

RISK MANAGEMENT

## DESPITE FOOTBALL CONCUSSION SETTLEMENT, INSURERS ROLE IN PAYING NFL COSTS UNCLEAR

The \$765 million pact doesn't halt players' work comp claims

BY SHEENA HARRISON

The National Football League's tentative \$765 million settlement for concussion-related liability claims will cover more than 18,000 retired professional football players, whether or not they sued the league over brain injuries, but may not stop workers compensation claims already in play from these athletes.

Sol Weiss, co-lead counsel for plaintiffs in the NFL concussion litigation, said the settlement will apply only to players who have retired as of the date the settlement receives final judicial approval. U.S. District Court Judge Anita B. Brody in Philadelphia is expected to hold a hearing about the tentative settlement by the end of this month.

Retired players who have filed concussion-related workers comp claims in various states may choose to go forward with the claims, Mr. Weiss said. Some players, he said, could opt to drop their comp claims in states where the NFL settlement would reduce a workers comp benefit award, or where their portion of the settlement could be subject to subrogation from insurers.

"The overwhelming number of players I've spoken with have been very favorable and appreciative of the settlement, and they hope it goes through," said Mr. Weiss, who is a Philadelphia-based senior partner at law firm Anapol Schwartz.

The NFL announced on Aug. 29 it had reached a multimillion-dollar settlement agreement with more than 4,500 retired players who had sued the league over con-



AP PHOTO

Jim McMahon, former quarterback for the Chicago Bears, is one of 18,000 retired NFL players potentially covered by the league's settlement of concussion litigation.

### TOP 10 INJURIES

U.S. high school sports injury diagnoses, 2012-2013 school year

|                                   |       |
|-----------------------------------|-------|
| Head/face concussion              | 21.3% |
| Ankle strain/sprain               | 14.3% |
| Hip/thigh/upper leg strain/sprain | 7.6%  |
| Knee strain/sprain                | 7.5%  |
| Other knee injury                 | 4.8%  |
| Other shoulder injury             | 3.8%  |
| Hand/wrist fracture               | 3.3%  |
| Shoulder strain/sprain            | 2.8%  |
| Other lower leg injury            | 2.1%  |
| Trunk strain/sprain               | 2.1%  |

Source: Pediatric Injury Prevention, Education and Research Program, Colorado School of Public Health

## High school concussions could be next asbestos

BY RODD ZOLKOS

Concussions among high school athletes and schools' concussion protocols have been a frequent topic of discussion between school districts and their insurers during summer renewals, and some brokers say the discussions will intensify.

With the National Football League's settlement of a group of concussion-related suits and the National Collegiate Athletic

See **SCHOOLS** page 32

### HEALTH COVERAGE

Most employers already offer their group health plans to same-sex couples.

**90%** Offer coverage for legally married same-sex couples

**87%** Offer coverage for same-sex domestic partners

**79%** Offer coverage for same-sex civil unions.

Source: ERISA Industry Committee

### EMPLOYEE BENEFITS

## Feds clarify same-sex benefits

IRS guidance grants tax equality

BY MATT DUNNING

Federal regulators have given employers much-needed clarity regarding changes to their group benefits plans made necessary by the U.S. Supreme Court's recent partial overturn of the Defense of Marriage Act.

Late last month, the U.S. Department of the Treasury and Internal Revenue Service issued rules that all legally married same-sex couples will be entitled to the same rights and benefits as opposite-sex couples under the U.S. Tax Code, regardless of the state in which they live.

Prior to the Supreme Court's historic June ruling striking down Section 3 of DOMA, marriage was defined strictly as the union between a man and a woman for all federal purposes.

After two months of deliberation, IRS and Treasury officials said

See **SAME SEX** page 33

See **NFL** page 32

### INTERNATIONAL

Country profile of Belgium. Global capital available to underwrite reinsurance reaches record

PAGE 10

### U.S. MID-MARKET

Employers using medical stop-loss captives must commit to health risk management to ensure success

PAGE 8

### RESEARCH & DATA

Top 25 U.S. ocean marine insurers; Direct written U.S. ocean marine premiums

PAGE 23



## MARINE MARKET REPORT

Abundant capacity limits rate hikes; shippers fight back against piracy; marine underwriters scrutinized as sanctions target insurance; security rules stemming from 9/11 help improve cargo security; human error causes most accidents.

PAGE 14

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# CONTENTS

## FEATURES

RISK MANAGEMENT

MID-MARKET



### Railroads grapple with risks as oil shipments increase

Freight railroads and their insurers are re-examining the catastrophic potential of increasing crude oil shipments in the wake of July's deadly derailment and explosion of a runaway train in Quebec. **6**

## PEOPLE

### Q&A: Mark Herman



Mark Herman of CNA Financial Corp. assesses the overall state of the specialty lines market and discusses

opportunities for growth during the economic recovery. **24**

## OFF BEAT



### Snooki sues over perfume

Reality television star Nicole "Snooki" Polizzi has sued Excell Brands L.L.C. for allegedly using her name without permission. **34**

## SECTIONS

INTERNATIONAL **10**

OPINIONS **12**

RESEARCH & DATA **23**

PEOPLE **24**

MARKET PULSE **26**

OFF BEAT **34**

# NEWS

## PROPERTY/CASUALTY INSURERS

# ZURICH UNDER PRESSURE IN WAKE OF CHAIRMAN'S EXIT

Ackermann leaves after CFO's suicide note cites him

BY BILL KENEALY

The abrupt resignation of Zurich Insurance Group Ltd.'s chairman following the suicide of the company's chief financial officer puts pressure on the company's leadership and requires short- and long-term crisis management.

To minimize the adverse effect of the events on the company, Zurich needs to clarify the relationship between former CFO Pierre Wauthier, who took his own life in August, and former Chairman Josef Ackermann, said Larry Walsh, vice chairman at the Alexandria, Va.-based strategic communications group Hawthorn Group L.C.

Zurich has acknowledged that Mr. Ackermann was named in Mr. Wauthier's suicide note, and Mr. Ackermann cited it as a reason in his resignation letter.

"The resignation raises more questions than it answers," Mr. Walsh said. "It looks abrupt and unplanned."

In a conference call with analysts, Zurich Acting Chairman Tom de Swann refused to com-



AP PHOTO

Mr. Ackermann, ex-CEO of German Deutsche Bank, left Zurich suddenly after CFO's suicide.

ment on the content of the suicide note.

"We have accepted the resignation of Joe Ackermann as chairman of the Board," Mr. de Swann said. "It was his decision based on his own personal reasons, and I do not want to speculate on those."

While he said he was not aware of any behavior on the part of Mr.

Ackermann that would be considered inappropriate, published reports detailed "heated exchanges" and "long-simmering friction" between Messrs. Wauthier, 53, and Ackermann, 65, over how to explain the company's recent financial results.

Mr. Walsh said the company needs to provide a more complete explanation.

"You cannot speak to what motivated the CFO, but you have to talk about what prompted your chairman to resign," Mr. Walsh said. "What the family thinks of his role doesn't go away just because he walks out the door."

Yet, during the conference call, Zurich CEO Martin Senn sought to push back on the perceived connection between the suicide and the insurer's business and financial performance.

In August, Zurich reported a 27% drop in first-half net income after incurring heavy natural catastrophe-related losses due to severe flooding in Europe and tornadoes in North America.

See ZURICH page 30

## HEALTH CARE BENEFITS

# More firms unwilling to cover workers' spouses

BY JERRY GEISEL

More employers are expected to try to hold down health plan costs by denying coverage to employees' spouses or imposing surcharges in situations when spouses are eligible for coverage from their own employers.

Such a trend has been going on for some time as a cost-cutting move and allows employers to direct corporate health care dol-

lars to those most in need.

The design change received new attention last month when Louisville, Ky.-based package delivery giant United Parcel Service Inc. said employees' working spouses will lose health coverage next year, if they are eligible for coverage from their own employers.

Rising health care costs "combined with the costs associated

See SPOUSES page 31

## SPOUSAL COVERAGE

The percentage of employers that will not cover employees' spouses with access to health insurance from their own employers or will impose a surcharge in that situation has increased since 2008.

| Year | Spousal cover excluded | Surcharge imposed |
|------|------------------------|-------------------|
| 2012 | 6%                     | 6%                |
| 2010 | 5%                     | 6%                |
| 2008 | 3%                     | 5%                |

Source: Mercer L.L.C.

## CORRECTIONS

■ A column listing net reinsurance premiums written was omitted from a chart ranking the world's largest reinsurers in the Aug. 26 edition of *Business Insurance*. The complete chart appears on page 23 of this issue.

■ An article in the July 29 issue, "'Top Hat' Retirement Plans Rebounding for High-Level Execs," should have said that workers older than 50 can make additional catch-up contributions of \$5,500 to their 401(k) plans this year, not \$5,000. In addition, Section 409A, not 401A, of the Internal Revenue Code governs nonqualified deferred compensation plans. There is no penalty for early withdrawal as long as the plans follow Section 409A rules.

## GALLAGHER'S U.K. EXPANSION

Giles Group of Cos. U.K. staff and locations

Giles Group and Arthur J. Gallagher & Co. combined U.K. staff and locations

### EMPLOYEES



### OFFICES



### AGENTS & BROKERS

# Giles buy grows Gallagher's U.K. business

BY BILL KENEALY

Arthur J. Gallagher & Co.'s purchase last week of London-based brokerage Giles Group of Cos. underscores large U.S. brokerages' need to grow overseas.

The \$362.1 million deal, expected to close in October pending regulatory approval, expands Itasca, Ill.-based Gallagher's footprint in the United Kingdom. Gallagher is the third-largest broker of U.S. business, according to the 2013 *Business Insurance* ranking of the top 100 U.S. brokers.

"It more than doubles their office locations in the U.K.," said Timothy J. Cunningham, managing director of Chicago-based investment banking and consulting firm Optis Partners L.L.C.

He said Giles' business mix blends nicely with Gallagher's diversified corporate structure.

"Giles has mid-market, retail, program, wholesale, underwriting and personal lines," Mr. Cunningham said. "It looks like a smaller version of Gallagher."

In a statement, Gallagher Chairman and CEO J. Patrick Gallagher Jr. said there are similarities, but limited overlap in their respective

See GALLAGHER page 30

ONLINE FEATURES

SOLUTION ARC

Protecting your company through background checks

How companies can conduct criminal background checks on workers and potential hires.  
www.BusinessInsurance.com/BackgroundChecksArc

VIDEO



IN FOCUS: First-half results

The weekly video focuses on 2013 first-half results for P/C insurers, brokers and health insurers.  
www.BusinessInsurance.com/video

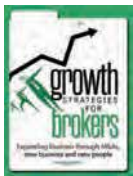
AWARDS

Best Places to Work winners

Business Insurance announces its 2013 Best Places to Work in Insurance honorees.  
www.BusinessInsurance.com/BestPlaces2013Winners

WHITE PAPER

Growth strategies for brokers



Expanding business via mergers and acquisitions, new clients and smart hires are ways in which agents and

brokers can continue to grow in an increasingly competitive market.  
www.BusinessInsurance.com/BrokerGrowthWP

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NEWS

P/C LEGISLATION & REGULATION

GLOBAL GROUP URGES CENTRALIZED REGULATION FOR U.S. INSURERS

NAIC and PCI skeptical of recommendations

BY MARK A. HOFMANN

A Financial Stability Board report urging greater centralization of U.S. insurance regulation is drawing a mixed and generally negative reaction from U.S. insurance industry groups.

In its recent "Peer Review of the United States," the stability board said Congress has established the Federal Insurance Office, but also noted the FIO does not have "the explicit legal authority to promote greater regulatory uniformity in the insurance sector."

The board is an international body on which three U.S. organizations sit — The Treasury Department, the Securities and Exchange Commission and the Federal Reserve Board of Governors.

Nevertheless, the FSB review said that information-sharing and coordination between state regulators and federal authorities has increased and that "state authorities have taken useful steps to improve insurance group supervision; to modernize solvency requirements; and to improve disclosures required for securities lending operations by insurance companies."



LIGHTSPRING/SHUTTERSTOCK.COM

Despite the accomplishments, "however, significant additional work is required" to fully address the recommendations by the International Monetary Fund in regard to insurance regulation, according to the review.

"While the National Association of Insurance Commissioners plays an important role in promoting consistency between states, the fact that it is not a supervisory authority and that state laws must only be

'substantially similar' to the NAIC's model laws allows for divergent approaches, which may impact the consistency of supervision applied to large insurance groups with national and international reach," according to the review.

The review recommended that U.S. authorities carefully consider and recommend to Congress whether moving toward a more

See FSB page 30

PROFESSIONAL LIABILITY

Solicitors' coverage in flux; renewals delayed

BY SARAH VEYSEY

Upheaval in the United Kingdom's professional indemnity market for small- to medium-size law firms is delaying renewals, but experts say new underwriting capacity means that most firms likely will secure coverage.

Professional indemnity is a compulsory insurance coverage for solicitors in England and Wales and renews on Oct. 1 each year.

Solicitors, like lawyers in the United States, advise and represent clients, but generally turn over cases to barristers to handle during a trial.

The solicitors market, particularly for small to medium-size companies, has undergone some major changes this year.

October marks the final windup of the Assigned Risk Pool, formerly run by the Solicitors Regulation Authority, which regulates lawyers in the U.K., for firms that were unable to obtain professional indemnity coverage in the open market.



Earlier this year, Latvian authorities ordered Riga, Latvia-based Balva Insurance Co., which underwrote professional indemnity and other insurance, to cease underwriting and withdrew its licenses after the firm ran into financial difficulties.

In August, Dublin-based XL Group P.L.C. said it would reduce the amount of professional indemnity insurance that it underwrites for solicitors.

"We continue to review our overall PI book of solicitors and are working on pricing and underwriting guidelines to profitably write this class of business over the long term," an XL spokesman said in a statement. "Unfortunately, current market conditions are not allowing adequate pricing in certain areas of the solicitors class. As such, we are significantly reducing our market share in the United Kingdom for the upcoming renewal season."

However, after XL's announcement, Aon P.L.C. said it had extended an exclusive arrangement with QBE

See SOLICITORS page 29

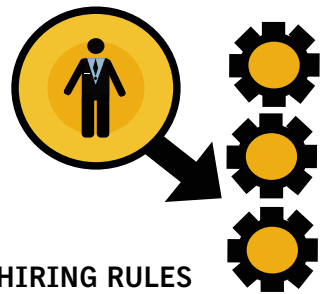
EMPLOYMENT PRACTICES

Rules set goals for hiring vets, disabled people

BY JUDY GREENWALD

Final regulations for federal contractors' and subcontractors' hiring of veterans and disabled workers are an improvement from the original U.S. Department of Labor proposals, but they still pose a burden for employers.

Under the final disability rule announced Aug. 27, federal contractors and subcontractors must set a goal of hiring people with disabilities to comprise 7% of each job group of their workforces. According to the Office of Federal Contract Compliance Programs, nearly one out of every four U.S. workers is employed by a company that is either a federal contractor or a subcontractor.



HIRING RULES

Guidelines for federal contractors on hiring disabled people and veterans require:

- Federal contractors must set a goal of hiring disabled workers to comprise 7% of each job group.
- Federal contractors should hire veterans based on a national benchmark, currently 8%, or set the benchmark based on the best available data.
- The U.S. Department of Labor said the rules address "disproportionately high" unemployment among the disabled and veterans.

The rule details specific actions contractors must take in recruitment, training, record-keeping and policy dissemination for hiring disabled workers that are similar to those long required to promote workplace equality for minorities, the Labor Department said.

The contractor rule on hiring the disabled updates Section 503 of the Rehabilitation Act of 1973.

The rule on hiring veterans updates requirements under the Vietnam Era Veterans' Readjustment Assistance Act of 1974.

The Labor Department said the regulation provides a quantifiable metric to measure success in recruiting and employing veterans

See HIRING page 29



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# RAILROADS GRAPPLE WITH CAT RISKS AS OIL SHIPMENTS INCREASE

## Operators, insurers reviewing liabilities in wake of Quebec accident

BY DOUGLAS MCLEOD

Freight railroads and their insurers are re-examining the catastrophic potential of rising crude oil shipments in the wake of July's deadly derailment and explosion of a runaway train in Quebec.

The accident, which killed 47 people and destroyed much of central Lac-Mégantic, Quebec, could produce up to \$750 million in liabilities ranging from wrongful death claims to large pollution cleanup costs, sources said (see related story). It also pushed Montreal, Maine & Atlantic Railway Inc., the railroad involved, into bankruptcy reorganization.

The disaster highlights exposures in the fast-rising use of railroads to transport crude oil from newly developed fields such as those in North Dakota, particularly on smaller regional and local shortline railroads, insurance sources said.

It is also focusing railroads' and regulators' attention on those shipping risks, said Daniel Bancroft, senior vice president and transportation practice leader at Willis North America Inc. in New York.

Most U.S. crude oil is transported by pipeline and wasn't a large-volume commodity for railroads until recently. But shale drilling in North Dakota's Bakken formation creat-

ed an opening for railroads, initially because of inadequate pipeline capacity and later because they could deliver oil to coastal locations that brought higher prices.

In the first quarter of 2010, U.S. Class I railroads, including U.S. units of Canadian railroads, originated 3,395 carloads of crude oil; by the first quarter of 2013, that number had rocketed to 97,135 carloads, according to the Washington-based Association of American Railroads (see chart).

Class I railroads — including BNSF Railway Co., Canadian National Railway, Canadian Pacific Railway Ltd., CSX Corp. and Union Pacific Corp. — carry most crude shipments from origination to final destination. Some shipments originate on smaller railroads or are turned over to them for deliveries on their networks.

The ill-fated MMA train, consisting of 72 crude oil tank cars and a boxcar, began as a Canadian Pacific train in North Dakota and turned over to MMA near Montreal. Operated by a single engineer, the 10,000-ton train was left unattended in Nantes, Quebec, after a small fire on one engine was put out; its brakes later failed to hold it, and it rolled downhill into Lac-Mégantic.

Canadian regulators subsequently ordered that all trains carrying

hazardous substances have two operators and not be left unattended on a mainline track.

The U.S. Federal Railroad Administration, meanwhile, issued an emergency order that trains with dangerous cargo not be left unattended unless a railroad adopts a specific plan, and ordered railroads to adopt plans to secure unattended trains. It also said its inspections of railroads since January 2010 showed "significant noncompliance" with existing regulations.

The Association of American Railroads said in a statement that its members will implement the emergency order, and railroads will review their operating procedures.

Industry experts note that railroads' overall safety record is excellent, and that they carry many substances more dangerous than oil, from chlorine to anhydrous ammonia, though some say the rapid growth of crude oil-by-rail is making railroads riskier.

That growth "absolutely increases the potential of a catastrophic loss," said Nick Bayliss, assistant vice president with Gemini Transportation Underwriters, a Boston-based unit of W.R. Berkeley Corp.

And while Class I railroads have longstanding experience with handling hazardous materials, smaller regional and shortline railroads

face more challenges, observers say. Until recently, for example, smaller railroads didn't usually handle heavy "unit trains" made up entirely of cars carrying one commodity, such as oil, that require much closer management, said Bill Anderson, president of Rail Services Inc., a railroad safety and claims consultant in Boise, Idaho.

Track and other infrastructure on smaller railroads also may not be up to the maintenance standards of Class I carriers, said James R. Beardsley, managing director and global rail practice leader at Marsh Inc. in Washington.

And for many smaller railroads, risk management practices haven't improved despite increases in self-insured retentions in recent years, meaning even basic steps such as securing engine cabs against trespassers aren't always followed, Mr. Anderson said.

Smaller, local railroads carry relatively small liability limits: MMA had only \$25 million in liability coverage with XL Insurance Co. Ltd., sources said. For a railroad carrying high-risk cargo, "\$25 million probably isn't even prudent, much less adequate," said Mr. Anderson.

In contrast, the eight U.S. and Canadian Class I railroads generally carry more than \$1 billion in liability coverage, he and other rail experts said. Class I railroads buy available market limits up to \$1.5 billion excess of retentions of \$25 million to \$50 million or more, insurance sources said.

Class II regional railroads typically buy \$25 million to \$50 million in limits, with some buying up to \$100 million, while shortlines may buy as little as \$5 million to \$10 million, said Dave Adamczyk, vice president in the railroad department of Liberty International Underwriters in Hunt Valley, Md.

Several railroads have reviewed their exposures since the accident and have inquired about upping limits, market sources said.

Their decisions will be a "balancing act" between perceived risks and cost, said Mr. Beardsley. "They are looking at this exposure more on a catastrophic basis, then they'll make a decision on what they want to pay."

## LEGAL BATTLES OVER CRASH UNDERWAY

Liabilities in the Montreal, Maine & Atlantic Railway derailment at Lac-Mégantic, Quebec, will likely take years to sort out, but some battles already are underway.

The Quebec government notified Canadian Pacific Railway Ltd. that it is liable for costs of cleaning up the estimated 1.5 million-gallon crude oil spill. CP originated the train in North Dakota, turning it over to MMA near Montreal. The government sent similar notices earlier to MMA and Miami-based World Fuel Services Corp. and an affiliate, Eden Prairie, Minn.-based Western Petroleum Co., which owned the oil and leased the tank cars. CP and World Fuel denied cleanup responsibility.

CP was added as a defendant in August in a class action filed in Quebec on behalf of anyone damaged by the accident. Also added were tank car manufacturing and leasing companies Union Tank Car Co. of Chicago; Trinity Industries Inc. of Dallas; and GE Capital's Rail Services unit.

The July suit initially named MMA; Rosemont, Ill.-based parent Rail World Inc.; affiliates; the parent's directors and officers, including Edward Burkhardt, Rail World president and majority owner of MMA; and Irving Oil Ltd., owner of the St. John, New Brunswick, refinery to which the oil was being transported.

Meanwhile, more than a dozen individual lawsuits have been filed in Cook County, Ill., Circuit Court in Chicago on behalf of some of those killed in the accident.

CP and Western Petroleum have also served on MMA notices of claim on the loss of leased railcars and for the crude oil cargo, and numerous property owners in Lac-Mégantic demanded MMA pay for the destruction of their buildings, according to an MMA bankruptcy filing in Quebec Superior Court in Montreal.

In the bankruptcy filing, MMA estimated the costs of cleaning up the oil spill at 200 million Canadian dollars (\$192.5 million).

By Douglas McLeod

## GROWTH IN PETROLEUM SHIPMENTS OUTPACES OTHER COMMODITIES

Rail carloads, Jan. 1-Aug. 3, 2013

| U.S.*   |           |                  |
|---|-----------|------------------|
| Commodity   | Carloads  | Change from 2012 |
| Petroleum and petroleum products, including crude | 421,494   | 43.8%            |
| Grain   | 517,918   | (16.1%)          |
| Coal  | 3,412,211 | (4.5%)           |
| Canada**  |           |                  |
| Commodity   | Carloads  | Change from 2012 |
| Petroleum and petroleum products, including crude | 204,650   | 19.0%            |
| Grain   | 257,288   | (2.6%)           |
| Coal  | 278,293   | 1.7%             |

\*Excluding U.S. operations of Canadian National Railway Co. and Canadian Pacific Railway Ltd.

\*\*Including U.S. operations of Canadian National Railway Co. and Canadian Pacific Railway Ltd.

Source: Association of American Railroads

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# CAPTIVES DRIVE HEALTH RISK MANAGEMENT

Self-funded employers use captives to lower stop-loss costs, retentions

BY JOANNE WOJCIK

## STOP-LOSS COVERAGE

The percentage of employers that self-fund their health benefits is 61% this year, up from 49% in 2000. Small and midsize employers are more likely than large employers to buy stop-loss insurance to hedge against catastrophic claims.

| Number of employees | % buying stop-loss |
|---------------------|--------------------|
| 50-199              | 73%                |
| 200-999             | 94%                |
| 1,000-4,999         | 85%                |
| 5,000+              | 40%                |

Source: Kaiser Family Foundation and Health Research & Education Trust Employer Health Benefits 2013 Survey

A. Wright, a principal at Johnson, Kendall & Johnson Inc., one of 21 employers in Contrarian Re, a stop-loss captive formed in 2012. “If there are runaway claims and not

a whole lot of attention being paid, then you just start reverting back to the mean. I think there should be a bar, and if people choose not to meet that bar, then they should stick with traditional insurance.”

Tris Felix, vice president of risk management at broker IMA Inc. in Denver, said employers participating in group stop-loss captives should implement a risk management strategy to keep claim costs in check just as if they were participating in a group workers compensation or casualty captive.

“It’s a mandatory, critical piece of a captive program,” said Mr. Felix. “You wouldn’t ask a group of companies to fund the first \$250,000 or \$500,000 of every claim without putting in place a robust life safety or ergonomics education, safety and training program. The same goes for health.”

Jim Hoitt, vice president of sales at Berkley Accident & Health L.L.C. in Marlborough, Mass., said the firm offers “common-sense guidelines” to manage health risks within a captive program that become stricter over time.

Employers that self-fund typically shave a few percentage points off the cost of traditional insurance initially, he said. The next savings opportunity is in the captive layer, where employers share the premium paid for specific stop-loss coverage, Mr. Hoitt said.

“After that, you plug and play all of these risk management programs. The more established the captives become, the better they run over time. They retain dollars on aggregate claims. Risk management acts on catastrophic claims and high-frequency claims,” he said.

Disease management typically

has the greatest effect on health costs, but wellness programs also limit costs by preventing expensive or chronic conditions, experts say.

Laurie Hoag-Winkler, vice president of employee benefits and director of group captive programs at IMA in Denver, said the firm requires employers seeking to join its stop-loss captive programs to meet minimum participation rates in health risk management tools such as health risk assessments, biometric screenings and care management. If an employer fails to meet that standard, “the captive has the ability to ask them to leave,” she said. “You have to have 70% engagement in health risk management and care management programs ... to see an improvement in health and a bend in the cost curve.”

“What you really need to do is drive down costs by driving down the claims,” said Andrew Cavenagh, managing director of Pareto Captive Services L.L.C. in Conshohocken, Pa., which launched Contrarian Re last year with 21 employer members with groups averaging 100 to 200 employees.

For example, “if you do biometric screenings and find out your employee population is twice the national average for diabetes, you might want to look for a vendor that specializes in the chronic disease spectrum that works to educate employees about diabetes,” Mr. Cavenagh said.

## ADVANTAGES



When self-funding benefits, stop-loss coverage **reduces exposure** to catastrophic health claims.



Stop-loss coverage purchased through a captive **costs less** than when purchased individually.



Captive-provided stop-loss coverage is available at **lower attachment points**.



Wellness and disease management programs can help **reduce overall health costs**.



Well-managed programs can result in **reductions in future stop-loss premiums**.

## STOP-LOSS CAPTIVE STABILIZES MANUFACTURERS’ COSTS, REDUCES VOLATILITY

BY JOANNE WOJCIK

Aircraft Gear Corp. is realizing a return on its investment in a stop-loss captive from steadily increasing health risk management activities, said Jim Knutson, risk manager and human resource director at the aviation and automotive component maker.

The latest installment, a fitness program emphasizing mobility, agility, core strength and balance, is also helping its workers compensation program, he said.

The Loves Park, Ill., company, which self-funded its benefits before joining the stop-loss captive, provides health coverage to 180 plan members, including 70 employees, Mr. Knutson said.

“I get this all the time: ‘You’re crazy to self-fund. You aren’t big enough.’ But if you employ better risk management techniques, I think you can drive the threshold for self-funding from a couple of hundred down to under 100,” he said.

While the early performance of its self-funded benefit plan was “pretty rocky,” Mr. Knut-

son said things have “normalized” after four years in the stop-loss captive. “We’ve stabilized our costs and smoothed out the volatility — two important features for a small company and really important for a company that’s affected by economic cycles.”

Aircraft Gear will receive dividends of 10% to 12% of what it paid into the captive in 2012. This compares with 2010, when the company had to “pay in a little bit to the captive,” Mr. Knutson said.

“We had to make a model that just didn’t take away the carrier that was involved, but also had to include all the pieces of a population health risk management system,” said Brock Hendricks, a producer at broker Daniel & Henry Co. in St. Louis, who in 2010 helped launch the Hamilton Group, a Hamilton, Bermuda-based captive managed by Berkley Accident & Health L.L.C. with 24 members including Aircraft Gear. “You have to have tools to engage employees who are high risk,” he said.

The captive works with a wellness provider

that uses third-party administrator biometric screening data to reach out to high-risk individuals, he said.

The captive also provides nurse case management, a disease management provider and an outside consultant that reviews and renegotiates fees to minimize costs, Mr. Hendricks said. The program TPA works with the attending physician and stop-loss insurer when necessary.

“It’s the same as a (workers compensation) program where you focus on low-frequency, high-severity cases,” he said.

An unexpected byproduct of Aircraft Gear’s participation in the captive health risk management program has been insurers’ greater interest in renewing its workers comp program.

“We have low turnover, so every year our workforce gets another year older and less attractive to workers comp carriers,” Mr. Knutson said. “But with the emphasis on aging productively and actively, the carriers are a lot more interested in our risk,” which he said could help the company’s October comp renewals.

## INDUSTRY USAGE

Employers in certain industries that self-fund their health benefits are more likely to purchase stop-loss coverage than others.

| Industry                                | % self-funding |
|---|----------------|
| Service                                 | 73%            |
| Agriculture/mining/construction         | 71%            |
| Health care                             | 70%            |
| Finance                                 | 64%            |
| Wholesale                               | 63%            |
| Manufacturing                           | 62%            |
| Retail                                  | 47%            |
| Transportation/communications/utilities | 41%            |
| State/local government                  | 23%            |

Source: Kaiser Family Foundation and Health Research & Education Trust Employer Health Benefits 2013 Survey

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## Global reinsurance capital reaches \$510B: Research

■ The amount of global capital available to underwrite reinsurance reached \$510 billion in the first half of 2013 — its highest level ever, according to research by Aon Benfield Group Ltd. In its report for the first half of 2013, published last week, the London-based brokerage said the global capital available to underwrite reinsurance business, including third-party nontraditional capital, increased by 1% from December 2012 to June 2013. This increase was caused by the overall solid earnings of major insurers and reinsurers as well as a continued influx of new capital, but was somewhat offset by unrealized losses on bond portfolios filtering through, said Mike Van Slooten, London-based head of Aon Benfield's international market analysis team.

## Pool Re names Julian Enoizi as CEO

■ Pool Reinsurance Co. Ltd. said late last month that Julian Enoizi has been named CEO and will join the London-based reinsurer today. Until recently a managing director with Lloyd's of London insurer ProSight Specialty Underwriters Ltd., Mr. Enoizi has worked in the insurance industry since 1995. He also has served as president and CEO of Argo Managing Agency and, before that, of CNA Europe. Formed in 1992, Pool Re was set up by the U.K. insurance industry with government backing to provide terrorism reinsurance for commercial property insurers operating in Britain. Mr. Enoizi succeeds Steve Atkins, who is retiring after 13 years in the position but has agreed to remain at Pool Re for a short time to facilitate a smooth transition.

## Syria, Egypt strife sparks surge in cyber attacks

■ Syria's civil war and political strife in Egypt have thrown up new battlegrounds on the Web and driven a surge in cyber attacks in the Middle East, according to a leading Internet security company. More than half of incidents in the Persian Gulf this year were so-called "hacktivist" attacks — which account for only one-quarter of cyber crime globally — as politically motivated programmers sabotaged opposing groups or institutions, executives from Intel Corp's

## PROFILE: BELGIUM

\$11.35  
BILLION

Belgium has long been regarded as one of the most competitive insurance markets in Europe, though competition has tempered somewhat recently. Premium reductions still can be secured on risks coming off multiyear programs, but risks with a poor loss experience are seeing increases. Nearly all the major international insurers participate in the market, either locally or on a freedom-of-services basis. There has been some consolidation in recent years.

◀ 2011 P/C premiums

### MARKET SHARE

| Sector  | Market Share (%) |
|---|------------------|
| MOTOR   | 33.8%            |
| PROPERTY                                      | 21.8%            |
| PA & HEALTH CARE WRITTEN BY NONLIFE COMPANIES | 18.8%            |
| WORKERS COMPENSATION & EMPLOYERS LIABILITY    | 10.6%            |
| MARINE, AVIATION & TRANSIT                    | 1.5%             |
| CONSTRUCTION & ENGINEERING                    | 0.9%             |
| SURETY, BONDS & CREDIT                        | 1.0%             |
| MISCELLANEOUS                                 | 4.7%             |

Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

**BELGIUM**

**POPULATION**  
10.6 million

**AREA**  
11,784 square miles

**SERVICES PORTION OF ECONOMY**  
75%

**2013 GDP CHANGE (PROJECTED)**  
(0.2%)

### COMPULSORY INSURANCE

Numerous classes of insurance are compulsory, including:

- Auto third-party liability
- Liability for realtors, recruiters and travel agents
- Environmental liability
- Liability for provision of cross-border services
- Health care liability, including clinical trials
- Liability for slag heap reclamation

### NONADMITTED

Insurers from the European Union and other European Economic Area states may provide insurance under freedom-of-services legislation. While unauthorized insurers cannot provide insurance in Belgium, there is nothing in the law, with a few exceptions, that requires that insurance be purchased from locally authorized insurers.

### INTERMEDIARIES

Brokers and agents have to be authorized to do business in Belgium, and they are not allowed to place business with nonadmitted insurers except for the following classes of business: marine transportation; aviation; spacecraft; and international goods in transit. Brokers involved in nonadmitted placements do not have to warn buyers their insurer is not subject to local supervision.

### MARKET PRACTICE

The Belgian market generally complies with insurance legislation. Regulators are vigilant and alert the public when insurers operate without appropriate authorization.

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

software security division McAfee said last week. "It's mostly bringing down websites and defacing them with political messages — there has been a huge increase in cyber attacks in the Middle East," said Christiaan Beek, McAfee director for incident response forensics in Europe, the Middle East and Africa. He attributed the attacks to the conflict in Syria, political turmoil in Egypt and the activities of hacking collective Anonymous. Reuters

## Foreign firms in China beef up compliance

■ Foreign companies in China are getting increasingly jumpy about a spate of antitrust and corruption investigations by Chinese authorities and are hiring lawyers to

make sure their operations comply with the law. The investigations represent one of the most significant risks to doing business in China in years. Antitrust regulators have looked into sectors such as pharmaceuticals, milk powder and jewelry in recent months and suggested that autos, telecommunications, banks and oil firms could be next. Lawyers in China say client inquiries related to a five-year-old anti-monopoly law — suddenly being enforced with zeal — have jumped, including requests for antitrust audits. Reuters

## Japan to spend \$500M on tsunami water crisis

■ Japan pledged nearly \$500 million to contain leaks and decontaminate radioactive water from

the tsunami-crippled Fukushima nuclear plant, stepping up government efforts to cope with the legacy of the worst atomic disaster in a quarter of a century. The announcement came just days before the International Olympic Committee was to decide whether Tokyo — 140 miles from the wrecked plant — will host the 2020 Olympic Games, and the government is keen to show the crisis is under control. Madrid and Istanbul are the rival candidates. "The world is watching to see if we can carry out the decommissioning of the Fukushima nuclear power plant, including addressing the contaminated water issues," Prime Minister Shinzo Abe told cabinet ministers, who met to approve the plan. The government intervention represents only a tiny slice of the response to the Fukushima crisis triggered by the March 2011 earthquake and

tsunami, which caused reactor meltdowns at the plant. The cleanup, including decommissioning the ruined reactors, will take decades and rely on unproven technology. Reuters

## Guy Carpenter launches unit in Greece, Cyprus

■ Guy Carpenter & Co. L.L.C. unit has made a "major strategic investment" in a new venture designed specifically to help develop business in Greece, Cyprus and adjacent countries, the reinsurance broker said last week. Guy Carpenter said it has acquired a significant interest in the new company known as Carpenter Turner. As of Sept. 9, Carpenter Turner will take over all renewing business from Guy

## MARKET DEVELOPMENTS

UPDATED JULY 2013

- The rate of judicial interest that may be charged on court awards is fixed at 2.75% for 2013, compared with 4.25% for 2012.
- A draft bill outlining an opt-in type of class action is expected to be published in 2013.
- Since Jan. 1, 2013, joint stock insurance companies and non-E.U. foreign branches of insurers have been required to maintain a guarantee fund equal to one-third of their solvency margin, subject to certain minimum requirements.
- The government reportedly is considering the introduction of a fire brigade levy on insurers.

Carpenter's reinsurance intermediary's office in Athens. "The new venture combines the significant regional knowledge and expertise of the Turner family and their associates with Guy Carpenter's extensive analytical resources and the firm's access to international markets," Guy Carpenter said in a statement.

## Scor eyes 7% underlying annual sales growth

■ Scor S.A. is targeting annual sales growth, excluding acquisitions, of 7% through mid-2016, the French reinsurer said last week, thanks in part to its recently announced purchase of rival Generali's U.S. assets. Assuming a stable pricing environment, Scor said its new strategic plan also targeted annual premium growth of 8.5% for its nonlife reinsurance arm. Although the reinsurance industry has enjoyed continued profitability, according to a recent Fitch Ratings report, it has been exposed to rock-bottom interest rates over the past few years that make it harder to generate investment returns. Scor has been shifting assets to the United States, where long-term interest rates are on the rise. The French company is set to become the largest life reinsurer in the United States after agreeing to buy Generali Group assets for \$920 million earlier this year.

Reuters

## Former Lloyd's chairman to head Pioneer board

■ Pioneer Underwriting Ltd. has named insurance industry veteran Max Taylor as chairman of the board. Mr. Taylor has more than 40 years of insurance industry experience and has served as chairman of Lloyd's of London and deputy chairman of Aon P.L.C.'s U.K. operations. "I am very pleased that Max has agreed to lead our board. Pioneer is a dynamic, exciting venture and we needed a chairman whose experience and understanding matches our aspirations," Darren Doherty, CEO of Pioneer Underwriting, said in a statement. "Max's knowledge will help us take the next steps in building the team, infrastructure, know-how and governance to match our ambition."

## Investments in insurance pose danger: Nelson

■ A flood of investment capital into structures linked to insur-

ance could lead to instability and spark a new financial crisis if left unsupervised, John Nelson, chairman of Lloyd's of London, has warned. Billions of dollars from investment funds has flooded into insurance-linked structures in recent years as an alternative to more traditional investments such as bonds, which currently offer poor yields because interest rates are low. This has allowed insurers and the reinsurance

industry in particular to spread risk and drive down prices. In a speech last week, Mr. Nelson said the trend helped fund expansion to keep pace with growing economies and rising demand. But he warned that if not properly supervised the fund flows could end up undermining the stability of the insurance sector. Mr. Nelson said the insurance industry must avoid capital becoming detached from risk, a mistake that

he said caused the banking industry's "systemic problems" from 2007.

Reuters

## TD Bank profit falls 10% on insured flood losses

Toronto-Dominion Bank's quarterly profit fell 10% as Canada's No. 2 lender took 418 million

Canadian dollars (\$406.8 million) in charges related to insured flood losses. TD warned last month it would take insurance charges for higher provisions in its auto lending unit as well as losses from floods in Alberta and Ontario during the summer. The bank earned CA\$1.53 billion (\$1.42 billion) in the third quarter ended July 31, compared with CA\$1.70 billion (\$1.70 billion) a year earlier.

Reuters

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EDITORIAL

## ONE VOICE SHOULD SPEAK FOR INDUSTRY

**W**hen an international organization recommends changes in U.S. insurance regulatory practices, feathers are certain to be ruffled. As we report on page 4, the Financial Stability Board's recent peer review of U.S. insurance regulation accomplished just that in its call for greater uniformity in U.S. insurance regulation.

The insurance industry itself has been split for years on whether greater centralization of regulatory power at the federal level is desirable.

We've long been in favor of such enhanced federal regulatory power, including the ability of insurers and brokers to seek optional federal charters in place of state-by-state regulation.

While that's unlikely to happen any time soon, we remain convinced that a greater federal role implemented by granting the Federal Insurance Office more power is the right way to go.

In its review, the Financial Stability Board, an international group on which the United States has three representatives, recognized that state insurance regulators have done a good job of protecting consumers and in dealing with insurer solvency. But greater uniformity among regulations remains elusive.

The National Association of Insurance Commissioners can recommend reforms to individual states, but it cannot make the states adopt them any more than an insurer trade group can.

That's a good reason to grant the FIO more power. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the FIO isn't a regulatory body, only an advisory one. It does, however, represent the United States in international regulatory matters. But it does not represent the United States alone; state regulators also have their say on the global stage.

With the ever-increasing global nature of the business of insurance, having an effective advocate for U.S. insurance interests is critical. For example, avoiding the imposition of what many U.S. insurance groups assert, with justification, as bank-centric international rules on U.S. insurers is critical to the industry's well-being.

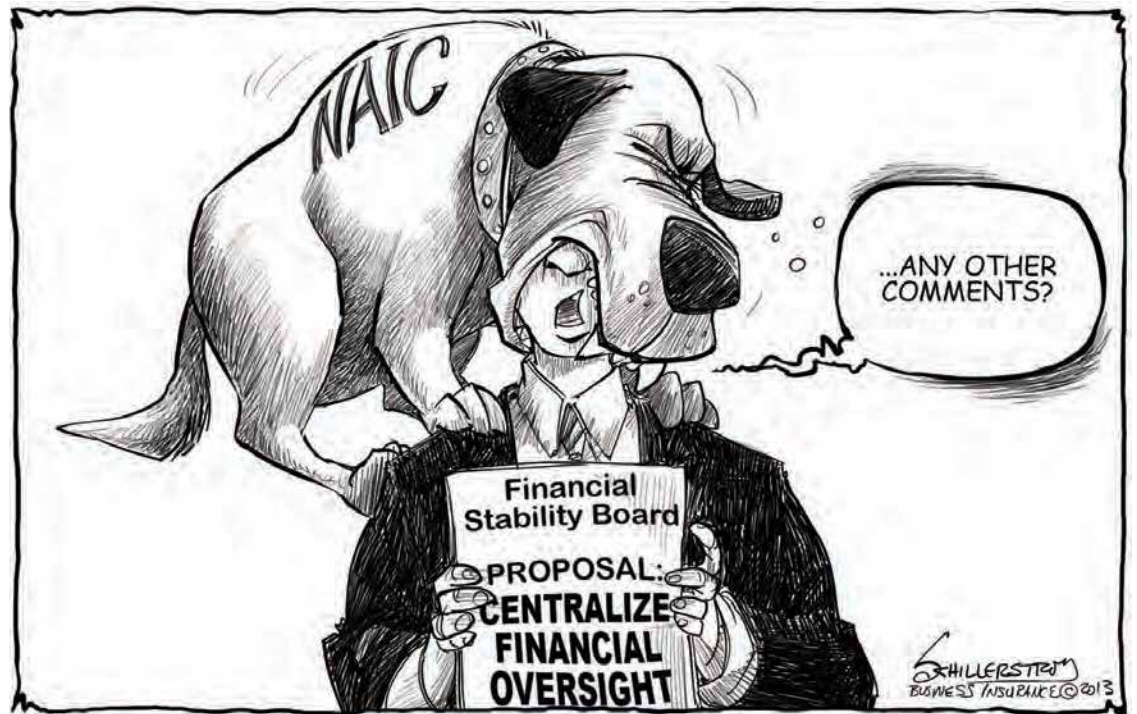
We think the FIO's international responsibilities and powers should be enhanced. The United States needs to be able to speak on the international stage with one voice regarding the regulation of insurance. That voice should be the FIO.

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

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SCHILLERSTROM



COMMENTARY

## WORK-LIFE BALANCE IMPROVES EMPLOYERS' BOTTOM LINE

**A**s companies pressure employees to work harder to improve financial performance, maybe it's time to step back and consider the toll that such pressure may be taking on employees and their companies.

First, there was the tragic death of Moritz Erhardt, a 21-year-old intern at Bank of America Merrill Lynch, who died in mid-August after working 72 hours straight.

In late August, Zurich Insurance Group Ltd. Chief Financial Officer Pierre Wauthier, 53, was found dead at his home in what police said was an apparent suicide. A colleague told the media that he was under pressure to improve the insurer's share price.

The reasons behind the deaths are still being investigated, but is it true that our extreme work culture coupled with technology that enables people to be accessible 24/7 make a deadly combination?

Research by Alexandra Michel, assistant professor of management and organization at the Marshall School of Business at the University of Southern California, supports this theory. She tracked investment bankers to determine how well they fared both physically and psychologically after seven years of working from early morning to well past midnight.

Although many of these bankers became gym junkies to cope with the long hours and stressful working conditions, instead of becoming healthier by exercising, they damaged their bodies and their minds.

Another unrelated Harvard University study estimated that sleep deprivation among stressed-out workers is costing U.S. businesses \$63.2 billion annually in lost productivity.



**JOANNE  
WOJCIK**

SENIOR EDITOR

Depression costs even more. A 2008 American Journal of Psychiatry study estimated depression costs employers \$193 billion in additional health care costs, absenteeism and reduced productivity. By contrast, employers that help their employees effectively manage their health and well-being are more profitable than companies that do not,

the Integrated Benefits Institute research has found.

And a World Health Organization report stated that "the mental health of a company's employees can have an important impact on business performance the same way as do industrial relations climate or inadequate training."

Unfortunately, most employers don't measure, much less acknowledge, the toll poor mental health may be having on their workforces, according to a Towers Watson & Co. survey.

"There are opportunities for employers to better measure the links between their health and well-being programs and employee productivity. It starts by being able to assess the degree to which the workforce is affected by health issues," the report suggested.

Benjamin Franklin may have suggested a strong work ethic "makes a man healthy, wealthy and wise," but, in reality, we could just be working ourselves to death while sending our employers to the poorhouse. We need to learn how to work smarter, not harder.

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PAGE 16

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PAGE 18

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PAGE 20

Marine safety  
stymied by  
human errors

PAGE 21

# ABUNDANT CAPACITY LIMITS RATE HIKES

Cargo and hull pricing slides, while liability exposures see modest increases



AP PHOTO

Salvage of the Costa Concordia cruise ship off the coast of Italy has been estimated to cost insurers in excess of \$1 billion, making it the most expensive marine loss of all time.

BY JUDY GREENWALD

**D**espite some major losses, continued significant capacity is putting a damper on rate hikes in the marine market. The trend is expected to continue, as more insurers enter a market that has low barriers of entry, market observers say (see story, page 15).

The two biggest losses have been associated with Superstorm Sandy, which cost the global marine, hull, liability and cargo markets an estimated \$2.5 billion to \$3 billion, and the wreck and salvage of the Costa Concordia cruise ship, whose cost to insurers may exceed \$1 billion, making it the most expensive marine loss of all time.

Other major marine losses cited by observers include those associated with the MOL Comfort, a container ship that split in half in July, the 2011 Japan earthquake

and the 2004 Thailand tsunami.

“We have to do a lot more in improving our modeling capabilities to better define exposures and risk appetite,” said Dieter Berg, Munich-based senior executive manager for marine at Munich Reinsurance Co. “Many markets were surprised by Sandy” and its impact on different lines of business, including cargo, private yachts and flooding, including fine art losses in Manhattan.

“We’re not really seeing big rate increases just because of capacity, specifically in the cargo market,” where there are many players, said Joe Sheridan, New York-based senior vice president-marine for Lockton Cos. L.L.C.

“I would characterize the current market as improving from a carrier’s standpoint, but very spotty,” said Bill Queen, Hartford, Conn.-based president of Travelers Ocean Marine, a unit of Travelers Cos. Inc.

Don Harrell, New York-based senior vice president for marine at Liberty International Underwriters, a unit of Liberty Mutual Group Inc., said: “Overall it’s been, I would say, a fairly healthy market” that has not continued to go down during the soft market cycle, but neither has it bounced back into a hard market cycle, “which a lot of people predicted after Sandy.”

It is tightening in pockets, especially in the marine liability side, “mainly because of the Costa Concordia event and the P&I Clubs’ reinsurance purchase having a dramatic increase,” said Guy Claveloux, New York-based U.S. marine practice leader for Marsh Inc.

Reinsurers bore the brunt of heavy losses on the container ship *Rena*, which sank off the New Zealand coast in October 2011, as well as of the Costa Concordia, according to Standard & Poor’s Corp.

“As is always the case in marine, the culprit is a lot of capacity in our market that undercuts any effort of

marketwide increases so, for marine liabilities, that has abated to maybe single-digit attempts, and on cargo and hull there are still reductions to be had," said Mr. Claveloux.

In some cases, some observers say, insurers are increasing deductibles in areas that were exposed to Sandy, but not necessarily rates.

New entrants continue to come into the market, including Bermuda-based Endurance Specialty Holdings Ltd., which began writing this year, while the London market has also been more active.

Sean Dalton, New York-based senior vice president and head of marine for Zurich North America, said, "There's a lot of capacity, but at the same time, due to the nature of the marine markets, there are low barriers to entry and exit, so it tends to attract a lot of commodity players." However, well-established players that have experienced years of depressed market conditions are taking a hard look at their portfolios "and managing them accordingly," he said.

Participation in some classes of business is relatively easy, such as the hull business, which "lends itself to subscription-type business," said John Barnwell, New York-based chief underwriting officer of marine for Allianz Global Corporate & Specialty, a unit of Allianz S.E. New entrants mean regular players have "to have a very sharp pencil for their accounts when they renew," he said.

Most marine markets are looking for rate increases, "but as usual, revitalized or new capacity works against the marketplace" in terms of rate hikes, said Richard J. Haverlin Jr., managing director at New York-based brokerage Hugh Wood Inc.

Endurance is "not going to shake up the market," however, said Senior Vice President Christopher Smith, who joined the insurer in May to build and lead an ocean marine insurance unit writing blue-water hull, brown-water hull, marine liability and cargo.

"We have extremely experienced underwriters here that are going to be responsible, dedicated and disciplined," he said. "We're comfortable that our conservative business plan can be executed, and we're going to go slowly."

Meanwhile, Mr. Harrell said one trend is that many insurers in the U.S. market are moving a bit more into the co-insurance marketplace, particularly on large-limit business, rather than just leading a line, as done in the past.

Larger companies, which have significant capacity, "could write a \$50 million limit by themselves," he said. However, "what you're seeing, even with the larger players, is they're restructuring how much capacity they're putting out per account, and they're managing their aggregation and cat management across the board more than they did before."

## MARINE INSURERS WARY OF RISING EXPOSURES, HIGHER COSTS

**T**he outlook for the marine market is for continued surplus capacity, although insurers are approaching their business cautiously, say observers.

The current situation will continue for the rest of the year, barring a major hurricane, said Guy Claveloux, New York-based U.S. marine practice leader for Marsh Inc.

Meanwhile, "everybody's holding their breath" with respect to the storm season, said Richard J. Haverlin Jr., managing director at New York-based brokerage Hugh Wood Inc.

Don Harrell, New York-based senior vice president for marine at Liberty International Underwriters, a unit of Liberty Mutual Group Inc., said the industry has been recovering "pretty well from last year's losses" and there is now "a more prudent approach to technical risk underwriting, which is favorable to the industry as a whole."

Christopher Smith, senior vice president at Bermuda-based Endurance Specialty Holdings Ltd., pointed to the cost of sal-

vaging the Costa Concordia, which he said is affecting several reinsurers.

"There are a finite number of reinsurers" in the marine market, he said. "Reinsurance costs will go up. When reinsurance costs go up, each carrier has to figure out if they can afford to buy as much as before, or buy less and take higher retentions," he said. Higher retentions lead to more underwriting discipline, he said. Insurers "have to be more selective."

By Judy Greenwald

## In these turbulent times, who knows what opportunities may blow your way?

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AP PHOTO

Pirate skiffs littered the dunes on the shoreline near Hobyo, Somalia, last year. A sharp decline in piracy off the coast of eastern Africa in the past two years has resulted in a reduction in associated marine insurance costs.

# Shippers fight back against piracy

## Armed guards, navy protection help curb incidents

BY SHEENA HARRISON

**T**he use of armed guards aboard ships and protection from international naval forces off the coast of Somalia has contributed to a notable reduction in marine piracy in the past couple of years, causing prices for marine war and kidnap and ransom policies to fall precipitously for shipping companies.

There were 138 piracy incidents in the first half of 2013, compared with 177 incidents during the same period in 2012, according to the London-based International Maritime Bureau. There were 127 shipping crew members taken hostage by pirates in the first half of this year, compared with 334 in the first half of 2012.

As a result, pricing for policies that would cover marine piracy events has fallen 30% to 40% in the past 12 months, according to Ashley Hammond, London-based client director for Aon Risk Solutions' marine practice. The decrease has been as much as 60% for fleets with more than 100 transits per year.

Lars Gustafson, New York-based senior vice president in the marine practice group at Marsh Inc., said he has seen premiums for marine war risk, war protection and indemnity, and kidnap and

ransom policies fall to about one-quarter of the price they reached at their peak in 2010 and 2011.

While the overall decline in piracy events is viewed as a success by marine experts, they caution that improved safety could cause companies and naval forces to become less vigilant, creating potential for a piracy rebound down the road.

"If (forces) pull back, it may encourage the pirates to get back to their activities," IMB Director Pottengal Mukundan said. "If (pirates) succeed in taking a few ships, the incentive will be there for them to carry on. So it's very important that the navies remain for at least a couple of years until the piracy model is totally destroyed."

### Reasons for decline

Experts say several factors have contributed to a sharp decline in piracy off the coast of eastern Africa. First, the use of armed guards aboard tankers and cargo vessels has helped deter would-be pirates from boarding and hijacking ships. For instance, Aon's Ms. Hammond said 30% to 50% of shippers are using armed guards for transits near Somalia.

Naval forces from the United States,

the European Union, China and other nations also have aided in the decline by collaborating to prevent attacks, Mr. Mukundan said. He said navies have been particularly helpful because, unlike private security firms, they have authority to collect intelligence on pirate vessels and confiscate weapons from pirates.

The establishment of a central government in Somalia also has helped to create some consequences for pirates in the past year, said Aleck Burrell, London-based maritime operations manager for NYA International Ltd., a consultancy that manages risks related to marine piracy, kidnapping, abduction and similar crimes. However, he said that the country still needs to achieve more political stability in order for the government to have a long-term effect on piracy prevention.

Many shipping companies also have adopted a set of best management practices for Somali-based piracy protection, BMP4, issued in 2011 by shipping industry and law enforcement groups. Tactics recommended in the guide include using night-vision optics to watch for pirates, placing dummies around a vessel to appear as though a ship has a high number of watchmen,

and providing bullet-resistant jackets and helmets gear to certain crew members to protect them from pirate weapon fire.

Those best practices have given companies the tools needed to guard themselves from attacks, helping piracy to decline from its peak several years ago, Mr. Burrell said.

"In my opinion, we will never see 2009 levels of piracy again because the industry has developed," Mr. Burrell said. "It's learned how to protect itself."

These practices have made it more difficult for pirates to successfully take over ships and hold them for ransom, which has made Somali-based piracy less lucrative for criminals and reduced their interest in such crimes, Mr. Mukundan said.

"This is denting the piracy model for the people who are funding these piracy operations, because for them it's a business," Mr. Mukundan said. "If they invest, they need to get a return, and right now they're struggling to get a return."

Still, piracy continues to be a concern worldwide, and experts are keeping an eye on such crimes in the Gulf of Guinea off the coast of western Africa.

Steve Gillen, New York-based head of global marine claims and risk engineering for Zurich Insurance Group Ltd., said

piracy in the Gulf of Guinea tends to focus on stealing cargo from ships, compared with Somali-based piracy that tends to aim for collecting a ransom for the crew members of hijacked ships. Western Africa attacks also tend to be more violent than piracy in eastern Africa, he said.

"While I don't believe that there are too many documented cases of murder, there has been some pretty significant rough handling of vessel crews," Mr. Gillen said.

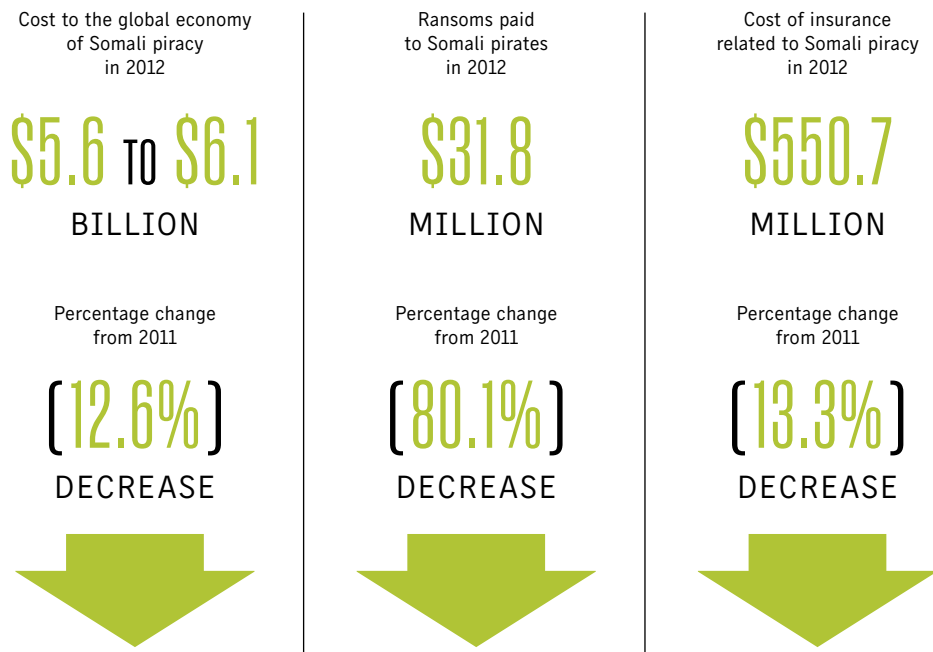
The IMB's Mr. Mukundan said many incidents in the Gulf of Guinea go unreported because shippers often travel to ports in the region and may fear retribution from pirates based in those countries. He said shippers also may have a sense that reporting won't stop such crimes from happening.

Experts say they're concerned that underreporting of piracy, as well as a sense of security from a reduction in such crimes, eventually could lead international forces to reduce their naval presence and cause shippers to let down their guard for potential piracy events.

"As people begin to relax and complacency sets in, then it ... is highly conceivable that a ship is taken in the near to mid-future," Mr. Burrell said.

## THE COST OF PIRACY

An April report by Broomfield, Colo.-based One Earth Future Foundation concluded the costs of piracy have decreased since 2011. One Earth Future attributed the ransom decline to fewer vessels being captured in 2012.



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# MARINE UNDERWRITERS UNDER SCRUTINY AS SANCTIONS TARGET INSURANCE

Due diligence efforts increase as insurers monitor activities of policyholders

BY SARAH VEYSEY

A recent proliferation of economic and trade sanctions that can apply directly to insurers means that marine insurance companies must undertake detailed due diligence.

While sanctions have been used as a political tool for many years, the more recent introduction of sanctions that specifically target insurance has made detailed due diligence ever more vital and has created a complicated picture for insurers and their policyholders.

National insurance associations and other insurance groups have worked to produce sample clauses to help insurers comply with sanction regimes, sources said. But, they add, insurers must undertake their own rigorous due diligence of specific risks that could breach sanctions.

Insurance companies must undertake adequate due diligence when underwriting marine risks, particularly with regard to sanctions against Iran, said a spokesman for the London-based International Underwriting Association, which represents insurers in the London company market.

Ensuring that marine insurers



DABARTI CGI/SHUTTERSTOCK.COM

are able to comply fully with sanction regimes is a lot of work, said Lars Lange, secretary general of the International Union of Marine Insurers.

Mr. Lange, who is based in Ham-

burg, Germany, said that before 2009, sanctions typically were applied to exporters and importers — the companies that insurers cover, meaning that marine insurers were not permitted to offer

them insurance coverage.

But since then, some sanctions have been imposed that directly apply to insurers — and may not apply to their policyholders, he said.

Marine insurers now must monitor what their policyholders are doing and be aware that there may be instances where clients may be allowed to export goods, but insurers are not permitted to insure those shipments, Mr. Lange said.

As a result, certain shipments may be uninsurable in some cases, he said.

Sanctions imposed by governments and other bodies on trade with Iran are a particular concern for marine insurers, said Jamie Rogers, a senior associate at law firm Hogan Lovells International L.L.P. in London.

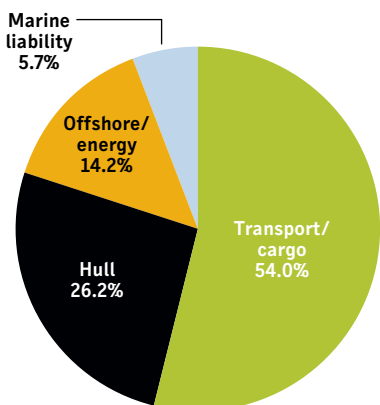
For the marine insurance market, there is now a heightened need to perform due diligence before committing to a risk, he said. While this imposes greater compliance work upon insurers that is proportionate to the risk, he said, penalties for breaching sanctions can include heavy fines and imprisonment.

Some sanctions now are extraterritorial, said Mr. Rogers.

For example, the U.S. Iran Freedom and Counter-Proliferation Act of 2012 (see box, page 19), which came into force this year, has extraterritorial scope, which

## GLOBAL MARINE PREMIUMS

Gross written premiums for the global marine market totaled \$31.9 billion in 2011 and the U.S. portion totaled about \$2.9 billion. Transport/cargo was the most common type of marine insurance purchased.



Source: International Union of Marine Insurance 2012 Global Marine Insurance Report

### TRANSPORT/CARGO PREMIUMS BY MARKET

Gross written premiums for the total marine transport/cargo market totaled about \$17.2 billion in 2011.

| Country                               | % of total |
|---------------------------------------|------------|
| Japan                                 | 11.4%      |
| China                                 | 9.0%       |
| Germany                               | 7.0%       |
| U.K. (Lloyd's of London) <sup>1</sup> | 6.8%       |
| France                                | 5.0%       |
| U.S.                                  | 4.5%       |
| Brazil                                | 4.2%       |
| Netherlands                           | 3.0%       |
| Italy                                 | 2.9%       |
| Russia                                | 2.9%       |
| U.K. (IUA) <sup>2</sup>               | 2.3%       |
| Nordic countries <sup>3</sup>         | 2.2%       |
| Belgium                               | 2.1%       |
| Mexico                                | 2.0%       |
| Spain                                 | 1.6%       |
| All other                             | 33.1%      |

<sup>1</sup> Includes proportional and facultative reinsurance.  
<sup>2</sup> Includes International Underwriting Association.  
<sup>3</sup> Includes Norway, Denmark, Finland and Sweden.

Source: International Union of Marine Insurance 2012 Global Marine Insurance Report

### HULL PREMIUMS BY MARKET

Gross written premiums for the total marine hull market totaled about \$8.3 billion in 2011.

| Country                               | % of total |
|---------------------------------------|------------|
| U.K. (Lloyd's of London) <sup>1</sup> | 14.8%      |
| Nordic countries <sup>2</sup>         | 11.1%      |
| China                                 | 10.6%      |
| Japan                                 | 8.3%       |
| France                                | 6.1%       |
| Italy                                 | 4.5%       |
| U.S.                                  | 4.3%       |
| Netherlands                           | 4.3%       |
| South Korea                           | 3.5%       |
| U.K. (IUA) <sup>3</sup>               | 3.5%       |
| Spain                                 | 3.1%       |
| All other                             | 25.9%      |

<sup>1</sup> Includes proportional and facultative reinsurance.  
<sup>2</sup> Includes Norway, Denmark, Finland and Sweden.  
<sup>3</sup> Includes International Underwriting Association.

### OFFSHORE ENERGY PREMIUMS BY MARKET

Gross written premiums for the total marine offshore/energy market totaled about \$4.5 billion in 2011.

| Country                               | % of total |
|---------------------------------------|------------|
| U.K. (Lloyd's of London) <sup>1</sup> | 58.1%      |
| Brazil                                | 4.8%       |
| U.S.                                  | 4.6%       |
| Nigeria                               | 4.2%       |
| Malaysia                              | 4.0%       |
| U.K. (IUA) <sup>2</sup>               | 3.5%       |
| Nordic countries <sup>3</sup>         | 3.0%       |
| India                                 | 2.9%       |
| Japan                                 | 2.8%       |
| Italy                                 | 2.1%       |
| All other                             | 10.0%      |

<sup>1</sup> Includes proportional and facultative reinsurance.  
<sup>2</sup> Includes International Underwriting Association.  
<sup>3</sup> Includes Norway, Denmark, Finland and Sweden.

## ECONOMIC, TRADE SANCTIONS APPLY TO IRAN, NORTH KOREA, SYRIA AND CUBA

The U.S.' Iran Freedom and Counter-Proliferation Act of 2012 came into force in 2013 and imposes sanctions "with respect to the provision of underwriting services or insurance or reinsurance activities for persons with respect to which sanctions have been imposed," among other things. The act also places sanctions on individual entities and activities connected to Iran's energy, shipping and shipbuilding sectors.

The European Union since 2012 has imposed restrictions on trade with Iran that includes foreign trade, financial ser-

vices, energy and technology. The E.U. also prohibits insurance and reinsurance by companies based in the European Union of Iranian-owned companies.

Australia, Canada, Japan, Switzerland and several other countries also impose restrictions on trade with Iran.

The United States has had a sanctions program against Syria since 2004 that has been escalated after violence in the country in 2011. U.S. sanctions prohibit, among other things, new investment in Syria by a U.S. person, wherever located; direct, or

indirect exportation, re-exportation, sale or supply of any service to Syria from the United States by a U.S. person, wherever located; and any transaction or dealing by a U.S. person in relation to petroleum or petroleum products of Syrian origin.

The U.S. Office of Foreign Assets Control has in place restrictions on trade with Cuba. The European Union does not impose similar restrictions. The U.S. also has a ban on imports of goods and services from North Korea.

By Sarah Veysey



ESFERA/SHUTTERSTOCK.COM

means that a company or individual does not need to be U.S.-based to be deemed in contravention of the sanctions.

In addition, Section 1246 of that act refers specifically to "the provision of underwriting services or insurance or reinsurance for activities for persons with respect to which sanctions have been imposed."

"The act is broad and extraterritorial," said Mr. Rogers, and — because insurance activities and shipping activities are specially referred to in its text — the law creates the possibility of a "mismatch" whereby an insurer may be prevented from underwriting a risk that itself is not in contravention of the sanction.

"Our advice to members, which is in addition to advice from Lloyd's of London to managing agents, is to undertake your own due diligence with regard to sanctions," said Neil Smith, head of underwriting at the Lloyd's Market Association, which represents underwriters in the Lloyd's market.

He noted that the LMA has produced clauses that insurers can add to their policies. "But that is a first line of defense as far as we are concerned," he said.

Mr. Smith said the sanctions issue arises at a time when the marine insurance market is extremely competitive, and that there may be advantages for companies that are not subject to certain sanctions because of where they are based.

IUMI's Mr. Lange said the organization has worked with member associations and companies to produce sample clauses, adding that this had to be done on a national or individual basis because of antitrust rules.

Many large companies have developed their own clauses, Mr. Lange said.

Lloyd's has developed a set of e-learning modules on the topic of sanctions for insurers and reinsurers, though it stresses that these are not a substitute for professional advice.

And the International Group of Protection and Indemnity Clubs, the group of the 13 largest protection and indemnity marine mutual insurers, regularly updates a set of "frequently asked questions" on the topic.



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# Security rules stemming from 9/11 help improve cargo security

Added checks at port facilities make theft rare

BY JUDY GREENWALD

Cargo safety and security has improved dramatically as an indirect result of the 9/11 terrorist attacks.

New laws and regulations, intended to protect United States borders from terrorist activities, have had the beneficial side effect of protecting cargo sitting in port from theft, say observers.

These initiatives include the Customs-Trade Partnership Against Terrorism and the Maritime Transportation Security Act of 2002 (see box at right).

Observers point out, though, that cargo remains much more secure in the United States, Europe and other developed countries than it does in less-developed regions.

"After 9/11, the whole landscape changed" for the 361 U.S. ports, said Barry Tarnef, Philadelphia-based senior loss control specialist for Chubb Corp. "There are a number of security-related rules, regulations and practices that are in place now that weren't previously," he said.

Although their intent was to deter terrorist activities, benefits have accrued to cargo security as well. As a result, now "very rarely do we see a theft incident" at the port itself, although theft may still occur at affiliated facilities, said Mr. Tarnef.

Damon Finneran, New York-based risk securities and logistics

risk control manager for Allianz S.E., said cargo is "far more secure in the sense they typically don't go missing out of ports any more because of terrorism concerns." And if a container's seal appears to have been tampered with, it is "questioned right away," he said.

Don Harrell, senior vice president for marine at Liberty Interna-

*"After 9/11, the whole landscape changed" for the 361 U.S. ports. "There are a number of security-related rules, regulations and practices that are in place now that weren't previously."*

Barry Tarnef, Chubb Corp.

tional Underwriters, a unit of Liberty Mutual Group Inc., said that post-9/11, the major developed countries in particular have put "a lot more sophisticated systems" in place so that when anybody ships a container, the customers are notified within 24 hours that it is coming into U.S. territory, and if that notification is not received, "it gets rejected immediately and sent away."

Sherman Drew, Philadelphia-

based assistant vice president of marine advisory services for Ace USA, said the Customs-Trade Partnership agreement in particular, which is a government-private firm partnership that aims to safeguard the trade industry from terrorists, has been helpful in offering training and support.

Privatization also has played a role in improved cargo security, said Mr. Harrell. "Over the past 15, 20 years, there's been a tremendous amount of privatization of ports and terminals around the world," so the situation insofar as theft, pilferage, the mishandling of goods and the quality of personnel that works in the terminals have all "improved dramatically."

Observers say, though, that there is still an issue in developing countries.

Mr. Drew said poor conditions in terms of facilities, roadways, social and economic exposures, and equipment at the port "add to the challenges of safe handling and transporting equipment." Employee collusion is a factor as well, he said.

Furthermore, port storage is a concern. "In many companies around the world we don't have the same luxury, as it were, to be confident that these buildings will be built to an established standard, that there might be sprinklers to provide better fire protection. That doesn't exist everywhere around the world," Mr. Drew said.

He said ports accounting for about 20% of cargo are not part of the U.S. Container Security Initiative, a program intended to help increase security for maritime containerized cargo shipped to the United States from around the world.

These ports "clearly are not going to get the same physical and procedural securities that we have in the U.S.," he said. Policyholders should seek out ports that have better infrastructures, he said.

Mr. Harrell said in the many countries where "clearly corruption is still very prevalent," many companies are "trying to minimize the time (cargo is) sitting in any one place," following a "kind of just-in-time mentality around reducing the amount of time" goods stay in a port terminal.

Mr. Drew said addressing cargo security issues requires an awareness of problem areas, which includes conducting a risk and vulnerability assessment that identifies exposures with respect to conveyances and security; protocols to prevent hijacking; physical access controls; and personnel and information security.

It also involves "just vetting and selecting the right carriers that are skilled and experienced enough to safely distribute your cargo to the point of destination." Having a good, knowledgeable and trusted local source is invaluable as well, Mr. Drew said.

## ANTI-TERROR MEASURES CURB THEFTS

Although the original intent of the following rules, procedures and regulations was to address terrorism concerns, they also have increased cargo security.

■ **The Customs-Trade Partnership Against Terrorism**, a government-private firm partnership that seeks to safeguard the trade industry from terrorists. The partnership seeks to develop and adopt measures that add security but do not have a chilling effect on trade.

■ **The Maritime Transportation Security Act of 2002**, an extensive bill that directs the secretary of the Transportation Department to identify vessel types and U.S. port facilities that pose a high risk of being involved in a transportation security incident and assess U.S. port facilities' vulnerability to an incident.

■ **The U.S. Container Security Initiative**, a program intended to help increase security for maritime containerized cargo shipped to the United States from around the world.

■ **The U.S. Transportation Workers Identification Credential**, a security measure intended to ensure that individuals who pose a threat do not gain unescorted access to secure areas of the U.S. maritime transportation system.

■ **The Advanced Manifest (24-Hour) Rule**, which requires filing shipment data for maritime containerized imports 24 hours before loading the cargo to the vessel.

■ **The International Ship & Port Facility Security Code**, which is intended to ensure the security of ships and port facilities.

By Judy Greenwald



LAMNAO/SHUTTERSTOCK.COM

# Human error factors into most marine accidents

## Safety improving, but challenges remain

BY SARAH VEYSEY

While huge strides continue to be made in improving marine safety, human error remains the most important factor in marine accidents.

And competitive pressures coupled with the increasing size of vessels mean that training and quality of crew are becoming ever more important, experts say.

Marine safety is an issue that is always near the top of the agenda for the International Union of Marine Insurance, according to its secretary general, Lars Lange.

He said that marine insurers are “key stakeholders” in the effort to improve marine safety.

IUMI works closely with organizations including the London-based International Maritime Organization, a United Nations body.

Most casualties are the result either of equipment failure or human error or a combination of

“The reason behind any given casualty is usually complex and hard to attribute to a single cause — inevitably it is a mixture of a number of things.”

Terje Paulsen, Gard AS

the two, with human error the dominant factor, said Gordon Street, claims manager at Marsh Ltd. in London.

A report last year by Allianz Global Corporate & Specialty, a unit of Munich-based Allianz S.E., showed that while shipping safety has improved greatly over the past 100 years — since the sinking of the Titanic — and the size of the world’s commercial shipping fleet has trebled in that time, there still are key challenges to marine safety. The main challenge, according to the report, is human error, which accounts for more than 75% of marine losses.

“The reason behind any given casualty is usually complex and hard to attribute to a single cause — inevitably it is a mixture of a number of things,” said Terje Paulsen, vice president for loss prevention and risk assessment at Arendal, Norway-based Gard AS.

While hard data on the causes of marine accidents is difficult to find, “our experience would suggest that human error is a significant part of 70% to 80% of all acci-

dents,” he said.

While accidents are mostly due to mistakes, they rarely are caused by a single person and should be viewed “in the context of the whole organization — both onboard and

ashore.”

While the immediate cause of an accident may be the result of the actions of an individual, these

See SAFETY next page

### WAYS TO IMPROVE SAFETY

According to marine safety experts, shipping companies seeking to improve safety should:

- Establish programs to train crew in electronic chart display and information systems.
- Increase focus on bridge resource management training and retraining, including realistic scenarios.
- Share lessons learned from incidents at crew conferences and while onboard ship to identify and discuss all factors that contributed to an incident, not just a single root cause.
- Establish a culture of organizational learning to share “near misses” and lessons from others.
- Marry the use of technology and human expertise.
- Ensure that crew are experienced in the type of vessel to which they are going to be deployed.
- Make sure you are confident about the risk management support you will receive from your classification society and flag carrier.

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## SAFETY

Continued from previous page

frequently “are the result of factors in the local work environment which are a consequence of organizational factors,” he said.

Economic pressures may mean that some ship owners may have reduced their training budgets, said Rahul Khanna, a senior risk

consultant at AGCS in London and a former ship’s captain.

While many owners invest heavily — financially and in terms of time — in training of crews, some owners that are under financial pressure may not, Mr. Khanna said.

Much training is carried out on simulators, and this may not properly teach officers how to, for example, maneuver a ship in and out of a harbor, said Mr. Paulsen.

This can lead to inexperienced officers operating without the required expertise, he said.

The quality of officers and crew employed by a shipowner is a key factor for marine underwriters in assessing risk, said Marsh’s Mr. Street.

Language differences between international crew members can lead to misunderstandings and result in mishaps, he said, so good training is essential.

The retention of crew members is another important factor in safety and for underwriters of marine risks, said AGCS’s Mr. Khanna. “We like to see shipowners go the extra mile to keep their crew,” he said, and retention rates of about 80% to 90% are ideal.

Many shipowners have taken steps to retain crew members, for example, by offering rejoining bonuses or installing satellite TVs and improving the conditions for crew.

Economic and competitive pressures in the shipping market, and the demand from customers for fast turnaround times, can add to

“We like to see shipowners go the extra mile to keep their crew,” he said, and retention rates of about 80% to 90% are ideal.

Rahul Khanna, Allianz Global Corporate & Specialty

the stresses upon crews, experts say.

This also can mean cutbacks in maintenance, they say.

A lack of proper maintenance can lead to technical faults that can cause or contribute to accidents, according to Mr. Paulsen.

Shipowners must ensure that time pressures do not lead them to reduce the amount of maintenance carried out on vessels, said Mr. Street. He also added that shipowners should choose the repair yards that they use with care and seek expert advice when selecting those yards.

Another important issue that may have an effect on safety is the size of vessels, experts say.

Ships built now typically are much larger than in the past, said Mr. Khanna.

Safety must be taken into account in the design of such ships, he said, as issues such as the structural strength of the hull, the stability of the ship, the visibility afforded to crew and the way containers are stacked on board all can be important for minimizing accidents.

Crews also need training on these larger vessels, said Mr. Street.



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## TOP 25 U.S. OCEAN MARINE INSURERS

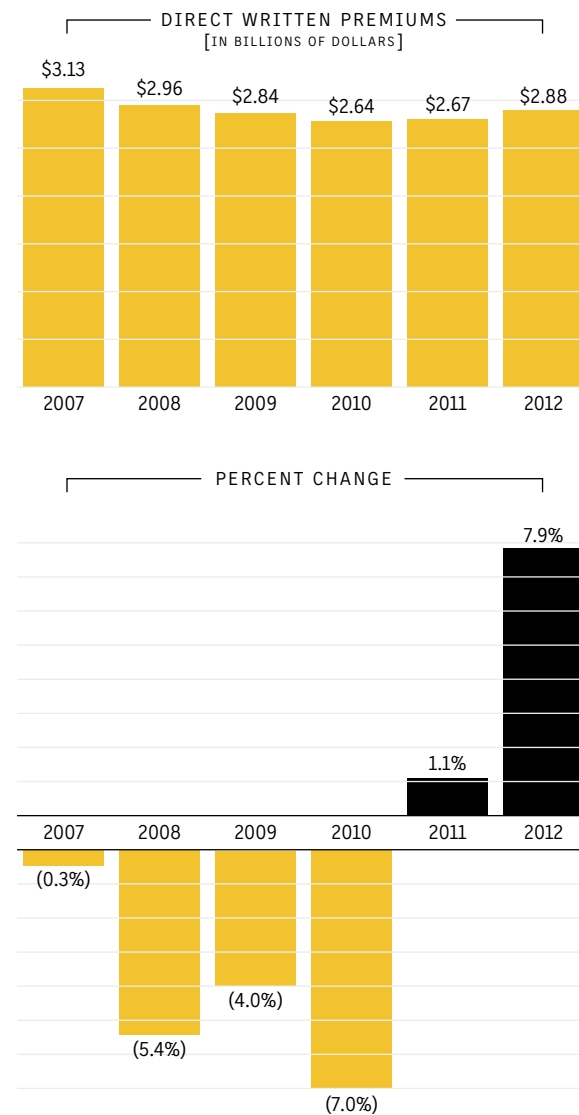
Ranked by 2012 direct premiums written

| Rank  | Company                                    | Direct premiums written | Market share |
|-------|--|-------------------------|--------------|
| 1     | American International Group Inc.          | \$341,372,454           | 11.8%        |
| 2     | The Travelers Cos. Inc.                    | \$279,226,386           | 9.7%         |
| 3     | Starr Cos.                                 | \$207,798,535           | 7.2%         |
| 4     | Allianz Corporate & Global Specialty       | \$207,695,999           | 7.2%         |
| 5     | CNA Financial Corp.                        | \$203,075,690           | 7.0%         |
| 6     | White Mountains Insurance Group Ltd.       | \$127,526,948           | 4.4%         |
| 7     | Ace Ltd.                                   | \$120,257,775           | 4.2%         |
| 8     | Zurich North America                       | \$119,093,656           | 4.1%         |
| 9     | Chubb Corp.                                | \$109,690,327           | 3.8%         |
| 10    | American Steamship Co.                     | \$103,984,625           | 3.6%         |
| 11    | HCC Insurance Holdings Inc.                | \$92,890,181            | 3.2%         |
| 12    | Navigators Group Inc.                      | \$81,031,538            | 2.8%         |
| 13    | American Financial Group Inc.              | \$74,250,392            | 2.6%         |
| 14    | Liberty Mutual Holding Co.                 | \$62,986,028            | 2.2%         |
| 15    | Berkshire Hathaway Inc.                    | \$61,040,139            | 2.1%         |
| 16    | Markel Corp.                               | \$60,200,180            | 2.1%         |
| 17    | ProSight Specialty Insurance Group Inc.    | \$57,206,699            | 2.0%         |
| 18    | XL Group P.L.C.                            | \$54,096,473            | 1.9%         |
| 19    | Tokio Marine Holdings Inc.                 | \$41,656,977            | 1.4%         |
| 20    | Axis Capital Holdings Ltd.                 | \$36,005,315            | 1.3%         |
| 21    | Catlin Group Inc.                          | \$29,420,933            | 1.0%         |
| 22    | Fairfax Financial Holdings Ltd.            | \$28,557,231            | 1.0%         |
| 23    | The Hartford Financial Services Group Inc. | \$28,009,608            | 1.0%         |
| 24    | Nationwide Mutual Insurance Co.            | \$27,971,098            | 1.0%         |
| 25    | The Hanover Insurance Group Inc.           | \$26,426,506            | 0.9%         |
| Total | Top 25                                     | \$2,581,471,693         | 89.4%        |
| Total | Industry                                   | \$2,888,721,267         | 100.0%       |

Source: National Association of Insurance Commissioners, 2012 Market Share Reports on ocean marine, inland marine and aircraft (all perils).

## DIRECT WRITTEN U.S. OCEAN MARINE PREMIUMS

While direct written ocean marine premiums increased in 2011 and 2012, 2012 still was less than 2007.



Source: National Association of Insurance Commissioners Market Share Reports on ocean marine, inland marine and aircraft.

## WORLD'S LARGEST REINSURERS

Ranking based on 2012 net premiums written

| Rank | Company                              | Headquarters      | Phone/website                              | 2012 net written reinsurance premiums | % change | 2012 combined ratio | 2012 employees | Principal officers                                |
|------|--------------------------------------|-------------------|--|---------------------------------------|----------|---------------------|----------------|---|
| 1    | Munich Reinsurance Co.               | Munich            | 49-89-3891-0<br>www.munichre.com           | \$36,050,064,000 <sup>1</sup>         | 11.7%    | 91.0%               | 45,437         | Nikolaus von Bomhard, chairman and CEO            |
| 2    | Swiss Re Ltd.                        | Zurich            | 41-43-285-2121<br>www.swissre.com          | \$25,344,000,000 <sup>1</sup>         | 10.8%    | 83.1%               | 11,193         | Walter B. Kielholz, chairman; Michel M. Liès, CEO |
| 3    | Hannover Re Group <sup>1</sup>       | Hanover, Germany  | 49-511-5604-0<br>www.hannoverre.com        | \$15,869,940,000                      | 14.0%    | 95.8%               | 2,300          | Ulrich Wallin, chairman and CEO                   |
| 4    | Lloyd's of London                    | London            | 44-207-327-1000<br>www.lloyds.com          | \$11,132,685,000 <sup>2</sup>         | 4.1%     | 91.0%               | 752            | John Nelson, chairman; Richard Ward, CEO          |
| 5    | Berkshire Hathaway Reinsurance Group | Stamford, Conn.   | 203-363-5200<br>www.berkshire-hathaway.com | \$10,162,000,000                      | 6.6%     | 96.8%               | N/A            | Ajit Jain, president                              |
| 6    | Scor S.E.                            | Paris             | 33-1-58-44-7000<br>www.scor.com            | \$9,391,735,000 <sup>3</sup>          | 1.1%     | 93.9%               | 1,416          | Denis Kessler, chairman and CEO                   |
| 7    | PartnerRe Ltd.                       | Pembroke, Bermuda | 441-292-0888<br>www.partnerre.com          | \$4,572,860,000                       | 1.9%     | 87.8%               | 1,217          | Costas Miranthis, president and CEO               |
| 8    | Everest Re Group Ltd.                | Hamilton, Bermuda | 441-295-0006<br>www.everestre.com          | \$4,081,071,000                       | (0.7%)   | 93.8%               | 1,000          | Joseph V. Taranto, chairman and CEO               |
| 9    | Transatlantic Holdings Inc.          | New York          | 212-365-2200<br>www.transre.com            | \$3,986,101,000 <sup>3</sup>          | 3.3%     | 93.5%               | 620            | Robert F. Orlich, chairman, president and CEO     |
| 10   | Korean Reinsurance Co.               | Seoul             | 82-2-3702-6000<br>www.koreanre.co.kr       | \$3,358,200,000 <sup>4</sup>          | 7.7%     | 98.4%               | N/A            | Hyuk-Hee Won, chairman; Jong-Gyu Won, CEO         |

<sup>1</sup> Euro = \$1.3175. <sup>2</sup> British pound = \$1.6181. <sup>3</sup> Bl estimate based on information from Global Reinsurance Highlights 2012, Standard & Poor's Corp.; and Global Reinsurance: Market Review, 2012, A.M. Best Co. Inc. <sup>4</sup> Fiscal year ending March 31. N/A Not available

Source: BI survey, except where noted

# CNA SPECIALTY LEADER DELVES INTO EMERGING RISKS

**Q** You have had a long and varied career in insurance and joined CNA earlier this year. What attracted you to the opportunity?

**A** CNA Chairman and CEO Tom Motamed and I had a great discussion about CNA. It clicked between us. I like what he's building, including the team. During our talks, it was easy to see the upside at CNA. CNA is already a powerful brand with a great combination of underwriting, claims, risk management and strong financial backing. In the eight months that I've been here, I've come to appreciate the deep diversity of our offerings in products, industry expertise, geography and risk profiles delivered through three distinct and equally valuable distribution sources—retail agencies, brokers and managing general underwriters.

**Q** As we get further into the second half of the year, how would you assess the overall state of the specialty market?

**A** The specialty market is competitive and much more commodi-

## Q&A

tized than when I started in the business. It calls for a finely honed focus, strategy and distinct advantages, which are more critical now than ever.

CNA has a number of powerful differentiators that we use to distinguish ourselves. This is why we're fortunate to be a strong competitor in several markets where we choose to compete.

**Q** As the broader economy recovers, are there particular areas of the business where you see the most opportunity for growth?

**A** We like the businesses we compete in and have plans for additional growth in each. The great thing about working in such a diversified company is that we have the luxury to grow rationally in areas of greatest opportunity or where we have embedded competitive advantages.

For example, our branch network allows us to develop and deliver broad solutions across commercial and specialty lines for our chosen industry groups—manufacturing, construction, technology, small business, health care, financial institutions and professional services.

In specialty, we also have very valuable franchises in management liability, surety and warranty businesses.

**Q** What are the emerging risks you now are helping your clients address?

**A** There is an increasingly challenging regulatory environment for most industries. We pride ourselves on understanding the landscape they operate in so we



MARK HERMAN

CNA FINANCIAL CORP.

In January, Mark Herman joined CNA Financial Corp. as president and chief operating officer of CNA Specialty, the Chicago-based insurer's \$2.9 billion specialty lines business. Mr. Herman had been CEO of Everest National Insurance Co. Previously, he held leadership roles at Chubb & Son, Ace Ltd. and Ariel Holdings. He recently spoke with *Business Insurance* Associate Editor Bill Kenealy. Edited excerpts follow.

can offer business solutions to business problems that keep our customers up at night. Our in-house professionals help our brokers and clients manage emerging trends and offer broad sustainable solutions for each.

To be more specific, cyber is an obvious emerging risk that every business small or big faces. We've had a focus on cyber for some time and we've developed real expertise to respond to cyber risks that are evolving and emerging every day.

We're also studying shifts in the health care business due to health care reform and the changing regulatory environment. No matter the operating environment, we think that patient safety and care is a critical concern.

While we need to have a deep understanding of the industry health care organizations operate in, we also have a strong belief that helping an organization with its focus on patient safety is one of the most important things we bring to our business partners.

## COMINGS & GOINGS

# UP CLOSE: STEVE KEMPSEY

NEW YORK-BASED U.S. CASUALTY LEADER

Marsh Inc.

**PREVIOUS POSITION:** New York-based East zone and international casualty leader at Marsh Inc.

**LOOKING FORWARD TO:** Working with our extremely talented team of casualty experts and continuing to invest in best-in-class talent.

**GOALS FOR NEW POSITION:** Continuing Marsh's tradition of innovation with client offerings like our Workers Compensation Center of Excellence, our collateral solutions group and our excess liability follow-form policy, Marsh XSellence. Our vision is "to help our clients thrive," and I look forward to having a broader platform from which to do that.

**WHAT I WOULD CHANGE:** We still transact business in an inefficient way. Removing the friction from our process and allowing our collective focus to be on more value-creating client activities that benefit brokers, clients and markets alike.

**FIRST INDUSTRY JOB:** Nuclear insurance consultant for Marsh. Marsh hires U.S. Navy nuclear engineers



periodically to consult for our nuclear utility clients. I was one of the fortunate Marsh hires in the early 1990s.

**WHAT SURPRISED ME:** The tenure of the professionals in this industry. It seems that once you are in, you stay forever.

**ADVICE:** Surround yourself with great people and let them do their jobs.

**OUTSIDE THE INDUSTRY, A DREAM JOB:** Teacher in the Department of Defense school system, somewhere warm and on a beach.

**HOBBIES:** Travel and family. My wife, two daughters, ages 11 and 14, and I make it a point to travel somewhere we've never been at least yearly. We're leaning toward Hong Kong this year, but there is a contingent that is pushing for Costa Rica.

**THING MOST PEOPLE DON'T KNOW ABOUT ME:** I grew up overseas, spending most of my pre-college life in Spain and Italy.

**CAN'T-MISS TELEVISION SHOW:** "The Simpsons."

## Professional Moves & Promotions

Visit [www.businessinsurance.com/ComingsandGoings](http://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

|                                |                 |
|--------------------------------|-----------------|
| Leavitt Group Enterprises Inc. | Robert Clarke   |
| Aon P.L.C.                     | Robert Robinson |
| Willis North America Inc.      | Walter Gardner  |
| BMS Intermediaries Inc.        | Kurt Johnson    |

### INSURERS

|                              |                       |
|------------------------------|-----------------------|
| Ironshore Inc.               | Aileen A. Marchese    |
| Aspen U.S. Insurance         | Jude DiBattista       |
| Sentry Insurance Group       | Peter G. McPartland   |
| Zurich Insurance Group Ltd.  | Salomea M. Klunzinger |
| Liberty Mutual Insurance Co. | Mike Martin           |
| Liberty Mutual Insurance Co. | Luiz Francisco Campos |
| Secura Insurance             | David Gross           |

### OTHER

|  |                 |
|--|-----------------|
| Sun Life Financial Inc.                  | Victor Parker   |
| Sedgwick Claims Management Services Inc. | Kimberly George |
| The Segal Group Inc.                     | Vanessa Hatch   |

*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](mailto:kshepherd@businessinsurance.com).

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**September 23**

**Ad Closing: September 11**

## Excess & Surplus Lines Report

This *Business Insurance* annual special report looks at the excess and surplus lines market, along with the latest news, key developments and emerging trends for unusual or difficult-to-insure property/casualty risks. Included in this issue are rankings of managing general agents, wholesalers, surplus lines insurers and the state premium lists.

## Trends in Global Risk Management

A host of risks face businesses that open operations outside the United States or work with non-U.S. suppliers. This report will examine differences in the U.S. and European responses to supply chain issues, as well as how companies protect their reputation in a global market.

**Special Advertising Section:**

## Specialty Risk Exposures

This special advertising section will highlight specialty lines insurers, MGAs, wholesalers and solution providers that are helping companies that select their services gain that crucial competitive edge. With an overview of the market from the National Association of Professional Surplus Lines Offices. Q&A with participating advertisers.

**Bonus distribution: FERMA, NAPSLO**

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**October 7**

**Ad Closing: September 25**

## 40 Under 40 Regional Broker Leaders

This issue will profile the 40 young brokerage executives who are winners of our first-ever 40 Under 40 Awards. Profiles will highlight their client service skills, expertise and leadership qualities. Included in this issue are the list and rankings of regional brokers.

**Special Advertising Section:**

## Workers Comp Service Providers

With an introduction from Richard A. Victor, executive director of the Workers Compensation Research Institute. Q&A with supplement advertisers and inclusion in the advertising guide section. **Section closes: September 15**

**Bonus distribution: CIAB**

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303-898-4043

**Monique Murray, Southeast/Classifieds**  
212-210-0129

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Or email [advertising@businessinsurance.com](mailto:advertising@businessinsurance.com)

## Chubb launches service to track stolen equipment

Chubb Corp. has launched a service to help contractors improve their chances of recovering stolen equipment.

Chubb will pay the cost of activating IRONwatch tracking devices, serviced by the National Equipment Register, for clients that purchase and install the tracking devices, Chubb said in a statement.

In 2011, the National Crime Information Center received 11,705 reports of equipment theft, Chubb said.

“Contractors’ equipment is more than twice as likely to be stolen than damaged or lost due to vandalism, fire, collision or weather-related events,” Bob Opitz, vice president and worldwide inland marine manager for the Chubb Group of Insurance Cos., said in the statement. “Working together with NER, we can help reduce recovery time and the costs associated with equipment stolen from contractors in the United States.”

When the device is activated, the National Equipment Register’s 24-hour call center can tell law enforcement and the equipment owner of the stolen item’s location, and there are no monthly monitoring fees.

## Crawford & Co. introduces mobile-based claims tool

Atlanta-based Crawford & Co. has unveiled mobile-based claims technology that will help its adjusters make better on-site claims assessments.

The site assessment tool, which works on iOS, Android and BlackBerry mobile devices, will empower its mobile workforce and enable the automation of task management for field activities, Crawford said in a statement.

The mobile app is integrated with Crawford’s systems and enables adjusters to input notes in audio, video and written formats. The app also turns templated forms into PDF files to be emailed, while an accompanying desktop tool tracks and stamps a time during the various stages of the process, allowing detailed review and assessment by the service center.

## Health plan targets entertainment industry

Insurance brokerage Lockton Cos. L.L.C., health insurer Anthem Inc. and entertainment payroll and finance company Entertainment Partners Inc. are launching a transferable health plan, EP Cares, for the entertainment industry, Entertainment Partners said.

Based on a single insurance platform and uniform pricing through Anthem, EP Cares offers medical, dental, vision and life insurance plans that comply with the Patient Protection and Affordable Care Act, Entertainment Partners said in a statement.

In an industry characterized by project-based employment and unions, the plan is designed for production companies to be able to insure nonunion production workers. Such workers will have access to an online decision tool to analyze plan options, and there will be a

## PRODUCTS & SERVICES

### Beazley offers evac coverage for employers

\* Beazley P.L.C. has developed Beazley Flight, a comprehensive emergency evacuation coverage suite for employers.

The coverage includes advisory and other services for three scenarios: a deteriorating political environment that puts a client’s employees at serious risk, a natural catastrophe that presents a severe threat and a medical emergency, Beazley said in a statement.

“In the face of such risks, as well as in situations of acute medical risk where local treatment facilities are inadequate, on-the-ground capabilities and expertise are essential,” Chris Parker, underwriter and head of Beazley’s terrorism and political violence insurance team, said in the statement.

Aon P.L.C.’s 24/7 World Aware Crisis Operations Center will manage and coordinate all emergency evacuations and responses, Beazley said in the statement.

Beazley Flight also offers other companies’ services.

Red24 P.L.C., a London-based crisis management assistance firm, will provide advice and evacuation capabilities for employees and their dependents at risk after a natural catastrophe or political violence, Beazley said in a statement. Specialty Assist Ltd., a London-based medical emergency specialist, can assist in the logistics required for medical repatriation. And Miami-based specialist consultant Hazelwood Street Consultants L.L.C. can work with clients to secure the safe release of detained or kidnapped employees.

call center to service production companies and worker plan members, Entertainment Partners said.

“Compliance with the ACA is a highly complex endeavor that is only compounded by the specific needs of the film and television production workforce that move from one production to another,” Mark Goldstein, president and CEO of Entertainment Partners, said in the statement. “We have assembled the most qualified resources to create a ready-made solution so the myriad of production entities won’t have to navigate this maze on their own and risk exposure to hefty penalties for noncompliance.”

## Ironshore unit unveils excess liability policy form

Ironshore Inc.’s specialty casualty unit has a new policy form for excess liability risks.

ExcessProtect Plus is intended to offer more concise coverage and has been reduced to two pages with no built-in exclusions and has limited underwriting conditions, the insurer said in a statement.

Specific insurance coverage needs can be addressed by endorsement or by relying on the terms and conditions of the controlling underlying policy, Ironshore said.

“It was developed to benefit our brokers and insureds by providing more consistent coverage between the excess form and controlling underlying policy,” Dawn Puro, vice president of Ironshore specialty casualty, said in the statement.

## XL Group forms crisis management team

XL Group P.L.C. has added a U.S. crisis management team to provide corporate clients with product recall, war, terrorism and political violence, kidnap, ransom and extortion insurance and related issues.

Denise Balan has joined Dublin-based XL Group as a New York-based vice president and country manager for crisis management to lead the team, which will have underwriters in Boston and New York to coordinate global coverage with teams in London and Singapore, the insurer said.

“Every day, we are reminded in the news of the challenges our clients face in their day-to-day operations,” Stephen Ashwell, chief underwriting officer for crisis management at XL Group, said in a statement. “Under Denise’s leadership, we’re looking forward to building out our portfolio of crisis management products and preparing more companies to operate safely and protect their assets wherever their new business opportunities lie.”

Previously, Ms. Balan was head of non-profit and developing markets for accident and health at American International Group Inc., XL said.

## Crashboxx Telematics releases technical guide

Crashboxx Telematics is offering a technical guide for designers and makers of GPS-equipped OBD II telematics devices to aid devising crash-capable products.

The guide, “Crash Detection & Reporting: A Technical Guide For Developers of OBD II Telematics Devices,” helps engineers take GPS-equipped devices and use them for fully automated crash detection and reporting.

“As we engaged with manufacturers of GPS and OBD II devices around the world we learned — and many manufacturers acknowledged — they may not have the skill set in-house to tackle the challenges of taking a GPS-tracking platform and making it a true black box, capable of capturing, discriminating, reporting and storing vehicle crash events,” Peter Byrne, Crashboxx president, said in a statement. “We are willing to share some of our experience ... to help them figure it out.”

## DEALS & MOVES

### Pension agency taking over three Allied Systems pensions plans

The Pension Benefit Guaranty Corp. is taking over and terminating the underfunded pension plans of Allied Systems Holdings Inc., a financially troubled Atlanta-based vehicle transportation company.

The PBGC said it is stepping in because Allied Systems is selling the majority of its assets in bankruptcy proceedings and potential buyers haven’t agreed to continue the company’s three pension plans.

According to PBGC estimates, Allied Systems’ plans are 58% funded, with \$45 million in assets and \$78 million in benefits. The agency expects to cover the \$33 million shortfall. The plans have about 650 participants.

### Navigators moves headquarters from New York to Connecticut

The Navigators Group Inc. has moved its corporate headquarters to Stamford, Conn., from Rye Brook N.Y.

“We believe that the vibrant business community in Stamford and the growing insurance component of that community create the right environment for our headquarters, along with the advantages of Stamford’s transportation hub and plentiful support services,” Navigators President and CEO Stanley A. Galanski said in a statement.

He said the state offered financial incentives for the move and that Connecticut Gov. Dan Malloy, Insurance Commissioner Tom Leonard and Economic Development Commissioner Catherine Smith were personally involved in the effort.

“They made it very clear that they felt Navigators to be an attractive, growth-oriented company they wanted to bring to their state,” Mr. Galanski said. “They succeeded in making a compelling case for us to make the move to Connecticut and become a vital part of the state’s world-leading insurance marketplace.”

### AssuredPartners acquires independent Arizona agency

AssuredPartners Inc. has acquired Golseth & Gregson Insurance Services, a Tucson, Ariz.-based independent insurance agency that does business as GBP Risk Solutions.

GBP Risk Solutions offers large commercial insurance, personal commercial insurance, group employee benefits, individual life and health insurance, retirement plans, bonds and workers compensation.

AssuredPartners, headquartered in Lake Mary, Fla., is a portfolio company of Chicago-based private equity firm GTCR and acquires and invests in insurance brokers, managing general agents and wholesalers in the U.S. and U.K.

### Gallagher purchase expands its presence in Canada

Arthur J. Gallagher & Co. has acquired Ottawa, Canada-based Dickinson & Associates Inc., an employee benefits broker and consultant that offers group employee benefits products and consulting services, for an undisclosed price.

David Dickinson and his team will continue to operate from Ottawa under the direction of William Ziebell, Gallagher’s Canadian employee benefit brokerage and consulting leader, Gallagher said.

# Join us in celebrating the Southwest Regional Brokers Honorees

2013  
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**September 24 at Dragonfly, 2332 Leonard St., Dallas, 6 – 8 pm**

- **Rob Battenfield**, senior account executive for Aon Risk Solutions' global power and utilities practice in Dallas.
- **Rob Bridges**, managing partner of Wortham Insurance & Risk Management's Austin, Texas, office.
- **Charisse McCumber**, vice president at Holmes Murphy & Associates in Dallas.
- **Matt Mautz**, senior vice president at Beecher Carlson Holdings Inc. in Phoenix.
- **Jim Millaway**, a producer at The Holmes Organization in Tulsa, Okla.
- **Morgan H. Moore**, an account executive in the energy practice of Arthur J. Gallagher & Co.'s Houston Galleria office.
- **Mike Noyes**, a partner at The Noble Group in Sugar Land, Texas.
- **Todd Yomtov**, branch manager of Crystal & Co.'s Houston operation.

**Visit [www.businessinsurance.com/40Under40](http://www.businessinsurance.com/40Under40)  
to register to attend today!**

**About the Awards:** The results are announced online, and the compilation of all 40 of the award winners will be in the October 7, 2013, issue of *Business Insurance*. Honorees are selected from nominations submitted by readers of *Business Insurance*. Brokers must be age 40 or younger on October 1, 2013.

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**FERMA, NAPSLO**

**Middle-Market Risks &  
Regional Broker Leaders  
40 under 40  
Regional Brokers**

**Publishing: October 21**  
**Classified Ad Close: October 1**  
**Bonus Distribution: CIAB**

**Best Places to Work  
Reinsurance Trends & Issues**  
**Publishing: October 21**  
**Classified Ad Close: October 15**  
**Bonus Distribution:**  
**PCIA, SIIA and ASHRM**

**Professional Liability Report**  
**Publishing: November 4**  
**Classified Ad Close: October 29**  
**Bonus Distribution: PLUS and  
Voluntary Benefits Conference**

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## REQUEST FOR PROPOSALS

### NEW YORK CITY HOUSING AUTHORITY

**-PUBLIC NOTICE-**  
**INVITATION FOR BIDS**  
**EXCESS WORKERS' COMPENSATION AND**  
**EMPLOYER'S LIABILITY INSURANCE**

The New York City Housing Authority ("NYCHA") requests Proposals from qualified **INSURANCE COMPANIES** for Excess Workers' Compensation and Employer's Liability Insurance. Insurers must be licensed in New York State, preferably with a current "A.M. Best" rating of at least "A minus X".

Coverage is to become effective January 1, 2014

Proposals shall be made in the format included in the Invitation for Bids submission packets containing instructions, coverage & limits specifications, and detailed proposal requirements. Packets may be obtained by contacting NYCHA's Workers' Compensation & Employer's Liability Broker:

**Towers Watson**  
**One Stamford Plaza, 263 Tresser Boulevard, 8th Floor**  
**Stamford, CT 06901-3226**  
**Paul Perry at (203) 351-5171**

In order to be eligible, completed bid proposals must be received by 3:00 P.M. EST on October 15, 2013.

All inquiries for additional information regarding the Invitation for Bids are to be directed, in writing via e-mail, to paul.perry@towerswatson.com.

NYCHA IS NOT SOLICITING QUOTES FROM BROKERS

**Michael R. Bloomberg**  
*Mayor,*  
*New York City*



**John B. Rhea**  
*Chairman,*  
*New York City Housing Authority*

## LEGAL NOTICE

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION  
IN THE MATTER OF THE LIQUIDATION OF )  
LUMBERMENS MUTUAL CASUALTY COMPANY, ) NO.  
AMERICAN MANUFACTURERS MUTUAL ) 12 CH  
INSURANCE COMPANY AND AMERICAN ) 24227  
MOTORIST INSURANCE COMPANY )

**NOTICE OF CLAIM FILING DEADLINE OF  
NOVEMBER 10, 2014 at 4:30 p.m. C.S.T.**

**PLEASE TAKE NOTICE**, that pursuant to orders entered on May 8, 2013, by the Circuit Court of Cook County, Illinois, effective May 10, 2013, Lumbermens Mutual Casualty Company, American Manufacturers Mutual Insurance Company, and American Motorists Insurance Company (collectively referred to herein as the "Lumbermens Companies") were placed into liquidation. The Orders of Liquidation With a Finding of Insolvency (the "Liquidation Orders") were entered pursuant to Article XIII of the Illinois Insurance Code (215 ILCS 5/187, *et seq.*). Andrew Boron, Director of Insurance of the State of Illinois, was affirmed as the statutory Liquidator (the "Liquidator") of the Lumbermens Companies.

**TAKE FURTHER NOTICE**, that pursuant to the Liquidation Orders, all rights and liabilities of the Lumbermens Companies and their policyholders, creditors and all other persons interested in their property or assets are fixed as of May 10, 2013.

**TAKE FURTHER NOTICE**, that on August 1, 2013, the Circuit Court of Cook County, Illinois, entered an Order providing for the filing of claims and the setting of a claim filing deadline ("Claim Filing Order"). Pursuant to the Claim Filing Order, all persons, companies, or entities who have, or may have claims against the Lumbermens Companies, their property or assets, or against a Lumbermens Companies' insured or policyholder, shall have the right to present and file with the Liquidator a proof of claim form on or before the claim filing deadline of **November 10, 2014 at 4:30 p.m. C.S.T.**

**TAKE FURTHER NOTICE**, that any insured under an insurance policy issued by the Lumbermens Companies shall have the right to present and file with the Liquidator a proof of claim setting forth a contingent claim on or before November 10, 2014 at 4:30 p.m. C.S.T. No such contingent claim shall be allowed for purposes of participating in any distribution(s) of estate assets that may be made at the fourth priority level, 215 ILCS 5/205(1)(d), unless such claim has been liquidated and the insured claimant has presented to and filed with the Liquidator evidence of payment of such claim on or before the contingent claim date of November 10, 2014 at 4:30 p.m. C.S.T. Any insured's contingent claim for which a proof of claim was received by the claim filing deadline of November 10, 2014, at 4:30 p.m. C.S.T., but which is not liquidated by November 10, 2014 at 4:30 p.m. C.S.T. may be estimated pursuant to Section 209(4)(b) of the Code, 215 ILCS 5/209(4)(b) for purposes of participating in any distribution(s) of estate assets that may be made at the fifth priority level, 215 ILCS 5/205(1)(e), unless otherwise directed by the court.

**TAKE FURTHER NOTICE**, that the form and required contents of all proofs of claim are described in 215 ILCS 5/209. Proofs of claim, along with supporting documents, are to be filed with, and may be obtained from the Liquidator of the Lumbermens Companies, c/o the Office of the Special Deputy Receiver, located at 222 Merchandise Mart Plaza, Suite 960, Chicago, Illinois 60654, OSD website: [www.osdchi.com](http://www.osdchi.com), or by calling OSD at (312) 836-9500. In order for a proof of claim to be timely filed, the liquidator must have physical possession of the proof of claim form on or before the claim filing deadline, or the proof of claim form must have been delivered to the United States Postal service for delivery to the Liquidator and postmarked on or before the claim filing deadline with full postage pre-paid, or the proof of claim form must have been delivered to a private mail courier for delivery to the Liquidator on or before the claim filing deadline with delivery charges fully paid.  
Paul Miller, Special Deputy Receiver

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**Published: October 7**  
**Ad closing: September 10**

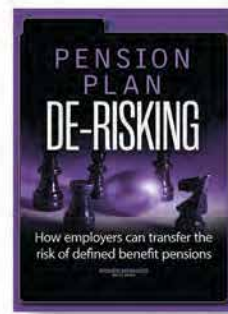
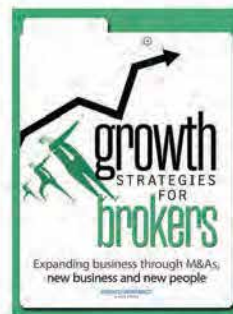
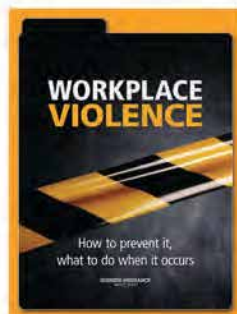
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# SOLICITORS

Continued from page 4

Insurance (Europe) Ltd. for solicitors professional indemnity coverage to include firms with one to three partners.

Among other things, Aon said the new arrangement would provide buyers with limits of up to £10 million (\$15.6 million), claims amnesty and the chance to sign up now for 2014 and 2015 renewals.

In addition, the Law Society of England and Wales, which represents solicitors, in late August announced a joint venture with London-based brokerage Miller Insurance Services L.L.P. to offer professional indemnity cover for law firms with one to four partners.

According to the Law Society, the venture, Chancery Pii, will provide firms with direct access to a panel of insurers rated A- or higher by Standard & Poor's Corp.

Chancery Pii will not accept inquiries from brokers, pay broker commissions or charge management fees, it said in a statement.

"We have had concerns about instability of the solicitors' PII market, particularly the one- to four-partner segment, for some time now," Desmond Hudson, CEO of the Law Society, said in a statement.

"Many firms have resorted to using an unrated insurer — often because of lack of obvious choice," he said. "A number of rated insurers have withdrawn from this segment and the gap has been filled by unrated insurers, some of whom enter for a few years before withdrawing or, worse, becoming insolvent. This is extremely detrimental to the profession."

The marketplace for smaller firms' professional indemnity coverage is an interesting one this year, with "everything developing a bit later than usual," said Mike Perry, a partner at Jardine Lloyd

Thompson Group P.L.C. in London.

The market dislocation caused by XL's withdrawal and Balva's exit, among other factors, has contributed to delaying solicitors' insurance renewals this year, he said.

There still is adequate capacity for professional indemnity insurance for small- to medium-size firms, those with one and 15 partners, said John Kunzler, a senior vice president at Marsh Ltd. in London. But there is evidence that underwriters are tightening their selection criteria and asking more financial questions of law firms in the wake of several insolvencies, he said.

Some underwriters are still concerned about law firms they consider overreliant on conveyancing work, which generally involves property transfers, he added.

Renewing insurance for solicitors does appear to be running later this year, in part because several of the larger underwriters are "only just getting going," Mr. Kunzler said.

It is not yet clear what effect the Law Society's Chancery Pii venture will have on the marketplace, JLT's Mr. Perry said. He said the fact that companies would have to do all the data entry themselves may put some off.

Mr. Kunzler said Chancery Pii will provide another option for smaller firms, but also said it is unlikely to have a major effect on the marketplace.

The picture is quite different for larger law firms, sources said.

Sandra Neilson-Moore, a London-based managing director at Marsh, said law firms that are merging and the increasing "internationalization" of the business of the 100 largest U.K. law firms present new challenges for underwriters.

Still, she said, there is plentiful capacity and competition is tempering underwriters' efforts to increase rates for larger law firms' professional indemnity coverage.

# HIRING

Continued from page 4

by requiring federal contractors to adopt a benchmark each year that is either based on the national percentage of veterans in the U.S. workforce, which is 8%, or their own benchmark based on the best available data.

"The rule strengthens accountability and record-keeping requirements, enabling contractors to assess the effectiveness of their recruitment efforts," the Labor Department said in a statement. "It also clarifies job listing and subcontractor requirements to facilitate compliance."

The rules take effect 180 days from their publication in the Federal Register; that is expected shortly.

Experts say failure to follow the rules could cost companies their status as federal contractors and potentially cost millions of dollars in settlements.

"It's essential that every contractor move quickly to understand these (regulations) and what they must do to comply," said Valerie J. Hoffman, a partner with law firm Seyfarth Shaw L.L.P. in Chicago. The OFCCP has been "extremely aggressive these days in reviewing compliance," she said.

The rules are an improvement over the original proposals in 2011, experts say.

"I was very pleasantly surprised to see that the OFCCP kind of scaled back a little bit from the proposed rules," said Cheryl L.

Behymer, a partner with Fisher & Phillips L.L.P. in Columbia, S.C.

For instance, in the original proposal, in addition to having 7% of each job group being disabled, there also was a requirement that 2% of the disabled be severely disabled.

"They've completely dropped the 2% severely disabled (requirement), which was wonderful," Ms. Behymer said.

For veterans, the original proposal was modified so that employers need to keep certain records for only three years rather than five years, said Cara Yates Crotty, a partner with Constangy, Brooks & Smith L.L.P. in Columbia, S.C.

Despite the improvements, the rules' implementation still will be challenging for federal contractor employers.

"Fortunately, there's a lot of overlap in the record-keeping and written affirmative action provisions of the veterans and the disabled rules, but the analysis which has to take place is completely different" for each, said Angelique Groza Lyons, a Port Lucie, Fla.-based partner at Constangy, Brooks & Smith L.L.P. "It's a whole new ballgame for contractors."

"Contractors have a lot to do in the next six months to put in place all the tracking, programs and procedures, as well as outreach, that is required by these regulations," Ms. Hoffman said. Fortunately, the final rules omit "a lot of the extra specificity" that had been proposed, "but the new regulations still mark a sea change from what was required under former regulations," she said.

Under the previous rules, the OFCCP was charged with ensuring that federal contractors take affirmative action in their employment practices, but no specific goals were set.

Ms. Behymer agreed that the final rules are better than those proposed in 2011.

"They're still pretty burdensome, and it's going to require a lot of effort and resources by the contractors to meet compliance," she said.

For example, the rule on hiring the disabled "doesn't take into account any individualized factors that affect any particular contractor," such as the availability of individuals with disabilities in the firm's recruitment area, or that a person's disability can affect their ability to do particular jobs, Ms. Lyons said.

Furthermore, the rule "now requires employees to seek information about disability status prior to job offers, which flies in the face of how employers say they have been trained under the Americans with Disabilities Act," she said.

Asked about criticism of the rules, the Labor Department responded with a statement from OFCCP Director Patricia Shiu that said, in part, "The need for these rules could not be clearer — unemployment for veterans and persons with disabilities has been and continues to be disproportionately high. Furthermore, the rules will facilitate the success of companies that do business with the federal government by increasing their access to a large, diverse pool of qualified workers."

## Solicitor group mulls ratings

The Solicitors Regulation Authority, which regulates the Law Society of England and Wales, has said it will assess the implications of introducing full ratings criteria for underwriters of professional indemnity coverage for solicitors.

Currently, an insurer must be authorized by the U.K. insurance regulator, the Prudential Regulation Authority, or be an insurer based in the European Economic Area passported into the United Kingdom to underwrite professional indemnity insurance, a compulsory coverage for solicitors in England and Wales.

The Solicitors Regulation Authority said it defers to the relevant regulatory bodies to vet the financial stability of insurers.

However, in light of the insolvency of Gibraltar-based Lemma Europe Insurance Co. Ltd. in 2012 and the withdrawal of licenses of Latvia-based Balva Insurance Co., the authority said in June it "decided that we need to look again at the impact of introducing a financial rating criteria."

The authority said its review would be completed in time for the Oct. 1, 2014, renewals.

By Sarah Veysey

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FSB

Continued from page 4

federal, streamlined structure might be more effective in achieving greater regulatory uniformity.

Not surprisingly, the NAIC did not agree with the review's recommendations.

"I don't think the report focuses on outcomes," said Tom Leonardi, Connecticut Insurance Commissioner and chair of the NAIC's international committee.

He said that the FSB noted that states' regulators are protecting policyholders and good at ensuring the solvency of insurers.

But "they kind of ignored all of those things," Mr. Leonardi said. "Instead, the FSB cited a lack of systemic focus, it cited a lack of groupwide supervision," matters over which the FSB has no power in this country, he said.

An outside expert said the FSB report could lead proponents of a greater federal role in insurance regulation to push for that change.

"Right now, as the report points out, the federal government does not have a significant level of regulatory authority, and the report

takes a position that the state-based system does not lead to enough uniformity and that greater uniformity and resources will be necessary to properly address the regulatory needs for the U.S. to be in sync with other countries in the world economy," said Mike Nelson, chairman of the insurance law firm Nelson Levine DeLuca & Hamilton L.L.C. in New York.

A proponent of a greater federal regulatory role welcomed the FSB's recommendations.

"We strongly agree with the report's conclusions and hope that it makes a modest impression on state regulators, particularly with respect to the necessity of speaking with a unified voice on international negotiations," said Joel Wood, senior vice president of the Washington-based Council of Insurance Agents & Brokers.

Others disagreed.

"At the macro level, European banking regulators' views of the U.S. insurance regulatory system should always be treated with skepticism," said Jimi Grande, senior vice president in the Washington office of the National Association of Mutual Insurance Cos.

"Reviewing their report, they

seem to conclude that Dodd-Frank, (the Financial Stability Oversight Council) are a good start and that (the Office of Financial Research) is an important innovation. That leads me to conclude that the Europeans are always going to look for more centralized regulation regardless of the outcomes," Mr. Grande said.

The Property Casualty Insurers Association of America also expressed skepticism.

"As the dialogue continues regarding potential structural changes to help ensure financial stability, it is important to remember that the U.S. state-based insurance regulatory system has successfully overseen the largest insurance market in the world for over 150 years," David Snyder, PCI vice president in the group's Washington office, said in a statement.

The diverse U.S. market serves consumers well "and has withstood the financial crisis better than some other sectors, unprecedented natural catastrophes and years of economic slowdown," Mr. Snyder said. The FSB report "was prepared by a global team that may not like our state-based system, not because it is ineffective, but because it is different," he said.

ZURICH

Continued from page 3

"While the results were somewhat mixed, we continue to be very profitable and we continue to generate healthy cash flows," Mr. Senn said during the conference call. "We have a strong and resilient balance sheet."

Nonetheless, Mr. de Swann said the company would investigate the working relationship between Messrs. Wauthier and Ackermann.

"The board sees it as a prime responsibility to look at whether

there was undue pressure on our CFO," he said.

Competent short-term crisis management mixed with a clearly articulated strategic vision for the long term is imperative for Zurich to mollify investors and internal stakeholders, said an executive familiar with the company speaking on condition of anonymity.

"When bad things happen, leaders have to step to the microphone and say, 'I'm in charge, here's the plan and everything will be OK,'" he said. "This is a situation that necessitates leadership and stability."

Mr. Senn said an ongoing strategic reassessment will be reported during the company's investor day

in December.

"Our strategy remained unchanged by recent events," Mr. Senn said.

Yet some remain unsure of the company's strategic direction and the board's ability to help senior management chart a course.

Andrew Barile, Savannah, Ga.-based CEO of insurance consultancy Andrew Barile Consulting Corp., cited a lack of insurance industry experience among directors on the company's board.

"The board is really undermanned when it comes to understanding the insurance industry," Mr. Barile said. "It's mostly bankers."

GALLAGHER

Continued from page 3

geographical businesses in the United Kingdom.

"We continue to look for outstanding international partners that have a similar growth strategy and operating structure, and this is what we found in Giles," Mr. Gallagher said in the statement. "Together, we can significantly expand our operations in England and Scotland as well as add operating platforms in Northern Ireland, Wales, Isle of Man and the Channel Islands."

The Giles acquisition is not Gallagher's first large overseas acquisition. In 2011, the company spent \$158 million to acquire London-based HLG Holdings Ltd., the holding company for retail brokerage Heath Lambert.

Mark Dwelle, an insurance ana-

lyst at RBC Capital Markets, a unit of RBC Securities Inc. in Richmond, Va., said international expansion makes sense for Gallagher.

"They are already well-represented in major U.S. markets. And if they want to continue to grow their business, the most attractive spots are international markets," Mr. Dwelle said.

Indeed, in a move to expand its market share in the northeastern U.S., Gallagher announced the \$276.5 million purchase of Short Hills, N.J.-based Bollinger Inc. in August.

John Wicher, principal at John Wicher & Associates Inc. in San Francisco, agreed that a U.S.-centric business mix would impede Gallagher's prospects for long-term growth, adding that its international revenue has doubled since 2010.

"The U.K. offers them a platform for growth, and London gives them

a window on the international insurance market," Mr. Dwelle said. "So, it's a good platform for international expansion into areas such as Latin America" because London is a hub for international business.

As Gallagher becomes more comfortable managing international operations in the longer term, it may follow competitors such as Aon P.L.C. into more emerging markets, Mr. Wicher said.

"It's hard not to be in Brazil. It's hard not to be in South Africa," he said.

Likewise, Mr. Dwelle sees the Giles deal as a test that may pave the way for more international expansion.

"For Gallagher this is probably the most appropriate first entree to develop a platform with international exposures before trying to leverage this in less mature markets," Mr. Dwelle said.

# SPOUSES

Continued from page 3

with the Affordable Care Act have made it increasingly difficult to continue providing the same level of health care benefits to our employees at an affordable cost," UPS said in a memorandum to employees.

It is easy to understand the motivation behind corporate moves to eliminate eligibility or boost health care premiums for employees' spouses who can obtain coverage elsewhere, experts say.

Because family coverage is much more expensive than employee-only coverage, employers can reap significant savings when spouses are not covered or pay premium surcharges when they are eligible for coverage through their own employers but don't take it.

For example, the average premium this year for employee-only coverage was \$5,884, the Kaiser Family Foundation in Washington said. Adding a spouse easily will double that premium, experts say.

The Patient Protection and Affordable Care Act also gives employers a further incentive to pare their health plan enrollment numbers.

Starting next year under the law, employers have to pay a \$63 rein-

surance fee that is imposed for every health care plan participant. Revenue generated by the transitional reinsurance program fee will be used to partially reimburse insurers for covering high-cost individuals through health exchanges.

"Health care reform accelerates the move" to reduce plan enrollment numbers, said Amy Gordon, a partner at McDermott, Will & Emery L.L.P. in Chicago. The new reform law fees "are making employers more sensitive to plan costs."

In addition, employers that reduce plan enrollments or add surcharges for spouses eligible for coverage through their own employers can use that money to keep the lid on premium increases for coverage for employees and their nonworking spouses.

"It is a way of making coverage more affordable to employees by not picking up the costs of those eligible for coverage elsewhere," said Michael Thompson, a principal with PricewaterhouseCoopers L.L.P. in New York.

"This approach is fairer and more compassionate than requiring an employer's entire workforce to pay more," said Tracy Watts, a senior partner with Mercer L.L.C. in Washington.

Still, there are downsides to denying coverage for working spouses.

"It can be an inconvenience for spouses and families. You add more complexity," said Dave Ratcliffe, a principal at Buck Consultants L.L.C. in Washington. That complexity could arise in situations when working couples have to deal with two health insurers rather than one.

In addition, employers could lose a bit of a competitive edge by denying coverage to working spouses or imposing surcharges for spousal coverage, while other employers in their industries don't do the same, experts said.

"Attraction and retention" of highly skilled employees are important, Mr. Ratcliffe said.

For working spouses who are eligible for coverage through their own employers, the nation's largest employers have been more likely to take the surcharge approach.

For example, a Mercer survey found that 13% of employers with 10,000 or more employees imposed surcharges in such situations, compared with just 5% of employers with 500 to 4,999 employees.

Imposing and collecting sur-

charges is administratively more complex than denying coverage and large employers have greater resources to administer such a feature than smaller firms, Mercer's Ms. Watts said.

While the health care reform law may, at least in part, be a catalyst for the corporate move to deny coverage or add surcharges for employees' working spouses, the law does not impose any barriers to such approaches.

Effective Jan. 1, 2015, the law will require employers to provide affordable coverage to employees.

"That obligation does not extend to spouses," said McDermott, Will & Emery's Ms. Gordon.



## COMPARING EMPLOYERS' SPOUSAL HEALTH COVERAGE

Smaller employers are more likely to exclude spousal health coverage, while larger employers are more likely to impose a surcharge for employees' spouses who are eligible for coverage from their own employers.

| Employer size         | Spousal cover excluded | Surcharge imposed |
|-----------------------|------------------------|-------------------|
| 500-4,999 employees   | 7%                     | 5%                |
| 5,000-9,999 employees | 4%                     | 7%                |
| 10,000-plus employees | 3%                     | 13%               |

Source: Mercer L.L.C.

## ADVERTISER

# INDEX

### Issue of September 9

| ADVERTISER                   | PAGE #     |
|------------------------------|------------|
| AIG                          | 36         |
| Berkshire Hathaway           | 2          |
| Business Insurance           | 13, 25, 27 |
| Catlin                       | 17         |
| Discovery Benefits           | 29         |
| Florida State University     | 30         |
| Helmsman Management Services | 9          |
| Liberty International        | 35         |
| Liberty Mutual               | 5          |
| OneBeacon                    | 22         |
| Pinnacle Actuarial Resources | 21         |
| Swiss Re                     | 15         |
| Travelers                    | 19         |
| World Captive Forum          | 31         |
| XL Insurance                 | 11         |
| Zurich North America         | 7          |

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# SCHOOLS

Continued from page 1

Association facing concussion suits by former players, the risk that concussions might impair brain function later in life could be the next asbestos, one insurance broker said.

If insurers pay a significant portion of the NFL settlement, it “could set off a firestorm” of insurers looking to include concussion exclusions in schools’ insurance policies, said Michael McHugh, area senior executive vice president at Arthur J. Gallagher & Co. in Itasca, Ill. “I think concussion is going to be what asbestos was 30 years ago in our world,” he said.

“It was definitely an active topic of discussion at renewals, and I would suspect it would become a more active topic,” said Daniel Howell, senior executive vice president and managing director of the public entity practice at Alliant Insurance Services Inc. in San Francisco.

One major underwriter “was leaning toward mandating concussive injury exclusions at July (renewals)” for NCAA Division I accounts, Mr. Howell said. “We did

not see that from other markets.”

Both brokers said that football is at the top of many people’s minds when thinking of concussion risks. But the risk of concussion “can come from any sport a child plays,” Mr. McHugh said.

Across the country, there’s great diversity in the way high schools approach concussion risks. “So much has changed in the last few years that now we have a very wide disparity in how well protected athletes are in two schools that are down the block from each other,” said Christopher Nowinski, co-founder and executive director of the Sports Legacy Institute Inc., Waltham, Mass., and co-director of the Boston University Center for the Study of Traumatic Encephalopathy.

“The reality is there’s no single step that schools can take to keep their athletes safe. It’s a long list, and the reality is very few are doing everything,” Mr. Nowinski said.

The institute provides its own list of steps that schools should take to reduce concussion risks at [www.concussionchecklist.org](http://www.concussionchecklist.org). But schools also should be training coaches, teachers, athletes and parents about concussion issues, Mr. Nowinski said.

Schools also need to have return-to-play and return-to-school policies, he said, and should have an athletic trainer on the sidelines and, better still, a doctor.

“We have to recognize the value of a medical infrastructure,” Mr. Nowinski said. “If you could have a physician on the sidelines, you’d diagnose even more concussions.”

Mr. Nowinski said he hopes the insurance issue might help promote a more thorough approach to addressing student athletes’ concussion risks, though it hasn’t thus far.

“We’ve tried to push the insurance argument to try to motivate folks to upgrade policies for years,” he said. “It hasn’t worked historically. We do think it’s a great carrot for people to implement standards.”

## Insurer, state guidance

Connie Telfeyan, risk/safety manager at Omaha Public Schools in Omaha, Neb., said the district’s concussion protocols are shaped largely by guidance provided by its insurer, United Educators Insurance, a Reciprocal Risk Retention Group. In addition, “We have a state law that we have to follow, and it’s very similar to what Unit-

ed Educators asks us to do.”

The Omaha district’s student athletes take cognitive ability tests before participating in sports to provide a comparative baseline should they suffer an injury. “Our schools even follow the concussion protocol in (seventh- and eighth-grade) flag football,” she said.

Michael Fox, risk analyst at Miami-Dade County Public Schools, said the Florida district has an extensive approach to addressing concussion risk. Student athletes in impact sports are given a cognitive ability baseline test prior to participation through KidZ Neuroscience Center at the University of Miami, which also does testing after an injury.

Each school has a licensed athletic trainer, and the district has a doctor on-site at every football game. The district also has a relationship with a concussion specialist at the University of Miami and refers students to her if needed.

Once a student is treated for a concussion, none is cleared to participate in a sport until they’ve been cleared by the cognitive test.

The district also has a football helmet reconditioning program under which the head gear can be reconditioned, if needed, each year for five years before being retired.

Kurt Gibson, associate executive director of the Illinois High School Association, said that under IHSA rules, athletes displaying signs of a concussion must be removed from a practice or competition and may not return until cleared by a medical professional. Under the Illinois rules, either a licensed physician or certified athletic trainer must clear the athlete to return to play.

“We ask our officials in Illinois any time they are working a game and they send a player out for a head injury to write a special report for us,” Mr. Gibson said. The report, providing a brief description of the incident and indicating whether the athlete returned to competition, is forwarded to the athlete’s school to follow up on the student’s condition and any necessary treatment.

Mr. Gibson said the IHSA’s sports medicine advisory committee has discussed requiring baseline cognitive tests for all student athletes, but decided not to do so.

“We would certainly tell anyone if the school district has the resources to do that, certainly do so,” he said, but the district IHSA has sought to avoid mandates that not all schools would have the resources to meet.

# NFL

Continued from page 1

concussion-related brain injuries. In court filings, the players alleged the league misled them about the dangers of concussions, and said they suffer from various neurological and cognitive problems related to head injuries suffered while playing in the NFL.

The settlement “does not represent, and cannot be considered, an admission by the NFL of liability, or an admission that plaintiffs’ injuries were caused by football,” according to the tentative settlement agreement posted on the league’s website.

The settlement amount includes \$75 million for baseline medical exams for the retired players, \$675 million to compensate players and the families of players who suffered brain injuries, a \$10 million fund for concussion research and education, and the payment of legal fees for the players, according to the tentative agreement.

The NFL plans to pay 50% of the settlement in the next three years, and the balance during the next 17 years. The league could add up to \$37.5 million to the players’ injury compensation fund, if the \$675 million is insufficient to pay claims, the agreement said.

The amount of money paid to retired players “will be based upon the specific diagnosis, as well as other factors including age, number of seasons played in the NFL and other relevant medical conditions,” according to the agreement. The diagnoses will be made by independent doctors working with



AP PHOTO

Future claims from current NFL players, such as San Francisco 49ers quarterback Alex Smith, would be subject to provisions of the collective-bargaining agreement should a player later develop concussion-related problems.

a court-appointed settlement administrator.

“We thought it was critical to get more help to players and families who deserve it rather than spend many years and millions of dollars on litigation,” NFL Executive Vice President Jeffrey Pash said in a statement. “This is an important step that builds on the significant changes we’ve made in recent years to make the game safer, and we will continue our work to better the long-term health and well-being of NFL players.”

While the NFL denies wrongdoing, it’s likely the league settled to

avoid a potentially costly legal process and uphold its reputation with football fans, said Steve Smith, a Colorado Springs-based partner in the sports law practice at Bryan Cave LLP.

“Even if the NFL were to win the case, the court of public opinion would probably be very upset with what happened to these players and would be very sympathetic to them, so the win would be very hollow and would probably come at great cost in the media,” Mr. Smith said.

In a statement to *Business Insurance*, the National Football League

Players Association said, “All of the plaintiffs involved are part of our player community and we look forward to learning more about the settlement.”

Ronald S. Katz, Los Angeles-based partner and chair of the national sports law practice at Manatt, Phelps & Phillips L.L.P., said the concussion litigation and settlement agreement could hinder similar future lawsuits from current players.

“Future claims in court would be more difficult because the risks of concussions are well-known now and current players are assuming

these risks when they play in the NFL,” Mr. Katz said.

“However, if a team physician, for example, was negligent in the future, there could still be a claim in court.”

Mr. Weiss said future claims from current players would be subject to provisions in the collective-bargaining agreement, such as a program established in 2011 that provides at least \$3,500 in benefits a month for players who suffer neuro-cognitive disabilities. Retired players also can receive those benefits without reducing payments they would receive under the concussion settlement, he said.

It’s unclear what role insurers will play in the concussion settlement. Last year, the NFL sued 32 insurers in California and New York state courts over 187 commercial general liability policies that were issued within the past 60 years.

The NFL claimed the insurers — including Fireman’s Fund Insurance Co., Travelers Cos. Inc., American International Group Inc., XL Group P.L.C., and Chubb Corp. — breached their duty to defend the NFL against concussion-related liability claims. Fireman’s Fund and Travelers declined comment, while AIG, XL and Chubb did not return a reporter’s calls last week about the NFL litigation settlement.

In May, California’s 2nd District Appellate Court upheld a ruling from the Los Angeles County Superior Court, which halted the lawsuit pending the outcome of litigation in New York.

A hearing was set to be held last week in New York Supreme Court for the parallel case in that state.

## Former risk manager accused of embezzlement

■ Former Select Staffing Inc. Vice President of Risk Management Fred O. Pachón was jailed Aug. 30 in Santa Barbara County, Calif., on charges including felony grand theft for allegedly embezzling about \$700,000 in workers compensation payments from the Santa Barbara-based firm. A hearing has been set for Oct. 9, Santa Barbara police said. Mr. Pachón was arrested after being served a search warrant at his home following an investigation that began after Select Staffing contacted the Santa Barbara Police Department in May. Mr. Pachón currently is the president and CEO of Ventura, Calif.-based Risk-Minds/Risk-Guards, a consulting firm. He also was named *Business Insurance's* 2009 Risk Manager of the Year®. Bail arrangements were underway at press time.

## Large pension funded status flat in August: Mercer

■ The funded status of pension plans sponsored by large employers remained flat in August as rising interest rates, which reduced the value of plan liabilities, largely offset equity market losses, according to a Mercer L.L.C. analysis. On average, pension plans sponsored by companies in the S&P 1500 were 89% funded as of Aug. 31, unchanged from July but up from 74% at the end of 2012. In aggregate, the plans' funding deficit in at the end of August was \$213 billion, virtually unchanged from the end of July but sharply lower than the record deficit of \$557 billion as of Dec. 31, 2012.

## FSU develops tornado model; violent twisters may be increasing

■ Researchers at Florida State University say they have developed a new statistical model that will help gauge the risk of tornadoes. The model offers a way to correct historical data to account for the fact that there were fewer con-

firmed reports of tornadoes in previous decades, the researchers said. The model also corrects assumptions about tornado reporting in urban and rural areas. While it is likely that tornadoes are not occurring with greater frequency, there is evidence to suggest that tornadoes are getting stronger, the researchers said.

## Fortune 1000 firms reveal cyber exposures, concerns

■ Fortune 1000 firms in the health care, technology and insurance sectors are the industries most concerned about cyber threats, while sectors that have disclosed the least level of concern are real estate, financial services funds, conglomerates and the energy and mining sectors, according to a Willis Group Holdings P.L.C. survey. "Willis Fortune 1000 Cyber Disclosure Report, 2013" also said 22% of Fortune 501-1000 companies remained silent on cyber risk, compared with 12% of Fortune 500 firms.

## Solvency II implementation further delayed in 2014

■ The key European plenary meeting to consider Omnibus 2 to amend elements of the Solvency II has been delayed until March 11, 2014, further delaying implementation of Europe's proposed risk-based capital rules for insurers. Solvency II had been slated to take effect on Jan. 1, 2014. The delay in the vote "indicates that the trilogue process to agree the proposed amendments to Solvency II is taking longer than had been hoped," Peter Ott, European head of Solvency II for KPMG L.L.P. in London, said in a statement.

## Commercial property rates up 4% in August: MarketScout

■ Commercial property/casualty insurance rates increased an average 4% in August over the prior-year period, Dallas-based electronic insurance exchange MarketScout said. Gener-

ally positive, experts said, certain eligibility and taxation issues remain unresolved for employers and employees. Specifically, it is still unclear to what extent employees' same-sex spouses will be able to retroactively collect benefits under an employer-sponsored health or retirement plan.

## Workers comp PBMs PMSI, Progressive Medical to merge

■ Workers compensation pharmacy benefit managers PMSI Inc. and Progressive Medical Inc. announced that they have entered into a definitive agreement to merge. The transaction is expected to close in the fourth quarter subject to regulatory clearance, the firms said in a joint statement. The combined company will be led by Eileen Auen, Tampa, Fla.-based PMSI's CEO and executive chairman; and Emry Sisson and Tommy Young, Westerville, Ohio-based Progressive Medical's co-CEOs.

## Proposed rules would ease health plan reporting burden

■ Newly proposed Internal Revenue Service and Treasury Department health care reform regulations would ease the amount of employee plan coverage information employers would have to report to federal regulators by not requiring them to report cost information related to family coverage. Employers also would only have to report how much of the premium employees will have to pay for single coverage.

## Global warming means more flooding, drought

■ Global warming is a fact that can't be explained by statistical "noise" or natural variability alone, with changing weather patterns increasing the risk of floods and drought, Guy Carpenter & Co. L.L.C. said in a report, adding, "The single greatest threat under global warming is that of sea-level rise, which is expected to increase coastal flood frequency and severity."

## SAME SEX

Continued from page 1

that federal tax regulations will recognize any same-sex marriage legally sanctioned by a state, U.S. territory or foreign country — even if a couple's state of residence neither permits same-sex couples to marry nor recognizes marriages performed in other jurisdictions.

The guidance should be considerable relief for employers already offering or planning to offer beneficiary coverage to same-sex spouses, particularly given the fractured nature of state-level regulations governing marital issues.

Fifty-five percent of employers in a recent survey by the International Foundation of Employee Benefit Plans indicated they have an office in at least one of the 13 states and the District of Columbia that permit same-sex marriage and one office in a jurisdiction that does not.

"They've eased the administra-

tive burden quite a bit here, in that employers aren't going to have to track employees moving in and out of the nonrecognition states," said J.D. Piro, a senior vice president with Aon Hewitt in Norwalk, Conn.

With married same-sex and opposite-sex couples on equal tax footing, employers no longer will be required to pay federal payroll taxes for medical, dental and vision coverage provided to same-sex spouses, nor will employees be barred from making pretax contributions for their same-sex spouse's coverage.

"That's a big change for plan sponsors and their employees, and it's probably very welcome news on both sides," said Todd Solomon, a Chicago-based partner at McDermott Will & Emery L.L.P.

According to the Treasury's guidance, employers and employees will be able to seek refunds for taxes paid as long as three years ago on health care coverage they provided to same-sex spouses.

Additionally, the guidance con-

firmed same-sex spouses are eligible for the same rights and benefits afforded to opposite-sex married couples under Employee Retirement Income Security Act-qualified pension and 401(k) retire-



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edition to hear Leslye Laderman of Buck Consultants L.L.C. discuss the federal government's recent regulatory changes as a result of DOMA's partial invalidation.

ment plans, including annuity payments and other survivor benefits.

That provision of guidance is "certainly good news for employees. For employers, it may increase costs a little bit on the pension side," Mr. Solomon said.

Though the reception of the Treasury's guidance has been gen-

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## Willis backs speedy South Pole ski trek

**W**illis Group Holdings P.L.C. will back a venture this year demonstrating a true test of risk resilience — an attempt by a 19-year-old Yale University student to set a speed record for reaching the South Pole on foot while also engaging in climate research.

The Willis Resilience Expedition 2013 will see Parker Liautaud setting off from the Ross Ice Shelf Dec. 3 on the 397-mile trek to the South Pole. Mr. Liautaud is seeking to reach the South Pole on skis faster than anyone has before, breaking the existing record of 22 days.

Along the way, Mr. Liautaud will test a lightweight weather station and gather snow samples to test the composition of snow at various depths to help aid understanding of climate change and its effect on Antarctica.

Another expedition supporter, technology company EMC Corp., will seek to combine an analysis of historical and current climate conditions in Antarctica with Mr. Liautaud's live expedition data to help promote a greater public understanding of the science behind climate change.

Mr. Liautaud will be joined on the trek by polar guide Doug Stoup.

## Agent pays penalty for comping NFL game



**A** North Dakota insurance agent was flagged last month by his state's insurance commissioner for taking clients to a Minnesota Vikings game. Gary Ihry, part owner of Ihry Insurance Agency Inc. and mayor of Hope, N.D., was fined \$57,500 for the December 2011 trip. North Dakota Insurance Commissioner Adam Hamm called the penalty after determining that Mr. Ihry paid for 21 of his insurance clients to accompany him to the game. State law prohibits insurance agents from rebating any portion of an insurance premium and places a \$50 limit on gifts. In addition to the Vikings game, Mr. Hamm's office also flagged Mr. Ihry for a customer appreciation dinner held in 2011.

As part of a consent order, Mr. Ihry will have his insurance license on conditional basis for a year, but his fine will be reduced to \$20,000 if he commits no more violations during that period.

## SNOOKI RAISES A STINK OVER SCENT MAKER'S RIVAL PERFUMES



**“J**ersey Shore” reality star Nicole “Snooki” Polizzi reportedly has sued Excell Brands L.L.C. for allegedly using her name without permission.

Ms. Polizzi is seeking \$6 million, claiming Excell copied her official perfumes to sell a scent bearing her name and signature just as they appear on her authentic “Snooki” products, according to news reports. She is also asking a U.S. District Court in Manhattan to immediately stop Excell from selling the alleged copycat fragrance named Snazzi.

A 3.3 ounce bottle of Snooki's perfume sells for \$45, according to the reports which also say Ms. Polizzi, 25, released her own perfume in 2011.

According to Snooki's biography she is also a best-selling author with book titles such as “A Shore Thing,” “Confessions of a Guidette” and “Gorilla Beach.” Her branded products include slippers, sunglasses, tanning lotions, beauty products and phone accessories.

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## Restaurant crabby over cribbed fries

**O**wners of Chickie's & Pete's crab house and sports bar get a little crabby when other restaurants infringe on their trademark crustacean-flavored French fries.



Though there is no actual crab in the Philadelphia restaurant chain's signature side dish, which is flavored with crab seasonings, CPC Properties Inc., the chain's Wilmington, Del.-based parent, has spent millions of dollars marketing and promoting its so-called Crabfries.

Over the years, SPC has sued numerous companies for trademark infringement, its latest target being Dominic Inc.'s restaurant Tony's Place, which CPC asserts unlawfully used an image of a crab next to the word “fries” in its marketing materials.

A federal judge agreed last month, requiring Dominic to refrain from using the term “crab fries” anywhere in its sales or marketing efforts and to remove any image of a crab near the word “fries” in its menus and website.

However, the judge did toss CPC's unjust enrichment claim, finding that Dominic did not experience any increased profit or other benefits as a result of cribbing from the well-known regional crab house's brand.



## Baseball card theft deemed a fantasy

**A** former City of Tracy, Calif., police officer is expected to receive a probation sentence after pleading guilty last month to insurance fraud for falsely claiming the loss of three Mickey Mantle baseball cards.

Keith Hooks, 43, claimed under a homeowners insurance policy that the cards of the legendary baseball player were worth \$20,500, the California Department of Insurance said.

But the California State Automobile Association Insurance Group grew suspicious of Mr. Hooks' claim after he provided numerous inconsistent statements about how he acquired “The Mick's” cards, their purchase price and how he paid for them.

That led the California Department of Insurance to begin investigating in 2012.

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