workers the flexibility to negotiate appropriate fees with their attorneys" — simple cases could be covered by a small fee, with more complex cases garnering a larger fee.

## Consequences

As a result of these decisions in Florida and Utah, employers will likely see costs to litigate workers compensation claims rise. Employers should remain vigilant in how these cases are applied and how they affect future legislative actions.

Others see these cases as a win for claimants and their lawyers. The hope is that claimants will have more access to attorneys, because the attorneys will be compensated in a more "reasonable" manner for their work.

There is a worry that attorneys may take advantage of unsophisticated injured workers and misuse superior bargaining power to obtain higher fees. After all, it may be difficult for a worker to know whether the case is a simple or complex. The Utah Supreme Court advised that the attorneys remember they are bound by the rules of professional conduct to mitigate fears they will prey "upon unsophisticated injured workers." It remains to be seen how the new frameworks in Florida and Utah will operate on the ground.



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# R!SK

## PERSPECTIVES



### WRITTEN BY

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# INNOVATING to help deliver on our promise to customers

Imagine a marketplace where an insurance company uses cutting-edge technology to help improve the customer experience, potentially delivering better products, more quickly and accurately, and freeing up its people to provide enhanced service. This is happening right now at Zurich, through a new initiative with software robotics.

Unlike physical robots, which have long been used in manufacturing environments, software robotics are tools that operate separately from other applications and systems. These robots collect, integrate and use data provided by other systems to automate work within programmed parameters using logic. Software robots may be programmed to complete certain actions, or take no action, depending on the data they receive, and their activities can be amended whenever necessary to meet changing conditions or customer needs. Much as physical robots increase efficiency and precision on an assembly line, software robots can complete repetitive tasks much faster and with fewer errors than humans generally can.

What could this mean in an insurance context? Software robotics could enable accelerated and improved policy processing and issuance. Quality and accuracy could also be significantly improved through the use of such robotics. With the potential time saved, it could also allow employees to focus more on responding to customers and their brokers. Zurich is piloting robotics capabilities in international casualty programs and is planning to expand the use of robotics into property and other lines.

The ultimate goal of any software robot application is to relieve human handlers of the need to focus on time-intensive, manual activities so that they can concentrate on higher-value tasks. Consider an international liability program, written in the United States or Europe, for which instructions must be generated for every country where coverage is to be issued. In the Zurich pilot program, once an employee checks and confirms that information for the program is complete and in compliance with local regulations, the software robots are activated. The robots, among other tasks, check producer appointments, licensing and initiate policy invoicing – tedious activities that often consume significant amounts of time for people to perform. An employee then checks for accuracy to ensure that everything required for the

program is in place. Based on early pilot program results, Zurich has found that quality control is enhanced by the combination of technology and professional experience.

Because the robots can operate 24 hours a day, not just during typical workdays in various time zones – which may or may not overlap – Zurich's pilot results indicate that processing of international programs is much faster. How much faster? Teams without software robotics typically need three to five business days to complete these steps for an international liability program. With the robots, and after pre-checks, our experience from other implementations suggests that process time could be reduced to about 24 hours, while significantly improving program accuracy and timeliness.

A challenging aspect of international programs is

75 to 100 pages of documentation. That can take some time to absorb. Cognitive software is able to scan the information, create a summary and highlight relevant elements to save a significant amount of time. This can reduce the amount of time needed to process a claim, which can help claims handlers provide better and more responsive service, and increase customers' confidence in their insurance provider.

In another example in the U.K., Zurich is utilizing software robotics to conduct routine diary reviews for open claims that traditionally required attention by human operators. The robot monitors how much time may have passed since a file was last worked, such as when reserves were last updated, and other key factors. It will then decide, within parameters, whether the

## Software robotics could enable accelerated and improved policy processing and issuance.

their complexity, particularly in the allocation of premium. A multinational enterprise may need to allocate premium across multiple subsidiaries and geographies, which must be accounted for in setting instructions to issue coverage. Typically, allocation decisions are made by customers in consultation with their brokers, which can take a month or longer. Once instructions are provided, the use of software robots in Zurich's pilot makes the next steps far more efficient. An important benefit of that increased efficiency is that Zurich's teams are freed up to answer questions and solve problems that arise in serving customers.

Zurich's use of robotics technology is part of a journey toward cognitive computing. Our objective was to design and execute improvements to the customer experience that would dramatically improve efficiency, and the effort is already bearing fruit.

Policy processing isn't the only opportunity for this cutting-edge innovation. Zurich is currently using robotics to help streamline the processing of smaller claims.

For example, a liability claims handler might receive

interval since the last action warrants a review by a handler. Based on the robot's query, the file will be reviewed and perhaps updated or closed. If, however, the robot initially determines that the claim's status remains within a reasonable timing window, it will close the diary and reset it for a review at the next appropriate point in time.

A reality of the global insurance industry today is that it still relies heavily on paper-based processes. When information is shared electronically, it often takes the form of digitally scanned and compressed documents. Just as often, multiple versions of documents lead to confusion and errors. Process standardization and improved use of technology can help the insurance industry to spend less time on transmitting data and more time on structuring coverage. Doing so will help deliver greater value to customers and provide better quality products to solve their business challenges. For Zurich, staying in the forefront of technical innovation is one way we can make sure that we are delivering on our promises to our customers now and in the future.



For more information about Zurich solutions and risk insights, visit [zurichna.com](http://zurichna.com) and the Zurich Virtual Literature Rack at [zurichvlr.com](http://zurichvlr.com).



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# Brokers step up merger activity

Buying out rivals helps larger firms keep growing in soft market

BY MARK A. HOFMANN

Despite a still-soft commercial property/casualty insurance market, insurance brokers have performed fairly well over the past year or so. The record merger and acquisition activity, encompassing the blockbuster joining of Willis Group Holdings P.L.C. and Towers Watson & Co. as well as hundreds of smaller transactions, established larger entities that are better able to compete in the marketplace.

Questions remain, however, about the pace of economic growth on which brokers depend for new business as well as their ability to post healthy organic growth.

Still, most analysts like what they have seen in the past year.

“Generally, the broker marketplace is in a good spot,” said Phil Trem, senior vice president at Woodmere, Ohio-based Marsh Berry & Co. Inc. “A lot of organizations are getting bigger, and that’s a key factor in overall success. It continues to be a great business.”

Quentin McMillan, director of equity research at Keefe Bruyette & Woods Inc. in New York, said brokers have outperformed the stock market as a whole in all five of the most recent recessions.

“They continue to have very positive attributes,” Mr. McMillan said. “My overall high-level view is that the brokers are going to be fine going forward.”

As has usually been the case, M&As shuffled *Business Insurance’s* list of the top 100 brokers of U.S. business, ranked by 2015 brokerage revenue.

In the biggest deal, Willis completed its \$18 billion acquisition of Towers Watson



to form Willis Towers Watson P.L.C. That 129.7% brokerage revenue increase moved Willis Towers Watson back into the No. 3 slot among brokers of U.S. business, surpassing Arthur J. Gallagher & Co. Inc., which slipped to No. 4 (see chart, page 22).

Also in the top 10 for U.S. business, Hub

International Ltd., buoyed by a 26.4% increase in revenue in a year in which its acquisition hunger with 43 deals showed no sign of abating, moved from No. 10 in last year’s ranking to No. 8 this year. That dropped USI Insurance Services L.L.C. and Lockton Cos. L.L.C. one spot each, to No. 9 and No. 10, respectively.

Private equity-backed Acrisure L.L.C. also continued its acquisitive ways with more than 50 and boosted its U.S. brokerage revenue 114.7% to move up to No. 14 this year.

Another private equity-backed brokerage, Prime Risk Partners Inc., boosted its revenue 131.7% with the acquisition of Cook Maran & Associates Inc., moving Prime Risk Partners up to No. 50 in the 2016 ranking.

Of course, M&As meant some familiar players of the top 100 U.S. brokers left the list as they became part of larger operations. For example, No. 1 Marsh & McLennan Cos. Inc. continued to bolster its middle-market-focused Marsh & McLennan Agency by acquiring MHB T Inc. and J.W. Terrill Inc. In addition, No. 4 Gallagher acquired William Gallagher Associates Insurance Brokers Inc.

“M&A is very notable in the U.S. market,” said Julie Herman, director of financial services ratings at Standard & Poor’s Corp. in New York. “There have been more deals in the U.S. insurance broker market than in any other insurance market.”

“2015 was the most active we’ve seen in history, with 456 total announced deals,” said Marsh Berry’s Mr. Trem. Private equity-backed brokers accounted for 212 of those deals last year versus just one in 2006, he said.

He noted that the 162 announced deals during the first five months of 2016 is second only to the record 192 deals during the same period last year.

“We expect about 400 transactions in 2016,” Mr. Trem said.

See **BROKERS** page 24

# Broker mergers keep rolling in during 2016 first half

Optis Partners analysis shows buying spree continues after record year

BY TIMOTHY J. CUNNINGHAM AND DANIEL P. MENZER

Private equity-backed buyers again dominated the insurance brokerage merger and acquisition landscape during the first half of 2016, but their share declined slightly amid increased activity by privately held and bank-owned brokers.

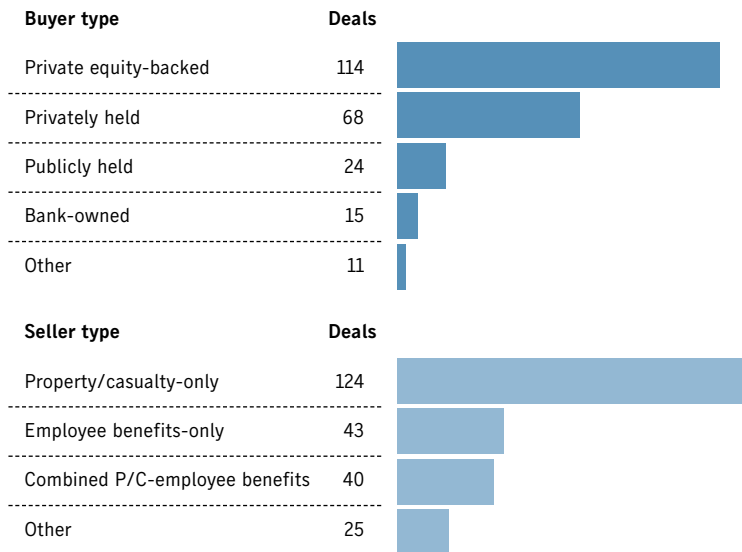
The 232 deals for the first half of the year in the United States and Canada are the second-most active six-month period since Optis Partners L.L.C. began tracking M&As in 2008, second only to the 233 deals in the first half of 2015.

Private equity-backed buyers led the pack with 114 M&As, nearly identical to the 115 in 2015. The 124 property/casualty-only agencies sold during the first half of 2016 were down from 136 in 2015, but they still were more than half of all deals.

For the first half, Caledonia, Michigan-based Acrisure L.L.C. led all others with 28 deals, up from 19

## BUYERS AND SELLERS

Private equity-backed firms were the biggest buyers of insurance brokers during the first half of the year, while property/casualty-only firms were the biggest sellers.



Source: Optis Partners L.L.C.

during the same period last year. Chicago-based Hub International Ltd. completed 20 deals, followed

by Lake Mary, Florida-based AssuredPartners Inc. with 17, Itasca, Illinois-based Arthur J. Gal-

agher & Co. with 16 and Columbus, Ohio-based BroadStreet Partners Inc. with 12. The other 92 buyers all reported fewer than 10 transactions, including 69 with just one acquisition apiece.

Acrisure reported the biggest increase in deals with nine more this year versus last year, followed by Risk Strategies Co. Inc. with four additional transactions.

NFP Corp., previously known as National Financial Partners Corp., had the largest decrease in the number of first-half deals, dropping from seven last year to two this year. Integro Ltd. followed with four fewer deals this year than the first half of last year.

Private equity-backed buyers accounted for 49.1% of all first-half 2016 deals, down from 53.4% of the 455 deals for all of 2015. Privately owned brokers' increased first-half dealmaking boosted the category's share to 29.3% of the total; bank-owned brokers boosted their share to 6.5% in their biggest showing since 2011. Publicly held brokers'

share fell to 10.3% of the total.

Since the beginning of 2013, property/casualty brokers accounted for just less than half of all agencies sold. Benefits-only and combined P/C-benefits brokers each had 19% of all deals, leaving 12% for everything else, including wholesalers and managing general agents.

There have been 98 separate buyers thus far in 2016, down slightly from the 103 during the first six months of 2015. Fifty-seven privately owned buyers announced deals during the first half of the year, the highest of any six-month period. Fourteen banks also purchased brokers, the most since the first half of 2011. Only 14 private equity-backed firms announced acquisitions, down from 19 a year earlier.

Gallagher and Brown & Brown Inc. were the only publicly traded brokers in the top 10 for the first half of the year.

See **MERGERS** page 24

## WHY DO GOOD EMPLOYEES GO BAD?

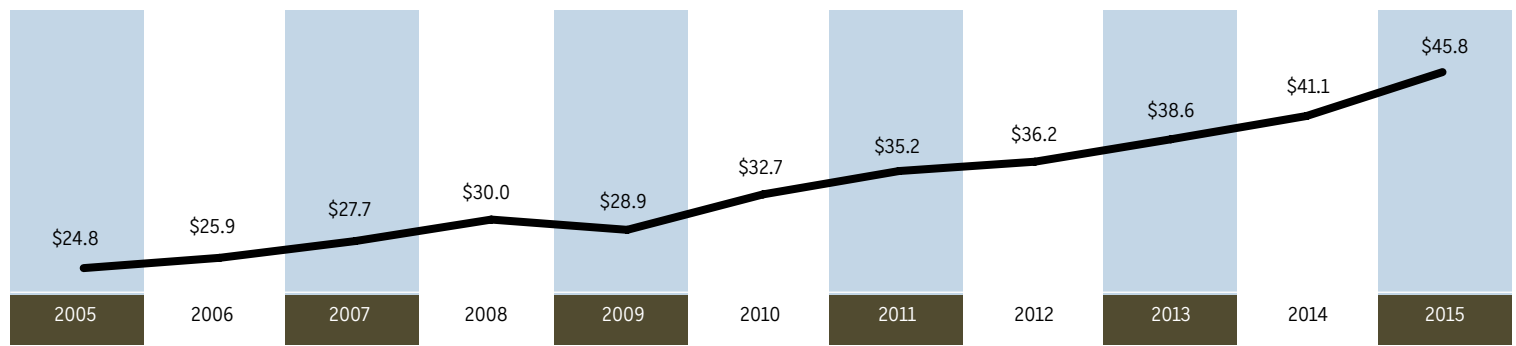
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**A DECADE OF GROWTH\***

The world's 10 largest insurance brokers posted an 11.4% rise in 2015 revenue, the largest percentage gain since 2010. The group's dollar gain of \$4.7 billion was the largest in the past decade.



\*In billions of dollars

**WORLD'S 10 LARGEST INSURANCE BROKERS**

Ranked by 2015 brokerage revenue

2016 Rank	2015 Rank	Company/address	Phone/website	Officers	2015 brokerage revenue	Percent increase (decrease)	Employees	Offices	Percentage of revenue*							
									Commercial	Wholesale	Reinsurance	Personal lines	Employee benefits	Services	Investments	Other
1	1	Marsh & McLennan Cos. Inc. 1166 Avenue of the Americas New York, NY 10036	212-345-5000 www.mmc.com	Daniel S. Glaser, president/CEO	\$12,912,000,000	(0.4%)	60,000	619	44.4%	0	8.7%	0	33.4%	13.6%	0.3%	(0.3%)
2	2	Aon P.L.C. 8 Devonshire Square London EC2M 4PL, England	44-207-623-5500 www.aon.com	Gregory C. Case, president/CEO	\$11,661,000,000	(3.0%)	69,000	500	42.7%	0	11.7%	0	22.7%	22.8%	0.2%	0
3	3	Willis Towers Watson P.L.C. <sup>1</sup> 51 Lime St. London EC3M 7DQ, England	44-203-124-6000 www.willistowerswatson.com	John Haley, CEO; Dominic Casserley, president/ deputy CEO	\$8,124,000,000	115.7%	39,000	500	27.8%	2.8%	10.4%	4.5%	40.2%	13.9%	0.2%	0.1%
4	4	Arthur J. Gallagher & Co. The Gallagher Centre 2 Pierce Place Itasca, IL 60143	630-773-3800 www.ajg.com	J. Patrick Gallagher Jr., chairman/ president/CEO	\$3,990,200,000	13.0%	21,537	570	32.3%	9.8%	0	3.5%	14.9%	13.5%	26.0%	0
5	5	Jardine Lloyd Thompson Group P.L.C. The St. Botolph Building 138 Houndsditch London EC3A 7AW, England	44-207-528-4444 www.jlt.com	Geoffrey Howe, chairman; Dominic Burke, group chief executive	\$1,697,854,440 <sup>2</sup>	4.7%	5,602	115	39.0%	7.8%	19.9%	1.9%	24.9%	6.1%	0.5%	0
6	6	BB&T Insurance Holdings Inc. 3605 Glenwood Ave. Suite 201 Raleigh, NC 27612	919-716-9777 www.insurance.bbt.com	John Howard, chairman/CEO	\$1,676,025,000	(2.2%)	6,272	112	36.7%	43.2%	0	5.9%	10.0%	0	0.4%	3.8%
7	7	Brown & Brown Inc. 220 S. Ridgewood Ave. Daytona Beach, FL 32114	386-252-9601 www.bbinsurance.com	J. Powell Brown, president/CEO	\$1,656,951,014	5.7%	7,807	236	57.2%	13.0%	0	5.1%	15.7%	8.8%	0.1%	0.2%
8	9	Hub International Ltd. 300 N. LaSalle St. 17th Floor Chicago, IL 6065	877-402-6601 www.hubinternational.com	Martin P. Hughes, chairman/CEO	\$1,470,477,000	13.5%	8,195	378	55.7%	4.6%	0	16.6%	22.2%	0.7%	0.1%	0
9	10	Lockton Cos. L.L.C. <sup>3</sup> 3444 W. 47th St. Suite 900 Kansas City, MO 64112	816-960-9000 www.lockton.com	John L. Lumelleau, president/CEO; David M. Lockton, executive chairman	\$1,328,569,000	8.0%	6,000	78	64.7%	3.0%	2.4%	0.7%	28.5%	0	0.7%	0
10	8	Wells Fargo Insurance Services USA Inc. 10 S. Wacker Drive 17th Floor Chicago, IL 60606	312-423-2500 wfis.wellsfargo.com	Laura Schupbach, head of insurance	\$1,316,335,000	1.3%	5,264	52	38.6%	0.1%	0	14.7%	15.1%	18.9%	0.3%	12.2%

\*Percentage of revenue may not add up to 100% due to rounding. 1 Reflects 2016 merger of Willis Group Holdings P.L.C., Towers Watson & Co. and Gras Savoye & Cie. 2 British pound = \$1.4746. 3 Fiscal year ends April 30.

Source: BI survey

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**100 LARGEST BROKERS OF U.S. BUSINESS\***

Ranked by 2015 brokerage revenue generated by U.S.-based clients

2016 rank	2015 rank	Company	2015 U.S. brokerage revenue	Percent increase (decrease)
1	1	Marsh & McLennan Cos. Inc. <sup>1</sup>	\$6,326,880,000	8.4%
2	2	Aon P.L.C.	\$6,052,059,000	4.1%
3	4	Willis Towers Watson P.L.C. <sup>1,2</sup>	\$3,980,760,000	129.7%
4	3	Arthur J. Gallagher & Co. <sup>1</sup>	\$2,713,336,000	13.0%
5	5	BB&T Insurance Holdings Inc. <sup>1</sup>	\$1,676,025,000	(2.2%)
6	6	Brown & Brown Inc. <sup>1</sup>	\$1,656,951,014	5.7%
7	7	Wells Fargo Insurance Services USA Inc.	\$1,316,335,000	1.3%
8	10	Hub International Ltd. <sup>1</sup>	\$1,146,972,060	26.4%
9	8	USI Insurance Services L.L.C. <sup>1</sup>	\$1,027,846,835	12.6%
10	9	Lockton Cos. L.L.C. <sup>1,3</sup>	\$996,426,750	6.5%**
11	11	NFP Corp. <sup>4</sup>	\$880,611,794	10.6%
12	12	Alliant Insurance Services Inc. <sup>1</sup>	\$826,567,635	33.5%
13	13	AssuredPartners Inc. <sup>1</sup>	\$555,938,953	23.8%
14	19	Acrisure L.L.C. <sup>1</sup>	\$410,654,072	114.7%
15	16	BroadStreet Partners Inc.	\$336,550,000	36.6%
16	15	Jardine Lloyd Thompson Group P.L.C. <sup>5</sup>	\$261,469,584	11.2%**
17	20	Integro Group Holdings L.P. <sup>1</sup>	\$221,395,200	30.3%
18	18	CBIZ Benefits & Insurance Services Inc. <sup>1</sup>	\$220,400,000	6.9%
19	17	Leavitt Group Enterprises <sup>1</sup>	\$216,058,000	(2.9%)
20	23	Edgewood Partners Insurance Center, dba EPIC Insurance Brokers & Consultants	\$195,558,100	28.9%
21	21	Hays Group Inc., dba Hays Companies	\$183,300,000	9.8%
22	22	Keenan & Associates	\$170,901,000	4.9%
23	26	Paychex Insurance Agency Inc. <sup>6</sup>	\$170,100,000	23.8%
24	24	Crystal & Company	\$157,000,000	5.1%
25	27	Insurance Office of America Inc. <sup>1</sup>	\$143,371,738	11.3%
26	25	Meadowbrook Insurance Group Inc. <sup>1</sup>	\$142,442,142	0.8%
27	39	Risk Strategies Co. Inc. <sup>1</sup>	\$142,424,560	45.7%
28	31	Holmes Murphy & Associates Inc.	\$137,458,129	12.6%
29	30	The IMA Financial Group Inc. <sup>1</sup>	\$133,372,706	7.3%
30	28	J. Smith Lanier & Co. <sup>1</sup>	\$132,903,339	6.3%
31	32	Higginbotham <sup>1</sup>	\$131,966,000	8.4%
32	33	Regions Insurance Group Inc. <sup>1</sup>	\$130,844,025	10.4%
33	37	Cross Financial Corp., dba Cross Insurance	\$128,200,000	20.8%**
34	29	Wortham Insurance & Risk Management	\$126,787,875	1.8%
35	35	Cottingham & Butler Inc. <sup>1</sup>	\$125,729,000	14.1%
36	42	Digital Insurance Inc. <sup>1</sup>	\$116,451,000	23.1%
37	34	BancorpSouth Insurance Services Inc.	\$114,581,596	1.1%
38	36	Hylant Group Inc.	\$111,986,535	3.2%
39	43	Capacity Group of Cos. <sup>1</sup>	\$110,028,697	17.8%
40	40	Heffernan Group	\$107,700,800	10.6%
41	41	Mesirow Insurance Services Inc. <sup>7</sup>	\$104,586,091	8.7%
42	NR	Woodruff-Sawyer & Co. <sup>1</sup>	\$103,102,860	12.3%
43	38	PayneWest Insurance Inc. <sup>1</sup>	\$98,104,172	(0.7%)
44	44	RKH Specialty <sup>8,9</sup>	\$95,527,672	10.6%**
45	49	Assurance Agency Ltd.	\$88,018,528	16.8%
46	46	Insurica Insurance Management Network <sup>1</sup>	\$85,567,586	6.0%
47	45	Ascension Insurance Inc. <sup>1</sup>	\$82,762,000	(3.3%)
48	47	Insurors Group L.L.C.	\$77,801,307	1.2%
49	48	Associated Benefits & Risk Consulting <sup>10</sup>	\$77,243,088	2.4%
50	86	Prime Risk Partners Inc. <sup>1,11</sup>	\$76,588,000	131.7%

2016 rank	2015 rank	Company	2015 U.S. brokerage revenue	Percent increase (decrease)
51	53	Frenkel Benefits L.L.C., dba Frenkel & Co. <sup>1</sup>	\$72,553,683	4.3%**
52	51	Eastern Insurance Group L.L.C. <sup>1</sup>	\$70,394,750	5.7%
53	54	Oswald Cos. <sup>1</sup>	\$65,850,840	1.9%
54	52	First Niagara Risk Management Inc.	\$65,286,400	(0.3%)
55	55	Marshall & Sterling Enterprises Inc. <sup>1</sup>	\$63,853,663	7.0%
56	60	Propel Insurance <sup>1</sup>	\$62,088,000	15.5%
57	57	Lawley Service Inc.	\$61,968,319	7.6%
58	56	Huntington Insurance Inc.	\$60,122,700	2.5%
59	59	Horton Group Inc.	\$59,604,975	9.5%
60	58	Houchens Insurance Group <sup>12</sup>	\$58,227,077	1.1%
61	62	Sterling & Sterling L.L.C., dba SterlingRisk	\$52,679,000	4.4%
62	61	Bowen, Mickette & Britt Inc.	\$52,529,205	1.3%
63	64	TrueNorth Cos. L.L.C.	\$52,477,000	9.1%
64	67	The Graham Co.	\$50,815,997	12.3%
65	65	Frost Insurance Agency Inc.	\$50,201,963	7.3%
66	66	M3 Insurance Solutions Inc.	\$50,025,493	7.8%
67	71	James A. Scott & Son Inc., dba Scott Insurance	\$49,675,000	12.5%
68	77	Towne Insurance Agency Inc. <sup>1</sup>	\$47,334,527	12.9%
69	68	LMC Insurance & Risk Management Inc.	\$47,233,550	4.5%
70	69	Poms & Associates Insurance Brokers Inc.	\$46,170,000	3.1%
71	72	Riggs, Counselman, Michaels & Downes Inc.	\$45,460,439	3.1%
72	76	Starkweather & Shepley Insurance Brokerage Inc. <sup>1</sup>	\$45,238,000	6.3%
73	75	Parker, Smith & Feek Inc.	\$44,938,000	5.5%
74	70	The Mahoney Group	\$43,481,231	(2.4%)
75	73	Moreton & Co.	\$43,309,000	(1.3%)
76	80	ABD Insurance & Financial Services Inc. <sup>1</sup>	\$42,886,000	16.2%
77	79	Corporate Synergies Group L.L.C.	\$42,588,000	9.3%
78	81	Bolton & Co.	\$41,923,200	15.4%
79	74	M&T Insurance Agency Inc.	\$39,200,000	(8.7%)
80	82	Robertson Ryan & Associates Inc.	\$36,850,969	2.8%
81	83	Bouchard Insurance Inc., dba Roger Bouchard Insurance Inc.	\$36,451,063	5.0%
82	85	Gowrie Group	\$35,986,500	8.5%
83	84	Charles L. Crane Agency Co.	\$35,029,007	3.2%
84	89	James G. Parker Insurance Associates <sup>5</sup>	\$34,577,000	8.5%
85	93	Armfield, Harrison & Thomas Inc., dba AHT Insurance	\$33,650,905	12.5%
86	87	The Loomis Co.	\$32,340,000	1.2%
87	92	Lovitt & Touche Inc.	\$32,319,557	5.6%**
88	91	SullivanCurtisMonroe Insurance Services L.L.C.	\$32,100,000	4.6%
89	94	Haylor, Freyer & Coon Inc. <sup>13</sup>	\$31,087,210	4.5%
90	95	Tolman & Wiker Insurance Services L.L.C.	\$30,884,020	7.7%
91	96	Underwriters Safety & Claims Inc., dba The Underwriters Group	\$30,124,710	5.8%
92	100	PSA Financial Services Inc. <sup>3</sup>	\$29,553,365	10.9%
93	98	Ansay & Associates L.L.C. <sup>1</sup>	\$29,508,564	7.1%
94	97	Tompkins Insurance Agencies Inc. <sup>1</sup>	\$29,471,000	4.3%
95	101	Rich & Cartmill Inc.	\$29,316,529	12.9%
96	99	MJ Insurance Inc. <sup>13</sup>	\$28,936,679	7.8%
97	108	R&R Insurance Services Inc.	\$28,200,000	31.2%
98	NR	PacWest Alliance Insurance Services Inc.	\$27,179,696	11.3%
99	102	Murray Securus <sup>12</sup>	\$26,450,000	3.5%
100	112	Shepherd Insurance L.L.C. <sup>1</sup>	\$26,400,219	34.9%

\*Companies that derive more than 49% of their gross revenue from personal lines are not ranked. \*\*2014 restated. NR=Not ranked in 2015. 1 Reported U.S. acquisitions in 2015. 2 Pro forma to reflect 2016 merger of Willis Group Holdings P.L.C., Towers Watson & Co. and Gras Savoye & Cie. Does not include 2014 preacquisition revenue from other acquired companies. 3 Fiscal year ending April 30. 4 National Financial Partners Corp. renamed NFP Corp. 5 British pound=\$1.4746 for 2015, \$1.5586 for 2014. 6 Fiscal year ending May 31. 7 Fiscal year ending March 31. 8 Formerly R K Harrison Group Ltd; renamed following Hyperion Group acquisition. British pound=\$1.5445 for 2015, \$1.5205 for 2014. 9 Fiscal year ending Oct. 31. 10 Formerly Associated Financial Group L.L.C. 11 Includes acquisition of Cook Maran & Associates and ONB Insurance Group Inc., dba Old National Insurance. 12 Fiscal year ending Sept. 30. 13 Fiscal year ending Aug. 31.

Source: BI survey

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**LEADING U.S. COMMERCIAL RETAIL BROKERS**

Ranked by 2015 commercial retail brokerage revenue from U.S. offices\*

Rank	Company	2015 revenue	% increase (decrease)
1	Marsh & McLennan Cos. Inc.	\$2,863,000,000	6.9%
2	Aon P.L.C.	\$2,587,000,000	1.7%
3	Willis Towers Watson P.L.C. <sup>1</sup>	\$1,049,000,000	1.8%
4	Arthur J. Gallagher & Co.	\$985,798,000	1.8%
5	Brown & Brown Inc.	\$949,385,605	9.3%**
6	BB&T Insurance Holdings Inc.	\$641,781,000	(8.3%)
7	Hub International Ltd.	\$636,234,000	24.5%
8	Lockton Cos. L.L.C.	\$635,217,000	8.0%
9	Wells Fargo Insurance Services USA Inc.	\$580,839,000	(4.0%)
10	Alliant Insurance Services Inc.	\$554,305,679	37.9%

\*Excludes revenue from placement of employee benefits. \*\*2014 restated. 1 Reflects merger of Willis Group Holdings P.L.C., Towers Watson & Co. and Gras Savoye & Cie.

Source: BI survey

**BROKERS**

Continued from page 18

The brokerage world remains “very fragmented,” particularly in the middle-market space, Ms. Herman said. “There’s a very active supply. There are thousands of potential acquisitions and high buyer demand.”

Paul Newsome, managing director at Sandler O’Neill & Partners L.P. in Chicago, said smaller brokerage operations are the biggest M&A targets. While larger brokers are not as active as midsize brokers in purchasing small brokers, “it’s important for the midsize brokers” to enhance their competitiveness in the marketplace.

Aside from the soft market, two other factors have negatively affected brokers’ performance, Mr. Newsome said.

One is slow global economic growth. “These companies are dependent on the general level of economic activity,” he said.

The other is foreign currency exchange. “Last year in particular, currency has hampered reported earnings” amid a strong U.S. dollar, Mr. Newsome said.

“The U.S. brokerage market can

only grow as fast as the economy because it’s a mature market,” said John W. Wicher, principal of investment banking adviser John Wicher & Associates Inc. in San Francisco. “It’s hard to imagine some transformational event that would change the insurance product. Technology is changing how the product is distributed.”

Generating organic growth from existing customers also remains a challenge for U.S. brokers.

“Robust organic growth is not so easily achievable,” said S&P’s Ms. Herman. “You really have to work” for organic growth.

“Agencies ended up at a much lower overall organic growth than in prior years,” Mr. Trem said. “At the end of 2015, we were seeing organic numbers come in around 4.4% as opposed in the 6% to 7% range over the last three years. Basically, we’re seeing a softening market on the P/C side.”

Mr. Trem foresees little change in the next year.

Historically, “the average agency continues to write 12% to 14% in new business over the prior year. The top-performing agencies typically write 18% to 20%. We expect more of the same in 2016. Our expectation is that organic growth will likely be less in 2016, below 4%,” he said.

BY ROB LENIHAN

**Big insights out of big data**

**B**ig data in the insurance industry, which is used to reveal patterns and trends, looks poised to grow even more.

“The term ‘big data’ has been a buzzword in the industry for some time now,” said Allen Narkiewicz, a partner at KPMG Management Consulting, Chicago. “There’s more data in the insurance industry and outside of it — social media and other places — than there’s ever been before.”

Big data and what it can mean to insurance companies “is utilizing data to drive fact-based data decisions. A big data (analysis) done right has to start with, ‘What problem are you trying to solve?’ The factors that go into it are completely dependent upon the subject matter,” he said.

A big data analysis not done well “is just getting lots of data and messing around with it,” Mr. Narkiewicz said.

“Historically, insurance companies focused on, and were pretty good at bringing together, the data within their four walls,” said Michael Adler, a New York-based principal in KPMG’s insurance advisory practice. “Now it’s all about bringing in all this other, richer information — whether it be social media, whether it be around wearable devices, the internet of things, unstructured content — to help make better decisions, not just reactively but proactively and predictively.”

A 2015 study by the consultancy Infosys Ltd. said insurance companies can use big data analysis to manage risks profitably, identify fraud effectively, prevent identity theft, design products for customers, and acquire new and retain existing customers.

Adam Cottini, managing director of the cyber liability practice for Arthur J. Gallagher & Co. in New York, said big data is used to look at such concepts as buying trends and catastrophic risk.

“In the world of cyber that we live in, you’re looking at data analytics to determine if there’s exposure to aggregation, all of which

can be used in determining the extent of risk and how your risk is spread across a population,” Mr. Cottini said.

Anand Rao, principal in Price-waterhouseCoopers L.L.P.’s advisory practice in Boston, described big data as the three Vs: volume, variety and velocity.

“The reason they call it ‘big’ is because, every second, we’re producing a whole lot of data,” he said. “You need to make sense out of that and then look at how you can use that data to maybe minimize losses.”

For Libby Christman, vice president of risk management at Ahold USA Inc., it’s all about getting answers.

Like most retailers, the majority of the Carlisle, Pennsylvania-based supermarket chain’s litigation is from slips and falls. “We’re using data to help make decisions on safety programs by helping us pinpoint root causes of injury injuries and accidents based on severity,” she said. “It could be a problem with how are we reducing injuries, how are we looking at our cost lines to reduce them, but we start with a problem and ... a question about what data may be able to pinpoint a solution, or at least a starting point.”

Ms. Christman said the amount of available data “can be very

overwhelming” but informative.

“I think it’s helped us make much better decisions about where we use our investments in terms of our safety resources and our personnel,” she said. “I think we’re able to tell a better story to our operations leadership by using data that’s a little bit more pointed about what their problems are and what we need to do to fix them.”

Ahold’s next big data project will review litigation data and attempt to highlight patterns.

“As we continue to get more refined in the information that we’re getting, we’ll continue to take on other projects,” she said.

Ben Fidlow, New York-based global head of core analytics at Willis Towers Watson P.L.C., said insurance brokers use data mainly “to provide decision support for our clients and differentiate our services.”

“We’re all about empowering our clients,” he said. “If we can perform some type of analysis which allows our clients to make better decisions, we will go about doing that.”

Mr. Fidlow said more work needs to be done in predictive analytics. “Making that linkage from the raw data to the predictive aspects is something we need to get better at,” Mr. Fidlow said.

**LARGEST BENEFITS BROKERS**

Ranked by 2015 global benefits revenue

Rank	Company	2015 employee benefits revenue	% increase (decrease)	% of 2015 revenue
1	Marsh & McLennan Cos. Inc.	\$4,313,000,000	(0.9%)	33.4%
2	Willis Towers Watson P.L.C. <sup>1</sup>	\$3,278,000,000	N/M	40.2%
3	Aon P.L.C.	\$2,657,000,000	(0.7%)	22.7%
4	Arthur J. Gallagher & Co.	\$802,715,000	19.4%	14.9%
5	NFP Corp.	\$530,000,000	4.6%	40.7%
6	USI Insurance Services L.L.C.	\$441,248,004	3.2% <sup>2</sup>	42.5%
7	Jardine Lloyd Thompson Group P.L.C. <sup>3</sup>	\$425,274,640	(3.8%) <sup>2</sup>	24.9%
8	Lockton Cos. L.L.C.	\$381,226,000	9.7%	28.5%
9	Hub International Ltd.	\$326,028,000	23.8%	22.2%
10	Brown & Brown Inc.	\$260,126,835	5.2%	15.7%

NM=Not meaningful. 1 Reflects merger of Willis Group Holdings P.L.C., Towers Watson & Co. and Gras Savoye & Cie. 2 2014 restated. 3 British pound=\$1.4746 for 2015.

Source: BI survey

**MERGERS**

Continued from page 19

It’s expected that these M&A trends will continue for some period into the future, barring significant market-changing financial, political or economic events. The United Kingdom’s recent vote to leave the European Union remains an issue in Europe, but not for the U.S. distribution side. Soft insurance prices are being offset to some degree by growth in exposures and expanded coverage. Interest rates remain at historic

**TOP BUYERS**

Most acquisitive buyers of insurance agencies and brokerages in the U.S. and Canada during the first half of 2016

Buyer	2016 half	Past 3.5 years	Company type
Acrisure L.L.C.	28	117	Private equity-backed
Hub International Ltd.	20	113	Private equity-backed
AssuredPartners Inc.	17	100	Private equity-backed
Arthur J. Gallagher & Co.	16	91	Publicly held
BroadStreet Partners Inc.	12	66	Private equity-backed

Source: Optis Partners L.L.C.

lows, reducing the cost of borrowed funds used for acquisitions.

At the same time, M&A activity and pricing remain at historically high levels, but both are likely to

come back down at some point in the future. Whether the transition in the number of deals is beginning or if 2016 first-half numbers were just an aberration is yet to be

determined.

Agency owners pondering the best time to put the company in play should consider acting sooner than later. Relative to historical trends, now may be the time.

Buyers, on the other hand, should be cautious about trying to compete with the marketplace’s high multiples; acquisitions’ premium valuations can have significant adverse effects for an agency’s long-term viability if the acquired entity doesn’t perform up to expectations and the buyer lacks the capital base to absorb the shortfalls.



Timothy J. Cunningham (left) and Daniel P. Menzer are principals at Optis Partners L.L.C., a Chicago-based

investment banking and financial consulting firm that serves the insurance distribution sector. Mr. Cunningham can be reached at 312-235-0081 or [cunningham@optisins.com](mailto:cunningham@optisins.com), and Mr. Menzer can be reached at 630-520-0490 or [menzer@optisins.com](mailto:menzer@optisins.com).

## CYBER EXPERTISE IN HIGH DEMAND AS MARKET FOR COVERAGE GROWS

BY JUDY GREENWALD

Clients' growing interest in cyber insurance has prompted brokers to increase their staffs, but employees with experience in the relatively new field are in short supply.

That has prompted brokers to hire from a variety of sources, including cyber security, information technology and law firms. They also are pairing experienced brokers with new hires.

"We have a team of 40 across the U.S.," with hubs in New York, San Francisco and Chicago, said Christian Hoffman, New York-based managing director of Aon Risk Solutions' financial services group. As demand has increased, "I would say we've doubled over the last couple of years."

"Our company is certainly adding staffing" to its cyber liability practice, said Adam Cottini, New York-based managing director of the cyber liability practice and area senior vice president at Arthur J. Gallagher & Co. "We are augmenting in various regions, adding to existing cyber centers of excellence; and then in some areas, we're actually adding new cyber centers of excellence."

"With the market growing at 30% a year, we need resources as brokers to support that growth," said Ben Beeson, cyber risk practice leader at Lockton Cos. L.L.C. in Washington. The brokerage needs to "find more bodies to make that happen and support ... our clients who may have not been buying cyber insurance and are starting to buy it."

Shannon Groeber, Philadelphia-based senior vice president of the cyber and errors and omissions practice at JLT Specialty Insurance Services Inc., said the broker expanded into the U.S. in August 2014 and one month later introduced a six-person cyber team, most of whom had more than 10 years of cyber-related experience.

It was a strategic decision to take this approach rather than "bringing in a couple of individuals and trying to grow over time," Ms. Groeber said.

The relative newness of cyber insurance means the supply of experienced brokerage candidates is limited.

People with just two years of cyber-related experience "are in such demand they can negotiate higher salaries and higher positions" than their actual skills support, Ms. Groeber said.

"There is a shortage of cyber aptitude in the brokerage community, so we have been teaching employees that are coming from the underwriting side at times," said Mr. Cottini. Candidates also need to have a certain level of "client-focus aptitude," and new hires must have cyber experience, he added.

Lockton has hired additional

underwriters as well as training recent college graduates, Mr. Beeson said. Lockton also is hiring from information technology and law firms, who then can "adapt to the insurance world," he said.

"We've done experienced hires from another broker, and we've done some entry-level hires to sort of grow our own talent," said Lauri Floresca, San Francisco-based senior vice president at Woodruff-Sawyer & Co.

"The market is really competitive for people who have experi-

ence, and there's a real challenge" to hire people who also are a great match from a personality perspective, Ms. Floresca said.

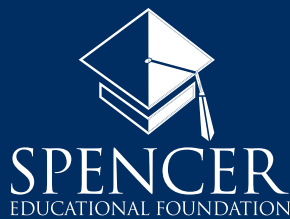
"It's a selective process, and it's not something we enter into lightly, because we want to make sure we hire the right person who brings a certain skill set or value we either don't have or one we want to expand upon," said Brian Dunphy, senior managing director of the management and professional risk group at Crystal & Company in New York.

## LARGEST PRIVATELY OWNED BROKERS\*

Rank	Company	2015 broker revenue	% increase (decrease)
1	Hub International Ltd.	\$1,470,477,000	13.5%
2	Lockton Cos. L.L.C.	\$1,328,569,000	8.0%
3	USI Insurance Services L.L.C.	\$1,027,846,835	12.6%
4	NFP Corp.	\$907,847,210	10.6%
5	Alliant Insurance Services Inc.	\$828,224,083	33.5%
6	AssuredPartners Inc.	\$570,193,798	22.4%
7	Acrisure L.L.C.	\$410,654,072	114.7%
8	BroadStreet Partners Inc.	\$336,550,000	36.6%
9	Integro Group Holdings L.P.	\$276,744,000	30.3%
10	Leavitt Group Enterprises	\$216,058,000	(2.9%)

\*Companies that derive more than 49% of revenue from personal lines are not ranked.

Source: BI survey



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# 1 Marsh & McLennan Cos. Inc.

2015 gross revenue: **\$12.91 billion**

Percent increase (decrease): **(0.5%)**

2015 brokerage revenue: **\$12.91 billion**

Percent increase (decrease): **(0.4%)**

**M**arsh & McLennan Cos. Inc. enjoyed another profitable year in 2015 despite a challenging economy.

Even though 2015 brokerage revenue dipped a bit — less than 1% — from the previous year to just over \$12.91 billion, it was still enough to keep Marsh & McLennan atop the *Business Insurance* ranking of both the world's largest brokers and the U.S.' largest brokers.

Meanwhile, gross revenue fell less than 1% to just under \$12.91 billion. Internal services between Marsh & McLennan units, which generates revenue that is eliminated from its consolidated revenue, accounts for brokerage revenue being higher than gross revenue.

"Marsh has been performing well in 2015 and 2016," said Julie Herman, director of financial services ratings at Standard & Poor's Corp. in New York. "They continued to demonstrate single-digit positive organic growth of 4% in 2015 and in the first quarter of 2016."

"The company had a slight total revenue decline," she added, "but that was due to foreign exchange rates. In terms of the core fundamentals, it was a solid performance."

Other analysts agreed.

The company is "just a very attractive name to own, particularly when there's a high degree of market

volatility," because of factors that include its organic growth and attractive capital management, said Quentin McMillan, New York-based director of equity research at Keefe, Bruyette & Woods Inc.

The company has "done very well, largely sticking to its knitting," said J. Paul Newsome, managing director at Sandler O'Neill & Partners L.P. in Chicago. "It's mostly been a process of trying to maximize earnings through improvements in profit margins."

"In this increasingly dynamic and uncertain environment, our areas of strength — risk, strategy and people — have never been more relevant to our clients," Daniel Glaser, president and CEO of Marsh & McLennan, said in an email. "Building on six consecutive years of strong performance, Marsh & McLennan delivered another year of robust financial results in 2015."

"I was really pleased with what we accomplished in 2015 as an organization," said Peter Zaffino, CEO of Marsh L.L.C., the company's brokerage operation, and chairman of the risk and insurance services segment of Marsh & McLennan, which comprises Marsh L.L.C. and Guy Carpenter & Co. L.L.C., the company's reinsurance brokerage operation.

Citing the hiring of former American International Group Inc. execu-

tive John Doyle as president of Marsh L.L.C. and former Willis Re Inc. executive Peter Hearn as CEO of Guy Carpenter, Mr. Zaffino noted the additions say "a lot about the caliber of leadership talent we are able to attract."

Marsh & McLennan's employee count rose to 60,000 in 2015 from 57,000 in 2014.

Acquisitions also played a key role in the company's growth, and it has a "set of clear guideposts" for potential targets, he said.

"First, is there geographic expansion opportunity? Second, does it fit with our middle-market and (small and midsize enterprises) strategy? Finally, is it an opportunity that is adjacent to our core business?" Mr. Zaffino said.

Marsh continues to "invest heavily" in its people as well as "to innovate and develop new products ... In 2015, we completed several significant acquisitions to enhance the range of services we offer clients," he said.

Marsh & McLennan completed 21 acquisitions in 2015 for a total of approximately \$1.2 billion. Thirteen deals were in the risk and insurance services segment, and eight were in the consulting segment, according to the firm's stock market filings.

Among its notable acquisitions were Jelf Group P.L.C., an independent British insurance broker and consultant, and SMEi Group Ltd., a Leeds, England, independent broker providing specialist commercial insurance to small and midsize firms.

The company continued to expand its Marsh & McLennan Agency L.L.C. operation, which serves middle-market clients, with six acquisitions.

"Our strategy is to buy and hold," Mr. Zaffino said.

The Marsh & McLennan Agency platform "has grown to close to \$1 billion" since its 2008 launch, said S&P's Ms. Herman.

One of its most significant agency acquisitions was Dallas-based MHBT Inc. with revenue of \$76 million, expanding Marsh & McLennan Agency's footprint in the Southwest.

Marsh also launched several cyber-related products, Mr. Zaffino said.

They include Marsh's Cyber ECHO, a global excess cyber risk facility with up to \$50 million in coverage for clients in any industry sector. Another product, Cyber IDEAL, models the financial impact of cyber events on an organization, while the new Cyber Risk Self-Assessment Tool is designed to help organizations measure the consequences of a cyber event, he said.

Marsh has grown despite market challenges.

"There's ample capacity across the world, and there have also been pricing decreases over the past couple of years, primarily driven by property," Mr. Zaffino said. "Economic growth has been encouraging — we're starting to see recovery in some of the developing parts of the world, more infrastructure investment — so we're cautiously optimistic."

By Mark A. Hofmann



Daniel Glaser, president and CEO

# 2 Aon P.L.C.

2015 gross revenue: **\$11.68 billion**

Percent increase (decrease): **(3.0%)**

2015 brokerage revenue: **\$11.66 billion**

Percent increase (decrease): **(3.0%)**

**L**ike many peers, Aon P.L.C. faces challenges in growing in today's market, but the brokerage plans to address them by servicing its clients innovatively.

In 2015, the London-based company's brokerage revenue dropped 3.0% to \$11.66 billion, making it No. 2 in *Business Insurance*'s 2016 ranking of the world's largest insurance brokers.

Aon's gross revenue also dropped 3.0%, to \$11.68 billion.

"The biggest issue for Aon, like most of the big brokers, is trying to squeeze out further profit margin expansion," said J. Paul Newsome, managing director at Sandler O'Neill & Partners L.P. in Chicago.

"They and others are near a record high in terms of their profit margin and intend to get them even higher. But as you can imagine, as you get those profit margins higher and higher, it typically makes it more difficult to make that happen," Mr. Newsome said.

"Unless you see a change in the insurance market," top-line growth is largely tied to, and will be in line with, global gross national product growth,

he said.

Over the past couple of years, Aon's financial results focus "has been more about financial engineering benefits," which has been accomplished through measures including changing its domicile to the United Kingdom and significantly lowering employee pension costs. That "means they've been able to buy back a lot more shares," a focus expected to continue for the next couple of years, Mr. Newsome said.

Aon is "already in just about every business in the insurance brokerage world. I would expect them to make small, incremental transactions to enter into incrementally smaller markets," he said.

Aon reported a 2015 organic growth rate of 3.0%, no surprise to analysts.

"Organic growth is going to largely be determined by pricing, which remains negative," said Quentin McMillan, New York-based director of equity research at Keefe, Bruyette & Woods Inc. in New York. "We believe that Aon, as well as the rest of the brokers, can continue to show 3% to 4% organic growth going

forward."

Michael J. O'Connor, Chicago-based CEO of Aon Risk Solutions, said the company has faced a "pretty stiff foreign exchange headwind" that its results have reflected.

However, customer service remains a key focus to growing the business.

"Aon is united in one goal — enabling our clients to make better business decisions in a dynamic and complex market. Around the world, we are utilizing our collective intellectual capital and harnessing data and analytics to recognize patterns, drive new insights and create value on behalf of our clients," Aon President and CEO Gregory C. Case said in an email. "We see tremendous opportunity to deploy our innovative solutions and expertise in the areas of risk, retirement, health and talent to help our clients navigate this changing landscape."

Mr. O'Connor noted that over the past year, Aon, which changed its domicile from Chicago to London in 2012, moved into a new London headquarters dubbed the "cheese grater" because of its resemblance to the kitchen tool.

The vast majority of Aon's London team has moved from other locations into the building, which creates an opportunity for Aon to bring its team

together and offers an environment where people can work together effectively, Mr. O'Connor said.

Worldwide, Aon had 69,000 brokerage employees in 2015, the same as the previous year.

The United Kingdom's vote to leave the European Union will not affect this process, Mr. O'Connor said.

"We don't expect that to have any impact in terms of approach, philosophy and how we move forward," he said.

In March, Aon announced that Bryon Ehrhart, previously Chicago-based CEO of Aon Benfield Americas, was promoted to global head of growth and development, a move that is intended to boost growth.

The company said Mr. Ehrhart, who joined Aon in 2004 and reports directly to Mr. Case, will explore ways to accelerate Aon's growth initiatives.

"We've got an extremely talented leadership team and a deep bench, and part of what we want to continue to do is to basically develop our people, give them opportunities to lead and to innovate, both within our firm and also with our partners," Mr. O'Connor said.

Mr. Ehrhart is a "great example of that talented leader," Mr. O'Connor added.

By Judy Greenwald



Gregory C. Case, president and CEO



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## 3 Willis Towers Watson P.L.C.

2015 gross revenue 2015: **\$8.15 billion**

Percent increase (decrease): **114.4%**

2015 brokerage revenue: **\$8.12 billion**

Percent increase (decrease): **115.7%**



John Haley, CEO



Dominic Casserley, president and deputy CEO

The transformative merger that created Willis Towers Watson P.L.C. is an ongoing project but, if executed successfully, should position the firm to better compete with its larger rivals.

The \$18 billion deal, which brought together London-based brokerage Willis Group Holdings P.L.C. and New York-based consulting firm Towers Watson & Co., was completed in January, but the combined organization is still going through the process of merging its operations.

Billed as a merger of equals, the deal created a firm that more closely resembles larger rivals Marsh & McLennan Cos. Inc. and Aon P.L.C., which both have extensive brokerage and consulting operations.

“The industry leaders in insurance brokerage and consulting services are Marsh, Aon, and now Willis Towers Watson,” said Bruce Ballentine, senior analyst at Moody’s Investors Service Inc., although he noted that with gross revenue of \$8.15 billion, Willis is still smaller than Marsh & McLennan and Aon by some margin. Despite the merger, Willis Towers Watson remains No. 3 in the 2016 *Business Insurance* ranking of the world’s largest brokers with 2015 bro-

kerage revenue of \$8.12 billion.

Mr. Ballentine said that “these are two powerful companies, and there are complementary aspects to the business ... One historically is stronger in property/casualty, the other, historically, in employee benefits and related advice.”

Mr. Ballentine said the strengths and opportunities of the combined company are tempered by the integration risk of such a large merger, adding to the challenges of legacy Willis’ existing restructuring program and its recent acquisition of Paris-based broker Gras Savoye & Cie., the largest brokerage in France.

CEO John Haley, who previously headed Towers Watson, acknowledged that the preparation for a merger can be a tense period.

“You go through six months of putting all the details together and actually getting started working as one company,” he said, “and there’s a bit of nervousness, just waiting to get things started. But now I think there’s a lot of excitement from our colleagues all around the world.”

Mr. Haley said historically when brokers and consulting firms have come together, “they’ve tended to go to market in a separate fashion.”

“One of the things that we were thinking about bringing together two roughly equal-sized firms,” he said, was “maybe it makes it a little easier to package things together where you’re looking at both sides ... and you’re going to market that way.”

Mr. Haley said the management team of the company’s operating committee is made up of 14 people, with half coming from the Towers Watson side and half from the Willis side. Dominic Casserley, formerly CEO of Willis, is president and deputy CEO of the merged firm.

“That creates a different feeling,” he said. “The Willis people don’t feel like they’re being taken over, the Towers Watson people don’t feel like they’re being taken over, and both sides are working to create an environment across lines. The reason we think we can do that where others have failed is because we’re not absorbing one organization into another. We’re creating a new one that’s the logical successor to both of the other ones.”

The new entity also has an expanded international reach: In December, Willis completed its long-planned acquisition of Paris-based broker Gras Savoye. The acquisition extended the new company’s reach to 120 countries and brought staffing up to 39,000 employees.

“When we did the merger on Jan.

4,” Mr. Haley said, “we were really bringing together all three of those organizations. Gras Savoye was really significant in terms of scale.”

“We’re in the beginning of the integration period, which lasts until December 2018,” the company said in an email. “Our position redundancies have occurred primarily in the corporate functions, and we don’t expect many across business operations. Other cost measures include real estate consolidation and procurement/vendor savings.”

In the search for revenue streams, Mr. Haley said the company is looking to introduce Willis brokers to some of the contacts that Towers Watson traditionally had in the large-company market. In addition, he said the company believes that offering its health care exchanges to the middle market through the Willis brokers will provide additional revenue.

“We have a global health business that is very much like the exchanges that Towers Watson has been rolling out with a different broker,” he said. “Now we’ll be rolling that out with Willis, and the early signs for that are very, very positive.”

Mr. Haley also said cyber insurance is a new area of business, adding that the company has completed several placements for large financial organizations in the past few months.

By Rob Lenihan

## 4 Arthur J. Gallagher & Co.

2015 gross revenue: **\$5.39 billion**

Percent increase (decrease): **16.6%**

2015 brokerage revenue **\$3.99 billion**

Percent increase (decrease): **13.0%**



J. Patrick Gallagher Jr., chairman, president and CEO

Arthur J. Gallagher & Co.’s aggressive international expansion over the past three years appears to be paying off as the brokerage reports another year of strong, acquisition-fueled growth.

While it’s still unclear how the June “Brexit” vote in the United Kingdom will affect its operations there, the brokerage’s recent acquisitions in Australia, Canada, New Zealand and elsewhere are contributing to its growth and are expected to provide bases for further acquisitions.

The international buys come as the U.S. market remains sluggish in many areas and competition for domestic acquisitions is increasing.

International deals have been an important recent development for Gallagher, providing opportunities for more expansion and more locations to expand into, said Ken Billingsley, senior vice president and research analyst at Washington-based investment bank Compass Point Research & Trading LLC.

“It gives them more shots on goals and more goals to shoot at,” he said.

International acquisitions tend to have higher costs than domestic deals, but the competition for acquisitions has pushed up U.S. prices, said

J. Paul Newsome, managing director and senior insurance analyst at Sandler O’Neill & Partners L.P., Chicago.

“There’s a lot of private equity firms competing, and the M&A environment has been pretty frothy ... it’s not that we’ll see negative returns, but the benefits are just less than they were in years past,” he said.

Overall, Gallagher saw strong growth in 2015, with brokerage revenue up 13.0% to \$3.99 billion, placing it No. 4 on *Business Insurance*’s 2016 ranking of the world’s largest brokers. Gross revenue increased 16.6% to \$5.39 billion.

Organic growth was 5%.

In its commercial retail brokerage sector, which accounted for \$1.74 billion in revenue, non-U.S. revenue growth was particularly strong. Revenue from non-U.S. offices grew 30.7% to \$754.4 million; U.S. offices grew just 1.8% to \$985.8 million.

The firm performed well despite an extremely competitive market, said J. Patrick Gallagher Jr., chairman, president and CEO of the Itasca, Illinois-based brokerage.

“It’s a hard slog out there,” he said, adding that the market has remained “relatively rational” in pricing in the eight years since the financial crisis

because low interest rates have reduced instances of cash-flow underwriting by insurers.

Continuing its long-established strategy of acquisition-based growth, Gallagher bought 42 firms in 2015, Mr. Gallagher said. “That’s 42 firms who chose us because it’s competitive ... the brokerage market is a key target for private equity, and our strategic competitors are out explaining to people why (brokerage firms) should join them,” he said.

Its biggest 2015 acquisition was Boston-based William Gallagher Associates Insurance Brokers Inc., for which it paid \$151.5 million, according to stock market filings.

Acquisitions continued in 2016, with eight buys in the first quarter, the largest of which was the insurance management operations of Bermuda-based Kane Group Ltd. for \$30.8 million, according to filings.

Gallagher announced earlier this month that it had bought an 85% stake in Stockholm-based brokerage Brim A.B. Terms were not disclosed.

Gallagher made an international splash in 2014, particularly with its purchase of Wesfarmers Ltd. in Perth, Australia, which has since been rebranded as a Gallagher firm.

It has also expanded in the United Kingdom, but it’s unclear how the U.K.’s recent vote to leave the European Union will affect that business.

Should the U.K. goes into recession

as a result of the move, as some economists predict, all brokers will be affected, but the drop in the value of sterling could make acquisitions cheaper, Mr. Billingsley said.

While many of its larger deals have been in English-speaking countries, Gallagher has firms or investments in firms in 33 countries, including Chile, Colombia, Mexico, Norway, and the Philippines. “So we really are building out a global platform,” Mr. Gallagher said.

But the brokerage is maintaining its niche and specialty focus, he said.

Gallagher has 32 property/casualty verticals and 15 benefits verticals where “we feel we are as accomplished as anyone in helping those clients beyond just buying insurance; it really is becoming business partners. Those are the areas that are growing fastest for us,” he said.

Employee benefits also have been a growth area since the 2010 passage of the U.S. health reform law, he said.

One big upcoming change is moving its headquarters. In 2017, the firm will return to the building in Rolling Meadows, Illinois, that it left 26 years ago. The building, which Gallagher will own, is refurbished and updated.

“It will be a real boost to our culture because there will be more people on a floor ... you are going to run into people all the time,” Mr. Gallagher said.

By Gavin Souter

## 5 Jardine Lloyd Thompson Group P.L.C.

2015 gross revenue: **\$1.71 billion**

Percent increase (decrease): **4.6%**

Jardine Lloyd Thompson Group P.L.C. is looking to continue its U.S. brokerage expansion in specialty insurance and reinsurance, but it does face some headwinds in its efforts to hire talent to further that business.

London-based JLT saw its commercial retail brokerage revenue increase 7.7% to \$664.6 million in 2015, including more than doubling its U.S. revenue, which rose to \$30.8 million. It also posted higher reinsurance and employee benefits revenue.

The broker's U.S. push — furthered by its 2014 merger of JLT Specialty Ltd. and its wholesale arm, Lloyd & Partners Ltd., following its 2013 acquisition of the reinsurance business of what then was Towers Watson & Co. — “appears to have worked,” said Eamonn Flanagan, head of the Liverpool, England office of Shore Capital Group Ltd.

“We now have offices in 13 cities, in all the major economic areas where we want to be focused,” said Dominic Burke, group CEO of JLT, with specialist offerings in directors and officers liability, entertainment, and oil and gas coverage. “We remain very much in build mode (in the U.S.) and see ourselves building for some



Dominic Burke, group CEO

2015 brokerage revenue: **\$1.70 billion**

Percent increase (decrease): **4.7%**

time.”

The brokerage's revenue for 2015 came in at \$1.70 billion, a 4.7% increase over the previous year, placing it fifth in *Business Insurance's* 2016 ranking of the world's largest brokers. Gross revenue for 2015 was \$1.71 billion, a 4.6% increase.

But JLT also has faced some litigation risk, which Mr. Flanagan said includes a current suit involving Aon P.L.C. alleging that JLT poached staff and that some of those staff were in breach of contract.

In April, JLT announced that it had settled a suit with Willis Towers Watson P.L.C. over a fine arts, jewelry and specie team that JLT hired in 2015. JLT said it had set aside about £22 million (\$28.5 million) for the case.

Despite the poaching allegations, JLT remains focused on building its U.S. business, which Mr. Burke said is creating a “runway for growth for other areas of the world.”

He said the brokerage has won business by dint of having a global platform from clients in Asia, South Africa, Australasia and Latin America, for example, even when those clients do not currently require JLT's services in the U.S.

Reinsurance and employee benefits

business remain bright spots for the broker. JLT Re, the brokerage's reinsurance arm, increased its revenue to \$338.9 million in 2015, up 3% from 2014, which Mr. Burke described as a “strong” year despite soft pricing.

Employee benefits also is an important area for JLT despite challenges in the United Kingdom, its largest marketplace, over the past year, Mr. Burke said. In 2015, JLT's employee benefits division posted revenue of \$425.3 million, up 1.7% compared with a year earlier.

Employee benefits business makes up about 25% of JLT's revenue, Mr. Burke said. But despite increasing its overall employee benefits revenue, he said revenue in its U.K. and Ireland division fell about 9% to £167.4 million (\$216.8 million).

The division, which accounted for about half of total employee benefits revenue, reflected changes in tax relief on U.K. occupational pensions, and life insurers ceasing to collect commissions ahead of the 2016 deadline on ending that practice.

The pension changes resulted in some employers entering “a state of paralysis around long-term support of pension” plans, Mr. Burke said.

“It has been a difficult period, but in no way dilutes my commitment to this business and its relevance and importance to JLT,” he said.

Bala Viswanathan was appointed

CEO of JLT's employee benefits unit last October, succeeding Duncan Howarth, who retired.

The unit is restructuring to create a flatter structure, smaller headcount and generate annual cost savings of about £14 million (\$18.1 million) after a one-time cost of £12 million (\$15.5 million), JLT said in its annual report.

“I am confident about the long-term outlook, and it is a strong business but has necessitated a whole new look at the way we deploy resources,” Mr. Burke said of efforts that will simplify processes and establish a more responsive platform.

As for the U.K.'s decision in a June referendum to leave the European Union, Mr. Burke said JLT “benefits from change.”

Although JLT as an organization was neutral in the “Brexit” vote, Mr. Burke was one of only two insurance industry leaders — the other being Hiscox Ltd.'s life President Robert Hiscox — to sign an open letter in favor of leaving the E.U.

“I don't think there is anything to fear,” Mr. Burke said. “I respect the views of those who are concerned about London's standing as a financial center, but London will survive,” Mr. Burke said. “I fear nothing for JLT in this respect.” Mr. Burke said. “We celebrate risk at JLT. We like risk. We like challenge.”

By Sarah Veysey

## 6 BB&T Insurance Holdings Inc.

2015 gross revenue: **\$1.75 billion**

Percent increase (decrease): **(2.3%)**

A change at the top followed by a major acquisition marked the start of 2016 for BB&T Insurance Holdings Inc.

On Jan. 1, John Howard, previously the Roseland, New Jersey-based CEO of BB&T's wholesale division and vice chairman of BB&T Insurance, succeeded H. Wade Reece as chairman and CEO of BB&T Insurance.

Mr. Reece announced last September that he would retire at year-end 2015 from the unit of Winston-Salem, North Carolina-based financial services holding company BB&T Inc.

Mr. Reece, who joined BB&T in 1978, took the insurance brokerage operations from revenue of \$6 million in 1990, when he was charged with overseeing the insurance side of the business, to \$1.68 billion in 2015, making it the sixth-largest insurance broker in the world, according to *Business Insurance's* 2016 ranking. Gross revenue for 2015 came in at \$1.75 billion.

Several weeks after naming Mr. Howard, BB&T said it would acquire the North American brokerage business of Cooper Gay Swett & Crawford Ltd. for \$500 million, further cementing Raleigh, North Carolina-based BB&T Insurance's standing as a major wholesale marketplace player.



John Howard, chairman and CEO

2015 brokerage revenue: **\$1.68 billion**

Percent increase (decrease): **(2.2%)**

“It's an excellent insurance operation. They've done a nice job building that franchise within a larger commercial banking chassis,” said John L. Ward, CEO of Loveland, Ohio-based private equity firm Cincinnati Partners L.L.C.

“Their margins are strong, their performance is outstanding, and they have good strategic alignment within the bank,” Mr. Ward said. “Their acquisition strategy is somewhat unique in that they drive the insurance strategy through the wholesale and specialty operation, which now appears to be about half of their revenue source.”

BB&T's 2015 wholesale revenue grew 2.3% to \$756.5 million, while retail brokerage revenue dropped 8.3% to \$641.8 million. Employee benefits revenue remained virtually flat at \$175.3 million.

Mr. Howard said the retail brokerage revenue drop reflected BB&T's sale of Sunrise, Florida-based American Coastal Insurance Co. in April 2015, and that BB&T Insurance had a positive organic growth rate, which the company reported as 1.8%.

In addition, BB&T last year bought a majority stake in AmRise L.P., a Houston-based managing general

underwriter with 2014 gross written premiums of nearly \$1 billion.

The two acquisitions bolstered BB&T's position as a premier wholesale broker, said Mr. Howard.

“Our experience in wholesale brokerage, underwriting and programs, and knowledge of the industry make the wholesale business attractive to us,” Mr. Howard said. “Our scale, diversity, financial resources and culture combine to create a powerful platform that is very effective at serving our clients.”

Mr. Howard said integrating the Swett & Crawford business “is going according to plan” and that BB&T's newest acquisition is performing well. “Swett is a great fit with our wholesale property and casualty business. Our cultures are similar,” he said. “We are able to provide ongoing investment and stable ownership for Swett, which removes the distractions that they have faced in recent years.”

Other 2015 acquisitions include The Addis Group L.L.C. in King of Prussia, Pennsylvania, and Connecticut Underwriters Inc. in Middletown, Connecticut. Acquisitions this year include National Penn Insurance of Bethlehem, Pennsylvania.

Mr. Howard said the brokerage market faces several challenges.

“There is modest economic growth in the U.S., and the property and casualty industry is overcapitalized,

so we continue to face soft market conditions,” he said. “The brokerage market remains competitive, but we are very well-positioned and continue to grow.”

BB&T has a large presence in the U.S. Southeast, and catastrophe-exposed property is “a particularly soft area,” he said.

BB&T Insurance also has a large energy practice, “so that's another headwind, but we're able to overcome those market challenges by adding talented producers, retaining our customers and winning new business,” Mr. Howard said.

The company is meeting such challenges by investing in operations and talent.

“Talent is the key ingredient of our business,” he said. “We have a good reputation, and talented producers want to work for us. It is a competitive industry, but we are always developing those relationships and have a good track record in retaining and hiring extraordinary producers.”

Mr. Howard joined BB&T in 2012 when BB&T acquired Crump Group Inc., of which Mr. Howard was president and CEO.

“The investments in Crump, Swett, and AmRise have significantly strengthened our company,” said Mr. Howard. “We have evolved BB&T Insurance and positioned it well for the future.”

By Mark A. Hofmann

## 7 Brown &amp; Brown Inc.

2015 gross revenue: **\$1.66 billion**Percent increase (decrease): **5.4%**2015 brokerage revenue: **\$1.66 billion**Percent increase (decrease): **5.7%**

**B**rown & Brown Inc. boosted its brokerage business in 2015 despite the market's competitive environment and sees ongoing opportunity as a result of the U.S. health care reform law, but it also has cooled its hot acquisition pace of recent years.

The broker historically has grown its revenue with acquisitions, "mostly through smaller kinds of tuck-in deals," said Elyse Greenspan, New York-based vice president at Wells Fargo Securities, who covers the property/casualty industry. "But over the past several years, there have been a few larger-scale acquisitions they've brought in."

Last year, Brown & Brown reported \$56 million in acquisitions, down from the prior three years, when its acquisitions totaled about \$150 million in annualized revenue, the brokerage said in its annual report.

Because of the acquisition slowdown, Ms. Greenspan said the publicly held company repurchased \$175 million in stock.

"I think that was used positively as an effort to better manage their capital and cash position, since they weren't finding as many acquisitions as they had in the past," she said.

When 2015 was done, Daytona Beach, Florida-based Brown & Brown had increased its brokerage revenue 5.7% to \$1.66 billion, making it No. 7 in the 2016 *Business Insurance* ranking of the world's largest brokers. Gross revenue, meanwhile, increased 5.4% to \$1.66 billion.

"By and large, they saw growth," Ms. Greenspan said. "Their margins were relatively flat, with a little bit of deterioration." For 2016, "we're looking for continued growth, but we're looking for some level of margin deterioration, mostly due to some of the technological-related investments they've been making, and a little bit of a slowdown in organic revenue growth."

The broker's organic growth last year was reported as 2.6%.

Once the IT-related retail system investments are done, that "could help lead to future organic growth opportunities," she said.

J. Powell Brown, Brown & Brown's president and CEO, said in the company's 2015 annual report that it would spend \$30 million to \$40 million on technology improvements over the next two to three years.

In an interview, he said that while acquisitions are important to contin-

ue growing, they must fit culturally and financially.

"Cultural fit is the most important thing, and if they don't fit culturally, then we don't move forward. But they also have to make sense financially," Mr. Brown said. "So there were several acquisitions we thought could fit culturally, but we just couldn't make sense financially with the transactions, or the other offers they were giving. We're OK with that."

"We don't have employees at Brown & Brown; we have teammates," he said. "When we're looking to make an acquisition, it's forever. There are businesses out there that are acquiring companies that are going to sell the whole thing in three to seven years. There's nothing permanent about that. They can't create a culture in that period of time. We are very, very focused on culture and our teammates and doing what's in the best interests of our clients over a very long period of time and we've done for it for 76 years."

The best acquisitions, he said, "are when you get the head and the heart of the leader, and he or she then delivers the talent. In smaller acquisitions, it's different from when you put two behemoths together. There's a war on talent out there. People are our greatest asset and our greatest challenge as we continue to grow and move forward."

Mr. Brown acknowledged that property rates ranged from flat to down 5%. "So whether it's South Texas or South Florida or up the East Coast or the Gulf Coast, it's very competitive," Mr. Brown said. "There continues to be a difference between renewal pricing and new business pricing."

However, opportunities abound in employee benefits, he said.

The Affordable Care Act "has created a lot of confusion, particularly around compliance and understanding how to make that work for employers of all sizes, so we're seeing a lot of opportunities there."

Brown & Brown in 2015 boosted its employee benefits revenue 5.2% to \$260.1 million.

"I think it was a good year," Mr. Brown said. "We're trying to grow our company a little more organically, but I was pleased with the overall performance, and we're excited about this year and the years in the future."

Ms. Greenspan said, "We have a positive view on the insurance brokers in general."

"I think we're operating in an environment where, even with prices declining on the property/casualty side, you can still see brokers push through organic revenue growth by virtue of seeing economic improvement and a pickup in exposure growth," she said.

By Rob Lenihan



J. Powell Brown,  
president and CEO

## 8 Hub International Ltd.

2015 gross revenue: **\$1.47 billion**Percent increase (decrease): **13.4%**2015 brokerage revenue: **\$1.47 billion**Percent increase (decrease): **13.5%**

**A**s one of the few privately held companies among the world's largest brokers, Hub International Ltd. remains one of the most acquisitive.

Having made 43 acquisitions in 2015 and about 20 already this year, the challenge for Chicago-based Hub will be deciding "what their culture is going to be," said Bobby Reagan, CEO of Reagan Consulting Inc. in Atlanta.

The entities Hub has acquired "are entrepreneurial, they're not big broker kind of cultures, and I think the challenge is bringing that together ... with the scale and capabilities of a larger organization," Mr. Reagan said. "They probably have the freedom today, more than some other acquirers, to be more selective in what they go after. There's no real pressure on them to do a certain amount."

John Wicher, principal at John Wicher & Associates Inc. in San Francisco, said being privately held allows Hub's management to "stomach short-term earnings volatility in exchange for operating flexibility."

The ability to "focus on achieving long-term success ... adds something

to their story. At the same time, they're competing with Alliant (Insurance Services Inc.) and USI (Insurance Services L.L.C.) and others that also can make that argument," Mr. Wicher said.

Hub has been privately held since 2007, when it was acquired by private equity firms Apax Partners L.L.P. and Morgan Stanley Principal Investments Inc. The brokerage recapitalized after San Francisco-based private equity firm Hellman & Friedman L.L.C. bought it for \$4.4 billion in October 2013.

With a 13.5% jump in brokerage revenue for 2015 to \$1.47 billion, Hub is No. 8 in the 2016 *Business Insurance* ranking of the world's largest brokers, up from No. 9 last year. Gross revenue grew 13.4% to \$1.47 billion.

The rise was due in part to 4.7% organic growth and about \$153 million in revenue from acquisitions, said Hub Chairman and CEO Martin P. Hughes.

In 2014, the company had 4.2% organic growth and about \$170 million in acquisitions, but that "was a monster year for us," Mr. Hughes said. "It may have been the largest

year we've ever had for acquisitions."

"We do not try to target the number of acquisitions we're going to do or the revenue we're going to acquire," he said. "We just know we're good at this piece. We know we'll get lots of opportunities, and we just want to make sure we're disciplined in our approach."

Location doesn't matter as long as firms are a good fit "culturally, strategically and financially," Mr. Hughes said. However, he added, "don't look for us to expand outside of the U.S. and Canada."

"When we've gotten in trouble is when we fell in love with geography instead of the people," Mr. Hughes said. "We don't do that anymore. Are there scenarios we'd love to be in? Sure. But if we can't find the right firms, we're not going to force feed it."

To that end, Hub sold Harmonia Corretora de Seguros Ltda., the São Paulo-based insurance brokerage it acquired in 2011, in November 2014.

Last October, it established a new unit, Specialty Program Group, and named Chris Treanor to lead the unit as president of programs and specialty products to not only develop specialized products but also acquire and develop top-notch managing general agents.

Producers are going to "be much more specialty-focused, have much

more subject matter expertise and many more resources built around them to augment that expertise," Mr. Hughes said. "We expect Chris to build that business out for us."

Along with specialty, Mr. Hughes said employee benefits is likely to grow faster than other parts of the business, noting that Hub more than doubled the number of producers it hired in 2015 from a year earlier.

In the process, Hub boosted its employee benefits revenue 23.8% to \$326.0 million in 2015.

Now it's focusing on bringing its brokerages into a single management system. The process, which Mr. Hughes called a "massive undertaking," will likely be complete within the next year.

"If you're going to be in the specialty practices arena, you need to have access to quality data and you need to be able to manipulate that data," he said.

Mr. Reagan said investing in technology and subject matter experts are important to risk managers who want to work with experts who "have depth and metrics and benchmarks."

"Certainly there are a lot of risk managers that have been looking for that for many years," Mr. Reagan said, "but there's more interest in it today than ever."

By Stephanie Goldberg



Martin P. Hughes,  
chairman and CEO

## 9 Lockton Cos. L.L.C.

2015 gross revenue: **\$1.34 billion**

Percent increase (decrease): **7.8%**

2015 brokerage revenue: **\$1.33 billion**

Percent increase (decrease): **8.0%**

**L**ockton Cos. L.L.C. had a solid performance in 2015 and expects more of the same this year, as it stays the course as a private firm.

“They’re pretty impressive,” John Wicher, principal of John Wicher & Associates Inc. in San Francisco, said of the Kansas City, Missouri-based insurance brokerage.

Being able to stay private is “very, very difficult,” and “Lockton has done something pretty special in that they’ve grown to \$1.3 billion in revenue” while maintaining that status, Mr. Wicher said.

This allows Lockton to offer employees higher compensation than publicly held brokers, which has helped the firm recruit “higher performance-type producers,” he said.

“I don’t know another firm that’s been able to grow and achieve the sort of revenue level that they have achieved without being ultimately put in the position of needing to do a public offering to grow or look to private equity for capital,” Mr. Wicher said.

Lockton reported \$1.33 billion in 2015 brokerage revenue, up 8.0% from a year earlier, moving it up one notch to No. 9 in *Business Insurance’s* 2016 ranking of the world’s largest com-

mercial insurance brokers. Gross revenue increased 7.8% to \$1.34 billion.

The 50-year-old company plans to remain private, said Executive Chairman David Lockton.

“We have laid careful plans to remain private well into the next generation of Lockton,” he said.

Being private “allows us to concentrate on the two most important factors in the business” — client-facing professionals and clients, said John L. Lumelleau, Lockton’s president and CEO. “Our industry is populated with very successful firms, but we like the advantages of our private ownership because it really does give us greater opportunity to focus on what clients need and what professionals want to achieve in their careers.”

This means “Lockton can allocate financial resources to its employees,” and has the ability “to spend the necessary time developing solutions for our clients. It all adds up to one big advantage to our privately held status,” Mr. Lumelleau said.

Lockton continues to focus primarily on organic growth, helped by its 95% client retention rate, said Mr. Lockton. “We have been able to best that the last couple of years.” Having to replace only 3% to 5% of your

clients demands only a “modest sales effort,” he said.

Meanwhile, “We continue to see expansion opportunities for us around the world, not only in various industry segments, but in the geographic sense when we look at our three core businesses: international, U.S. retail and benefits,” Mr. Lumelleau said.

“More specifically, a big part of our expansion has been building out our presence in marine insurance,” with

**“We have laid careful plans to remain private well into the next generation of Lockton.”**

David Lockton, Lockton Cos. L.L.C.

the formation of a joint venture, LCH Lockton Pte. Ltd. in Singapore, and the acquisition of P.L. Ferrari & Co. in Genoa, Italy, which was announced in June, Mr. Lockton said. Both companies have management and leadership that “are a great cultural match for our company in that they are very entrepreneurial,” he said.

Lockton has entered five new countries through acquisitions or organically: Italy, Monaco, Greece, Jordan and Morocco.

Energy is a significant business.

“Despite the fact that the global energy and commodity markets are in recession, from the standpoint of those industries, we have been continuing to add talent in our Lockton global energy business, and we have been building that practice out with expansion into London, Dubai and Bermuda as well as continuing in the U.S.,” said Mr. Lumelleau.

Retirement is another growth area for Lockton, said Mr. Lumelleau. Started just 10 years ago, “we see dramatic opportunities in front of us as the working population and the baby boomers continue to exit the market” and as “the next generation continues to think proactively about their financial futures,” he said.

Then there’s the growth potential of the benefits business, particularly outside the U.S., which Mr. Lumelleau called “a driving force in our growth in the last decade or more.”

Lockton announced last month that Glenn A. Spencer, Lockton’s global chief operating officer and president of its U.S. operations, will become president and CEO when Mr. Lumelleau retires, effective May 1, 2017.

“Glenn is an industry veteran who has over the last 11 years taken on increasing responsibilities at Lockton. At each opportunity, he’s clearly demonstrated his leadership skills,” Mr. Lumelleau said.

By Judy Greenwald



David Lockton, executive chairman



John L. Lumelleau, president and CEO

## 10 Wells Fargo Insurance Services USA Inc.

2015 gross revenue: **\$1.51 billion**

Percent increase (decrease): **2.9%**

2015 brokerage revenue: **\$1.32 billion**

Percent increase (decrease): **1.3%**

**W**ells Fargo Insurance Services USA Inc. increased its brokerage revenue in 2015 as it focused on cross-selling insurance and luring senior talent from competitors, while selling its crop insurance business to focus wholly on distribution.

While Wells Fargo historically sought to be a one-stop shop for all customers’ financial needs, insurance has been “the one product that they still just haven’t solved yet,” said Marty Mosby, Memphis, Tennessee-based director of bank and equity strategies at Vining Sparks IBG L.P.

Less than 10% of Wells Fargo & Co.’s approximately 28,000 commercial customers also buy insurance from the brokerage unit, said Mr. Mosby and Todd Wartchow, the brokerage’s Chicago-based head of strategy.

“It would be the key thing if they could turn that into one in three customers buying insurance. That’s the real opportunity that they’re looking at,” Mr. Mosby said.

But banking customers may already have other insurance partners, and that “inertia” of an existing relationship works against the insur-

ance brokerage part of the company and the brokerage must find a way to differentiate itself, he said.

Still, Wells Fargo boosted its 2015 brokerage revenue 1.3% to \$1.32 billion, while gross revenue fell 2.9% to \$1.51 billion due to a one-time income bump in 2014 from the sale of several insurance offices.

Organic growth was in the “low single digits,” said Laura Schupbach, the brokerage’s Phoenix-based executive vice president and head.

Even so, other brokers’ gains pushed Chicago-based Wells Fargo Insurance down two places to No. 10 in *Business Insurance’s* 2016 ranking of the world’s largest insurance brokers.

“We had growth across the board in all of our lines of business,” Ms. Schupbach said. In particular, some of the fastest growing segments include small business, business banking and employee benefits, which continues to grow “given the evolving (health insurance) marketplace,” she said.

Despite challenges stemming from flat commercial rates and a sluggish U.S. economy, Wells Fargo Insurance drove growth primarily by introduc-

ing banking customers to its insurance capabilities and introducing insurance customers to other insurance products.

“We have a lot of customers where we may do their (property/casualty) business but not their benefit business,” Ms. Schupbach said. “We are trying to figure out where our existing customers are buying their insurance products and services from others and ... how we can win more of that business.”

### Recruiting to spread expertise

Wells Fargo Insurance has hired about 90 senior staff members in the past year, Ms. Schupbach said.

While the brokerage reported having fewer brokerage employees in 2015 versus 2014 — 5,264 compared with 5,419 — some employees have been placed in the “shared services” category and now report to the corporate parent while still supporting the insurance operation, she said.

The brokerage drew talent from competitors and insurance partners such as CNA Financial Corp., Marsh L.L.C., QBE North America, American International Group Inc. and others.

“We really think we’re winning in the area of recruiting talent,” Ms. Schupbach said.

The brokerage plans to soon begin

“building out industry expertise,” starting with health care, she said.

The hiring is necessary to spread expertise throughout the national branch network so it “becomes second nature for people to think of Wells Fargo for not just banking or investments but now getting into insurance,” Mr. Mosby said.

Moreover, the brokerage is focused on “strengthening and building out more of our analytics capabilities to really enhance our customer experience,” said Mr. Wartchow. By considering both banking experience and prior insurance underwriting and claims, the company can work with a more holistic view of its clients to better meet their needs, he said.

To focus entirely on distribution, Wells Fargo Insurance in April sold its crop insurance business, Rural Community Insurance Agency Inc., and its subsidiary, Rural Community Insurance Co., to Zurich American Insurance Co. in a deal valued at \$700 million, Zurich said in a statement.

“We weren’t really an insurance company. That was the only line we underwrote, and that business was a better fit with a carrier,” Ms. Schupbach said.

The sale helps Wells Fargo avoid some “capital and operational risk” about which regulators are wary, Mr. Mosby said.

By Shelby Livingston



Laura Schupbach, executive vice president and head of Wells Fargo Insurance

## Marsh introduces excess capacity facility

Marsh L.L.C. has launched an excess capacity facility for all classes of management liability insurance.

The facility, FL ECHO, is underwritten by a panel of carriers at Lloyd's of London and in the wider London insurance market and provides up to \$105 million of dedicated ring-fenced excess capacity for U.S.-based buyers and up to \$170 million of excess capacity for non-U.S.-based buyers.

The facility covers directors and officers, commercial crime, employment practices liability, public offering of securities insurance, pension trustee liability, fiduciary duty and D&O for financial institutions coverage.

The excess coverage is designed to respond consistently with the terms and conditions of the primary policy, said Beth Thurston, head of management liability and financial lines in the financial and professional practice at Marsh in London.

Other benefits of the coverage include full reinstatement of the policy limit after a loss, said Ms. Thurston.

## Wholesale insurance added, accessible online

Energi Inc.'s Energi Insurance Services unit has launched a wholesale insurance division to provide additional services to its partner agents and brokers.

The services offered through eRisk Solutions include loss control inspections, access to an online loss prevention and safety portal with more than 300 safety training videos, accident reconstruction, cause and origin investigations and claims adjustment services, Peabody, Massachusetts-based Energi said in a statement.

"It's really different because it widens the product offering and allows Energi-appointed brokers access to not only the insurance coverages but also the additional services provided, which are loss prevention and our safety programs," said Kevin Kaminski, senior vice president of Energi's wholesale insurance division.

Mr. Kaminski said the initiative is designed to "provide a one-stop shop" through Energi's eRisk Solutions subsidiary.

## Cat modeler releases India earthquake model

AIR Worldwide has released an India earthquake model intended to help companies better manage their risk from earthquake shake and liquefaction.

The AIR Earthquake Model for India estimates losses to residential, commercial and small industrial buildings and losses to automobiles, the Boston-based catastrophe modeler said in a statement. The model's vulnerability component has been tailored to India's construction practices and code requirements and has been peer-reviewed by local experts at

## PRODUCTS & SERVICES



## Policy available for plaintiffs' litigation costs

Socius Insurance Services Inc. has launched an insurance program designed for plaintiff attorneys and their clients.

The programs aims to protect against the loss of costs invested in various types of litigation, San Francisco-based Socius said in a statement.

The product reimburses cost disbursements in the event of a total loss at trial following a verdict.

Limits up to \$100,000 are available, according to the statement.

leading Indian institutions, according to the statement.

The model includes a historical event set comprising earthquakes that have affected India and surrounding regions for more than two centuries, ranging from the magnitude-8.8 Chittagong quake in 1762 to the magnitude-7.8 Nepal quake in 2015. It also incorporates findings from damage surveys and structural engineering research.

AIR has also developed a liquefaction module covering the major exposure concentrations of New Delhi, Mumbai and Kolkata, incorporating high-resolution data on soil and ground water from numerous geotechnical and geological studies.

## XL Catlin launches global M&A insurance unit

XL Catlin has formed a global mergers and acquisitions insurance division.

New York-based Brian Benjamin has been appointed global head. Previously, Mr. Benjamin was management liability and financial institutions officer at American International Group Inc., XL Catlin said in a statement.

Mr. Benjamin will initially focus on hiring underwriting teams, according to the statement.

"M&A activity remains robust following last year's record year, and more importantly the transactional insurance market continues to experience rapid growth as these products are now being used more regularly by buyers and sellers to quantify, price and allocate risk," Dan Kumpf, chief executive of global professional for XL Catlin, said in the statement.

## M&A, pollution protection product introduced

Leland, Michigan-based Environmental Risk Managers Inc. has launched mergers and acquisition and pollution protection to address exposures related to business and property transactions.

It combines representations and warranties insurance, designed to provide coverage for breach of a representation or a warranty contained in a buy/sell agreement, with pollution liability insurance, ERMI said in a statement.

Coverage includes tax liability, contingent liability, representations and warranties and pollution liability.

The minimum premium is 2% of the insurance purchased, and limits are available up to \$300 million, an ERMI spokesman said.

"At the end of the day, all sides of the deal want a clean transaction. By offering R&W, tax liability and pollution liability insurance individually or combined in a package, our new MAPP product does just that. It allows all parties to go their separate ways while reducing the risk of un-forecasted liabilities arising from the transaction," Brooks Bunbury, vice president of ERMI, said in the statement.

## Policy provides cyber liability cover, resources

RLI Insurance Co.'s executive products group has launched a new cyber liability product.

RLI's cyber liability insurance policy offers first- and third-party coverage options for medium-size and large firms to protect against financial losses and damages resulting from cyber attacks and data breaches, the company said in a statement.

Limits up to \$10 million are available, an RLI spokesman said in an email.

Additionally, the coverage provides access to risk management tools and resources through NetDiligence's eRiskHub, according to the statement.

## DEALS & MOVES

### Zurich sells South African, Botswana operations

Fairfax Financial Holdings Ltd. has acquired the South African and Botswana operations of Zurich Insurance Group Ltd.'s Zurich Insurance Co. South Africa Ltd.

Terms were not disclosed.

Zurich South Africa has more than 800 employees, according to a Fairfax statement.

According to Zurich, reshaping its geographic footprint is a high priority for the next two years.

"We are pleased to have (Zurich South Africa) join the Fairfax group," Prem Watsa, chairman and CEO of Fairfax, said in the statement. "It is a high-quality and well-known regional business, with an outstanding management team led by Edwyn O'Neill. Africa is a continent that represents a long-term growth opportunity for Fairfax, but where we have traditionally done little primary commercial insurance business."

### Magellan Health acquires Armed Forces Services

Health care manager Magellan Health Inc. has acquired Arlington, Virginia-based behavioral health and specialty services provider Armed Forces Services Corp.

Terms were not disclosed.

AFSC provides services to various agencies of the federal government, including all five branches of the armed forces, and holds 60 contracts with the U.S. government, according to a statement by Scottsdale, Arizona-based Magellan. It has 1,800 employees and subcontractors, with operations in all 50 states, three territories and eight countries, Magellan added.

### Marsh & McLennan unit opens Dallas actuarial office

The actuarial practice of Oliver Wyman Group has opened a Dallas-based office, its second in Texas.

The office will be led by Manuel Guerra. Previously, Mr. Guerra was the regional actuary for American International Group Inc., according to the statement.

"Manuel brings a wealth of experience and exemplifies our commitment to providing high quality and value-added services to our clients," Chad Wischmeyer, Atlanta-based partner and head of Oliver Wyman's property and casualty self-insurance practice, said in the statement.

### Benefits agency expands regional footprint with acquisition

Employee benefits agency Digital Benefit Advisors, Atlanta, has acquired Alpharetta, Georgia-based benefits consulting firm USBC L.L.C., Digital Benefit Advisors said in a statement.

Terms of the transaction were not disclosed.

This will be Digital Benefits' second Atlanta office, the company said in a statement. USBC will operate under the Digital Benefits brand, and principals Joe Leigner and Jeff Thomas, along with their team, have joined the firm.

Mark Reed, founder of life insurance agency The Reed Co. also has joined the office, according to the statement.



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## BUSINESS INSURANCE

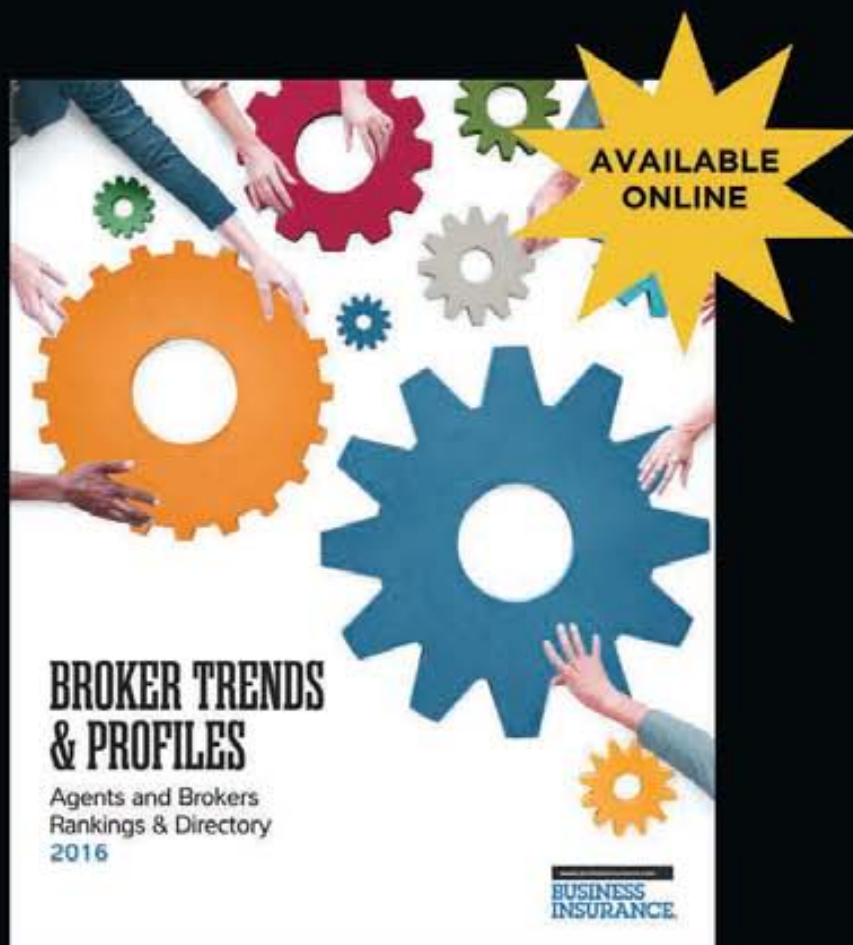
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## LEGAL NOTICE

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 PLICIA'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.nylb.org/ProfLiab.htm](http://www.nylb.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.

## HELP WANTED

### BERMUDA

## General Counsel

Oil Management Services Limited is seeking to fill the role of General Counsel. Reporting directly to the President & Chief Executive Officer, the General Counsel is a member of the senior management team and will have full responsibility for all legal matters affecting The OIL Group of Companies, including company secretarial, compliance/governance and primary oversight of the claims function.

#### PRIMARY JOB RESPONSIBILITIES INCLUDE:

- Provide legal advice, strategies, solutions and guidance to senior management on implications on all legal matters affecting the Company.
- Draft, review and interpret contracts, agreements, proposed legislation, company regulations, policy forms, etc. as appropriate.
- Oversight of the claims operations for the Group and specifically oversight of high exposure claims.
- Creating strategies and tactics for, managing, coordinating and directing outside counsel in connection with major litigation and arbitrations in the United States and London, as well as other international jurisdictions.
- Remain abreast of relevant laws, amendments and their interpretation and application to the Company.
- Manage corporate secretarial function including all legal matters relating to board meetings, committee meetings and annual meetings of the shareholders.
- Member of the team responsible for corporate financing and debt instruments.
- Oversee corporate governance and compliance policies.
- Provide advice on all contracts entered into by the Company.
- Serves as Ethics Officer and provides advice regarding possible conflicts of interest, ethics violations, compliance with corporate guidelines.
- Selection and management of outside counsel and other related service providers.

#### EDUCATION, SKILLS & EXPERIENCE:

- A United States law degree from an accredited law school and a member of any US State Bar.
- Practical understanding of NY insurance-law principles would be advantageous.
- A minimum of 10 years of actual and substantive litigation experience in the United States on major matters relating to insurance coverage and mass torts, accompanied by a solid understanding of United States rules of privilege, insurance-law principles, civil procedure and torts.
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- Exceptional communication skills including the ability to present to groups in an interesting and informative manner.
- Superior analytical, project management and execution skills.

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Please apply in confidence and in writing, including your resume and a detailed cover letter, by email to:

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Vice President - HR & Administration  
OIL Management Services Ltd.  
P.O. Box HM 1751  
Hamilton HM GX  
Bermuda

CLOSING DATE:  
AUGUST 12<sup>TH</sup>, 2016.

The Oil Group of Companies consists of OIL Insurance Ltd (OIL), Oil Casualty Insurance Ltd (OCIL) and Oil Management Services Limited (OMSL) which provides comprehensive management services to OIL and OCIL. Our Bermuda based Companies insure in excess of two trillion dollars of energy assets globally.



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## CALL FOR NOMINATIONS

### 2016's 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: [businessinsurance.com/w2wnominate](http://businessinsurance.com/w2wnominate)

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

BUSINESS INSURANCE

WOMEN  
TO WATCH

# INCENTIVES

Continued from page 4

affordability test is to be run, the IRS said the opt-out offer is comparable to pretax contributions employees use to pay their share of the premium for employer-provided health insurance.

"In both cases, the employee may purchase the employer-sponsored coverage only at the price of forgoing a specified amount of cash compensation that the employee would otherwise receive — salary, in the case of a salary reduction, or an equal amount of other compensation, in the case of an opt-out payment," the IRS said.

"The economic cost to the employee of the employer-sponsored coverage is the same under both arrangements. Accordingly, the employee's required contribution generally should be determined similarly regardless of the type of payment that an employee must forgo," the IRS said.

Take the case of an employer that requires its employees to pay \$100 a month for coverage and gives \$200 a month to employees that opt out of company coverage. In that example the employee's cost of coverage, under the IRS rules, would be \$300 a month or

\$3,600 a year, an amount that could, depending on employee income, significantly increase the likelihood of triggering the ACA affordability penalty.

"That certainly would have an impact on employers with opt-out arrangements," said Leslie Anderson, a Mercer L.L.C. partner in Minneapolis.

But the IRS also said there's a simple way for employers to avoid the affordability penalty: have employees attest that they and their dependents have cover-



age through another group health plan, which typically would be through the employee's spouse.

"It is a relatively easy fix. Employees would just have to attest that they and dependents have group coverage and then the opt-out payments are excluded in running the affordability test," said Rich Stover, a principal at Xerox HR Services in Secaucus, New Jersey.

The IRS' proposed rules "will not adversely affect employers' affordability test as long as

employers do some upfront work," said Molly Iacovoni, an Aon Hewitt partner in Lincolnshire, Illinois.

Still, with a 2017 effective date, employers will have to move quickly to obtain the required health plan coverage attestation forms from employees, said Ed Fensholt, senior vice president and director of compliance services at Lockton Cos. L.L.C.'s benefit group in Kansas City, Missouri.

A small but still substantial number of employers offer opt-out arrangements. For example, a 2015 Mercer survey found that 13% of employers with at least 500 employees offered opt-out arrangements with an average payment of \$1,879 per year.

Such arrangements are a "win-win for all," said Lockton's Mr. Fensholt, since employers reduce their health plan costs by having fewer participants and employees who are typically getting coverage through a spouse's employer plan are also getting a cash payment.

Based on health care reform law formulas, benefit consultants project the employer penalty for not offering affordable coverage will rise to \$3,390 in 2017, while the premium affordability income trigger will rise to 9.69% of family income.



AP PHOTO

Cattle are herded through floodwaters toward higher ground near Chenagno, Texas. Parts of Texas were inundated with rain last month, and more than half of the state was under either flood watches or warnings.

# NFIP

Continued from page 4

He said that the Flood Insurance Market Parity and Modernization Act has "clearly broad bipartisan support to take this step. We continue to urge the Senate to take this up. It's been our position that this is a technical fix that would help the marketplace."

"I have been saying since January if there's any piece of flood insurance legislation that's going

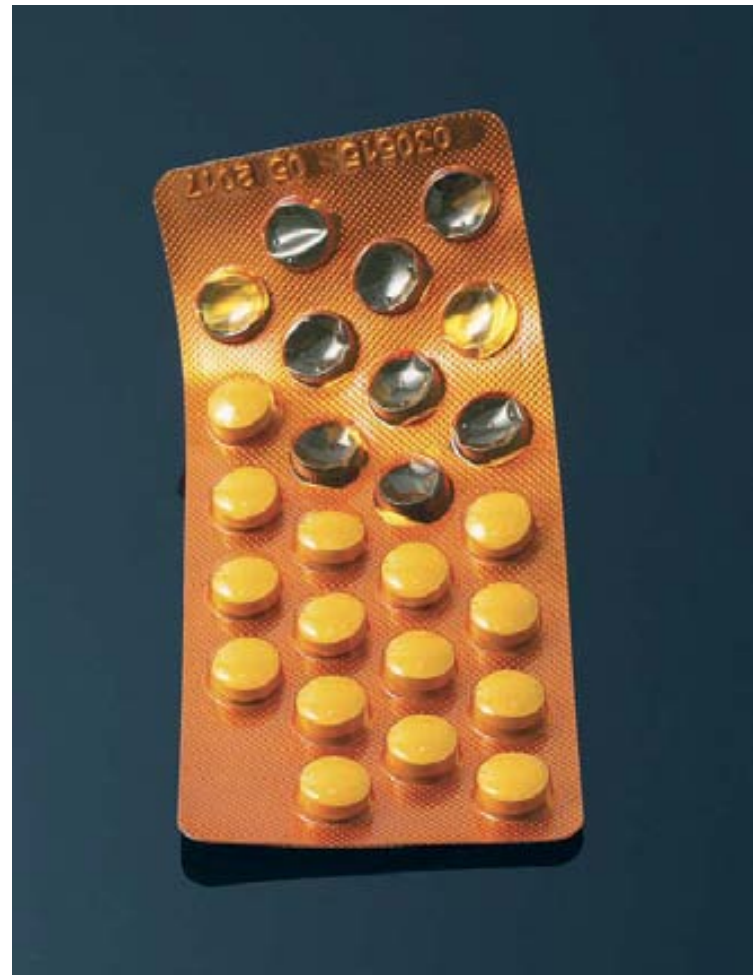
to be enacted this year, it's the Flood Insurance Market Parity and Modernization Act," said PCI's Mr. Glassic. He, too, noted that he bill has bipartisan support, little opposition and "it's the only thing in flood conversation that doesn't go into the 2017 reauthorization bucket."

AIA's Mr. Santos noted, however, that "there are a dwindling number of legislative days left; we're going to continue to urge the Senate to pass this bill. Every time this issue comes up, we're going to press whoever's listening to pass this bill."

"We're running out of time" to get the Flood Insurance Market Parity and Modernization Act passed this year, said John Hair, federal affairs director at the National Association of Mutual Insurance Companies' Washington office.

He said the bill could be taken up if "it's attached to must-pass legislation," possibly even in a lame duck session after the November elections.

He added that there's some possibility the Senate could take it up in September "if there's a push" over the summer recess.



# OPIOIDS

Continued from page 4

its. Connecticut's went into effect July 1 while Maine's goes into effect in January 2017.

Still, some sources say more states need to adopt similar restrictions to substantially affect opioid overprescribing, addiction and overdoses.

Alison Cooper, Albany, New York-based vice president of Northeast state affairs at the American Insurance Association, said Rhode Island and Vermont also passed opioid dispensing legislation, but the bills do not impose a seven-day limit.

"We have seen legislation pass this year in seven states in the Northeast that includes prescribing limitations, strengthening the prescription drug monitoring programs and provider training education," Ms. Cooper said.

Mark Johnston, St. Louis-based Midwest state affairs director at the National Association of Mutual Insurance Cos., said most states have a prescription drug monitoring program in which patients' narcotics prescriptions are entered in the system's database.

That approach helps prevent patients from going to "an emergency room trying to get another prescription," he said.

However, Mr. Johnson said the monitoring programs' effectiveness is limited because some states do not require prescribers to check the databases before dispensing medications.

The Pew Charitable Trust's website lists more than a dozen states that do not require such checks.

Rhode Island recently joined New Hampshire and New Jersey in requiring prescribers to check the database first.

"When you switch that requirement to mandatory, it is amazing how dramatic the drop in prescriptions for opioids is," Mr. Johnson said. The decrease can be as high as 30%, he said.

People will cross state borders to avoid database checks, said Mark Pew, senior vice president at Duluth, Georgia-based medical management company Prium.

Some three dozen states in the West and South do not mandate a database check before prescribing narcotics, but most do have drug monitoring laws, he said.

Mr. Pew said there has been a movement among the medical and workers comp communities for prescription monitoring information to be shared regionally and even nationally.

"It's not a huge leap to link all these together, as long as states are willing to spend the money to do so and we are seeing more states that are willing to invest the money," Mr. Pew said.

Ms. Cooper said New England governors are trying to find a way to coordinate the sharing of data from prescription drug monitoring programs across state lines, which she said will prevent injured workers that "doctor shop" across state lines.

Experts say education is an important component of efforts to curb narcotic addiction and overdoses.

For instance, Massachusetts' new law requires opioid education for medical school and high school students, as well as for patients receiving opioid prescriptions, said Brian Allen, Westerville, Ohio-based vice president of government affairs for the workers' comp division of Optum.

"It's probably the most comprehensive bill for this that we have seen," Mr. Allen said of the Massachusetts law.

# CITATIONS

Continued from page 3

said ‘area directors, you decide what you think is best on settlement ... what do you have to do to make sure they have a safe worksite,’” said Edwin Foulke, an Atlanta-based partner at Fisher & Phillips L.L.P. and a former assistant secretary of labor for Occupational Safety and Health. “Now they are kind of limited in what they can and cannot do.”

OSHA area directors may agree to reduce the fine, but generally will not withdraw all citations or downgrade willful or repeat citations with the highest penalties, he said.

“We used to all experience the walk in, handshake, a little bit of cash and get the egregious citation dismissed,” Matthew Deffebach, a Houston-based partner at Haynes & Boone L.L.P., said during the American Society of Safety Engineers’ conference in Atlanta last month. “That doesn’t happen anymore.”

Kristine Pounds, manager of safety operations at Atlanta-based Home Depot Inc., has overseen negotiations that significantly reduced OSHA fines and sees her job in the informal process as helping OSHA better understand the company’s programs, processes and procedures.

It also helps, she said, for employers to admit when they are wrong.

“I’ve had a lot of success not going in adversarially, but going in as a partner,” she said.

It is critically important for employers to maintain a cordial relationship during the informal process, with an eye toward potential litigation, Mr. Deffebach said.

“Sometimes there’s that real desire to go in there, pounding on the table, telling OSHA they’ve got it wrong and being adversarial at that informal process,” he said. “If your relationship has been one that’s been copacetic with the agency ... their attitude is much better and it helps us in the litigation.”

For employers with multiple sites, it is critical to reinforce to employees how important it is to immediately forward citations to the health and safety team, Ms. Pounds said.

She also has compliance officers send her the citations rather than each facility.

That helped in a recent case where the citation was sent to the store instead of her, allowing her to get the case reopened despite missing the deadline to contest it, Ms. Pounds said.

OSHA’s changing penalty structure will likely come into play in decisions on whether to contest fines and citations when it takes effect Aug. 1, because the maximum fines will increase roughly 78%, which could encourage more employers to fight back.

“You’re going to have a lot more people contesting — there’s no doubt about that,” Mr. Foulke said. “I don’t think that necessarily helps safety. Lots of citations, higher penalties — that doesn’t get you to zero.”

In addition, significant enforcement cases with a penalty of more than \$100,000 are assigned to a

**“We used to all experience the walk in, handshake, a little bit of cash and get the egregious citation dismissed. That doesn’t happen anymore.”**

Matthew Deffebach, Haynes & Boone L.L.P.

mandatory settlement conference, per commission rules. But given that one willful or repeat citation has a maximum fine of \$124,471, the commission is reviewing it and stakeholders predict the penalty threshold will be raised.

“Quite practically speaking, (OSHA doesn’t) have the resources to litigate all these cases,” said Margaret Seminario, director of safety and health at the AFL-CIO in Washington.

Even with its budgetary and legal limitations, OSHA can still ensure penalties have the desired deterrent effect by taking reductions off the table when noncompliance economically benefits the employer.

“There are certain times the cases shouldn’t be settled, for instance, when they are incredibly egregious or someone’s died on the job,” said Katherine Tracy, Center for Progressive Reform policy analyst and report co-author. “That just stands out to me as particularly troubling.”



# GENDER

Continued from page 3

tiffs developed breast cancer as a result of occupational exposure to hazardous material spills, vehicle fires and more, while the technician suffered carpal tunnel syndrome, according to the suit.

Some sources speculate that the complaint, alleging that injured female workers are subject to discriminatory apportionment determinations, is meant to push through legislation introduced earlier this year that addresses alleged gender bias in the state’s workers comp system.

A.B. 1643, introduced by Democratic Assemblywoman Lorena Gonzalez of San Diego, would prohibit basing the apportionment of permanent disability on pregnancy, menopause, osteoporosis or carpal tunnel syndrome for any injuries occurring on or after Jan. 1, 2017. Medical evidence shows women suffer from osteoporosis and carpal tunnel syndrome at higher rates than men.

California Gov. Jerry Brown last year vetoed a similar bill, A.B. 305, saying it was based on a misunderstanding of the AMA Guides, although he did not state specifics.

“The lawsuit and A.B. 1643 appear to solve the same problem,” a spokesman for Ms. Gonzalez’s office said in an email. “Our office has not had discussions with the lawyers working for the plaintiffs and so it is too early to tell how the lawsuit and the bill would work together, if at all.”

Longtime workers comp defense attorney Christopher D. Lear said in an email that he hasn’t seen a single case where gender was the basis for apportionment.

The Long Beach, California-based managing attorney at Dietz, Gilmor & Chazen said he hasn’t seen a single breast cancer case, either.

A.B. 1643 likely would affect “a bare fraction of California workers comp cases,” he said.

Still, the bill or the effect of legal precedent if the lawsuit is successful could cost California’s

workers comp system millions of dollars.

A May analysis of the bill by the state’s Assembly Committee on Appropriations found it could lead to higher administrative costs in the range of \$6 million. Citing the Department of Industrial Relations, the analysis also said 11,000 of 90,000 permanent disability cases involve women and include apportionment.

In a 2015 analysis of the now-dead A.B. 305, the committee said there could be “unknown but potentially significant” increases in permanent disability and litigation costs.

One of the attorneys who brought the gender-discrimination lawsuit against California’s workers comp system, Annie Hudson-Price, Los Angeles-based staff attorney at pro bono firm Public Counsel, said the goal isn’t to “overturn the AMA Guides or force the legislature to adopt the sixth edition.”

Rather, the plaintiffs are seeking an injunction and establishment of a “system of accountability,” which would include training and monitoring of medical evaluators, among other things, to ensure gender-based risk factors aren’t used to calculate permanent disability benefits.

The higher incidence of carpal tunnel syndrome in women has also led to bias in the workers comp system, she said.

“There’s this idea that the man’s body is the standard and any deviation from that is considered something that should be reduced,” Ms. Hudson-Price said. “If it’s more common in women, half the population, it shouldn’t be something that’s reduced, it should be a norm.”

Despite criticism of the AMA Guides being gender-biased dating back to at least 1990, “it hasn’t been an issue we’ve seen raised a lot, certainly not in (this context),” said Albert B. Randall Jr., Baltimore-based principal at law firm Franklin & Prokopik P.C.

Most sources expect the lawsuit to fail, but note that California can be unpredictable.

As Mr. Randall said: “If it’s going to be successful anywhere, it’s likely going to be successful in California.”

# OTC

Continued from page 3

only adds to costs,” said Martin Trussell, executive director of the Employers Council on Flexible Compensation in Washington.

But observers say the bill faces an uphill battle for several reasons.

One obstacle is last month’s White House warning that if the bill passes Congress, President Barack Obama would veto it.

The legislation would repeal provisions “that help fund the health care reform law’s improvements and expansions,” the Obama administration said in a statement. It also would “provide additional tax breaks that disproportionately benefit those with higher income by expanding tax-preferred health savings accounts.”

Given paltry Democratic support of the measure — just 10 House Democrats voted for the legislation — it’s unlikely Congress could override a veto, observers say.

“Democrats don’t really like this bill very much,” said Geoff Manville, a principal at Mercer L.L.C. in Washington. “My take is the bill is too contentious to move this year.”

Another factor weighing against congressional approval is the

## OTC DRUGS

H.R. 1270 would roll back provisions of the Affordable Care Act that limit the use of flexible spending accounts, health savings accounts and health reimbursement arrangements to pay for over-the-counter medications without a prescription. Medications that would become eligible are:

- Allergy medications
- Antacids
- Antibiotic ointments
- Anti-diarrhea treatments
- Calamine lotion
- Cold medicine
- Cough drops, throat lozenges
- First aid creams
- Motion sickness pills
- Nicotine medications, nasal sprays
- Pain relievers
- Pedialyte
- Sinus medications, nasal sprays

Source: Internal Revenue Service

short time left in the current session. Lawmakers, who began their summer recess last week, will not return until September, with few legislative days left for the Senate to consider the proposal prior to the November congressional and presidential elections.

“Time is not working in the measure’s favor,” said Ann Marie Breheny, a senior legislative adviser at Willis Towers Watson P.L.C. in Arlington, Virginia.

“There is so much other ‘must-pass’ legislation,” added James Gelfand, senior vice president of



- Sleep aids
- Suppositories, hemorrhoid creams
- Wart removal medications

health policy at the ERISA Industry Committee in Washington.

Still, the proposal could be voted on in the lame-duck session after the elections.

“It is a long shot possibility in a lame duck session, perhaps as part of a must-pass bill,” Mr. Trussell said.

Even then, the measure would face another obstacle: The Joint Committee on Taxation earlier this month estimated that the bill would reduce revenue by more than \$24 billion over the next decade.

# MERGERS

Continued from page 1

decision could come as soon as this week.

Most analysts expect the Aetna-Humana deal to win federal approval. Aetna has clinched 18 of 20 state endorsements required to take over Humana, an Aetna spokesman said.

“What we believe is reasonable logic suggests the deal should close,” Stifel Nicolaus & Co. Analyst Thomas Carroll said last week in a research note about the Aetna-Humana merger.

In a separate research note, Leerink Partners L.L.C. Analyst Ana Gupte estimated that the Aetna-Humana deal has an 80% chance of closing, but the Anthem-Cigna deal has a less than 50% chance of being completed.

Stephen Zaharuk, New York-based senior vice president at Moody’s Investors Service Inc., was even less optimistic.

“I think it’s a 25% chance that it gets done,” Mr. Zaharuk said of the Anthem-Cigna merger. “I don’t see it happening.”

However, he said he’s “more confident” about the Aetna-Humana union.

Publicized disputes between Anthem and Cigna executives, incongruous statements by the companies regarding when the merger would close, and that Anthem has secured only 12 of 26 state approvals have fueled observers’ skepticism.

Anthem and Cigna cater primarily to the employer market and self-insured employers that contract only for administrative services. Some analysts say there are few potential buyers to absorb divestitures, which often are used to preserve competition in over-concentrated markets, of any of the ASO business.

## HEALTH INSURER MERGERS

### \$54 billion, \$1.85 billion

The value of the merger of Anthem Inc. and Cigna Corp., and the amount Anthem would owe Cigna as a breakup fee if the deal does not close

### \$37 billion, \$1 billion

The value of the merger of Aetna Inc. and Humana Inc., and the amount Aetna would owe Humana as a breakup fee if the deal does not close.

Meanwhile, Aetna-Humana merger concerns revolve around its impact on competition in the Medicare Advantage market. Combined, they would cover about 25% of the Medicare Advantage market, but only 8% of the entire Medicare market, according to the Center for American Progress.

Aetna has argued that Medicare Advantage and traditional Medicare compete, thus alleviating anti-competition concerns. Historically, however, the Justice Department has considered them distinct markets that do not com-

pete, Mr. Greaney said.

Still, some analysts predict divestitures could resolve such concerns.

“The overlap between the two companies’ Medicare Advantage businesses is easy to identify” and “there exists robust interest for divested assets,” Mr. Carroll said in the research note.

The health insurers also are dealing with a Justice Department that some experts say is more aggressive than past administrations. In the past two years, several mergers were abandoned due to competition objections by the Justice Department, including those between Halliburton Co. and Baker Hughes Inc., General Electric Co. and AB Electrolux, and National CineMedia Inc. and Screenvision L.L.C.

“It reflects a growing appreciation by the DOJ that divestitures are far from certain into their effectiveness and they should not be so quick to accept them,” Mr. Greaney said.

Then again, the Justice Department did not challenge recent high-profile mergers of AT&T Inc. and DirecTV or Expedia Inc. and Orbitz Worldwide Inc.

Federal antitrust regulators could approve both, deny both or approve just one of the health insurer mergers.

“It gets difficult, I would think, for the DOJ to approve one and not the other,” Moody’s Mr. Zaharuk said. “If the DOJ can convince Anthem-Cigna to withdraw their request, then it can go ahead and easily approve the Aetna-Humana deal. If the Anthem deal has to be rejected outright by the DOJ, then I think that’s why we’re hearing some rumors circling that the Aetna deal is in trouble.”

“If one merger is not going to happen ... that does change the landscape,” said Martin Gaynor, professor of economics and health policy at Carnegie Mellon University.

If the Justice Department sued to block the mergers, the health insurers are in for months of litigation, said David Balto, a Washington-based antitrust lawyer and former policy director at the Federal Trade Commission.

If a judge ultimately blocked the deals, Anthem would owe Cigna a \$1.85 billion breakup fee, and Aetna would owe Humana \$1 billion, according to their merger agreements.

“Cigna and Humana come out very strong,” Mr. Zaharuk said. The breakup fee “gives them opportunities to do different things in the marketplace, to expand the businesses and diversify to different products and geographies.”

Both Anthem and Aetna should be able to stomach those losses, as they’ve been building cash this year to subsidize the mergers, said James Sung, associate director and insurance credit analyst at Standard & Poor’s Corp. in New York.

Even without Humana, Aetna will remain stable, Mr. Zaharuk said.

## P.F. CHANG CASE A CYBER FORERUNNER

In what may be the first court rulings focused on cyber insurance, the U.S. District Court in Phoenix held in *P.F. Chang’s China Bistro Inc. v. Federal Insurance Co.* that the Chubb Ltd. unit did not have to reimburse the Scottsdale, Arizona-based company \$1.9 million in costs for a 2014 data breach.

The restaurant chain had entered into a master service agreement with Charlotte, North Carolina-based Bank of America Merchant Services L.L.C. to process credit card payments made to by P.F. Chang’s customers.

Following the breach, MasterCard imposed three assessments on the Bank of America unit totaling \$1.9 million, which the restaurant chain reimbursed in April 2015. P.F. Chang’s sued after Federal Insurance denied coverage for the assessments.

The cyber coverage included a clause that pro-

vided that Federal Insurance would pay for any claim first made against the insured for injury. Federal Insurance successfully argued the clause was not applicable to its policy because the payment processing unit itself had not sustained an injury.

The court also held Federal Insurance was not obligated to indemnify P.F. Chang’s for the assessments because of policy exclusions “that bar coverage for contractual obligations an insured assumes with a third party outside of the policy.” The court held P.F. Chang’s agreement with the processing unit met the criteria “and thus triggers the exclusions.”

Federal Insurance did reimburse the restaurant chain for more than \$1.7 million for costs incurred from the security compromise, including forensic investigation and defense costs.

By Judy Greenwald



## CYBER

Continued from page 1

Court of Appeals in San Francisco.

Cyber policies are not like property policies, which “have been around for 20 years and where the language from one insurance company to another is going to be very, very similar if not identical,” said Patrick X. Fowler, a partner at Snell & Wilmer L.L.P. in Phoenix. “Cyber insurance is a different animal because it is so new.”

“Many companies will have unique risks simply by virtue of the way they conduct business or the type of business they’re in or just the overall risk environment that they face,” and customized coverage frequently is necessary, said William Boeck, senior vice president, insurance and claims counsel at Lockton Cos. L.L.C. in Kansas City, Missouri.

“This remains a highly manuscripted world,” said Thomas B. Alleman, a member of law firm Dykema Gossett P.L.L.C. in Dallas. “The market is evolving quickly, and I think the policy forms are evolving quickly.”

Make certain that coverage described on the declaration page of the cyber policy is reflected in the rest of the policy, said Robert Parisi, managing director and national cyber risk practice leader at Marsh L.L.C. in New York. Just looking at the declaration page “doesn’t tell the whole story,” he said.

Make certain that exclusions “are appropriately narrow, so they don’t take away what you’ve bargained for,” said Russell P. Cohen, a partner at Orrick, Herrington & Sutcliffe L.L.P. in San Francisco.

Experts also say buyers should make sure sublimits are adequate.

Breach response costs, including investigation, notification and public relations, “can be subject to separate sublimits and, if (policyholders) don’t pay

close attention, they may find that they maybe have a \$1 million dollar policy” but a sublimit of only \$50,000 for notification costs, which can be significant, said Matthew J. Siegel, a member of Cozen O’Connor in Philadelphia.

Stephen D. Raptis, a partner at Manatt, Phelps & Phillips L.L.P. in Washington, said retroactive dates should be checked in the cyber cover and negotiated.

“I’ve seen more claims denied on that ground in these cyber policies than on any other ground,” Mr. Raptis said of the issue that is a particular problem for first-time buyers. If a cyber event occurred before the issue date, “there’s not going to be coverage,” he said.

In addition, some desired cyber coverage may not be available.

“With extremely rare exceptions” bodily injury and property damage are never covered in cyber policies, said Mr. Boeck. “There’s lots of debate now about how these losses should be covered, and what policy should respond.”

Another issue insurers are still “trying to wrap their arms around” is reputational and brand damage caused by cyber breaches, said Roberta Anderson, a partner at K&L Gates L.L.P. in Pittsburg, which she anticipates will be offered in the next couple years.

Pointing to the P.F. Chang’s ruling, which is of particular significance to retailers, Ms. Anderson said it has become the market standard to cover fees and assessments arising out of contractually-assumed Payment Card Industry Data Security Standards, which was the case here. The better policies “do a good job” of covering these liabilities, she said.

But John C. Pitblado, a shareholder at Carlton Fields Jordan Burt P.A. in Hartford, Connecticut, said the P.F. Chang’s case shows policyholders applying for coverage should still ask about contractual liability associated with business partners.

“It’s an important issue when it comes to these new cyber policies,” Mr. Pitblado said.

# OLYMPICS

Continued from page 1

terrorism.

Approximately \$1 billion in insurance is in place for the games, with about half of that total being event cancellation coverage, several sources say.

That rolling policy also covered the 2012 Summer Olympics in London and the 2014 Winter Olympics in Sochi, Russia.

The stakes are high.

The Brazilian organizing committee has a budget of 7.4 billion real (\$2.24 billion) for the games, while it's estimated that the cost of hosting the games is about \$18 billion and infrastructure improvements also run into the billions.

About 47,000 security personnel and 38,000 members of the armed forces — including the army and federal and state police forces — will be deployed during the games, London-based Control Risks Group Ltd. said in a briefing note.

Though a French national made a “credible threat” against the Brazil games on Twitter last November, this is “not indicative of an imminent threat of a terrorist attack, which Control Risks continues to assess as low,” the consultant said.

“Whenever there is a large gathering of people, (the threat of terrorism) is a headline thing, but there is not a credible jihadist terrorist group in Brazil,” said Tim Davies, head of sabotage and terrorism at Sompo Canopus A.G. in London.

Terrorism coverage for the Olympic Village, which will house many of the more than 10,000 athletes from more than 200 countries, has been underwritten in the London and international markets, sources said.

Sompo Canopus and Hiscox Ltd. are part of the terrorism coverage, and Beazley P.L.C. is part of the contingency cover, sources said.

The Olympics' counterterrorism strategy will build on lessons learned from Brazil's hosting the 2014 FIFA World Cup soccer tournament, Control Risks said.

Threats specific to Rio that include civil commotion due to



AP PHOTO

**“Whenever there is a large gathering of people, (the threat of terrorism) is a headline thing, but there is not a credible jihadist terrorist group in Brazil.”**

Tim Davies,  
Sompo Canopus A.G.

Brazil's political turmoil have diminished, Mr. Davies said.

Civil protests over an alleged corruption scandal have abated since the May temporary suspension of Brazilian President Dilma Rousseff.

While traditional kidnapping

can't be ruled out, athletes and spectators could be subjected to “express kidnapping” in which victims are taken by gunpoint to ATMs and ordered to withdraw cash, Mr. Davies said.

Another hot button issue is the Zika virus, a mosquito-borne disease that can cause serious birth defects and first was reported in Brazil last year. While Brazil's health minister said the risks are low, several high-profile athletes — including professional golfers Jordan Spieth and Rory McIlroy — have withdrawn from the games citing concerns about the virus.

“Communicable disease would be one of the subcategories” that would be a trigger for event cancellation coverage, said Richard Tolley, Birmingham, England-based Europe, Middle East and Asia sports and events practice

leader at Marsh L.L.C.

Sponsors and advertisers also have death and disgrace coverage, said Edell Ryan, head of media and entertainment at JLT Specialty Ltd., a unit of Jardine Lloyd Thompson P.L.C., in London.

The “coverage is designed to protect brands and their substantial investments from circumstances where an athlete becomes embroiled and/or is found to be associated with an incident that could bring the brand into disrepute,” she said in an email.

The International Amateur Athletic Federation's recent decision to uphold a ban on Russian track and field athletes competing in Rio, because of a doping scandal, is an example where sponsors may feel their brand has been harmed and attendance has been hurt, which could “reduce the audience num-

Brazil Air Force troops march at a media presentation after arriving in Rio de Janeiro to provide security for the 2016 Olympic Games, which begin next month.

bers by a not insubstantial number,” Ms. Ryan said.

Broadcasters, who have made a significant investment in the event also have cancellation coverage, Mr. Tolley said.

Other stakeholders, including organizing committees and stadium owners, purchase liability coverage for bodily injury and workers compensation, he said.

With more than 500,000 people expected to go to Brazil to watch the games, International SOS said travelers should make sure their inoculations are up to date and pregnant women should avoid Brazil due to the Zika risk.

# CALIFORNIA

Continued from page 6

is not being provided come from,” Mr. Canavan said.

Comparing California with other states, Texas had 1,209 independent medical review requests in 2015, while California had 160,000, said Amy Lee, Austin-based special adviser for the workers compensation division in the Texas Department of Insurance.

Ms. Lee attributed Texas' ability to keep review requests down to communication. Before a denial is issued, for example, the provider and the insurer's utilization

review agent have a “reasonable opportunity” to have a conversation.

“Our philosophy is that the more people talk to each other, the more issues can be resolved when there is a medical dispute,” Ms. Lee said. If the denial is due to lacking medical documentation, a provider-insurer conversation can resolve that.

When modifying a preauthorization request, a peer-to-peer conversation can result in the request being approved, modified or withdrawn, she said.

“One of the things we require in Texas is that you have to have that conversation and the (utilization review) agent has to document

their efforts that they tried to reach out,” she said.

For some California companies, utilization review best practices include managing initial care requests internally.

“We have a different approach,” said Denise Zoe Algire, Pleasanton, California-based national director of managed care and disability at Albertsons Safeway Inc.

“We want medical people making medical decisions, so we have nurses and examiners handling all of our (utilization review) requests in-house and authorizing internally, with about 15% going to formal physician-level (utilization review),” said Ms. Algire, who also is a registered nurse and is board-

certified in occupational health, of the grocery store chain's efforts.

“But we don't necessarily draw a line in the sand about the request for approval. If the nurse is familiar with the case and knows the doctor and it's documented in a narrative, and it's clear what the doctor is requesting and it is supported by medical evidence, then we will act on that,” she said.

“The bottom line is to give workers the care that they need and get them better, but there has to be some balance and predictability and sustainability so that employers can pay for it,” Mr. Canavan said. “And you don't want doctors to feel like they aren't getting paid for doing the good that they do.”

**“We want medical people making medical decisions, so we have nurses and examiners handling all of our (utilization review) requests in-house and authorizing internally, with about 15% going to formal physician-level (utilization review).”**

Denise Zoe Algire,  
Albertsons Safeway Inc.

Contributing: Gloria Gonzalez, Judy Greenwald, Rob Lenihan, Donna Mahoney,



AP PHOTO

June's London Pride activities featured romance between two police officers.

## Engagement sparks free insurance

Two newly engaged London police officers were offered free wedding insurance by a London broker claiming to be the first full-service insurance provider for the U.K.'s gay and lesbian community, a news report said.

Sam Philpot proposed to fellow officer Martin Coughlan at Pride London on June 25. After footage of the proposal of Mr. Philpot on bended knee went viral, specialty insurer Emerald Life Ltd. decided to give the couple free wedding insurance.

"They keep us safe. On top of this, they provided the community so much happiness by sharing their special moment with the world on Saturday during the parade," Steve Wardlaw, Emerald Life's chairman, said in a statement. "I couldn't not reach out to them and offer this simple gesture."

Some of the items covered by the wedding insurance policy include cancellation or reschedule, protection if a partner or self gets sick, damage to wedding gifts or outfits, supplier failure and photographers who don't show up.

## Big brewer claims beer's craftiness

Beer drinkers losing sleep over whether MillerCoors L.L.C.'s Blue Moon Belgian-style beer can be considered a craft beer, can now rest assured on that point, thanks to a ruling by a U.S. District Court.

In his lawsuit seeking class action status, plaintiff Evan Parent claimed that Blue Moon, which is produced by Chicago-based MillerCoors, should not be considered a craft beer, which is beer produced by small breweries that are "small independent and traditional" breweries, despite its being marketed — and priced — as such.

He accused the company of deceptive practices, false advertising and unlawful business practices.

But Judge Gonzalo P. Curiel, of U.S. District Court in San Diego, disagreed with Mr. Parent in a June 16 ruling. In dismissing the case, Judge Curiel said he agrees with MillerCoors that three internet advertisements for the beer are "non-actionable puffery."



## FTC UNIMPRESSED BY VIDEO GAME'S ONLINE PROMOTION



WARNER BROS. ENTERTAINMENT INC.

The Federal Trade Commission accused Warner Bros. of paying online "influencers" to play its J.R.R. Tolkien-inspired video game.

Perhaps computer game fans should not be so trusting of their fellow gamers. That may be the lesson from a Federal Trade Commission announcement that Burbank, California-based Warner Bros. Entertainment Inc. paid online "influencers" thousands of dollars to post positive gameplay videos on YouTube and social media for its "Middle Earth: Shadow of Mordor" game without disclosing the payments. The videos were viewed more than 5.5 million times, the FTC said.

The FTC said its complaint stems from a late-2014 Warner Bros. online marketing campaign designed to generate buzz within the gaming community for the new release of the fantasy role-playing game, which is loosely based on J.R. Tolkien's "The Hobbit" and the "Lord of the Rings" trilogy. It was released in September 2014 for the PlayStation 3 and in November 2014 for the Xbox 360.

The FTC said Warner Bros. paid each influencer from hundreds to tens of thousands of dollars, gave them a free advance-release version of the game and told them how to promote it. It also required the gamers not to disclose any bugs or glitches they found.

Under the proposed FTC order announced last week, Warner Bros. is barred for failing to make disclosures of such arrangements in the future, and cannot misrepresent that sponsored content, including gameplay videos, are the objective, independent opinions of video game enthusiasts or influencers.

The proposed order does not say Warner Bros. will be fined. Warner Bros. Home Entertainment said in a statement it "always strives to be transparent with our customers and fans when working with social influencers, and we are committed to complying with the related FTC guidelines."

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## Glee-inspiring choir facing copyright suit

Don't Stop Believin! The show choir organization that inspired Fox television's hit 'Glee' has just received the legal equivalent of a slushie to the face.

Scottsdale, Arizona-based Tresona Multimedia L.L.C. is suing Burbank High School Vocal Association and several high-ranking association officials for alleged copyright violations for failing to license the music used in many of its show choir performances, according to a lawsuit filed in the U.S. District Court, Central District of California on June 29. Tresona has accused the association of infringing on its copyright of songs such as "(I've Had) the Time of My Life" — the theme song of the 1987 classic film "Dirty Dancing."

The association promotes show choir festivals and events that generate more than \$100,000 in net income per year, according to the lawsuit.

"None of the defendants has ever paid any songwriter or rights holder a single dollar for the custom arrangements that defendants created, commissioned, recorded and disseminated related to the Burbank Show Choirs," the lawsuit said.

The company is seeking damages of up to \$150,000 per copyright infringement and is asking the court to permanently enjoin the defendants from further infringement, according to the lawsuit.



AP PHOTO

Darlene Love

## Singer builds case against TV channel

There's no love lost in this case: Singer Darlene Love filed a lawsuit in California federal court recently against HGTV claiming the home improvement channel used her voice singing "Christmas (Baby Please Come Home)" for holiday promotions without permission.

Ms. Love says she sang the holiday-themed ditty on "Late Night With David Letterman" holiday shows for nearly three decades, but HGTV owner Scripps Networks Interactive Inc. pulled a Grinch on her and tried to appropriate her goodwill to advertise HGTV's programming.

The singer is suing Scripps for infringement of the common law right of publicity and is seeking exemplary damages of no less than \$75,000.

The suit charges that Scripps deprived Ms. Love of union protection and compensation.

## BROKER TRENDS & PROFILES 2016

Brokers join forces  
to reach new heights



### RANKINGS & PROFILES

World's top 10 brokers P20

Top 100 U.S. agents and brokers P22

Profiles of the world's 10 largest brokers P26

# Who insures the majority of the Fortune 500 and 1 out of 5 family-owned businesses in Springfield?

Alternative Risk  
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