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inBrief

NFL sues insurers over player lawsuits

The National Football League has filed a lawsuit alleging that nearly three dozen commercial general liability insurers refused to defend the organization against at least 143 lawsuits filed by former players. The underlying lawsuits, filed by the former players and their spouses, seek to hold the NFL liable for bodily or personal injuries. In its lawsuit, the NFL says that since 1968 it has paid millions of dollars in premiums for CGL policies. The NFL is seeking to recover attorney fees and other costs it incurred because the issuers of those policies breached a duty to defend, according to the lawsuit. The NFL, along with NFL Properties L.L.C., also asks for a judicial declaration stating its insurers

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SPOTLIGHT

INDUSTRY FINANCIALS

MIDYEAR RESULTS REVENUE/PROFILES OF LEADING COMPANIES

Biggest property/casualty insurers post stronger first-half results; higher prices aid the largest brokers' fortunes; rising costs crimp health insurers. **PAGE 9**

HURRICANE ANDREW: 20 YEARS LATER

AP PHOTO

Hurricane Andrew caused widespread damage in Florida in 1992. After the storm, insurers changed their approach to catastrophe underwriting.

Models remain storm's legacy

By BILL KENEALY

While Hurricane Andrew is remembered for its path of destruction across South Florida 20 years ago, the storm also started a sea change in the way the insurance industry models catastrophe risks.

Andrew Castaldi, New York-based senior vice president and head of catastrophe perils for Swiss Re Ltd., said the relatively quiet hurricane activity in the two decades preceding Andrew had caused complacency in how the industry weighed hurricane risk.

"The industry was caught napping," Mr. Castaldi said.

Bill Churney, Boston-based senior vice president of catastrophe modeling firm AIR Worldwide Corp., said the company introduced its first hurricane model five years before Andrew, but acceptance of the model's utility or accuracy was far from universal when the storm hit in 1992. When the company faxed its estimate of $13 billion in insured losses to clients in Andrew's

See **MODELING** page 19

Andrew remolded Bermuda market

Domicile becomes reinsurance center in wake of storm

By JUDY GREENWALD

Hurricane Andrew's devastation of South Florida 20 years ago led to fundamental, permanent changes in the Bermuda reinsurance market and, by extension, the market worldwide.

The island changed from a domicile known mainly for its hospitality to captive insurers to becoming the major center providing property catastrophe reinsurance. Furthermore, experts say, it encouraged the now-widespread use of modeling in underwriting catastrophe reinsurance.

Eight specialized property catastrophe reinsurers formed in Andrew's wake provided much-needed capacity to an insurance marketplace devastated by the $15.5 billion hurricane, then the most severe on record and still second only to Hurricane Katrina in 2005 (see chart).

Before Andrew, "people really didn't know how to underwrite the risks, so it was really a gentleman's game," said Neill A. Currie, president, CEO and co-founder of RenaissanceRe Holdings Inc. Ltd. RenRe remains the sole independent specializing in property cat business among Bermuda reinsurers formed after 1992.

Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc., said Andrew created "an opportunity in the market because it was such a huge loss."

"Hurricane Andrew was the catalyst for the formation of the Bermuda market as we know it today," said W. Marston Becker, president and CEO of Alterra Capital Holdings Ltd. in Bermuda. "Prior to Hurricane Andrew, Bermuda really was (XL Group P.L.C.) and (Ace Ltd.) and a collection of small captive insurance companies.

"But with Andrew, the industry

See **BERMUDA** page 20

HURRICANE LOSSES

Hurricane Andrew was eclipsed only by Hurricane Katrina in estimated insured losses, in billions of dollars.

Rank	Year	Hurricane	$ when occurred	$ in 2011
1	2005	Katrina	$41.10	$46.59
2	1992	Andrew	$15.50	$22.94
3	2008	Ike	$12.50	$13.05
4	2005	Wilma	$10.30	$11.68
5	2004	Charley	$7.48	$8.76

Source: Property Claims Services, Insurance Information Institute Inc.

LIABILITY & LITIGATION

Insurers must pay decades-old environmental liabilities

By MIKE TSIKOUDAKIS

California policyholders with long-tail environmental liabilities can collect more from their insurers as a result of a state Supreme Court ruling in a long-running toxic waste dump case.

In its ruling earlier this month, the California Supreme Court ruled unanimously in *State of California v. Continental Insurance Co. et al.* in favor of the "all sums with stacking" default allocation rule regarding commercial general liability policies purchased by the state of California from several insurers over several years (see box, page 2). The ruling upheld an appellate court decision.

"It's a home run for policyholders," said Jim Dorion, complex liability consulting leader in Marsh Inc.'s risk consulting group in Chicago.

Under the ruling, policyholders involved in long-tail environmental claims can "stack" coverage limits over multiple policy years and are not limited to a single year. Also, insurers are obligated to pay under the "all sums" language in the policy up to their policy limits as long as the continuous property damage occurred while each policy was on the loss.

At issue is California's Stringfellow Acid Pits, a toxic waste dump and Superfund site near Glen Avon, that the state built

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solution arcs

COMP COSTS RISING: Employers face higher costs for workers comp coverage, and underwriters are less willing to offer guaranteed-cost policies, capping employer's premiums regardless of loss experience. *www.BusinessInsurance.com/PricingArc*

LAST WEEK'S TOP FEATURES
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2. Wells Fargo sues new broker ABD for trademark infringement
3. Former Wells Fargo worker says fired over daughter's cancer
4. Alterra seeks to be freed from obligations to defend NFL
5. Court sides with contractor over damages from burst pipe
6. Gen Re may face class action over reinsurance deal
7. Muslim woman charges Disney with religious discrimination
8. Zurich names Michael Kerner CEO of general insurance
9. QBE offers coverage for small to midsize companies
10. Some family members of Minn. workers to lose health benefits

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Stacking: Insurers must pay for California environmental damages

CONTINUED FROM PAGE 1

and operated from 1955 to 1972. However, structural and design defects allowed contaminants to escape into the ground and through a barrier dam, leading to litigation against the state. The state filed two actions, which later were consolidated, seeking coverage from various insurers to remediate the site.

"Policyholders may now have many multiples of the policy limits their insurers told them was available to respond to these types of losses," Mr. Dorion said.

"This is a big deal," said Robert M. Horkovich, New York-based managing shareholder for Anderson Kill & Olick P.C. and lead trial counsel for the state on *California v. Continental*.

"Now it's very clear in California that no matter what long-tail risk you have, whether it's environmental or asbestos, you're going to be able to get full benefits of your policy—all sums—and you're going to be able to collect the benefits of multiple policies, for which you paid premiums," Mr. Horkovich said.

As a result of the ruling, 17 law firms have notified their clients about the potential to recover additional payment from insurers for any environmental cleanups in the state, Mr. Horkovich said.

"If any policyholders out there have not fully recovered under all their policies and only were limited to a single year, they now may have, if they haven't released that coverage, significant additional sources to obtain benefits to pay for environmental cleanups," he said.

USGS

Insurance coverage disputes for environmental damage from California's Stringfellow Acid Pits have been settled after 14 years of litigation.

Affected insurers could not be reached for comment.

Courts in some states have adopted a pro rata rule to allocate the amount of damage to each year over which the long-tail injury occurred, a method preferred by insurers as payments are limited to the fraction of property damage during their policy period, experts say.

Laura Foggan, partner at Wiley Rein L.L.P. and leader of the law firm's insurance appellate group in Washington, said the California Supreme Court's decision is a "distortion" of how insurance works.

"Contrast a policyholder that only buys one insurance policy in a 10-year period to another policyholder that pays premiums and carefully insures itself each year for 10 years, and under an all-sums result, both policyholders get exactly the same coverage," she said.

"That result is one that was sought by policyholders and is an undesirable outcome from insurers' perspective," said Ms. Foggan, whose firm filed an amicus brief in the California case on behalf of two insurer organizations. "It's really a fallacy to suggest that an insurance policy is written to cover all sums that may take place in any number of years.

"This case has come fairly late in the game in a time when allocation questions have been litigated by policyholders and insurers around the country," Ms. Foggan said.

However, Mr. Dorion said the ruling could be influential in states that do not have well-developed insurance coverage law.

The environmental insurance market will not change significantly as a result of the ruling, since many insurers already use clear anti-stacking provisions in their environmental liability policies, said David Orleans, senior vice president in Willis Group Holdings P.L.C.'s environmental practice in San Francisco.

"I think going forward...there's going to be big, bold anti-stacking endorsements or provisions in the policy form," Mr. Orleans said.

Gregory Schilz, managing director of Aon Risk Solutions' environmental services group in San Francisco, said that while insurers may be concerned about the sufficiency of their reserves on claims, the ruling will not affect coverage and pricing going forward.

"I don't think that this case would create a situation where there's going to be new opportunities for insureds to now find coverage where they didn't have it already," he said.

'All sums with stacking' due for Stringfellow damages

Insurance coverage for environmental damages from California's Stringfellow Acid Pits has been settled after 14 years of litigation.

The California Supreme Court's unanimous decision endorsed an "all-sums-with-stacking" allocation method for long-tail claims under commercial general liability policies purchased by the state of California from several insurers over several years.

After a jury found the insurance companies liable for damages in 2005, the court concluded the state had to choose a single policy period for the entire loss coverage and could recover up to a single policy limit.

However, a court of appeals ruled all insurers had to indemnify the state for the loss.

The Supreme Court of California considered both positions and this month ruled that the insurers are obligated to pay all sums for property damage attributable to the Stringfellow site, up to their policy limits, and the state can "stack" policy limits to collect the benefits of multiple policies for which it paid premiums.

—*By Mike Tsikoudakis*

PROPERTY/CASUALTY INSURERS

Insurers weather crop losses from drought

Federal program provides buffer for commercial market

By JUDY GREENWALD

The drought devastating crops across the country also is affecting commercial insurers and reinsurers.

The federal government's heavy involvement in the coverage, however, will soften the effect of the losses on insurers' and reinsurers' financial results, experts say.

A complex arrangement between private insurers and the federal government, under which the government absorbs a portion of losses, acts as a major buffer for any losses private insurers sustain.

The National Drought Mitigation Center at the University of Nebraska-Lincoln last week said the drought has intensified over Kansas, Missouri, Nebraska and Oklahoma, but eased slightly in other areas during recent weeks.

According to the U.S. Department of Agriculture's Risk Management Agency, crop insurers have paid $948.6 million in claims this year through Aug. 13. It is too soon to estimate what the total claims will be, experts say.

Under the Federal Crop Insurance Program, a public-private partnership, 15 private insurance companies are authorized by the Risk Management Agency in Washington to write multiple peril crop insurance, according to Overland, Kan.-based National Crop Insurance Services, a crop insurer group. The program is overseen and regulated by the Risk Management Agency, which sets the rates that can be charged.

About three-quarters of the crop insurance policies are revenue-based, and protect farmers from declines in yields and crop prices, according New York-based rating agency Standard & Poor's Corp.

The federal government subsidizes the premiums farmers pay, and reimburses private insurers to offset operating and administrative costs that otherwise would be paid by farmers.

Insurers cede about 20% of their premiums to the government. They cede about 40% of their losses to the government during most years, according to S&P.

Under the standard reinsurance agreement between insurers and the federal government, insurers cede increasing proportions as loss ratios climb to mitigate losses in bad years, according to S&P. Maximum loss ratios are set by states for private insurers, experts say.

The program provides policies for more than 100 crops on about 268.7 million acres of land, according to the USDA.

Although many of the government-authorized crop insurers are specialty agricultural firms, the list includes units of Ace Ltd., XL Group Ltd. and Everest Reinsurance Co., among other multiline insurers and reinsurers.

A private market, including crop hail coverage, exists in addition to the multiple peril crop insurance market. "But the core of it all really starts with the multiperil crop insurance program," said Moody's Investors Service Senior Vice President Alan Murray, who is based in New York.

Insurers have paid nearly $1 billion in drought-related claims this year.

"Basically, the federal crop insurance program is the main vehicle for the federal government to provide subsidies" to the agriculture sector, he said.

To date, the commercial insurance industry has reported relatively few losses from crop insurance claims.

"It's really too hard to determine at this point what indemnities will be for 2012, and ultimately if there will be an underwriting gain or an underwriting loss,“ a spokeswoman for the National Crop Insurance Services said.

Rick Shanks, Kansas City, Mo.-based national managing director of Aon Risk Solutions' food system, agribusiness and beverage practice, a unit of Aon P.L.C., said the drought's effect on the commercial market "will not be substantial," although it may be felt on certain insurers' books.

"I don't think on a global basis it's going to have a material impact," barring a "perfect storm" of several other unrelated disasters, Mr. Shanks said.

While it seems "certain that drought losses will be very substantial," many of these losses will be absorbed by the farmers themselves through their retentions, as well as by the federal government, Mr. Murray said. The drought "could have a much more significant impact" on the specialty crop insurers, he said. But "as far as the broad commercial market“ is concerned, it is "hard to see that this will have a real impact," he said.

Charles Cooper, president and chief underwriting officer of XL Re Ltd., said the reinsurer is exposed to the drought through a 30% quota share protection agreement it has provided to Heartland Crop Insurance Inc., which Everest Re bought last year. As a result of stop-loss coverage that protects its net exposure, XL's total exposure is about $10 million.

In addition, the reinsurer provides stop-loss protection out of its Bermuda operation, with which it has $40 million of total aggregate exposure, about half of which would be triggered by a loss ratio of more than 130%, he said.

Munich Reinsurance Co. said in its second-quarter earnings report it has set aside $200 million of loss reserves for crop losses, and there has been "no indication of significantly higher losses" to date.

During Ace's recent second-quarter earnings conference call with analysts, Chairman and CEO Evan Greenberg said the company will adjust its year-to-date crop loss ratio in the third quarter up by five points, which is equal to about $68 million in after-tax earnings. This would bring the combined ratio of the insurer's crop-related business to between 93% and 94%.

Mr. Greenberg also said if current drought conditions worsen and continue until harvest, the company's modeled worse-case loss "would be an additional...$200 million" after taxes.

HEALTH CARE REFORM

Large employers face big bill

Self-funded plans must help pay for high-cost coverage

By JERRY GEISEL

Self-funded employers will have to fork over billions of dollars to help fund an obscure health care reform law-created program that will partially reimburse commercial insurers writing policies for high-cost individuals.

The first-year assessment paid by very large employers—those with at least 100,000 employees—will run into millions of dollars, for which employers will receive no direct benefit.

"It is going to a big number, a lot bigger than some people may have thought," said Anne Waidmann, a director in Washington for PricewaterhouseCoopers L.L.P.

Insurers also will be hit with the assessments, but they, unlike self-funded employers, will receive much of the $25 billion in assessments authorized by the Patient Protection and Affordable Care Act to be collected from 2014 through 2016.

For self-funded employers, "It is hard to identify a direct benefit, as they are already providing health insurance benefits," said Gretchen Young, senior vice president of health policy for the ERISA Industry Committee in Washington.

"Employers will get no financial benefit from this at all," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

Many crucial details about the transitional reinsurance program have yet to be provided by federal regulators, including the exact amount of the assessment, which will be calculated on a per-participant basis.

Benefit consultants have made preliminary projections. Aon Hewitt, for example, estimates that the 2014 assessment will be in the range of $60 to $80 per health care plan participant, while Towers Watson & Co. puts the first-year assessment range at between $70 and $90 per plan participant.

Consultants don't expect official guidance on the amount of the fee per participant until at least this fall.

"Regulators are expected to issue a notice this fall that spells out exactly how the per-capita fee will be imposed on plan participants," Mercer L.L.C. said in a report last week. The guidance will come from the U.S. Department of Health and Human Services which, under the health care reform law, was given such regulatory authority.

And there are plenty of other unknowns. For example, guidance is needed on the methodology to be used in counting the number of plan participants.

See ASSESSMENTS page 21

WORKERS COMPENSATION

Rate hikes proposed

By ROBERTO CENICEROS and SHEENA HARRISON

California's Workers Compensation Insurance Rating Bureau will recommend a 12.6% average pure premium rate increase that would be effective Jan. 1, 2013, for new and renewing policies.

The rate increase recommendation must be approved or rejected by California's Department of Insurance, which can only recommend that insurers consider rate increases or decreases.

Last week, the rating bureau's governing committee unanimously voted to authorize the rate filing. It would raise the average advisory rate to $2.68 per $100 of payroll, up from the $2.38 per $100 of payroll the bureau recommended for July 2012 renewals and new policies.

Meanwhile, a workers compensation reform bill set to be proposed in California would limit some companies' ability to self-insure for workers comp claims and would increase total permanent disability benefits for workers by $720 million per year, according to a summary of the bill posted online.

The summary of S.B. 863, drafted by the California State Assembly Committee on Insurance, was posted last week by the Sacramento Business Journal.

It lists 45 amendments to be included in the upcoming reform bill.

Professional employer organizations and temporary staffing agencies would be prohibited from self-insuring for workers comp coverage. PEOs and staffing firms that are self-insured would be required to purchase workers comp insurance by Jan. 1, 2015.

Another point says aggregate permanent disability benefits would increase by about $720 million per year during a two-year period.

The bill also would establish an independent medical review process for workers comp medical treatment disputes, as well as an independent bill review process.

QUESTIONS & ANSWERS

Excellence in focus

Marsh center aligns resources, client needs

Discussions about an employer's workers compensation program typically focus on specific considerations, such as insurance coverage structure, claims management or loss control strategies. But an increasingly challenging workers comp environment requires a coordinated approach that considers the entire program, said Jonathan Zaffino, managing director/U.S. casualty leader for Marsh Inc. in New York. So Marsh recently launched a Center of Excellence to coordinate resources from across several of its units including its casualty practice, risk management consulting, claims advisory and analytics. Business Insurance Senior Editor Roberto Ceniceros recently asked Mr. Zaffino about the timing of Marsh's launch.

Mr. Zaffino

Q. Is Marsh launching the Center of Excellence now because you expect workers compensation insurance prices will continue rising?

The timing inevitably raises the question as to why now.

But this is not a market-cycle effort. It's an effort to align our resources to deliver them to our clients.

Clearly, the technical work comp (insurance) market is in tough shape today and we don't expect much change on the horizon.

Work comp insurance for the third year in a row has the highest combined ratio of all commercial lines. You look at a backdrop of benign interest rates, insurance rate trends, and medical and indemnity severities and it's hard to see this changing.

But there are a lot of structural fundamental issues that are almost agnostic to the market cycle, such as an aging workforce, obesity and medical costs. So clearly, this initiative hopefully will have a very beneficial long-term and immediate impact for our clients.

Q. How would you describe policyholders' level of concern about rising workers comp insurance prices?

There are different levels. If you are a guaranteed-cost buyer with a predominant part of your exposure in California, you can put that at the highest possible level of concern because reaction in the (insurance) market has been most extreme there.

To the degree you have a very evolved, sophisticated risk-finance program with a lot of attendant strategies, you have concern, but it's moderated concern.

The reaction we often get from our clients is that (the insurance market) feels tentative. The real concern is what if it continues to worsen next year and the year after? How long are these subpar insurer results sustainable? Does the market react even more extreme in subsequent renewal periods? There is definitely a lot of focus on it.

Q: What solutions do you offer?

We are spending a lot of time on developing analytic tools, some of which are an evolution of our current diagnostic tools, to be capable of looking at a client's workers comp profile and draw insights. Or at least form the bases of a broader discussion to say, "We see three or four areas worthy of our collective focus to attack the loss drivers."

It gives our clients an opportunity to think of their current work comp program holistically. To think about change they might implement, whether that is program structure change, whether it's utilization of a captive. Whether it's an upfront investment today to achieve greater return on investment tomorrow, we are outlining those best decisions for them.

All these things impact their insurance programs and costs. We can help them articulate to carriers what they are doing and how that improves their loss profile.

It can help them alleviate problems such as their collateral burden or it might help them achieve longer-term relationships with the market.

There are a whole host of outcomes based on that fundamental analysis.

CAPTIVES

This year's annual conference of the Vermont Captive Insurance Association drew approximately 1,100 attendees to Burlington, Vt., on Aug. 7-9. The next VCIA conference is scheduled for Aug. 13-15, 2013.

Captives expanding beyond typical uses

Owners warned to expect scrutiny from other regulators

By RODD ZOLKOS

BURLINGTON, Vt.—As captive use expands and evolves to address new or nontraditional exposures, captives are likely to draw regulatory attention from beyond those who typically have overseen captive business, one captive regulator suggests.

Speaking on a panel discussing trends and challenges in the captive industry and Vermont at the annual conference of the Vermont Captive Insurance Association this month in Burlington, Vt., David F. Provost, deputy commissioner of the Captive Insurance Division of the Vermont Department of Financial Regulation, said that as captive use increases in such areas as health care and banking, captives are "getting into areas where other regulators are going to have interest."

"There are a lot of folks out there with an interest in financial regulation, and captives are a part of that," the Vermont captive regulator said.

On another regulatory front, Mr. Provost said he's concerned about the potential regulatory impact of more and more states passing captive laws. He worries about the possibility of some states lowering standards for captive regulations, he said, adding

See **VCIA** page 21

MERGERS & ACQUISITIONS

Broker M&As decline, but momentum may change

Tax considerations could boost overall activity for the year

By Timothy J. Cunningham

The number of agent and broker merger and acquisition transactions declined 11% during the first six months of this year compared with the same period last year, but there are signs indicating it could still be an active year for M&As.

There were 132 transactions in the first six months of 2012, an 11% decline from a year earlier. For the 12-month period ending in June, there were 268 agent and broker M&As, a 6% slide vs. a year earlier.

The activity came after 285 announced M&As among agents and brokers in 2011, following a dismal number of transactions in 2010 and 2009 at 177 and 197, respectively.

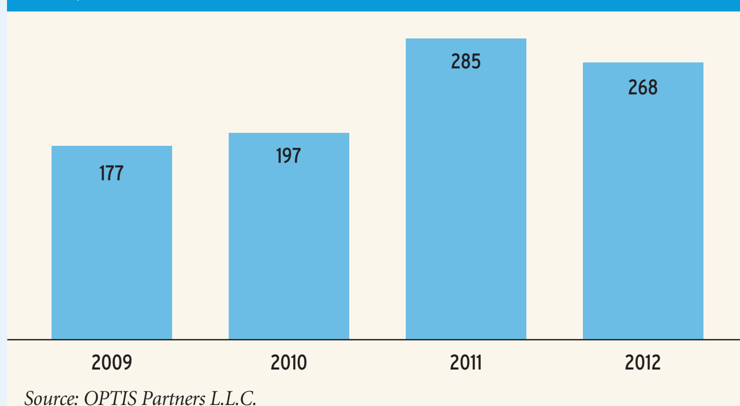
The lean years of 2009 and 2010 reflected the perfect storm climate: the collapse of the economy and the prolonged soft property/casualty rate environment. Pent-up buyer demand coupled with a robust seller inventory affected the number of transactions in 2011.

As we wrapped last year, the key question was would the momentum continue. The answer is not clear as it appears

See **M&As** page 16

AGENT AND BROKER M&AS

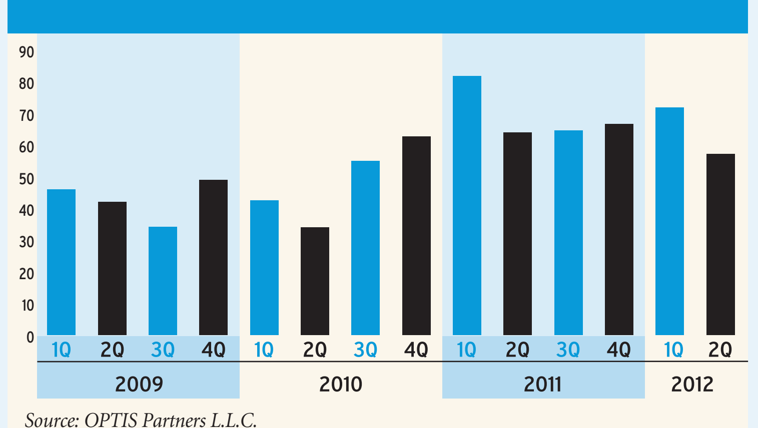
The number of mergers and acquisitions involving agents and brokers has risen in recent years.



Source: OPTIS Partners L.L.C.

QUARTER BY QUARTER

Mergers and acquisitions of agents and brokers, by quarter since 2009



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GETTING BUSINESS
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CASE SPECIFICS:

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Mid-Market EXECUTIVE Helping C-level executives at midsize firms overcome critical risk and benefits challenges

Auto-enrollment questions

Signing up workers for health plans presents mid-market challenge

By BILL KENEALY

The nation's health care reform law requires companies with more than 200 full-time employees automatically to enroll their full-time workers in a health benefits plan starting in 2014, but uncertainty is delaying many employers' efforts.

One challenge for middle-market companies is the U.S. Department of Labor has yet to finalize the regulations implementing the mandate in Section 1511 of the Patient Protection and Affordable Care Act. In fact, the labor department already has said that its automatic enrollment guidance will not be ready to take effect by 2014.

"It remains the Department of Labor's view that, until final regulations…are issued and become applicable, employers are not required to comply" with the automatic enrollment provision, the agency said in a statement.

Uncertainty about the effective date of the auto-enrollment mandate has bred confusion among employers, said Karen Breitnauer, compliance attorney at Madison, Wis.-based M3 Insurance Solutions for Business. "I don't think the government even knows how this auto-enrollment provision is going to work," she said.

Jennifer Lunski, vice president and compliance officer for San Francisco-based insurance services and employee benefits adviser Woodruff-Sawyer & Co., said determining what constitutes a full-time employee is another challenge for employers.

"We need more information about what the definition of full-time employee is," she said.

While the law defines a full-time employee as working at least 30 hours a week, questions remain about the treatment of workers who may work 20 hours one week and 40 the next.

The auto-enrollment provision has elicited resistance from parts of the business community. In March, a coalition of businesses and trade associations released a letter supporting H.R. 2206, a U.S. House bill that would repeal the automatic enrollment provision.

The auto-enrollment provision would unduly burden businesses, said Neil Trautwein, vice president of the National Retail Federation, which joined other groups in supporting the repeal legislation.

Mr. Trautwein said the mandate would present a challenge to companies that have workforces that vary in size seasonally.

"Auto-enrollment is a particular burden for industries like retail and chain restaurants that are faced with a transient workforce," Mr. Trautwein said. "We would like to repeal this provision outright."

Gary Kushner, president and CEO of Portage, Mich.-based human resources and employee benefits consultant Kushner & Co., said the outcome of the upcoming presidential election could alter the fate of the mandate, but the prudent course for companies is to begin preparing for it.

"There's a chance it can be postponed, but we've been telling clients to be prepared in case it is not," he said. "Short of repeal, employers are going to have to do this at one point or another, so they may as well start the preparation process now."

Nonetheless, Mr. Kushner acknowledged many companies wisely delayed acting until the Supreme Court ruled this summer to uphold the health reform law.

Terri Browne, executive vice president of colleague resources at Memphis, Tenn.-based Sedgwick Claims Management Services Inc., said her company is monitoring the state of the mandate.

"We took the approach of waiting to see what would happen with the law," she said. "So, for us, it is something we are starting to get our arms around."

Ms. Brown said the company's efforts to address the auto-enrollment mandate were part of a larger, multiyear effort to deal with the ramifications of the health care reform law.

"It's not just auto-enrollment. There are also payroll tax and W2 implications surrounding reporting the benefits provided under health care reform," she said. "We know auto-enrollment is out there, but there are so many other things we have to tackle first."

Mr. Kushner said there is an existing process that might help employers: longstanding auto-enrollment provisions for 401(k) retirement accounts. Still, he said one anticipated difficulty for employers would be to know what level of coverage to assign to an employee.

"Here the employers are not only going to need to know what data to collect to enroll somebody in a health plan, but, if they offer multiple plans, which one to enroll them in," he said. "For a lot of employers it's going to be much more a challenge than auto-enrollment in their 401(k)s."

Benefit tech providers under pressure, too

By BILL KENEALY

Although middle-market employers will be responsible for complying with the auto-enrollment provision in the health care reform law, technology providers also will have a major role to play.

Doug Hammond, vice president of sales and business development at Arlington Heights, Ill.-based benefits administration software provider Benefit Express Services L.L.C., has put a premium on ease of use when it comes to employee benefit administration systems.

"One of the realities of the auto-enrollment provision is that it is going to drive plan participation," Mr. Hammond said. "More plan participation on the employer side is going to drive more complexity and effort into the administration activities that (human resources) departments will have to take care of."

The programming and related changes required to meet auto-enrollment requirements, slated to take effect in 2014 for companies with 200 or more employees, are no trivial undertaking for software providers, said Gary Kushner, president and CEO of Portage, Mich.-based human resources and employee benefits consultant Kushner & Co.

"In the mid-market, most employers are already on a benefits enrollment platform, but those systems will need to be re-engineered to handle a nondecision," Mr. Kushner said. "Most of these systems were not designed with auto-enrollment in mind."

Jessica Saperstein, division vice president of strategy and business development at employee benefits administration services provider Automatic Data Processing Inc., said the company has spent time on technology changes to help clients comply with the mandates in the health reform law.

"We have teams of people tasked with keeping up with the legislation and monitoring it." Ms. Saperstein said. "The neat thing about having a cloud-based offering is that you can incorporate things rapidly and stay well ahead of the curve."

Mr. Hammond said the cloud-based nature of his company's offering has the flexibility to make needed changes. "So as the new rules come out, we are able to meet them," he said. "ACA (health reform law) has been business as normal for us."

Sarah Rodehorst, director of government health programs at Waukesha, Wis.-based software developer Connecture Inc., said the changes required by the health care reform law mirror the pressures technology providers already are under with mobile and social technologies.

"We embrace change, accept it and put a plan in place," Ms. Rodehorst said. "We treat health care reform as just one more part of our product development cycle. As change happens over time, we want our customers to have assurances that their solution will be compliant five years down the road."

She expects the software to adapt to the increasingly complex benefits environment employers will have to navigate as self-service models and plan options proliferate under state health insurance exchanges.

"What is important for employers to understand is that the group enrollment process is unique from the individual process," she said. "The technology needs to offer tools so that employers can understand the impact of their decisions."

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Opinions

EDITORIAL

Health care law slices some costs

While we think it is fair to say no one yet knows what the true cost of the 2010 health care reform law will be, there is at least one corporate executive that has calculated almost to the penny the law's cost on the chief product it sells.

As we and others reported, Papa John's International Inc. CEO John Schnatter said this month during a conference call that complying with a key law requirement that takes effect in 2014 will add 11 to 14 cents to the price of a pizza.

Mr. Schnatter was referring to a Patient Protection and Affordable Care Act provision requiring all but very small employers to offer qualified coverage to every full-time employee or pay a stiff fine.

A company's costs will go up if it extends health care coverage to employees who previously did not meet plan eligibility requirements.

It is clear from Mr. Schnatter's remarks that Papa John's will take the former course—expand coverage rather than pay the assessment.

It shouldn't come as any great surprise that a company's costs will go up if it extends health care coverage to employees who previously did not meet plan eligibility requirements.

But what Mr. Schnatter's brief comments did not address is the added costs all employers pay when organizations do not extend coverage to some or all of their workers and their dependents.

For example, go to the emergency room of most any big city hospital on, say, a Friday night. You will, of course, see people in urgent need of care.

But you also will see plenty of individuals who are seeking treatment in that ultra-expensive setting simply because they lack health insurance and they know they can't be turned away.

Of course, hospitals then shift the cost of that uncompensated care to insured patients in the form of higher charges.

Regardless of what one thinks of the health care reform law, if it extends coverage to millions of previously uninsured individuals, there will be a lot less cost shifting to pay for uncompensated care.

And that could save some employers a lot more than the equivalent of 11 to 14 cents per pizza order.

LETTERS

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SCHILLERSTROM

COMMENTARY

Time to begin the serious work

The evening before the U.S. Supreme Court handed down its decision on the constitutionality of the health care reform law, my wife asked me how I thought the justices would rule.

Surprisingly, despite the many stories I had written about the challenges to the Patient Protection and Affordable Care Act, I had given little thought on what the court's decision would be.

Still, I paused only briefly and said it will be 5-4 in favor of the law, with Chief Justice John Roberts casting the deciding vote. The penalty for not having coverage is a tax, I told my wife, and Congress has the constitutional right to impose taxes.

JERRY **GEISEL**
EDITOR-AT-LARGE

That is pretty much how the court ruled in its decision handed down the next day.

Yet however prescient I was on the June ruling, that prescience unfortunately doesn't extend to what I think will happen next.

That said, I hope the ruling has cooled passions and the overheated rhetoric about the law that has been so abundant.

Instead, I would hope lawmakers move away from political stunts, such as last month's meaningless and time-wasting vote by the House of Representatives to repeal the law. That was true political showboating given that the measure never would be taken up in the Senate while the Democrats hold the majority.

A far wiser course of action for lawmakers—Republicans and Democrats alike—would be to identify which parts of the law need to improved, removed or adjusted, and take action to do that.

And I hope the silly statements, repeated so many times since the enactment of the reform legislation, disappear.

Top on my list would be the use of the term "Obamacare" in referring to the law.

That term is derived from "Hillarycare," a reference to the reform legislation of 1993-94.

That term had a legitimate basis then because Hillary Clinton, who headed a health care reform task force, and her staff largely—and behind closed doors—wrote the legislation. It quickly died in Congress.

By contrast, while the enactment of reform legislation was at the top of the Obama administration's domestic agenda, the measure was put together by congressional Democrats.

Finally, I would hope that regulators move as quickly as possible in developing and finalizing regulations that employers and others so urgently need to plan and decide on what changes they will need to make to comply with the health care reform law.

Regrettably in recent months, too often regulators have vaguely said "soon" when asked when a rule will be finalized or more guidance provided.

Well, 2014 will be here soon enough and employers, whether they are managing small health care programs or multi-billion dollar ones, need a reasonable amount of time to make any necessary changes to their plans. Regulators need to be responsive to that very real-world need.

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Big insurers post stronger first-half results

Lighter catastrophe losses lead to improved profits, but investments still sluggish

By MARK A. HOFMANN

While there's still a lot of room for improvement, things weren't all that bad for commercial property/casualty insurers during the first six months of this year compared with last year, industry analysts say.

The biggest difference is that catastrophe losses are down significantly compared with last year's disastrous first half. In addition, rates continue to increase, albeit modestly, and income is up.

But areas of concern remain, particularly regarding investment income, which shows no signs of significant improvement in the foreseeable future.

Results for the 10 largest U.S.-based or -listed commercial property/casualty insurers that report quarterly results showed a marked improvement over those posted during the same period in 2011. Net income rose 56.7% to $10.64 billion, although about half of that was attributable to one company—American International Group Inc.

The results reflected improved underwriting performance and ongoing tax benefits.

In addition, the group as a whole experienced a modest 2.8% increase in net written premiums.

More significantly, the group's combined ratio improved to 98.1% from 104.4% during the same period last year.

The sector "performed pretty well," said Paul Bauer, vp and senior credit officer at Moody's Investors Services Inc. in New York.

"The first half was better than last year's first half. The biggest change was that catastrophes were lighter. It was still above-normal in catastrophe activity with wildfires and tornadoes, but much less than it was in last year's first half," Mr. Bauer said.

"I think the results for the P/C insurers were very strong," said Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Dominion Securities Inc., in Richmond, Va. The second quarter was marked by a "reasonably good follow-through on the pricing power we saw in the first-quarter results. And while catastrophe losses were a little bit of an offset, overall earnings were really very solid."

INDUSTRY FINANCIALS
P/C INSURERS

"It was a reasonably good six-month period for the industry," said John Ward, CEO of Cincinnatus Partners L.L.C. in Loveland, Ohio. Underwriting results improved modestly from 2011 due to lower catastrophe losses and "there are signs that rates are beginning to firm. I think the future looks very optimistic from a pricing cycle perspective," he said.

"Pricing will likely continue to firm," said Neil Stein, a director at Standard & Poor's Corp. in New York. "It will largely be in the cat-exposed lines. (Insurers) are looking to mitigate their results from the losses they had in previous years."

Pricing "seems to be relatively healthy," said Moody's Mr. Bauer. "Most lines of business seem to have low- to mid-single-digit increases. Some of the strongest increases have been workers compensation, but that's been one of the weakest lines in recent quarters."

"We still need quite a bit of favorable price movement in commercial lines," said James

See INSURERS page 10

PROPERTY/CASUALTY INSURERS' FIRST-HALF 2012 RESULTS

Largest U.S-based or -listed property/casualty insurers that report quarterly results. Ranked by net premiums written, in millions of dollars.

Insurer	Net premiums written 2012	% increase (decrease)	Net income	% increase (decrease)	Combined ratio 2012*
American International Group Inc.[1]	$17,915	(2.3%)	$5,540	76.8%	102.3%
Liberty Mutual Insurance Co.	$16,413	6.9%	$598	223.2%	103.4%
Travelers Cos. Inc.	$11,052	1.6%	$1,305	174.7%	96.3%
Ace Ltd.	$7,702	4.1%	$1,301	54.1%	88.7%
Chubb Corp.	$5,934	2.9%	$910	(1.9%)	92.0%
CNA Financial Corp.	$3,317	3.3%	$416	20.9%	101.1%
Hartford Financial Services Group Inc.	$3,203	1.9%	($5)	(100.9%)	101.1%
W.R. Berkley Corp.	$2,395	11.9%	$244	23.2%	97.4%
Cincinnati Financial Corp.	$1,716	10.4%	$118	N/M	104.4%
American Financial Group Inc.	$1,339	6.9%	$212	55.9%	93.0%
Cumulative	$70,986	2.8%	$10,639	56.7%	98.1%

*Includes dividends. 1 Reflects Chartis Inc. operations

Source: Company reports

Industry Financials: Midyear Results

SPOTLIGHT

Ace weds discipline with global reach

Insurer's wide base viewed as key reason for top performance

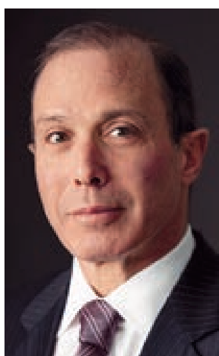
By MARK A. HOFMANN

Underwriting discipline and a global footprint bolstered Ace Ltd.'s performance during the first half of the year, according to market analysts.

As was the case for 2011 as a whole, Ace was cited by more than any other insurer as the best performer in the commercial property/casualty insurance sector, in an informal poll of analysts.

"Quarter after quarter they're always beating expectations," said Meyer Shields, director at Stifel, Nicolaus & Co. Inc. in Baltimore. "I think it really comes down to a better developed underwriting culture."

"They're diversified and they're a global underwriter," said James Auden, an analyst with Fitch Ratings Inc. in Chicago. "There is a discipline there to write to profit and get an adequate return on capital for their business."



Mr. Greenberg

During the first six months of the year, Ace's net income rose 54.1%, compared with the year-ago period, to $1.30 billion. And the insurer's combined ratio improved nearly 10 points to 88.7% for the first half of 2012, compared with 98.5% during the same period in 2011.

"ACE had a very good second quarter marked by excellent operating earnings, strong broad-based premium revenue growth and an improving P&C pricing environment in a number of areas of the world," Ace Chairman and CEO Evan Greenberg said during a July conference call discussing second-quarter and year-to-date results.

"Book value growth was up modestly in the quarter, as we were impacted by the euro debt crisis and the consequent flight to safety, which affected foreign exchange and interest rates and equity markets. After-tax operating income for the quarter was $743 million…our operating (return on equity) was over 12.5%, for the first six months we have produced almost $1.5 billion in operating income and an ROE gain of 12.5%."

He said all divisions of Ace "made a positive contribution to the (second) quarter's results; our underwriting results this quarter were again outstanding as illustrated by a P&C combined ratio of 88.7%.

"The strong calendar year results benefited from both favorable current accident year experience and positive prior period reserve development, he said."

Also during the conference call,

See ACE page 10

HIGHER PRICES AID BROKERS' FORTUNES
PAGE 12

MARSH UPS REVENUE, LIMITS EXPENSES
PAGE 12

RISING COSTS CRIMP HEALTH INSURERS
PAGE 14

UNITEDHEALTH GROWS LONG-TERM PLAN
PAGE 14

NEXT SPOTLIGHT Sept. 3: Insurer Capital Management

Insurers: Largest companies post stronger 2012 first-half results

CONTINUED FROM PAGE 9

Auden, an analyst with Fitch Ratings Inc. in Chicago. "It looks like at least through the end of the year we'll continue to see rate increases."

While the price movement appears to be in reaction to losses rather than underwriting capacity changes, "there are still a lot of folks chasing the business," Mr. Auden said. "We have a lot of questions as to whether that momentum will continue."

On the negative side, however, analysts say the current low interest rate environment is likely to continue for quite a while, depressing underwriters' investment income.

"The expectations for interest income continue to deteriorate," said Meyer Shields, director at Stifel, Nicolaus & Co. in Baltimore.

Cincinnatus Partners' Mr. Ward called investment results the "one nagging negative."

"I expect investment results will continue to be low until we see any change in the interest rate outlook," Mr. Ward said. "It may be at the floor, but my best prediction is that it will remain steady at the floor level for the foreseeable future."

FACTORS

Why the largest property/casualty insurers saw stronger first-half results

FEWER CATASTROPHES
Insured losses due to catastrophes and other disasters are significantly smaller this year than they were last year.

PERFORMANCE
As a group, the insurers' underwriting performance and ongoing tax benefits have aided their bottom line.

PREMIUMS AND COMBINED RATIO
The largest insurers' as a group posted higher net premiums and moved their combined ratio into profitability.

Fitch's Mr. Auden agreed that there is no favorable movement in Investment income. "In 2013 you can have bonds maturing at 5.5% and what are companies replacing it with—2.5%?" he said.

Mr. Shields also said reserve releases for most companies "were a little lighter than they were last year, and we expect that will be the overall trend."

Moody's Mr. Bauer agreed that reserve releases are slowing.

"Most companies are still reporting some positive reserve development, but it seems to be getting pretty close to a break-even level at this point," he said.

Ace: Reach, discipline help results

CONTINUED FROM PAGE 9

Mr. Greenberg mentioned Ace's global reach as a reason for the insurer's success.

"We're growing where we know we can make an underwriting profit and there are areas of the world that are doing better economically than other areas of the world and the needs for insurance are growing," Mr. Greenberg said.

He said that commercial property/casualty business constitutes about 60% of the insurer's product spread.

"The U.S. has become a growth engine for us in the last two quarters, along with Asia and Latin America," Mr. Greenberg said "You see an improving pricing environment and Ace is taking advantage of that because we did trade market share for underwriting in the past and we engaged in better portfolio management and shed business where we couldn't make a reasonable return, i.e., (excess and surplus) casualty, i.e., risk transfer workers comp, where we said we can't make the money. We will get out of those things and we will focus on other areas," Mr. Greenberg said.

> 'We engaged in better portfolio management and shed business where we couldn't make a reasonable return....We will get out of those things and we will focus on other areas.'
>
> Evan Greenberg, Ace Ltd.

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Anomalies ignored

Higher prices, improved economy drive growth for largest brokers

Moderate rate hikes fuel steady growth, brighter outlook

By BILL KENEALY

The largest publicly traded insurance brokerages reported generally positive financial numbers for the first half of 2012.

New York-based Marsh & McLennan Cos. Inc., London-based Aon P.L.C., London-based Willis Group Holdings P.L.C., Itasca, Ill.-based Arthur J. Gallagher & Co. and Daytona Beach, Fla.-based Brown & Brown Inc. are benefitting from an improved macroeconomic and pricing environment, said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York.

"Certainly, we are seeing a positive pricing environment if not a true hard market, which is making things a bit easier for the brokers," Mr. Gallant said. "The economy is not a head wind, as it was a year or 18 months ago."

Adam Klauber, an analyst at Chicago-based William Blair & Co. L.L.C., said organic growth was strong for brokers with a heavy concentration of U.S. business.

"There is gradual momentum picking up from a combination of pricing and stable exposures," he said. "You are definitely seeing incremental organic growth improvement in the U.S."

Ray Iardella, vice president and senior research analyst at New York-based Macquarie Capital (USA) Inc., said brokerages performed well as a whole in the first half of the year as U.S. demand for their services helped offset softer demand from Europe.

"While many investors prefer a hard market, an environment where rates are improving in the low single-digit range is pretty attractive to the sector overall," Mr. Iardella said. "The U.S. piece of the business is performing pretty well."

Of the group, only Aon posted a decrease in net income, a decline of 4%, while revenue increased 1.7%. Net income slid because of slightly lower investment income and higher income taxes, among other things.

Overall, on the revenue side, the brokers gained ground with the exception of Willis, which saw its revenue slip 0.7% because of slightly lower commissions and fees and lower investment income.

Gallagher and Brown & Brown posted the largest percentage gains in revenue at 20.4% and 16.5%, respectively.

Mr. Klauber said the disparity in revenue growth makes sense in light of the size difference between the brokerages and level of diversification.

"Brown and Gallagher are small enough to where there is enough room in the middle market for them to grow," he said. "When you get to a certain size such as Aon or Marsh, you almost have to diversify because you already have such a big share of the market."

> **20.4%**
>
> The greatest revenue increase among the largest publicly traded insurance brokers during the first half of 2012, which was posted by Arthur J. Gallagher & Co.

Paul Newsome, managing director and senior insurance analyst at Sandler O'Neill & Partners L.P. in Chicago, said Aon's 2010 acquisition of employee benefits consulting firm Hewitt Associates Inc. was beginning to bear fruit.

"Hewitt was the bright spot for Aon," he said. "It seems to be doing quite well."

Mr. Iardella agreed.

"Aon has been investing a lot into their businesses and the second quarter may have been the first glimpse into some of these investments paying off," Mr. Iardella said.

Aon CEO Greg Case said in a conference call with analysts that net income slid during the first six months of the year partly because the profit margin of its HR Solutions business, the old Hewitt business, was squeezed by higher investment costs associated with preparing for health care exchanges and certain deferred costs.

INDUSTRY FINANCIALS
BROKERS

Analysts agreed that Aon is well-positioned for the second half of the year.

Meanwhile, the extent to which diversification helps brokers is open to debate, Mr. Newsome said. Property/casualty brokerage business typically is a higher margin business than consulting. "Structurally it's not a bad thing to be a pure property/casualty broker," he said.

As economic conditions have improved in the United States, a traditional insurance brokerage focus has served Gallagher and Brown & Brown well, Mr. Iardella said. "The insurance brokerage business is a pretty defensive business," he said. "Even though companies are facing difficulties, they still need to buy insurance and advice from insurance intermediaries.".

Another trend likely to continue is that of acquisitive growth. Mr. Iardella said, citing Gallagher's strategy of targeted acquisition of smaller firms, even those with as few as one or two producers.

"Gallagher's strategy continues to perform well for them," Mr. Iardella said. "They continue to grow organically but have made 32 transactions year to date. These small acquisitions are something Gallagher is good."

One potential wildcard is potential upheaval in the eurozone, Mr. Newsome said. Revenue from Europe accounts for up to one-third of net income at the largest brokers.

"What's going on in Europe is a big deal," Mr. Newsome said. "It has ramifications for companies and brokers are fairly economically sensitive companies.''

Nonetheless, Mr. Newsome said it is important to avoid generalizations when assessing the financial health of the brokers. "What drives the performance of companies tends to be very company specific issues as opposed to broader trends that they are all facing," Mr. Newsome said. "What really makes the difference is execution."

FIRST-HALF 2012 BROKER RESULTS

Results for the largest publicly traded insurance brokers, ranked by total revenue. Figures in millions of dollars.

Broker	2012 Revenue	% increase (decrease)	2012 net income[1]	% increase (decrease)
Marsh & McLennan Cos. Inc.	$6,077	4.6%	$676	11.4%
Aon Corp.	$5,662	1.7%	$484	(4.0%)
Willis Group Holdings P.L.C.	$1,855	(0.7%)	$333	179.8%
Arthur J. Gallagher & Co.	$1,197	20.4%	$100	75.4%
Brown & Brown Inc.	$593	16.5%	$92	10.8%

**Percentage change reflects unrounded figures.*
1 Includes the impact of acquisitions or discontinued operations.

Source: Company reports

SECTOR ANALYSIS

Adam Klauber
William Blair & Col. L.L.C.
[on organic growth]:

"There is gradual momentum picking up from a combination of pricing and stable exposures. You are definitely seeing incremental organic growth...in the U.S."

Cliff Gallant
Keefe, Bruyette & Woods Inc.
[on rate trends]:

"Certainly, we are seeing a positive pricing environment if not a true hard market, which is making it easier for the brokers."

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Marsh gains on strong organic growth, innovation

Brokerage giant builds momentum, controls expenses

By BILL KENEALY

Solid organic growth and strategic execution helped propel Marsh & McLennan Cos. Inc. to solid first-half results and the best overall performance among the big brokerages, analysts say.

The New York-based broker tallied $6.08 billion in first-half revenue, a 4.6% increase over the previous year, while net income rose to $676 million, a 4.6% increase.

Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York, credits the company's management for growing Marsh's revenue, while keeping expenses in line.

"Marsh's organic growth is very strong and there is a lot momentum at the company," Mr. Gallant said. "Marsh is keeping a good tab on margins. There are a lot positives happening internally."

Ray Iardella, vice president and senior research analyst at New York-based Macquarie Capital (USA) Inc., said another reason the numbers were laudable was Marsh continued growing despite its already large size and adverse market conditions in Europe, where Marsh earns approximately one-third of its revenue.

"Marsh's management team has done a terrific job," Mr. Iardella said. "The fact that they have been able to grow at the pace they have is really impressive."

Adam Klauber, an analyst with Chicago-based William Blair & Co. L.L.C., said Marsh's ability to increase revenue was commendable given its large size and since it already holds a large share in many markets.

"It's more challenging for Marsh to grow because it can't fuel growth through continual acquisitions like (Brown & Brown Inc. or Arthur J. Gallagher & Co.) can," Mr. Klauber said.

Broad geographic growth

Marsh President and CEO Peter Zaffino said the brokerage had strong revenue in 19 countries that grew more than 15% on a year-over-year basis and in 31 countries that grew more than 10%.

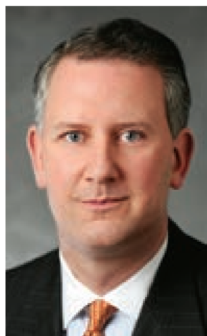
"When you take a look at our revenue growth, it has really been driven by a variety of things," Mr. Zaffino said. "It's coming from many different initiatives and coming from all over the globe."

Marsh's global nature pays dividends when it comes to innovation, he said. An innovation derived in one office can be shared across the globe.

"We have a global culture that acts as one organization," Mr. Zaffino said. "We don't have to rely on innovations in a specific geography."

This focus on innovation is evident in new products. In June, Marsh launched a product to protect companies against first-party business interruption losses resulting from outages at their cloud computing service provider.

Marsh also has been working on gaps in business interruption coverage, and Mr. Zaffino said challenging market conditions often spur innovation. "Where's there a void, we've been putting our heads together and try to fill it," he said.


Mr. Zaffino

He also cited ongoing initiatives, such as Marsh's 3D service process to help the brokerage gain and retain business. The 3D process incorporates data and analytics to help Marsh's clients define and quantify the risks they face. This service has become more in demand as companies perceive events once regarded as tail risks becoming more common, he said, adding that the data is critical to assuring clients that they have all the coverage they need.

"We have tremendous analytic and quantitative capabilities that we use to engage in richer discussions with our clients and to help them think about what their risk profile looks like in today's world," Mr. Zaffino said.

Accordingly, Marsh has directed its investment strategy around technologies that enable efficiency and the dissemination of industry knowledge and analytic expertise to its global workforce, Mr. Zaffino said.

The payoff for Marsh's investment in client-facing technologies is evident in its strong retention of existing business.

"Client retention gives you a good report card, as to how you are doing in servicing," Mr. Zaffino said, citing the brokerage's claims-servicing team as an example of this commitment to client service.

"We want to make the interaction with Marsh different," Mr. Zaffino said.

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CATLIN SEAVIEW™ SURVEY

Health insurers report higher revenues, lower profits

Insurers may look to enter new areas to generate growth

By MATT DUNNING

While revenue and enrollment increased during the first half of the year for the nation's largest publicly traded health insurers, net income fell amid sluggish employment growth and rising medical costs in certain segments.

Through June, revenue among the seven largest managed care companies grew by a collective 8.1% over the same period last year, while enrollments rose by 3.4%. However, the market leaders' collective first-half profits shrank 3.2% from results posted a year ago, resulting in several insurers lowering their full-year earnings estimates by as much as 57%.

INDUSTRY FINANCIALS

HEALTH INSURERS

"It's been mixed, to be honest with you," said David Shove, a BMO Capital Markets analyst in New York.

Companies that performed well during the first half—such as UnitedHealth Group Inc. (see realted story)—have done so by maintaining strict adherence to conservative underwriting standards at a time when lagging enrollments might tempt them to relax their standards.

"If you don't get better employment numbers, membership gets harder and harder to come by, and that tends to lead companies to price more competitively in order to attract new members," Mr. Shove said. "You end up losing margin that way."

Analysts said the most troubling results among the market leaders belonged to WellPoint Inc., which reported $30.3 billion in first-half revenue, an increase of just 2.7% compared with the first six months of 2011. The company shed more than 639,000 members from its midyear 2011 enrollment totals, including 169,000 from its commercial segment, and saw first-half profits fall 7.7% to $1.5 billion in 2012.

In a conference call with investors and analysts, WellPoint executives attributed the disappointing performance to unexpected membership losses and spikes in medical cost trends and utilization rates, notably in outpatient care, physician visits and specialty pharmaceuticals for conditions such as hepatitis C, multiple sclerosis and certain cancers.

WellPoint Executive Vice President and Chief Financial Officer Wayne Deveydt said during the call that medical costs exceeded expectations by roughly $50 million in May before returning to forecasted levels in June. Mr. Deveydt said the company revised its full-year earnings outlook downward 4% in anticipation of a possible repeat of the May cost spike.

MAJOR U.S. HEALTH INSURERS' FIRST-HALF 2012 RESULTS

Largest publicly traded U.S. health insurers ranked by reported revenue. Dollar figures and enrollment in millions.

Insurer	2012 Revenue	% increase (decrease)*	2012 Enrollment	% increase (decrease)*	2012 Net income	% increase (decrease)*
UnitedHealth Group Inc.	$54,547	7.7%	35.88	5.0%	$2,725	4.3%
WellPoint Inc.	$30,324	2.7%	33.55	(1.9%)	$1,500	(7.9%)
Humana Inc.	$19,918	7.8%	11.94	8.5%	$604	(22.1%)
Aetna Inc.	$17,750	6.1%	18.03	(1.2%)	$969	(13.7%)
CIGNA Corp.	$14,245	30.5%	13.84	9.7%	$751	(6.7%)
Coventry Health Care Inc.	$7,210	18.5%	5.28	16.0%	$262	(21.8%)
Health Net Inc.	$5,672	(5.7%)	2.57	0.7%	$98	N/M

**Percentage change reflects unrounded figures.*

Source: Company reports

"We have no evidence of that at this point in time, but we think it's a prudent thing to at least look at our trend from a forecast perspective and give you as much transparency around why we're making the decisions we're making," Mr. Deveydt said. "If that doesn't repeat, then obviously we could perform better; but for now, we think it's prudent to take a cautious outlook."

Noting that rising medical costs and utilization rates didn't appear to affect most of WellPoint's managed care peers to the same extent, analysts offered an alternative explanation for its tepid financial performance.

"Either they were well ahead of the rest of the marketplace in terms of realizing the effects of

See **HEALTH** page 15

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INSIGHTS TODAY FOR THE RISKS OF TOMORROW

Conservative approach supports UnitedHealth

Long-term plan, standards enhance stability

By MATT DUNNING

Steady adherence to its underwriting principles and a well-diversified portfolio outside of managed care helped make UnitedHealth Group Inc. the top performing publicly traded health insurer through the first half of 2012, analysts said.

UnitedHealth reported a 7.7% increase in first-half revenue, rising to $54.55 billion, and posted 5% growth in enrollment, which rose to more than 35.9 million lives insured. Its net income grew to $2.73 billion, a 4.3% increase over the prior-year period.

Mr. Hemsley

Analysts said the company's performance owed more to its long-term strategic planning, conservative forecasting and firm underwriting standards than any specific action or event in the past six months.

"UnitedHealth Group executes superbly, quarter after quarter," said Alex Morozov, global health-care equity research director at Chicago-based Morningstar Inc. "You don't see a lot of swings in underwriting performance from United that we've seen in the past elsewhere in the market. They seem to have a better visibility in terms of (their) own business than you find with some of the company's peers in the industry."

Nearly 80% larger in revenue than its nearest competitor, WellPoint Inc., analysts said UnitedHealth's scale is an obvious advantage, particularly as commercial enrollments remain depressed across the managed care sector. However, analysts said, UnitedHealth's diverse investments in adjacent lines of business have significantly offset the pres-

See **UNITEDHEALTH** page 15

UnitedHealth: Cautious approach

CONTINUED FROM PAGE 14

sure of rising medical cost trends and creeping utilization rates, as well as increased regulatory obligations under the Patient Protection and Affordable Care Act.

"UnitedHealth Group's diversification strategy provides the company flexibility to manage through the challenges of a weak economy as well as the Affordable Care Act as provisions are implemented and new regulations are introduced," said Steve Zaharuk, senior vice president at New York-based Moody's Investors Services Inc.

In a July conference call, UnitedHealth President and CEO Stephen Hemsley said diversification would continue into 2013, particularly within its UnitedHealthcare managed care unit.

While growth among UnitedHealthcare's commercial lines was modest through the first half of this year—enrollments grew by 3% from midyear 2011 totals and revenue rose 4%—the unit experienced an 18% rise in Medicare Advantage enrollments and an 11% increase in Medicaid enrollment. First-half 2012 revenue for Medicare Advantage and Medicaid rose 10% and 12%, respectively.

"Overall, we expect UnitedHealthcare will serve between 1.8 million and 2 million more consumers this year, making 2012 among the strongest and most diversified membership growth years UnitedHealthcare has ever experienced," Mr. Hemsley said during the conference call.

Much of UnitedHealth's year-over-year growth in managed care through the rest of the year will come in Medicaid contracts and other public partnerships. So far this year, it has added Medicaid contracts in Kansas, Louisiana, Ohio, Texas and Washington state as well as state employee benefit contracts in Nebraska and Texas.

While supportive of its diversification strategy on the whole, Mr. Zaharuk noted that the company's investment in Medicare Advantage and Medicaid could become challenging if federally mandated rate and reimbursement reductions, medical cost trends and weak budget performance at the state level continue to pressure prices.

During the July conference call, Mr. Hemsley said the company is well aware of the pressure on state and local budgets, and UnitedHealth will monitor its public accounts closely for signs of volatility.

"We remain committed to partner with states that are committed to the long-term viability of their programs," he said. "But we will withdraw from programs within states or change the nature of our service to those programs as needed in instances where we see that commitment to viability weaken."

Health: Insurers report higher revenues, lower profits

CONTINUED FROM PAGE 14

some of those trends, or they just weren't as successful in their execution as some of their competitors," said Alex Morozov, global health care equity research director at Chicago-based Morningstar Inc.

"The fact that WellPoint continues to underperform, particularly in its commercial business, leads us to believe that the issues they're having are more internal than they are indicative of what's happening to the industry in general," he said.

With the Obama administration's health care reform law upheld by the U.S. Supreme Court, analysts said health insurers can begin developing long-term growth strategies when regulations are issued. Absent a significant turnaround in enrollments in the next six to 12 months, analysts said they expect some managed care firms to explore investing in a wider range of adjacent businesses, such as voluntary benefits and health information technology.

Health insurers could elect to gradually divest themselves of certain lines of business that analysts said could become problematic in the near future, including Medicare Advantage and Medicaid.

"The major concern with Medicare Advantage business is the change in government reimbursement levels under the health care reform law," said Steve Zaharuk, senior vice president at New York-based Moody's Investors Services Inc., in a note to investors. "It is not clear how current Medicare Advantage members will respond to the resulting benefit and premium changes that will likely result from the reduced reimbursement levels over the next several years."

Health insurers could elect to gradually divest themselves of problematic lines of business, including Medicaid contracts in some cash-strapped states.

"State budgets are under tremendous pressure nationwide," Mr. Shove said. "It comes down largely to employment and other macroeconomic issues, but it's difficult to envision a scenario in which Medicaid dollars get any bigger in that environment. If there is sustained pressure on price over some period of time, you could see some players get out."

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REQUEST FOR PROPOSAL

Security Risk Assessment Request for Proposal

The West Virginia Public Employees Insurance Agency (PEIA) and the West Virginia Children's Health Insurance Program have issued a Request for Proposals (RFP) for a Security Risk Assessment – PEI 013002, including information security vulnerability assessments. The scope of the RFP includes an assessment of the security of PEIA/WV CHIP information technology systems. This RFP is subject to "piggyback" purchasing and other State of West Virginia agencies and/or entities can and may elect to purchase Security Risk Assessment services based on RFP responses. Copies of the RFP are available by contacting the PEIA Privacy Officer by phone at 304-558-7850, by fax at 1-877-233-4295. A copy of the RFP is viewable on the PEIA website at www.wvpeia.com under "Forms & Downloads," "Miscellaneous" and "Requests for Proposals/Quotations." The RFP release date is August 28, 2012 and the deadline for submissions is 5:00 p.m. EST on October 5, 2012. There is a mandatory pre-bid meeting scheduled for September 13, 2012 at 1:00 at the PEIA Offices located at 601 57th Street, SE, Charleston, West Virginia 25304. For more information regarding the RFP please contact Thomas Miller, Privacy Officer, West Virginia Department of Administration at **thomas.d.miller@wv.gov or by phone at 304-558-7850, Extension 52663. Any and all communication regarding this RFP should reference WV PEIA/WV CHIP Security Risk Assessment – PEI 013002**

REQUEST FOR PROPOSAL

West Virginia Public Employees Insurance Agency Group Life Insurance and Accidental Death and Dismemberment Insurance Request for Proposal

The West Virginia Public Employees Insurance Agency (PEIA) will release a Group Life Insurance and Accidental Death and Dismemberment Insurance (AD&D) Request for Proposal (RFP) on September 4, 2012. The Agency provides insurance programs to approximately 134,000 active and retired employees of various West Virginia public employers. The coverage will become effective July 1, 2013.

A mandatory bidder's conference shall be conducted on September 18, 2012, at 1:00 p.m. Said conference will be held at the Public Employees Insurance Agency offices, Room 1058 (PEIA Conference Room) at 601 57th Street, SE, Suite 2, Charleston, West Virginia.

**All interested proposers are required to be present at this meeting in person or through a Teleconference arrangement.

The teleconference contact arrangement is as follows:
Teleconference Phone Line: 1 (866) 206-0240
Participant Phone PIN 367013
Failure to attend the mandatory bidder's conference in person or through the Teleconference arrangement, shall automatically result in disqualification.

No one person can represent more than one proposer.

A copy of the RFP will be available on September 4 on the West Virginia Public Employees Insurance Agency web-site at www.wvpeia.com under "Forms & Downloads," "Miscellaneous" and "Requests for Proposals/Quotations." Direct further questions to:

Thomas J. Marchio, Policy Specialist
West Virginia Public Employees Insurance Agency
601 57th Street, SE, Suite 2
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THE FLORIDA STATE UNIVERSITY
COLLEGE OF BUSINESS

M&As: Agent, broker mergers slip 11%

CONTINUED FROM PAGE 4

has slowed during the first half of this year.

Still, relative activity by major buyer category has remained strong on a macro level during the first half of this year and the 12-month period that ended in June.

Private equity was the most active category with 42 transactions during the first six months of the year, inching out the 39 deals in the privately owned category. Deals involving publicly owned brokers came in third for the six-month period with 30 deals, consistent with prior periods.

2011 was marked by eight major transactions. This year has followed suit with four large transactions in the first six months.

The year started with two in January: Brown & Brown Inc.'s acquisition of the parent company of Arrowhead General Insurance Agency Inc. and AssuredPartners Inc.'s private equity-backed acquisition of Dawson Insurance Inc. and other units.

BB&T Corp. followed in April with the acquisition of Crump Group Inc. In May, Arthur J. Gallagher & Co. wrapped its acquisition of Schiff, Kreidler-Shell Insurance & Risk Services.

While agent and broker M&As during this year's first half have lagged last year, conventional wisdom suggests it is likely to be an active year.

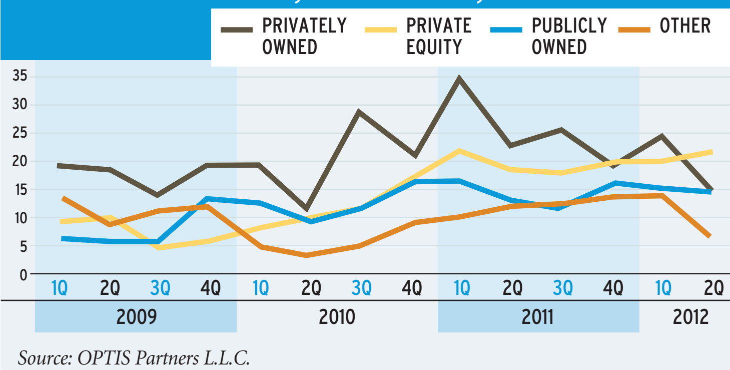
Even if buyer demand has mitigated, albeit slightly, sellers should be motivated to close a transaction before the end of this year because of a significant two-tier capital gains tax increase commencing in 2013.

The Patient Protection and Affordable Care Act imposes a 3.8% capital gains tax that likely will apply to many sellers. Further, the expiration of the Bush tax cuts would restore the 20% capital gains rate as the extension of the 15% rate is uncertain due to the tangled web of national politics. Thus, a transaction that closes this year will be taxed at a 15% capital gains rate while the same transaction may be subject to a 23.8% rate next year, a 58% increase.

Stay tuned as the run up to next year may be interesting.

Timothy J. Cunningham is managing director at Chicago-based OPTIS Partners L.L.C., a financial and management consulting firm serving the insurance distribution industry. He can be reached at cunningham@optisins.com.

QUARTERLY ACTIVITY Agent and broker mergers since 2009



Source: OPTIS Partners L.L.C.

MOST ACTIVE FIRST-HALF BUYERS

Companies, by category, that were the most active purchasers of agents and brokers

PRIVATELY OWNED	FIRST-HALF 2012	FIRST-HALF 2011
Ryan Specialty Group L.L.C.	3	2
Digital Insurance Inc.	1	7
PUBLICLY HELD	**FIRST-HALF 2012**	**FIRST-HALF 2011**
Arthur J. Gallagher & Co.	15	13
Brown & Brown Inc.	7	11
National Financial Partners Corp.	4	0
Marsh & McLennan Agency L.L.C.	3	4
PRIVATE EQUITY	**FIRST-HALF 2012**	**FIRST-HALF 2011**
Hub International Ltd.	9	18
Confie Seguros Insurance Services	7	4
USI Holdings Corp.	6	2
Neace Lukens	6	0
AssuredPartners Inc.	3	0
Bollinger Inc.	2	4
BANK	**FIRST-HALF 2012**	**FIRST-HALF 2011**
Western Financial Group	3	3
BB&T Corp.	1	0

Source: OPTIS Partners L.L.C.

Gen Re may still face class action over reinsurance deal with AIG

Pension plans allege sham transaction affected share price

By BILL KENEALY

The 2nd U.S. Circuit Court of Appeals last week ordered a lower court to reconsider class certification in a $72 million settlement involving General Reinsurance Co. and several pension funds.

The three-judge panel vacated a 2009 ruling by a district court judge denying class certification to the plaintiffs that was necessary to move the settlement forward. The plaintiffs had alleged that Gen Re was involved in a sham reinsurance deal that was aimed at boosting the balance sheet of American International Group Inc.

The public pension fund plaintiffs—the Ohio Public Employees Retirement System, the State Teachers Retirement System of Ohio and the Ohio Police and Fire Pension Fund—alleged that the transactions that took place in late 2000 and early 2001 enabled AIG to book $500 million in reinsurance transactions purely for AIG's accounting purposes. As holder of AIG shares, the plaintiffs alleged they suffered materially when AIG was forced to restate its earnings in May 2005.

While the lower court denied class certification to the pension funds, the three-judge appeals court panel last week ordered the lower court to reconsider whether the class certification is appropriate and whether the proposed settlement is fair.

Vaughan to step down from NAIC

By MARK A. HOFMANN

Therese M. Vaughan will step down as CEO of the National Association of Insurance Commissioners during the first quarter of 2013, the NAIC said last week.

She cited family obligations and the desire to revise a textbook as reasons for leaving the post.

"It is with mixed emotions that I announce my departure from an organization that has been part of my life for the better part of the past two decades," Ms. Vaughan, who was the longest-serving insurance commissioner in Iowa history and past NAIC president, said in a statement.

"I am especially proud of the work we've accomplished in the areas of U.S. solvency modernization and global insurance regulation," she said.

"Terri led the NAIC through a tumultuous period following the global economic crisis of 2008," NAIC President and Florida Insurance Commissioner Kevin M. McCarty said in the statement. "We have been fortunate to have had Terri during this critical time and wish her well in her future endeavors. She will be greatly missed."

NAIC officers plan to conduct a national search to find a successor to Ms. Vaughan.

Products&Services

JLT offers lawyers cover for tough liability risks

Jardine Lloyd Thompson Group P.L.C. has launched a nonstandard professional liability program for lawyers.

The service is available for hard to place risks, JLT said in a statement. It is for law firms that are not renewed because of their claims history, were declined coverage or that are not a good fit for the admitted marketplace. It also is available for difficult or hazardous areas of legal practice such as entertainment/sports, environmental/oil and gas exposures, intellectual property not protected by patents, plaintiff litigation including class actions, real estate, and securities private placement with no public exposure.

The program is offered through JLT Facilities Insurance Solutions Inc.

"We are excited about the new program, as it further expands our ability to underwrite and place lawyer's professional liability coverage for the small to midsize firms," Bill Gordon, chief underwriting officer for JLT Facilities, said in a statement.

"With the addition of the nonstandard program, we can assist firms that may have had a hazardous past in getting rehabilitated with the goal of getting back to the admitted market," he said.

Nonadmitted coverage is offered in all states with limits up to $2 million and $4 million in aggregate. The minimum deductible is $5,000, and the minimum premium is $3,000.

For more information, contact Michael Attanasio, account executive of wholesale programs, at 518-782-3300 or *Michael.Attanasio@jltfacilities.com*.

QBE offers cover package for small to midsize firms

QBE North America is offering a commercial insurance package policy to small to midsize companies, the insurer announced in a statement.

Its FlexBiz product includes protection for businesses, business vehicles and workers compensation. Coverage is available to 412 different classes such as restaurants, self storage and warehouses, retail stores, wholesale distributors, and medical offices.

"FlexBiz is fully integrated with the business auto and workers compensation rating applications," Arne Chatterton, senior vice president, said in a statement. "This eliminates the need to enter duplicate information and provides one central place for client information."

Eligible companies have a risk size up to $10 million property values per location and $6 million gross sales per location. The maximums are subject to change based on quality of risk. The workers compensation package is available in all states except Washington.

For more information, contact John LaPorta, senior business development manager, at *John.LaPorta@us.qbe.com*.

Ironshore launches law firm insolvency cover

Ironshore Inc. has launched a lawyers management liability program offering individual attorneys coverage for personal financial loss risks that arise from a firm's insolvency.

The products were developed in response to Dewey & LeBoeuf L.L.P. filing for Chapter 11 bankruptcy protection, the insurer said in a statement. The program is offered through its Lloyd's Pembroke syndicate 4000.

"Lawyers liability programs comprise the largest business class underwritten in Pembroke's professional lines division," David White, director of professional lines for the syndicate, said in a statement. "The new management liability cover designed for lawyers offers a seamless solution for law firms seeking to protect their partners against an unusual and unexpected dissolution of the entity, when combined with our asset protection policy."

Pricing is determined on a case-by-case basis.

For more information, contact David White, director of professional lines at Pembroke Underwriting, at +44 (0)20 7337-4420 or *david.white@pembrokeunderwriting.com*.

Willis makes updates to health reform cost tool

Willis North America's human capital practice announced additions to its health care reform impact analysis calculator, the unit of Willis Group Holdings P.L.C. said in a statement.

The proprietary tool allows companies to examine health plan possibilities within the Patient Protection and Affordable Care Act of 2010. The changes include considerations for the "play-or-pay" provision and the excise tax on "Cadillac" health insurance plans.

The program features a Cadillac plan calculator that allows companies to estimate the penalties associated with different plans. The tool helps them maximize benefit offerings while still avoiding the tax. The play-or-pay calculator figures the monthly exposure to potential penalties based on the number of full-time employees and the number of hours worked.

Also included is a listing of descriptions and effective dates for past, current and future health care regulations.

"Given the recent Supreme Court decision related to health care reform, we know clients need to refocus on their action plan," Jim Blaney, CEO of Willis' human capital practice, said in a statement. "We redesigned the financial modeling capabilities of our original health care reform impact analysis calculator to provide our clients real-time, actionable data based on plan design criteria, and to indicate how certain decisions would affect pay-or-play or Cadillac plan excise tax liabilities."

For more information, contact Jay Kirschbaum from Willis human capital practice national legal and research group at *jay.kirschbaum@willis.com* or 314-854-0243.

TO SUBMIT ITEMS

BI's Products & Services column reports on new product offerings. Please send Products & Services news to Anna Gaynor, 150 N. Michigan Ave., Chicago, Ill. 60601 or email *agaynor@businessinsurance.com*.

UP CLOSE
COMINGS & GOINGS

CRAIG FUNDUM

NEW JOB TITLE: Schaumburg, Ill.-based president of commercial markets and customer industry segments for Zurich North America Commercial.

PREVIOUS POSITION: Omaha, Neb.-based president of programs and direct markets for Zurich North America Commercial.

LOOKING FORWARD TO: There is huge opportunity to provide the appropriate products and services to the customers we have identified… we have done a good job with that, and I think we can do more and better. I am looking forward to that challenge.

CHALLENGES FACING INDUSTRY: The middle-market segment of the industry has traditionally been a competitive space. There's plenty of capacity and a lot of competitors….Challenges are delivering the right products and services at the right prices. Sometimes some of the competitors are not as responsible as they should be. Disciplined underwriting and pricing is essential in this space. We have to create very strong relationships with our brokers, and we have to understand our industry segments, and we do that.

INDUSTRY OUTLOOK: Capacity varies by line of business. Property has experienced some rate movement. Workers compensation is in the throes of some significant loss ratios. The states are looking to reform that. We carriers have to be vigilant there.

FIRST EXPERIENCE IN JOB MARKET: Underwriter trainee for Royal Insurance Co. in Omaha, Neb.

ADVICE: Build a career pyramid. Get that strong base. Raise your hand for all different types of assignments for a company.

OUTSIDE THE INDUSTRY, A DREAM JOB: Being a college baseball coach would be a great job. A network news anchor would also be fun.

HOBBIES: I like to spend a lot of time with my family. I like to play golf and relax. We are movies buffs. I also collect old baseball movies.

CAN'T-MISS TELEVISION SHOW: "Suits." The writing is very quick-witted and fast-moving. There's some humor.

FAVORITE MEAL: It is pork roast with sauerkraut, mashed potatoes and gravy.

ON A SATURDAY AFTERNOON: Hanging out with my family. In the summer we are lounging around the pool.

Comings&Goings

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.

TO SUBMIT ITEMS

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:

Anna Gaynor
Business Insurance
150 N. Michigan Ave.
Chicago, Ill. 60601-7524

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POSTING THIS WEEK

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- Howden Specialty Underwriters
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- Aspen Insurance Holdings Ltd.

BROKERS
- R K Harrison Group Ltd.
- Willis Group Holdings P.L.C.
- Lockton Cos. L.L.C.
- Holborn Corp.

REINSURANCE
- Montpelier Re Holdings Ltd.

AGENTS
- Ascension Insurance Inc.

HURRICANE ANDREW: 20 YEARS LATER

Web tools, social media evolve to send early warnings

Preparation, response vastly different when Andrew struck

By RODD ZOLKOS

Emergency management managers increasingly add websites, social media and smartphone applications to their communications toolkits. These are emergency preparation and response tools that few even imagined during Hurricane Andrew 20 years ago.

The Federal Emergency Management Agency, the American Red Cross and various state and local government emergency management departments are among those making more use of Web-based emergency information systems, social media like Facebook and Twitter and smartphone apps as part of their emergency management strategies.

"Back with Hurricane Andrew nobody knew what social media was," said Gerald Campbell, chief of planning at Lee County Emergency Management in Fort Myers, Fla. Now, however, he said, "It's one more tool for us to use as emergency managers."

Last year Lee County rolled out its LeeEvac mobile app for Apple iPhones and iPads, following it this year with a version for Android devices.

"The bottom line is...here in southwest Florida evacuations for hurricanes are a difficult thing," Mr. Campbell said. "What we found over time is that, while people like maps, they have a difficult time using them properly. Along with that, there's a whole demographic that is comfortable using smartphones and getting their information that way."

The free LeeEvac app uses the device's GPS capability along with information from the Lee County property appraiser's database to alert users to evacuations, tell them which evacuation zone they're in, and connect them with a list of shelters from Lee County Emergency Management's website.

Mr. Campbell said, with Lee County having many older residents, many of them don't tend to be smartphone users. "People like it, but the demographics that we have here, there are a lot of people who aren't comfortable with smartphones," he said.

But, he said, the app is just one more piece of an emergency communications approach in Lee County that continues to include other traditional media such as print pieces, television and radio spots and the emergency management department's website.

Others utilizing digital tools to help address emergency conditions echoed Mr. Campbell's view that they're one more piece of a broader effort.

The Miami-based National Hurricane Center of the National Oceanic and Atmospheric Administration started using social media in 2011, said Dennis Feltgen, a spokesman for the center.

IN TODAY'S DOLLARS

Estimated insured losses, including property damage, business interruption and demand surge, if the same hurricane were to occur again, in billions of 2012 dollars:

Rank	Year	Hurricane	2012 insured
1	1926	Miami	$126
2	1992	Andrew	$57
3	1947	Fort Lauderdale	$53
4	1928	Great Okeechobee	$51
5	2005	Katrina	$45

Source: Air Worldwide Corp., Insurance Information Institute Inc.

"We started a Facebook page last year and it really was one of our great success stories in 2011," he said.

"It's important to realize that Facebook is not intended to replace anything we're doing at the National Hurricane Center," Mr. Feltgen said. "It's another tool in our toolbox to get the message out."

Outside of the June-through-November hurricane season, the center uses the Facebook page to spread messages about hurricane preparation and about its various outreach events. "During the hurricane season there's always a post in the morning...letting them know what's going on in the tropics," Mr. Feltgen said. The center's Facebook page has 151,000 followers.

"We're also tweeting," Mr. Feltgen said. The hurricane center's Twitter activity covers Atlantic and Pacific storm activity, with automatic tweets every time there's a storm advisory.

"We also have a tweet for storm surge as well," he said. "That one's actually giving some specific information about storm surge impacts for areas when there's a landfall."

In Harris County, Texas, a team of Rice University researchers developed the storm risk calculator, a Web tool that provides neighborhood-specific hurricane damage assessments for homes in the county.

Robert M. Stein, the Lena Gohlman Fox professor of political science at Rice University in Houston who helped develop the storm risk calculator, said a major goal of the project was to encourage risk-appropriate behavior from county residents when a storm approaches Harris County.

"In 2005 during Rita and Katrina evacuations, there was a large amount of what emergency planners call inappropriate behaviors," such as residents evacuating areas where evacuations weren't necessary and causing major highway congestion, Mr. Stein said.

In response, the Rice University team researched how people perceive hazards and how they think they will be affected by them. "The website was a product of that," Mr. Stein said.

Using National Weather Service and Harris County Tax Appraisal District data, the risk calculator provides users a risk profile for a one-square kilometer area around their address, assessing such exposures as wind damage, flooding and power outages. As storms approach, the calculator is updated with NOAA information.

The Tampa, Fla.-based Insurance Institute for Business & Home Safety created the Know Your Plan app with the Insurance Information Institute "to find ways to communicate with people the way they are communicating," said Brenda O'Connor, senior vice president of communications, at the institute for business and home safety.

The iPhone app provides resources and checklists consumers can use to reduce the risk of property damage in extreme weather events or other disasters.

"The other thing that's in the app that's really useful is the Google crisis response feed," Ms. O'Connor said. The Google feed provides users access to local emergency information during a catastrophe.

"I think all of us that are in the communications business know we need to adapt," Ms. O'Connor said. "I was talking to somebody and said remember the old days when they had ham radios? That was a great way to communicate with people in a disaster. That was then."

QUESTIONS & ANSWERS

Karen Clark is president and CEO of Boston-based Karen Clark & Co., a firm she established in 2007 to help insurance companies enhance their exposure data processes, better understand catastrophe risk, and to more effectively utilize models and other information to manage the risk. Ms. Clark developed the first hurricane catastrophe model and in 1987 founded the first catastrophe modeling company, Applied Insurance Research, which subsequently became AIR Worldwide after its acquisition by Insurance Services Office Inc. in 2002. Ms. Clark recently discussed Hurricane Andrew's effect on catastrophe modeling with Business Insurance Senior Editor Mark A. Hofmann.

Ms. Clark

Andrew made big waves in catastrophe modeling

Q: Did Andrew help focus attention on catastrophe modeling, which was then a new field?

The first hurricane model was introduced to the insurance industry in 1987, but this new approach for estimating potential catastrophe losses didn't get much traction until after Hurricane Andrew. The first catastrophe model indicated that insured losses could approach $70 billion from a hurricane striking a populated area such as Miami, but before Andrew most insurers thought the worst-case scenario was closer to $7 billion—a number popularized by an industry publication called "How the Insurance Industry Would Handle Two $7 Billion Hurricanes." Hurricane Andrew proved the value and credibility of the models and led to their rapid adoption.

Q: What effect did Hurricane Andrew have on catastrophe modeling in terms of data entered and accuracy?

Insurance companies were so significantly underestimating their potential losses from hurricanes because they were not monitoring the rapid growth in property values. In the years between Andrew and the previous major hurricane, property values in coastal areas such as Florida had risen several fold, and most companies were not managing these exposure concentrations.

Before Hurricane Andrew, reinsurers typically only received premium figures by state and line of business. Within a year of Hurricane Andrew, reinsurers began requiring county-level exposure aggregates and then eventually ZIP code and even policy-level data. While the data used to assess hurricane risk improved as a result of Andrew, Hurricane Katrina revealed significant problems, particularly for commercial properties, and caused a major refocusing on data quality.

Q: Twenty years after Andrew, what challenges do modelers and their customers face?

Fundamentally, the models have not changed since Andrew; they still have the same components and structure. They have, however, become more complex, but because there is so little data supporting this added complexity, the model loss estimates have become more volatile and prone to mistakes. The modelers are challenged with trying to account for more and more details and sources of loss, for which there is little or no data to model credibly.

Insurance companies are challenged with using the models as tools providing rough estimates rather than "answers." The false precision of the model output has created an illusion of accuracy. Insurers are also challenged with the volatility and lack of transparency around the models and are looking for new tools to address these areas.

Because the models never will be accurate and much of the volatility is driven by changing assumptions versus new scientific knowledge, the value of using multiple tools and approaches for managing catastrophe losses is clear. Hurricane Andrew was a wake-up call to better track exposures, but the industry was gradually lulled into a false sense of security by model output such as PMLs. An accumulation of events last year provided a second wake-up call about the model uncertainty, limitations and a single perspective on risk. There are multiple ways to estimate catastrophe loss potential, and more complete toolkits will lead to better risk understanding and management over the next 20 years.

HURRICANE ANDREW: 20 YEARS LATER

Building better shelters from the storms

Some regions seeing new building codes

By MIKE TSIKOUDAKIS

After Hurricane Andrew, building code requirements quickly changed for hurricane-prone parts of Florida and gradually spread throughout exposed regions of the United States.

Before Hurricane Andrew slammed into South Florida in 1992, resulting in the costliest natural disaster for insured losses in global history at that time, Miami-Dade and Broward counties had outdated building codes that lacked enforcement, experts say.

"In the Miami-Dade, Broward county areas, they had very good prescriptive requirements before Hurricane Andrew, but what we found out was that they weren't being enforced very well," said Timothy Reinhold, Tampa, Fla.-based senior vice president of research and chief engineer at Insurance Institute for Business & Home Safety.

The Florida performance criteria for wind-load provisions was too low and the information used at the time was out of date, Mr. Reinhold said.

As a result of Hurricane Andrew, one of the first standards Florida adopted was the wind provisions from the the American Society of Civil Engineers' standards, which encompasses the national standard for wind requirements, he said.

The ASCE-7 code, which the International Code Council relies on for minimum design loads for buildings and structures, is used by all states prone to hurricanes to evaluate and design buildings in the insurance industry, said Dale Seemans, senior risk engineering consultant for Zurich Services Corp., based in Newark, Del.

One of the most important additions to the code was the requirement of missile-impact resisting glass, which can withstand high velocity impact from wind-borne debris during a hurricane, he said.

"Our main goal in the insurance industry is to prevent water from getting into the building," Mr. Seemans said, noting that once water gets into a structure, the building can lose power and mold can develop within 24 hours.

Another immediate change to building codes after Hurricane Andrew was the elimination of construction of "stick" frame houses in South Florida, said Scott Trethewey, executive vice president of Aon Risk Solutions' construction services group, based in Miami.

Most of the houses built in South Florida since Andrew are cinder block masonry construction reinforced with concrete pillars, hurricane-strapped roof tresses, and codes requirements for adhesives and types of roofing, Mr. Trethewey said.

While the southern region of the state quickly adopted strict building codes, other hurricane-exposed regions were slower on the uptake, Mr. Trethewey said.

"There has not been an urgency to adopt some of the more stringent standards for residential construction in the northern parts of the state because they haven't been affected by the level of storms as South Florida has been affected," Mr. Trethewey said.

In states such as South Carolina, Alabama, Mississippi and Louisiana, which have had recent hurricanes, adoption of more stringent building codes has not been as swift as Florida since Hurricane Andrew, Mr. Trethewey said.

"Basically, whoever is using the international codes and series without adopting a bunch of weakening provisions is in pretty good shape," Mr. Reinhold said.

Areas that have a system that includes updated code adoption, code enforcement, inspector training and builder licensing are better prepared for hurricane risks, he said.

"When you get into some of the other states, they may have a piece of that, but they haven't got the whole system," Mr. Reinhold said.

According to a December study published by the institute for business and home safety that examined states' building codes, Florida, Virginia and New Jersey were rated among the highest for code adoption and enforcement, certification and training and contractor licensing.

Texas, Delaware and Mississippi were rated among the lowest, as those states lacked a regulatory process for building codes, according to the study titled, "Rating the States: An Assessment of Residential Building Code and Enforcement Systems for Life Safety and Property Protection in Hurricane-Prone Regions."

While there have been gradual improvements among states with hurricane risks, one of the biggest strides is the reduction of wind-borne debris, said Richard Davis, assistant vice president and senior engineering technical specialist at FM Global in Norwood, Mass.

"More recently, one of the improvements of the international building code was that they restricted the use of roof gravel in hurricane-prone areas," he said, noting that gravel is a major source of window breakage.

It is important to note that many updated building standards and codes only apply to new construction, Mr. Davis said. "Older buildings are more or less grandfathered by the code and they still may very well be vulnerable to a hurricane event," he said.

Also, roof-mounted equipment, such as solar panels, still are a problem because often they are not anchored to a roof and have a large surface area, he said.

"The codes and standards community has been lagging behind the sales and installation of the solar panels," Mr. Davis said. "We do not have a published nationally recognized standard that properly addresses this issue."

BUILDING IN HURRICANE ZONES

Building code tips for architects, developers, contractors and others affected by structural requirements for hurricane-exposed regions:

- Maintain and monitor compliance for actively enforced regions as building code violations could lead to fines or statutory penalties for noncompliance.
- Follow the most updated version of the American Society of Civil Engineers' standards for minimum design loads of buildings and other structures.
- Maintain knowledge and understanding of current building codes, which helps with the adoption of updated versions.
- Building codes regarding roof-mounted equipment such as solar panels are lacking. Such equipment should to be anchored to the roof and installed properly to avoid potential wind-borne damage.

PROPERTY VALUE

Estimated 2012 insured value of U.S. coastal properties for top five exposed states in billions of dollars

State	Coastal value	% of state total
Florida	$2,800.8	79%
New York	$2,679.5	61%
Texas	$1,143.5	26%
Massachusetts	$807.2	54%
New Jersey	$706.5	34%

Source: AIR Worldwide Corp.

Modeling: Legacy of storm remains

CONTINUED FROM PAGE 1

aftermath, reactions ranged from "skepticism to outrage," he said.

"Losses of this magnitude were not thought possible," Mr. Churney said. "It was only months later that the insurance industry had to face the reality of a $15.5 billion bill."

In the wake of the storm, primary insurers, reinsurers, rating agencies and regulators all came to realize the value inherent in catastrophe models, said Peter Nakada, New York-based managing director of risk markets at Risk Management Solutions Inc.

"Andrew was an inflection point," Mr. Nakada said. "Prior to Andrew, catastrophe models were an interesting way to look at risk, almost an academic exercise. After Andrew, they became a must-have."

The advent of modern catastrophe models highlighted some deficiencies in traditional risk-assessment techniques that relied on historical claims data, Mr. Churney said. For example, an underwriter or actuary might calculate a probable maximum loss in a given geography by using an arbitrary percentage of total insured value in the area.

"Prior to Andrew, most companies relied on traditional actuarial techniques to estimate losses," Mr. Churney said. "But because these approaches were divorced from the actual physics of natural catastrophes, losses could far exceed the estimates, as we saw with Andrew."

Mr. Churney said Andrew and the advent of the catastrophe modeling industry coincided with increases in computer processing power and great leaps in the sophistication of the instrumentation used to collect data on weather variables, such as wind speed.

"Certainly, catastrophe models are more sophisticated than they were in 1992, in large part the result of the exponential increases in computing power and the availability of ever more observation data at increasingly high resolution," he said. "This data has advanced our understanding of the physical structure of hurricanes and improved our ability to estimate local wind speeds—both on the coast and as storms move inland—with greater precision."

Taken together, these changes enable the industry to shift from assessing risk at portfolio of market basis to a more granular level that accounted for the geographic and structural peculiarities of individual properties.

"With the new technology, we were able to create more detailed location information, site specific information," Mr. Castaldi said. "So instead of doing aggregate analyses, we now were doing individual risk analyses and then rolling them up into a portfolio.''

Sharon Binnun, Tallahassee, Fla.-based chief financial officer of Citizens Property Insurance Corp., the state-run property insurer of last resort, said this increase in capability has enabled insurers to use more complex models that account for more varied loss scenarios. "There are fewer surprises when you have different loss scenarios," she said.

Moreover, newer catastrophe models have more complete functionality, Ms. Binnun said, adding that models now can help insurers plan for eventualities common in the wake of storms, such as shortages of supplies and critical services.

Looking forward, Mr. Churney foresees catastrophe models continuing to improving in terms of complexity and sophistication, while expanding to include more secondary perils, such as tsunamis, river-induced floods and also addressing how natural and man-made disasters might effect global supply chains.

AP PHOTO

An aerial view of the damage from Hurricane Andrew on Aug. 24, 1992, in South Dade County, Fla.

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HURRICANE ANDREW: 20 YEARS LATER

Bermuda cat reinsurers absorbed by rivals

Sidecar arrangements take over as vehicles for raising capital

By JUDY GREENWALD

And then there was one.

Of the eight property catastrophe specialty reinsurers formed after Hurricane Andrew, only two—PartnerRe Ltd. and RenaissanceRe Holdings Ltd.—remain as independent entities, and only RenRe continues to specialize in the property cat market (see box).

"We thought we were best served to remain a stand-alone company for our shareholders," said Neill A. Currie, president and CEO of RenaissanceRe and a company co-founder.

However, he noted that while property cat remains RenaissanceRe's core business, it also has diversified over the years, including running a Lloyd's operation.

The disappearance of most of the post-Andrew reinsurers was no surprise, say observers.

"I think we all kind of expected that the marketplace would continue to grow and that larger players would ultimately acquire smaller ones," said John DeMartini, New York-based leader of Towers Watson & Co.'s catastrophe risk management practice.

"It's been that way internationally, it's been that way domestically. It was bound to happen in Bermuda as well," said Mr. DeMartini.

"In the over 20 years since Hurricane Andrew, you basically saw the natural evolution of companies consolidating and growing and becoming bigger. So both (Ace Ltd.) and (XL Capital Ltd.) purchased one or more of those post-Andrew entities, and others consolidated among themselves into large entities," said W. Marston Becker, president and CEO of Alterra Capital Holdings Ltd. in Hamilton, Bermuda.

"Initial investors were reacting to market dislocations and had the opportunity to make some unusual profits for a short period of time," said Paul Kneuer, senior vice president at New York-based reinsurance intermediary Holborn Corp. "And when that period was over, they were happy to exit, and other people in the insurance and reinsurance businesses were happy to take over those operations."

Today, sidecars are more likely to be formed than new catastrophe reinsurers, said Steven K. Bolland, president of New York-based reinsurance intermediary Gill & Roeser Inc.

Sidecars, as vehicles that can be used to rapidly invest and then withdraw capital, address the dramatic ups and downs of catastrophe pricing that occur in response to market cycles, say observers.

Sidecars "give the investors the ability to really take advantage of the hard market cycle more efficiently" and avoid its troughs, said Robert DeRose, vice president at Oldwick, N.J.-based rating agency A.M. Best Co.

"Capital still flows to Bermuda. It just flows in a different manner than it did after Andrew," Mr. Bolland said. "It's just a more effective way of doing the same thing."

Mr. Becker said, "The reality is that Bermuda has enough companies, so therefore, to deal with these ebbs and flows of capital demand, sidecars have become a more efficient vehicle."

But how long sidecars will continue to remain popular is a question.

Paul Markey, chairman of Aon Group (Bermuda) Ltd., said, "It remains to be seen, if there are added losses that take capital out of the business, whether new capital would strictly come in the new form" of sidecars, "or whether some investors might take the view that they want to build a company on the old model, which is a more broadly based long-term structure."

"Over the years, Bermuda has adjusted to do what appears to work best for them," Mr. Bolland said. "I'm sure in 10 or 15 years' time, something else will be the flavor of the day. But at the moment, that's what worked in the last cycle."

GROUP OF EIGHT

What happened to the eight reinsurers that formed in the wake of Hurricane Andrew.

- **Cat Ltd.:** Bought by Ace Ltd.
- **Global Capital Reinsurance Ltd.:** Bought by XL Capital Ltd.
- **IPC Holdings Ltd.:** Acquired by Validus Holdings Ltd.
- **LaSalle Re Holdings Ltd.:** Merged into Trenwick Group Ltd.; Endurance Specialty Insurance Ltd. later bought its property/catastrophe business.
- **Mid-Ocean Reinsurance Ltd.:** Bought by XL Capital Ltd.
- **PartnerRe Ltd.:** Remains independent, publicly owned; expanded into other lines.
- **RenaissanceRe Holdings Ltd.:** Remains independent, publicly owned; focuses largely on catastrophe market.
- **Tempest Reinsurance:** Bought by Ace Ltd.

Sources: Fitch Ratings report, Business Insurance

Bermuda: Domicile remolded by Hurricane Andrew

CONTINUED FROM PAGE 1

found itself very capacity-constrained for wind coverage, and you saw the genesis of the formation of several well-capitalized Bermuda entities with a focus on providing property catastrophe coverage," Mr. Becker said.

That "paradigm shift" fundamentally changed how property cat business is underwritten and "will continue to evolve," Mr. Currie said.

"We wouldn't recognize the Bermuda market today if Andrew hadn't happened," said Paul J. Kneuer, senior vice president and chief reinsurance strategist at reinsurance intermediary Holborn Corp. in New York.

The creation of the specialty cat reinsurers "showed that when you have dislocation in the market, capital and talent can come together and pretty quickly address that issue," Mr. Kneuer said.

As far back as 1965's Hurricane Betsy, the Bermuda market and the market in general were affected by natural and man-made catastrophes, which stressed the system's ability to pay claims and renew business, said Paul Markey, chairman of Aon Group (Bermuda) Ltd.

Brian McGuire, senior vice president at reinsurance intermediary U.S. RE Corp. in Pearl River, N.Y., said 1988's Piper Alpha explosion, 1989's Hurricane Hugo and 1990's European windstorm losses also set the stage for Andrew.

"There was a tremendous drop of retrocessional capacity, in particular for the Lloyd's syndicates; and when Andrew hit in '92, that exacerbated the situation and knocked reinsurers out of business," Mr. McGuire said.

The new Bermuda companies "re-established capacity, particularly for the large nationwide writers of insurance business in the United States who were unable to, in 1992, fully satisfy their reinsurance needs," Mr. McGuire said.

John DeMartini, New York-based leader of Towers Watson & Co.'s catastrophe risk management practice, said Bermuda "provided much-needed additional capacity as companies began to realize that events of the size and scope of Andrew could hit their portfolios as companies developed a better understanding of how exposed they were."

The market was able to put together well-capitalized companies that had talented people "who were specifically focused on the property cat marketplace," Mr. DeMartini said.

The new reinsurers found a conducive environment in Bermuda.

"You could form a company relatively easily, with fewer capital requirements," said James Auden, managing director at rating agency Fitch Inc. in Chicago.

Also attractive was Bermuda's tax structure in which companies do not have to pay taxes on funds reserved for future losses, Mr. Bolland said.

Kevin Lee, an analyst at Moody's Ratings Service in New York, said the Bermuda reinsurers "added discipline to the property cat space."

"By focusing purely on property cat, they were able to invest resources into modeling and underwriting that risk on a more scientific basis. I think that discipline has carried over to other (property cat reinsurers) as well beyond Bermuda," Mr. Lee said.

Andrew coincided to a large extent with the emergence of the computer model, Mr. Bolland said.

Dave Finnis, Atlanta-based national property practice leader for Willis North America Inc., said reinsurers "really started tracking their aggregate exposure for hurricanes" after Andrew. Previously "they really didn't have a good handle on it at all."

Mr. DeMartini said the Class of 1992 was "based in part on the belief that hurricanes could, in fact, be reasonably well-modeled."

It was the Bermuda underwriters who took an analytical approach to underwriting property cat exposures and "were at the forefront of providing a quantitative analysis of exposure to pricing and to the capacity that they offered in the marketplace," Mr. DeMartini said.

Anthony Mammolite, head of global property for Bermuda-based Ironshore Inc. in New York, which was formed after the 2005 hurricanes, said that evolution continues today.

"The models have a lot more weight today than they did, certainly 20 years ago or even 15 years ago for that matter," Mr. Mammolite said.

Bermuda's development did not end with Andrew. Just as Ace and XL were formed in response to the 1980s casualty capacity crisis, further formations came after the terrorist attacks in 2001, as well as hurricanes Katrina, Rita and Wilma in 2005.

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Assessments: Larger employers face big bill

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Such guidance is critical, since the number of people enrolled in an employer's health care plan could vary considerably during a year.

"Employers need to know as soon as possible how much this is going to cost them," Ms. Young said.

Other details are clear. For example, the fee will be assessed for every health care plan participant, regardless of employer size.

"There is no small-employer exemption in this part of the law," said Amy Bergner, a Mercer partner in Washington.

In the case of fully insured plans, the fee will be paid by insurers. For self-funded plans, third-party administrators are to remit the fee on behalf of their clients. Fees are to be paid quarterly, with the first payment due Jan. 15, 2014.

Certain health care-related plans are exempt from the fee, including stand-alone dental, vision and flexible spending accounts, as well as Medicare Advantage and Medicare Part D prescription drug plans.

Benefit experts say the fee also will apply to retiree health care plans, as well as to health reimbursement arrangements. But it is unclear how the fee would be assessed when HRAs are involved.

Guidance provided by the IRS this year might serve as a model for how HRAs are treated under the transitional reinsurance program. That guidance involved another health care reform law provision that imposes a small fee on health care plans to fund research on medical outcomes.

Under those proposed rules, an employer with an HRA linked to a self-funded high-deductible health care plan would be liable for the fee only for participants in its health care plan. It would not pay a second fee for participants in the HRA.

On the other hand, the fee would be imposed on HRAs if the arrangement were linked to an insured health care plan. In that situation, the employer would be liable for the fee covering participants in the HRA, while the insurer would be liable for the fee on the insured plan.

Despite the big fees employers face under the reinsurance program, few even know about the program, let alone their potential costs. "It has been a big sleeper issue," Buck Consultants' Mr. Stover said.

"This has not garnered as much attention as other provisions" in the health care reform law, Mercer's Ms. Bergner said.

But employer awareness is increasing as word of its effect is spreading in the benefits community amid efforts of some trade groups to publicize the provision.

The American Benefits Council, for example, held a webinar this month for its members about the program.

VCIA: Captives expanding beyond typical uses

CONTINUED FROM PAGE 4

that "some states don't even require exams anymore."

While Vermont can adjust the scope of captive examinations to make them more appropriate to the level of risk and less burdensome on captive parents, Mr. Provost said he thinks captives should always face some sort of examination.

"The exam needs to be commensurate to the risk," Mr. Provost said, citing the risk-focused examinations applied to risk retention groups. "The risk-focused exam can be a long-run timesaver," Mr. Provost said. "And we will work on applying that idea to the rest of our captives."

Mr. Provost said he's also concerned that the number of states entering the captive business could dilute the pool of available captive regulatory talent. "We can't spread that around too much," he said.

Among other captive trends, Daniel D. Towle, director of financial services for the Vermont Department of Economic Development, cited ongoing uncertainty about the application of the Nonadmitted and Reinsurance Reform Act to captives.

"There's been a lot of misperception," Mr. Towle said, noting that among the inaccuracies are suggestions the act is prompting widespread captive redomestications. "We've heard some that I think are trying to benefit from this rumor that captives are leaving (Vermont) in droves," Mr. Towle said. "That's not true."

Another panel at the VCIA conference focused on the NRRA and its effect on captives. At issue is whether the NRRA applies to captives and, as such, allows states to apply self-procurement taxes to captive parents based in those states with captives domiciled elsewhere.

While the act was intended to simplify surplus lines insurance tax allocations—in some cases deliberately fomented to prompt existing captives to redomicile, some speakers suggested—confusion remains because of the act's failure to specifically exclude captive insurance.

The NRRA panel's moderator, Patti Pallito, deputy managing director of Aon Insurance Managers (USA) Inc. in Burlington, said, "From a Vermont perspective, we're very concerned about what NRRA can mean to captives in this state."

"States are in great need of money, and this is a way they think they can pick up money quickly, so you've got to be vigilant," said Thomas M. Jones, a partner at the McDermott Will & Emery L.L.P. law firm in Chicago.

Panelist James T. McIntyre, a partner in the McIntyre & Lemon P.L.L.C. law firm in Washington, said the NRRA didn't give states any new authority and didn't change self-procurement tax laws.

"NRRA didn't change the tax laws with respect to the self-procurement tax," Mr. McIntyre said. "If you were required to pay those taxes prior to the passage of NRRA, you're required to pay them today."

Ms. Pallito said captive parents should understand how states intend to apply self-procurement tax rules in determining their response. "We've had some companies that actually moved their captives from Vermont," she said. "Or they established fronting captives in their home state if there's captive legislation there."

The latter approach could allow those companies to benefit by reinsuring risks placed in the fronting captive to the existing captive elsewhere, she said, because "NRRA doesn't apply to reinsurance."

Thus far, however, "Most companies we've seen have really taken a wait-and-see approach because there really is a lot of confusion," Ms. Pallito said.

VCIA President Richard Smith said he's concerned about the effect that confusion might have on captives and the Vermont domicile. "From my perspective, the longer there's ambiguity about what NRRA does or doesn't do, it's not good," he said.

PROGRAM HIGHLIGHTS

How the Patient Protection and Affordable Care Act's transitional reinsurance program will work:

- Assessments will be used to offset costs incurred by insurers writing individual policies for those with high health care costs.
- Assessments will apply to insured and self-insured plans. Insurers will pay on plans they provide; third-party administrators will pay the fee on behalf of employers with self-funded plans.
- Fees will be paid quarterly through end of 2016. First payment is due Jan. 15, 2014.
- Fees will be assessed on a per-health-care-plan-participant basis.
- Fees will be imposed on all health care plans, regardless of number of participants. Certain health care-related plans, including stand-alone dental and vision plans, are excluded.
- Regulators have not announced the size of the fee, but preliminary first-year estimates from consultants range from $60 to $90 per plan participant.

inBrief

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are obligated to defend the organization.

Accrediting agency warns Penn State

Pennsylvania State University said it was issued a warning from an accrediting agency over its handling of the child sexual abuse scandal involving former assistant football coach Gerald A. Sandusky. The Middle States Commission on Higher Education on Aug. 8 notified Penn State of an accreditation warning based on information in an independent report released by Louis Freeh, a former federal judge and former director of the FBI. The report concluded that top officials at Penn State did nothing to investigate child sexual abuse allegations against Mr. Sandusky. The accreditation warning also takes into account the unprecedented $73 million in fines and penalties imposed by the NCAA and the Big Ten Council of Presidents and Chancellors for the university's failure in handling the sexual abuse scandal.

OSHA steps up inspections in South

Federal worksite safety officials this week announced plans to ramp up enforcement efforts in certain southern states to combat a recent rise in construction-related falling deaths. The Occupational Safety and Health Administration will increase the number of unannounced inspections it performs at worksites in Region 4, which encompasses eight southern states east of the Mississippi River. In particular, the agency said it planned to target worksites in Alabama, Florida, Georgia and Mississippi. An OSHA spokesman said the federal agency has received 19 reports of fatal falls at Region 4 construction sites so far this year, two more than it received in all of 2011 and eight more than in 2010. The OSHA spokesman said those totals do not include incidents investigated by state occupational safety agencies.

Funding Employee Benefits: A Risk Manager's Guide

This white paper from Spring Consulting Inc. outlines the advantages to funding employee benefits in a captive arrangement and provides guidelines on how to structure this type of program. Companies who choose to fund their employee benefits through a captive have benefited from reduced and guaranteed premiums, reduced risk and fronting changes, custom plan designs and increased control over claims and cash flow. Given this environment, Risk Managers are now exploring the option of increasing their captive's capabilities to fund their employee benefits programs.

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CONTRIBUTING: Matt Dunning, Judy Greenwald, Bill Kenealy, Mike Tsikoudakis

End Page

Rival entertainment companies are jousting over similar formats for their shows, according to reports.

Changing times: Knight shows battle in court

In a conflict that hopefully will not be settled by jousting knights in shining armor, a producer of one medieval show is suing another, claiming it's a copycat.

Medieval Times USA Inc., which produces medieval dinner shows in several locations throughout the United States and Canada, is suing Pirate's Dinner Adventure Inc., which presents a show in Orlando, Fla., and Buena Park, Calif., according to the Orlando Business Journal.

The focus of the lawsuit is Camelot Knights Dinner Adventure, which involves a tournament with knights, horses and medieval battles that is narrated and hosted by actors portraying King Arthur and his court.

Medieval Times claims the new show, which was announced July 16, was too similar to its own. Its lawsuit states Pirate's Dinner Adventure's "acts have caused and will cause significant damages, including lost sales and profits in an amount to be determined, and irreparable harm to Medieval Times."

Perhaps they can call upon the spirit of Merlin to mediate their dispute, or maybe find a round table to sit and negotiate around.

Britain's National Health Service has ended the use of metal paper fasteners due to injuries.

Common supplies too risky for office

The National Health Service in Manchester, England, has banned a sharp metal instrument that has been impaling workers recently: the file fastener.

Workers at NHS Manchester can rest assured that their fingers are safe after officials issued a memo this month to all employees banning all use of the office sabers known in the United Kingdom as paper fasteners, typically metal pieces that fold over with a sliding closure to contain papers within a cover.

"Due to recent incidents, NHS Manchester has decided to immediately withdraw the use of metal paper fasteners," the health care system reportedly said in the memo. "The use of metal fasteners is prohibited and must be carefully disposed of immediately."

Instead, NHS Manchester recommended that the binders be replaced with similar plastic fasteners.

An NHS Manchester spokesperson said the ban was imposed after an employee cut his or her finger, but offered to no other comment, according to news reports.

Some employees reacted negatively.

"It is ridiculous. They're vaguely sharp, like drawing pins (thumbtacks) and fountain pens," an NHS staff member reportedly said. "I can only assume that the top brass think that they've employed idiots who need nannying through the working day."

It could be argued that paper itself is a hazard, as it's been responsible for cut fingers for decades.

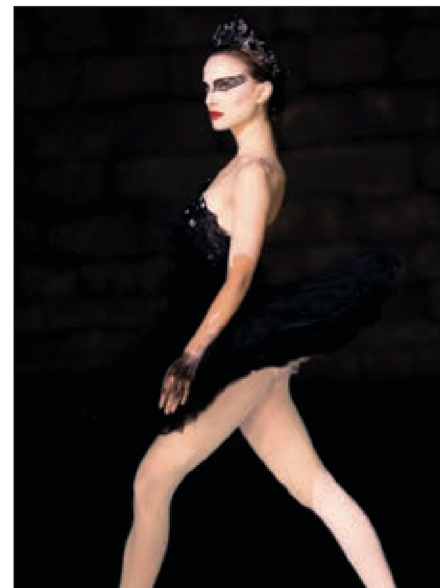
Drama grows over Fox's unpaid interns

While "Black Swan" may have earned Natalie Portman an Oscar, two unpaid interns from the film are the lead actors in a drama engulfing 20th Century Fox Film Corp.

The interns, Alex Footman and Eric Glatt, are plaintiffs in a lawsuit filed in Manhattan last fall that charges Fox Searchlight Pictures with abusing the internship program and violating federal labor laws. Last week, the Hollywood Reporter reported that plaintiffs are looking to expand the lawsuit to include all interns who worked for Fox Searchlight Pictures' parent company, Fox Entertainment Group Inc.

According to the paper, the suit contends the menial work assigned the interns, which they contend included making coffee and performing janitorial work, was common practice throughout the company. Under the auspices of the Fair Labor Standards Act, unpaid internships are permissible if they are an "extension of the individual's educational experience" and the interns do not perform "the routine work of the business on a regular and recurring basis."

A hearing to consider whether to allow a proposed motion to amend the lawsuit is scheduled for Aug. 24.



BLOOMBERG PHOTO

Interns who worked on "Black Swan" say 20th Century Fox Film Corp.'s unpaid intern program violates labor laws.

A model has filed suit after she says images used during a photo shoot for Volvo were illegally used in other ads that included 'extreme sexual and inappropriate connotations and innuendo.'

IMAGE GETS WRONG MOTORS RUNNING: MODEL

A New York-based model hired for a Volvo A.B. automobile ad campaign is seeking more than $20 million in damages, claiming the company illegally used her image to sell a lot more than its cars.

In a lawsuit filed last week in New York State Supreme Court in Manhattan, 30-year-old model Carolyn Giles claims the Swedish carmaker's American arm—Rockleigh, N.J.-based Volvo Cars of North America L.L.C.—hired her in 2007 to pose for a series of photos intended for use in an ad campaign for the company's S40 sedan.

Five years later, according to court documents, Ms. Giles began seeing her image in other companies' ads and corporate materials, including CareerBuilder.com, MotorTrivia.com and car rental giant Hertz Global Holdings Inc.'s annual shareholders report.

Ms. Giles claims she was especially distraught when she discovered her picture being used on an Australian dating website sponsored by Volvo. According to her complaint, Ms. Giles' image appeared on the site bracketed by the phrases "spend the night with a Swedish model of your choice" and "rev up your love life."

"Most offensive is that Ms. Giles' image has been used by the defendants to make it appear that she may be an escort, with extreme sexual and inappropriate connotations and innuendos," the complaint reads.

Ms. Giles claims in her lawsuit that she never gave Volvo permission to use her photos for anything beyond the S40 campaign. A spokesman for Volvo—cited in an ABC News Report published last week—said Ms. Giles signed a release allowing the company to run the images in print and online wherever and whenever it chooses.

"The 'sexy Swedish models' were cars—not escorts," a Volvo spokeswoman said in an email.

New York-based Ford Models Inc., Ms. Giles' agent at the time of the 2007 photo shoot, and Hertz are named as co-defendants in the suit. Ms. Giles is seeking $20 million in damages from Volvo and Hertz, and $3 million from Ford Models for breach of contract and violation of New York state civil rights laws.

DECEMBER 4, 2012, NEW YORK CITY

KEYNOTE SPEAKER:

Photo: Deborah Feingold

Suzy Welch,
The best-selling author, popular television commentator, and noted business journalist will be the keynote speaker at the Leadership workshop.

CONFIRMED SPEAKERS:

Beth Bierbower, President, Employer Group Segment, Humana

Helene Fisher, Commercial Head Underwriting Quality, Chartis

Kathleen Savio, Chief Administrative Officer, North American commercial, Zurich N.A.

Carol Murphy, Managing Director, Aon Risk Services

Seraina Maag, CEO, of XL North America

Bonnie Boone, Senior VP and Health Care Practice Leader, Alliant Healthcare Solutions

Trevor Gandy, Chief Diversity Officer, Chubb Corp.

Tracy Schmidt, Social Media Strategist, Crain Communications

FULL DAY AGENDA

Time	Event
7:30 - 11:30 a.m.	Leadership Workshop Registration Open
7:30 - 8:15 a.m.	Networking Welcome Breakfast & Registration
8:15 - 8:30 a.m.	Welcome Address
8:30 - 9:30 a.m.	Session 1: A Juggling Act: Achieving Effective Work Life Balance
9:30 - 10:00 a.m.	Keynote Speaker: Suzy Welch, author, "10-10-10"
10:00 - 10:30 a.m.	Coffee Break and Book Signing
10:30 - 11:30 a.m.	Session 2: Using Sponsorship to Break into the Executive Suite
11:30 - 12:00 p.m.	Registration for Awards Luncheon Open [for people only attending the luncheon]
11:30 - 12:30 p.m.	Session 3: Show Me the Money: Bridging the Wage Gap
12:30 - 2:55 p.m.	Women to Watch Awards Luncheon
1:00 p.m.	Luncheon Keynote: *Tweet This: How Social Media Can Make or Break Your Reputation*
3:00 p.m.	Final Comments & Program Closes

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