

SUBSTATION
ATTACKS



■ The most serious case to date is an armed April 2013 attack at a substation in Metcalf, California.

■ The U.S. Justice Department charged a man in October 2013 in attacks on the transmission grid in Arkansas, including a fire at a Lonoke County, Arkansas, substation.

■ A 2005 rifle attack ruptured a transformer oil tank at a Florida substation causing an explosion and local blackout.

Source: Congressional Research Service

SPECIALTY RISKS

Protecting grid from terrorists gains priority

BY JUDY GREENWALD

Regulations proposed by the Federal Energy Regulatory Commission to protect the nation's electric grid are mainly prompted by an armed attack last year that knocked out high-voltage transformers in California.

The federal agency's mid-July proposal was developed by the Atlanta-based industry group North American Electric Reliability Corp., but some call the agency's response to the problem inadequate. Meanwhile, a report in June by the Washington-based Congressional Research Service said the nation's electric grid may be vulnerable to a terrorist attack.

Indeed, several utilities are enhancing the physical security of their facilities.

Attention has been focused on the U.S. power grid's vulnerability since an April 2013 armed attack

See GRID page 24

RISK MANAGEMENT

EBOLA PANDEMIC
BREAKS SUPPLY CHAINS

Worst-ever outbreak disrupts global commerce



AP PHOTO

A health worker in protective gear examines patients for Ebola Aug. 11 at a hospital in Sierra Leone.

BY BILL KENEALY AND RODD ZOLKOS

Aside from the record death toll from the Ebola outbreak in Africa, businesses around the globe will be affected by the pandemic, with the mining, agricultural and energy sectors most at risk of having their businesses disrupted.

What's more, even companies that don't have operations in the affected areas might have suppliers there who have to shut down, making disruption of transportation and supply networks a potential problem for many other organizations.

The outbreak that began in Guinea and spread to Liberia, Sierra Leone and Nigeria had claimed more than 1,100 lives by the end of last week, prompting quarantines, flight cancellations and business disruptions.

"From a corporate risk management perspective, the issue is usually how to reduce illness and avoid business disruption,"

See EBOLA page 23

WORKERS COMPENSATION

Oklahoma firms ponder move to private cover

Landmark law paves way for comp revamp

BY STEPHANIE GOLDBERG

At least seven Oklahoma employers have opted out of the state's workers compensation system in the six months since a new law went into effect, and "dozens" more companies are considering the move to private coverage allowed under the landmark legislation.

The law that took effect Feb. 1 permits employers with at least 100 workers and \$1 million in net assets, among other conditions and with certain exceptions, to apply to become a "qualified employer" that either self-insures or buys private workers compensation insurance.

The law also established the Oklahoma Workers' Compensation Commission and moved the state from a court-based adjudication system to an administrative process.

Despite comparisons with the Texas nonsubscription system, Oklahoma's new system more closely resembles traditional workers comp, as employers retain their exclusive remedy legal protections.

To date, the Oklahoma Department of Insurance has approved seven businesses as qualified

See OKLAHOMA page 22

FIVE WORST
EBOLA OUTBREAKS

Ebola virus disease, a severe and often fatal infection among humans, monkeys, gorillas and chimpanzees, was identified in 1976 near the Ebola River in what now is the Republic of Congo. Researchers think the virus is animal-borne, most likely in fruit bats. It is transmitted by blood or bodily fluids, not through the air.

2014: **Guinea, Liberia, Sierra Leone, Nigeria**

Human cases: 2,127*
Death rate: 53.8%

2000-2001: **Uganda**

Human cases: 425
Death rate: 53%

1976: **Zaire**

Human cases: 318
Death rate: 88%

1995: **Republic of Congo**

Human cases: 315
Death rate: 81%

1976: **Sudan**

Human cases: 284
Death rate: 53%

*Suspected and confirmed as of Aug. 15.
Source: World Health Organization



Q&A: NIR KOSSOVSKY

The CEO and director of Steel City Re discusses quantifying reputation risk

PAGE 20

BENEFITS MANAGEMENT

Benefits administration vendors retool to help firms comply with tax reporting rule

PAGE 8

RESEARCH & DATA

U.S. providers of disability insurance; disability coverage; awareness of ADA guidelines

PAGE 17



ABSENCE & DISABILITY
MANAGEMENT

Compliance drives benefits integration; work-from-home policies for disabled need review; sensitive approach for those with mental disorders; hiring veterans.

PAGE 13

ENERGIZED
TO INNOVATE.



Berkshire Hathaway
Specialty Insurance

passion.

08/18/14

CONTENTS

FEATURES

MID-MARKET



Post-buyout expectations

Maintaining relationships after brokers are bought by competitors requires open dialogue between producers and purchasers.

6

PERSPECTIVES

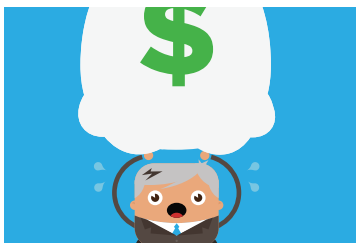


'Additional insured' obligation

A coverage dispute highlights the need for corporations to square their commercial contracts with their insurance policies.

18

OFF BEAT



Insurer settles for heavy \$\$\$

A California man found himself with a lawsuit settlement paid in buckets of thousands of quarters, nickels, dimes and pennies.

26

SECTIONS

INTERNATIONAL 10

OPINIONS 12

PERSPECTIVES 18

MARKET PULSE 19

PEOPLE 20

OFF BEAT 26

NEWS

LIABILITY & LITIGATION

INSURERS, FANS EXPECTED TO KICK IN FOR NFL SETTLEMENTS

Details of concussion deal could affect painkiller suits

BY SHEENA HARRISON

The National Football League's financial settlement of former players' concussion-related litigation likely will be paid with a combination of insurer funds and higher prices for game tickets and media rights.

The uncapped settlement, which U.S. District Judge Anita B. Brody in Philadelphia preliminarily approved in July, would pay varying amounts to retired players with conditions such as Alzheimer's disease, Parkinson's disease and Lou Gehrig's disease over the next 65 years.

The July hearing followed the judge's ruling in January that a \$765 million settlement proposed by the NFL would be inadequate to cover claims from more than 20,000 ex-NFL players.

Who pays is a question that has yet to be resolved.

"My guess is that either there's going to be an agreement among the insurers about how much each is going to pay, or they will have some sort of separate proceeding (outside of) the court system — a mediation, an arbitration — to decide who pays what," said Christopher Fusco, managing partner and insurance attorney at Callahan & Fusco L.L.P. law firm in New York.



AP PHOTO

Hall of Fame Dallas Cowboys running back Tony Dorsett, pictured in 1979's Super Bowl XIII, is part of the NFL players' concussion litigation.

Two pending lawsuits in New York and California state courts could determine insurers' roles in defending and indemnifying the NFL in the concussion litigation.

They also could set the tone for separate litigation Travelers Cos. Inc. filed in July to void its duty to defend and indemnify the NFL in former players' litigation alleging injuries and addiction from improper use of prescription drugs.

Travelers and Alterra America Insurance Co. had sued the NFL and dozens of other liability insurers in August 2012, seeking to void

their obligation to defend and indemnify the NFL in the concussion litigation.

Those cases, filed in New York Supreme Court, remain open. Attorneys for the NFL asked that they be adjourned until settlement proceedings had taken place.

Experts say insurers likely filed those cases in New York because the state is seen as favorable to strict contract interpretation.

"Some of the industry's legal position is maybe ... normal posturing ahead of what everybody

See NFL page 22

REGULATION

Insurance industry vet tapped to lead advisory panel

BY MARK A. HOFMANN

WASHINGTON — The Federal Advisory Committee on Insurance has been one of the lowest-profile panels in Washington, but that could change in the coming months.

The adviser to the Federal Insurance Office, established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, has been expanded to 21 members from its original 15 members. The group previously was dominated by insurance regulators.

During the first meeting earlier

this month of the expanded body, FIO Director Michael McRaith said the "insurance sector of the United States is incredibly diverse" and expanding the advisory panel was called for to reflect that diversity.

Aside from regulators and a state legislator, the expanded body now includes consumer advocates, executives of property/casualty insurers, life insurers, reinsurers and producers, as well as academics.

New members brought up concerns ranging from insurance coverage for cyber attacks to insurer



Mr. Glaser

transparency to mortgage insurance to natural catastrophe policy to the health care reform law, prompting Mr. McRaith to remind them that health insurance issues do not fall within the FIO's jurisdiction.

Marsh & McLennan Cos. Inc. President and CEO Daniel Glaser, who was named to chair the committee in early August, said how insurance policies should respond to cyber attacks and questions concerning disaster resilience are issues the committee could examine.

The committee is expected to dis-

See FACI page 24

BENEFITS MANAGEMENT

Federal pension law helps employers

Change delays higher contributions until 2018

BY JERRY GEISEL

Employers can reduce their contributions to employee pension plans this year thanks to a new federal law allowing them to assume higher interest rates in valuing the size of their defined benefit plan liabilities.

The bill President Barack Obama signed into law earlier this month does not include higher Pension Benefit Guaranty Corp. insurance premiums, which were boosted by similar legislation Congress approved two years ago and again by a measure passed last December.

The savings for employers will be significant, according to a Towers Watson analysis. Minimum required employer pension contributions this year for defined bene-

fit plans with at least 1,000 participants will drop \$17.2 billion to \$44 billion because of the pension funding changes

tucked into the Highway and Transportation Funding Act.

"This can't be described as anything but good news," said Jim McHale, a principal at PricewaterhouseCoopers L.L.P. in New York.

Since the financial crisis in 2008 when interest rates and equities markets plunged, employers' pension plan funding levels sharply declined. The new law essentially gives companies more time to catch up on plan contributions. While pension funding levels have significantly improved in the last year because of the surge in the equities markets, many plans still are underfunded because current low interest rates have inflated the present value of plan liabilities.

The new law effectively will allow employers to use higher interest rates in valuing their pension liabilities. That, in turn, reduces the value of the liabilities and with that the contributions they are required to contribute to the plans.

The law does that by retaining through 2017 a formula—set in the 2012 law—that sets the interest rate used to calculate the value of plan liabilities.

For example, under the law,

See PENSION page 24

08/18/14

ONLINE
FEATURES

VIRTUAL EVENT

Workers comp conference
open for registration

Registration is open for *Business Insurance's* 2014 Workers Comp & Safety Virtual Conference on Oct. 8.
www.BusinessInsurance.com/compsafetyconference

VIDEO REPORT



Ridesharing regulation

Safety and insurance standards for ridesharing operators in Illinois are the subject of the latest video.
www.BusinessInsurance.com/InFocus

GALLERY

OFF BEAT: The Best of July

View a photo gallery of the most popular quirky risk management and insurance stories in July.
www.BusinessInsurance.com/BestOffBeats

DIRECTORY

Directory of Agents & Brokers



The Premium Edition of the 2014 Directory of Agents and Brokers provides information on trends and profiles of

the world's 10 largest insurance brokers and more.

www.BusinessInsurance.com/2014PremiumDirectory

BUSINESS INSURANCE (ISSN 0007-6864)
Vol. 48, No. 17, is published biweekly by Crain Communications Inc., 150 N. Michigan Ave., Chicago, IL 60601-7620. Periodicals postage is paid at Chicago and at additional mailing offices.

POSTMASTER: Email address change to customerservice@businessinsurance.com or mail to Business Insurance Circulation Department, 1155 Gratiot Ave. Detroit, MI 48207-2912. \$10 a copy and \$149 a year in the U.S. \$169 in Canada and Mexico (includes GST). All other countries, \$249 a year (includes expedited air delivery). Canadian Post International Publications Mail Product (Canadian Distribution) Sales Agreement No. 40012850. GST No. 136760444. Canadian return address: 4960-2 Walker Road, Windsor, ON N9A6J3. Printed in USA. Copyright © 2014 by Crain Communications Inc.

NEWS

CAPTIVES

CAPTIVES BROADEN VIEW
AS REGULATIONS INCREASE

Vermont monitors legislation in other domiciles

BY RODD ZOLKOS

BURLINGTON, Vt. — While captive insurers once could keep their legislative and regulatory attention on activities in their domicile, a growing number of domiciles — some looking to grow rapidly — along with actions from federal officials, the National Association of Insurance Commissioners and international regulators have forced those promoting captives' interests to broaden their focus.

So it's been necessary for organizations such as the Vermont Captive Insurance Association to find ways to give association members "early warning" of developments from any number of directions that might affect their captives, said William D. Riley, director at the Paul Frank & Collins P.C. law firm in Burlington, Vermont, and the chairman of the VCIA's board.

Richard Smith, president of the VCIA, said that while in the past the VCIA could concentrate largely on developments in Vermont's capital, Montpelier, now the association also must focus on other state capitals, Washington, the NAIC and even internationally with such developments as the European Union's Solvency II.

"Now captives are subject to more influences than they were previously," said Robert H. Myers Jr., partner at the Morris, Manning & Martin L.L.P. law firm in Washington. Captives now must look beyond their domicile's regulators to the actions of groups like the International Association of Insurance Supervisors, the Organization for

Economic Co-operation and Development and others who often try to apply regulations to captives based on banking principles, Mr. Myers said.

"I think you have to be more inclusive about your vigilance about where some of these ideas are coming from that may have an influence on captives," he said.

To do so, the VCIA has created a legislative monitoring system so it can keep track of significant developments, Mr. Riley said earlier this month at the annual conference of the Vermont Captive Insurance Association in Burlington.

David F. Provost, deputy commissioner in the Captive Insurance Division of the Vermont Department of Financial Regulation, said that 35 states are passing captive insurance laws or seeking to reinvigorate existing laws.

"We don't mind having the competition," Mr. Provost said during a "hot topics" discussion at the VCIA's annual conference that also included Mr. Myers. "Now when we go to the NAIC meeting, we're not the only mouse squeaking."

Still, Mr. Provost suggested all those new domiciles aren't likely to be long-term players in the captive business. "The economics just don't work in a lot of states," he said. "I think some of these states will eventually give it up."

"Certain domiciles are having growth pains," said Mr. Myers said. In addition, "There are some domiciles that I think are clearly what I call defensive," he



"We don't mind having the competition. Now when we go to the NAIC meeting, we're not the only mouse squeaking."

David F. Provost,
Vermont Department of
Financial Regulation

See VCIA page 23

DISABILITY

Addressing
return-to-work
concerns

Easing employees' misgivings helps get them back on the job

BY STEPHANIE GOLDBERG

LAS VEGAS — Employees' expectations and fears about returning to work better predict how long they'll be out of work than other factors, including a clinical diagnosis.

An employee's "return to work doesn't actually happen until somebody decides to return to work," said Jason Parker, president and senior disability management consultant at CentriX Disability Management Services Inc. in Vancouver, British Columbia. "A medical diagnosis does not tell you how long (an employee) will be off work."

If it did, Mr. Parker said, there wouldn't be cases in which one employee asks for transitional work or other accommodations to return to the job, while a second, similarly injured worker ends up on disability. In this example, the only difference between the workers is motivation, he said.

"We label people as being unmotivated, and that may not necessarily be the case," Mr. Parker said. "Motivation is a little bit more complex than an on/off switch. People can appear unmotivated, not because they're not motivated but because something is in the way. And until we uncover that, to assume that they're not motivated is falling a little bit short."

When workers are engaged in the process, he said, they're more likely to open up about their concerns and eventually return to the job.

The idea that return-to-work and disability issues aren't solely clinical matters was a major focus of last week's annual Disability Management Employer Coalition conference in Las Vegas, where Mr. Parker spoke during a general session.

Kristin Tugman, assistant vice president of health and productivity at disability insurer Unum Group in Portland, Maine, said "there's a psychology component in any return-to-work effort," but it's even more challenging when



PENSION BENEFITS

Kodak takes unusual pension step

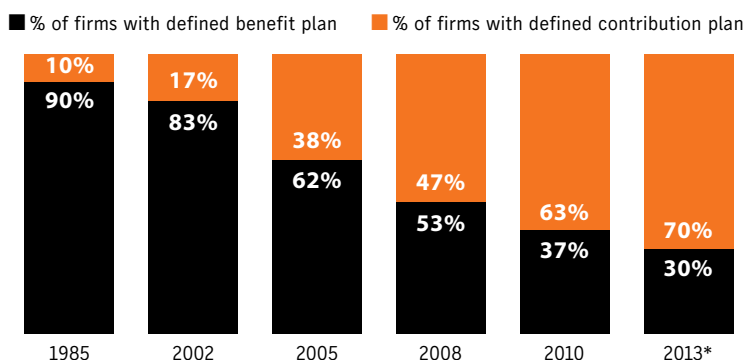
BY JERRY GEISEL

Employers are expected to examine Eastman Kodak Co.'s counter-trend move to sweeten its defined benefit pension plan and eliminate its 401(k) plan match, but benefits experts don't expect the move to lead a significant revival of traditional defined benefit plans.

Bucking a long-standing trend of employers freezing their pension plans, Kodak disclosed last month that it will enrich its 14-year-old cash balance plan. Effective Jan. 1, 2015 plan participants will earn an annual benefit equal to 7% of pay,

BUCKING THE TREND

As Eastman Kodak Co. enhances its pension plan and eliminates its 401(k) plan match, other employers are going in the opposite direction. How defined benefit plan sponsorship is declining:



*As of June 30, 2013
Source: Towers Watson & Co.

See KODAK page 25

See DMEC page 23



KEYNOTE SPEAKER
Victor Peignet
Chief Executive Officer of
SCOR Global P&C

WORLD CAPTIVE FORUM 2015

February 2 - 4, 2015

Boca Raton Resort & Club
A Waldorf Astoria Resort



Join us for the 24th annual **WORLD CAPTIVE FORUM**

One of the longest-running international captive conferences in the world designed to help industry professionals keep up-to-date on the captive insurance industry trends and best practices. This three-day annual meeting provides the ideal community for exchanging ideas, networking and developing business relationships on an international scale.

BENEFITS OF ATTENDING:

- Educational sessions designed for those new to captives market as well as experienced captive owners looking for growth opportunities.
- Global content developed for an international market and for companies with global exposures.
- Comprehensive sessions targeting those who want up-to-date info on how to add employee benefits to their captives.
- New networking opportunities and information resources.
- Engaging exhibit hall filled with service providers and regulators to guide and answer questions.

WHO ATTENDS? 350+ attendees expected!

- Risk managers, benefit managers and senior management of organizations either insured by a captive or exploring formation of one.
- Leading providers of captive services, including captive managers, legal, accounting, actuarial, claims, asset management, fronting, reinsurance and many other services designed to support captives.
- This domicile-neutral event also attracts numerous regulators and representatives from major domiciles to learn from colleagues and captive owners.

ORGANIZING
PARTNERS

BUSINESS INSURANCE



TOWERS WATSON 



HOW YOU CAN PARTICIPATE:

MARY PEMBERTON

mpemberton@businessinsurance.com - 303.898.4043

FOR DETAILS: www.worldcaptiveforum.com

BROKERS SHOULD ASSESS HOW BUYOUTS WOULD AFFECT SERVICES, FEES

Effective communication critical to allay mid-market clients' fears

BY MATT DUNNING

When mid-market insurance brokers are acquired by larger competitors, maintaining the client relationships they've spent years developing demands an open dialogue between producers and insurance purchasers about their respective post-sale expectations.

U.S. and Canadian commercial insurance and employee benefits brokers announced 165 mergers or acquisitions in the first half of this year, the most active first half since 2008, according to Chicago-based Optis Partners L.L.C.

As consolidation in the brokerage industry is predicted to continue, experts say local and regional brokers' evaluation of a potential sale to a larger firm should focus on the sale's possible effects on the individualized service they provide to their clients.

In particular, experts say said midsize brokers should thoroughly consider how a potential change in ownership might affect the producers and staff members assigned to their key clients' accounts.

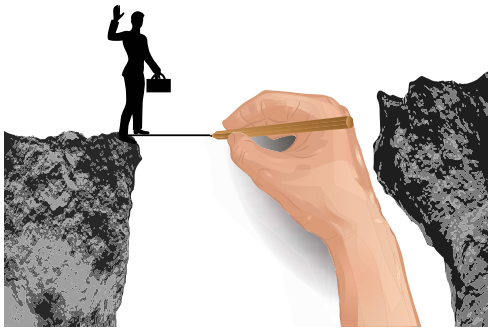
"From our point of view, the relationship between the individual producers and the client cannot change," said Keith Wilcoxson, executive vice president of mergers at Gallagher Benefits Services Inc., the employee benefits brokerage and consulting arm of Itasca, Illinois-based Arthur J. Gallagher & Co.

Gallagher was the second-most active participant in broker mergers and acquisitions from 2011 through 2013, with 73 deals during the three-year span, according to Optis Partners.

"Whoever is servicing that client account, and however they were providing that service, that has to stay the same," Mr. Wilcoxson said.

Because midsize brokers' and consultants' relationships with clients are often as personal as they are transactional, assurances of continuity following a merger or sale typically determine a client's decision whether to remain with their brokers.

"Clients want to know first and foremost what the acquisition means for their company and what it means for the producer handling their account," said Andrew Forchelli, a Los Ange-



POST-SALE PREPARATION

Best practices and key questions in broker/consultant mergers and acquisitions

When merging or selling to a larger firm, independent brokers/consultants should:

- Prepare a tailored client communications strategy well in advance of the deal announcement.
- Assure clients there will be continuity of service and retention of key account personnel.
- Emphasize broader availability of relevant value-added services and capabilities post-transaction.

When informed of a broker/consultant's decision to merge or sell, clients should:

- Ask whether there will be changes to account service personnel.
- Inquire if the transaction will boost service options.
- Ask about opportunities for cost savings.
- Inquire if there will be changes in service fees/producer compensation structures.

les-based senior executive vice president at Hub International Ltd., the most active acquirer in the 2011-2013 period.

Mr. Forchelli's former company, GNW-Evergreen Insurance Services Inc., was among 25 midsize brokers and consultants that Hub bought last year.

Seven months into the integration process, Mr. Forchelli credits well-prepared client communications about changes under its new ownership for the company's high rate of retention of former GNW-Evergreen clients.

"All of the producers were briefed about the deal in advance of the formal announcement,

and we had an outreach initiative that first and foremost was aimed at reaching our key clients and centers of influence," Mr. Forchelli said.

Beyond the immediate continuity of existing services and personnel, experts say clients would be well-served to inquire about the possibility of any future changes to their brokers' service and compensation models.

For example, an acquiring firm may plan to consolidate operations, which experts say typically negatively affects the quantity and quality of smaller clients' face time with their broker.

"There may be a centralization of certain things down the road that might mean a reduction in local services," said Timothy J. Cunningham, Chicago-based managing partner at Optis Partners. "The probability of something like that happening on a larger middle-market account is pretty small, though."

Mr. Cunningham said clients should ask their brokers whether there are plans to change their compensation or fee structures under the new ownership.

"The regional broker previously was likely providing a certain amount of loss control or related service as part of their regular commission or fee structure," Mr. Cunningham said. "Going forward, they might find that the new owners allocate value-added services in relation to the size and/or profitability of the account and may plan to begin charging for some of those services above a certain threshold."

On the other hand, merging with a larger brokerage allows midsize brokers to offer expanded value-added services — including data analytics, claims management and loss-control services — as well improving leverage with insurers or reducing brokerage fees and other expenses.

"A client should never have to ask those questions if the merging companies are doing their jobs," said Phil Trem, vice president of mergers and acquisitions at Willoughby, Ohio-based Marsh, Berry & Co. Inc.

"They should be answered for clients on a proactive basis."



CLIENT HAPPY WITH BROKER'S ACQUISITION TRANSITION

When Raleigh, North Carolina-based commercial security firm Risk Management Associates Inc. chose Progressive Benefits Solutions L.L.C. as its employee health benefits broker and consultant in 2007, its need of hands-on placement and advisory services was a major factor in its decision.

"We're a very small business, and the reason I started working with them in the first place was that it's very difficult for small businesses to get the attention they need" from larger firms, said Christine Peterson, president of Risk Management Associates.

In June 2012, Marsh & McLennan Agency L.L.C. bought Progressive Benefits. Shortly after the deal was announced, Ms. Peterson said the principal with whom she'd been working at Progressive Benefits — Raleigh-based division manager Rick Kelly — called to make certain that she knew precisely what the transaction would mean for the security firm's account in the short and long terms.

"Rick wanted to assure me that we would still be an important client to their company," Ms. Peterson said. "His message to me was that the acquisition would make Progressive Benefits a better service provider by allowing them to draw from new resources, and he was true to his word."

Since then, Ms. Peterson said her working relationship with Mr. Kelly and Progressive Benefits has remained largely unchanged, if not improved.

In particular, she said the acquisition greatly expanded Progressive Benefits' ability to provide assistance in complying with the Patient Protection and Affordable Care Act.

"That was an area where the timing of the deal seemed pretty perfect for them," Ms. Peterson said. "It really gave them a lot of ability in terms of sorting through the legislation, and that lets them share those abilities with us as a small business."

MOST ACTIVE BUYERS

The five most-active buyers of insurance brokers ranked by number of deals, 2011-2013.

1	2	3	4	5
Hub International Ltd.	Arthur J. Gallagher & Co.	AssuredPartners Inc.	Confie Seguros Insurance Services	Brown & Brown Inc.
78	73	43	40	38

Source: Optis Partners L.L.C.

BUSINESS INSURANCE
WHAT MATTERS MOST

2014 WORKERS COMP & SAFETY VIRTUAL CONFERENCE



KEYNOTE SPEAKER
William Zachry
Vice President of
Risk Management for
Safeway Inc.

October 8, 2014

virtual conference presented by
BUSINESS INSURANCE

Join us for the 5th annual **WORKERS COMP & SAFETY VIRTUAL CONFERENCE**

Don't miss our 5th annual virtual conference focused on workers comp and safety solutions. Take advantage of a full day of webinars, audience Q&A and networking with peers to help you better understand and manage the drivers for success in your workers comp and safety programs.

BENEFITS OF ATTENDING:

- Discover solutions and products from industry players speaking and exhibiting
- Excellent networking and business development opportunities.

WHO ATTENDS:

- Agents & brokers
- Alternative risk financing/captive services
- Attorneys
- Claims managers
- Disability management providers
- HR and benefit managers
- Insurers
- Occupational health care providers
- Pharmacy benefit managers
- Regulators
- Risk managers
- Technology providers
- TPAs
- Workers comp and safety managers

**GOLD
SPONSOR**



HOW YOU CAN PARTICIPATE:

MARY PEMBERTON
mpemberton@businessinsurance.com - 303.898.4043

REGISTRATION: WWW.BUSINESSINSURANCE.COM/VIRTUALCOMP

BENEFITS ADMINISTRATION VENDORS RETOOL TO HELP FIRMS COMPLY WITH TAX REPORTING RULE

BY JOANNE WOJCIK

Providers of benefits administration outsourcing services are scrambling to help employers comply with upcoming tax reporting requirements of the Patient Protection and Affordable Care Act, but few can transmit that information directly to the IRS.

While some human resources information system providers can perform services such as tax filing in addition to benefits administration and payroll processing, systems built solely to perform health and welfare benefits administration historically have not had such capabilities, experts say.

Some providers are retooling to meet the new ACA reporting requirements, while others are partnering with firms that already have tax-reporting capabilities.

JoAnne Pettijohn, a Dallas-based solutions consultant in Lockton Cos. L.L.C.'s human resource technology outsourcing practice, said while most benefit administration outsourcing providers "can help employers gather the data and help prepare the reports, the filing is going to be the difficult component."

"Currently, the only choice is to prepare the report with all the integral data and then deliver it to the client so the employer can file it with their tax filing, but there is no electronic interface at this point," Ms. Pettijohn said.

"There are a lot of stand-alone ACA technology vendors that have come to the rescue, but they're not benefit administration vendors," she said. "A lot of benefit administration vendors are partnering with these stand-alone ACA vendors, but a stand-alone benefit administration vendor may

TEXAS RETAILER FINDS PROVIDER TO HELP WITH AUTOMATED HEALTH BENEFITS ENROLLMENT

ALCO Stores Inc. changed benefit administration outsourcing providers this year to help it meet Patient Protection and Affordable Care Act requirements that the chain of more than 200 stores provide automated enrollment to employees and extend benefits to those working 30 or more hours per week.

As a retailer, Coppell, Texas-based ALCO Stores has a large variable-hour workforce. Benefitfocus Inc.'s HR InTouch Marketplace, used in conjunction with the ACA Management Platform from Equifax Workforce Solutions, gave ALCO the tools it needed to measure and track the eligibility of its workers as required by ACA's employer mandate, Shatana Allen, director of human resources at ALCO Stores, said in statement.

"This was the comprehensive solution we needed to improve employee engagement and be more strategic in our benefits administration," she said. "We are excited to roll this out starting with open enrollment for our variable-

hour workers in November."

Such provider switching has surged in the past several years, mostly in response to ACA, according to a report by Everest Global Inc., a Dallas-based advisory and research firm.

"Buyers felt threatened from compliance-related issues and hence switched service providers to avoid severe penalties," according to the report. Moreover, "over the last few years, the pricing for (benefits administration outsourcing) has declined and buyers either renegotiate the existing contracts or switch providers to get more value for the money spent."

Though Everest Global expects such switching to decline this year from its peak in 2012-2013, it likely will remain higher "due to the market being more dynamic and difficult in terms of more complex requirements" because of ACA, Arkadev Basak, practice director at Everest Global, said in an email response to questions from *Business Insurance*.

By Joanne Wojcik

not have these capabilities."

Mercer L.L.C. recently introduced its Employer Shared Responsibility software that can accept data feeds from payroll systems to track hours and report who has met the 30-hour threshold for benefits eligibility, said Kerry Donoghue, Norwood, Massachusetts-based partner and health and benefits administration business leader at Mercer.

"We can feed a file to their payroll vendor or another third party, but there's not the ability for us right now to do a tax filing," Ms. Donoghue said. "We do something similar with the W-2 reporting."

Using Mercer's benefit adminis-

tration outsourcing systems for tax reporting "would require us to do additional coding," she said. "We also would have to do additional work with the IRS from a licensing perspective."

Similarly, Aon Hewitt provides "data files to support the filing requirement, as much of this information is on file as part of the benefits administration services we provide," said Craig Rosenberg, the consultant's Norwalk, Connecticut-based health and welfare benefits administration practice leader.

The files must include demographic, enrollment, cost and other information.

"We are currently working

through the approach related to the actual IRS filing and creation of tax forms," he said, but U.S. Treasury Department guidance must be issued first. "Draft forms have been released, but filing instructions have not yet been provided."

Tony DeNucci, managing director of benefits outsourcing at Towers Watson & Co. in Minneapolis, said clients are asking for help with the Internal Revenue Code 6055 and 6056 reporting requirements on health insurance offered, which go into effect for the 2015 tax year.

"That is something that we can help clients with, but we do have to modify our processes," Mr. DeNucci said. "Under our tradi-

OUTSOURCED SERVICES

Health and welfare benefits services that employers typically outsource are:

- Annual enrollment
- Billing and financial management
- COBRA eligibility and billing
- Contribution processing
- Data administration/record-keeping
- Decision-support tools
- Dependent verification and audits
- Feeds to medical providers, insurers and others
- Life-event processing
- Plan communication and education

Source: Everest Global Inc.

tional outsourcing agreement, it was not something we were contracted to do."

Charleston, South Carolina-based Benefitfocus Inc. announced a joint venture last fall with Equifax Workforce Solutions, a unit of Equifax Inc., to provide administration and reporting tools to determine benefit eligibility for part-time and seasonal employees, said Shandon Fowler, director of product management for marketplaces at Benefitfocus.

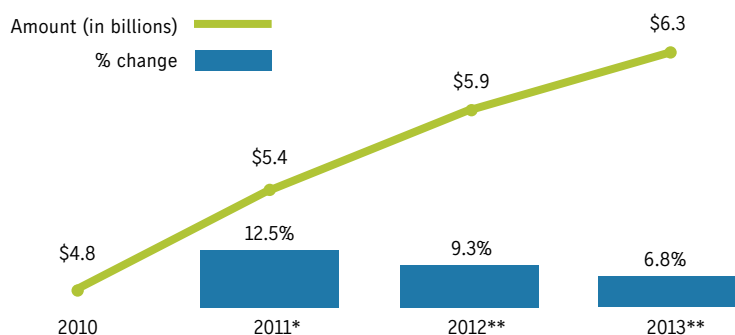
"This was something that caught everybody off guard," he said. "It was something that hadn't been done before. One of the reasons that Treasury delayed the reporting requirements was because there weren't any current systems capable of doing it."

Perhaps the biggest reason so many outside providers of benefits administration are ill-equipped to perform this new reporting task is that "this is tax reporting, not benefits administration," said Ray Grove, product marketing manager at Convey Compliance Systems L.L.C., a nonwage third-party tax information reporting provider based in Minnetonka, Minnesota. "One of the things that the ACA has done is to complicate things for employers. This is very much a tax process; it just has to do with health care."

But "even if an employer were to use a stand-alone outsourced ACA administrator, they are still going to be dependent on eligibility and enrollment data from their benefits outsourcing vendor," said Bruce Gillis, health and wellness practice lead at Xerox Corp. in Louisville, Kentucky. "The system of record is clearly going to be the health and welfare benefits administration system."

OUTSOURCED BENEFITS ADMINISTRATION

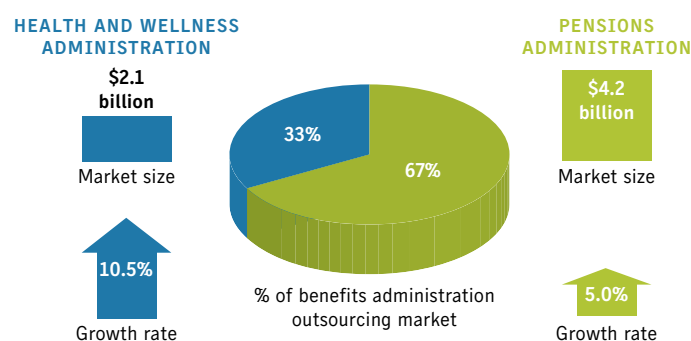
The amount of health and welfare benefits employers have outside providers administer has grown steadily in recent years.



*As of June of that year. **As of July of that year.
Source: Everest Global Inc.

HEALTH AND WELFARE VS. PENSIONS

Outside pension administration remained the largest piece of the benefits administration outsourcing market in 2013.



Source: Everest Global Inc.

Navigate Tomorrow's Risks Today.

Delivered to your inbox.



BREAKING NEWS ALERTS:

Customized updates tailored to your specific companies, topics and countries of interest. When targeted news breaks online, an email is sent to all opt-in readers.

DAILY NEWS ALERT:

All the top stories in one email. Must-read daily news email that includes the biggest headlines and the most relevant news and info online.

GLOBAL FOCUS NEWS ALERT:

Know what's going on in the world with a daily newsletter delivering breaking global risk management and insurance news monitored by *Business Insurance*.

CHANNEL NEWSLETTERS:

Up-to-date weekly news that targets just the content channels you follow--such as Risk Management, Benefits Management, Workers Comp--with special online features including videos, events and white papers.

TECH INSIGHTS:

The new technologies and developments that are impacting the risk manager in a monthly newsletter that keeps you apprised on the tech industry's innovations.

COMINGS & GOINGS ALERT:

Career moves in a weekly email highlighting the latest hires and promotions in the commercial insurance, risk management and employee benefits markets. Plus, browse links to current listings from *Business Insurance's* Career Center.

BUSINESS INSURANCE SUBSCRIBER ALERT:

Top stories from the bi-weekly publication. Discover headline highlights and features available both online and in the interactive digital edition with the bi-weekly *Business Insurance* newsletter.

CRAIN'S BENEFITS OUTLOOK ALERT:

Receive the latest news, analysis and data on employee benefits strategy in the quarterly Crain's Benefits Outlook Newsletter. It highlights top stories and features available online at CrainsBenefitsOutlook.com.

DIGITAL DAILY EMAILS:

News and coverage for selected industry conferences and events. A dedicated email report with three or more news stories, along with features, multimedia and executive profiles sent during the events.

**GAIN VALUABLE INSIGHT NOW.
REGISTER AND UPDATE PREFERENCES:
www.businessinsurance.com/emails**

Fitch downgrades Ace Russia

■ Fitch Ratings has downgraded Moscow-based Ace Insurance Co. CJSC's insurer financial strength rating to BBB from BBB+ with a negative outlook, London-based Fitch Ratings Ltd. said. Fitch The downgrade of Ace Russia's financial strength rating followed the downgrade of the Russian Federation's country ceiling to BBB from BBB+. "This in turn reflects Fitch's view that, although the Russian authorities continue to maintain an open capital account, sanctions from and deteriorating relations with the E.U. and U.S. pose risks to Russia's financial integration with the rest of the world, increasing transfer and convertibility risk," Fitch said in a statement. Ace Russia is part of Zurich-based Ace Group, with Ace Ltd. as its parent.

Aon acquires Peruvian broker

■ Aon P.L.C.'s Aon Risk Solutions unit has acquired Lima, Peru-based brokerage Grana y Asociados. Financial terms of the acquisition were not disclosed. "Latin America is one of the fastest-growing regions and a key area of focus for Aon and our clients," Aon Risk Solutions CEO Michael O'Connor said in the statement. Grana, which has about 60 staff, has specialist expertise in the construction and mining industries, he said. The purchase follows Marsh L.L.C.'s purchase in May 2013 of Peruvian brokerage Rehder y Asociados Group, which had a representative brokerage relationship with Aon.

Legal & General profit boosted by pension deals

■ British life insurance and pensions group Legal & General Group P.L.C. posted better-than-expected profit in the first half of the year, boosted by sales of high-margin pension services to companies. It said sales of so-called "bulk annuities" to firms looking to outsource all or part of their pension plan liabilities to the insurer had more than quadrupled premiums to £3.1 billion (\$5.22 billion) and pushed annuity assets up 20% to £38.5 billion (\$64.77 billion). That helped operating profit from the company's retirement business hit £188 million (\$316.3 million) in the six months to the end of June and pretax profit climb 7% to £636 million (\$1.07 billion). The 177-year-old life group said it was well-positioned to profit from changes to the pensions market announced in March by British Finance Minister George Osborne and was developing new retirement products following the changes.

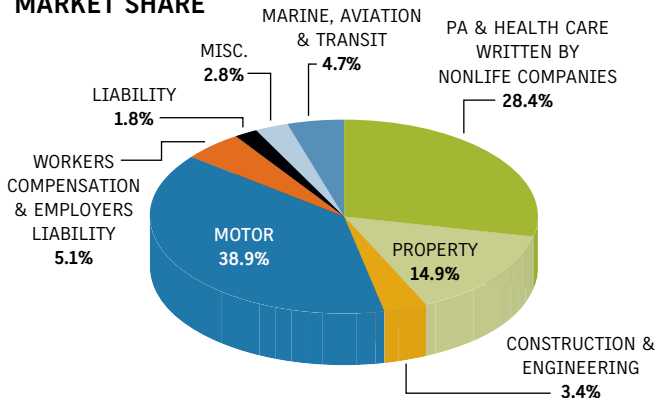
PROFILE: KENYA

\$1.01 BILLION

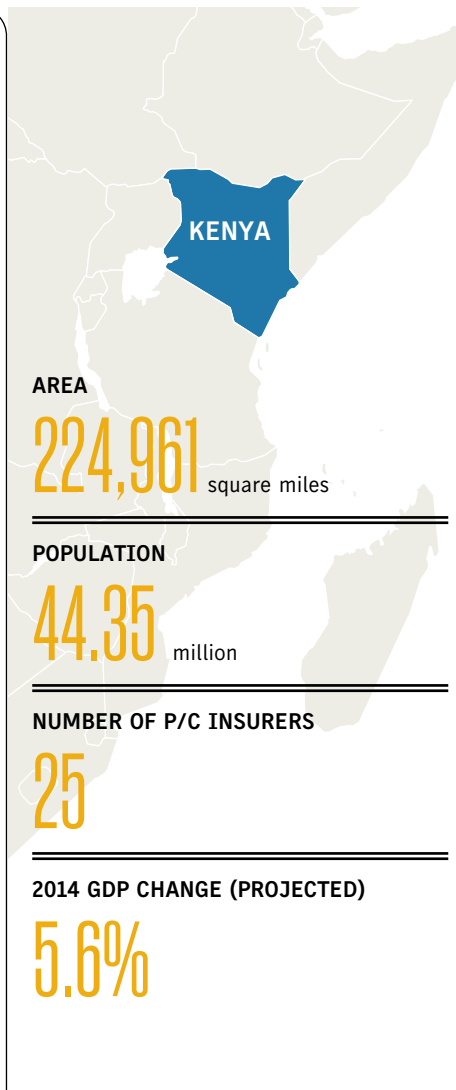
The Kenyan property/casualty insurance sector has reported solid growth for more than a decade. During the fourth quarter of 2013, premiums jumped 18.9% over the prior-year period. Last year, annual underwriting profit for the sector was \$49.3 million, compared with \$36.8 million in 2012. A big part of future insurance market expansion is expected to come from bancassurance, takaful coverage and microinsurance for small farming operations and welfare organizations.

◀ 2013 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



MARKET DEVELOPMENTS

UPDATED AUGUST 2014

- In April, the government proposed merging nonbank financial regulators into one umbrella authority.
- In January, several amendments were proposed to last year's major insurance legislation. The most important is scrapping a requirement that at least 33.3% of equity in individual insurers be held by Kenyans.
- In January, a bill was introduced to create a no-fault compensation program for death and injury under auto third-party liability coverage.
- In January, the Association of Kenya Insurers obtained a temporary injunction blocking the country from collecting a 10% tax on insurance fees and commissions until insurance-sector concerns about the levy enacted last year are resolved.
- In January, the insurance regulator began demanding standardized wording on insurance policy forms for certain coverages, such as product liability, all risks and personal accident insurance.

COMPULSORY INSURANCE

- Auto third-party liability
- Workers compensation
- Aviation third-party liability
- Shipowners liability for marine oil pollution
- Professional indemnity for insurance brokers

NONADMITTED

Nonadmitted insurance is not permitted because Kenyan law states that insurance has to be purchased from authorized insurers. There are exceptions, however. If coverage is not available in the country, approval to place business from abroad has to be secured from the government regulator. Also excluded from the nonadmitted law are marine cargo insurance policies on personal goods and residents coming to Kenya temporarily.

INTERMEDIARIES

Agents and brokers are required to be licensed to sell insurance policies. Intermediaries are not permitted to place business with nonadmitted insurers, unless approved by the Kenyan insurance regulator. Brokers handling nonadmitted placements are not required to warn insurance buyers that an insurer is not subject to local supervision.

MARKET PRACTICE

Because exchange control regulations have been loosened, it's often difficult for the insurance regulator to know when coverage is placed outside the nation. Despite the law against it, foreign insurers still sell insurance in Kenya. The government continues to crack down on illegal placements.

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

tioned to profit from changes to the pensions market announced in March by British Finance Minister George Osborne and was developing new retirement products following the changes.

Reuters

Sampo upgrades insurance outlook

■ Finnish financial holding group Sampo P.L.C. upgraded the full-year profitability outlook for its property/casualty insurance business. If P&C Insurance, after policyholders made no big claims in the Nordic region in the first six months. If Chief Executive Torbjorn Magnusson said conditions for insurers were exceptional in all Nordic countries, resulting in the company's best first-half profitability.

ity. "There were no large claims. There were few fires and a low amount of car accidents," he said in a statement. Sampo cut its target for If's combined ratio to 88% to 91% for this year from the 89% to 92% it forecast in May. Sampo's overall pretax profit in the second quarter rose 2% from a year ago to €465 million (\$623.6 million) as investment income increased.

Reuters

China Re plans IPO in Hong Kong

■ State-owned China Reinsurance Corp. plans an initial public offering of up to \$2 billion in Hong Kong, the Wall Street Journal reported, citing people with direct knowledge of the deal. The company is working with UBS A.G. and

HSBC Holdings P.L.C. on preparations for the IPO, which it plans to launch in the first half of next year, the Journal reported. A representative of the company could not be immediately reached for comment.

Reuters

CNA shuffles leadership in Canada, Europe

■ CNA Financial Corp. has named John Hennessy president and chief operating officer of CNA Canada and David Brosnan as chief executive of CNA Insurance Co. Ltd. (CNA Europe). Mr. Brosnan is replacing Mr. Hennessy as head of CNA Europe, the Chicago-based insurer said. Mr. Brosnan will continue to serve as the chief executive of Hardy, CNA's Lloyd's of London business, according to a

statement. Mr. Hennessy is replacing Gary Owcar, the current leader of CNA's Canadian operations, who will retire in September 2014, the insurer said. Mr. Hennessy will be based in Toronto and Mr. Brosnan is based in London.

E.U. executive wants to beef up watchdogs

■ The European Union's trio of new financial watchdogs should have more power over banks, insurers and markets to ensure national regulators apply E.U. rules, the European Commission said in a review. The review looked at the three European Supervisory Authorities, or ESAs, set up in 2011 to improve oversight of the 28-country bloc's markets and banks after the 2007-2009

financial crisis uncovered failings. The London-based European Banking Authority, Paris-based European Securities and Markets Authority and Frankfurt, Germany-based European Insurance and Occupational Pensions Authority have performed well during their first three years but need stronger powers to assert themselves, the review found. "In particular, the ESAs should give a higher profile to issues related to consumer/ investor protection, and strengthen the focus on supervisory convergence," the commission said in a statement. The review recommends medium-term actions that would need changes in the law, including strengthening the authority and role of the ESAs' chairman to take "swift decisions in the interest of the E.U. as a whole," making it harder for a national regulator to shield one of its banks or insurers from an E.U. rule.

Reuters

India faces resistance on insurance reform

■ Plans by India's government to allow more foreign investment in the country's still-small insurance sector has hit snags in parliament, testing Prime Minister Narendra Modi's campaign promise to push through reforms to revive the economy. The government sought twice recently to introduce legislation in the upper house of parliament permitting 49% foreign participation in an insurance venture, up from 26%, but it has been blocked by the opposition. Mr. Modi's government expects that if the sector is opened further, insurers such as Canada's Sun Life Financial Inc., Prudential P.L.C., Nippon Life Insurance Co., Italy's Assicurazioni Generali S.p.A. and Dutch insurer Aegon N.V. will inject more funds into what is the world's 10th-biggest life insurance market, even though currently fewer than 4% of Indians have insurance.

Reuters

Munich Re profit rises despite jump in claims

■ Munich Reinsurance Co. reported a 45% rise in its second-quarter net profit despite a surprise jump in claims and evidence of continued pricing pressures. Net profit in the three months ended June rose to €765 million (\$1.03 billion) from €528 million (\$686.9 million) in the same period last year, driven by a two-thirds rise in investment income while property/casualty reinsurance was hit by a rise in disaster claims like the April

earthquake in Chile. However, Munich Re said €180 million (\$241.7 million) in claims from a snowstorm in Japan in February were not booked until the second quarter, distorting results. A series of fires, explosions and other man-made disasters also weighed on the April-to-June period. Payouts for major losses rose to €617 million from €605 million (\$828.6 million from \$787.1 million) a year earlier, the company said. Munich Re's premium volume fell by more than 7%, of which 3.6 percentage points was due to weaker pricing, in the latest round of renewing contracts with policyholders in July.

Reuters

Zurich restructuring on track as profit rises

■ Zurich Insurance Group Ltd. posted a jump in second-quarter net profit and said its business overhaul was on track, with job cuts largely completed and more than half of restructuring costs booked. Lower natural catastrophe damage claims helped the Swiss insurer post a net profit of \$837 million. Zurich said its com-

bined ratio improved 3.4 points to 95.7% in the second quarter, compared to a 94.9% poll estimate. Restructuring costs meant the insurer's net profit missed forecasts, rising 6% against expectations for a 21% jump. Zurich announced at the end of 2013 that it would revamp its businesses, aiming to boost profitability by investing in high-margin units, selling underperforming lines and cutting jobs. Around 670 positions have been cut, the Swiss insurer said. In March, the company said it would cut about 800 jobs globally to try to save around \$250 million per year. "These savings will start to flow through to our results by the end of 2015," Chief Executive Martin Senn said on a call with journalists. "This streamlining is largely completed."

Reuters

Catlin first-half profit jumps to \$273 million

■ Catlin Group Ltd.'s net income more than doubled to \$273 million for the first half of 2014 from that of the same period a year earlier on higher premiums and improved combined ratio, the Hamilton,

Bermuda-based specialty insurer and reinsurer said. Gross written premiums for the six months ended June 30 increased 10.9% to \$3.66 billion. Six-month net underwriting contribution jumped 21.5% to \$536 million and the company's first-half combined ratio improved to 85.0%, from 88.1% in the year-ago period. "During the first half of 2014, profits before tax increased by 118%, while our annualized return on net tangible assets was 21.3%. Net underwriting contribution reached an all-time high, while the attritional loss ratio remained low, reflecting Catlin's underwriting discipline," Catlin CEO Stephen Catlin said in the company's earnings statement. He said that all areas of the company's business performed well, with rating conditions more resilient in its U.S., Europe, Asia-Pacific and Canada operations than in the London and Bermuda markets.

Allianz profit increases despite Pimco problems

■ Problems at Allianz S.E.'s U.S. investment firm, Pacific Investment Management Co. L.L.C. persisted in the second quarter as

clients defected and margins slipped. Allianz said investors withdrew more than €20 billion (\$26.86 billion) from Pimco in the second quarter, casting a shadow over results at its insurance divisions that beat even the highest of analysts' forecasts. In contrast analysts said Allianz's other businesses — property/casualty and life/health insurance — looked set to carry operating profit above the company's target range for the full year. Group operating profits of €2.8 billion (\$3.76 billion) in the quarter take Allianz more than halfway toward its goal of earning €10 billion (\$1.34 billion), plus or minus €500 million (\$671.5 million), in the full year. "We expect the upper end of the target range to be in reach," Allianz Chief Executive Michael Diekmann said in a statement. For the second quarter Allianz also posted a 10.5% rise in net profit to €1.76 billion (\$2.36 billion). Mr. Diekmann's contract as chief executive expires in December, but big shareholders expect the 59-year-old to stay on at the helm of the company he has led for more than a decade. A decision on his role is due in October. Asked by reporters if he would want to carry on in the top job, Mr. Diekmann said, "I'm always up for it."

Nestlé's captive reinsurer to receive World Captive Forum excellence award

The World Captive Forum has selected Nestlé S.A. to be the recipient of the conference's 2015 Award of Excellence for its Switzerland-domiciled captive reinsurer, Intercona Re.

In addition to selecting Vevey, Switzerland-based Nestlé to receive the Award of Excellence, the World Captive Forum announced earlier this month that Victor Peignet, CEO of Scor Global P&C S.E., the property/casualty reinsurance arm of Paris-based reinsurer Scor S.E., will be the keynote speaker for the 2015 World Captive Forum in Boca Raton, Florida, on Feb. 2-4 at the Boca Raton Resort & Club.

Scheduled for Feb. 3, 2015, Mr. Peignet's keynote remarks will focus on global insurance and reinsurance trends and developments, as well as examining the role captive insurers and reinsurers play as part of a broader risk management strategy.

Scor Global P&C serves both treaty reinsurance clients and large global corporate buyers worldwide with a variety of property/casualty, engineering and captive risk transfer coverages.

The World Captive Forum Award of Excellence will be presented during a ceremony Feb. 3 during the forum, with Andrew Bradley, head of group risk services and



SCOR

Victor Peignet, CEO of Scor Global P&C S.E., will be the keynote speaker for the 2015 World Captive Forum.

CEO of Intercona Re, and Pascal Prevost, general manager of Intercona Re, accepting the award on behalf of Nestlé.

The Award of Excellence recognizes the parent of a single-owner captive for leadership in using a captive for funding property/casualty and employee benefits exposures, contributions to the enterprise's strat-

egy and objectives and those of its businesses in the field, and contributions to the risk and insurance profession.

Nestlé's Intercona Re captive covers a diverse portfolio of risks and supports various strategic business objectives for the international food and beverage company. In addition to using Intercona Re to provide property, general liability, marine and motor coverages, Nestlé uses the captive to provide employee benefits including medical insurance. The captive also helps finance Nestlé's loss-prevention efforts around the world.

Messrs. Bradley and Prevost will discuss Nestlé's captive program as part of a captive case studies session during the 2015 World Captive Forum.

Previous winners of the Award of Excellence include Caterpillar Inc., The Coca-Cola Co., Archer Daniels Midland Co. and Deutsche Post DHL.

Organized by *Business Insurance*, R&Q Quest and Towers Watson & Co., the World Captive Forum is an annual three-day event drawing risk managers, benefits managers, captive managers, captive owners, regulators and service providers. For more information, go to www.worldcaptiveforum.com.

By Rodd Zolkos

EDITORIAL

INSURANCE PANEL NEEDS TO REFOCUS

The Federal Advisory Committee on Insurance must focus tightly on a handful of crucial issues, as it provides advice and insight to the Federal Insurance Office. As we report on Page 3, the committee met earlier this month for the first time since last September. The membership of the committee was recently expanded to 21 from the previous regulator-dominated 15 members called for under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The expansion is designed to reflect the diversity of the insurance sector.

That's a worthy aim, provided that the committee doesn't devolve into 21 members pursuing 21 agendas. Some of the discussions initiated during the recent meeting give rise to concern that the group will lose sight of what it can and cannot deal with. For example, FIO Director Mike McRaith had to gently remind some members of the body that despite their concerns, FIO has no jurisdiction over health insurance in general and implementation of the Patient Protection and Affordable Care Act in particular.

The committee, much like FIO, has gotten off to a relatively slow start since its formation in 2011. We hope that will change under the leadership of its new chairman, Marsh & McLennan Cos. Inc.'s President and CEO Daniel Glaser.

Focus will be key to the committee's success. International insurance issues will be discussed at the group's next meeting, slated for early November. We think that's a good place to start.

We realize the committee is an advisory board to what is largely an advisory office. To provide advice effectively, committee members will have to concentrate on the few issues, such as entering into covered agreements regarding cross-border reinsurance, in which FIO can have a significant effect. We realize agendas change with time as they must, but the committee would do well to keep its focus narrow and thus provide real service to the federal government, the insurance sector and the economy as a whole.

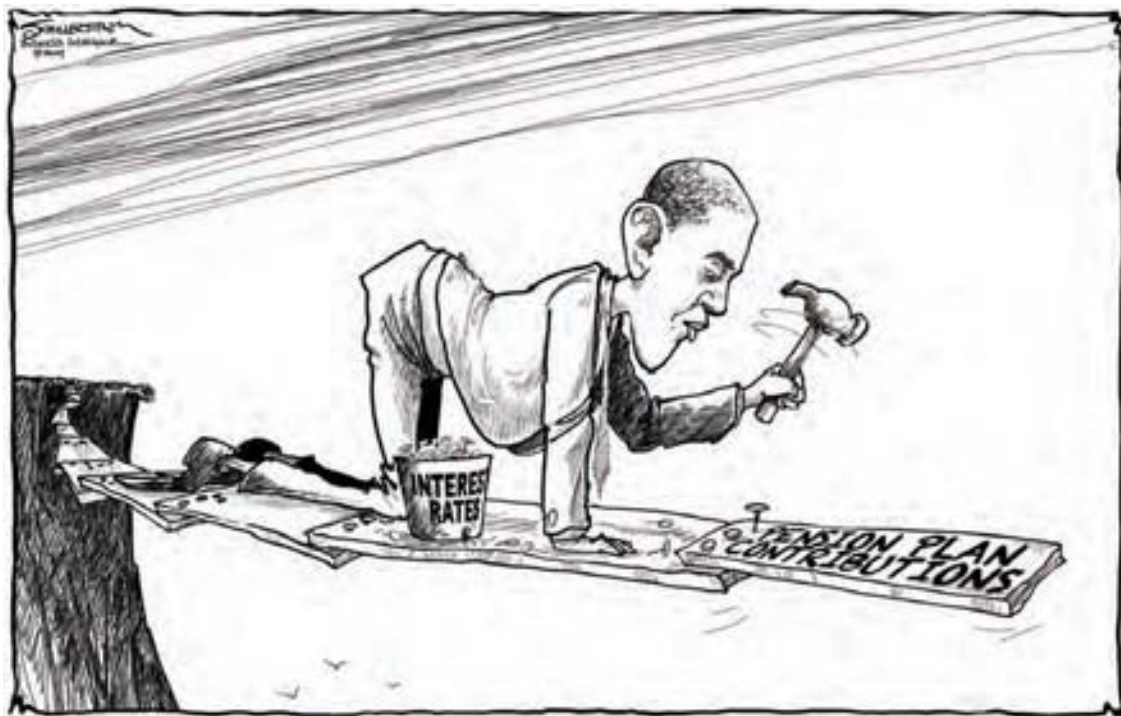
Business Insurance welcomes letters to the editor. The section is intended to be a forum for readers' opinions and comments. We reserve the right to edit letters for clarity or space. We will not publish unsigned letters.

Please send your letters to:

Letters to the Editor, *Business Insurance*,
150 N. Michigan Ave., Chicago, Ill. 60601-7524

Fax: 312-280-3174; email: gsouter@businessinsurance.com

SCHILLERSTROM



COMMENTARY

ROBIN WILLIAMS' DEATH SHINES LIGHT ON DEPRESSION

The death of actor Robin Williams, who authorities say committed suicide, tragically brings into focus a daily issue for many people: depression. Mr. Williams, who reportedly took his own life after suffering from severe depression, was one of millions of people in the U.S. dealing with the disorder.

According to federal government statistics, about 10% of the population age 12 and over take antidepressant medication, which means that all but the smallest employers almost certainly have workers diagnosed with depression.

Some experts dispute whether the rate of antidepressant prescriptions reflects actual rates of depression — often the medications are prescribed by family doctors who may not have the clinical background to accurately diagnose depression — but clearly there are millions of people who have some symptoms of the disorder. And the prescription rates obviously don't reflect the unknown number living with depression who don't seek medical help.

For employers, it is a tough issue to deal with. Depression is often linked with increased rates of absenteeism and presenteeism. According to the U.S. Centers for Disease Control and Prevention, the disorder results in 200 million lost workdays a year, costing employers up to \$44 billion annually.

Fortunately, there are many drugs on the market to help people cope with depression, and antidepressants are the most commonly prescribed medications in the United States. But that also means the disorder is costing employers additional billions through health plan costs.

Despite the prevalence of the issue and the harsh economics, it is also an intensely private matter. Aside



**GAVIN
SOUTER**
EDITOR

from privacy rules that prevent employers from directly intervening, employees often are reluctant to acknowledge they might have mental health conditions. Companies may set up high-quality employee assistance programs to tackle the mental health concerns of their workers, but they are of little value if the employees who would benefit from them can't or won't take the

first step to access the services.

As with all complex issues, there are no simple answers to the problem of depression in the workplace. Some first steps, however, would include recognizing that it is an issue in most workplaces, developing a sympathetic environment that encourages people to seek help, and training managers to recognize the problem.

From there, employers can go further and make changes to their workplace policies to create more flexible approaches. This can be as simple as allowing workers to take a series of short breaks rather than just one long lunch break and the designation of private spaces for people to use — or as detailed as changing work schedules to allow people to adapt their timetables to help their mental well-being.

Depression is a long-term concern for society as a whole, and employers have a crucial role to play in attempting to minimize its sometimes dreadful outcomes.

SPECIAL
REPORT

Absence & Disability

Management

Employers review
work-from-home
guidelines

PAGE 14

Help employees
with mental illness
ease back into work

PAGE 15

Meeting goals
on veteran hiring
poses challenges

PAGE 16

Benefits integration picks up steam

Compliance drives interest in combining workplace absence programs

BY STEPHANIE GOLDBERG

To ensure compliance with federal and state laws and company policies, employers of all sizes are becoming more interested in integrating their leave, disability and workers compensation programs.

For many years, integrated programs that coordinate different types of workplace absences, such as short- and long-term disability, federally mandated leaves and workers comp, have appealed to employers looking to lower costs, improve return-to-work rates and streamline processes for employees, said Terri L. Rhodes, executive director of the Disability Management Employer Coalition in San Diego.

But as the compliance spectrum widens, Ms. Rhodes said more employers are viewing integration as a necessity rather than as a way to get several departments — usually risk management, benefits management and human resources — to “play nicely in the sandbox.”

New Rehabilitation Act rules could further that shift, Ms. Rhodes said. The rules, which went into effect in March, require federal contractors and subcontractors to set affirmative action goals in hiring qualified workers with disabilities.

“There’s more integration going on because of the compliance piece,” Ms. Rhodes said. “It’s moving more from a financial return-on-investment decision for employers to ... ‘We have to be in compliance (and there are some pretty severe penalties if we’re not.)’”

“For most clients ... probably the biggest reason they started outsourcing their leave had to do with compliance,” said Tammy LeClaire-Worthey, Irving, Texas-based senior vice president and managing director at Sedgwick Claims Management Services Inc.

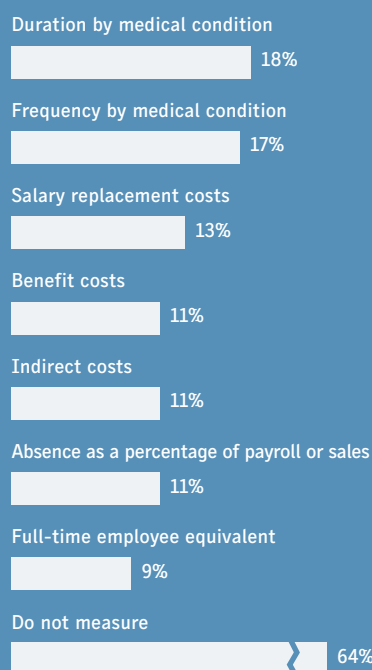
“Just the nature and complexity of it, we’re finding that more and more of them are looking to outsource their leave management,” she said, adding that coordinating with multiple vendors or even internal resources can cause confusion for employers.

“The nature and complexity” of compliance can be especially challenging for employers with workers covered by multiple state leave laws in addition to the federal Family and Medical Leave Act, the federal Americans with Disabilities Act and a company leave policy, Ms. LeClaire-Worthey said.

Still, coordinating employer absence programs and effectively using data analytics to improve results is “in its infancy,” according to Aon Hewitt’s “2014 Health Care Survey,” which found that only 36% of employers

MEASURING ABSENCE

Only 36% of employers measure how employee absences affect the company's bottom line, despite the fact that it costs about 8% of payroll on average. Those that do measure absences do so by looking at:



Source: Aon Hewitt 2014 Health Care Survey

measure how worker absences affect their bottom line.

Meanwhile, only 22% of employers will coordinate health and absence management with workers comp this year, but more than half are considering doing so in three to five years, according to the survey of 1,234 companies.

Pacific Gas & Electric Co. plans to implement a total absence management program in the near future, said Bryon Bass, PG&E's San Francisco-based director of integrated disability management in workforce health (see story, next page).

However, the natural gas and electricity provider's decision is fueled by factors other than compliance, which Mr. Bass said “shouldn't be the basis upon which your programs are built.”



The ability to “change the overall absence landscape” is the biggest benefit of having a total absence management program and the associated data, he said.

Employees should know “they’re not just another number in a company,” he said. The employer’s approach tells workers, “I actually care about you and your longevity with the company — your longevity in society. All those things together, that’s really what a true total approach to absence management is all about,” he said.

Compliance might inspire a company to consider integrating its leave, disability and workers compensation

See **INTEGRATION** next page

Work-from-home policies for disabled employees require review following appeals court ruling

BY SHEENA HARRISON

In the wake of a federal court ruling that telecommuting is a reasonable accommodation under the Americans with Disability Act, experts say employers should evaluate their work-from-home policies to determine how to handle disabled workers' requests.

In *Equal Employment Opportunity Commission v. Ford Motor Co.*, the 6th U.S. Circuit Court of Appeals in Cincinnati ruled 2-1 in April to resurrect a case alleging Ford violated the ADA.

An employee was terminated in 2009 after Ford said she could not work from home up to four days a week as an accommodation for her irritable bowel syndrome. The 6th Circuit panel ruled that Ford failed to prove the worker needed to be in the office to do her job as a resale steel buyer and remanded the case to U.S. District Court in Ann Arbor, Michigan.

In light of the ruling and EEOC guidance allowing telecommuting as an ADA accommodation, companies need to review their disability programs and determine if telecommuting requests can be handled under current company policies, said Linda Batiste, principal consultant with the Job Accommodation Network in Morgantown, West Virginia.

"Because modifying policies is a form of reasonable accommodation under the ADA, the employer has to consider modifying that (work-from-home) policy," said Ms. Batiste, whose office is part of the U.S. Department of Labor's Office of Disability Employment Policy.

In some cases, employers also may have to provide equipment

for employees to work at home.

For employers that offer telecommuting as an ADA accommodation, many say implementing such programs has been tricky, according to an employer survey last September by Reed Group Ltd. and Spring Consulting Group L.L.C.

Of 270 employers responding to the survey, 34% said they offer work-from-home as an ADA accommodation if a doctor requires it for the disabled employee.

"I think (telecommuting is) something that employers are

increasingly considering as an accommodation, but I think depending on the job type, it can be ... challenging," said Kevin Curry, senior vice president and national practice leader with Reed Group in Westminster, Colorado.

Of surveyed employers that offer telecommuting, 85% said their biggest challenge is establishing management oversight of employees working from home; 72% struggle with facilitating team interaction with telecommuting workers under ADA restrictions.

"If the employer doesn't have things like ... video conferencing or a culture of remote employees, sometimes it can be difficult for the individual who has the accommodation to work at home to actually feel integrated into the team," Mr. Curry said.

Oversight challenges and concerns that temporary accommodations might become permanent often make employers reluctant to allow telecommuting under the ADA, experts say.

It is crucial for employers to determine whether an employee's essential job functions can be performed from home or if the job truly requires them to be in the office, said Paul Hagle, executive director of the Rancho Mirage, California-based National Association of ADA Coordinators.

"There may be people who have to be at work because of the nature of their job," said Mr. Hagle. For example, a company receptionist may be unable to answer and transfer an employer's calls from home, he said.

If working from home is possible, employers should weigh whether an ADA request can be met under a company's standard telecommuting policy and can ask for medical documentation, Ms. Batiste said.

However, if time that a disabled employee needs to work from home falls within the policy for all employees, companies should not request documentation of the person's disability to approve telecommuting in that case, she said.

Employers often seek "medical information when they really need to just apply their usual policies and procedures," Ms. Batiste said. Requiring a disabled employee to

ACCOMMODATIONS

Of 270 employers surveyed about work-from-home accommodations provided under the Americans with Disabilities Act in 2013:

- 34% offer telecommuting only if a doctor says it is necessary.
- 5% offer telecommuting for anyone who needs work-from-home arrangements.
- 85% struggle to establish appropriate management oversight of telecommuting workers.
- 72% say it is a challenge to facilitate team interaction with disabled workers working from home.
- 22% say setting up a home office for workers has been a challenge.

Source: Reed Group Ltd. and Spring Consulting Group L.L.C.

provide medical documentation for telecommuting under standard company policy could be considered discrimination under the ADA, she said.

Experts recommend that employers keep in close contact with employees in temporary work-from-home accommodations.

Ms. Batiste said employers can allow telecommuting on a trial basis to see whether it allows the employee to perform their essential job functions. "It's always OK to set it up as a temporary accommodation that you're going to reassess just to see how it's working before you make it a permanent accommodation," she said.

Additionally, Reed Group's Mr. Curry said employers can have telecommuting employees sign agreements that outline conditions such as the hours that they're expected to work and requirements for keeping supervisors updated on their work progress.

Work-related equipment at home still a gray area

Employers who allow telecommuting as an accommodation under the Americans with Disabilities Act may be required to provide some equipment for an employee's home office, but there are no clear-cut rules regarding what an employer must provide, said Linda Batiste, principal consultant with the Job Accommodation Network in Morgantown, West Virginia.

She recommends employers provide telecommuting workers with equipment that they need to do their jobs efficiently and confidentially, if needed. After that, it's up to the employer to decide whether to provide furnishings that accommodate a worker's disability.

"If there's something that the employee's using that is specifically for work, like maybe a dedicated phone line to make work-related calls or an Internet system that is confidential and meets the needs of the employer ... that's a little clearer than (providing) a chair if a person has a back condition," Ms. Batiste said.

No matter what, employers should be prepared to provide some equipment for telecommuting workers who are recovering from a disability, she said.

"You can't say, 'We're not giving you anything. Just go to your house and buy your own equipment,'" she said.

By Sheena Harrison

INTEGRATION

Continued from previous page

programs, said Dr. Glenn Pransky, director of the Center for Disability Research at Liberty Mutual Research Center in Hopkinton, Massachusetts, but employers usually do so for several reasons.

Employers also want the savings, efficiency and productivity that come with having a total absence management program and integrated data, Dr. Pransky said.

It's becoming more difficult to separate work-related and nonwork-related absences when so many employees have conditions that "may be partially aggravated by a work exposure," Dr. Pransky said.

The greatest benefit of integration is, perhaps, "the opportunity to manage whole people instead of fragmented parts of their lives," he said.

UTILITY AIMS TO COORDINATE TIME-OFF POLICIES TO MANAGE ABSENCE

Pacific Gas & Electric Co. plans to implement a program to coordinate all of its time-off policies, including vacation, sick leave, workers compensation and short- and long-term disability, said Bryon Bass, its San Francisco-based director of integrated disability management in workforce health.

"We're just now moving toward a total absence management philosophy at PG&E," Mr. Bass said. "You can call it a total absence management approach, but we look at it more as a total health and productivity approach because we're looking at it in multiple dimensions."

The goal, Mr. Bass said, is to collect comprehensive data about the absence behavior and health status of employees, identify what

drives employee absences and attempt to "change the overall absence landscape."

That information can shed light on an "employee's ability to be productive and available for work, which then also translates to the overall safety of that individual within that organization."

For about three years, the investor-owned utility has stored employee data — including claims and costs associated with workers comp and disability as well as annual health screening biometrics — in an integrated data warehouse, which combines data from different sources to create a big-picture view of absence across the company, Mr. Bass said.

Questions the data helps answer about employees and dependents

include "how they're utilizing the health care system, how absent they are, how many workers comp claims we have in a certain area — the list goes on," Mr. Bass said.

For example, increased work-related injuries might result from increased overtime since "fatigued people are going to have injuries," he said.

PG&E relies on partnerships with vendors to manage a portion of the "absence management process ... because we've found that we couldn't do it as effectively as an outside provider could," Mr. Bass said.

Integrating data from multiple providers allows PG&E to examine it "holistically instead of looking at it piece by piece by piece, because you never get a full picture unless

you have a full, rich environment of data," Mr. Bass said. "We're trying to get more predictive about things" to understand the key drivers of absences, he said. "And if we start to see upticks in certain areas, we need to raise the white flag and say, 'Wait a minute. We're going to start having some unintended consequences ... so let's figure out how we can solve for that,'" he said.

Once its total absence management system is in place, it will be easier for PG&E to determine the variables or risk factors about which to educate employees and "put programs in place to help target those specific things that (employees) are struggling with," Mr. Bass said.

By Stephanie Goldberg



Steps to take when employees return from mental health leave

When attempting to get employees who have suffered mental illness back on the job, there are four major areas employers should address:

Ask employees what they need to return to work after being treated for mental health issues, since they are most aware of their readiness and limitations.

Provide flexible scheduling for employees who are returning, but don't prevent workers from returning full-time if their doctor supports that step.

Educate managers about mental illness to remove any stereotypes they may have about such conditions and ensure they can properly help employees.

Provide talking points for employees who may be afraid to face questions from well-meaning co-workers about their absence.

know what would work best for them in terms of accommodations that would be effective."

Communication has played an important role in Hennepin County, Minnesota, where the county government implemented a behavioral health return-to-work program in 2009 that reduced disability leave times for the county's nearly 8,000 employees.

The program has included having an on-site case manager working with employees who are having mental health problems to help them get treatment and ease them back into the workplace.

"We wanted to make sure that if somebody was having problems with their kids or their spouse ... or they were dealing with other kinds of stressors, that we didn't have to call it clinical depression. It's just (that) you're having difficulties in a part of your life," said Jim Ramnaraine, coordinator for the county's Americans with Disabilities Act administration program, on how the county worked to reduce stigmas about mental illness through its program.

Companies should train managers so they appropriately assist

See **MENTAL HEALTH** next page

MENTAL ILLNESS STATS

- Mental illness affects about 61.5 million U.S. adults annually, or roughly 25% of the population.
- Three-quarters of mental illnesses begin by age 24.
- Anxiety disorders, such as post-traumatic stress disorder and generalized anxiety, affect about 42 million U.S. adults, or 18.1% of the population.
- Major depression affects about 14.8 million adults, or 6.7% of the population.
- Bipolar disorder affects about 6.1 million adults, or 2.6% of the adult population.
- Schizophrenia affects about 2.4 million people, or 2.6% of the adult population.
- About 60% of adults with mental illness received no services in the previous year.
- Whites are far more likely to be treated for mental illness than Hispanics, blacks or Asians.
- Adults with mental illness die an average of 25 years earlier, due largely to treatable medical conditions.
- About \$193.2 billion in earnings is lost each year due to the effects of mental illness.

Source: National Alliance on Mental Illness

Easing workers back after mental illness requires firms to take sensitive approach

BY SHEENA HARRISON

Return-to-work policies for employees with mental illness such as depression or anxiety should include flexible scheduling and communication with employees to understand accommodations they need while recovering from such conditions.

Experts say employers often make the mistake of not talking with employees about their mental health needs when they return from leave, which can make it difficult for employees to reintegrate into the workplace and perpetuate stigmas about mental illness.

"The employer should look at the employee individually on a case-by-case basis and not think about stereotypes or misconceptions" about mental health, said Melanie Whetzel, senior consultant for the cognitive neurological team at the Job Accommodation Network in Morgantown, West Virginia.

The network is part of the U.S. Department of Labor's Office of Disability Employment Policy.

Managers often are reluctant to discuss mental health concerns with employees because they are unsure of what to say or have mistaken beliefs about people with mental illness, Ms. Whetzel said.

Lack of communication or alienation of workers with mental health concerns can make it difficult for employees to talk with managers about their need for mental health treatment, time they may need for leave and strategies to help them get back to work when they are feeling better, she said.

"If the employer's more understanding and open ... then the employees are a little bit more open and willing to disclose" their mental health status, Ms. Whetzel said.

Fear about how managers and co-workers might react can cause some employees to stay away from

work longer than recommended by their doctors, said Kristin Tugman, assistant vice president of health and productivity for Unum Group in Portland, Maine.

"When you think about the stigma that still exists from a mental health perspective, a lot of employees are just nervous about what are (their) co-workers going to think," Ms. Tugman said.

Companies can take several steps to support employees coming back from leave after behavioral health treatment, experts say.

First, employers should provide flexible scheduling for employees who are returning to work. Similar to physical disabilities, an employee with behavioral health concerns may not feel ready to jump into their usual work routine as soon as they return from leave, said Terri L. Rhodes, San Diego-based executive director of the Disability Management Employer Coalition.

Such accommodations could include allowing an employee to work part-time temporarily and gradually increasing their hours, or allowing an employee to work from home temporarily if the office is overwhelming, sources say.

"You're allowing them to both physically and mentally get their stamina back around performing their regular work activities, and I think that has been more successful than just bringing somebody in cold turkey," Ms. Rhodes said.

However, employers should not keep employees off the job if an employee and his or her doctor feel a worker is ready to return full-time, Ms. Whetzel said.

Having the employee stay home can prevent him or her from receiving support from work friends and colleagues, earning full income to pay medical bills, or having a daily structure and purpose — all of which are important to mental health recovery, Ms. Whetzel said.

While privacy concerns prevent employers from prying into an employer's health condition, managers can ask employees how to accommodate mental health concerns that employees or their doctors identify.

"Open communication is very important," Ms. Whetzel said. "The employee's likely to know what their disability is, understand what their limitations are and

IT'S TIME TO

CHAT

ABOUT

BENEFITS

online chat
 phone
 email
 mobile

Discovery Benefits®

What else can we do for you?
DiscoveryBenefits.com

Quick. Convenient.
Customer Service.

FSA HSA HRA COBRA TRANSPORTATION BILLING SOLUTIONS



GETTY IMAGES

Veteran hiring requirements create challenges for contractors

BY BILL KENEALY

Federal contractors face more scrutiny — and fines — for the way they search for and hire veterans because of a final U.S. Department of Labor rule that went into effect in March.

The updated rule concerns contractors' obligations under the Vietnam Era Veterans' Readjustment Assistance Act of 1974. As of March 24, employers all federal contractors are required to adopt benchmarks that measure their success in recruiting and employing veterans against a national average.

For example, a company would need to ensure that 7.2% of its new hires were veterans, matching the national veteran percentage in the civilian labor force, according to the VEVRAA Benchmark Database, which is published by the Labor Department's Office of Federal Contract Compliance Programs.

A significant number of veterans looking for work have a service-connected disability.

The rule amounts to a "sea change" in how the law is administered, said Mickey Silberman, Denver-based managing shareholder at law firm Jackson Lewis P.C.

"These are revolutionary — not evolutionary — changes, and employers need to think differently about how to comply with these obligations than under the previous rules, which existed for almost 40 years," Mr. Silberman said. "There are critical new quantitative and qualitative measures that did not exist before."

The rule gives the law more teeth by now requiring employers to gather data from both applicants and new hires.

Moreover, where federal contractors could once satisfy their obligations under the 1974 Vietnam veterans law just by disseminating job postings to various veteran recruitment sources, they now must measure what they "pull in" from those efforts, Mr. Silberman said.

"Before, outreach and recruitment was an end in and of itself," he said. "Now, one of the most important regulations baked into these new regulations is that employers are required to do an annual written assessment of the effectiveness of their outreach and recruitment process."

Companies doing business with the federal government need to be as mindful of the processes they

employ as they are about the end result, said Alissa M. Raddatz, Minneapolis-based partner at Faegre Baker Daniels L.L.P.

"The new rules include a benchmark, not a quota, so I don't think employers should get too hung up on the exact number," Ms. Raddatz said. "However, you will need to show that you took affirmative steps to recruit veterans and, if you are not successful, change those plans. So I think the bigger issue is the documentation."

Ted Daywalt, Roswell, Georgia-based CEO and president of VetJobs Inc., agreed that the rules on record-keeping are especially onerous, noting that Labor Department fines in recent years have largely been imposed for paperwork and record-keeping errors, not instances of discrimination.

"There were a lot of things in the new rules that caught people by surprise," Mr. Daywalt said. "One of them is the call for new metrics. Another is that auditors are now demanding screen shots of every job posting on every website."

What's more, Mr. Daywalt said, even if contractors are meticulous in their practices and record-keeping, they may have difficulty adhering to the rules due a shortage of veterans to fill positions.

"If you took all the companies subject to OFCCP and all their potential positions and then multiplied that number by 7.2%, you would end up with approximately 14 million positions for veterans," he said. "However, according to (the Bureau of Labor Statistics), there are only 10 million veterans in the workforce, so nationally we are 4 million vets short."

Rosemarie Allan, McLean, Vir-

VETERANS IN THE WORKFORCE*

- 21.4 million men and women, or 9% of the civilian noninstitutional population age 18 and older, are veterans.
- 10.2 million no longer are in the labor force.
- 3.2 million veterans, or 15%, had a service-connected disability.
- Among 722,000 unemployed veterans, 60% were age 45 and older, 35% were 25-44, and 5% were 18-24.

*As of August 2013
Source: Bureau of Labor Statistics, U.S. Department of Labor

ginia-based global lead of diversity and inclusion at federal contractor Booz Allen Hamilton Inc., said the rules could present problems in certain geographic areas.

"One fear we have is ... there will be more competition and it will become tougher to recruit veterans," she said.

"There are just some jobs and locations where the numbers just won't be there."

Mr. Daywalt agreed that contractors looking to fill positions in states with low unemployment rates will face a greater challenge.

"In states where the energy industry has boomed, such as Montana, North Dakota and South Dakota, there are many more jobs available than people to fill them," he said. "There just aren't enough veterans to hit the 7.2% benchmark."

Nonetheless, Ms. Allan said Booz Allen is ahead of the curve in meeting its obligation to hire veterans because it leveraged earlier work in its diversity programs for women and minorities.

"As we did our affirmative action plan for this year, for the first time we pulled the data on veterans and looked at our count," she said. "Overall, 30% of our firm is veterans."

Likewise, Teri Matzkin, Washington-based talent acquisition manager of military relations and strategic sourcing at Lockheed Martin Corp., said the aerospace contractor's hiring infrastructure is well-suited to meet its new obligations under the federal rules.

For example, it built a career website portal in 2006 for transitioning military job candidates and employs a dedicated, full-time team of military relations managers, also all veterans, to assist candidates in translating their military skills to Lockheed Martin's needs.

"We have had an extremely robust veteran hiring program in place for many years and our percentage of veterans hired each year already far exceeds the new suggested targets," Ms. Matzkin said.

MENTAL HEALTH

Continued from previous page

employees who are dealing with mental health concerns, Ms. Rhodes said.

"Once supervisors and managers understand or have the tools that they need to help somebody, then the return to work can be more successful," she said.

It also can be helpful to prepare employees for ways to respond to well-meaning co-workers who are curious about their absence — a scenario that can be stressful for workers who don't want to reveal a mental illness, Ms. Tugman said.

"You might say something like, 'I was out under a doctor's care. I'm doing much better now. Thanks for asking,'" Ms. Tugman said. "Just arming somebody with that level of preparation might get them over the hump and willing to actually try that return to work."

But employers should not imply that an employee has a mental illness if the employee has not confirmed that information with them, Ms. Batiste said.

If a worker is exhibiting signs of trouble but won't discuss whether they have a condition, she said employers can address the issue in terms of whether the worker is exhibiting performance problems.

For instance, a supervisor could say, "We've noticed this about your performance (and) we need it to improve. How can we help you?" Ms. Batiste said.

"If they address it that way, it gives the employee a chance to say, 'Well, I've been having some problems with depression and I'm having difficulty concentrating,'" she said.

Employers also should remain in touch with employees who are out on leave for mental illness or other concerns, Ms. Tugman said. While such discussions should avoid pressuring the person to come back to work, showing an interest in their recovery can provide motivation for the worker to get better.

"It's not about diagnosis; it's really just about showing concern," Ms. Tugman said of reaching out, which includes sending a card or making a brief phone call. "If an employer can ensure that they maintain that connection with the employee, you're much more likely to have that employee feel willing to attempt to return."

U.S. PROVIDERS OF DISABILITY INSURANCE*

Companies selling group and/or voluntary short-term disability insurance and/or long-term disability insurance

Company	Group (employer paid)	Voluntary (employee paid)	Long-term disability	Short-term disability	Parent company	Underwriting company
Aetna Inc.	✓	✓	✓	✓		Aetna Life Insurance Co.
American International Group Inc.	✓	✓	✓	✓		American General Assurance Co., The United States Life Insurance Co. in the City of New York
American Family Life Assurance Co. of Columbus	✓	✓		✓		Continental American Insurance Co.
Anthem Life Insurance Co. (sold by selected BCBS)					WellPoint Inc.	Anthem Life Insurance Co.
Assurant Inc.	✓	✓	✓	✓		Union Security Insurance Company Union Security Life Insurance Co. of New York
Assurity Life Insurance Co.		✓		✓		Assurity Life Insurance Co. of Lincoln, Nebraska
Boston Mutual Life Insurance Co.	✓	✓	✓	✓		Boston Mutual Life Insurance Co.
Cigna Corp.	✓	✓	✓ ¹	✓		Connecticut General Life Insurance Co., Cigna Health & Life Insurance Co., Life Insurance Co. of North America and Cigna Life Insurance Co. of New York
Colonial Life & Accident Insurance Co.		✓		✓	Unum Group	Colonial Life & Accident Insurance Co.
Companion Life Insurance Co.		✓	✓	✓		Companion Life Insurance Co.
Dearborn National Insurance Co.	✓	✓	✓	✓	Healthcare Service Corp.	Dearborn National Life Insurance Co., Colorado Bankers Life Insurance Co. and Dearborn National Life Insurance Co. of New York (New York only)
Guardian Life Insurance Co. of America	✓	✓	✓	✓		Berkshire Life Insurance Co. of America
The Hartford Financial Services Group Inc.	✓	✓	✓	✓		Hartford Life & Accident Insurance Co.
HM Insurance Group	✓			✓	Highmark Inc.	HM Life Insurance Co., HM Life Insurance Co. of New York
Illinois Mutual Life Insurance Co.		✓		✓		Illinois Mutual Life Insurance Co.
ING North America Insurance Corp.	✓	✓	✓	✓	Voya Financial Inc.	ReliaStar Life Insurance Co. and ReliaStar Life Insurance Co. of New York
Liberty Mutual Insurance Co.	✓		✓	✓		Liberty Life Assurance Co. of Boston
Lincoln National Life Insurance Co.	✓	✓	✓	✓		Lincoln National Life Insurance Co. and Lincoln Life & Annuity Co. of New York
Massachusetts Mutual Life Insurance Co. (MassMutual)	✓	✓	✓	✓		Massachusetts Mutual Life Insurance Co.
Metropolitan Life Insurance Co. (MetLife)	✓	✓	✓	✓		Metropolitan Life Insurance Co.
Mutual of Omaha Insurance Co.	✓	✓	✓	✓		Mutual of Omaha Insurance Co.
Northwestern Mutual Life Insurance Co.	✓	✓	✓	✓		The Northwestern Mutual Life Insurance Co.
Ohio National Financial Services			✓	✓		Ohio National Life Assurance Corp.
Principal Financial Services Inc.	✓	✓	✓	✓		Principal Life Insurance Co.
Prudential Insurance Co. of America	✓	✓	✓	✓		The Prudential Insurance Company of America
Reliance Standard Life Insurance Co.	✓	✓	✓	✓	Tokio Marine Group	Reliance Standard Life Insurance Co.
Standard Insurance Co.	✓		✓ ²	✓	StanCorp Financial Group	The Standard Insurance Co. and The Standard Life Insurance Co. of New York
Sun Life Financial U.S.	✓		✓	✓	Sun Life Financial Inc.	Sun Life Assurance Company of Canada and Sun Life & Health Insurance Co. U.S.
Symetra Life Insurance Co.	✓		✓	✓		Symetra Life Insurance Co. and First Symetra National Life Insurance Co. of New York
Trustmark Benefits Solutions		✓	✓	✓	Trustmark Cos.	Trustmark Insurance Co.
United HealthCare Services	✓	✓	✓	✓		United Health Care Insurance Co.
Unum US	✓		✓	✓	Unum Group	Unum Life & Insurance Co.
USABLE Life (sold by selected BCBS)	✓		✓	✓		USABLE Life, Florida Combined Life and partners
Zurich North America	✓		✓	✓	Zurich Insurance Group Ltd.	Zurich American Life Insurance Co. and Zurich American Life Insurance Co. of New York

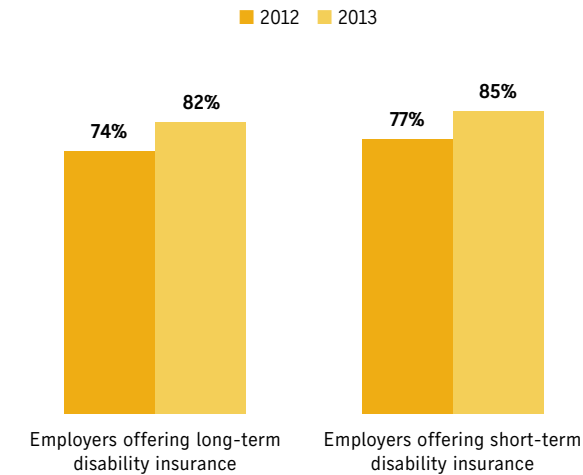
*Excludes insurers offering disability insurance outside the workplace. Some insurers require a minimum group size for short- and long-term disability coverage.

1 Only as an employee-paid voluntary benefit. 2 Only as an employer-paid group benefit.

Researched by Angelina Villarreal

DISABILITY COVERAGE

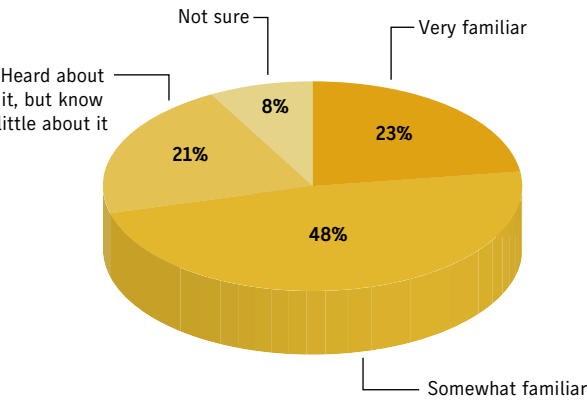
The number of employers offering disability insurance is increasing.



Source: Prudential Financial Inc.

EMPLOYER AWARENESS OF ADA GUIDELINES

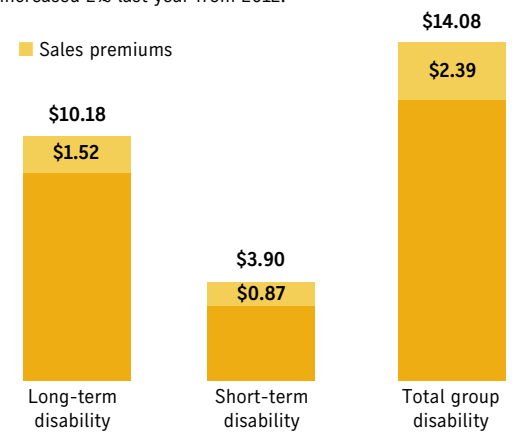
Many employers are still not very familiar with the regulations of the Americans with Disabilities Act



Source: Prudential Financial Inc.

2013 GROUP DISABILITY INSURANCE

Total group disability premiums, in billions of dollars, increased 2% last year from 2012.



*The amount an insurer underwrites based on its premiums collected on active policies.

Source: General Reinsurance Corp.

BP tests 'additional insured' obligation



Mr. Loeber



Ms. Lloyd

A Deepwater Horizon-related coverage dispute highlights the need for corporations to square their commercial contracts with their insurance policies. Christopher C. Loeber, a partner with law firm Lowenstein Sandler L.L.P., and Kelly A. Lloyd, a former associate at the firm, say the dispute puts commercial entities on notice that contractual indemnity provisions are inextricably intertwined with insurance policies.

Thousands of times a day, sophisticated companies around the globe negotiate commercial contracts. Virtually all of those contracts contain indemnification agreements of one kind or another. The majority also include "additional insured" provisions — requirements that one party be covered under the other's insurance policies.

Notwithstanding the great importance of indemnification and "additional insured" provisions, companies all too often include them without performing the proper due diligence. Specifically, contracting parties fail to analyze and understand the insurance policies that stand behind their commercial agreements.

Although this concern always has been an important issue for insurance coverage counsel, the latest Deepwater Horizon coverage battle has thrust the indemnity vs. insurance issue into a broader spotlight. The current fight underscores how negotiating indemnity provisions without a comprehensive understanding of the related insurance policies can lead to disastrous results.

The Deepwater Horizon catastrophe in April 2010 left a devastating mark on people, businesses and the environment around the Gulf of Mexico. Now, its ever-expanding ripples are about to hit the world of insurance policy interpretation. A coverage dispute pending before the Texas Supreme Court involving BP P.L.C., Transocean Ltd. and their various subsidiaries, affiliates and insurers will have a significant effect on countless insurance policies across the country.

As of this writing, the issues are fully briefed and oral arguments are scheduled before the Texas Supreme Court on Sept. 16.

It is a common practice among commercial entities to indemnify one another for losses arising out of their joint business operations. And it is equally common for such entities to add themselves as "additional insureds" under the other's general liability insurance policies. The question is: When a loss occurs, is the scope of recovery determined by the indemnity agreement or the insurance policy? This is the issue that the Texas Supreme Court is being asked to decide.

The scenario is simple: Company A hires Company B to perform services on its behalf. Company A insists that it be named as an "additional insured" on all of Company B's insurance policies. In their services contract, Company A agrees to indemnify Company B for any losses or claims attributable to Company A's negligence or fault.

In the Deepwater Horizon disaster, Company A was BP and Company B was Transocean, the owner of the Deepwater Horizon rig. BP engaged Transocean pursuant to a drilling contract, which required Transocean to maintain certain minimum insurance coverage and to name BP as an "additional insured." The drilling contract also stated that BP would indemnify Transocean for any pollution- or contamination-related liabilities deriving from below the surface of the water. Transocean would indemnify BP for any pollution- or contamination-related liabilities above the water's surface.

On April 20, 2010, the Deepwater Horizon exploded and sank. After the explosion, it became apparent that oil was leaking from the former drilling operation. The rest is well-documented history.

BP seeks Transocean's insurance

Over the past several years, as the liability issues have been winding their way through the courts, so too have the overriding insurance disputes. And now, in one of the Deepwater Horizon disaster's highest-profile coverage battles, BP is seeking to recover under Transocean's commercial general liability policies.

From the outset, BP has asserted that, as an "additional insured," it is entitled to full coverage under Transocean's policies. Transocean's insurers have disagreed and denied coverage. The insurers cite the drilling contract as evidence that Transocean is only responsible for pollution claims arising from incidents above the surface of the water.

According to the insurers, the drilling contract limits BP's entitlement to "additional insured" coverage under Transocean's policy. In their view, BP is an "additional insured" only for above-the-surface incidents.

The foregoing disagreement frames the key legal question: Can the scope of an insurance policy be altered by a separate commercial contract?

This issue was first posed to the U.S. District Court for the Eastern District of Louisiana, which found that the drilling contract limited the insurance coverage and held that BP could not avail itself of Transocean's policy.

BP appealed the issue to the 5th U.S. Circuit Court of Appeals.

In March 2013, the appeals court reversed

the district court's decision. The 5th Circuit concluded that the policy language should govern in situations where the insurance provision in the parties' contract is "separate and independent" from the indemnification provision in the parties' contract.

According to the court, to be separate and independent, the insurance provision must be a discrete requirement that is distinct from, and in addition to, any requirements under the indemnity provision. Applying that definition, the 5th Circuit found that the BP/Transocean indemnity provision was "separate and independent" and, therefore, that BP was entitled to additional insured

Simply put, whether you are the party seeking broad indemnification and "additional insured" status, or the party conferring those terms, it is essential that you retain experienced coverage counsel to analyze and understand the insurance policies implicated by your commercial contracts.

coverage under the Transocean policy.

Transocean's insurers requested a rehearing. And, in August 2013, the 5th Circuit withdrew its initial decision. Citing the significance of the issue, the fact that Texas law governed the dispute and the lack of state law on point, the 5th Circuit certified two questions to the Texas Supreme Court:

- Whether the language of the insurance policy alone determines the extent of BP's coverage as an additional insured if, and so long as, the additional insured and indemnity provisions of the drilling contract are "separate and independent"; and

- Whether the doctrine of contra proferentem (where ambiguous terms are construed against their drafter — here, Transocean's insurers) applies in cases involving highly sophisticated parties.

The insurance industry weighs in

The significance of the indemnity-vs.-insurance issue is highlighted by a separate, recent movement from within the insurance industry itself.

The Insurance Services Office Inc. collects statistical data, develops standard policy forms and files information with state regulators on behalf of insurance companies. And, in its 2013 commercial general liability policy forms, ISO altered the previously existing "additional insured" language in an effort to address the very problem framed by the BP/Transocean insurance dispute.

Although these changes were not driven by the Deepwater Horizon disaster, they directly intersect with the insurance issues flowing from the case.

There are many reasons the insurance industry is promulgating new endorsements, most of which are beyond the scope of this article. But one clear objective cuts to the heart of the instant issue: Insurers want to limit the obligations they owe to "additional insureds" — and these endorsements are designed to prevent broadly worded insurance policies from expanding narrowly drafted contractual indemnities. In short, this language is designed to defeat the precise strategy that BP is pursuing.

The BP/Transocean coverage litigation is one to watch, as it is sure to become a seminal case in the indemnity vs. insurance debate.

Regardless of how the Texas Supreme Court ultimately rules, however, the dispute itself serves a more immediate purpose: It puts commercial entities on notice that contractual indemnity provisions are inextricably intertwined with insurance policies. And, it sounds a loud warning regarding the dangers of negotiating indemnity agreements in a vacuum.

Simply put, whether you are the party seeking broad indemnification and "additional insured" status, or the party conferring those terms, it is essential that you retain experienced coverage counsel to analyze and understand the insurance policies implicated by your commercial contracts. If the terms of those insurance policies are not squared with the underlying agreements, you may be getting much less than you bargained for, or giving away far more than you intended.

BP and Transocean are learning that lesson the hard way.

Christopher C. Loeber is a partner in Lowenstein Sandler L.L.P.'s insurance coverage practice in New York and Roseland, New Jersey. He can be reached at 973-422-6770 or cloeber@lowenstein.com. Kelly A. Lloyd is a former associate of the firm.

Alliant ProQuest launches entertainment practice

Newport Beach, California-based Alliant Insurance Services Inc.'s ProQuest division has launched an entertainment practice to provide targeted insurance and risk management services to law firms in the entertainment field.

The practice, based in ProQuest's Santa Monica, California, office, will be led by longtime entertainment attorney Joe Anderson, who has 25 years of experience in Internet, film, music and television, handling brand management, litigation, intellectual property and labor law on behalf of entertainers and corporations.

Prior to joining ProQuest, Mr. Anderson served as general counsel for StudySync.com, a Sonoma, California-based online education technology company, handling legal matters related to the firm's digital media, entertainment, intellectual property, distribution, corporate, labor and business functions.

ProQuest's entertainment practice will sell a broad range of services, including coverage design and placement, claim analysis and advocacy, policy analysis and peer benchmarking and risk control and practice management, the company said in a statement.

Endurance adds cyber to D&O liability product

Endurance Specialty Holdings Ltd. has enhanced its Premier Professional product with an additional Side A directors and officers liability coverage called Endurance CyberWrap.

The new coverage applies to nonindemnified directors and officers losses triggered by network security failures including data breaches, the Hamilton, Bermuda-based insurer said in a statement.

The endorsement is available to companies with revenues of up to \$500 million, according to the statement.

"Recent events have demonstrated that directors and officers are not immune to privacy-related litigation," Brad Gow, senior vice president at Endurance Pro, said in the statement. "We have seen a number of lawsuits filed against directors and officers for, among other things, breaches of fiduciary duty and the waste of corporate assets related to high-profile network security failures. Endurance CyberWrap provides Side A protection in the event of a security breach and can be used to complement in-force D&O coverages."

Allianz Global unveils cyber cover in Canada

Allianz Global Corporate & Specialty S.E., a unit of Allianz S.E., has developed Allianz Cyber Protect to protect Canadian companies from the risk of data breaches and cyber crime.

The suite of coverages has the capacity to protect Canadian companies in the event of a data loss or a cyber-security incident, the Munich-based insurer said in a statement.



Brown & Brown unit offering exchange advice

***** Pacific Resources Benefits Advisors L.L.C., a wholly owned subsidiary of Brown & Brown Inc., has launched a consulting practice to provide independent third-party guidance on private health insurance exchanges.

Pacific Resources' private exchange consulting practice is designed to respond to a growing need for unbiased advisory services among large employers contemplating moving their active group and/or retiree health benefit programs into one of the dozens of private health insurance exchanges operated by other benefits service providers, the company said in a statement.

The consulting practice's service model generally consists of four phases, beginning with an assessment of the economic feasibility of moving an employer's active or retiree health benefit enrollees into an exchange, Pacific Resources said in the statement.

If migration into an exchange is determined to be a viable option, Pacific Resources guides employers through evaluating and selecting providers, implementing the migration to the exchange and monitoring performance.

While Pacific Resources does not own or operate a health insurance exchange, Brown & Brown Inc. launched a proprietary private exchange in 2013.

The product features three levels of business interruption coverage, a limit of up to \$75 million and access to a panel of public relations consultants and forensic information technology experts who will work with clients if a breach occurs, according to the statement.

"The sheer number and evolving sophistication of security threats renders it virtually impossible for any organization to guarantee total security," Terri Mason, Toronto-based head of professional indemnity for AGCS Canada, said in the statement. "Thus effective risk transfer is an important tool for the risk manager."

"Companies are facing attacks on a daily basis, and it is no longer only the Fortune 500 companies that have to deal with cyber crime," Ms. Mason said.

"Hackers can infiltrate small and midsize businesses with devastating financial and reputational consequences. We have also seen criminals hacking into the systems of smaller firms as a way of 'piggy-backing' access to the larger companies they partner with."

Broadspire adding product on absence management

Third-party administrator Broadspire Services Inc. is launching a suite of integrated disability and absence management services this fall for employers looking to outsource their leave management.

Integrated Disability and Absence Management Services, which includes short- and long-term disability and federal and state leave management, is expected to help employers lower costs and enhance employee productivity, the Atlanta-based Crawford & Co. unit said in a statement.

An aging workforce that could mean more absences, the Patient Protection and Affordable Care Act and complying with regulations are driving the demand for integrated programs such as Broadspire's, according to the statement.

The program can help employers looking to outsource processes as they deal with "ever-increasing regulatory and administrative burdens and costs," Broadspire CEO Danielle Lisenbey said.

Broadspire will partner with firms — such as South Portland, Maine-based ClaimVantage, which provides automated claims processing to absence, disability and life markets — that can "complement and enhance its total absence offering," according to the statement.

The new services will be in addition to Broadspire's existing medical and risk management, workers compensation and liability services.

Stat Doctors launches video e-visits mobile app

E-health solution provider Stat Doctors, a unit of Stat Health Services Inc., has launched a mobile app to aid health care delivery through video e-visits.

The Stat Doctors Mobile App, which is available for iPad, iPhone and Android devices, connects consumers with board-certified emergency room physicians for on-demand treatment of minor illnesses and common medical conditions, the Scottsdale, Arizona-based company said in a statement.

"Health care delivery is shifting rapidly toward an affordable, on-demand model, yet it's imperative that convenience doesn't compromise quality," Dr. Alan C. Roga, founder and CEO of Stat Health Services, said in the statement.

"We created a mobile app that goes well beyond other e-health services, providing a full patient care delivery model."

Some of the features of the mobile application include an average wait time of six minutes, prescription capabilities and treatment of nonemergency minor illnesses such as respiratory infections, flu and strep throat, according to the statement.

DEALS & MOVES

Benefits administrator WageWorks acquires Conexis Benefits

WageWorks Inc., a San Mateo, California-based administrator of consumer-driven health and other benefits plans, said it has acquired health plan administrator Conexis Benefits Administrators L.P., a unit of The Word & Brown Cos. in Orange, California.

The purchase price was \$118 million, WageWorks said in a Securities and Exchange Commission filing.

Conexis, which WageWorks said will add \$23 million to \$25 million to its revenue for the remainder of 2014, will maintain its offices in Irving, Texas, and Orange, California.

WageWorks, which is publicly held, reported \$21.7 million in net income on \$219.3 million in revenue in 2013.

Separately, WageWorks disclosed in another SEC filing that Chief Financial Officer Richard T. Green has notified the company that he intends to resign in order to pursue other opportunities.

Insurance broker Hilb buys Kentucky-based Martin Agency

Independent insurance brokerage The Hilb Group L.L.C. has acquired Danville, Kentucky-based brokerage The Martin Agency Inc., Richmond, Virginia-based Hilb said.

Terms of the transaction were not disclosed.

Martin will continue to operate offices in Danville, Kentucky; Celebration, Florida; and Ormond Beach, Florida, Hilb said in a statement.

Celebration-based John Carithers, an agent at Martin, will lead them.

"We really wanted to make sure we found the right company that would take care of all our employees, and the Hilb Group was just the right choice," Martin President Angela Martin said in the statement.

Crawford acquires U.K.-based construction adjuster

Crawford & Co. has finalized the purchase of Manchester, England-based construction and engineering adjuster Buckley Scott Associates Ltd.

Acquiring Buckley Scott will help Crawford expand its construction and engineering business in the U.K., the Atlanta-based claims management provider said in a statement.

Terms of the transaction were not disclosed.

Arthur J. Gallagher buys broker Minvielle & Chastanet

Arthur J. Gallagher & Co. has acquired certain assets of St. Lucia-based Minvielle & Chastanet Insurance Brokers Ltd.

Terms of the transaction were not disclosed.

Minvielle & Chastanet is a full-service insurance broker and risk management firm that provides property/casualty, health, risk management and reinsurance services to its clients throughout the eastern Caribbean, including locations in St. Lucia, Barbados, Dominica, St. Vincent and Antigua, under the direction of Matthew Pragnell, head of CGM Gallagher Group in Kingston, Jamaica, Gallagher said in a statement announcing the acquisition.

STEEL CITY RE CEO QUANTIFIES REPUTATION RISK

Q Is it safe to say reputation risk is real and something companies should be concerned about?

A Very much so. Companies have been aware of reputation risk easily for the last 10 years now. What is clearly new is the ability to begin to manage it in the way that risk managers have become accustomed to managing risk. I think probably the best thing to say is that managing reputation risk quantitatively represents sort of the fourth generation of modern risk management.

The first generation would have been the classic actuarial modeling, which became far more sophisticated as more and more data could be handled and crunched with sophisticated computer tools.

In Generation Two, the sense of looking at risk almost on a day-to-day basis began to enter into the realm, taking some of the experiences from operational research where companies were tracking how they were making things and making sure there were tolerances and certain boundary conditions. The financial services sector introduced the notion of value at risk,

Q&A

which they would measure every day. You got a more sophisticated level of managing risk, not just looking at historic data but beginning to compare historic data to day-to-day data and looking for deviations.

Generation Three — introduced maybe 10, 15, 20 years ago — we'll call that the adding of workforce experience models, the nonstochastic models. The workforce was saying these mathematical models are terrific, but they're not capturing certain local risk events, moral hazard exposure — things of this sort are just not being captured by these math models. So the third generation was the introduction of

these workforce experiences, these qualitative models, scenario modeling, nonstochastic modeling, with the associated enhancements in operational controls and financial controls now looking at specific behaviors and controlling those.

With the benefit of Internet enablement and the ability to now capture additional data — not just within the company but from the external environment — we're now in Generation Four. And that's why this reputation risk solution that we work with and the ability to manage reputation risk, which has certainly been on the radar for at least 10 years, is now addressable.

Q Then using the Internet and this fourth generation risk management, it's possible to quantify reputation risks and the effect of reputation-damaging events?

A Exactly. It's been known for 10 years reputation risk was bad. It could be really bad in the sense that this was a huge risk, but the tools that everybody became confident in using, the quantitative tools, the sophisticated mathematical modeling that made risk management what it is today — a science and an



NIR KOSSOVSKY
STEEL CITY RE

Nir Kossovsky is CEO and director of Steel City Re, a Pittsburgh-based broker and adviser specializing in corporate reputation management and risk transfer. Mr. Kossovsky recently spoke with *Business Insurance* Senior Editor Rodd Zolkos about the ability to quantify reputation risk and how that ability facilitates managing and insuring those exposures. Edited excerpts follow.

art — were not available for the management of reputation until the Internet made such data available.

Q And the ability to quantify reputation risks and the effect of reputation-threatening events makes it possible to use insurance in addressing reputation risk?

A It was a necessary element for the insurance solutions to become available. Until we were able to reliably quantify and build actuarial models around reputation risk, it was not something that insurance companies could easily address.

Q Do you think more companies are becoming aware that

reputation risks are risks that they can actively address or mitigate?

A I think more and more companies ... are acknowledging that reputation risk is something they need to deal with and are voicing it as a serious concern, which means that there's an appreciation that reputation risk has material financial effect. I think that at that level of companies there's still an incomplete awareness of the availability of solutions. I think part of our challenge has been that there's been some confusion with the traditional view of reputation as something that's done by the marketing department as opposed to something that's managed by the risk management department.

COMINGS & GOINGS

UP CLOSE: KRISTA TANKERSLEY

DALLAS-BASED MANAGING DIRECTOR
Crystal & Company

PREVIOUS POSITION: Dallas-based vice president at National Financial Partners Corp.

GOALS FOR NEW POSITION: Building the Crystal brand in Dallas will be important. Crystal is known nationally, but Dallas is accustomed to the big brands that we all know. I think that the marketplace is open to a new player. We bring something unique to the table. We have some of the best people in the industry.

CHALLENGES FACING INDUSTRY: We're in a really good marketplace right now. When I look at lines of business, I think one of the areas we are going to have to keep up with is technology, from a security perspective. That's not only for our own company but to advise our clients on cyber security.

FIRST INDUSTRY JOB: A London-based insurance firm, Lambert Fenchurch (Group), to help put Lamberts on the map in the United States. I was the only female officer in 34 countries.



WHAT SURPRISED ME: How antiquated the industry was for how large it is. Back then, you sat face to face with people. Now (the industry) relies on email and technology.

ADVICE: I would say truly listen to your clients. Sit down with them and have a conversation. Listen to them and be creative in your approach. It will set you apart from your competitors.

OUTSIDE THE INDUSTRY, A DREAM JOB: I would probably try to save the world in some way and help others. I would say a traveling surgeon helping people.

HOBBIES: Traveling is at the top of the list ... I'm an animal lover, too. I spend a lot of time raising funds for the ASPCA of Texas and helping animals find a home.

FAVORITE BOOK: "The Trident: The Forging and Reforging of a Navy SEAL Leader" by Jason Redman and John Bruning.

Professional Moves & Promotions

Visit www.businessinsurance.com/ComingsandGoings for a full list of this week's personnel moves and promotions. Check our website daily for additional postings and sign up for the weekly email.

INSURERS

Fireman's Fund Insurance Co.	Mike Low
The Hartford Financial Services Group Inc.	Bill Bloom
The Hartford Financial Services Group Inc.	Stephanie Bush

BROKERS

Aon P.L.C.	John G. Bruno
Conner Strong & Buckelew Cos. Inc.	Philip Glick
William Gallagher Associates Insurance Brokers Inc.	James Kinney
Lockton Cos. L.L.C.	David Cooke
Lockton Cos. L.L.C.	Mark Hays
Lockton L.L.P.	Tim Clarke
Lockton L.L.P.	Tim Law
Lockton L.L.P.	Blake Roseveare
Starkweather & Shepley Insurance Brokerage Inc.	Ronald A. Stabile Jr.

OTHER

Mercer L.L.C.	Tatsuya Kamoi
---------------	---------------

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

CLASSIFIEDS

To place your ad, contact Pegeen Prichard at pprichard@businessinsurance.com
Business Insurance, Classified Department, 150 N. Michigan Ave., Chicago, IL 60601
Call 312-649-5446 for details on print and internet advertising.

PUBLIC NOTICES

BUSINESS INSURANCE ENCOURAGES ITS READERS TO SUPPORT



SPENCER
EDUCATIONAL FOUNDATION

35TH ANNIVERSARY GALA DINNER

HONORING



John Q. Doyle
CEO, Global Commercial Insurance
AIG



Warren J. Mula
CEO, Aon Broking
Aon Risk Solutions

SEPTEMBER 18, 2014
The Waldorf Astoria Hotel, New York City

FOR FURTHER INFORMATION, PLEASE CALL 212-218-4080,
EMAIL GALADINNER@SPENCERED.ORG, OR VISIT WWW.SPENCERED.ORG

MEDIA PARTNER

REGISTER TODAY

September 9-10, 2014
einsurancesymposium.com

Entrepreneurial
Insurance Symposium
2014

Qualifies for CIC/CRM Update & CE Credit

For more information, contact Diahann Doyen at 972.934.4264
or ddoyen@marketscout.com

CRAIN'S Benefits Outlook



SHOW DAILY



Business card ad
opportunities available in:



BUSINESS INSURANCE
WHAT MATTERS MOST

Premium advertising space is within reach

Business card advertisers in the Resource Center have the ability to
reach nearly 46,000 of the industry's top risk and benefits managers,
brokers, underwriters and service providers in print and online.

SINGLE BUSINESS CARD AD

Business Insurance:
3.8" x 2" - \$335 Net

Crain's Benefits Outlook:
3.8" x 2.5" - \$425 Net

RIMS or PCI Show Daily:
3 - 3/8" x 2" - \$325 Net

DOUBLE BUSINESS CARD AD

Business Insurance:
3.8" x 4" - \$670 Net

With print ad benefit from online
listing for \$120 per month @
businessinsurance.com/classifieds

GET IN TOUCH:

Pegeen Prichard | Account Executive
312-649-5446
pprichard@businessinsurance.com

RESOURCE CENTER

NFL

Continued from page 3

understands is going to be a highly complex and drawn out legal process,” said William Wilt, president of insurance research and advisory firm Assured Research L.L.C. in Madison, New Jersey.

Meanwhile, the NFL sued dozens of insurers in Los Angeles Superior Court earlier in August 2012 for alleged breach of duty to defend it in the concussion litigation and to obligate the insurers to pay damages from a judgment or settlement in the case. That lawsuit has been stayed pending the outcome of the New York cases.

Although the NFL concussion settlement could approach \$1 billion in payments to former NFL

INSURERS VS. NFL

Insurers named in several National Football League cases related to player lawsuits concerning concussions and prescription drugs include:

- Ace American Insurance Co.
- Alterra America Insurance Co.
- Chartis Property Casualty Co.
- Fireman’s Fund Insurance Co.
- Hartford Accident & Indemnity Co.
- Munich Reinsurance America Inc.
- XL Insurance America Inc.

players, the deal’s terms — particularly the ability to spread payments over 65 years — are “very favorable to the NFL” said Robert Boland, professor of sports management at New York University and a former NFL agent.

The settlement’s favorable terms

and certainty that the concussion lawsuits will be settled could prompt insurers to drop their lawsuits and participate in the settlement, some sources say.

Insurers “can pool their money,” Mr. Fusco said. “It’s almost like they really have created a settlement fund that may not be so distasteful for the insurers.”

Alan Zimmermann, managing director of Assured Research, said insurers likely will decide their specific roles in the concussion settlement among themselves.

“The insurance companies have to agree what part they’re going to pay and the timing of how they contribute, because the settlement is a 65-year structure,” Mr. Zimmermann said. “Then once the total amount that the insurance companies contribute gets settled, there’s going to be a battle among

the insurers about what policy years are covered.”

Mr. Zimmermann said liabilities from concussion-related traumas could decline after the NFL lawsuit concludes.

“The big losses have already been incurred,” he said. “Going forward, we actually don’t think concussions are going to be that serious of a problem because societal behavior is going to change and is already changing.”

Insurance cost likely to rise

Sources say there’s a chance the NFL may have to pay some costs for the concussion settlement, and they don’t expect insurers to walk away from covering the sports behemoth’s various risks.

“The NFL, with all of its resources, still is going to have

plenty of insurance companies that want to write its policies ... but I suspect that their insurance costs are going to go up,” Mr. Fusco said.

Should the NFL have to pay some concussion-related settlement costs itself, sources said they expect the league to pass the costs on to fans and media outlets, such as through increased ticket prices as well as higher costs for media rights.

“Their revenue growth, particularly media rights, has been significant enough that (money’s) not an issue,” NYU’s Mr. Boland said.

Travelers and Alterra declined to comment for this story, as did The Hartford Financial Services Group Inc., Chubb Corp., Fireman’s Fund Insurance Co. and Munich Reinsurance America Inc.

The NFL did not respond to requests seeking comment.

OKLAHOMA

Continued from page 1

employers to provide alternative comp coverage, under what’s called the “Oklahoma option.”

Catoosa, Oklahoma-based TriStar Glass Inc., which has a branch in Texas, became a qualified employer in Oklahoma on Aug. 1, the same day it became a nonsubscriber in Texas, said TriStar Treasurer Karen Kelley.

“Prior to this, the workmens comp system has seemed very broken,” Ms. Kelley said. “We’ve seen our premiums double within the last three or four years. What drew me to (the Oklahoma option) was not only is it lower premiums — significantly lower — but our ability to be involved and help determine how claims are going to be processed and how our employees are going to be taken care of. We were suffering from not getting good care for employees.”

Ms. Kelley said the company has partnered with a clinic that that is “focused on working with us to get our guys back to work as soon as possible.”

But sources say most employers aren’t rushing to opt out.

“It’s been a little bit of a slow go,” said Denise Engle, Oklahoma’s workers compensation commissioner based in Oklahoma City.

Several things had to happen on the insurer side, including getting approval to develop alternative comp products and finding clients, before employers could become “qualified” under the new law, Ms. Engle said.

“Considering all those things have actually been accomplished in six months is amazing,” Ms. Engle said.

“We’re seeing our clients wanting to get educated on the topic, but not seeing a lot jumping at this and saying, ‘We’re going to absolutely do this,’ ” said Christopher Flatt, managing director and leader of Marsh L.L.C.’s Workers’ Compensation Center of Excellence in New York. “One client

DISPUTED CASES DECLINING WITH ADMINISTRATIVE SYSTEM

As part of a new law that allows certain Oklahoma employers to opt out of the state’s workers compensation system, a three-member Workers’ Compensation Commission has been established as has an administrative dispute resolution process.

The transition from a court-based system to an administrative system spurred headlines in July, as hearings for thousands of injured workers were delayed and 16 state employees handling workers comp matters were laid off.

The court-based system under the previous law still has “thousands of claims to work through” for workers who were injured on or before Jan. 31, said Oklahoma Workers’ Compensation Commissioner Denise Engle in Oklahoma City.

However, the commission has already “seen a reduction in disputed cases, which is encouraging because that means (workers) are getting their claims taken care of,”

she said.

“It makes sense that shifting from a court-based system to an administrative system is going to initially require some staffing redundancies and transition of responsibilities,” said Bill Minick, president of Dallas-based consultant PartnerSource. “I’m not surprised that workers compensation court is reducing staff as their legacy claims are resolved.”

The benefits of an administrative system to resolve comp disputes are undeniable, said Bruce Wood, workers compensation director at the American Insurance Association in Washington.

“That is the way it works in other states,” he said. “Do you get perfect results? No. But certainly time has shown that administrative systems for workers compensation are certainly a better bet than otherwise. Otherwise, all these other states ... would have turned to court-based systems. That’s not what happened.”

By Stephanie Goldberg

wants to wait and see what another one does and how effective it’s going to be before they move in that direction.”

Experts said the wait-and-see attitude was expected, even though several large employers, such as Oklahoma City-based retailer Hobby Lobby Stores Inc., openly supported the Oklahoma comp plan before it was signed into law in May 2013.

Hobby Lobby declined comment on whether it will pursue alternative comp coverage.

In addition, significant decreases in workers comp loss costs likely are causing some employers to hit the pause button, said Bruce

Wood, workers compensation director at the American Insurance Association in Washington.

After the reform legislation was approved last year, the Oklahoma Insurance Department approved a 14.6% decrease in comp rates suggested by the Boca Raton, Florida-based National Council on Compensation Insurance Inc.

“If I’m an employer in Oklahoma, I’m not going to be wanting to rush into a completely new and untested and likely litigated program,” Mr. Wood said.

The fear of litigation is another reason some employers are apprehensive, he said.

The Oklahoma Supreme Court in

December upheld the constitutionality of the opt-out workers comp law when it was initially challenged by two Oklahoma lawmakers and a state firefighters union, but sources say more litigation is inevitable.

As for what constitutes the appropriate type of alternative comp insurance, should such coverage “be claims-made policies vs. incurred policies? ... There are a whole bunch of issues like this that that no one has raised — no one has answers,” Mr. Wood said. “And the only way that they will be (raised) will be in the course of time.”

For some employers, the ability to have greater control over directing medical care will be enough of a draw to alternative comp coverage, Mr. Flatt said.

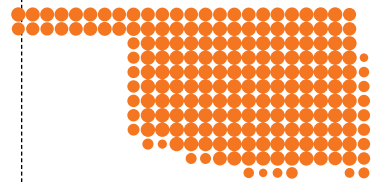
Insurers, including St. Louis-based Safety National Casualty Corp. and Cincinnati-based Great American Insurance Group, began designing policies as soon as the program guidelines were finalized, said Bill Minick, president of Dallas-based PartnerSource, a consultant unit of Arthur J. Gallagher Risk Management Services Inc.

“The first option quotes were issued late spring, and the first programs became effective the middle of June,” Mr. Minick said. “Dozens and dozens of employers have received and are viewing option insurance quotes.”

As for how long it will take to realize the potential of Oklahoma’s comp reforms, Mr. Wood said that is not known “because Oklahoma is charting a new path here in opting out. Normally with benefits delivery system changes, it can take anywhere from three to five years to phase in.”

Creating a more business-friendly state by driving costs out of the workers comp system would be a success for Oklahoma, Mr. Flatt said.

“Will this law actually allow for the business climate to improve in the state? Will it draw more employers into the state? ... We don’t know yet, but it’s something to keep an eye on,” he said.



FIRMS OPTING OUT OF OKLAHOMA'S COMP SYSTEM

At least seven companies have been approved as qualified employers in Oklahoma, allowing them to provide alternative workers compensation or self-insured comp coverage for their more than 1,400 employees working in the state. The employers, and their total number of employees, are:

Swift Transportation Co., a Phoenix-based trucking company with more than 10,000 employees

Regis Corp., a Minneapolis-based beauty salon and cosmetology education firm with more than 10,000 employees

TriStar Glass Inc., a Catoosa, Oklahoma-based glass manufacturer with 125 employees

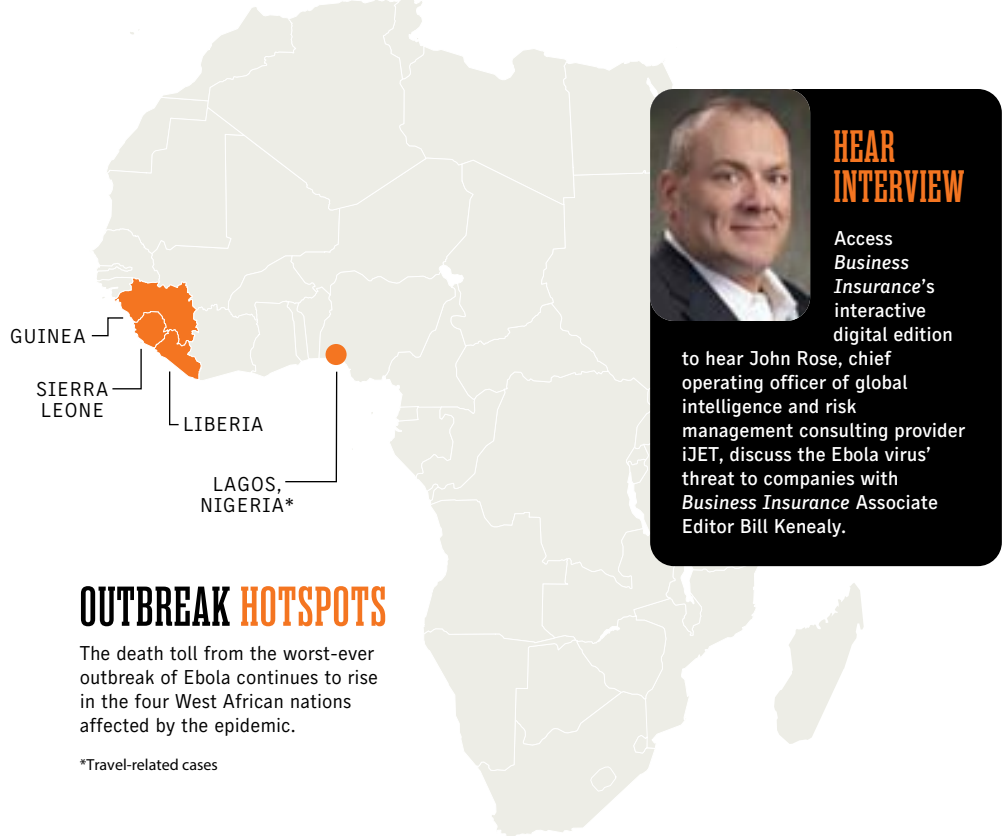
Brookhaven Hospital Inc., a Tulsa, Oklahoma-based mental health and health care provider with less than 50 employees

Quality Stone Quarries L.L.C., a Stigler, Oklahoma-based flagstone quarry firm with less than 40 employees

Taylor & Sons Pipe & Steel, a Chickasha, Oklahoma-based pipe and steel supplier with more than 30 employees

Alpha Home Health Care Inc., an Oklahoma City-based home health care provider with less than 10 employees

Source: Oklahoma Department of Insurance



OUTBREAK HOTSPOTS

The death toll from the worst-ever outbreak of Ebola continues to rise in the four West African nations affected by the epidemic.

*Travel-related cases

EBOLA

Continued from page 1

said Daniel Ryan, London-based head of population risk and data analytics research and development at Swiss Re Ltd.

John Rose, Annapolis, Maryland-based chief operating officer of risk management information and consulting firm iJET International Inc., said travel and logistical networks are particularly sensitive to disruption by a pandemic.

"In area impacted by Ebola, you are seeing a serious reduction in air traffic," Mr. Rose said. "No airline is going to fly a wide body jet to Africa if only nine passengers are aboard, so you have to have a plan B to move your assets around."

Quarantines and border closings also affect employees and supply chains, said Kimberly Hale, a senior consultant in the reputational risk and crisis management practice at Marsh Risk Consulting in Chicago.

"Companies need to keep in mind that if they are sending people to affected regions, borders can close at the drop of a hat," Ms. Hale said.

Mining, agricultural and energy companies tend to have large operations in the African nations, so they now are bearing the brunt of the Ebola pandemic.

For example, Luxembourg-based steelmaker and mining firm ArcelorMittal S.A. last week said contractors working on expanding an iron

ore mining site in Liberia had declared force majeure and were moving workers out of the country, shutting the project down.

In a statement, ArcelorMittal said it had taken steps to protect employees and operations, including providing thermoflash scanners to test employees and visitors for fevers at all its Liberia locations, personal protective equipment to hospitals and clinics, and training to health care workers and employees.

Jason Jarrett, Vancouver, British Columbia-based chief adviser for global business resilience, global security with Rio Tinto Group, said the London-based mining company, which has extensive operations in Guinea, put in place appropriate steps to minimize the risks when the Ebola outbreak was first detected in March.

The company enhanced medical support for its people, Mr. Jarrett said, noting that all Rio Tinto staff in Guinea receive regular briefings with the latest medical advice and those visiting are fully briefed on arrival. Rio Tinto is also providing sanitation supplies such as soap and chlorine to the communities in which its people live and work.

"To support the work of the Government of Guinea and Doctors Without Borders in fighting the disease, we are distributing prevention kits, organizing public awareness campaigns and providing sanitation equipment such as shovels, rakes and refuse bins," he said. "We have also constructed some latrines in one of the main towns to help improve hygiene."

Nonetheless, Mr. Jarrett said that while Rio Tinto has not stopped the movement of its peo-

ple in, out or around Guinea, it is ensuring that travel is only for essential purposes.

Chris Baudouin, Chicago-based CEO of the Aon Global Client Network, said an aggressive employee safety approach is warranted.

"A lot of our clients are mining operations, which tend to have assets in remote areas and limited access to health care and transportation," Mr. Baudouin said. "So they tend to err on the side on caution, especially if airlines are shutting down flights."

To remain abreast of the situation, Susan Morton, senior consultant in the reputational risk and crisis management practice at Marsh Risk Consulting in Boston, said it's important for businesses to have pandemic, crisis response and business continuity plans in place, and closely follow guidance from organizations such as the World Health Organization and U.S. Centers for Disease Control and Prevention.

There also are also dedicated, real-time third-party risk monitoring services available.

Michael Kiewski, Chicago-based director of Aon's Crisis Operations Center, said his staff provides risk managers with real-time information from the company's crisis centers in Chicago and South Africa.

"We are taking open information from media and social media, analyzing it and sending it out to our risk manager clients," Mr. Kiewski said. "We are watching which airlines cancel flights and which countries are shutting down borders."

Companies with workers within the affected areas also face pressure from workers' families and adverse media attention that can tarnish their corporate reputation.

"Stranding employees exposes you to lawsuits," Mr. Rose said. "That's a real risk."

Companies that do extract employees from affected areas of Africa still need to bear in mind Ebola's lengthy incubation period and plan accordingly. "You can leave Sierra Leone or Guinea and be perfectly fine and three weeks later come down with it," Ms. Hale said.

Indeed, to reduce the risk of transmission, Mr. Jarrett said Rio Tinto has asked workers who have visited the highest-risk areas to stay at home up to 21 days before returning to work.

Geoff Taylor, London-based executive director at Willis Group Holdings P.L.C. said the pandemic highlights the need for companies to focus on supply chain resiliency.

"You might be able to withstand the loss of one factory, but what if you lose a key port or have an entire country subject quarantines or sanctions?" he said. "So if you have single-source suppliers or several concentrated in a certain region, it is good to contemplate what your options are."

DMEC

Continued from page 4

dealing with behavioral health.

"If we don't intervene, the anxiety is going to creep in and it's ... going to feel like that person is not motivated," Ms. Tugman said in an interview.

Mr. Parker said return-to-work expectations are the greatest predictor of how long an employee will be off the job, with fear and avoidance of dealing with that fear being the second-greatest predictor.

When "expectations are low and fear and avoidance are high," injured employees "may want to come back to work; they just don't know how to," he said.

"Anytime a person is fearful of anything, they'll avoid it," Mr. Parker said. "If people are fearful of reinjury, fearful of their supervisor not being supportive, fearful of possibly being fired or let go ... they're going to delay until that concern is addressed or it's not an issue anymore."

"We need the medical treatment, but it's also about mindset," Ms. Tugman said. "But at the same time, the person can't necessarily control it ... They feel that anxiety and they're concerned that, 'I'm going to fail,' or, 'I feel guilty; I can't face my co-workers because I know they've been covering for me,'

or, 'Clearly my co-workers are mad at me because they haven't reached out to me.' We need to be able to understand what are those barriers, and then talk about them and figure out a way to overcome them."

Darrell Bruga, CEO of consultant LifeTeam Health in Sacramento, California, said "symptoms only account for a small percentage of why people don't return to work."

"Psychosocial factors are much more important when determining who will return to work," he said.

Catastrophic thinking — where a worker constantly worries about their condition — and a sense of injustice if, for example, a claim was not accepted immediately, are "risk factors that can be reduced," he said. "People want to feel listened to."

Experts say it's important for managers to ask open-ended questions, be good listeners and stay connected with injured employees who are off the job.

"Without that," Ms. Tugman said, "the employee is not going to feel like they owe you anything. They're not going to feel like you care about them, and that's extremely important."



VCIA

Continued from page 4

said, looking only to keep home state companies' captive insurance business in the state rather than seeking to attract captives from elsewhere.

Mr. Provost said he thinks most regulators in new captive domiciles are qualified individuals and "tend to be experienced insurance regulators," if sometimes unfamiliar with captives. Those lacking familiarity might be more conservative in their regulation of captives until better acquainted with the alternative risk transfer vehicles, he added.

Daniel D. Towle, director of financial services in the Vermont



Department of Economic Development, said he's concerned some of the new domiciles might have pressure to grow rapidly, which might influence the quality of their regulation. "I am not under pressure to grow 35 captives every year. Those other states — I'm not sure what kind of pressures

"I am not under pressure to grow 35 captives every year. Those other states — I'm not sure what kind of pressures they're under."

Daniel D. Towle, Vermont Department of Economic Development

they're under," Mr. Towle said.

Talking about the Federal Insurance Office and the Federal Advisory Committee on Insurance created to advise it, Mr. Provost said he unsuccessfully sought a spot on the FACI panel.

As constituted, "They've got some captive detractors but no

captive promoter," Mr. Provost said.

Mr. Myers said that while working with the NAIC "is awkward and sometimes difficult," he thinks the situation could be more difficult for alternative risk transfer vehicles if they faced federal regulation.

"You can work with the NAIC and get things done," Mr. Myers said, something he's not sure would be the case with a federal regulator.

This year's VCIA annual conference drew more than 1,000 attendees from 40 states and eight countries to the Sheraton Burlington Hotel & Conference Center. Next year's VCIA annual conference is scheduled for Aug. 11-13, 2015, in Burlington. For more information, go to www.vcia.com.

GRID

Continued from page 1

on a substation operated by Pacific Gas & Electric Corp. in Metcalf, California. A number of still-unknown intruders reportedly shot .30-caliber rounds at the San Francisco-based utility's high-voltage transformers, rendering them inoperative and prompting widespread speculation it was a dress rehearsal for a more extensive and coordinated terrorist attack.

There have been several less serious substation incidents, too. As of now, insurance experts say the incidents and potential for more attacks on substations have not boosted insurance rates for power companies.

The insurance industry is monitoring the situation, said Mark Fishbaugh, Charlotte, North Carolina-based national practice leader for power for Aon Risk Solutions.

"The risk has always been there. It's just highlighted now," he said.

While theories abound on who was behind the substation attack, "I can say whomever did it knew what they were doing," said Patrick Miller, managing principal at Austin, Texas-based consulting firm The Anfield Group. While he does not believe it was a random attack without motive, we "just don't know what it was."

The Congressional Research Services' report said there is widespread agreement that high-voltage power transformers are vulnerable to a terrorist attack, which "potentially could have catastrophic consequences." While attacking multiple transformers would require a certain level of sophistication, "the true vulnerability of the grid to a multitransformer attack remains an open question," according to the report by the service, which provides policy and legal analysis exclusively for the U.S. Congress.

"The grid was not designed to be fortified against physical attacks," said Jason Brock, a research lead-

er at the Columbus, Ohio-based nonprofit research and development organization Battelle Memorial Institute who has written a report that proposes recommendations for implementing comprehensive security standards.

The California attack was a "wake-up call for the industry" that there is "high probability" of such an attack, said Jasvir Gill, CEO of consultant AlertEnterprise Corp. in Fremont, California. Utilities previously were focused on risks from insiders, including information technology, rather than physical attacks by outsiders, he said.

Jon B. Wellinghoff, a former chairman of the federal agency and now a San Francisco-based partner at law firm Stoel Rives LLP., said the Pacific Gas & Electric incident "demonstrated that people have the capability and willingness to try to do things that are very damaging" to the infrastructure.

A spokesman for PG&E said its efforts include building opaque fencing around the perimeter of its highest priority electrical facilities, as well as installing detection and deterrent systems and improved lighting.

Experts say it is unclear how many substations nationwide could be considered critical. But the few that are critical elements of the nation's electric power grid also are the most vulnerable to intentional damage from malicious attacks, the Congressional Research Service said in its report.

Daniel L. Larcamp, a partner at Troutman Sanders LLP. in Washington and a former FERC staff member, said "there's been a lot of work that's been done to the grid to modernize it" since a widespread blackout in 2003 in the Northeast so that operators can better protect the grid against "cascading events" that involve numerous substations.

As for the proposed federal rules, "It is somewhat troublesome as to the time that it takes to put these rules into place," Mr. Wellinghoff

said. And when they are in place, more time will be lost to oversight and enforcement. "In the meantime, we're potentially vulnerable," he said.

The federal agency, FERC, essentially followed NERC's proposal, with two relatively minor changes.

BOOSTING SYSTEM RELIABILITY

With two relatively minor changes, the Federal Energy Regulatory Commission in mid-July proposed adopting a new mandatory reliability standard devised by the North American Electric Reliability Corp.

The proposal by the Atlanta-based nonprofit with a mission of ensuring the reliability of the North American bulk power system is intended to lessen electric utilities' vulnerability to physical attacks.

The plan, on which the federal agency is taking public comment, would require electric transmission system owners to:

- Perform periodic risk assessments to identify transmission stations and substations that, if rendered inoperable, could result in cascading blackouts.
- Have an unaffiliated third party verify the risk assessment.
- Notify transmission operators of critical substations.
- Evaluate potential threats and physical attack vulnerabilities at critical transmission stations.
- Develop and implement a documented physical security plan.
- Have an unaffiliated third party review the security plan and make changes consistent with recommendations or explain reasons for not doing so.

By Judy Greenwald

Mr. Miller said he considers the federal agency's proposal to be a "knee-jerk reaction" to the California incident. "The reality is physical improvements to these substations are extremely expensive" and will lead to higher electric rates, he said.

However, Paul McElroy, CEO of Jacksonville, Florida-based electric, water and sewer utility JEA, who said he has worked closely with the Washington-based American Public Power Association to help develop the proposed NERC standard, said, "From our perspective, the standards will consistently and continuously evolve."

While they would not require substantial changes for utilities already fortifying their physical defenses, "there'll be some investment costs to strengthen the individual systems for the good of the overall grid" for others, he said.

South Boston, Virginia-based Dominion Resources Inc. said it plans to spend up to \$500 million over the next five to seven years to protect its transmission substations and other critical infrastructure from man-made physical threats and natural disasters, and stockpile critical equipment for major damage recovery.

David Scott, Radnor, Pennsylvania-based executive vice president and national utility practice leader at Willis North America Inc., said the unsolved California incident has not caused changes in insurance rates.

Utilities generally do not buy business interruption coverage because they pass on the cost of disruptions to their customers, he said. Even if multiple transformers, which cost \$3 million to \$5 million apiece, were attacked, the insurance industry "could sustain that sort of a loss" under property policies, he said.

"The key issue" for the electric utility risk management community right now is whether physical damage is considered mischief or vandalism, or if it is politically motivated, which could limit utilities' coverage under their conventional property policies, Aon's Mr. Fishbaugh said.

PENSION

Continued from page 3

employers will be able to use an interest rate that is 90% of the rate—averaged over 25 years—of top-rated corporate bonds maturing over certain periods in calculating the value of plan liabilities. Without the change in law, the interest rate would have had to be 80% of that rate.

By continuing the 90% range in 2014, the interest rate employers can use to value pension plan liabilities will increase by 0.7%, and by 1% in 2015, according to Mercer L.L.C. estimates.

"In the short term, this will decrease minimum required plan contributions," said Alan Glickstein, senior retirement consultant at Towers Watson & Co. in Dallas.

Whether employers take advantage of the extended funding relief will vary depending on their circumstances, and those contributing less now may have to pay in more later.

While "employers may have to pay more later, at least they have the flexibility over when to make these contributions," said Bruce Cadenhead, chief

"In the short term, this will decrease minimum required plan contributions."

Alan Glickstein,
Towers Watson & Co.

pension actuary at Mercer in New York.

Despite the latest pension funding law, employer premiums paid to the Pension Benefit Guaranty Corp. still will increase because of legislation approved in 2012 and 2013.

Last year's legislation significantly boosted PBGC flat-rate premiums, which are paid by all defined benefit plan sponsors, to \$57 per plan participant in 2015 and to \$64 in 2016. The premium now is \$49 per plan participant to the agency, which last year reported a \$27.4 billion deficit in its insurance program guaranteeing benefits for participants in single-employer plans.

Benefits experts say a June report by the pension agency showing a shrinking deficit in the coming years may have defused congressional interest in making more premium increases.

The analysis projects the deficit in the single-employer insurance program would shrink to \$7.6 billion by 2023.

"At least for now, there is less momentum for another premium increase," said Eric Keener, a partner at Aon Hewitt in Norwalk, Connecticut.

FACI

Continued from page 3

cuss international issues at its next meeting slated for early November.

Frank Nutter, president of the Washington-based Reinsurance Association of America, said the group should focus on international matters.

"FIO has an important roles related to international regulation," said Mr. Nutter, who attended the meeting. "We would like to see the advisory committee and FIO focus on those. The covered agreement would be one. The capital standards under development by the International Association of Insurance Supervisors would be

another and facilitating recognition of the U.S. system by other foreign regulators" would be a third major issue the RAA would like the committee to discuss.

Lawrence Mirel, a former District of Columbia insurance commissioner and now a partner in the Washington office of Nelson Brown Hamilton & Krekstein L.L.C., also attended the August meeting and thinks Mr. McRaith has two clear priorities.

"One is the covered agreement process dealing with reinsurance collateral, but he also wants to pay attention to the affordability and availability issue—primarily personal lines" because that is what "gets people's attention," Mr. Mirel said.

He said covered agreements, which are essentially treaties for

the U.S. treatment of cross-border reinsurance, are among the few matters over which FIO actually has power rather than merely advisory functions.

The advisory committee's size does pose a challenge, said Howard Mills, a former New York insurance superintendent and now chief adviser of the insurance industry group at Deloitte LLP. in New York.

"I think the huge challenge for the body is there are such divergent views on so many pressing issues, and you've got the challenges of the regulatory structure of insurance, the challenges of tensions within the states, you've got the overlay of various bodies at the federal level now—FIO, the Fed, and you've got the whole international structure that's

pushing all of those," Mr. Mills said.

Mr. McRaith "has a very tough job as he tries to channel this input and move ahead with his mission of trying to make the regulatory process smoother and more efficient," Mr. Mills said.

Mr. Mirel said the committee's powers are limited and the chance of the committee "actually doing anything is quite limited."

"This is an advisory body to what is essentially an advisory office," Mr. Mirel said. The FIO itself is "an adviser to the secretary of the Treasury, who is an adviser to the president."

"They're a sounding board basically for the FIO, and they're important in that regard. But the FIO, I think, will pick and choose what it wants to hear," he said.

AIG boosting Washington lobbying following crisis-era hiatus

■ American International Group Inc. is ramping up its lobbying team in Washington almost six years after halting those efforts following its rescue by the U.S. government during the financial crisis. AIG has employed no officially registered lobbyists since 2009. Yet in May of this year, Lauren Scott started working as AIG's director for international regulatory and government affairs in Washington, according to her LinkedIn profile. She previously was a director of international and insurance regulation at the American Council of Life Insurers. She follows the February arrival of Mary Frances Monroe, a former Federal Reserve supervisor who worked for a Washington consultancy firm, as AIG's head of international regulatory, also according to LinkedIn. Ms. Scott and Ms. Monroe did not respond to requests for comment. AIG declined to comment. The lobbying buildup comes at a critical time for the insurer, which has been subject to new supervision by the Federal Reserve after it was designated as a "systemically important" firm by a top U.S. regulatory panel.

Reuters

More large employers moving to CDHPs: NBGH

■ Large employers continue to pare back the types of health care plans they offer to try to keep costs under control, according to a survey by the National Business Group on Health. Next

year, 32% of employers said consumer-driven health plans will be the only plan design they offer to employees, compared with 22% this year. Additionally, 57% said they plan to implement or expand CDHPs to minimize the impact of a new excise tax imposed by the Patient Protection and Affordable Care Act, starting in 2018, of 40% on health care premiums exceeding \$10,200 for individual coverage and \$27,500 for family coverage. The survey polled 136 large employers, most with at least 10,000 employees.

Berkshire Hathaway hires senior execs from AIG Asia: WSJ

■ Berkshire Hathaway Inc. has hired two senior executives from American International Group Inc.'s Asia operations to boost its insurance business in the region, The Wall Street Journal reported, citing people familiar with the matter. Berkshire Hathaway has hired Marc Breuil, who headed AIG's country operations in Hong Kong and Taiwan, and Marcus Portbury, regional head of casualty for the Asia-Pacific region, according to the report. Representatives at AIG and Berkshire Hathaway Specialty Insurance did not immediately respond to Reuters' requests for comment.

Reuters

WellPoint to change its name to Anthem

■ WellPoint Inc. is looking to rebrand itself as Anthem, pending shareholder approval. Joe Swedish, WellPoint's CEO, said the health

insurer was making the change to better connect with consumers in a "radically changing" health care environment. Mr. Swedish said the Anthem name will hopefully eliminate brand confusion among its 48,000 employees and large provider network, in addition to its millions of members. The insurer, which operates Blue Cross and Blue Shield plans, took on the WellPoint name in 2004 when WellPoint Health Networks and Anthem merged. However, most of its plans carry the Anthem name, including in California, Virginia and Connecticut. WellPoint, based in Indianapolis, had 37.3 million members as of June 30.

Modern Healthcare

Florida Workers' Compensation Act unconstitutional: State judge

■ The Florida Workers' Compensation Act no longer provides adequate benefits to injured workers and is therefore unconstitutional, a Miami-Dade County, Florida, judge has ruled. Due to the exclusive remedy provision of the act, workers are able to seek benefits only under the workers comp system. Workers can sue their employers only in certain instances — for example, if an employer deliberately intended to injure an employee, according to the provision. But 11th Circuit Court Judge Jorge E. Cueto ruled that the act is "facially unconstitutional as long as it contains Section 440.11 as an exclusive replacement remedy." While the act may have been a reasonable alternative to tort litigation 40 years ago, "the benefits in the act have been so decimated since then," according to the ruling, "that it no longer provides a reasonable alternative" to civil court.

KODAK

Continued from page 4

a big improvement over the current benefit formula in which plan participants earn an amount equal to 4% of pay.

Kodak also will move employees remaining in its traditional final average pay pension plan to the cash balance plan. At the time Kodak set up the cash balance plan in 1999, employees were given the choice of remaining in it or shifting to the cash balance plan.

On the other hand, starting next year, Kodak will stop making matching employee contributions to its 401(k) plan. Currently, Kodak fully matches employees' contributions up to 1% of pay, then matches 50% of employees' salary deferrals up to the next 4% of pay. That match has been available only to cash balance plan participants, and not to employees covered by the traditional pension plan.

Kodak's upcoming enhancement of its cash balance plan flies in the face of the biggest retirement trend of the last decade: the freezing of defined benefit plans by thousands of employers, such as Bank of America Corp., International Business Machines Corp., and Wells Fargo & Co., with many of them simultaneously bolstering their 401(k) plans.

That widespread move away from defined benefit plans largely has been driven by corporate worries about their cost volatility, with

factors such as fluctuating interest rates and volatility of equity markets, which are out of employers' control, having a huge effect on plan contributions.

Jeff Clarke, CEO of Eastman Kodak, said in a letter to employees that through this change in retirement plan design "our pension benefit will be competitive with companies in our industry."

Separately, in a statement, Kodak said it designs its benefit plans to balance "affordability with the ability to attract and retain talent. We believe our changes to the U.S. pension plan

"The problem with defined benefit plans is cost volatility. Plan sponsors have moved away from them because of the lack of cost predictability."

Byron Beebe, Aon Hewitt

strike this balance and are competitive with the market."

Still, no one predicts that a large number of employers will follow in Kodak's path. "The single biggest reason not to take this approach is risk," said Art Noonan, a senior vice president with Mercer L.L.C. in Pittsburgh.

With a defined benefit pension plan, Mr. Noonan said, employers can face unexpectedly high costs, such as when a slump in the equi-

ties market sends the value of plan assets plummeting and, with that, forces employers to funnel more money into the plan at a time when employers may be least able to afford it.

"The problem with defined benefit plans is cost volatility," said Byron Beebe, U.S. retirement market leader with Aon Hewitt in Cleveland. "Plan sponsors have moved away from them because of the lack of cost predictability."

By contrast, costs are highly predictable and controllable with 401(k) plans, in which employers agree to contribute a fixed amount, typically a set percentage of employees' pay, to their retirement plan accounts. Ups and downs in the equities markets, interest rates fluctuations or changing life expectancies have no bearing on what employers must contribute.

But now, experts say, there is new — albeit modest — employer interest in holding on to and improving their defined benefit plans. "There are good and intelligent reasons for employers" to consider this approach, said Kevin Wagner, a senior retirement consultant with Towers Watson & Co. in Southfield, Michigan.

One factor driving employer interest is potentially lower retirement benefits costs. For example, Kodak estimated in a presentation to investors and analysts that its pension plan redesign will achieve annual savings of \$12 million.

Experts say such savings are possible because employers may

be able to provide the same benefit at less cost in a cash balance plan than in a 401(k) plan.

That is because employers, utilizing professional investment advisers, will likely reap greater investment results than employees do when they invest their employers' 401(k) plan contributions on their own. "You may be able to provide bigger benefits at less cost," said Jack Abraham, a principal with PricewaterhouseCoopers L.L.P. in Chicago.

There are other investment-related factors that could drive employer interest in retaining defined benefit plans and perhaps reducing the generosity of their 401(k) plans.

One factor is that employees may not contribute enough to their 401(k) plans to give them the income they need to retire, forcing them to keep working longer than either they or their employers would like.

"That is a looming problem," said Nancy Tartaro, a principal with Buck Consultants at Xerox in Secaucus, New Jersey.

"We are entering the time period where some employers are saying, 'My workforce is not retiring as we were thinking and therefore we may reconsider'" the retirement plan approach, Mr. Noonan said.

On the other hand, some employees whom employers especially value may rack up hefty returns through their defined contribution plan investments and "may retire earlier than their employers want," Ms. Tartaro said.

BUSINESS INSURANCE®

Publisher:
Frank Quigley (Chicago)

Associate Publisher/
Online General Manager:
Paul D. Winston (Chicago)

Editor:
Gavin Souter (Chicago)

Editor-at-Large:
Jerry Geisel (Washington)

Managing Editor:
Paul Bomberger (Chicago)

Assistant Managing Editors:
Charmain Benton (Chicago);
Aranya Tomseth (Chicago)

Art Editor:
William Murphy (Chicago)

Senior Editors:
Judy Greenwald (San Jose);
Mark A. Hofmann (Washington);
Sarah Veysey (London);
Joanne Wojcik (Denver);
Rodd Zolkos (Chicago)

Associate Editors:
Matt Dunning (New York);
Stephanie Goldberg (Chicago);
Sheena Harrison (Chicago);
Bill Kenealy (Chicago);
Matthew Lerner (New York)

Copy Desk Chief:
Katherine Downing (Chicago)

Copy Editor:
Dave Roknic (Chicago)

Copy Editor/Video Producer:
Jewell C. Washington (Chicago)

Editorial Assistant:
Kate Shepherd (Chicago)

Director of Research:
Angelina Villarreal (Chicago)

Editorial Cartoonist:
Roger Schillerstrom (Chicago)

Advertising Sales Director:
Peter Oxner (Chicago)

Northeast Regional Sales Manager:
Ron Kolgraf (Boston)

Mid-Atlantic Advertising Manager:
Mark Krawiec (New York)

Midwest/West Advertising Manager:
Spencer Moysey (Chicago)

Director of Conference Sales:
Mary Pemberton (Denver)

Account Executive
Pegeen Prichard (Chicago)

Director of
Demand Generation Services:
Par Gandhi (New York)

Sales & Marketing Specialist:
Emily Stein (Chicago)

Production Manager:
J. Thomas Janka (Chicago)

Associate Group Publisher -
Conferences & Marketing Services:
Nikki Pirrello (New York)

Events Manager:
Meghan Bradley (Chicago)

Digital Product Manager:
Christina Kneitz (Chicago)

Reprint Sales Manager:
Lauren Melesio (New York)

EDITORIAL: Chicago: 312-649-5200;

Denver: 303-278-7444;

London: 44-207-457-1400;

New York: 212-210-0100;

San Jose: 408-774-1500;

Washington: 202-662-7200

ADVERTISING: Boston: 617-261-8459;

Chicago: 312-649-5224;

Denver 303-898-4043;

New York: 212-210-0136

SUBSCRIPTIONS & SINGLE COPY SALES:
1-877-812-1587 (U.S. & Canada)

1-313-446-0450 (All other locations)

Business Insurance is published by
Crain Communications Inc.

Crain Communications Inc. Board of Directors

Chairman: Keith E. Crain

President: Rance Crain

Treasurer: Mary Kay Crain

Cindi Crain

Executive Vice President/Operations:
William A. Morrow

Executive Vice President/
Director of Strategic Operations:
Christopher Crain

Senior Vice President/Group Publisher:
David Klein

Chief Financial Officer:
Thomas Stevens

Vice President/Group Publisher:
Chris Battaglia

Vice President/Production & Manufacturing:
Dave Kamis

Chief Information Officer:
Anthony DiPonio

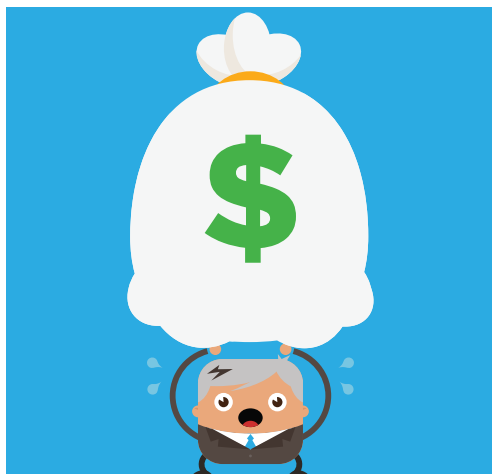
G.D. Crain Jr.:
Founder (1885-1973)

Mrs. G.D. Crain Jr.:
Chairman (1911-1996)

Merrilee P. Crain:
Secretary (1942-2012)

S.R. Bernstein:
Chairman-executive committee (1907-1993)

BPA **AMERICAN**
WORLDWIDE **BUSINESS MEDIA**
The Association of Business Media Companies



Insurer settles suit with heavy dough

People prefer cash to coins, especially when the payout is thousands of dollars delivered by the bucketload.

East Los Angeles, California, resident Andres Carrasco, 76, filed a lawsuit in 2012 against Rancho Cucamonga, California-based insurer Adriana's Insurance Services Inc., and the parties recently reached a settlement, according to the Associated Press. But the insurer paid part of the settlement with thousands of quarters, nickels, dimes and pennies — in buckets.

Antonio Gallo, Mr. Carrasco's lawyer, did not disclose the amount of the settlement but said Adriana delivered what might be around \$20,000 in coins to Mr. Gallo's office. "There's maybe 17 buckets of coins," Mr. Gallo said. "They probably (each) weigh anywhere between 70 to 100 pounds ... It's insulting to my client. He's 76 years old, he just had a hernia operation. Come on."

Pizza shop logo gives N.J. agency agita

Why didn't they just name it "Jersey Highway Pizza," or better yet "Beach Traffic Pizza"? A Florida pizza shop has decided to link its identity to a New Jersey roadway best known for infuriating weekend drivers coming home from a day or weekend at the beach, to the ire of the state agency that runs it.

The New Jersey Turnpike Authority filed suit July 21 in U.S. District Court in New Jersey to stop Jersey Boardwalk Pizza of Tavernier, Florida, from using a logo the authority contends is based directly on its logo for the Garden State Parkway.

The round logo with yellow printing emblazoned with the outline of the state is widely known to those who traverse the Garden State. In its suit, the Turnpike Authority called the parkway "one of the most iconic and well-known highways in the United States" and said it "has invested a substantial amount of time, money and other resources advertising, promoting, marketing and publicizing its services provided under the Garden State Parkway Logo mark." The agency claims service mark infringement in its lawsuit.



LINGERIE FOOTBALL PLAYERS SUE LEAGUE OVER SCANTY PAY



AP PHOTO

Melissa Margulies, who was an "all-star running back" for the Los Angeles Temptation, is suing Legends Football League L.L.C.

Two lingerie football players are suing their former league in California court, saying that it wrongly classified its scantily clad athletes as independent contractors in order to pay them skimpy wages. A hearing was held last month in Los Angeles Superior Court in *Melissa Margulies v. Legends Football League L.L.C.*, according to media reports. Ms. Margulies was an "all-star running back" for the Los Angeles Temptation, according to a statement last month from Alexander, Krakow & Glick L.L.P. law firm in Santa Monica, California, which is representing Ms. Margulies. The class-action suit also includes Robin "Nikki" Johnson, who was an "all-star quarterback" for the Las Vegas Sin, according to the law firm.

Ms. Margulies and Ms. Johnson named Legends Football League and its founder, Mitchell Mortaza, in their complaint, which was filed in late June, the law firm said, accusing the league of failing to pay minimum wage and not paying for injuries suffered while playing football.

The plaintiffs in the case are seeking general and compensatory damages along with other judgments against the Legends league, according to media reports.

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

Band-Aid bill adds insult to injury

A New Jersey hospital has a public relations emergency on its hands after it charged a man \$9,000 to bandage his cut finger.

According to reports, Baer Hanusz-Rajkowski of Bayonne, New Jersey, went to the emergency room at Bayonne Medical Center last August after a cut on his finger was slow to heal. A nurse practitioner examined Mr. Hanusz-Rajkowski, determined stitches were not necessary, administered a tetanus shot and bandaged the damaged digit.

The subsequent bill left Mr. Hanusz-Rajkowski fuming. "I got a Band-Aid and a tetanus shot," he told NBC 4 New York earlier this month. "How could it be \$9,000?"

Dr. Mark Spektor, president and CEO of Bayonne Medical Center, blamed the outsized bill on an ongoing dispute with UnitedHealthcare, Mr. Hanusz-Rajkowski's health insurance company. Dr. Spektor said the insurance company has paid its portion of the bill, roughly \$6,640.

But even though the hospital has agreed to write off his portion of the debt, Mr. Hanusz-Rajkowski said he will find another place to fix him up should another medical disaster befall him.

"If I severed a limb, I'd carry it to the next emergency room in the next city before I go back to this place," he said.



Insurer threatens unpaid police force

A township police force in Michigan recently faced losing its insurance coverage if it didn't improve training of its three dozen unpaid — but armed — volunteer deputies. According to The Hastings Banner newspaper, the Michigan Township Participating Plan, which insures the Barry Township Police Department, gave the township until November to provide inexperienced volunteers police academy training and subsequent in-house departmental training, in addition to complying with driver-training requirements.

The threat from the insurer convinced officials to suspend the reserve program. But that wasn't enough to keep Barry Township Police Chief Victor Pierce out of Dutch with local residents over his department's allegedly heavy-handed tactics. In addition to the township's four full-time officers, he had recruited 36 unpaid deputies and procured two Humvees and two armored personnel carriers from the U.S. Department of Defense, the Detroit Free Press reported—perhaps a little too much show of force for a department housed in one room in Delton, Michigan. After public outcry, he resigned during a contentious township board meeting, according to the Free Press.

A Platform Built on Editorial Excellence.

Where the News Is.



Breaking News
Feature Stories
Searchable Archive
Directories & Rankings
Whitepapers
Videos
Webinars
Photo Galleries
Awards and Events
Industry Events Datebook
Continuing Ed Courses
Career Center
Global News
Email Newsletters
Breaking News Alerts
Marketplace Directory

Businessinsurance.com is the leading resource for executives concerned about risk and the impact on their business. Our websites, email newsletters, mobile platforms, and interactive digital edition deliver real-time breaking news and in-depth analysis on what matters most.

GET IN TOUCH: BusinessInsurance.com delivers an engaged and targeted audience of risk and benefits decision makers.
To talk about opportunities contact Advertising Sales Director Peter Oxner -
poxner@businessinsurance.com - 312-649-5224

SEE FOR YOURSELF: Register online for access to articles, newsletters and more: www.businessinsurance.com/register

**Helping employees
is your passion.**
Helping you is ours.



You have a responsibility to manage your company's resources. It's part of the job. At the same time, you have a passion for taking care of your employees. It's part of who you are. Backed by 70 years of helping businesses support their employees, Liberty Mutual Insurance has a passion for protecting your people, with easy-to-administer life, leave, and disability benefits tailored to your company. To learn more, talk to your broker or consultant today about Liberty Mutual Insurance, or go to libertymutualgroup.com/employeebenefits.

