

FLORIDA LAWSUITS

Litigation challenging Florida's workers compensation law includes:

- **Marvin Castellanos v. Next Door Co.:** Argues that a cap on workers comp claimant attorney fees is unconstitutional.
- **Bradley Westphal v. City of St. Petersburg:** Challenges 104-week time limit on temporary total disability benefits.
- **Leticia Morales v. Zenith Insurance Co.:** Argues that Florida's workers comp exclusive remedy is unconstitutional.

Source: National Council on Compensation Insurance Inc.

WORKERS COMPENSATION

Florida ruling may upend comp system

Top court reviewing exclusive remedy

BY SHEENA HARRISON

Injured workers in Florida might be able to receive both workers compensation benefits and civil liability damages should an appeal filed last week by the Florida attorney general's office fail to overturn a ruling that declared the state's exclusive remedy provision unconstitutional.

That and other litigation challenging workers comp reforms eventually could result in higher comp premiums for employers in the state, experts say.

In the most recent ruling, Judge Jorge E. Cueto of Florida's 11th Judicial Circuit Court ruled last month in *Florida Workers' Advocates v. State of Florida* that the state's workers comp exclusive

See **REMEDY** page 28

CATASTROPHES

NAPA EARTHQUAKE LOSSES COULD HIT \$1 BILLION

Prestigious wine region spared major damage



AP PHOTO

A downtown building damaged in Napa, California, after the Aug. 24 6.0 earthquake, which hit the vineyard-rich Northern California region.

BY BILL KENEALY AND MATT LERNER

The magnitude 6.0 earthquake that shook the Napa Valley region last week caused up to \$1 billion in insured losses, with damage centered in the city of Napa enabling the nearby wine industry to emerge mostly unscathed.

Indeed, despite being close to the epicenter of the strongest earthquake to hit Northern California in 25 years, most of the region's wineries kept operating, and those that were affected suffered limited losses.

Most of the damage was localized in historic downtown Napa, where the city's building inspectors are working to evaluate damaged structures. Thus far, the city has deemed 170 buildings uninhabitable due to damage from the quake, while listing 652 more where caution should be used when entering the buildings.

See **QUAKE** page 28

COSTLIEST QUAKE

The five U.S. earthquakes that caused the most insured losses, in 2013 dollars

Date Jan. 17, 1994
Location Northridge, California, and Los Angeles
Insured losses \$24.05 billion

Date April 18, 1906
Location San Francisco
Insured losses \$4.24 billion

Date Oct. 17, 1989
Location Loma Prieta, California
Insured losses \$1.8 billion

Date Feb. 28, 2001
Location Olympia, Seattle and Tacoma, Washington
Insured losses \$395 million

Date Mar. 27-28, 1964
Location: Anchorage, Kodiak Island and Seward, Alaska
Insured losses \$340 million*

*Includes tsunami damage
 Source: Insurance Information Institute

LEGISLATION

ERISA at 40 posts mixed scorecard

Landmark law protects employee benefits

BY JERRY GEISEL

Forty years after President Gerald Ford signed the first comprehensive pension reform bill into law, the Employee Retirement Income Security Act has produced successes and failures.

The impetus for the legislation President Ford signed on Labor Day 1974 came from the collapse of South Bend, Indiana-based Studebaker-Packard Corp. and the 1964



termination of its hourly pension plan covering members of the United

Auto Workers union.

When it was terminated, the plan only had enough assets to pay the 4,500 active vested participants about 15 cents for every dollar in pension benefits they had earned.

The automaker's collapse was the start of a nationwide push to get pension reform through Congress, resulting in ERISA's first-time pension funding requirements, meaning companies could no longer promise benefits without putting any money aside to cover them. The law also created a federal pension insurance agency to provide additional protection for promised benefits.

"Studebaker employees thought they had earned benefits, but they

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U.S. specialist funds look to diversify into European property catastrophe risks; softer market drives mergers; fast-growing economies a boon to buyers in Asia.

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MIDYEAR FINANCIAL ANALYSIS

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A STRONG TEAM,
OPERATIONALIZING
A STRONG BALANCE SHEET.

\$117.8 billion in combined policyholders' surplus*



Berkshire Hathaway
Specialty Insurance

Strength.

*Balance sheets as of 03/31/2014 for the Berkshire Hathaway National Indemnity group of insurance companies.

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NEWS

EMPLOYMENT PRACTICES LIABILITY

JOINT EMPLOYER RULING CASTS CLOUD OVER FRANCHISING

McDonald's Corp. could be held liable with franchisees

BY JUDY GREENWALD

A determination by the National Labor Relations Board's general counsel that McDonald's Corp. should be considered a "joint employer" with its franchisees could dramatically increase franchisors' potential liabilities should it become law.

While many experts doubt that will happen, it has generated considerable concern among franchisors and franchisees and may take years to resolve.

There are steps, though, that franchisors can take to minimize any possible risks, experts say.

In a late July memorandum, the office of NLRB General Counsel Richard F. Griffin Jr. said 43 cases filed by employees since November 2012 against franchisees of McDonald's subsidiary McDonald's USA L.L.C. in Warrenville, Illinois, have been found to have merit.

McDonald's USA will be named as a joint employer respondent, if the parties are unable to reach a settlement in the cases.

There is a "very real possibility that franchising as we know it comes to an end," if the general counsel's determination prevails, Don Fox, CEO of Jacksonville, Florida-based Firehouse of America L.L.C., said.



AP PHOTO

A determination by the National Labor Relations Board could dramatically increase McDonald's Corp.'s franchisors' potential liabilities.

Firehouse of America has 775 franchised restaurants in 42 states and Puerto Rico, in addition to its 31 company-owned stores in Florida.

"It's a catastrophic event from a legal perspective," said Robert Cresanti, executive vice president of government relations at the Washington-based International Franchise Association, which represents franchisees.

"It shatters fundamental principles of privity and control, and I think we're going to have long-term repercussions from it," including companies being reluctant to set up fran-

chise operations.

The determination "goes against decades of established law regarding the franchise model in the United States," on which franchisors rely to successfully run their businesses, Heather Smedstad, McDonald's USA's senior vice president of human resources, said in a statement.

"McDonald's does not direct or co-determine the hiring, termination, wages, hours, or any other essential terms and conditions of employment of our franchisees'

See NLRB page 26

LEGISLATION

TRIA renewal bill could go to the wire in Congress

BY MARK A. HOFMANN

Passage of a bill that would extend the federal terrorism insurance backstop could be pushed into a lame-duck session following the November elections.

That's because the House of Representatives — which has yet to move on an extension bill passed by the House Financial Services Committee in June — is only slated to meet for 12 days in September, beginning next week.

The Senate already has passed its own extension bill, but the two measures differ in several aspects. These differences would have to be reconciled before the program reaches its current expiration date of Dec. 31.

For example, the Senate's Terrorism Risk Insurance Program Reauthorization Act of 2014 — S. 2244 — would extend the program for seven years and maintain the current trigger for the program, created by

the Terrorism Risk Insurance Act of 2002, for catastrophic terrorist attacks of all kinds at \$100 million.

But the House's TRIA Reform Act of 2014 — H.R. 4871 — would only extend the program for five years. The House bill also differentiates between conventional terrorist attacks and nuclear, biological, chemical or radiological attacks, gradually increasing the trigger for conventional attacks to \$500 million, while maintaining the \$100 million trigger for nuclear, biological, chemical and radiological attacks.

Supporters of the program say there is strong support for continuing the backstop but no agreement on how to do so. House Republicans in particular remain divided on the issue.

"What we know is that we've got a bit of a stalemate within the Republican conference on how to proceed,"

See TRIA page 25

HEALTH CARE REFORM

Employers want unbiased advice on exchanges

Benefits consultants may have conflict

BY MATT DUNNING

As private health insurance exchanges evolve, some benefits consultants are trying to distinguish themselves as unbiased advisers in a marketplace dominated by companies offering advisory services alongside their own branded exchange products.

Months of conversations with current and prospective clients recently led Pacific Resources Benefits Advisors L.L.C. to launch a specialized consulting practice designed to provide employers with independent, third-party guidance on private exchanges, company executives say.

"A good number of employers raised the issue of consulting objectivity and bias where companies were marketing and selling an exchange platform," said Jody Hunter, Resources Benefits' Chicago-based vice president of marketplace solutions.

Additionally, findings of the company's February employer survey about private health insurance exchanges revealed significant interest in independent advisory services.

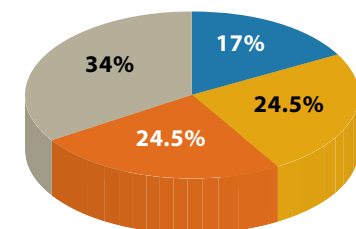
Although its parent company, insurance brokerage Brown & Brown Inc., launched a proprietary exchange platform last year, Mr.

See EXCHANGES page 25

WHERE TO TURN?

Large employers were divided regarding their likely course of action in evaluating the private health insurance exchange marketplace, according to a February survey.

- Would use current benefits consultant, regardless of exchange ownership
- Would use an independent benefits consultant
- Would rely on in-house staff
- Have not discussed an evaluation approach



Source: Pacific Resources Benefits Advisors L.L.C.

9/1/14

ONLINE
FEATURES

TOP 10 STORIES

Read the top 10 features and news stories of the week

Find out what the most popular news articles and features are on *BusinessInsurance.com*.

www.BusinessInsurance.com/BItop10

VIDEO: IN FOCUS



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Outdoor employers stress training, hydration to keep workers healthy and safe when the mercury rises.

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40 UNDER 40

Regional awards receptions

40 *Business Insurance* celebrates the regional broker honorees during October. www.BusinessInsurance.com/40under40

DIRECTORY

Directory of Agents & Brokers



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

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www.BusinessInsurance.com/2014PremiumDirectory

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NEWS

WORKERS COMPENSATION

PAIN DRUG RECLASSIFICATIONS
MAY BOOST WORKERS COMP COSTS

As DEA changes rules on opioids, insurers must adjust

BY STEPHANIE GOLDBERG

Tighter controls on opioid prescription painkillers issued by the U.S. Drug Enforcement Administration last month may increase workers compensation costs in the short term, but over the long term they could help reduce overuse of opioids.

The new regulations may drive up the price of some drugs and will force some workers comp claimants to visit their doctors more frequently to obtain prescription painkillers, increasing employer costs, but closer monitoring by medical professionals may lead to alternative therapies that don't rely on potentially addictive drugs, experts say.

Despite the tighter controls, opioid use by workers remains a critical workplace safety concern, they say.

Last month, the DEA said that effective Oct. 6, hydrocodone combination drugs — powerful opioids that have been prescribed increasingly over the past several years to treat injured workers — would be classified as Schedule II controlled substances under the federal Controlled Substances Act. Previously, they had been classified as Schedule III. Pure hydrocodone already was considered a Schedule II controlled substance, along with opioids such as oxycodone and morphine.

In addition, the DEA classified tramadol, another opioid painkiller but one that is generally viewed as



AP PHOTO

COMMONLY USED PRESCRIPTION PAINKILLERS

- Pharmacy benefit managers say hydrocodone combination products, such as Vicodin and Norco, and tramadol, which is sold under the brands Ultram and Ryzolt, are among the most common medications prescribed to injured workers.
- According to the National Council on Compensation Insurance Inc., hydrocodone-acetaminophen products ranked No. 5 for medications paid per workers compensation claim in 2011 and tramadol products ranked No. 9.
- Hydrocodone-acetaminophen products accounted for 40% of all 2013 workers comp narcotic prescriptions, according to Express Scripts Inc.
- Utilization of hydrocodone-acetaminophen products declined but accounted for more than 13% of utilization in 2013, according to Coventry Workers' Comp Services; tramadol usage increased and accounted for 4% of total utilization.
- More prescriptions for hydrocodone-acetaminophen products were dispensed in the United States in 2013 than prescriptions for any other drug, according to the 2014 "Medicine Use and Shifting Costs of Healthcare" study by IMS Health Inc. Tramadol landed at No. 20 on the list.

less powerful than some others, as a Schedule IV drug last month. Previously, tramadol, which is sold under the names Ultram and Ryzolt, was unregulated by the DEA.

Under DEA rules, Schedule II drugs cannot be refilled under the same prescription, whereas Sched-

ule III and Schedule IV drugs can be refilled up to five times, with prescriptions expiring after six months.

As an unregulated substance, patients had access to unlimited refills of tramadol over the course

See **OPIOIDS** page 26

CONSTRUCTION RISKS

Surety bond
sector
strengthens

Private building, public projects add to premiums

BY MATTHEW LERNER

The surety bond sector looks to register its second consecutive year of growth, led by the private construction sector as the economy slowly improves.

"We certainly are seeing an increase in activity," said Michael Herrod, Houston-based executive vice president of surety with Aon Risk Solutions' construction services group. "I do believe that premiums for 2014 will be up, at least for the top 10" surety insurers, he said.

Overall U.S. construction spending grew at a seasonally adjusted annual rate of \$950.15 billion in June, according to the U.S. Census Bureau. In 2013, construction spending totaled \$910.76 billion — a year in which private construction spending was more than double that of public construction. But while 2013 gained on 2012, it was below 2008's \$1.068 trillion.

Surety bond sales have had a similar path. In 2013, surety bond sales totaled \$5.15 billion in direct written premiums, according to the Surety & Fidelity Association of America. While breaking a four-year slide, it was off the peak of \$5.5 billion of premiums in 2008.

This year looks to be better than last year, underwriters say.

"I would say, yes, 2014 without a doubt is definitely improved over 2013," said Wes Dasher, Columbia, South Carolina-based president of BB&T Insurance Services Inc. "In fact, our new business is up about 38%."

Private and public construction projects are driving the rebound in construction and surety bond sales. Activity is the greatest in

See **SURETY** page 26



BI virtual event focusing on comp, safety

From opioid management to keeping an aging workforce safe and healthy, industry experts will advise attendees on strategies and solutions to control their workers compensation costs during *Business Insurance's* fifth annual Workers Comp & Safety Virtual Conference.

The online event, which is free and can be viewed on your desktop or laptop, will run from 10 a.m. to 4 p.m. EDT on Oct. 8.

William Zachry, vice president of risk management for Safeway Inc., will deliver the keynote address about effective changes he's made to the supermarket chain's workers comp program.

Following each of the online speaker presentations,

there will be time for a Q&A with registrants. And there will be a virtual lounge for networking.

Panel presentations will include prescription drug management, focusing on formulary design for cost control and opioids; and baby boomer safety, which will detail strategies for managing the safety and health of an aging workforce.

This *Business Insurance* virtual conference is meant for anyone who is involved in workers compensation, such as risk managers, safety managers, human resources and benefit managers, brokers and third-party administrators.

For more information and to register, go to www.businessinsurance.com/compsafetyconference.

LARGE COMMERCIAL COVERAGE STAYS OFFLINE

Platform providers work to make e-placement a more attractive option for buyers

BY BILL KENEALY

While placing commercial insurance electronically has the potential to benefit the buyer and the seller, it has yet to gain widespread acceptance and even faces some resistance.

Electronic placement of commercial insurance currently is most prevalent in market segments where the business is more commoditized and margins are tight.

“There is a lot of promise in the concept of electronic placement,” said Patrick Donnelly, Chicago-based chief broking officer of Aon Risk Solutions. “There are certain segments of the business that need us to use technology to drive greater efficiency. For example, in the affinity and small-commercial segments, there is already broader adoption.”

Conversely, adoption of electronic placement platforms has been slower in mid-market and large commercial accounts due in part to a lack of a common structure for exposure information and insurance company products, said Kabir Syed, Greenwich, Connecticut-based CEO of business intelligence and analytics firm RiskMatch L.L.C.

For example, cyber risk policy terms, conditions and even terminology may vary widely among brokers and insurers, making apples-to-apples comparisons difficult, he said. “How does Carrier A compare with others in terms of product, conditions, pricing, ratings and experience? You have to design form information very carefully because if you make one mistake, it can be rejected by an underwriting algorithm.”

The bespoke nature of many commercial products works against widespread adoption of



BROKERS, INSURERS LINK UP ONLINE

While the direct sale of commercial insurance through online channels remains limited, using online platforms to link insurance intermediaries and insurers has become commonplace.

“The ability to quote, rate and submit business online is not innovative anymore. Everybody does it,” said Richard Kerr, CEO of Dallas-based electronic insurance exchange MarketScout. “It’s cool, but everybody’s cool today.”

In addition to lowering transaction costs, digitizing the insurance placement process enables intermediaries to better segment by areas of expertise

and identify business partners that can complement their strengths, Mr. Kerr said.

For example, an independent insurance agent asked to find coverage for a chicken farm can easily partner with a managing general agent elsewhere in the country that specializes in such coverage by using an electronic insurance exchange.

“The differentiator today is all about getting the right product in front of the right buyer utilizing electronic distribution, and the way to do that is through segmentation,” Mr. Kerr said.

By Bill Kenealy

electronic placement platforms, Mr. Donnelly said. “There’s a lot of need and demand for electronic placement technologies, but we still struggle with the basics such as standards,” he said. “It remains a gating factor to wider adoption.”

Buyers also have yet to embrace the idea, although electronic placement is more common among smaller buyers than larger buyers, according to research by Deloitte Development L.L.C. (see chart).

Jonathan Prinn, Essex, England-based chief operating officer of global placement at Willis Group Holdings P.L.C., said another factor that limited past attempts at electronic commercial insurance placement was convincing brokers and insurers to alter longstanding processes that work well for ill-defined benefits.

“E-trading is inevitable if you think about it from a transactional perspective,” he said. “Some of these systems in the past have failed because they asked brokers to effectively become data input clerks in order to send information electronically to underwriters.”

Another expected benefit from electronic placement is more data for analytics, Mr. Prinn said. “As more and more data is captured and more analytics are applied, we could have a very fundamental shift in the marketplace.”

Stephan Upshaw, Chicago-based vice president of risk management at apartment complex owner Equity Residential, said the prospect of using analytics based on placement data to weigh the suitability of products and insurers is intriguing. “Generally, my insurance buying

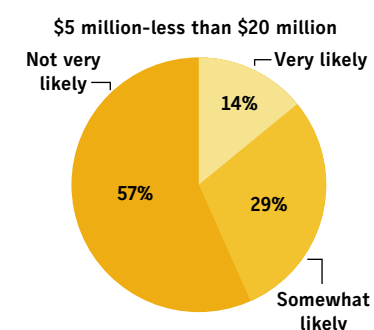
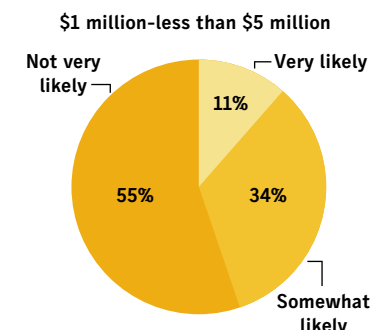
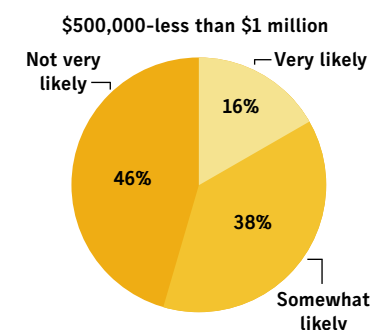
philosophy is based on long-term relationships,” Mr. Upshaw said. “However, it sometimes does strike me as curious how a carrier was selected, so anything that increases transparency in the insurance transaction is good thing.”

Max Pell, London-based managing director of U.K. insurance at business processing and technology provider Xchanging P.L.C., said the firm spent time trying to understand why previous electronic placement initiatives faltered as it worked on its new placement platform, unveiled in June.

“We’re still not guaranteed to achieve broker and carrier buy-in,” Mr. Pell said. “That said, we believe that having spent a lot of time addressing all the reasons that these platforms have not worked before should afford a level of com-

ELECTRONIC PLACEMENT

While 51% of businesses in a 2013 Deloitte Development L.L.C. survey said they would be somewhat or very likely to buy commercial insurance online, 48% said they were unlikely to do so without the advice of a broker or agent. Broken out by annual revenue, the 751 respondents said the likelihood of buying commercial online was:



Source: Deloitte Development L.L.C.

PRINCIPLE VS. PRACTICE

While many agree that electronic placement of commercial insurance is a great idea in principle, several factors have delayed widespread adoption. They include:

- Lack of a unified industry platform
- Lack of a market-disrupting event
- Lack of regulatory pressure
- User resistance
- Lack of integration into users’ existing systems
- Lack of a credible business case to drive change

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SELF-INSURED EMPLOYERS PARTNERING WITH MEDICAL PROVIDERS

Direct contracting gives buyers more control, reduces costs

BY KAREN PALLARITO

A growing number of self-insured employers are bypassing health plan administrators and contracting directly with providers in efforts to limit the increases in their health care costs.

Direct contracting isn't new, but more employers are considering it among other cost-cutting measures, and many providers are better prepared to run the numbers.

According to Aon Hewitt's "2014 Health Care Survey," conducted between December 2013 and January of this year, 11% of employers are engaging in some form of direct health care provider and service contracting during this plan year, and 28% expect to do so in the next three to five years.

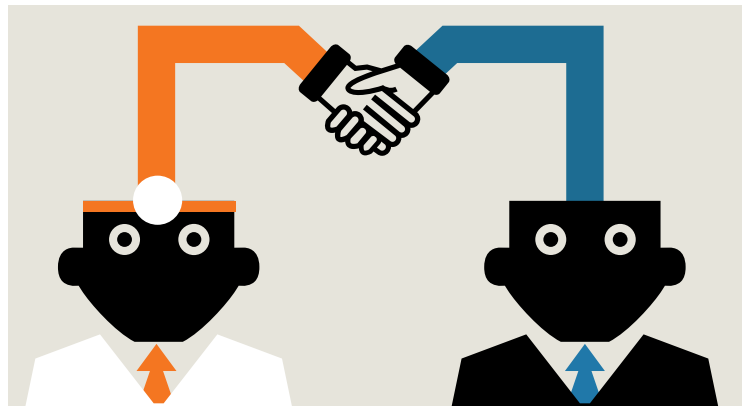
"Having that direct contract opens the door to discussions about cost and performance in ways that employers who are just doing business with health plans ... never see," said Donna Marshall, executive director of the Colorado Business Group on Health in Lakewood, Colorado.

Salt Lake City-based researcher and consultant Leavitt Partners L.L.C. predicted in a May research brief that "employer-provider relationships are likely to proliferate" in the next several years as health care costs "continue to escalate."

William DeMarco, president and CEO of DeMarco & Associates Inc., a Rockford, Illinois-based health care consultant, said the health care reform law is stoking hospital-physician consolidation, which also is driving up costs, leading to employers' "renewed interest" in direct contracting.

Many employers also are unhappy with the cost and outcomes data they receive from their health plan administrators, he said.

"They'd like to know, well, how



DIRECT CONTRACTING BY THE NUMBERS

21% Employers considering direct contracting over the next three years to mitigate health care costs

1,687% Difference in facility prices for knee replacements in the first quarter of 2014

1,132% Difference in facility prices for hip replacements in the first quarter of 2014

Source: PricewaterhouseCoopers L.L.P., Change Healthcare Corp.

did this person end up in the hospital?" Mr. DeMarco said. Few health insurers and third-party administrators provide data linking a physician's diagnosis to a hospital's cost and the outcome of the patient's care, he said.

Greg Mansur, a partner in the health and welfare consulting practice at PricewaterhouseCoopers L.L.P. in Los Angeles, said the Patient Protection and Affordable Care Act's looming excise tax on high-cost health plans, scheduled to go into effect in 2018, and an aging workforce also are increasing the pressure on employers to use cost-control opportunities such as direct contracting.

"Doctors and hospitals almost expect a direct contracting overture," said A. Michael La Penna, founder and principal of health care industry consultant The La Penna Group Inc. in Grand Rapids, Michigan.

Whether employers pay a monthly fee per member or a bun-

dled rate, significant savings can be achieved, experts say. Some employers are negotiating narrow networks and changing plans to persuade employees to use the network for some or all of their care. And in suburban Denver, the City of Arvada, Colorado, already is seeing encouraging results through its recent primary care contract with Paladina Health L.L.C.

Most employers are looking to save 5% to 10% of their health care spend, Mr. Mansur said. Some providers promise even greater savings, he said, cautioning employers to carefully scrutinize those deals.

Intel Corp., the world's largest computer-chip maker, struck a deal in 2011 with Presbyterian Healthcare Services in Albuquerque, New Mexico, to serve 3,500 employees and their dependents at its manufacturing facility in Rio Rancho, New Mexico.

Under the value-based agree-

ment, rolled out in 2013, Intel pays the organization, which has 100 clinics and eight hospitals in the state, a monthly fee per member, and the two organizations share in any risks or savings above or below a specified target. Intel projected savings of \$8 million to \$10 million through 2017 as a result of the direct contracting arrangement, structured as an accountable care organization.

AtlantiCare, an Atlantic City, New Jersey, health care organization, is negotiating direct contracts with local employers through its ACO. It rolled out the network to its own 8,500 employees and dependents in 2011. Monthly costs per member that had been projected to increase by 7% in 2012 actually decreased by 4%, and costs remained flat in 2013, said Steven Blumberg, senior vice president of AtlantiCare Health Solutions, the ACO.

Some employers are seeking direct contracts for high-cost care, such as heart surgery or hip replacements, consultants say.

When Greenville, South Carolina-based Michelin North America Inc. examined its health care spending, musculoskeletal-related expenses ranked No. 1, said Chris Mattern, the tire maker's former manager of worksite health and wellness programs and now the company's facility manager. To manage that expense, the company signed with Tallahassee, Florida-based Integrated Mechanical Care, whose clinicians follow strict musculoskeletal care guidelines.

Michelin declined to discuss its results, but Integrated Medical Care President Chad Gray said employers can reduce total musculoskeletal spending by 40% to 60%, depending on plan design, employee communications and other variables.

CITY PROVIDES ITS OWN PRIMARY CARE

What's the antidote for escalating health benefits costs? The City of Arvada, Colorado, is betting on a whopping dose of primary care medicine.

Arvada opened two clinics this year, each staffed by a full-time salaried doctor, through a direct contract with Paladina Health L.L.C.

Denver-based Paladina, a unit of kidney dialysis provider DaVita HealthCare Partners Inc., works with self-insured employers to operate medical home health care operations.

Switching to a self-insured model, effective at the start of the year, was Arvada's first big decision, said Karen Smiddy, the city's benefits specialist.

Arvada pays Paladina a monthly fee per member, which is \$100 for adults and \$60 for children, for primary and urgent care services such as cholesterol tests, sick visits, stitches and skin biopsies.

So far, about 700 of the 1,500 employees and dependents covered by the city's health plan have signed up to receive services at the clinics, only a tad below the originally projected 750.

"You have to do the math" before adding a clinic, said Donna Marshall, executive director of the Colorado Business Group on Health. The initial investment will be offset by lower health care costs — if chronic conditions are more carefully managed, she said.

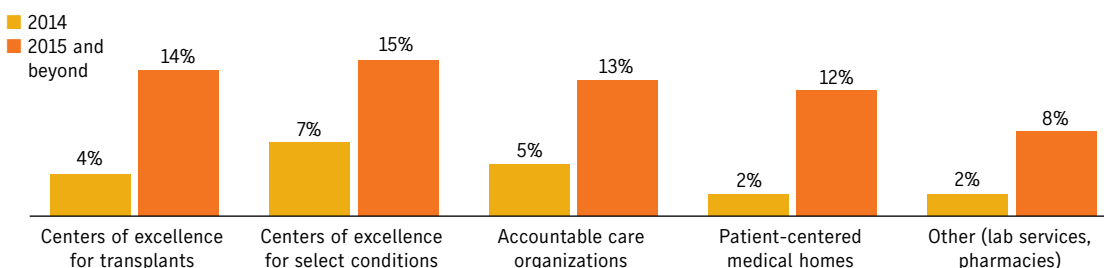
Arvada's early results look promising. Based on six months of data, medical plan costs are trending at roughly \$8.2 million, a savings of about \$1.5 million over the past two years, and the city's health plan reserves are growing, Ms. Smiddy said.

"Just by bypassing our health plan and going to the clinic — that in itself is really helping shore up that reserve in our self-funded plan," she said.

By Karen Pallarito

LARGE EMPLOYERS' APPROACH

Relatively few large employers directly contract for health care services, but more plan to use this cost-saving strategy in the future.



Source: National Business Group on Health

TIPS FOR BENEFITS MANAGERS

Experts say employers should keep several points in mind before inking a direct health care services contract.

- ✓ Review claims data, examining high-cost procedures and providers used.
- ✓ Ask for hard data demonstrating savings and improved health outcomes.
- ✓ Seek out other employers' experiences.
- ✓ Understand how the contract affects the provider network, third-party administrator and plan design.
- ✓ Communicate network changes to employees.
- ✓ Make sure new clinics and other facilities are a good fit.
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Led by Noelle Codispoti, *Executive Director of Gamma Iota Sigma*

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- **Geoffrey A. Goldwater**, Odell Studner L.L.C.
- **Thomas Delark**, Aon Risk Solutions
- **John D. Crowley**, Cook Maran & Associates
- **Brian Gross**, GFI Insurance Brokerage Inc.
- **Stephen M. Ruisi**, Marsh USA Inc., a unit of Marsh L.L.C.
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A thorough review by a panel of senior editors at *Business Insurance* considered various criteria related to nominees' client service skills, leadership skills and expertise. The awards will be presented at recognition events in each region. A compilation of all the awards and profiles of the honorees will be published in the Oct. 13, 2014, edition of *Business Insurance*. Honorees were selected from nominations submitted by readers of *Business Insurance*.

BUSINESS INSURANCE

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Disasters cause \$21B in first-half losses

Worldwide insured losses from disasters totaled about \$21 billion in the first half of 2014, down from \$25 billion in the comparable period last year and lower than the 10-year average for first-half losses of \$27 billion, according to a report by Swiss Re Ltd. Economic losses from disasters in the first half of 2014 were \$41 billion, according to the Swiss Re sigma report, compared with \$59 billion in the first half of 2013. According to the report, \$19 billion of the overall insured losses in the first half of 2014 came from natural catastrophe events, compared with \$21 billion in the first six months of 2013. They included Windstorm Ela, which hit parts of Belgium, France and Germany in June, resulting in insured losses of \$2.5 billion, while a snowstorm in Japan in February also resulted in insured losses of \$2.5 billion.

Willis Re Canada adds Guy Carpenter execs

Willis Re Inc., the North American reinsurance operation of Willis Group Holdings P.L.C., has hired two executives for its Toronto-based senior management team from Guy Carpenter & Co. L.L.C. Geoff Lubert has been named managing director and executive vice president of Willis Re Canada, and Scott Jellous has been named senior vice president of Willis Re Canada, the London-based broker said in a statement. Previously, both Messrs. Lubert and Jellous were senior vice presidents at Guy Carpenter & Co L.L.C.'s Canadian operations. Mr. Lubert replaces Robert Wildbore, who established Willis Re's Toronto operations four years ago. Mr. Wildbore will return to the U.K. to start a new senior position at Willis, according to the statement. Subject to regulatory approval, Mr. Lubert also will have a seat on the board of directors of Willis Re Canada, Willis said. Mr. Jellous steps into a new position.

China looks to expand catastrophe insurance

China is testing out an insurance system to fund reconstruction work after natural disasters as part of a broader push to expand the insurance sector, a top regulator said. At present, reconstruction work after earthquakes, floods and typhoons is mostly financed by the government and through donations. Under the

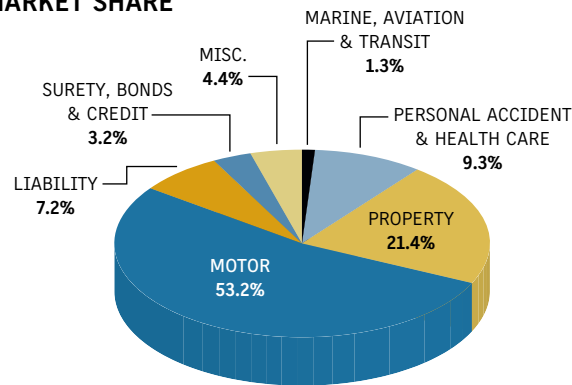
PROFILE: POLAND

\$7.44
BILLION

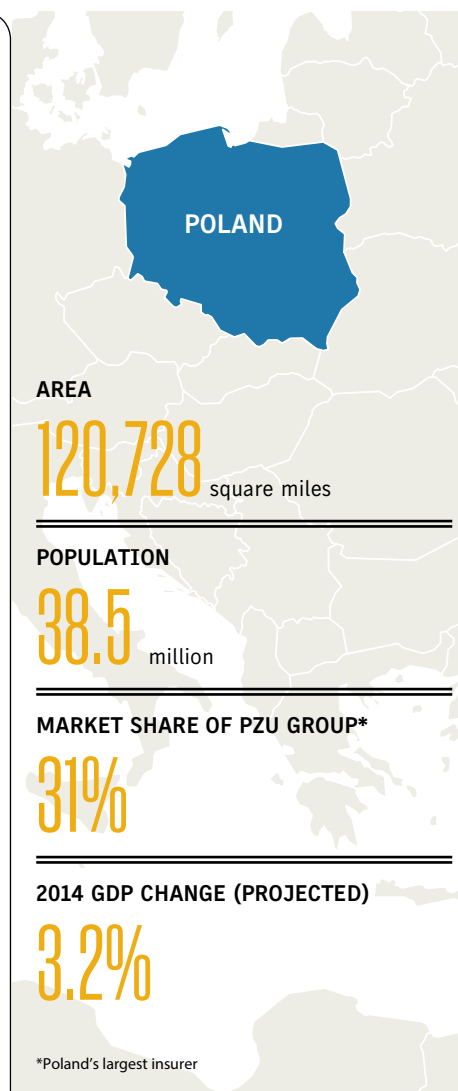
The insurance market in Poland has gone through dramatic changes since the country broke away from communism in 1989. Property/casualty premiums doubled between 2004 and 2013, but growth has slowed with gross premiums increasing only 1.1% in 2013. Aggressive rate cutting in 2011 and 2012 in nearly all lines of coverage appears to have ended due to increased weather-related property losses and auto third-party liability claims, but the market remains soft.

◀ 2013 P/C gross premiums

MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



MARKET DEVELOPMENTS

UPDATED AUGUST 2014

- In July 2012, the government suspended a regulation requiring doctors and dentists to carry third-party liability insurance after state hospitals protested that they could not afford the premiums. Amendments to the regulation are expected.
- Legislation banning the use of gender as a factor in calculating insurance premiums and benefits became law in December 2012.
- A patients rights law that came into effect in January 2012 is intended to shorten the investigation time of claims by patients and establish compensation amounts for medical events on a no-fault basis.
- Technical reserves have grown substantially in recent years as personal injury and third-party liability claims have grown in the country's changing legal environment.
- Legislation is expected to be introduced to address inconsistencies in Poland's various compulsory insurance requirements.

COMPULSORY INSURANCE

Various lines of coverage are compulsory, including:

- Auto third-party liability
- Liability of farm owners
- Insurance of farm buildings
- Professional liability for a variety of occupations
- Shipments of waste
- Shipowners' pollution liability

NONADMITTED

Nonadmitted insurance is not permitted because the law states that insurance must be purchased from locally authorized insurers, with the exception of marine hull, aviation and goods in transit coverage. Insurers from the European Economic Area members states — E.U. countries, Norway, Iceland and Lichtenstein — may provide insurance under E.U. freedom of services legislation.

INTERMEDIARIES

Agents and brokers have to be authorized to conduct business in Poland. There is no explicit requirement for Polish brokers to place business only with admitted insurers, but Polish intermediaries are unlikely to recommend nonadmitted placements due, among other things, to the problems that could arise in the event of a large loss.

MARKET PRACTICE

The market largely complies with the regulations. Capacity for most risks is readily available, with numerous insurers offering coverage under E.U. Freedom of Services regulations.

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

planned system, the risk will be shared between the government, insurance and reinsurance firms and individuals, Wang Zuji, vice chairman of China Insurance Regulatory Commission, told reporters. The government will also set up a calamity insurance fund, he added, but declined to say when he expected the overall system to be launched as this was a "very difficult project."

Reuters

Indonesia seeks limits on foreign ownership

Indonesian lawmakers are looking into the possibility of reducing the stake foreign investors are allowed to hold in local insurers. Currently, foreign investors are allowed to own up to 80% of domestic insurance companies. Harry

Azhar Azis, deputy chairman of the parliamentary commission overseeing finance and banking, told Reuters that lawmakers were hoping to pass a draft bill outlining a broad plan to lower the limit by the end of September. "Foreign companies own the majority of the insurance business in Indonesia," said Mr. Azis. "We are looking to limit the ownership." Indonesia's insurance sector has seen a spate of acquisitions in the past few years as foreign companies seek to capitalize on the low coverage and attractive growth rates. Mr. Azis said some political parties including Golkar, the country's second-biggest, have proposed a 49% ownership cap. It was not clear if any revision to the limit would apply to investors already holding stakes in Indonesian insurers or just to new deals. Indonesia also is considering restricting other sectors.

Reuters

Ukraine crisis could spur German insolvencies

The Ukraine crisis and its impact on relations between Russia and the West is crimping German growth and could lead to a rise in manufacturing sector insolvencies in the second half of this year, credit insurer Euler Hermes S.A. said Thursday. Euler Hermes, part of German insurer Allianz S.E., has trimmed its GDP growth forecast for Germany this year to 1.5% from 1.9%, with about half of the revision due to the effect of sanctions imposed by the West and Russia on one another, as well as corporate uncertainty over the standoff. German exports to Russia are expected to fall by about one-fifth, with sectors such as machine tools, automotive and foodstuffs particularly hard hit.

"We are talking weekly with these companies," said Ralf Meurer, chief executive of Euler Hermes' German operations, with the credit insurer giving and receiving the latest information on the ground. "For Germany in general, the current situation is not threatening," said Ralf Meurer, chief executive of Euler Hermes' German operations. "However, there are individual companies facing a very dramatic situation."

Reuters

Reinsurers' profits down in first half

The underwriting profits posted by global reinsurers fell in the first half of 2014 compared with the first six months of 2013, although the sector remained profitable, according to a report published last week

by Fitch Ratings Inc. For the first half of 2014, the 22 global reinsurers tracked by Chicago-based Fitch posted a combined ratio of 87.4% compared with 85.9% in the first half of 2013, according to the rating agency in “Global Reinsurers’ Mid-Year 2014 Financial Results, Underwriting Results Profitable, but Pressured as Capital Remains Strong.” Results were still profitable, however, “because of continued manageable catastrophe-related losses and sustained favorable loss reserve development,” the report said. In the first six months of 2014, worldwide insured catastrophe losses totaled about \$17 billion, according to the report, compared with \$21.1 billion in the first half of 2013.

Munich Re to expand Australian business

■ Munich Reinsurance Co. plans to expand its specialty, middle-market and small commercial insurance business in Australia in a three-way deal with broker network Steadfast Group Ltd. and insurance group Calliden Group Ltd. Under terms of the deal, Sydney-based Steadfast will acquire Calliden Group, a Sydney-based holding company that owns an insurer and managing general agency, in a deal worth about 105.4 million Australian dollars (\$98.4 million). Munich Re unit Great Lakes Australia will then immediately acquire Calliden Insurance Ltd., Calliden’s authorized insurer, and the portion of Calliden’s small business and middle-market agency business that is already underwritten by Great Lakes, for about AU\$40 million (\$37.4 million). Munich Re will work with the Calliden team to establish a new managing general agency based on the portfolios acquired, Munich Re said in a statement. Steadfast will retain underwriting agency Calliden Agency Services Ltd.

Alliant releases oil and gas risk index

■ Alliant Insurance Services Inc.’s emerging markets group has released its annual “Frontier Energy Risk Index” rankings of political risks for the oil and gas industry. The rankings are based on macroeconomic and political risk loss data, the Newport Beach, California-based broker said in a statement. Ecuador had the largest positive gain at 22% over 2013 because of its improving macroeconomic forecast. Algeria and Libya are also considered less risky because of a “marginal reduction in war and civil war risk” in those countries, according

to the rankings. Equatorial Guinea, Republic of the Congo, Egypt, Gabon, Angola and Kazakhstan all had positive gains from 2013. Yemen remained the same. Egypt’s rating increased by 5%, but investors and companies should still be cautious, the report says. Indonesia had the biggest year-to-year downgrade with a 62% ratings drop, largely due to new restrictions on foreign investments. Meanwhile, military tensions with China in the South China Sea

mean that Vietnam is risky for oil and gas companies and investors. Thailand and Malaysia were also downgraded from their 2013 ratings.

Amlin posts \$247.9M in first-half profit

■ Amlin P.L.C. posted a profit of £148.5 million (\$247.9 million) for the first half of 2014, down 8% from

the same period a year previously, affected in part by an adverse foreign exchange swing of £24.6 million (\$41.1 million). The London-based insurer and reinsurer, which underwrites through syndicate 2001 at Lloyd’s of London and operations in the Netherlands and Switzerland, posted a combined ratio of 87% for the half compared with 85% in 2013. Amlin recorded gross written premiums of £1.89 billion (\$3.6 billion) for the first half of 2014, up 2.7%, and investment

income of £54.9 million (\$91.7 million), down 18.5%. The largest losses to hit the company this year were £25 million (\$41.7 million) from hailstorms in Europe and £24 million (\$40.1 million) from a tornado in Nebraska. Exposures to the loss of Malaysia Airlines flight MH17, shot down over Ukraine in July, and damage to airlines after violence at Tripoli airport in Libya would total less than £25 million (\$41.7 million), Amlin said in a statement.


Your resolve

+

Our resources

=

They can rebuild their lives

 **Swiss Re**

As losses from natural catastrophes increase, so does the risk. And so, inevitably, do the cost and complexity of covering it. So what better way to confront the forces of Nature than by joining forces with our clients and leveraging every ounce of our combined expertise and resources? Take what’s happening in Brazil. Our flood risk expertise and proprietary NatCat modelling help our clients to start providing flood protection on a scale that was, until now, unavailable. And, to some, maybe even unthinkable.

We’re smarter together.

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EDITORIAL

40 YEARS OF ERISA

Aniversaries are times for reflection. With the 40th anniversary this week of the signing of the first and still most significant pension reform legislation — the Employee Retirement Income Security Act — we have a few thoughts on the law. Forty years after ERISA’s passage, as we report on page 1, the law’s successes are striking. ERISA’s creation of a federal pension insurance agency — the Pension Benefit Guaranty Corp. — put an end to plan participants losing some, if not all, of their promised benefits, when employers went out of business and hadn’t fully funded those benefit promises.

Another huge ERISA achievement: mandating pension plan vesting schedules so that employees did not have to work decades to earn a benefit.

And subsequent federal laws amending ERISA also were significant and beneficial, including a 1984 measure — the Retirement Equity Act — assuring that spousal benefits were protected in divorce situations.

That said, ERISA’s 40th anniversary coincides with a disturbing trend: the massive erosion of defined benefit pension plans, which for decades were a mainstay of corporate America’s retirement programs.

Indeed, as recently as 1998, 90% of Fortune 100 companies offered a defined benefit plan to new salaried employees.

But now, just 30% still offer the plans to new employees.

How does one explain such a huge drop in defined benefit plan sponsorship? Certainly, increased lifespans are a reason. With retirees living longer, the cost of providing lifetime annuities is rising, and that growing cost is one that some companies say they can no longer afford.

That said, federal lawmakers bear some of the blame. Take cash balance pension plans, a promising and attractive plan design that emerged in the mid-1980s. Questions later arose on whether the plans’ basic design ran afoul of age discrimination law. Regulators ducked the question, as did federal lawmakers, and many employers, once interested in adopting the plans, lost patience and decided not to offer them.

And lawmakers continue to do things that have accelerated the flight of employers from defined benefit plans. Almost annually, there is tinkering of pension rules — often with a view toward boosting federal revenues — that increases the administrative burden of offering pension plans.

We hope ERISA’s 40th anniversary serves as a call to action to federal lawmakers that they should consider what steps they can take to encourage, not discourage, employers to offer the plans.

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

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Letters to the Editor, *Business Insurance*,
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SCHILLERSTROM



COMMENTARY

TIME TO RECOGNIZE HIDDEN RISKS OF SLEEP DISORDER EPIDEMIC

As employers review their wellness programs, they should consider addressing a problem suffered by millions of Americans that is contributing to health disorders, weight gain, lost productivity and motor vehicle accidents.

About 70 million Americans suffer from sleep problems. Among them, nearly 60% have a chronic disorder, adding an estimated \$15.9 billion to the nation’s health care tab, according to the National Center on Sleep Disorders Research.

While sleep deprivation has been known to reduce performance and alertness, it also is being increasingly associated with numerous serious medical conditions, including hypertension, diabetes and depression. In fact, people who experience chronic sleep disturbance could face an earlier onset of dementia and Alzheimer’s, according to a recent study by Temple University in Philadelphia.

Sleep deprivation also may be contributing to our nation’s obesity epidemic. Researchers at the University of California at Berkeley have found that when people are deprived of sleep for just one night, they crave junk food because they experience a sharp reduction in activity in the frontal cortex, a higher-level part of the brain where consequences are weighed and rational decisions are made.

There is little doubt that sleep deprivation increases the risk of traffic accidents. The National Highway Traffic Safety Administration estimates that drowsy driving is responsible for at least 100,000 automobile crashes, 71,000 injuries and 1,550 fatalities each year. Aside from falling asleep behind the wheel, the inattentiveness and loss of concentration that can occur



**JOANNE
WOJCIK**

SENIOR EDITOR

from sleep loss may lead to a level of impairment equivalent to being legally drunk.

The truck driver who plowed into the car carrying comedian Tracy Morgan last June apparently hadn’t slept for 24 hours prior to the accident, according to court papers charging the driver, who worked for Bentonville, Arkansas-based Wal-Mart Stores Inc., with vehicular homicide and injury by auto-

mobile. Mr. Morgan suffered serious injuries, and fellow passenger James McNair, known as comedian Jimmy Mack, died in the crash.

In certain circumstances, chronic sleep deprivation may actually lead to premature death, such as for sufferers of fatal familial insomnia, a rare genetic disorder that causes fragmented and disrupted sleep to the point where the affected person is unable to sleep at all.

When I was a teenager, in the days before “snooze buttons” on alarm clocks, I used to beg my dad to “please let me sleep for 10 more minutes” each morning when he woke me to get ready for school.

“You’ll sleep enough when you’re dead,” he’d bark back, sometimes pulling me out of bed by my toes.

Well, my dad was right. He’s been “sleeping” for 24 years now, after dying — perhaps not coincidentally — in his sleep in 1990 at the age of 59.

When’s the last time you had a good night’s rest?

SPECIAL REPORT

International

Reinsurance Market

Softening market a catalyst for reinsurer M&A

PAGE 14

Southeast Asia a target for reinsurer growth

PAGE 14

Reinsurance market investors look for opportunities beyond the U.S.

BY SARAH VEYSEY

Falling returns on insurance-linked securities for peak U.S. catastrophe zones is one factor that may prompt specialist funds and other capital providers to diversify into European property catastrophe risks as well as other business lines and territories.

While commentators believe that alternative capital will remain in the insurance and reinsurance sector, the extent to which that capital will seek to diversify depends in large part on the nature of the capital provider and the ability to model the underlying risks, experts say.

While they are declining for certain risks, returns are still attractive to investors, sources said, and offer them a form of diversification as their returns typically are uncorrelated with those in the wider financial sector.

According to sources, catastrophe bond issuance in the second quarter of 2014 reached \$4.5 billion.

The first quarter of 2014 saw \$1.4 billion of issuance, according to research by Aon Benfield Group Ltd.

“Our view is that capital is going to continue to flow into the sector, and we will continue to see changes to the way that buyers buy reinsurance coverage,” said Paul Schultz, president at Aon Benfield Securities in Chicago.

While it is not possible to say if rates for U.S. property catastrophe coverage in peak zones have reached the bottom, it is likely that Europe and Asia will be areas where ILS funds and other capital providers will show increased interest, Mr. Shultz said.

This year has seen the placement of the first indemnity-based catastrophe bond for European windstorm risks, a \$263 million bond providing Trieste, Italy-based Generali Group with per-event coverage for European windstorms over a three-year period.

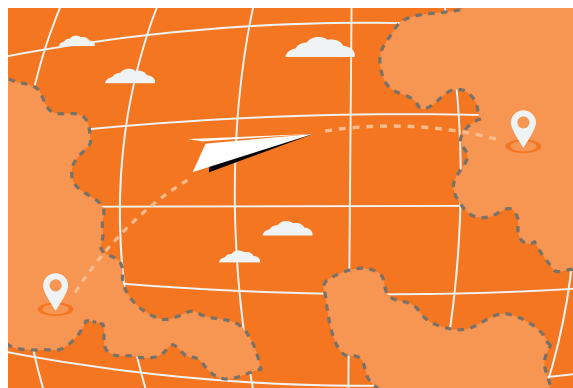
If buyers see the terms and conditions — as well as the price — of the bonds as favorable, this will aid development of ILS for European risks, said Mr. Schultz.

In addition, he said, cedents have a favorable view of an indemnity trigger.

“U.S. hurricane is always going to be the dominant risk” underwritten by alternative capital providers, said Maren Josefs, a credit analyst at Standard & Poor’s Corp. in London.

Risks that are able to be modeled and for which there is plentiful data, such as U.S. windstorm, are deemed the most suited to ILS structures.

While large pension funds allocate a small percentage of their overall investments to insurance and reinsurance as a diversification strategy, specialist ILS funds also are looking for diversification in the perils, risks and geographies they underwrite, Ms. Josefs said.



‘At this point, it is probably more exploration than execution, but I would expect that to change over the next 12 to 18 months.’

Ed Hochberg, Jardine Lloyd Thompson Capital Markets

Aside from peak U.S. property catastrophe zones, reinsurance buyers are exploring using ILS and other alternative capital solutions, notably for European wind coverage, said Ed Hochberg, CEO of Jardine Lloyd Thompson Capital Markets in New York, a unit of London-based brokerage Jardine Lloyd Thompson Group P.L.C.

“At this point, it is probably more exploration than execution, but I would expect that to change over the next 12 to 18 months,” Mr. Hochberg said, as buyers and sellers become more comfortable with covering different risks.

It is clearly advantageous for buyers to have a variety of capital sources and products from which to choose, he said.

In areas where reinstatements are not required, it is easier and less expensive for capital market participants to underwrite coverage.

In the early days of ILS, funds typically were focused on returns, said Mr. Hochberg, while now they are seeking diversification.

In addition, rates-on-line for some coverage outside peak U.S. property catastrophe zones have been low and not hugely attractive to ILS players, Mr. Hochberg said.

But now some funds want more balanced portfolios by, for example, becoming involved in writing less volatile business outside U.S. peak zones, Mr. Hochberg said.

While capital providers likely will seek greater diversification in areas such as European wind risk, such coverage will be modelable and “data-driven,” said Patrick Hartigan, leader of the treaty reinsurance team at Beazley Group P.L.C. in London.

zley Group P.L.C. in London.

While floods are a huge risk for all buyers, the lack of data on Europe and the difficulty modeling the risk make it a less viable area for capital markets players, he said.

Since catastrophe rates have fallen for high-risk areas such as Florida, with consecutive years of 15% to 20% rate decreases, there is greater impetus for funds to look outside those peak zones for diversification and profit, Mr. Hochberg said.

Many reinsurance buyers in Europe, especially medium-size buyers, have longstanding relationships with traditional Continental European reinsurers that they want to preserve, he said.

In addition, many European cedents have felt uncomfortable about entering into contracts with unknown counterparties, a contrast to their often long-term relationships with traditional reinsurance providers, said Mr. Hartigan.

This could be one factor that has constrained newer capital providers’ ability to underwrite coverage in Europe, Mr. Hochberg said.

But the upcoming Solvency II rules for insurers and reinsurers in Europe, which are slated to go into effect in 2016, will require companies to examine how they handle their credit risks and may result in some considering the use of ILS products to mitigate them, he said.

While Solvency II may not be the principal driver for buyers looking to capital markets for coverage, it may play a part, Mr. Hartigan said.

Solvency II’s recommendation that companies have protection up to one-in-200-year levels may prompt some to access capital markets — which can provide that level of coverage — to meet that, he explained.

As well as geographical diversification into Europe, ILS capital providers likely will start to write different lines such as casualty or primary insurance, Mr. Shultz said. For investors in ILS, underwriting classes such as casualty will increase their diversification, while for buyers it will give greater choice, sources explained.

Capital providers also may seek to diversify into liability coverage or aviation lines on which there is good historical loss data to design coverage, Mr. Hochberg said.

While a perceived lack of quality data has held back development of ILS in some areas, recent cat bonds for European and Japanese risks with indemnity triggers suggest that investors are willing to take on those risks, Ms. Josefs said.

But S&P would “sound a note of caution” about the extent to which all investors fully understand those risks, she said.

SOFTENING MARKET EXPECTED TO DRIVE REINSURER M&A TRANSACTIONS

BY DOUGLAS McLEOD

The reinsurance industry is likely to see more mergers and acquisitions in the coming months as firms seek to grow in a generally soft market and put excess capital to work.

Larger reinsurers may acquire smaller companies — including direct insurers — to expand product lines or geographic scope, while smaller reinsurers may combine to better compete with larger players, industry sources say.

“If you want growth and can’t get it organically, you are looking at acquisitions,” said Steven K. Bolland, New York-based managing director of Marsh, Berry & Co. Inc. and the former president of Gill & Roeser Inc., which MarshBerry acquired in July.

“We do expect increasing levels of M&A,” said Brian Schneider, senior director of insurance at Fitch Ratings Inc. in Chicago, “but we’ve been expecting that for a while.”

Impediments that slowed deal-making in recent years remain, including management concerns about job security after a merger, and integration and regulatory risks. Hostile takeover bids have been rare, and experts differ on whether they may increase following Endurance Specialty Holdings Ltd.’s failed bid for Aspen Insurance Holdings Ltd.

While reinsurer acquisitions in the past two years generally have been small — many involving runoff operations — others have aimed to expand a reinsurer’s geographical footprint and add profitable lines of business.

Bermuda-based Validus Insurance Holdings Ltd., for example, is in the process of buying Franklin Lakes, New Jersey-based specialty insurer Western World Insurance Group Inc., giving it a U.S. distribution platform; last year, Validus bought Longhorn Re, a Bermuda-based crop reinsurer. Similarly, Scor S.E. of Paris last year acquired Generali Group’s U.S. life reinsurance business and Bermuda-based PartnerRe Ltd. purchased San Francisco-based accident and health underwriter Presidio Reinsurance Group.

Such deals may become more frequent as excess reinsurance capacity and shrinking demand pressure pricing and reinsurers’ bottom lines, observers say. Rein-

HOSTILE TAKEOVER BIDS RARE FOR REINSURERS

Hostile takeover bids have not been common in the reinsurance industry, and observers differ about whether that may change in the wake of Endurance Specialty Holdings Ltd.’s failed bid for Aspen Insurance Holdings Ltd.

Excess capital and generally soft prices have set the stage for mergers and acquisitions, but hostile bids’ pitfalls range from overpaying for a target to creating a poisonous atmosphere among new employees, observers say.

“The insurance industry is not a fan of hostile takeovers,” said Joseph Scheerer, principal and managing director at strategic adviser Stonybrook Capital in New York. “The reinsurance business, specifically, is a little clubby.”

“It’s a very rare type of event, especially for a company that’s not in play,” said Brian Schneider, senior director of insurance at Fitch Ratings Inc. in Chicago. He contrasted the Endurance/Aspen standoff with the bidding war that erupted for Transatlantic Holdings Inc. when it sought to be acquired, a war Alleghany Corp. ultimately won in 2011.

“Those are really hard deals to do,” John Wicher, principal of John Wicher & Associates in San Francisco, said of unfriendly offers. “When somebody boards your ship and throws the cap-

tain overboard, it’s not going to be a comfortable environment.”

A hostile bid might work in very limited circumstances, he said, such as if the acquiring company were willing to lose the target’s top management while making its offer attractive enough to keep the niche business’ underwriters and staff.

A hostile offer, particularly if it sparks a bidding war, also raises the risk of overpaying for a target company, said James Eck, a senior credit officer at Moody’s Investors Service Inc. in New York. “It’s hard to envision, given the challenges the sector faces,” he said, adding that an acquirer might be better off hiring competitors’ underwriting teams and working to expand the business organically.

But some see more hostile takeover bids in the future as excess capacity and convergence capital make it harder for reinsurers to grow organically.

If acquisitions are the only way to grow, “we’ll see more and more hostile takeovers,” said Steven K. Bolland, managing director of Marsh, Berry & Co. Inc. “It’s bound to happen,” he said. “Not everyone is going to go quietly.”

By Douglas McLeod

insurance capital hit a record \$555 billion at the end of the first quarter of 2014, and alternative capital continues to flow into the market, including a record \$4.5 billion in catastrophe bonds in the second quarter of 2014, most covering hurricane and earthquake risks, according to Aon Benfield Group Ltd.

Ceding insurers, meanwhile, have become more efficient in consolidating their global reinsurance programs, reducing demand and further pressuring rates, said Jason Porter, director and credit analyst at Standard & Poor’s Corp. in New York.

Smaller companies writing especially competitive lines, such as property catastrophe reinsurance, face not only dropping rates but also ongoing costs of modeling and other client services that larger reinsurers can absorb more easily, sources say.

Reinsurers have responded in recent years by using excess capital to buy back billions of dollars of their own shares. But as reinsurer stock values have climbed, buybacks have become less attractive and acquisitions potentially more so, Mr. Schneider said.

“As those valuations continue to increase, (there) could be a trend to greater flexibility to use stock

for acquisitions,” he said.

Still, potential M&As face hurdles: “While a lot of underlying forces support M&A, there are a lot of obstacles, too,” said Kevin Lee, senior credit officer at Moody’s Investors Service Inc. in New York.

One hurdle is a reluctance of top management to potentially lose their positions, even if a takeover makes sense for the company.

“If you sell your company, are you going to have a job? If you don’t, where do you go?” Mr. Bolland said.

“The music stops, and there are only so many chairs,” said John Wicher, principal of San Francisco-based advisory firm John Wicher & Associates.

Deals also face integration risks, such as combining different underwriting cultures, and regulatory risks, including Solvency II standards, sources say.

The best merger candidates, observers say, are willing partners with complementary business lines whose post-merger management structure is agreed to in advance.

“Those are the types (of deals) that are more likely to have success going forward,” Mr. Schneider said.

Reinsurers target growing Asian sector

BY J. NILS WRIGHT

Reinsurance buyers in Southeast Asia continue to benefit from soft rates as reinsurers target the region’s fast-growing economies.

With insurance premiums growing by double digits in several countries in the region, reinsurers and insurers expect more growth as the middle class expands.

As a result, Singapore has developed into a reinsurance hub for Southeast Asia, with many international reinsurers starting operations in the city-state.

Regulators in Singapore and elsewhere are introducing risk-based capital rules and other regulations associated with mature insurance markets.

While pricing varies depending on the risk, reinsurance rates generally are flat in the region, experts say.

At the same time, exposures are rising, with the markets seeing billions in losses from the 2011 floods in Thailand.

Most claims have been settled from the floods, but a few business interruption claims still are being finalized, said Duncan Buchanan, CEO of Marsh PB Co. Ltd. in Bangkok.

But the losses have not stifled the region’s overall growth.

Thailand had the fastest nonlife premium growth in the region in 2013 at 17.2%, followed by the Philippines at 12.8%, Indonesia at 7.7% and Malaysia at 2.7%, according to Swiss Re Ltd. Much of that growth has been in personal lines, but commercial insurance penetration is still growing slowly.

Insurance penetration rates in Asia remain low (see chart page 15).

“With the rising accumulation of wealth of the middle class and the impact of urbanization, we expect insurance penetration to increase at unprecedented levels in the coming 15 to 20 years,” said Francis Savari, Singapore-based head of client portfolio management in Southeast Asia at Munich Reinsurance Co.

Reinsurance pricing remains relatively soft, much like other markets around the world.

“The market is still softening, as there is more than adequate capacity for most lines of business” across Southeast Asia, said Malcolm Steingold, CEO of Asia Pacific for Aon Benfield Group Ltd. “As a consequence, we would not expect to see any rate increases other than those driven by loss experience within a specific country in relation to a specific treaty.”

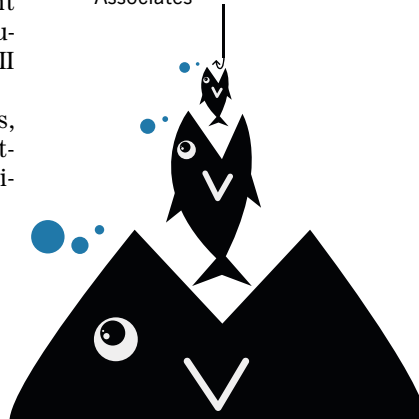
As the market remains competi-

“If you sell your company, are you going to have a job? If you don’t, where do you go?”

Steven K. Bolland,
Marsh, Berry & Co.
Inc.

“The music stops, and there are only so many chairs.”

John Wicher,
John Wicher &
Associates



EXPANSION POTENTIAL

Insurance penetration rates in Southeast Asia are significantly lower than the 3.2% rate for the U.S. and 3% for Europe. Property/casualty insurance penetration — or premiums compared with gross domestic product — in 2013 was:



Source: Ernst & Young L.L.P.

tive and coverage demand increases, regulators are updating and introducing regulations. Countries in the Association of Southeast Asian Nations have taken steps to harmonize their insurance laws including instituting risk-based capital regulations.

Implementing risk-based capital laws in Thailand and Malaysia in 2011 led to consolidation in the markets, but also to a more financially sound industry, said Sharon Ooi, managing director of client markets Asia in the Singapore office of Swiss Re.

“A number of companies are stronger now on a capital basis and they are also stronger from a balance-sheet perspective,” Ms. Ooi said. “That’s allowed them to be more efficient in reinsurance buying.”

Reinsurers are keen to expand

their portfolios, but challenges remain, Ms Ooi said, such as insufficient rates in the primary insurance markets, limited access to accurate data to gauge exposures and insufficient modeling of catastrophe exposures.

The region is exposed to typhoons, earthquakes, tsunamis, inland flooding and volcanic eruptions. Prior to the 2011 Thai floods, however, few natural disasters resulted in significant insured losses due to low insurance penetration rates. The floods hit hard, causing \$30 billion in damage, of which about \$12 billion was insured, according to Aon Benfield. Most claims paid went to multinational companies operating factories in Thailand.

The Thai floods were a watershed moment for the insurance industry in Southeast Asia.

“The Thai floods had not been modeled and they caught reinsurers and insurers unprepared,” said Kent Chaplin, CEO of Lloyd’s of London (Asia) Pte. Ltd. in Singapore. “Asia-Pacific is probably one of the most cat-exposed regions in the world. That’s both an opportunity and a challenge.”

“One issue that’s common to Southeast Asian nations is concentrations of exposures in industrial parks,” said James Nash, Tokyo-

based chief executive of the Asia-Pacific region for reinsurance brokerage Guy Carpenter & Co. L.L.C. “We have built our own suite of catastrophe and flood models and also developed a database to identify exposures in the industrial parks across the region.”

To tap the region’s premium growth, global reinsurers have opened offices in centrally located Singapore, which is quickly evolving into a reinsurance hub thanks to its favorable regulatory and tax environment. They include Lloyd’s of London, Munich Re, General Re Corp., Allianz S.E. and XL Re Ltd.

The Monetary Authority of Singapore says 31 reinsurers operate in the country; 20 are general reinsurers, eight are multiline reinsurers and three are life reinsurers. Combined, they wrote 3.8 billion Singapore dollars (\$3.04 billion) in offshore premiums in 2013, up 44% since 2009. China accounted for most of that with 15.7%, followed by Australia at 15.2%, Japan at 11.6% and India at 11.2%.

As economies grow, Singapore likely will continue playing a central role for reinsurance in Asia.

“There is very much an agenda to develop Singapore into a reinsurance hub akin to Bermuda,” said Aon Benfield’s Mr. Steingold.

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SPECIAL REPORT

Midyear

Financial Analysis

Health insurers' profit down despite enrollment gains

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Brokers report solid results in first half

PAGE 18

Insurers see slide in profits

Lower rate increases, frequent losses, poor investment returns dent results

BY MARK A. HOFMANN

PROPERTY/CASUALTY INSURERS' 2014 MIDYEAR RESULTS

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

Insurer	Net premiums written 2014	% increase (decrease)	Net income 2014	% increase (decrease)	Combined ratio 2014**
Liberty Mutual Insurance Co.	\$17,968*	4.7%	\$665	(13.2%)	100.0%
American International Group Inc.	\$17,547	(0.9%)	\$4,682	(5.2%)	99.9%
The Travelers Cos. Inc.	\$12,035	5.4%	\$1,735	(4.7%)	90.5%
Ace Ltd.	\$8,744	6.8%	\$1,513	(18.0%)	88.2%
Chubb Corp.	\$6,285*	2.1%	\$948	(23.2%)	90.0%
The Hartford Financial Services Group Inc.	\$5,171	2.9%	\$28	NM***	92.7%
CNA Financial Corp.	\$3,421*	(2.1%)	\$280	(36.9%)	101.4%
XL Group P.L.C.	\$3,353*	(4.3%)	(\$23)	NM***	89.0%
W.R. Berkley Corp.	\$3,015	10.9%	\$350	50.2%	94.2%
Hanover Insurance Group Inc.	\$2,449	5.6%	\$137	14.2%	97.5%
Cumulative	\$79,988	3.0%	\$10,315	(11.0%)	94.3%

*Only property/casualty premiums. **Includes dividends. ***Not meaningful. Source: Company reports

A slowdown in rate increases, an uptick in weather-related and other property losses, and ongoing low investment returns weighed on the largest commercial property/casualty insurers' first-half results.

That isn't to say insurers weren't profitable; by and large they were. But most did report declines in net income for the first six months of 2014 compared with the same period in 2013.

For the sample of large commercial insurers as a whole, net written premiums actually grew 3% to a cumulative \$79.99 billion for the first six months of the year. But consolidated revenue for the group dropped 2.6% to \$105.35 billion, and net income dropped 11.0% to \$103.14 billion, with only two of the 10 insurers reporting an increase in net income year over year.

W.R. Berkley Corp. posted the largest percentage gains in net premiums written, consolidated revenue and net income of the group during the first half. XL Group P.L.C. had the largest percentage declines in net premiums written and net income (see chart). Meanwhile, The Hartford Financial Services Group Inc. had the largest percentage drop in consolidated revenue.

The end of significant rate increases played a role in their collective performance.

"Clearly, we're seeing a slowing in pricing increases," said Gloria Vogel, senior vice president at Drexel Hamilton L.L.C. in New York. She noted that Dallas-based electronic insurance exchange MarketScout's July report showed that commercial property/casualty insurance rates increased on average only 1.5% over a year ear-

lier. As a result, insurers are looking for new ways to turn a profit, she said.

"The trend is that because the larger, particularly property, lines are so competitive, there seems to be more focus on using data analytics to price individual risks or focusing more on smaller to midsize accounts where maybe relationships matter more and pricing is less competitive — smaller, midsize specialty type accounts," she said. "But if everybody goes after that market, that market won't stay very attractive for long."

"We've seen a distinct slowing in the level of rate increases being achieved, and that has gradually led to a lower level of margin improvement," said Mark Dwelle, director of insurance equity re-

search at RBC Capital Markets, a unit of RBC Dominion Securities Inc. in Richmond, Virginia. "The second quarter was really kind of a transition quarter. It was the last quarter where you could say things are getting better and better. We're going to be using words like 'slowly' in the future."

The rate trajectory "was negative and getting worse on property and positive and getting worse on the casualty" side of underwriting, said Meyer Shields, managing director at Keefe, Bruyette & Woods Inc. in Baltimore.

"I would characterize the first half as a relatively strong half and profitable, although below the comparable results from the first half of 2013," said John L. Ward, CEO of Cincinnati Partners

L.L.C. in Loveland, Ohio. "While it was a relatively strong first half, it is apparent there are headwinds that the industry will have to deal with going forward."

"The favorable reserve development that occurred in the first half is about on par with the first half of 2013," Mr. Ward said. "Overall, inflation continues to be very low, and that has helped with the favorable reserve development in the first of '14. It was higher than I expected and cannot continue."

Although catastrophe losses tend to draw attention as insurers announce quarterly results, the first half of this year was marked by property losses that didn't reach the catastrophe level as defined by Verisk Analytics Inc.'s Property Claim Services operation, which defines a catastrophe as an event that causes "\$25 million or more in direct insured loss-

es to property and affects a significant number of policyholders and insurers."

"There have not been a lot of declared catastrophes," said Mr. Dwelle. But when the weather turns severely cold and there are a lot of burst pipes, it doesn't necessarily get a catastrophe number from PCS, he said.

"It's something that does happen from time to time, and I think it's something that's more evident in commentary where results are generally otherwise good," he said.

"We saw in the first and second quarters unusual and unexpected levels of noncatastrophe losses," said Mr. Shields.

In addition, insurers still had to contend with the issue of continued low interest rate income in the first half of this year, he said, adding that interest rates are actually getting worse.

MIDYEAR FINANCIAL ANALYSIS INSURERS

Reform law pushes health insurer revenues higher

BY MATT DUNNING

'Kitty cats' hit insurers' bottom lines

The Property Claim Services unit of Verisk Analytics Inc. doesn't have to declare the cause of insured property damage a catastrophe for insurers to feel the losses.

That was underscored in the first half of this year as underwriters tallied costs of property-damaging events, whether they were weather-related or not.

For example, Chubb Corp. Chairman, President and CEO John D. Finnegan said in a statement that "our results this quarter were adversely impacted by catastrophe and non-catastrophe losses related to severe weather in the United States as well as an unusually high level of homeowners and commercial fire losses."

Hartford Financial Services Group Inc. also noted that "elevated weather losses" affected its second-quarter performance.

Gloria Vogel, a senior vice president at Drexel Hamilton L.L.C. in New York, said non-catastrophe weather events involving hail, wind and fire losses are "very local in nature."

"The industry's been calling these 'kitty cats' — not catastrophes," Ms. Vogel said. "But pennies begin to end up a dollar."

By Mark A. Hofmann

"If interest rates continue to stay low, investors will still look for alternative sources of income. The demand will still be there unless the Fed decides to change direction," said Ms. Vogel.

"The biggest problem the industry faces is growth," she said. "How do you grow in an economy that's in recovery but is still pretty sluggish?"

Looking ahead, "we're in a better underwriting position," said Mr. Shields, noting workers compensation rates have gotten better and commercial auto has "got some ways to go but its gotten better."

Mr. Ward's outlook was optimistic: "The surplus for the industry is at record highs, so the financial strength and resiliency of the industry is quite positive," he said.

The influx of new customers buying health insurance through public exchanges drove moderate revenue and enrollment growth for the nation's largest health insurers during the first half of the year, but it also dampened their collective profit.

The five largest publicly traded U.S. health insurers grew their combined revenue to \$170.28 billion, an 11% increase over the first half of 2013. However, their combined net income increased just 2.5% to \$6.97 billion (see chart).

Aetna Inc. reported a big jump in revenues over the same period last year due mainly to its 2013 acquisition of Coventry Health Care Inc.

The group's 3% increase in medical enrollments was attributable largely to individual medical plans purchased through federal and state insurance exchanges established under the Patient Protection and Affordable Care Act, as well as modest gains in Medicare and Medicaid enrollees, analysts said.

However, increased medical utilization and low pricing of certain health plans purchased by public exchange enrollees eroded insurers' profit through the first half of 2014, with three of the five posting declines compared with the 2013 first six months.

"What we're seeing is the industry's real absorption of the health care reform law," said Jennifer Lynch, a New York-based research analyst at BMO Capital Markets. "Going into 2014, everyone knew there were going to be a lot of moving parts and adaptations required, but we're into the phase now where we're beginning to see what enrollment looks like and what claims look like."

Analysts said the exchange-

MAJOR U.S. HEALTH INSURERS' 2014 RESULTS

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

Insurer	2014 revenue	% increase (decrease)*	2014 enrollment	% increase (decrease)*	2014 net income	% increase (decrease)*
UnitedHealth Group Inc.	\$64,282	5.8%	44.9	(0.2%)	\$2,507	(-4.6%)
WellPoint Inc.	\$36,333	3.0%	37.3	4.5%	\$1,432	(15.0%)
Aetna Inc.	\$28,504	35.2%	23.1	5.0%	\$1,214	18.3%
Humana Inc.	\$23,934	15.0%	13.6	9.7%	\$712	(20.3%)
Cigna Corp.	\$17,229	6.6%	14.2	0.7%	\$1,101	95.9%
Total	\$170,282	10.5%	133.1	3.0%	\$6,966	2.5%

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

based products' negative effect on profitability would have been more pronounced without the support of stabilization programs built into the health care reform law to protect insurers from adverse risk selection and pricing volatility within the exchanges, including the transitional reinsurance and the temporary risk corridor programs — both of which will end in 2016 — and the permanent risk adjustment program.

Through the first half of the year, Humana Inc. reported \$240 million in recoveries under the law's stabilization programs to offset medical claim costs and premium deficiencies within its exchange-based products. Aetna and Cigna Corp. reported recoveries of \$50 million and \$60 million, respectively.

UnitedHealth Group Inc. and WellPoint Inc. have not reported any material recoveries under the stabilization programs.

While the spikes in utilization and pricing miscues were anticipated, analysts said how much health insurers rely on the risk mitigation programs in the future

remains to be seen.

"There's still a lot that we don't know in terms of how this is all going to play out over the remainder of this year and into 2015," said Stephen Zaharuk, senior vice president at Moody's Investors Services Inc., New York. "We've seen that utilization for the exchange-based members is high compared to what you'd see in the general population, but we also know that the late-March surge in exchange enrollments was mostly comprised of younger, healthier individuals, so maybe that will balance out some of the early utilization."

Despite the uncertainty surrounding the public insurance exchanges, all five health insurers indicated they plan to expand their exchange participation in 2015.

For employer-sponsored health coverage, analysts said the five insurers' organic growth in group enrollments was mostly flat, with only Humana and Aetna reporting increases in their fully insured group enrollments in the first half.

However, analysts said emerging private health insurance exchange products may soon produce a

cross-current to the steady stream of employers moving from fully insured to self-funded plans.

"What we've seen in the employer-based segment this year is the continued migration of fully insured accounts over to fee-based administrative services products," said Vishnu Lekraj, a Chicago-based senior research analyst at Morningstar Inc. "I expect that to slow down at some point, as fully insured products begin to grow with the exchange products gaining in acceptance."

So far this year, analysts said employer uptake of private exchanges has been limited mostly to large companies that have moved mainly to exchanges operated by benefits brokers and consultants.

"We've seen that the activity levels in those exchanges has been lower so far this year than what we saw through the back half of 2013," said David Windley, a Nashville, Tennessee-based managing director at Jefferies & Co. Inc. "You had this cohort of early adopters that went ahead with the move last year, but it doesn't appear that we're seeing a lot of fast followers in that market."



HEALTH PLANS SIGN ON TO INSURANCE EXCHANGES

Midway through the year, four of the five largest U.S. health insurers have signaled plans to increase their participation in public health insurance exchanges despite early profit declines and pricing uncertainty.

Additionally, analysts said health insurers have expressed little concern about a pair of federal lawsuits seeking to restrict the availability of premium subsidies for coverage purchased in the 36 federally facilitated public exchanges.

"I would have expected at least a question or two from investors about those cases, in terms whether it changes their strategies for 2015," said Stephen Zaharuk, New York-based senior vice president at Moody's Investors Services Inc.

However, he said the lawsuits are predicted to last well into 2015, if not longer, and are

unlikely to affect insurers' operational strategies for the coming year.

"I think insurers see this issue as disturbing and potentially problematic, but for now they're going to stay a steady course until they hear otherwise," Mr. Zaharuk said.

Meanwhile, UnitedHealth Group Inc. said in July that it will enter public exchanges in as many as 24 states next year, up from the current four states in which it offers exchange-based policies.

"We've been told UnitedHealth expects the risk pool to get bigger and the new exchange enrollees in 2015 to generally be healthier, which makes for a better operating environment," said David Windley, a Nashville, Tennessee-based managing director at Jefferies & Co. Inc.

Aetna Inc. and Cigna Corp. said they also plan to enter new public exchange markets

in 2015. Both said they will offer exchange-based policies in Georgia, while Cigna said it also will enter public exchanges in Maryland and Missouri.

Humana Inc., which currently offers coverage through exchanges in 14 states, has not yet announced its plans for 2015.

WellPoint Inc., which will change its name to Anthem Inc. at the end of the year, already participates in public exchanges in all 14 states in which it operates.

Analysts said the name change highlights the company's focus on enhancing brand recognition in the public exchanges.

"It makes sense as the sector moves toward selling directly to consumers via public and private exchanges," Mr. Zaharuk said. "In this environment, brand identification and familiarity is an important advantage."

By Matt Dunning

Brokers see revenue growth as economy improves

BY MATTHEW LERNER

MIDYEAR
FINANCIAL
ANALYSIS
BROKERS

Commercial insurance brokers posted solid first-half results amid a slowly improving economy that boosted organic growth.

The top five publicly traded bro-

kers improved their collective revenue by 7.7% to reach \$17.32 billion in the first six months of 2014, and their collective net income by 10.4% to reach \$2.07 billion (see chart, next page).

Both Arthur J. Gallagher & Co.,

which surpassed Willis Group Holdings P.L.C. in first-half revenue, and Brown & Brown Inc. reported double-digit revenue gains due in large part to a series of acquisitions, analysts said.

Aon P.L.C. posted the largest percentage increase in net income, driven largely by operating mar-

gin gains in its risk and human resources solutions units as well as \$100 million in savings in its ongoing restructuring of Aon Hewitt.

However, brokers with large reinsurance brokerage operations — such as Aon, Willis and Marsh & McLennan Cos. Inc. — face a

challenging reinsurance rate environment, analysts said.

In addition, brokers' private health insurance exchanges did little to bolster brokers' bottom lines (see story below).

First-half 2014 results were "solid" and brokers did "pretty well" overall, said Greg Dickerson,

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JURY'S OUT ON NASCENT EXCHANGES

While the largest publicly traded commercial insurance brokers enjoyed solid first-half results, analysts say the health insurance exchanges they have established did not provide material contributions to their earnings.

"One thing I'm keeping an eye on is the development of the health care exchanges," said Greg Dickerson, New-York-based analyst at Fitch Ratings Inc. "I think right now we're in the very early stages of that business, so you haven't seen that business making a meaningful financial impact for brokers."

Marsh & McLennan Cos. Inc. and Aon P.L.C. "are making a lot of investments in their private exchanges, which I think down the line could reap a lot of benefits," said Julie Herman, New York-based analyst at Standard & Poor's Corp. "But you're not seeing that impact in terms of a positive for 2014 results, because right now the investments are up front. You need to build out scale to get that accretive boost to margin"

The exchanges are still evolving and taking shape.

"There is uncertainty because so far there has been no consensus in terms of exactly what the full suite of products brokers deliver to their clients should be," said Timothy J. Cunningham, managing director at Chicago-based investment banking and consulting firm Optis Partners L.L.C. "Brokers have built out a lot of tools and a lot of value-added features and analytics, but there's still a big unknown in terms of where that business is going."

By Matthew Lerner

New-York-based analyst at Fitch Ratings Inc. “You see organic growth in positive territory across the board, and margins have held up pretty well also.”

“Most brokers had overall low- to mid single-digit organic growth while margins on the whole were relatively stable,” said Julie Herman, New York-based analyst at Standard & Poor’s Corp.

“I would say organic growth continued to hold up well,” said Dan Farrell, managing director at Sterne Agee Group Inc. in New York. “Generally speaking, organic growth is still trending well.”

Growth in insurance exposures brought about by the slow but steady improvement in the overall economy was a key element of brokers’ earnings.

“I think that’s actually the biggest driver of organic growth — continued moderate economic and exposure improvement,” Mr. Farrell said. “I think the brokers can continue to have positive organic growth if the economy is growing and as exposures are growing.”

“You have more construction projects, businesses and payrolls are expanding — though not at a rapid rate but at least in positive territory — so you’re seeing some incremental insured exposure growth,” Mr. Dickerson said.

Ms. Herman said she is seeing steady to gradual improvement in insured U.S. exposures and “stabilized higher growth in emerging markets,” but Europe remained “a little fragile.”

But on the reinsurance front, soft prices “certainly presented a headwind for those brokers that have significant reinsurance practices,” Mr. Dickerson said.

“Reinsurance brokerage is the one area where we’re seeing some signs of some weakening of the organic growth, and that’s because the pricing declines are more severe there,” Mr. Farrell said.

Brokers such as Marsh, Aon and Willis, and to a smaller degree Gallagher, also faced foreign currency exchange issues that “hurt the global brokers a little bit in the first half of the year,” Ms. Herman said.

While acquisitions boosted Gallagher and Brown & Brown, integrating the business may pose challenges.

“Gallagher has made what for them has been a series of very large acquisitions, some internationally, outside their core business in North America,” Mr. Dickerson said of Gallagher’s purchase in the past year of brokerages in Australia, New Zealand and the United Kingdom.

“I think that’s going to be somewhat of a distraction for them. They’re going to have to be integrating fairly sizable operations — sizable relative to their current size — in international markets

with which they may not be fully familiar,” he said.

Gallagher’s challenge “is going to be integrating those transactions,” said Timothy J. Cunningham, managing director at Chicago-based investment banking and consulting firm Optis Partners L.L.C.

“I think Brown & Brown faces the same challenge,” he said. “Though they’ve had a long history integrating acquisitions, the

Wright risk is fairly new,” Mr. Cunningham said of Brown & Brown’s \$602.5 million January acquisition of Wright Insurance Group L.L.C., including 15 offices in 11 states.

“It remains to be seen if (Gallagher and Brown & Brown) will slow down with their traditional, smaller fold-in deals given the large transactions they’ve been involved in,” said Mr. Cunningham.

FIRST-HALF 2014 BROKER RESULTS

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

Broker	2014 revenue	% increase (decrease)*	2014 net income ¹	% increase (decrease)*
Marsh & McLennan Cos. Inc.	\$6,564	5.6%	\$874	9.1%
Aon Corp.	\$5,866	0.9%	\$629	25.3%
Arthur J. Gallagher & Co.	\$2,094	44.1%	\$158	18.1%
Willis Group Holdings P.L.C.	\$2,032	4.7%	\$293	(9.6%)
Brown & Brown Inc.	\$761	15.2%	\$114	2.0%

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

Source: Company reports

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WORLD'S LARGEST PROPERTY/CASUALTY REINSURERS

The 10 largest reinsurers based on net premiums written for property/casualty reinsurance in 2013

Rank	Company and location	Phone	Officers	2013 net P/C reinsurance premiums written	% increase (decrease)	2013 combined ratio	2013 employees
1	Munich Reinsurance Co. Munich	49-89-3891-0 www.munichre.com	Nikolaus von Bomhard, chairman	\$22,545,908,000 ¹	2.9%	92.1%	45,755
2	Swiss Re Ltd. Zurich	41-43-285-2121 www.swissre.com	Walter B. Kielholz, chairman	\$14,542,000,000 ¹	0.7%	83.3%	11,574
3	Hannover Re S.E. Hanover, Germany	49-511-5604-0 www.hannover-re.com	Ulrich Wallin, chairman and CEO	\$12,905,802,000 ¹	3.9%	94.9%	2,419
4	Berkshire Hathaway Reinsurance Group Stamford, Connecticut	203-363-5200 www.berkshirehathaway.com	Ajit Jain, president	\$11,440,000,000	12.6%	95.1%	N/A
5	Lloyd's of London London	44-207-327-1000 www.lloyds.com	John Nelson, chairman; Inga Beale, CEO	\$11,363,667,000 ²	2.5%	80.5%	923
6	Scor S.E. Paris	33-1-58-44-7000 www.scor.com	Denis Kessler, chairman and CEO	\$5,931,910,400 ¹	5.9%	94.1%	2,315
7	Everest Re Group Ltd. Hamilton, Bermuda	441-295-0006 www.everestre.com	Dominic J. Addesso, chairman and CEO	\$5,004,821,000	22.6%	84.5%	1,063
8	PartnerRe Ltd. Pembroke, Bermuda	441-292-0888 www.partnerre.com	Costas Miranthis, president and CEO	\$4,479,116,500	18.0%	85.3%	1,112
9	Korean Reinsurance Co. Seoul, South Korea	82-2-3702-6000 www.koreanre.co.kr	Hyuk-Hee Won, chairman; Jong-Gyu Won, CEO	\$3,499,049,600 ^{3,4}	28.3%	97.9%	278
10	Transatlantic Holdings Inc. New York	212-365-2200 www.transre.com	Michael Sapnar, president and CEO	\$3,248,000,000	(18.5%)	89.9%	605

1 Euro 2013 = \$1.3744; 2012 = 1.3175. 2 British pound 2013 = \$1.6541; 2012 = \$1.6181. 3 South Korean won 2013 = \$0.00090; 2012 = \$0.00088. 4 Fiscal year ending March 31. N/A Not available
Source: BI survey, company reports

RECORD CAPITAL LEVELS

Light catastrophe losses helped total reinsurer capital reach a record in 2013, in billions of dollars.



*First nine months of 2013

Source: Aon Benfield Group Ltd.

PREMIUMS WRITTEN

Net premiums written by major U.S. property/casualty reinsurers, in millions of dollars

Year	Net premiums written	% increase (decrease)	Combined ratio*
2013	\$26,843	(8.9%)	86.8%
2012	\$29,481	11.7%	96.2%
2011	\$26,391	13.2%	107.2%
2010	\$23,305	(2.5%)	95.4%
2009	\$23,906	(0.1%)	93.5%
2008	\$23,920	5.3%	101.8%
2007	\$22,712	(12.1%)	94.7%
2006	\$25,834	2.0%	94.9%
2005	\$25,331	(11.9%)	129.4%
2004	\$28,759	(6.1%)	106.2%

*After dividends to policyholders

Source: Reinsurance Association of America

TOP 10 REINSURERS OF U.S. BUSINESS

The 10 largest property/casualty reinsurers of U.S. business based on gross premiums written in 2013, in millions of dollars

Rank	Company ¹	2013 gross premiums written	Parent home country
1	QBE North America	\$5,896	Australia
2	National Indemnity Co. ²	\$5,494	United States
3	Swiss Reinsurance America Corp.	\$4,941	Switzerland
4	Everest Reinsurance Co.	\$4,349	Bermuda
5	Munich Reinsurance America Inc.	\$4,267	Germany
6	XL Reinsurance America Inc.	\$3,380	Ireland
7	Transatlantic Reinsurance Co.	\$3,138	United States
8	Odyssey Reinsurance Co.	\$2,539	Canada
9	Partner Reinsurance Co. of the U.S.	\$1,623	Bermuda
10	General Re Corp.	\$1,206	United States

¹ Includes affiliated companies. ² Excludes results of General Re Group.

Source: Reinsurance Association of America

PREMIUMS CEDED

Top 10 countries for U.S. reinsurance premiums ceded to affiliated and unaffiliated offshore reinsurers, based on 2013 totals, in millions of dollars

Rank	Country	2013 total	% change from 2012	2013 affiliated cessions	2013 unaffiliated cessions
1	Bermuda	\$32,273	(3.1%)	\$22,597	\$9,676
2	Switzerland	\$11,822	16.3%	\$10,434	\$1,388
3	United Kingdom	\$6,435	22.3%	\$1,654	\$4,781
4	Germany	\$5,234	24.6%	\$1,579	\$3,655
5	Cayman Islands	\$4,629	30.2%	\$1,321	\$3,308
6	Turks and Caicos	\$1,317	19.0%	\$270	\$1,047
7	Channel Islands	\$1,261	(56.3%)	\$0	\$1,261
8	France	\$903	122.7%	\$630	\$272
9	Barbados	\$720	0.6%	\$61	\$659
10	Ireland	\$664	2.5%	\$174	\$490
Total top 10 countries		\$65,258	4.8%	\$38,720	\$26,537

Source: Reinsurance Association of America

2014
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Brian Duperreault
CEO of Hamilton
Insurance Group



KEYNOTE SPEAKER
Sally Hogshead
World-class
branding expert
and best-selling author

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BUSINESS INSURANCE

CMS to launch calculator for Medicare set-asides

The U.S. Centers for Medicare and Medicaid Services plans to launch an online tool allowing workers compensation claim payers to determine how much money should be allocated for prescription drugs in Medicare set-aside accounts.

The CMS Workers' Compensation Medicare Set-Aside Portal will include the calculator as of Oct. 6, CMS said in a statement.

The Medicare Secondary Payer Act requires self-insured employers and insurers to act as primary payers for workers comp and liability claims involving Medicare beneficiaries. CMS advises workers comp payers to set up Medicare set-aside accounts to pay for future medical costs for a beneficiary's injury.

Medicare Secondary Payer experts have said that CMS often advises payers to place higher-than-anticipated amounts into Medicare set-aside accounts, and that those higher projections often are based on prices for medications being taken by claimants.

The tool will allow workers comp payers to search for medications used by a workers comp claimant and determine how much money should be placed into a set-aside account, CMS said. The calculation will be based on information such as the drug's dosage, frequency and price per unit, as well as the claimant's life expectancy.

Howden offers coverage for mine collapse rescues

Howden Insurance Brokers Ltd., a unit of Hyperion Insurance Group Ltd., has launched a stand-alone insurance product that covers the costs of rescue in a mine collapse.

Minero, developed by Howden in partnership with Argo Group International Holdings Ltd., covers the costs of the resources, equipment, logistics and personnel needed for a mine rescue operation and pays for the costs associated with responding quickly to rescuing trapped miners, the London-based broker said in a statement.

It also supports affected employees and their families and assists in managing company reputation, according to the statement.

Allied World launches Canadian energy cover

Allied World Assurance Co. Holdings A.G. has launched a property insurance line for energy risks in the Canadian market.

Allied launched its initial property and excess casualty products for Canada in May, the Zug, Switzerland-based insurer said in a statement. The newly formed team led by vice presidents Dan Fitzpatrick and Jim MacKenzie will help with the build-out of the energy line of business, according to the statement.

Both Messrs. Fitzpatrick and MacKenzie are based in Toronto and join Allied from Arch Insurance Co.'s Canadian



Lloyd's offers commercial marijuana cover

A recently formed insurance agency is offering the commercial marijuana industry general liability and related insurance coverage on a surplus lines basis through several Lloyd's of London syndicates.

Chicago-based Wellness Medical Protection Group, a unit of Madison Heights, Michigan-based Creative Edge Nutrition Inc., is offering up to \$2 million per occurrence and \$2 million aggregate coverage to segments of the commercial marijuana industry, Wellness Medical Protection Group President Edward Kuhn said.

He said the policies are being written for three segments of the commercial marijuana industry: growers, manufacturers and processors; dispensaries; and support businesses such as laboratories.

The policies, which are written through various Lloyd's syndicates, typically have a \$5,000 retention and cover risks including theft and bodily injury, Mr. Kuhn said. The agency also offers related policies, including coverage for governmental actions, which has a \$5,000 limit.

The agency also offers risk management consulting, he said.

"We have an experienced staff of law enforcement people and security specialists," and the agency also can offer legal advice on issues including compliance and regulation, he said.

operations, where Mr. Fitzpatrick was regional vice president for energy and technical risk and Mr. MacKenzie was a vice president for energy and technical risk, the insurer said.

Willis, FusionHealth partner on sleep health

Willis North America Inc. has partnered with Atlanta-based sleep health management solutions provider FusionHealth to help firms reduce risks associated with sleep disorders.

The partnership will allow Willis to provide clients with a sleep management program to identify, treat and manage sleep disorders, the broker said in a statement.

FusionHealth uses cloud-based technol-

ogy and management consulting to provide customers with solutions to improve employee health and safety performance and reduce the cost of treating chronic sleep disorders, according to the statement.

The service can assist industries such as transportation, construction, manufacturing, retail, aviation, logistics, energy and public entities, and can be integrated into a company's employee benefits, health care, risk management and loss control programs, the broker said in the statement.

"Until now, identifying and treating sleep disorders was a cumbersome and costly process for employees navigating traditional employer-sponsored health plans or risk management programs," Todd Jones, CEO of Willis North America, said in the statement. "Now, by applying sophisticated technology and data analytics, FusionHealth streamlines this process."

Guy Carpenter updates MetaRisk modeling tool

Reinsurance broker Guy Carpenter & Co. L.L.C. has released an updated version of its capital management decision-making tool, MetaRisk.

MetaRisk 7.3 contains several enhancements to its reinsurance, catastrophe modeling and capital modeling capabilities to help users meet enterprise risk management and Solvency II requirements, the intermediary said in a statement.

For example, MetaRisk 7.3 supports direct data import from the model databases of the Touchstone platform of catastrophe modeling provider AIR Worldwide, the company said.

The new version also includes a new "Structure Mode" feature that streamlines the process of reinsurance evaluation and provides dynamic pricing comparisons.

Allianz Global to provide cyber risk cover in Canada

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

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

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

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

DEALS & MOVES

National Financial Partners buys benefits broker in Cincinnati

National Financial Partners Corp. said that it has acquired Cincinnati-based Benefit Resources Inc., which specializes in group benefits, human resources and benefit compliance, and employee benefits administration. Financial terms were not disclosed.

Benefit Resources, which was founded in 1988, will continue to be led by Managing Director Tim Marcati, NFP said in a statement.

"Benefit Resources brings over two decades of employee benefits and HR expertise to our team, further strengthening NFP's ability to provide superior services to our business clients," Ed O'Malley, president of NFP's corporate client group in Austin, Texas, said in the statement.

Benefit Resources specializes in working with smaller and middle-market firms, Mr. O'Malley said.

Allied World to buy RSA operations in Hong Kong and Singapore

Allied World Assurance Co. Ltd., a unit of Allied World Assurance Co. Holdings A.G., has reached definitive agreements to acquire the Hong Kong and Singapore operations of Royal & Sun Alliance Insurance P.L.C. for about \$215 million in cash, Zug, Switzerland-based Allied World said.

In a statement announcing the deal, Allied World said the RSA business includes a niche group of specialty lines, including casualty, construction and engineering, marine and property.

The businesses had total gross premiums written of approximately \$250 million in 2013.

According to terms of the transaction, Allied World will acquire the in-force portfolio, related assets and liabilities of both branches, Allied World said. Allied World's current Hong Kong and Singapore operations include an established commercial insurance business. "Subject to adjustments, on completion, Allied World will fund the purchase price of \$215 million with cash on hand. In addition to the purchase price, Allied World expects that an additional \$90 million will likely be required to appropriately capitalize the business on an ongoing basis," Allied World said in the statement.

Allied World said the deal, which is subject to regulatory approvals in Singapore and Hong Kong as well as court approval in Singapore, is expected to be completed during the first half of 2015.

China-based Fosun to acquire 20% stake in Ironshore

Shanghai-based investment group Fosun International Ltd. is buying a 20% stake in Ironshore Inc. and will become the Hamilton, Bermuda-based insurer's largest shareholder, Ironshore said in a statement.

The deal comes after Ironshore announced plans for a \$100 million initial public offering in June and updated its registration statement with the U.S. Securities and Exchange Commission as recently as Aug. 4.

The purchase price will be \$463.8 million plus or minus 1.246 times 20% of the operating income for the period commencing on the date after June 30, 2014, through the end of the fiscal quarter immediately preceding the closing, and shall not exceed \$477.9 million or be less than \$456.8 million, according to a Fosun filing with the Hong Kong Stock Exchange.

The transaction is subject to regulatory approval.

ADVOCATING FOR EXCELLENCE IN HEALTH AND SAFETY

Q What's the biggest safety concern your members are facing, and what's one issue the American Society of Safety Engineers is working to correct this year?

A Communicating the value of health and safety and how it feeds into sustainable organization is a big challenge, and that's something we constantly are communicating to our executives and our employers. We're looking overall at supporting our members, developing our members and helping expand our members' voice within their organization. And we're looking at supporting our members on a global basis. We're really looking at ... global competency and risk assessment.

Q How are you helping members communicate the value of health and safety to their organizations?

A We do that through our professional development activities, providing members with education and support. We do it through our government affairs activities and our participation on standard-

Q&A

setting endeavors, committees, technical advisory groups.

We provide our members with an opportunity for their voice to be heard on a global basis. A lot of it is through our committees and councils and activities at the state and local level. For example, ASSE has the Center for Safety and Health Sustainability. The CSHS is a collaboration between AIHA, which is the American Industrial Hygiene Association, ASSE and IOSH, which is the Institution of Occupational Safety and Health ... We're providing a voice for leadership in safety and health in shaping sus-

tainability policies. We're trying to get safety metrics into global sustainability reporting metrics. We want to be recognized as a leader for sustainability and corporate social responsibility. So it's lending the safety voice to some of those high-profile activities and reporting frameworks for corporations.

Q How is ASSE working alongside the Occupational Safety and Health Administration to promote workplace safety?

A (ASSE) is advocating for the safety professional and the profession ... trying to advance the safety profession.

We recognize the value that OSHA brings to protecting workers in America. And we support a lot of the things they do, and we like to have our voice as part of that conversation because ... it's not all about regulation. We don't automatically approve every regulation that comes out. We want to make sure they are ... going to further the conversation of safety.

We have a proactive government affairs committee. We advocate proactively through govern-



TRISH ENNIS

THE AMERICAN SOCIETY OF SAFETY ENGINEERS

spoke recently with *Business Insurance* Associate Editor Stephanie Goldberg about safety issues facing ASSE members now and in the future. Edited excerpts follow.

Trish Ennis became the 100th president of The American Society of Safety Engineers on July 1 after serving 10 years in various elected leadership roles, including senior vice president and president-elect. Ms. Ennis, the organization's fifth female president to date, is also a senior risk control consultant at Willis North America Inc. With more than 20 years of experience as a safety professional, Ms. Ennis

ment affairs at the federal and state level and in member-led relationships with federal and state health agencies. We lend our voice to propose rule-making standards and things like that, but we don't work with OSHA. We do have a strong collaborative relationship with OSHA.

Q How does your role at ASSE relate to your role at Willis?

A A lot of my clients are ASSE members, and I work with

clients nationwide so I find that I'm doing the same things for my clients that I'm doing for ASSE members, which is giving them opportunities for professional development, assisting them with identifying issues in the workplace and coming up with solutions for those. And my role with ASSE has given me a huge network of people that I can go to that help me further the interest of my clients. I can bring them tools and resources that I wouldn't have if I were not a member of ASSE.

COMINGS & GOINGS

UP CLOSE: JEFF TURNER

HOUSTON-BASED MANAGING PARTNER

Willis of Texas Inc., a unit of Willis North America Inc.

PREVIOUS POSITION: New York-based senior vice president of Willis of New York Inc.

LOOKING FORWARD TO: Expanding Willis' footprint in Houston. Houston has industries that are growing like crazy, like energy, manufacturing, construction, and health care ... We have great expertise in those (areas).

GOALS FOR NEW POSITION: It's really about how we are going to differentiate ourselves in the marketplaces. Organizations are always looking for innovative ways to reduce risk ... we have these innovative resources that we can deploy to help firms. That will be the real goal: meet with a lot of people to communicate that message.

INDUSTRY OUTLOOK: Innovation is becoming more important to clients. Business as usual is not acceptable anymore.

FIRST INDUSTRY JOB: A broker for a local firm, Swingle Collins & Associates in Dallas. In 1995, I didn't even know insurance was a job.



WHAT SURPRISED ME: I had an accounting degree. Insurance was a line item on statements ... but I didn't know the industry was so dynamic.

ADVICE: Being excellent is mostly about being passionate about what you enjoy. Excellence will just happen if you are passionate.

HOBBIES: I love all kinds of exercise. I like to work out really hard to an uncomfortable place. Boot camp workouts are my favorite.

BEST CITY: I really think for business it's Houston.

WHEN I RETIRE: I never want to retire. I really like working.

FAVORITE MEAL: The "dinner" at Joe T. Garcia's in Fort Worth.

ON A SATURDAY AFTERNOON: Spending time with my wife and three kids.

THOUGHTS ON SMARTPHONES: I love them. I am addicted to them. It's never not in my hand.

Professional Moves & Promotions

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

BROKERS

Jardine Lloyd Thompson Canada Inc.	Nathan Minovitch
Jardine Lloyd Thompson Canada Inc.	Jason Trimble

INSURERS

Allied World Assurance Co. Holdings A.G.	Dan Fitzpatrick
Allied World Assurance Co. Holdings A.G.	Jim MacKenzie
Beazley P.L.C.	Benjamin Welch
Catlin Group Ltd.	Andrew McMellin
Preferred Mutual Insurance Co.	Daniel Stedman

REINSURANCE

Allied World Assurance Co. Holdings A.G.	John Bender
Swiss Re Ltd.	Kuno Linder
Swiss Re Ltd.	Robley Moor
Swiss Re Ltd.	Daniel Vetter

OTHER

Pinnacle Actuarial Resources Inc.	Michael K. Chen
Towers Watson & Co.	Eric Speer

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

EXCHANGES

Continued from page 3

Hunter said that product is not included in the consultant's assessments of exchange platforms.

"The marketing for the Brown & Brown product is really focused on employers with under 500 employees, and that's not a market segment that we focus on," Mr. Hunter said. "We're focused on the segment that, on average, totals about 10,000 or more employees per client."

Several other consultants, including PricewaterhouseCoopers L.L.P., Laurus Strategies and Sibson Consulting, also have elected to not develop in-house private exchange products and instead have launched exchange consulting practices.

"We felt that if we had our own exchange product that we had to sell, it would put us in an untenable position and prevent us from being as objective as we want to be," said Nancy Scola Lombaer, a Chicago-based partner at Laurus Strategies.

Benefits brokers and consultants with considerable investments in their respective exchange platforms — including Towers Watson & Co. and Aon Hewitt — said they also provide clients with unbiased advice on private exchanges, at least in the initial phases of an employer's inquiry.

"At that early stage, the relationship that we've built with clients as trusted advisers still holds, and we generally haven't had any issues or questions around objectivity from clients," said Jim Winkler, Aon Hewitt's chief innovation officer of health and benefits in Norwalk, Connecticut.

However, some private exchange providers agreed that independent assessments can be valuable to their clients, particularly when employers seek comparisons of external exchange offerings.

We've been pretty clear in making the point that any company that owns an exchange really shouldn't be in the business of

Brokers with private health exchanges strive to maintain unbiased stance

Several brokers have positioned themselves as objective consultants within the private health insurance exchange marketplace, despite having their own exchanges.

Lockton Cos. L.L.C. and Crystal & Company, for example, both say they've insulated clients from bias by keeping their respective exchanges unbranded and untethered to dedicated technology providers, opting instead for customized exchange platforms via a range of providers.

Similarly, Willis North America Inc. offers both a branded private exchange and customizable exchange platforms through a "curated" group of technology providers.

However, Willis said its consulting efforts are less prone to bias in that, like Lockton and Crystal & Company, its financial investment in its products is far smaller than many competitors'.

"Clients are starting to ask questions that get at the heart of the economics involved," said James Blaney, CEO of Willis' human capital practice. "You see some clients asking questions about the level of investment we've made in our exchange solution,"

which he said has been modest in comparison to some of the company's closest competitors.

Additionally, Mr. Blaney said Willis' producers are paid "the same no matter what the client ultimately decides to do."

"I think there's often a tremendous pull for companies that actually own the operating systems that are powering these exchanges to try to put their clients into their ex-

change model, and that makes it hard for them to provide objective advice," said Michael Smith, director of Lockton's exchange solutions practice in Boston.

"That was definitely a consideration for us," said Joseph Scudiero, president and chief labor counsel at GEP Administrative

Services Inc., a Los Angeles-based payroll administrator catering to film studios and production companies.

The company hired Lockton in early 2013 to study external exchange products that might provide a more comprehensive benefits administration and health care reform compliance resource for its clients.

"After Lockton learned about our business and what we needed in terms of a solution, it didn't take long for us to determine that there really wasn't a product out there in the marketplace," Mr. Scudiero said. "It was pretty clear that we were going to have to start from scratch."

Mr. Scudiero said Lockton was able to partner with health insurer Anthem Inc. and technology provider PlanSource Benefits Administration Inc. to build a custom exchange platform that catered to the needs of GEP Administrative Services' clients.

It includes the enrollment and plan termination flexibility necessary to meet film production deadlines and budget restrictions, he said.

By Matt Dunning

"Clients are starting to ask questions that get at the heart of the economics involved."

James Blaney,
Willis North America Inc.

evaluating which exchange makes sense for an employer, because you can't really be objective in that evaluation," said David Ostendorf, chief health care actuary at Towers Watson in Milwaukee. "That's something that almost always needs to be done by an objective third party."

Other benefits brokers, including Lockton Cos. L.L.C. and Crystal & Company, also have positioned themselves as independent advisers on private exchanges, taking the position that their limited engagement in the exchange marketplace affords them greater objectivity than their competitors.

"Once you start making financial investments into certain exchanges, I think it changes the mindset of the companies provid-

ing these services to the extent that they're focusing on generating a return on their investment," said Michael Grant, New York-based executive managing director of employee benefits services at Crystal & Company.

One reason independent consultants cite for employers' demand for unbiased advisory services is the heightened attention private exchanges have drawn from employers' chief financial officers and other senior executives, particularly due to the economic and administrative complexity of switching to an exchange.

"Even if the employer's human resources or benefits manager has a long-standing relationship with their broker or consultant, because you now have the CFO or

another senior executive involved in these discussions about private exchanges, there's a greater emphasis on the need for an independent view of the marketplace," said Barbara Gniewek, a New York-based principal at PricewaterhouseCoopers.

Independent consultants say not offering proprietary exchanges makes it easier to collect detailed product and pricing information from multiple exchange owners.

"That's one of the reasons we came out pretty aggressively to say we're not building an exchange, because we wanted to remove that barrier," said Christopher Calvert, New York-based senior vice president and health practice leader at Sibson Consulting, a division of Segal Group Inc.

"Since we've done that, the private exchange providers have become much more willing to discuss the details of their products."

Going forward, most benefits service providers said they expect more companies to offer independent consulting focused exclusively on private exchanges, especially given the speed with which marketplace conditions shift.

"We saw a similar dynamic unfold with the advent of benefits administration outsourcing, and I think the exchange marketplace is evolving in the exact same way," Mr. Ostendorf said. "Over time, it will become very unusual for even large organizations to go out and make this decision without a third-party search consultant helping to guide the process."

TRIA

Continued from page 3

said Nat Wienecke, senior vice president of federal government relations at the Property Casualty Insurers Association of America in Washington.

"There's a strong desire to get a bill to the president's desk. The question is, is there enough time for the Republicans to reconcile their differences to proceed?" he said.

The House's inability to move quickly also concerns experts.

"This is a critical work period for Congress to complete its work on reauthorizing the TRIA program that allows the broadest participa-

tion from the market," said Jimi Grande, senior vice president of federal and political affairs at the National Association of Mutual Insurance Companies' Washington office.

"Unfortunately, this Congress doesn't have the most successful track record of getting things done in a timely way without causing market disruptions."

September hopes

Tom Santos, vice president of federal affairs at the Washington-based American Insurance Association, said that previous extensions of the program in 2005 and 2007 occurred late in the year.

"We would rather that not happen," he said. "We would prefer

the House find a way to move forward in September. It's a very short time frame," he said, adding "there's no reason it can't get done."

A deal is not only possible, but probable as well, supporters say.

Joel Wood, senior vice president of government affairs at the Washington-based Council of Insurance Agents and Brokers, said in an email that "it's not hard to imagine" how the differences between the two bills can be reconciled.

"But like everything in Washington, it'll probably get uglier before it gets resolved," he said.

"I'm not 100% confident, or even 80%, but I still think the odds are pretty good that this gets done. In September? I wish so, and Lord knows the marketplace does too,

but am not holding my breath."

Other experts raised the possibility of final passage of an extension bill being delayed until a lame-duck session late in the year.

"If the consideration of a TRIA bill happens to slip into a lame-duck session, we still feel confident that an extension of some sort will be enacted," said Charles Symington, senior vice president of external and government affairs at the Alexandria, Virginia-based Independent Insurance Agents & Brokers of America.

R.J. Lehmann, senior fellow at the free market-oriented R Street Institute in Washington, which wants more terrorism risk shifted to the private market, said that a "significant portion" of the House Republican caucus does not want

the program extended at all.

"I think you'll have a last-minute deal, and it will look a lot like the bill that the Financial Services Committee passed, and it will be voted on in the lame-duck session," he said.

Mark Calabria, director for financial regulation studies at the libertarian Cato Institute in Washington, which opposes extension of the program, also foresees a lame-duck session resolution.

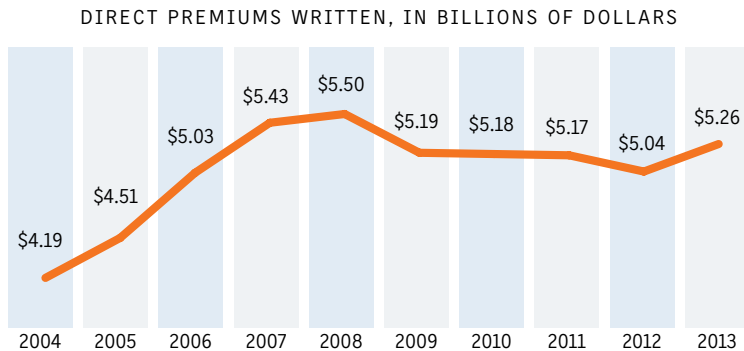
"I think more than likely there will be some sort of lame-duck where the Senate and House will iron out their differences and come to some agreement on a long-term extension that is likely to have the industry bearing slightly more risk than they bear today," he said.

SURETY

Continued from page 4

SURETY PREMIUMS

Sales of surety bonds, which ensure that construction projects will be completed in case of contractor default, should increase this year amid rising construction activity, but the total still would be less than peak sales in 2008.



Source: Surety & Fidelity Association of America, Zurich North America

California, New York, Texas and Florida, experts say. They also cite the \$3.9 billion replacement of New York's Tappan Zee bridge and \$2.3 billion Interstate 4 highway project in central Florida as examples of the types of public megaprojects that also are helping boost growth of surety bonds.

Five insurers accounted for half of the surety bonds underwritten in 2012, according to *Business Insurance's* latest ranking: The Travelers Cos. Inc.; Liberty Mutual Holding Co. Inc.; Zurich Insurance Co. Inc.; CNA Financial Corp.; and Chubb Corp.

Other surety providers say they also are seeing growth in surety bond sales and construction projects in general.

"The trend is we're going to see

bigger projects generally," said Drew Brach, Grand Rapids, Michigan-based surety practice leader at Marsh L.L.C. "We're seeing the projects that are bigger, longer and more complicated, and many of these are done by joint ventures or groups of up to three or four different firms."

He said the default rate for such multiparty ventures is much lower than single-contractor projects.

"When these projects get to the \$1 billion-plus size, companies from a prudent risk management point of view enter into joint ventures to share risk — not only to bring different capabilities to the

table, but also to share risk," said Michael Bond, Owings Mills, Maryland-based executive vice president and head of surety at Zurich North America.

As the project size grows, "the size of the (bonding) obligation is getting larger," said Daniel Desjardins, senior director of global risk management and insurance at Bombardier Inc., a Montreal-based rail and aerospace manufacturer.

The bonding obligation of such larger projects can exceed \$500 million, he said.

"That creates the issue of finding the proper number of sureties to match that obligation — a single carrier doesn't suffice anymore. So, we have to basically segregate our risk and put a club deal together," Mr. Desjardins said.

"We are seeing what I would describe as a very modest improvement in the demand for bonding from our client base, but a lot of the improvement in the construction economy is heavily

weighted to the private sector," said Bob Raney, Hartford, Connecticut-based senior vice president of construction services at Travelers' bond and financial products unit.

Private construction is "growing fairly robustly," Mr. Bond said. "What you're seeing is the mix of business is changing, so you're seeing more of that surety premium coming from private work rather than public work."

"So far, the trend in 2014 ... is favorable," said Steve Anderson, Schaumburg, Illinois-based head of NAS Surety, part of Swiss Re Ltd.'s corporate solutions unit. "NAS Surety is seeing contract surety revenue trending upward. This is part of a trend in the overall surety sector."

"Last year, we were up an amazing 19% on contract surety revenue," said Mr. Brach of Marsh, which had about \$700 million of surety premiums worldwide in 2013.

NLRB

Continued from page 3

employees — which are the well-established criteria governing the definition of a "joint employer," she said in the statement.

"We don't hire, we don't fire, we don't discipline, we don't tell an employee of a franchisee what to do," said Mr. Fox of the Firehouse of America franchise operations.

"Potentially, it has huge implications," said Jonathan T. Hyman, a partner at Meyers, Roman, Friedberg & Lewis in Cleveland. While franchisors now can insulate themselves from liability issues ranging from a patron choking on a McNugget to an employee alleging discrimination, the NLRB stand would hold franchisors jointly and severally liable for the franchisee's conduct, over which a franchisor has no control.

"It's an extraordinarily dangerous precedent," said Mr. Hyman, who said the issue has become part of the broader living wage movement directed at improving the salaries of fast food workers.

If ultimately upheld, "franchisors are going to have to figure out a way to manage these new liability risks," said Christopher G. Ward, a partner at law firm Foley & Lardner L.L.P. in Chicago.

"To the extent that franchise companies have the ability to insure against these types of claims ... it would get very expensive very quickly to the point where it might be cost-prohibitive," said Adam J. Siegelheim, a shareholder at Stark & Stark P.C. in Lawrenceville, New Jersey.

There may also be a tension between the general counsel's position and trademark law. Brand names are protected under the Lanham Act, which addresses what franchisors must do to license brands, and requires the brand owner to impose quality controls, said Rochelle Spandorf, a

COURTS, NLRB MAY NOT AGREE ON FRANCHISORS' LIABILITY

It may take years to resolve whether franchisors can be considered joint employers with their franchisees.

A late July ruling by the National Labor Relations Board's general counsel has generated consternation among franchisors and franchisees, but there also is general consensus that the position will not become law — meaning no change to the current structure under which franchisees are essentially independent operators.

"There's a lot of steps that would have to come into play before this would become effective," said Tom Hams, Chicago-based managing director at Aon Risk Solutions' financial services group.

First, an administrative hearing or hearings must take place in the 43 cases in which the NLRB general counsel determined that Warrenville, Illinois-based franchisor unit McDonald's USA L.L.C. may have had a joint employer relationship with its franchisees, assuming the cases are not settled.

Then, the full NLRB board

would have to render its decision. If it were to conclude that McDonald's is a joint employer, McDonald's, the franchisee or both could seek review in a federal appeals court.

And a court would not necessarily side with the NLRB.

"There is definitely some tension between the courts and the NLRB," said Rochelle Spandorf, a partner at law firm Davis Wright Tremaine L.L.P. in Los Angeles.

Ultimately, the case could reach the U.S. Supreme Court, experts say.

Meanwhile, depending on the outcome of the 2016 presidential election, the political makeup of the board may change, which could derail the entire issue.

Experts generally believe the current franchising model will prevail as a matter of law, though.

"The ruling is so completely irrational that ultimately it will be overruled," said Peter Taffae, Los Angeles-based managing director at FranchisePerils, a division of ExecutivePerils Inc.

By Judy Greenwald

partner at Davis Wright Tremaine L.L.P. in Los Angeles. It is these controls, for example, that would prevent McDonald's franchisees from serving Chinese food.

"The NLRB's position is that if you have all these brand controls, they must influence employment controls," she said. "I don't see the NLRB general counsel taking the Lanham Act into consideration."

For franchisors to protect themselves, "the first thing I would do

is look at my franchise agreement" to see if there are better ways to describe the franchisor-franchisee relationship, Mr. Ward said.

"Don't provide your franchisees with a template employee manual they can customize," even if it is helpful, because a plaintiff attorney could argue it reflects control over essential employment decisions, Ms. Spandorf said.

An NLRB spokesman could not be reached for comment.

OPIOIDS

Continued from page 4

of one year in most states, said Paul Peak, pharmacist on the complex pharmacy management team at Sedgwick Claims Management Services Inc. in Memphis, Tennessee. However, at least 10 states treated products containing tramadol as controlled substances prior to the DEA's classification, Mr. Peak said.

As a result of the changes for both classes of drugs, some injured workers may have to make more frequent physician visits to be monitored or to obtain new written prescriptions, said Dr. Robert Hall, medical director at pharmacy benefit manager Helios, which formed from the merger of PMSI Inc. and Progressive Medical Inc., in Tampa, Florida.

"We are increasing costs to the system" by having injured workers visit physicians more often, but there's also a chance that those visits could lead to better care, said Brian Carpenter, senior vice president of pharmacy product development and clinical management at Healthcare Solutions in Atlanta. "As long as the physician is ... checking to see if optimal capacity is increasing with the use of the drug, making sure there isn't aberrant behavior" and doing drug screenings, costs could actually decrease in the long run, Mr. Carpenter said.

However, if more claimants begin taking tramadol as a result of hydrocodone combination products becoming more controlled, the average wholesale price of tramadol products could increase, Dr. Hall said.

The DEA is "adding a lot more control," but the controls are not as restrictive as those imposed on hydrocodone combination products, such as Vicodin and Norco, that can no longer be refilled under Schedule II, Mr. Carpenter said.

As tramadol is less tightly controlled than other popular opioids, its use may increase despite the tighter controls imposed on the drug because the alternatives are even more tightly controlled, experts say.

In October, claimants who were taking hydrocodone products may switch to tramadol or codeine, Mr. Carpenter said, although "a lot of users don't like codeine because it has more side effects."

"It will be interesting now to see if codeine will be on the uptick because of the conditions that are being placed on the hydrocodone combo products," Mr. Carpenter said.

Even though the DEA has tightened controls on tramadol and hydrocodone combination products, employers and third-party administrators "can't, in most situations, prevent someone from taking it unless an outside peer reviewer comes along and says it's not necessary," Mr. Peak said.

And despite the tougher controls, employers with workers in safety-sensitive roles need to be aware that these opioids can cause sedation, he said.

Mary K. Schottmiller, senior labor and employment counsel at Prime Healthcare Management Inc. in Ontario, California, said it's not uncommon for nurses, for example, to take painkillers because of the work they do, but it's unclear what effect — if any — the new restrictions will have.

Barbara Back, director of human resources at Prime Healthcare Management's Encino and Sherman Oaks hospitals in Oxnard, California, said prescription pain medications are treated like alcohol and marijuana in the workplace.

"They could have the same outcome as if you were on an illegal substance," Ms. Back said. "So even though it's a prescription, it would impair your physical ability and also your mental ability to perform work."

ERISA

Continued from page 1

were not protected when the company failed,” said Scott Macey, president of the ERISA Industry Committee in Washington. “Today if you are promised a benefit, you are much more likely to get it. That is the overall success of ERISA.”

Since then, thousands of underfunded pension plans have been terminated after their employer sponsors went out of business or were unable to make the required contributions. But ERISA’s creation of the Pension Benefit Guaranty Corp. assured that billions of dollars in unfunded benefits are paid for participants in failed plans. In 2013, for example, the PBGC paid \$5.4 billion in benefits to more than 800,000 retirees once enrolled in the nearly 4,600 plans the PBGC has taken over.

“We cannot underestimate the good of the PBGC,” said James Klein, president of the American Benefits Council in Washington.

Besides protecting pension benefits, ERISA added security for employees’ health care benefits.

For example, the Consolidated Omnibus Budget Reconciliation Act of 1986 that amended ERISA has been a boon to millions of employees and their dependents. It allows workers who lose their jobs to retain employer health care coverage for 18 months — and widowed, divorced or separated spouses for 36 months — by paying a premium equal to 102% of the employer group plan cost.

That COBRA safety net especially showed its value during the Great Recession of 2008-2009 when federal lawmakers passed legislation providing a 65% federal subsidy of COBRA premiums for displaced employees. That subsidy resulted in a doubling to 38% of the COBRA takeup rate for laid-off employees, compared with the months just prior to before the subsidy was available, according to an Aon Hewitt survey.

Meanwhile, ERISA helped put an end to “the disappointed expectations of private-sector workers covered by pension plans,” said Karen Ferguson, director of the

Pension Rights Center in Washington. Perhaps the most significant pension benefit protection under ERISA is a requirement that plan participants earn a nonforfeitable pension after a certain number of years.

Before ERISA, as many as half of employer pension plans required at least 15 years of service to earn a benefit, according to the U.S. Bureau of Labor Statistics. ERISA set several vesting schedules, including what became the most popular one in which participants became first and fully vested after 10 years of service. A later law, the Tax Reform Act of 1986, shortened the requirement to five years.

The more rapid vesting has produced “clear economic value for tens of millions of workers,” said Dallas Salisbury, president of the Employee Benefit Research Institute in Washington.

Indeed, ERISA and subsequent laws have solved the vesting issue so well that few today “even remember there was once a problem,” said Frank Cummings, a Washington pension attorney, who as a congressional staffer helped draft versions of the legislation that later became ERISA.

However, ERISA has been ill-equipped to deal with the biggest recent pension problem: the erosion of defined benefit plans. As recently as 1998, 90% of Fortune 100 companies offered defined benefit plans to new salaried employees. Last year, just 30% did, according to Towers Watson & Co. And the decline in employer-sponsored defined benefit plans isn’t limited to corporate giants. Last year, a little more than 23,000 employer plans were covered by the PBGC’s insurance program, barely one-fifth of the plans covered in 1985.

“Defined benefit plans are moribund. No one is starting a new plan,” while many existing plans are being frozen, Mr. Cummings said.

Several reasons caused the fall of defined benefit plans, many of which have little to do with ERISA or later congressional initiatives, experts say.

“With the younger generations, they recognized that their careers weren’t going to be with one or two companies, but would likely be

HEALTH CARE PROTECTIONS

While the Employee Retirement Income Security Act is often viewed as a pension law, numerous measures Congress passed since 1974 have amended ERISA to give employees more rights related to health care benefits. Those laws include:

1986 Consolidated Omnibus Budget Reconciliation Act:

Required employers to extend health care coverage to employees and dependents after death, divorce or termination of employment.

1996 Health Insurance Portability and Accountability Act:

Curbed health care plans’ ability to deny coverage of pre-existing medical conditions for new employees.

1996 Newborns’ and Mothers’ Health Protection Act:

Required health plans to provide at least 48 hours of inpatient coverage following childbirth.

1996 Mental Health Parity Act:

Barred health plans from imposing discriminatory annual and lifetime dollar limits on mental health care services.

1998 Women’s Health and Cancer Rights Act:

Required health plans covering mastectomies to also cover reconstructive breast surgery.

2008 Michelle’s Law:

Allowed seriously ill college students to continue coverage under their parents’ health insurance plans for up to 12 months after taking a leave of absence.



HEAR INTERVIEW

Access Business Insurance’s interactive digital edition to

hear Kevin Wagner, Towers Watson & Co. senior retirement consultant, discuss the 40-year legacy of the federal ERISA law with Business Insurance Editor at Large Jerry Geisel.

with 10 or 12,” said Joseph Molloy, vice president of managed care benefits and direct contracting at North Shore LIJ Health System in Great Neck, New York.

Defined benefit plans, especially final average pay plans in which benefits are tied to employees’ salaries during their last years of service, appealed less to a more mobile workforce and employers.

KEY FEDERAL PENSION LAWS

1974 Employee Retirement Income Security Act:

Set pension vesting, reporting and funding rules; established the Pension Benefit Guaranty Corp. to protect plan participants’ basic benefits when underfunded plans terminate.

1978 Revenue Act:

Set the legal basis for 401(k) plans.

1980 Multiemployer Pension Plan Amendments Act:

Required employers withdrawing from underfunded multiemployer plans to pay a share of the plan’s unfunded liabilities.

1982 Tax Equity and Fiscal Responsibility Act:

Reduced maximum benefits funded through retirement plans.

1984 Retirement Equity Act:

Required pension plan participants to get spouse approval before waiving joint and survivor benefits; minimum age lowered to participate and vest in pension plans.

1986 Tax Reform Act:

Reduced maximum salary deferrals made to 401(k) plans; tightened nondiscrimination testing rules for 401(k) plans; mandated more rapid vesting schedules for pension plans.

1994 Retirement Protection Act:

Tightened pension funding rules; significantly raised premiums that employers with severely underfunded plans pay the PBGC.

2001 Economic Growth and Tax Relief Reconciliation Act:

Raised deferral limits in 401(k) plans; allowed older employees to make extra contributions; boosted amount of employee compensation to calculate pension and savings plan benefits; created Roth 401(k) plans.

2006 Pension Protection Act:

Stiffened pension funding rules; clarified that basic design of cash balance pension plans does not discriminate against older employees; pre-empted state laws that could interfere with 401(k) plan automatic enrollment programs.

2012 Moving Ahead for Progress in the 21st Century Act:

Significantly increased PBGC premium rates; allowed employers to use higher interest rates in valuing pension plan liabilities.

Cash balance plans became the fastest growing defined benefit plan of the late 1980s and early 1990, their popularity stemming from a more rapid benefit accrual and an easy-to-understand benefit formula. But numerous lawsuits challenged the basic design of cash balance plans as discriminatory against older employees.

Many employers, tired of the reg-

ulatory and legal uncertainty, moved on to new approaches, often freezing defined benefit plans and enriching 401(k) plans.

If passing the 2006 Pension Protection Act “had happened 15 years earlier, we would have had a much different outcome,” said Kevin Wagner, a senior Towers Watson & Co. retirement consultant in Southfield, Michigan.

Although often thought of as a pension law, ERISA’s legacy extends beyond pension plans.

Indeed, a core ERISA provision — pre-emption of state laws that relate to employee benefit plans — has enabled employers operating in multiple states to offer health care plans with the same benefits to employees, regardless of the states those employees live.

“You can have uniform benefits. This has made life so much easier for plan administrators,” said Marjorie Martin, a principal with Buck Consultants at Xerox in Secaucus, New Jersey.

“The challenge of complying with a jumble of multiple state health benefit mandate laws would have overwhelmed many employers,” said Amy Bergner, a managing director of human resources at PricewaterhouseCoopers L.L.P. in Washington.

“Pre-emption is the crown jewel of ERISA,” said Mr. Klein of the American Benefits Council.

To be sure, there have been legal challenges to ERISA pre-emption. In 1985, the U.S. Supreme Court affirmed the legality of ERISA pre-emption. The justices, though, said that it applies only to self-insured plans and not to insured plans.

Forty years after ERISA’s passage, federal lawmakers do not have further changes to the statute under active consideration.

Still, some lawmakers, as well as many in the private sector, say a 1980 law that amended ERISA to require employers leaving underfunded multiemployer plans to pay a share of the plans’ promised, but unfunded benefits, needs to be revamped to prevent a collapse of a PBGC insurance program protecting participants’ benefits.

Another ERISA change employers say would be welcome would be to base, at least in part, PBGC employer premium rates on the financial health of plan sponsors.

CONGRESS FACES PRESSURE TO RESOLVE MULTIEMPLOYER PENSION WOES

When federal lawmakers passed the Employee Retirement Income Security Act in 1974, they put aside a key issue affecting a big slice of the pension universe: multiemployer plans.

These 1,400 plans with about 10.4 million participants provide coverage to employees working for different companies and are members of trade unions. The plans are run by a joint board of union and employer representatives. When drafting ERISA, lawmakers punted on a crucial issue affecting employers contributing to the plans: What would be their financial obligations if they left underfunded plans?

In 1980, Congress came up with the answer: Employers leaving the plans would

be liable for a share of the plans’ unfunded liabilities. That obligation — known as withdrawal liability — was a core part of a new law called the Multiemployer Pension Plan Amendments Act, which amended ERISA.

Now, 34 years later, a movement is gaining traction in Congress to amend the multiemployer law, driven by fears that dozens of multiemployer pension plans may be in danger of collapse and guaranteeing the benefits to those plans’ participants could itself swamp the Pension Benefit Guaranty Corp.

Indeed, 175 multiemployer plans are in such financial trouble, the PBGC reported last year that it expects the plans to run out of assets and need money from the agency to pay participants’ benefits.

The agency has warned that the cost of paying the promised pensions would be nearly \$10 billion, five times more than the federal agency has in its multiemployer pension plan insurance fund. Without changes in law and/or premium increases, the PBGC’s insurance program “is more likely than not to run out of funds in eight years and highly likely to do so within 10 years,” the PBGC said in a summer report.

A key part of many of the plans’ problems is withdrawal liability, experts say.

The amount of withdrawal liability can be so great that it has discouraged new employers from joining the multiemployer plans. That, in turn, is creating a death spiral for plans as employer participants shrink when

companies go out of business.

“While many employers continue to withdraw from multiemployer plans, new employers have not been attracted to the plans to replace the leaving employers, mainly due to the unfavorable economics around the ultimate exit from the plan,” said Jack Abraham, a principal with PricewaterhouseCoopers L.L.P. in Chicago.

“The path we are on will destroy the retirement security of families across the country,” U.S. Rep. John Kline, R-Minn., chairman of the House Education and Workforce Committee, said at a conference in June.

But whether lawmakers will act anytime soon remains to be seen.

By Jerry Geisel

CLAIMS-PROCESSING TIPS

There are several steps businesses can take to ensure an efficient claims process following an earthquake:

- Businesses should seek input from insurance specialists to see if their losses are covered under their existing coverage, such as general property/casualty insurance.
- Policies should be analyzed for any exclusions that might apply, such as those for losses caused by “earth movement.”
- Aside from property and structural damage, know whether they have coverage for business interruption losses.
- Inventory damage following a quake and take pictures.
- Notify insurers about damage as required by the insurance contract.

Source: Cristina M. Shea and David E. Weiss, San Francisco-based partners in the litigation insurance recovery group of Reed Smith L.L.P.

QUAKE

Continued from page 1

Alexander Allmann, head of Geo Risks for Corporate Underwriting at Munich Reinsurance Co. in Munich, Germany, said most of the structural damage resulting from the quake was to unreinforced masonry and older buildings. “If you look at the damage information and the pictures so far, you see exactly these types of structures,” he said.

Steve Marohn, San Francisco, California-based senior vice president and Western Zone Officer for CNA Financial Corp., said the insurer opened a catastrophe operations center on Aug. 25 in Napa Valley to manage claims related to the earthquake, which rumbled through the area the day before.

“While it is still too soon to report on specifics, we are seeing claims fall within the three broad areas that we expect to see from an earthquake of this magnitude: damages from the shake itself, leakage from sprinklers and fires following the quake,” Mr. Marohn said.

Oakland, California-based catastrophe modeling firm EQE-CAT Inc. estimated insured losses from the quake at \$500 million to \$1 billion, but acknowledged a degree of “uncertainty” concerning the extent of business interruption or contents losses. EQE-CAT said it figured its estimate by using a “proxy event,” a simulation from its historical database which closely resembled the actual quake.

Karen Clark & Co., a Boston-based catastrophe modeling firm, estimated insured damages of \$1 billion using its new U.S. earthquake model.

Paul Little, president of EQE-CAT, said one source of variability in loss estimates was the prominence of the wine industry in the local economy.

“Certainly the wine industry is going to be the biggest driver of uncertainty in terms of how much the loss could potentially increase,” he said.

The wine industry in Napa County generates \$13 billion in annual revenue and employs 46,000 people, according to the trade group Napa Valley Vintners.

Bill Merget, Petaluma, California-based principal in the North

Bay property/casualty practice of brokerage Edgewood Partners Insurance Center Inc., said nearly all of his clients in the wine industry were unharmed from the earthquake. “I’ve only had one winery report damage,” he said.

Likewise, The Napa Valley Vintners said “the vast majority” of its roughly 500 winery members reported that they are already open for business in the aftermath of the quake.

Bob Aldridge, chief operating officer and chief financial officer for Napa, California-based Sequoia Grove Winer8y and Santa Rosa, California-based St. Francis Winery, said his company’s facilities suffered only minimal damage.

“We had one barrel at Sequoia Grove roll off a shelf, and we did lose some glassware in a tasting

NAPA QUAKE AT A GLANCE:

Magnitude: a 6.0 magnitude earthquake struck at 3:20 a.m. PDT Aug. 24

Epicenter: the San Pablo marshes near Napa Airport

Fault line: occurred along a previously unknown fault line, the West Napa Fault

Estimated insured losses: up to \$1 billion

Sources: United States Geological Service, EQE-CAT

room, but we made it through unscathed,” he said.

Mr. Aldridge said one reason for the scant losses was that his company had taken a variety of precautions to secure its inventory against shaking from seismic events.

“At our wineries we strap our barrels in so they can’t roll back and forth,” he said. “Also we only stack our barrels four high to avoid problems.”

The earthquake should serve as a potent reminder of the seismic risk wine companies operating in the Napa and Sonoma County region face, said Joshua M. Marrow, San Francisco-based principal and technical director of the structural engineering group at engineering firm Partner Engineering and Science Inc.

“Risk managers need to really think about how their tanks are anchored and about barrel storage,” Mr. Marrow said.

In addition to properly securing tanks and barrels, Mr. Marrow suggested that wineries establish fortified safety areas in wine cellars that can shelter employees in the event of an earthquake. While the Napa quake caused no fatalities, Mr. Marrow said that a falling wine barrel can easily kill a worker.

Wineries also need to secure specialty insurance to cover their unique exposures.

While many businesses in the region choose to forgo earthquake insurance for cost reasons, Mr. Merget said many wine makers opt for stock throughput coverage, an enhanced cargo coverage that covers the product from grape to consumer.

“A stock throughput policy is a seamless cover for wine inventory through its lifecycle, from loading grapes at the vineyard through delivery of the bottled product at the final destination,” he said. “What we like about it is that it has a low fixed deductible, and it covers earthquakes.”

However, even with stock throughput insurance in place the peculiarities of the wine business itself can make it difficult to assess damages. Mr. Aldridge said wineries often will have multiple vintages of wine in various stages of production on the property at the same time.

Garry Edwards, executive broker with Wells Fargo Insurance Services USA in San Francisco, said these unique features of the wine business can sometimes lead to a lengthy claims process, especially when rare and expensive vintages of wine are at issue.

“The insurance company will want to nail down the price of a vintage bottle based on what it was selling for before the earthquake, but now that vintage bottle, with less around, will increase in value, so I do think there will be some difficult adjustments here,” Mr. Edwards said.

Nonetheless, the prevailing attitude in Napa Valley is that while the damage from the earthquake is not inconsequential, the industry as a whole was fortunate with the timing of the quake, Mr. Aldridge said.

“If this had happened a month from now and caused real structural problems, not only would we have lost our 2013 vintage, we would have been unable to take in our 2014 harvest,” he said, noting the primary disruption his operations faced from the quake came from giving employees time to attend to damages to their homes.

Small businesses in the region also incurred damage, and operations were disrupted.

Yusuf Topal, owner of Tarla Mediterranean Grill in downtown Napa said that in addition to broken glassware and some food spoilage, the restaurant will suffer business interruption losses.

“For us, it’s less about damage from the earthquake than the fact that we won’t be able to open for a few days,” he said.

REMEDY

Continued from page 1

remedy is unconstitutional because workers comp reforms have “decimated” comp benefits and “no longer (provide) a reasonable alternative” to allowing workers to sue in civil court.

Exclusive remedy rules in Florida, and in most other states, make workers comp the sole way to recover money for their injuries. Liability lawsuits typically are allowed only in the case of gross negligence by an employer.

In an email response to questions, the state attorney general’s office said it will appeal Judge Cueto’s ruling to Florida’s 3rd District Court of Appeal.

Eddy Canavan, vice president of workers compensation practice and compliance at Sedgwick Claims Management Services Inc. in Riverside, California, said there are hazards in appealing, including the fact that doing so could expand Judge Cueto’s ruling from Miami-Dade County, to the entire state of Florida.

“They run the risk that if it’s upheld, then it’s precedent, and then it’s going to cause a lot more issues for employers in Florida in that injured workers would then have two avenues” to recover damages for occupational injuries, Mr. Canavan said.

Should the attorney general lose its appeal, workers “could go ahead and settle their comp claim and then file for a civil claim to recover additional benefits on top of what they were able to receive on their comp claim,” Mr. Canavan said.

What’s more, employers could see similar cases challenging workers comp laws and exclusive remedy provisions in other states where injured workers feel that workers comp reforms have stripped them of too many benefits, said Charles Davoli, Baton Rouge, Louisiana-based president of the Workers’ Injury Law & Advocacy Group, which is a plaintiff in the Miami-Dade County case.

“Workers comp systems, which are a century old, are in crisis,” Mr. Davoli said. The Miami-Dade case “is what I would term the tip of the (workers comp) ‘deform’ iceberg,” he said, citing states such as Montana and Georgia as ones that could see legal challenges to limits on workers comp benefits.

Experts say the Miami-Dade court decision is part of a spate of lawsuits challenging Florida’s workers comp law. Three cases are being considered by the Florida Supreme Court, and could potentially spike costs for employers.

“What you see in Florida’s history is that after any major reform, there are periods where rates are declining, businesses are enjoying lower costs, and then eventually there are court cases that tend to erode some of those reforms and costs start to rise again. So I think

that’s what we’re seeing here in Florida,” said Lori Lovgren, Boca Raton, Florida-based state relations executive for the National Council on Compensation Insurance Inc.

She described suits challenging the state’s workers comp law as “ominous in terms of the potential impact on (workers comp) rates.”

Sedgwick’s Mr. Canavan said such cases have been appearing in the wake of Florida workers comp reforms over a number of years, such as a series of reforms enacted in 2003 that capped attorney fees, among other changes, and a 1994 reform package that limited temporary total disability benefits to 104 weeks.

Such restrictions have helped lower workers comp costs for employers in Florida, he said.

The state has seen a 56% drop in workers comp prices in the decade since the 2003 reforms, according to a 2013 report by the Florida Office of Insurance Regulation.

However, restrictions meant to alleviate workers comp cost pressures on employers and insurers have created “tension” among claimants seeking fair and timely compensation for their injuries, Mr. Canavan said.

“I think we’re at that point where we have this tension going on that’s going to have to most likely result in some sort of correction, and that correction could come from (Florida) Supreme Court decisions” as well as further legislative action, he said.

Florida employers are keeping an eye on the Miami-Dade county exclusive remedy case and other challenges to Florida workers comp law, said Harry M. George, workers compensation manager for Palm Beach County, Florida, which has 7,000 employees.

Should the state appellate court agree the exclusive remedy provision is illegal, Mr. George said it would have limited effect on Palm Beach County and other public employers, which benefit from a sovereign immunity clause under Florida law limiting judgments against governmental entities to \$200,000 a person.

Still, the case could pose a threat to private-sector employers, Mr. George said.

“The private employers and insurance companies have much more to lose from these decisions,” he said.

Mr. Davoli said his organization does not want to undermine workers comp exclusive remedy rules nationwide. Unlike workers comp, a no-fault system that pays benefits to injured workers and provides immunity for employers, liability lawsuits can take years to litigate and require workers to prove they weren’t at fault for their injuries.

Mr. Davoli said he hopes cases like the Miami-Dade decision will prompt Florida and other states to relax benefit caps or increase benefit levels for injured workers.

“It should be a wake-up call. It should be an attention-getter,” he said.

Benmosche says cancer prognosis led to earlier retirement from AIG

■ As he prepares to step down as CEO of American International Group Inc. on Sept. 1, Robert H. Benmosche revealed that his ongoing cancer prognosis forced him to move up his planned retirement by several months. In a televised interview with Bloomberg TV, Mr. Benmosche said he had originally planned to leave AIG sometime in early 2015 after five years as its CEO, but he elected to exit the company early after being told by his doctors in May of this year that he likely had nine to 12 months to live. “We were thinking about the first quarter of next year,” Mr. Benmosche said in the interview, referring to his originally planned retirement date. “I said, ‘You know what, I’m not going to play the odds, and I think the changes have to be made now, not later.’ So I said we should accelerate my retirement, and (AIG’s board of directors) was happy to do that.” A spokeswoman for AIG confirmed the details of in the interview. AIG announced in June that Mr. Benmosche planned to retire at the end of August and appointed Peter D. Hancock to succeed him as its chief executive.

S&P downgrades Cooper Gay credit rating to B- from B

■ Standard & Poor’s Corp. has downgraded Cooper Gay Swett & Crawford Ltd.’s credit rating to B- from B due to disappointing operational performance through the first half of 2014. S&P analysts said CGSC’s operational struggles were rooted primarily in ongoing deterioration of its organic growth rates through the first six months of 2014, driven in part by increased competition in Latin America, hardening market conditions in London and rising pressure on property rates in North America. “Our weak business risk profile assessment reflects constraints resulting from CGSC’s operations in the highly competitive and fragmented middle-market wholesale and reinsurance brokerage markets and our view that ongoing industry and economic uncertainty will further challenge the company in the intermediate term,” analysts wrote in the report.

JLT shuffles execs, merges specialty units

■ Jardine Lloyd Thompson Group P.L.C. says JLT Re CEO Alastair Speare-Cole will leave the company as Mark Drummond Brady is appointed deputy group CEO. At the same time, the London-based brokerage announced the merger of its JLT Specialty unit with its wholesale brokerage unit Lloyd & Partners. Mr. Brady’s appointment to deputy group CEO takes place immediately, and he also will sit on the executive committee and the board of the newly merged JLT Specialty/Lloyd & Partners business. The merged unit will be named JLT Specialty Insurance Services Inc. but JLT will retain the Lloyd & Partners brand. According to a JLT statement, the merger signals its intention to significantly grow its U.S. business where it will expand existing business lines, including energy, construction, financial lines and credit insurance. Mr. Speare-Cole will leave the company at the end of the year but will hand over his responsibilities immediately to Mike Reynolds, who has been named as global CEO of JLT Towers Re. The company said Mr. Speare-Cole will work with Mr. Reynolds “to manage the transition between now and the

year end.” The merger of JLT Specialty and Lloyd & Partners will take effect Jan. 1, 2015, and will subsequently involve an investment of £50 million (\$82.9 million) between 2015 and 2017, the company said in its statement, with the business expected to generate a profit in 2018.

U.S. risk council to discuss oversight of nonbank firms Sept. 4

■ The U.S. systemic risk council will meet Sept. 4 to discuss naming nonbank financial firms for tougher regulatory oversight, the U.S. Treasury Department said. The Financial Stability Oversight Council appears close to deciding whether it believes insurer MetLife Inc. is “systemically” risky, or so big its hypothetical failure could destabilize global financial markets. The council already has given this designation to insurers Prudential Financial Inc. and American International Group Inc., and General Electric Co.’s financial services unit. The tag means they will be regulated more like U.S. banks and will come under scrutiny from the Federal Reserve. At its closed-door meeting, the group, led by Treasury Secretary Jack Lew, will discuss naming additional nonbank firms for such oversight, according to an update on the FSOC’s website. They did not name which firms are under consideration, but regulators recently took a procedural step to pave the way for a vote on MetLife.

Reuters

Aon Hewitt adding voluntary benefits to private health exchange

■ Aon Hewitt is planning to add voluntary benefit plans to the menu of coverages available through its private health insurance exchange, largely due to rising employer demand for a wider variety of exchange-based benefit options. Voluntary health care benefits such as critical illness, accident and hospital indemnity insurance will be available to employers participating in the “Aon Active Health Exchange” for the first time during this fall’s open enrollment period, the Lincolnshire, Illinois-based benefits brokerage and human resources consultant said in a statement. Employers also will have the option of offering their employees life insurance and long-term disability coverage, as well as a range of personal coverage lines including home and auto, identity theft, legal expenses and pet insurance. Voluntary insurance coverage placed through the private exchange platform would be effective beginning Jan. 1, 2015, Aon Hewitt said.

Workforce growth pushed comp costs up 6.9% in 2012

■ Workers compensation costs paid by employers rose 6.9% to \$83.2 billion year-over-year in 2012, driven largely by an increase in worker numbers and earnings, the National Academy of Social Insurance said in a report. Wages eligible for workers comp coverage increased 4.3% to \$6.3 trillion in 2012 from 2011, and the number of covered workers increased 1.6% to 127.9 million in 2012, the Washington-based NASI said in “Workers’ Compensation: Benefits, Coverage, and Costs, 2012.” Workers comp benefits increased modestly in that time frame, NASI’s report showed. Wage replacement benefits grew 1.8% from 2011 to 2012, while medical benefits grew 0.9%. “As employment increases, the number of workers covered by workers compensation increases, along with

the number of work-related injuries, and workers’ compensation benefits and costs,” the report said.

Pension contribution changes Philadelphia’s deal with city union

■ Philadelphia has reached a tentative seven-year contract agreement with the representatives from the city’s largest municipal workers’ union, AFSCME District Council 33, that will increase employee contributions to the pension fund and allow new employees the choice between a hybrid plan and the traditional pension plan, a spokesman for Mayor Michael A. Nutter said. The contract agreement term is retroactive from July 1, 2009, through June 30, 2016. Terms of the contract must be ratified by members of DC 33. Current participants in the \$4.8 billion Philadelphia Municipal Retirement System, a defined benefit plan, will have their employee contribution increase by 1% of pay over the next two years — 0.5% effective Jan. 1, 2015, and an additional 0.5% effective Jan. 1, 2016. All employees hired after the contract is ratified can either enter the defined benefit plan and pay 1% more than current participants or enter a hybrid plan. Current employees have 90 days following ratification to make an irrevocable election to move to the hybrid plan.

Pensions & Investments

U.S. P/C reinsurer net premiums double in 2014 first half

■ A survey of 18 U.S. property/casualty reinsurers by the Reinsurance Association of America showed net written premiums among the group more than doubled to \$28.4 billion for the first six months of 2014 compared with \$13.5 billion in the first six months of 2013. That increase was largely due to an affiliated loss portfolio transfer and quota share agreement reported by one of the survey respondents, National Indemnity Co., whose results include loss portfolio and quota share agreements with affiliated Geico companies, all effective Jan. 1, 2014, the RAA said in a statement. The combined ratio for the group of 18 reinsurers climbed to 92.3% compared with 85.9% in the year-ago period. Sirius America Insurance Co., New York, showed the lowest combined ratio of the group at 77.6% and Axis Re, part of Axis Capital Holdings Ltd., the highest at 103.1%. Policyholders’ surplus increased 3.0% to \$142.9 billion, the bulk of which came from National Indemnity’s \$99.7 billion, the RAA said.

JPMorgan probes possible cyber attack

■ JPMorgan Chase & Co. is investigating a possible cyber attack and working with law enforcement authorities to determine its scope, a spokeswoman said. The bank was taking additional steps to safeguard sensitive or confidential information, though it did not see unusual fraud activity at this time, she said. JPMorgan disclosed the investigation after the FBI said it was investigating media reports that several U.S. financial companies were victims of recent cyber attacks. “We are working with the United States Secret Service to determine the scope of recently reported cyber attacks against several American financial institutions,” an FBI spokesman said in a statement. He did not name any companies or give more details, although media reports had named JPMorgan as one victim of the attacks.

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Deal lets trashmen nap through lunch

It was a little known fact that Los Angeles had banned garbage truck drivers from taking naps on their lunch breaks, but now the drivers will be free to sleep since the Los Angeles City Council approved a \$26 million legal settlement to end a class action lawsuit over the ban, the Los Angeles Times reported.

The strange rule was imposed to prevent the sight of a city employee sleeping on the job, but it “controlled where they could go, what they could do, who they could eat with, all sorts of things,” Matthew Taylor, a lawyer for the drivers, told the Times in its Aug. 12 report.

The approximately \$15,000-per-driver settlement for lost wages for more than 1,000 drivers is nothing to snooze at, but the \$8.7 million in legal fees should keep their lawyers dreaming blissfully.

Lost loot adds insult to casino’s injury

By all accounts, times are tough in the Atlantic City casino business, but it’s even tougher when a casino loses a portion of its precious take from the roof of an armored car meant to carry the cash to safety.

According to reports, that’s what happened to a bag containing nearly \$21,000 from the soon-to-close Revel Atlantic City casino when the driver of a GardaWorld armored car left the bag on the roof of his truck as he pulled away following a morning cash collection last month.

Surveillance videos showed the bag atop the armored car roof as it pulled away from the Revel and again as it left a second casino following a subsequent pickup, reports said. It isn’t known when the money bag fell off the truck’s roof.

GardaWorld has indicated it’s investigating the incident and cooperating with law enforcement investigations.

The lost loot sack represents just a fraction of the money the Revel has been losing lately. Opened in 2012, the hotel and casino was set to close Labor Day weekend because of financial problems.



PAGEANT CONTESTANT WALKS RUNWAY TO FRAUD CHARGES



Shawna Lynn Palmer competing to become Miss Toyota at the Long Beach Grand Prix in California.

Though style will always trump comfort for beauty pageant contestants, a pair of shoes got one beauty queen in trouble with the law. Prescribed an orthopedic shoe and crutches to treat a fractured toe she allegedly suffered while working at a supermarket, Shawna Lynn Palmer, 22, appeared to have no trouble strutting her stuff in high heels and a bikini while competing to become Miss Toyota at the Long Beach Grand Prix in California, according to press reports.

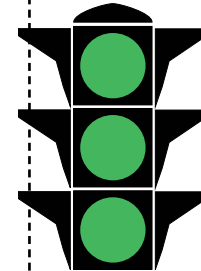
But rather than taking home the tiara, Ms. Palmer earned a pair of handcuffs after Insurance Department authorities learned of her performance, which occurred while she was collecting workers compensation disability benefits. Ms. Palmer was later released on \$5,000 bail after she was charged with three felony counts of insurance fraud, authorities reported. If convicted, Ms. Palmer could serve up to one year in prison.

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Traffic hackers get the green light

Whether hackers are looking to shave time off their commutes or pull off a gold heist like Michael Caine’s character in 1969’s “The Italian Job” (or Mark Wahlberg’s character in the 2003 remake), authorities can add “tampering with traffic lights” to the growing list of cyber risks.

A team of University of Michigan researchers who — with permission from local authorities — took over nearly 100 wirelessly controlled traffic lights said they discovered “major weaknesses”



while looking into traffic control systems.

The researchers hacked into the traffic lights, proving that “an adversary can control traffic infrastructure to cause disruption, degrade safety, or gain an unfair advantage,” they wrote in a paper published last month titled “Green Lights Forever: Analyzing the Security of Traffic Infrastructure.”

“The network is accessible to attackers due to the lack of encryption,” and “devices on the network lack secure authentication due to the use of default usernames and passwords,” they wrote.

Ways to increase security and prevent hackers from tampering with the system include enabling encryption on wireless networks and changing the default credentials on network devices, the researchers wrote.

In the meantime, tech-savvy drivers can try their luck: The wireless systems already are used in more than 40 states.

Bieber stinks up fragrance sales

A cosmetic company’s plans to hitch its financial wagon to pint-sized pop star Justin Bieber has come back to haunt it.

Elizabeth Arden Inc. said this week that its net sales for the fiscal year ended June 30 were \$1.164 billion, a decrease of 13.4% from the prior year. The company pinned its financial flop squarely on the tiny shoulders of Mr. Bieber, whose collection of perfumes failed to meet sales targets.

“The decline in sales of celebrity fragrances, particularly the Justin Bieber and Taylor Swift fragrances, was steeper than anticipated,” the company said in a statement.

Given Mr. Bieber’s propensity for petulant behavior, maybe Elizabeth Arden should have smelled trouble.



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