

INSURERS NEED TO MITIGATE WEATHER-RELATED RISKS: ANALYSIS / PAGE 3

PROFILE OF PIONEER WHO SOUNDED ALARM ON OVERUSE OF OPIOIDS / PAGE 3

MARINE MARKET NEEDS AN UNDERWRITING REVAMP: IUMI LEADER / PAGE 4

inBrief

High-deductible plans surpass HMOs

Consumer-driven health plans with high deductibles have surpassed health maintenance organizations to become the second-most common plan design offered by U.S. employers, Aon Hewitt has found. Fifty-eight percent of more than 1,800 employers surveyed offered the plans in 2011, while 38% offered HMOs, 15% offered point-of-service plans, 12% offered exclusive provider organization plans and 5% offered indemnity plans. PPOs remain the most popular health plan option, offered by 79% of employers surveyed.

IRS again delays pension plan rules

The Internal Revenue Service for the second time is delaying by at

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SPOTLIGHT

QUARTERLY TECHNOLOGY FOCUS:

ENTERPRISE RISK MANAGEMENT

ERM software speeds processing; automation streamlines systems; incorporating data and analytics; tackling cloud risks. **PAGE 9**

INTERNATIONAL

Solvency rollout again in doubt

Frustration rising as dispute could delay Europe's capital rules

By **STUART COLLINS**

Implementation of Europe's proposed risk-based capital regime for insurers looks to be delayed further after talks in Brussels failed last week to resolve critical outstanding issues.

The Solvency II regime, which is expected to increase capital costs for insurers, reinsurers and captives operating in the European Union, has largely been accepted by insurers, but the delay in implementation and ongoing uncertainty is frustrating for many in the industry, several experts say.

With the high costs associated with implementing Solvency II, insurers such as mutuals in Germany and France and individual country officials may take advantage of the delay to press for further changes, experts say.



The Solvency II Directive originally was due to be implemented this year, but last year was delayed to January 2014. That date, however, now looks in doubt because the European Parliament, the European Commission and the Council of Ministers failed to reach a compromise on the treatment of long-term guarantees in life and pension products at a meeting last week in Brussels.

In a bid to facilitate a compromise between the European Parliament and the Council of Ministers, European Commissioner for Internal Market and Services Michel Barnier proposed waiting for the results of an impact study into how the rules would affect long-term guarantees. The report is due in March 2013.

The European Parliament and the Council of Ministers now are considering whether to take the proposal forward, according to a spokeswoman for the commissioner. In an email, she said it is

See **SOLVENCY** page 2

RISK MANAGEMENT



AP PHOTO

Law enforcement officials used bomb-sniffing dogs to search Louisiana State University earlier this month following a bomb threat.

Spate of bomb threats tests colleges' plans

Law requiring timely warning adds confusion

By **DOUG MCLEOD**

The recent rash of bomb threats at U.S. college campuses demonstrates the need for both well-rehearsed evacuation plans and systems to communicate quickly with potentially tens of thousands of students and employees, risk management experts say.

While a decision to evacuate is still a judgment call for college administrators — one with expenses that are likely to be uninsured, absent specialty coverage — the ability to warn of a threat and move people away from it has become increasingly important for schools, experts say.

"It has not been historically common to have (bomb threats) at all, certainly not a cluster like these," said Teena Hostovich, Los Angeles-based executive vice

See **THREATS** page 21

AGENTS & BROKERS

Marsh taps Glaser as CEO; few changes expected

By **MARK A. HOFMANN**

Insurance industry analysts aren't expecting major changes at Marsh & McLennan Cos. Inc. after Daniel S. Glaser succeeds Brian Duperreault as president and CEO of the New York-based company

on Jan. 1, 2013.

MMC announced last week that Mr. Duperreault would retire at the end of the year. Mr. Glaser, MMC's group president and chief operating officer, was named as his successor. In addition, Mr. Duperreault will retire from

MMC's board of directors and Mr. Glaser will become a member of the board on Jan. 1.

"Mr. Duperreault turned 65 this year and decided to retire," a spokesman for MMC said.

Mr. Duperreault joined in early 2008 to lead the brokerage's turnaround after it became the center of a bid-rigging scandal sparked in 2004 by a lawsuit filed by then-New York Attorney General Eliot Spitzer. Marsh settled the suit for \$850 million, but its business still struggled in the years that followed.

Before joining Marsh, Mr. Duperreault transformed Ace Ltd. into a global insurer and reinsurer.

See **MARSH** page 20



Daniel S. Glaser

Group president and chief operating officer, Marsh & McLennan Cos. Inc.

JOINED MMC: December 2007

AGE: 52

2011 BASE SALARY: \$1 million

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2. Chubb unit not obligated to pay Goodyear under excess policy
3. P/C insurer CFOs say interest rates biggest challenge: Survey
4. California workers comp reform measure signed into law
5. Solution Arc: Get financial value from a wellness program
6. California comp reforms may not reduce costs for payers
7. Colo. man awarded \$7.2 million in 'popcorn lung' lawsuit
8. California gov signs pension bill, hails it as historic reform
9. Obesity could add \$66 billion yearly to medical costs by 2030
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Solvency: Insurance industry disillusioned by further delays

CONTINUED FROM PAGE 1

too early to say whether the January 2014 implementation of Solvency II would be pushed back.

"The issue of the entry into force will need to be clarified by all parties in the trilogue over the coming weeks," she said. "The commission remains convinced that this project needs to be concluded as quickly as possible."

Mr. Barnier also stressed that the remaining issues being negotiated should be wrapped up quickly, so the only remaining issue would be the calibration of risks attached to insurance products.

Omnibus II delay?

However, experts now think it is likely that Solvency II-amending legislation, known as Omnibus II, will be finalized after the impact assessment is done, not later this year as had been planned.

"A delay to the current Solvency II implementation deadline of Jan. 1, 2014, seems inevitable," said Olav Jones, deputy director general of Brussels-based Insurance Europe, a pan-European insurance and reinsurance trade association representing national insurance associations.

"There is no clarity yet on the impact on the overall timetable, although a delay of one year is reportedly being discussed," said Mr. Jones. It is also unclear how Solvency II will be implemented and whether, for example, it might be introduced through a staggered approach, he said.

The issue concerning long-term guarantees is proving difficult to resolve. Talks

between the three parties also failed to reach a compromise in July, said Paul Clarke, partner at PricewaterhouseCoopers L.L.P. in London.

"It now appears that some stakeholders want to wait for the result of an impact study in March to make a more informed decision. This runs straight through Plan A and the current timetable, which is why the parties are now having to work on a Plan B," he said.

The delay will further frustrate an industry that is becoming disillusioned with the proposed rules, said Simon Sheaf, general insurance practice leader at accountant Grant Thornton U.K. L.L.P. in London.

"It now seems almost inevitable that Solvency II will be delayed further, possibly by a year, although it could be longer," he said. "This is bad news for insurers that are a long way down the road of preparation. They have invested significant time, money and resources in getting ready, but they will not be getting any practical benefit for several years," Mr. Sheaf said.

For example, Lloyd's of London has estimated it could cost £300 million (\$486.5 million) to implement Solvency II, and the Association of British Insurers has estimated it could cost £2 billion (\$3.24 billion) for all British insurers to implement the new capital rules.

"Some companies are now dubious that Solvency II will ever happen and wonder if they should commit further significant investment," Mr. Sheaf said.

There also is wider concern among insurers that delays could see controversial issues re-emerge, said Andrew Tromans, a partner



The European Parliament

'Some companies are now dubious that Solvency II will ever happen and wonder if they should commit further significant investment.'

Simon Sheaf, Grant Thornton U.K. L.L.P.

at Clyde & Co. in London. Officials in some European countries, as well as certain mutual insurers, no longer think that Solvency II works for them and could press for bigger changes, he said.

"It is dangerous for insurers to push

ahead on the presumption that there is just an issue with timing," Mr. Tromans said. "There could yet be more fundamental changes to Solvency II."

Another potential obstacle for Solvency II could be disagreements between regulators on how to treat investment risk, in particular sovereign debt, slumping property values in countries such as Ireland and Spain, and financial institution securities in the face of the European debt crisis, said Stefan Holzberger, London-based managing director of analytics for Europe, the Middle East and Africa at A.M. Best Co. Inc.

"This is a politically sensitive issue, but one that needs to be overcome," he said.

Further delaying Solvency II will only add to insurers' growing frustration, Mr. Holzberger said. "Most insurers take a diplomatic view of Solvency II, but there are undertones and, in some cases, vocal frustrations."

Delays have cost implications for insurers that have considerable resources tied up with preparations, Mr. Holzberger said.

"Some companies are flabbergasted as to what has become of a sensible risk management regime. Many now see it as a massive bureaucratic exercise that has become so prescriptive as to overtake any good," he said.

In particular, smaller insurers, captives and mutual insurers increasingly feel "overwhelmed" by Solvency II requirements. "Solvency II is a good risk-based regime, but it has turned into a monster, and clarity on proportionality remains an important issue," he said.

Delaying implementation of Solvency II also threatens its credibility on the international stage, Mr. Clarke said.

"Solvency II could become the de facto international benchmark (for insurance regulation), but the delays and disputes will color the minds of those regulators looking to follow its lead," he said.

WORKERS COMPENSATION



Dr. Franklin

Workers comp pioneer sounds opioid alarm

By **ROBERTO CENICEROS**

Years before risk managers learned that opioid prescriptions would become a workers compensation liability, Dr. Gary Franklin was reviewing death certificates to document that large doses of the narcotics were killing injured workers.

Today, the neurologist and medical director for the Washington State Department of Labor & Industries is recognized in the workers compensation industry for his pioneering research and outspokenness on the overprescribing of opioid pain medications.

Claim files detailing a growing number of worker deaths after the prescribing of increasing amounts of the highly addictive narcotics first crossed his desk in 2001.

"The average daily doses were going through the roof, especially for the most potent Schedule II opioids, the OxyContin-type drugs," Dr. Franklin said. "I had never seen that before."

His investigation into the liberal use of opioids to treat injured workers and his willingness to speak out about his findings led to legal action against him and criticism by the drugs' proponents.

"I practically got yelled out of the room by these drug company surrogates" when first presenting the research findings at a 2003 conference for pain management clinicians, Dr. Franklin said. "The fellow who invited me to speak also got yelled at."

That was several years before the topic of opioids became a part of risk managers' and workers comp insurers' working knowledge and long before many industry observers realized employers and insurers could be on the hook for related addiction services and overdose deaths.

That also was nearly a decade before federal agencies began warning of a deadly epidemic of prescription painkiller abuse across the nation.

Now, a growing number of risk managers and claims managers know that evidence-based medical guidelines warn that treating chronic, nonmalignant pain with opioids is controversial because increased doses of the prescriptions have not been tied to health improvements.

See **FRANKLIN** page 7

P/C INSURERS

Weather risk mitigation needed

Report says reinsurers, insurers should do more

By **MARK A. HOFMANN**

A report saying that insurers and reinsurers need to do more to mitigate the effects of extreme weather and climate-related risks has drawn praise from a somewhat unusual source.

In fact, the R Street Institute said the report, issued last week by Boston-based Ceres, could be an impetus to reduce government subsidies for catastrophe-exposed property insurance.

The report by Ceres — a coalition of investors, environmental groups and other organizations that works with businesses to address sustainability challenges, including climate change — said insurers have taken some steps to deal with weather and climate-related issues.

"We have seen excellent examples of insurer-sector leadership in addressing climate risks, but industrywide engagement and action in this regard is nowhere near its potential," said the report, "Stormy Future for U.S. Property/Casualty Insurers: The Growing Costs and Risks of Extreme Weather Events."

"Insurers have much to offer, and much at stake, in helping governments and private markets to further understand and develop solutions to better predict and prevent losses from extreme weather events," according to the report. "For instance, stronger resiliency to extreme weather is of great importance to the insurance sector, as it reduces property risks and promotes future insurability."

Among other things, the report recommends that insurers and reinsurers update pricing and underwriting to reflect changes in extreme weather and promote the reduction of carbon emissions. It calls on rating agencies to analyze insurers' exposures and management responses to extreme weather risks, and urges regulators to strengthen mandatory climate risk disclosures by insurers.

A pro-free enterprise nonprofit group hailed the report.



AP PHOTO

A recent report by Ceres could be an impetus to reduce government subsidies for catastrophe-exposed property insurance, according to the R Street Institute.

"... there should be an immediate commitment to cease politically motivated rate suppression for property insurance, particularly in sensitive coastal areas whose long-term future remains uncertain."

R.J. Lehmann, R Street Institute

"We think this is an important report, whose findings must be taken seriously by lawmakers, regulators and industry alike," said R.J. Lehmann, senior fellow at the R Street Institute in Washington.

"Among the most important conclusions that we at R Street draw from this

report is that there should be an immediate commitment to cease politically motivated rate suppression for property insurance, particularly in sensitive coastal areas whose long-term future remains uncertain," he said. "The federal government and state governments also need to cease subsidies to programs like the National Flood Insurance Program and Federal Crop Insurance Program, and to state-sponsored residual market entities that serve primarily to put more people and businesses in harm's way."

Previous attempts to eliminate such programs, including NFIP, have failed.

The American Insurance Association is reviewing the Ceres report and its recommendations, a spokesman for the Washington-based insurer group said.

"Whether it's reducing their own carbon footprints or meeting consumer demand by offering 'green' products, insurers have a strong public record on this issue," the AIA spokesman said. "The insurance sector remains well-capitalized, financially stable and ready to respond to policyholders' natural catastrophe claims."

WELLNESS

Obesity could add \$66 billion to health care costs

44% of all U.S. adults could be obese by 2030

By **MATT DUNNING**

Medical costs associated with treating obesity-related diseases in the United States could increase as much as \$66 billion annually by 2030 based on current trends, according to a study by the health care policy group Trust for America's Health.

The state-by-state analysis of obesity-linked disease rates and associated medical spending, released last week by the Washington-based organization, projects that obese individuals could account for 44% of all U.S. adults by 2030 if obesity rates nationwide continue to grow at their current pace.

According to the study, "F as in Fat:



The study found that workers compensation claims costs generated by obese employees are typically much higher than those generated by "healthy weight" workers.

How Obesity Threatens America's Future 2012," that rate of growth likely would lead to more than 6 million new cases of Type 2 diabetes, 5 million cases of coronary heart disease and stroke, and more

than 400,000 cancer diagnoses by 2030.

Those new cases would add \$48 billion to \$66 billion per year to the nation's spending on direct costs for obesity-related medical care by 2030 under current projections, according to the study.

An unchanged growth rate of the percentage of obese U.S. residents also would significantly inflate indirect costs over the same 18-year period, the report says. The associated loss in economic productivity could be \$390 billion to \$580 billion annually, according to the analysis of data from the Behavioral Risk Factor Surveillance System. The state-based system completes some 400,000 health-related telephone surveys a year.

The study also says workers compensation claims costs generated by obese

See **OBESITY** page 18

WORKERS COMPENSATION

How lumber company cut comp spend

Large-deductible approach halves first-dollar costs

By **ROBERTO CENICEROS**

With prices for guaranteed-cost workers compensation insurance rising, employers considering whether to assume greater risk by moving to a large-deductible plan might consider Ganahl Lumber Co.'s success record.

When workers comp rates for California employers "were going through the ceiling" 12 years ago, Ganahl stopped buying first-dollar coverage and instead purchased a policy with a \$250,000 per-claim deductible, said John Ganahl, chief financial officer for the Anaheim, Calif., employer.

Each year since then, Ganahl has saved at least 50% in total costs over what it otherwise would be paying for a first-dollar policy, Mr. Ganahl said. The savings have resulted even when factoring in loss expenses, the cost of collateral that insurers demand when providing a guaranteed-cost policy, third-party administrator expenses and the premiums Ganahl pays for the coverage with the \$250,000 deductible.

"Adding up those costs and comparing them to the cost of a comparable first-dollar policy, we have been significantly ahead in every single one of the 12 years," Mr. Ganahl said. "In other words, we are happy to be our own insurance company for the first \$250,000 in claims because we have done very well."

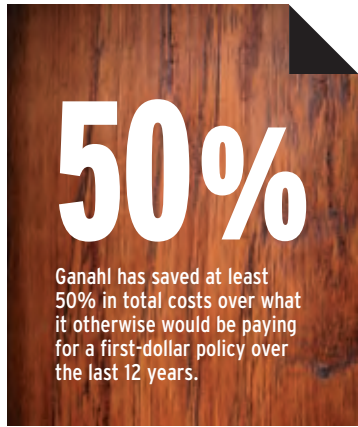
But the move to a large deductible may not be for all employers, Mr. Ganahl warns, and workers comp insurance experts agree with his assessment.

More employers are weighing

whether to take on more risk with a larger-deductible policy, or they are making the move because of the rising price for guaranteed-cost policies, said Stephen B. Paulin, senior vice president for broker Sullivan Curtis Monroe Insurance Services L.L.C. in Irvine, Calif., which places Ganahl's property coverage.

Several recent surveys have documented the rise in workers comp insurance pricing.

For example, MarketScout, a Dallas-based electronic insurance exchange, reported this month



that workers comp rates increased 6% during August, with larger increases for smaller accounts. The August increase came after rising prices in previous months.

Before abandoning a guaranteed-cost policy for a large-deductible approach, however, considerations that employers must adequately weigh include their company's risk tolerance to pay first dollar on claims, the company's financial strength and its loss history, Messrs. Paulin and Ganahl said.

While Ganahl, with about 625 employees, has been "a prototypical success story," reaping financial rewards for turning to a large-deductible policy, not all compa-

nies that made a similar decision a decade or so ago when California rates were rising rapidly have fared as well, Mr. Paulin said.

"There were businesses that thought they knew what their risk tolerance was and thought they were able to handle it," Mr. Paulin said. "The reason they considered a large deductible is because the guaranteed-cost premiums were so shockingly high compared to where they were a couple of years before that. They really didn't have a choice financially, but some of them had good success; others didn't."

Today, however, more brokers are recommending that midsize clients considering such a shift first contract for an actuarial report on their claims history, Mr. Paulin said.

The primary reason for the review is to improve the business's understanding of how their future claims risk could affect their cash flow and whether taking on more risk makes sense for them.

Secondly, though, the actuarial review can help the insurance buyer in negotiations with insurers over the amount of collateral the underwriter will demand, Mr. Paulin said.

Insurers demand collateral with large deductible policies to guarantee that, should a policyholder fail to meet the obligation to pay claims costs within the deductible, the underwriter will not be left holding the bag.

A policyholder's cost for letters of credit depends on their company's financial strength, Mr. Ganahl said.

"You can't even talk large deductible if you don't have the ability to have letters of credit that are significant in size," Mr. Ganahl said. "A company has to be in good financial shape. We are."

Some employers that switched

from a guaranteed-cost policy to a large-deductible plan 12 years ago, though, saw it as a short-term move, Mr. Paulin said. They planned to move back to a guaranteed-cost plan once the workers comp insurance market eased.

"The problem was, they were still saddled with a letter of credit for hundreds of thousands of dollars that stuck with them" for several years, which amounts to a liability on the company's balance sheet, Mr. Paulin said. Insurers hold the collateral over time until long-tail workers comp claims are properly closed.

Employers looking to take on more risk also need to consider whether their safety strategies will reduce the losses for which they will be responsible, Mr. Paulin said.

Ganahl Lumber encourages safe practices with several measures, including allocating claims losses to the individual business locations where injuries occur, Mr. Ganahl said. That keeps location managers aware of the financial cost of accidents.

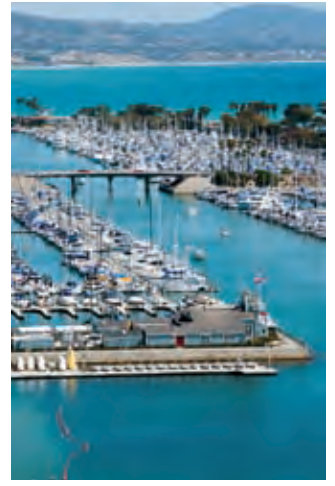
The feedback operating managers receive on their unit's losses also is much quicker than under a guaranteed-cost program, Mr. Ganahl said. Under a first-dollar coverage plan, losses affect an employer's experience modification rating and, over time — perhaps a few years — affect the employers' premiums.

By that time, an accident has "almost no (financial) relevance to the managers involved," he said.

But under Ganahl's current system, local managers see the financial impact on the unit's profit and loss reports within one to three months.

"You have a very short loop between the accident and the cost of the accident," Mr. Ganahl said.

WORKERS COMPENSATION



The California Workers Compensation & Risk Conference drew 850 attendees.

Will Calif. law really reduce comp costs?

Doubts expressed, despite projections of \$300M savings

By **SHEENA HARRISON**

DANA POINT, Calif. — While recent workers compensation reforms in California aim to reduce costs for employers, insurers and claims handlers say they're concerned the new law won't do much to ease rising expenses.

The expected effect of S.B. 863 was discussed during an "open mic" panel at the California Workers Compensation & Risk Conference in Dana Point, Calif.

California Gov. Edmund G. Brown Jr. signed the legislation into law last week. The measure aims to reduce comp costs for employers and insurers while boosting permanent disability benefits by 30% during the next two years for injured workers.

Mark Wilhelm, CEO of St. Louis-based Safety National Casualty Corp., told conference attendees that the insurer expects the law to be "cost-neutral at best" for workers comp payers.

He said that increased benefit costs can be quantified by workers comp insurers and claims handlers. However, Mr. Wilhelm said, savings from reforms are "theoretical" for now.

"There's definitely a cost associated with the benefits provided in this bill, and we're going to approach it as a cost and not necessarily a savings," Mr. Wilhelm said.

Todd DeStefano, president of risk management practices for Parsippany, N.J.-based York Risk Services Group Inc.,

MARINE

Marine underwriters must update model: IUMI exec

By **MIKE TSIKOUKAKIS**

SAN DIEGO — Marine underwriters face another difficult year with continued soft insurance pricing, revealing the industry's out-of-date business model, the president of the International Union of Marine Insurance said last week.

Challenges facing marine underwriters include global financial and economic uncertainty, meeting client needs, and developing proper underwriting technology and procedures, speakers said during IUMI's Annual Conference 2012 in San Diego.

No nation is immune to the weak global economy, and the

marine insurance business model is "out of touch," IUMI President Ole Wikborg said at a conference session.

"Marine insurance is facing a pretty bleak presence," said Mr. Wikborg, who also is the director of the Norwegian Hull Club in Oslo, Norway. "We seem unable to adapt to the current business environment," noting that marine underwriters need to remodel their business and marketing processes.

Marine insurance premiums increased 7% to \$31.9 billion in 2011 compared with 2010, said Astrid Seltmann, an analyst and actuary at Cefor, the Nordic



While marine insurance premiums increased 7% in 2011 compared with 2010, ocean hull premiums rose only 1%, an IUMI executive said.

marine insurance association in Oslo, and vice chairwoman of IUMI's facts and figures committee.

The increase in premiums is "a pure volume increase" that

reflects an upswing in global trade, she said during the conference.

See **IUMI** page 20

See **WORK COMP** page 19



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Employers get more clarity on definition of 'full time'

By JOANNE WOJCIK

A notice issued by the Internal Revenue Service late last month gives employers a bit more flexibility than had been expected in determining which of their employees must be offered coverage under the federal health care reform law, experts say.

Under the notice, which will remain in effect at least through 2014, employers can use a retrospective measurement period lasting between three and 12 months to determine whether an employee's hours meet the definition of "full time" under the Patient Protection and Affordable Care Act.

Under PPACA, if just one full-time employee is not offered coverage and receives a federal premium subsidy to purchase coverage in an exchange, an employer faces a \$2,000 penalty for each full-time employee.

If an employee works an average of 30 or more hours per week during the measurement period, then the employer will be required to offer the employee health benefits after a waiting period not lasting more than 90 days.

That means employers that hire many temporary and seasonal employees may not be required to offer health benefits to many of those employees, particularly if they use a 12-month measurement period, benefit consultants say.

However, there is a catch: Employers will be required to keep any employees deemed full time in their health plans for a period of time equal to the measurement period chosen, which could be as long as a year for employers that select a 12-month retrospective measurement period.

"It's good, because it gives the employer of variable-hour and seasonal employees significant flexibility to determine who are and are not full time for pay-or-play purposes," said Ed Fensholt, senior vice president and director of compliance services at Lockton Cos. L.L.C. in Kansas City, Mo.

"It's doubly good because it's even better than the guidance we thought we were going to get, where employers would get at least a three-month or maybe a six-month free pass. With this, they can get up to a 12-month free pass."

The IRS guidance also gives employers the flexibility to use different measurement periods for different classifications of workers, said Ben Lupin, director of compliance

Educate employees about benefits eligibility

By JOANNE WOJCIK

Regardless of the particular measurement period employers select to determine which of its part-time, temporary and seasonal workers may be benefits-eligible under health care reform, they will need a robust time and attendance system to perform the calculations, benefits experts say.

Communications also will be important in educating employees about their benefits eligibility, the experts say.

Fortunately, most payroll and human resource information system vendors either already have those capabilities or are building them to meet the new employer record-keeping requirements mandated by the Patient Protection and Affordable Care Act.

Newport Beach, Calif.-based Secova Inc., for example, has developed a platform with the capability to take in-time and attendance information to calculate full-time employees on a real-time basis, and to conduct automatic enrollment into benefits programs, among other things, said Chirayu Patel, vice president of client development.

Secova's iElect system, which originally was designed for large employers with between 5,000 and 15,000 employees, was retooled in 2009 to also service middle-market employers and soon will be available to employers with as few as 100 employees, Mr. Patel said.

"For medium-size and small businesses, meeting the full-time employee test is going to be a challenge," Mr. Patel said. Determining which employ-

ees meet the full-time equivalency test is only the start. "They also will need to determine whether they qualify for the tax credit or the exchanges," he said.

"For employers, the idea of a robust time and attendance system and superior record-keeping are certainly going to be emphasized to document your exposure or lack of responsibility for providing health benefits," said Karen Vines, vice president of employee benefits at broker IMA Inc. in Wichita, Kan.

"The guidance gives employers the framework for tracking which individuals may be benefits-eligible, but a lot of the record-keeping is going to be up to the employer to self-certify what their population looks like," she said.

"I don't know if the tracking is going to be any more cumbersome than it has been in the past, but now employers have a real incentive to make sure they are tracking correctly. And there's going to be a bit more scrutiny. Employers will have to be ready for audits," said Don Garlitz, executive director of exchange solutions at bswift, a benefit technology firm based in Chicago. Fortunately, "the tools are out there in the marketplace."

This PPACA provision "will create some record-keeping and employee communications issues," said Pat Haraden, a principal at Longfellow Benefits in Boston. "When the regulators allow employers a choice, you will create this education vacuum among employees."

This happened during implementation of an earlier provision in PPACA requiring benefit plans to provide 100% coverage for preventive care services, he said. This mandate did not apply to benefit plans that were grandfathered, he said.

tage in some cases, "depending on the type of company you have," he said.

The types of employers that will benefit most from the flexibility allowed in the guidance are those that have mostly sea-

sonal employees, such as ski resorts, amusement parks and other types of businesses that hire temporary staff when business peaks, said Pat Haraden, a principal at Longfellow Benefits in Boston.

"Retail is the best example of this because of the Christmas season," he said.

"But tax preparers and accountants may hire people to work as many as 60 hours a week from January to April 15."

The rule also is good news for employers that lay off workers after those peak seasons and rehire them the next year, Mr. Fensholt said.

"The other bit of good news that was a bit of a surprise was that the agency didn't deal with rules for employers that rehire. Say they're here for three to six months, then they get laid off until next season. There's nothing in the guidance that says you have to treat a rehired employee, as if they have never been gone. At some point, the IRS might tighten that up and disregard the breaks in service, but for now, those employers are safe," he said.

"The regulators recognized that it would be burdensome to implement (coverage) month by month. The essence of this notice is what happens if you hire somebody part time and have no clue whether they are going to end up being full time," said Alden J. Bianchi, a member of the Boston-based law firm of Mintz Levin Cohn Ferris Glovsky and Popeo P.C.

To avoid the possibility that employees who work full time for less than six months become eligible for health benefits, most benefit consultants are recommending that employers use a 12-month measurement period.

"The employer gets to pick the period, which can be between three and 12 months," said Karen Vines, vice president of employee benefits at broker IMA Inc. in Wichita, Kan.

"Let's say they pick 12 months and they capture the hours worked per week or per month," Ms. Vines said.

"If an employee averaged 30 or more hours a week, then they are deemed benefits-eligible. The employer is not required to offer coverage retrospectively, but the employer is required to offer that coverage for an equivalent period of time as the measurement period, but not less than six months," she said.

If an employer uses a 12-month period, an employee "could feasibly go an entire year without coverage," said Wade Symons, senior attorney and compliance consultant at Mercer L.L.C. in Portland, Ore.

"But in so doing, you also have to have this stability period that goes with it. The way it works is, say this person averages 30 hours per week over the past 12 months, then you have to keep them on the plan for the next 12 months regardless of how many hours they work, unless they terminate employment," he said.



'It's good, because it gives the employer of variable-hour and seasonal employees significant flexibility to determine who are and are not full time for pay-or-play purposes.'

Ed Fensholt, Lockton Cos. L.L.C.

Franklin: Pioneer sounds opioid alarm

CONTINUED FROM PAGE 3

More risk managers also know that various medical guidelines recommend actively monitoring the use of opioid narcotics prescribed to workers through practices such as routine urine screening for potential abuse.

Experts say the early research of Dr. Franklin, who also is a research professor in the Department of Environmental and Occupational Health Sciences Medicine and Health Services at the University of Washington, helped spur the development of such guidelines. They also say his willingness to speak out on the controversial topic helped alert the workers comp industry to the dangers of improperly prescribing narcotics.

"He really worked diligently over the years to address the issues associated with" opioid abuse, said Rita Nowak, vice president of commercial lines and workers comp for the Property Casualty Insurers Association of America in Des Plaines, Ill.

"From everything I can see, he did a Herculean job. We in the industry need to really applaud his efforts."

Less known about Dr. Franklin, though, is that his passion for helping injured workers emerged during the late 1970s when he maintained a solo medical practice in Springfield, Ore.

He was the blue-collar lumber mill town's only neurosurgeon, he said. So primary care doctors sent him their worst workplace injury and chronic pain cases. They often were mill and factory workers who already had undergone several failed back surgeries before seeing him because they were not improving.

"They were extremely frustrated and angry" because they wanted to be back at work and regain their previous lives, Dr. Franklin said.

"I really cared about these people, and I tried everything I could to help them," he said.

"But I realized ... that unless I got into a position of preventing injuries from happening, there was nothing I could do no matter how much I cared."

Their cases raised several questions of the type that would remain a driving force throughout his career.

Dr. Franklin wondered why those workers underwent several surgeries when the first one didn't work. How do you eliminate health care that doesn't work and find what does work? Why can't such disabilities be prevented in the workplace?

By 1980, the questions drove him to sell his private practice and move to Berkeley, Calif., to earn a masters degree in public health, Dr. Franklin said.

Now, even though he is medical director of Washington state's monopoly workers comp insurer, he still practices medicine, working on call on certain weekends at an Olympia, Wash., hospital.

Questions such as how evidence-based medicine is used to treat chronic pain have led to

years of research on the medical procedures regularly used in treating injured workers. He has conducted extensive study on lumbar-fusion surgeries, for example.

But one of his greatest accomplishments has been sounding a wake-up call that before doctors increase injured workers' opioid doses beyond a certain level, they should seek additional medical opinions and other possible interventions such as cognitive behavioral therapy, Dr. Bernyce Peplowski said.

Dr. Peplowski knew Dr. Franklin while she was medical director of the California State

Compensation Insurance Fund in San Francisco.

While other medical professionals also have led the way in developing medical guidelines for using opioids, Dr. Franklin has been more vocal than the others in raising public awareness about applying such guidelines, Dr. Peplowski added.

"Gary has been so right in being more public about what he is doing," Dr. Peplowski said.

To spread the word, Dr. Franklin is a frequent speaker on the topic of opioids at workers comp conferences.

The early research he and a

pharmacy manager colleague conducted on opioid-related worker deaths began after states passed laws in the late 1990s prohibiting the sanctioning of doctors for writing specific opioid dose amounts, he said.

Dr. Franklin and his colleague studied files and death certificates containing information on 32 worker deaths that occurred between 1999 and 2002.

That led to an early peer-review article in a scientific journal linking unintentional deaths to prescribed opioids, Dr. Franklin said.

"They had to be from prescribed opioids because we knew we were going to take some heat," Dr. Franklin said.

Eventually, Washington

became the first state in the nation to release medical guidelines suggesting a specific dose at which doctors should take additional precautions.

But the heat from detractors did come.

Around 2007, a doctor and an organization sponsored by pharmaceutical companies sued Washington state and the medical directors for several of its public agencies, including Dr. Franklin, he said.

The guidelines were voluntary, but the federal lawsuit claimed the guidelines prevented access to adequate pain treatment, Dr. Franklin said.

"It took two years, but it was finally thrown out," he said.

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Opinions

EDITORIAL

Terrorism cover backup needed

It's a fact the federal terrorism insurance backstop program doesn't expire until the end of 2014. And it's also a fact not everyone in Washington — and elsewhere — would like to see this crucial federal risk management program extended beyond its current expiration date.

That makes it all the more critical for supporters of the backstop, including us, to waste no time crafting an effective strategy for the program's extension.

As we reported last week, the House Financial Services Committee's Subcommittee on Insurance, Housing and Community Opportunity held a hearing on the program on Sept. 11. That, of course, was the 11th anniversary of the terrorist attacks that led Congress to approve the Terrorism Risk Insurance Act of 2002. Members of the panel heard industry representatives urge reauthorization of the program, which initially was extended for two years in 2005 and then for seven in 2007.

But one witness before the panel made the argument that the program, although needed in the aftermath of the 2001 attacks, no longer was necessary and in fact discourages the private insurance sector from providing coverage for terrorism.

We've heard the argument before, from the political left and right, and respectfully disagree with it. Private insurers exist to underwrite new risks and exposures all the time.

But only a small, stand-alone market for terrorism coverage exists, and it's far from big enough to meet all demands. Why? Because insurers simply can't predict, track or price the terrorism risk because critical underwriting information isn't public.

For the foreseeable future — and probably beyond — terrorism is likely to remain an exposure that defies underwriting. It's a public threat that requires a public response. Keeping the backstop in place is nothing less than a matter of national security.

The Sept. 11 hearing is simply the first in what should be a series of many before the issue of reauthorization is resolved. Proponents need to sharpen their arguments now in preparation for what could be a long and difficult battle for extension of the program.

LETTERS

Business Insurance welcomes letters to the editor.

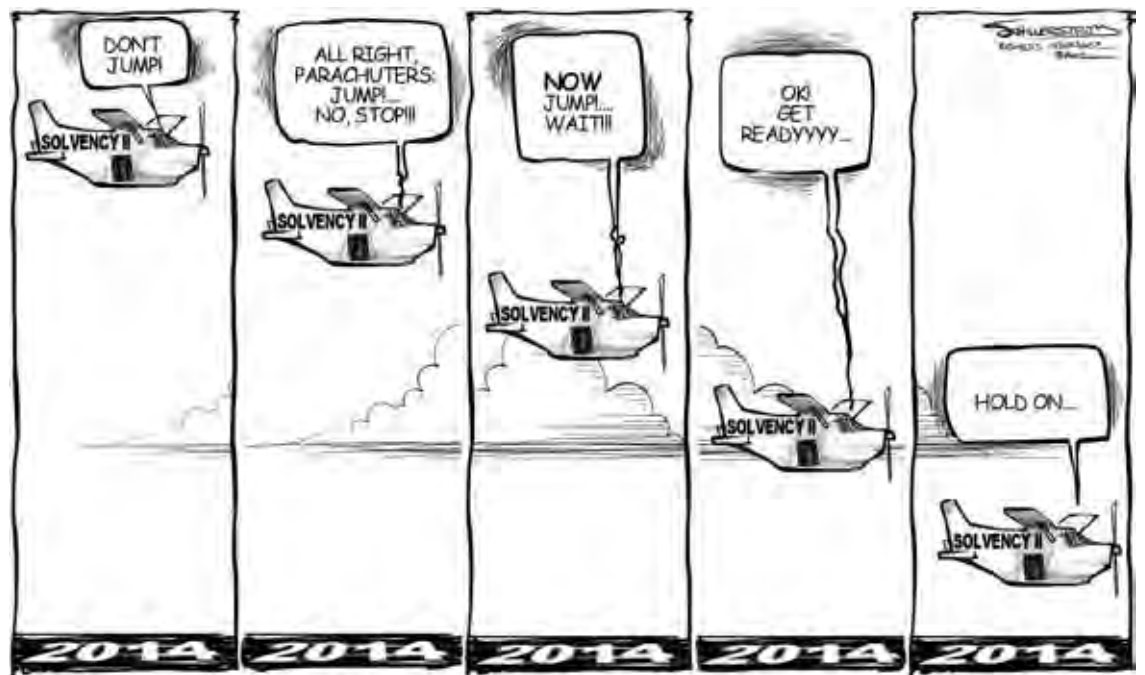
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SCHILLERSTROM



COMMENTARY

Wake up to high-cost provision

A few weeks ago, I wrote a story about a health care reform law provision with the bureaucratic-sounding name "Transitional Reinsurance Program."

In simple English, what the program will do when it takes effect in early 2014 is impose some pretty hefty fees on group health care plans.

Self-funded employers will have to fork out billions of dollars to fund the \$25 billion program, with the money used to partially reimburse commercial insurers writing coverage for high-cost individuals.

The exact amount of the fees — calculated on a per-participant basis — won't be known until the U.S. Department of Health and Human Services releases the figures this fall. A good ballpark estimate, say those who have done the math, is that the fee will be in the range of \$60 to \$90 per health care plan participant.

For very big employers, for example — those with at least 100,000 employees and 100,000 dependents in their group health care plans — the first-year tab for the Transitional Reinsurance Program, which will run for three years, could top \$10 million, a pretty hefty assessment tab for a program for which employers will receive no direct benefit.

After my story ran, I received several emails from readers asking about the provision. They had no inkling about the program, and neither did I until a lobbyist mentioned it to me in passing as part of a broader conversation dealing with other

health care reform law issues.

So, how is it that this provision, with its big costs, has gotten so little attention? I can't say for sure, but I have to wonder if the provision symbolizes the misguided approach congressional leaders have taken on health care reform, in which attention to detail has taken a back seat to irrelevant actions of the sound bite variety.

Take the House of Representatives' action in July to repeal — following the Supreme Court decision upholding most of the law — to repeal it. As I wrote at the time of the vote, with no chance that the Senate would follow suit, the House action was a meaningless waste of elected officials' time.

For now, with the presidential and congressional election season in full swing, detailed and careful consideration of the health care reform law is on hold.

When the next congressional session begins in January, I hope members from both parties will realize the reform law is here to stay and will work together to find ways to improve it and develop a consensus on where changes are necessary.

I hope that a willingness to work together and find a middle ground applies on other issues as well.

That surely is what the public wants and expects.

Contact: jgeisel@businessinsurance.com



JERRY GEISEL
EDITOR-AT-LARGE



BUILT *for* SPEED

*ERM software updates provide faster processing,
add more robust data capabilities*

By **BILL KENEALY**

In light of evolving demands from customers, makers of enterprise risk management software programs are reworking their offerings with an emphasis on increased speed and usability.

John Winter, director of product management for iWorks risk solutions for Wayne, Pa.-based SunGard Data Systems Inc., said the company was working to improve the ease of inputting data to and extracting from Prophet, a risk management platform used by the financial services industry.

"Some end users of risk management software are looking for a dashboard that enables them to see all of their risk information on one page," Mr. Winter said. "In other cases, they want tools that serve to automate a large part of the effort of getting risk numbers to the right places."

In addition to easing data integration for users, the company is working to ease integration and interoperability of its offering on the back end. "There are not that many green fields out there. Most companies have something in place, even if it is just a collection of spreadsheets," Mr. Winter said. "We are very cognizant that we will likely have to coexist with other parts of the infrastructure in the ERM space."

Randy Heffernan, vice president of Ithaca, N.Y.-based Palisade Corp., said Palisade focused on simplifying its modeling and reporting offering when it launched version 6.0 of its DecisionTools Suite, a risk and decision analysis software package made to

bolt on to Microsoft Excel, in September.

Mr. Heffernan said that by utilizing Excel as the user interface, the developers can focus on improving the product, which is anchored by the company's @RISK software and includes Monte Carlo simulations, decision trees, and statistical and neural network analysis.

"Excel is a platform that everybody already uses every day," he said. "This just adds new toolbars and functions."

Mr. Heffernan said the interface enhancements in the new version of DecisionTools were intended to make it more accessible to a wider range of users.

"We try to encourage use of this across different silos or functional areas," he said. "We want to expand use of this technology."

Enhanced functionality was a primary goal for version 6 of ReMetrica, a dynamic financial analysis tool made by Aon Benfield, a unit of London-based Aon P.L.C. "Our focus has been how to make this very sophisticated tool easier," said Mike McClane, head of ReMetrica for the Americas at Aon Benfield Analytics, of the new version of the software, which was released in September. "The capabilities have always been there."

In response to the ongoing concerns about the economy and counterparty credit risk, the capital models included in ReMetrica 6 impart a more granular assessment of the default likelihood of a given counterparty by assigning each a dynamically evolving

See **SOFTWARE** next page

Quarterly
Technology
Focus:

Enterprise Risk
Management

SPOTLIGHT

**AUTOMATION
STREAMLINES
ERM SYSTEMS**

PAGE 15

**INCORPORATING
DATA/ANALYTICS
INTO ERM**

PAGE 15

**ERM KNOW-HOW
A USEFUL TOOL
FOR CLOUD RISKS**

PAGE 16

Automation streamlines ERM with data collection, analysis

Risk monitoring, tracking also supported

By MIKE TSIKOUDAKIS

Tools that automate parts of an organization's enterprise risk management program can improve the program's efficiency and productivity, and new technology tools can help automate risk tracking and monitoring within the ERM processes.

But reliance on technology alone with a platform that is not flexible can scuttle an organization's ERM effort quickly, experts say.

Many risk managers starting an ERM program often use Microsoft Excel spreadsheets to collect and organize information, said New York-based Michael Liebowitz, the director of insurance and risk management for New York University, who uses such spreadsheets for certain tasks.

"But Excel is not going to do the analytics. Excel is not going to provide any sort of relational database to run any sort of report," he said.

Realizing the deficiencies of spreadsheets when providing accurate data and analytics, Mr. Liebowitz is implementing a global ERM program using a technology platform from Marietta, Ga.-based Riskconnect Inc.

"It allows us to do the analytics, it allows us to store documents when people are developing policies and procedures, it allows us to store meeting minutes, enter our mitigation strategy. And we can run our analytics on risk query and keep the history of how the risks have either gotten better or, based upon the mitigation implemented, have gotten worse," Mr. Liebowitz said.

Laurie Champion, Atlanta-based managing director and practice leader for ERM at Aon Global Risk Consulting said current ERM tools are much more advanced

than those available three to four years ago.

"ERM leaders can use current ERM technology tools to improve their data collection, storage, analysis and reporting capabilities beyond the typical Excel spreadsheet tools that many organizations use when they first begin an ERM framework," Ms. Champion said.

ERM technology can automate activities such as data capture, analysis and reporting, she said.

"They also support monitoring and tracking of risks over time by supporting analysis of trends and positions against risk tolerance targets," Ms. Champion said.

A critical mistake for ERM leaders to avoid is the automation of an ERM program that hasn't matured into a true process, Russell McGuire, Dallas-based director of enterprise risk services for Riskconnect, said.

"The worst thing that a risk manager can do is to go out to buy some software," Mr. McGuire said. "If he does that, I can guarantee that within a year or two he's going to have some really serious problems because he's trying to squeeze a square peg into a round hole, (will) probably spend a lot of money, and would have relatively little to show for it."

The globally recognized ISO 31000 risk management standard developed by the International Organization for Standardization can set the benchmark for ERM technology programs.

"The individual organization needs to make sure, first of all, that the technology that they use fits the culture of the organization, and that the technology supports the organization's framework and not the other way around," Mr. McGuire said.

"If you're an ISO 31000 framework organization, ISO 31000 is

'The individual organization needs to make sure, first of all, that the technology that they use fits the culture of the organization, and that the technology supports the organization's framework and not the other way around.'

Russell McGuire, Riskconnect Inc.

designed to be flexible to meet the organization's needs," NYU's Mr. Liebowitz said. "I felt I needed an information system that did the same."

While following the ISO 31000 standard may help an organization find a compatible ERM technology platform, it's never a perfect solution, said Christopher E. Mandel, executive vice president of professional services for rPM3 Solutions L.L.C. in Nashville.

Most ERM automation takes place through work flow plat-

forms that tend to focus more on first repositories of key information in the ERM process, Mr. Mandel said, noting that a gap remains for good technology tools that can aggregate an organization's risks.

"The needs are so varied and diverse, I don't know that anybody's going to accomplish that goal," he said. "Just start from the premise that everyone looks at ERM a little bit differently."

While ERM can seem large and cumbersome, technology tools can speed up the process of identi-

fying, assessing and prioritizing risks, and focusing on key areas to achieve the organization's strategic goals and objectives, said Corey Gooch, Chicago-based senior ERM consultant at Towers Watson & Co.

"That's one way to help get a fresh look at where we are as compared to where we were, and what are some new things that showed up that weren't there before," Mr. Gooch said. "I've seen those automated through the use of online surveys or other types of techniques used for gathering that information."

However, ERM automation may lead to a complacency where risk owners may simply "tick the box," Mr. Gooch said.

"With automation, that does become an issue, where people have gotten so busy — we all are doing more things with less time — that (complacency) is a risk that could occur," he said.

Face-to-face interactions via workshops that help risk owners validate information collected can help avoid complacency, Mr. Gooch said.

"You can't put an ERM system in and expect it to be automatic," Mr. Liebowitz said. "There needs to be a human element to this to keep the data on track, and to make sure people don't become complacent (and) just pop in a number for the sake of popping a number in."

Privacy and data breach risks also are a concern for ERM practitioners who automate certain aspects of their ERM programs.

"It's always a worry with any system that is used, whether it be cloud-based or locally based," Mr. Liebowitz said.

Generally, organizations using any type of software where information is loaded onto a server or on a cloud typically would apply the proper security and privacy controls, which also would encompass ERM technology, experts say.

"The exception to that rule is through the platform and the platform providers," Mr. McGuire of Riskconnect said.

When using third-party technology vendors, ERM leaders should vet their vendors, have open communications and request that they have proper security certification, he said.

Software: ERM updates built for speed

CONTINUED FROM PREVIOUS PAGE

rating, Mr. McClane said.

Another consideration for the new version of ReMetrica was improving the speed at which models run, Mr. McClane said.

"While even large capital models can be run on a modern laptop with sufficient patience, version 6 includes support for high-performance computing, which enables a model's computations to be split over a cluster of servers in a company's data center or in a third-party cloud, thereby reducing overall compute time. Of course, faster is always better," Mr.



McClane said.

Given the trend toward the use of increasingly complex models in ERM, risk management tool providers are marrying their offerings with cloud computing.

Mr. Winter said that SunGard offers a hosted version of its ERM platform. However, he said that many benefits of running ERM in the cloud vary according to the

specifics for each company.

For example, while a smaller company may avoid an up-front capital outlay by opting for a hosted ERM solution, those benefits may erode as data volumes increase, he said.

"There are people that have parts of their model that are so computer- or data-intensive that they wouldn't benefit, considering the transfer time it would take to put the data out in the cloud and get it back down again," he said.

"A lot of companies are dealing with terabytes of data. Transferring those volumes around can be

a challenge."

Robert Cartwright Jr., a risk manager for Nashville, Tenn.-based Bridgestone Americas Inc. and board member of the Risk & Insurance Management Society Inc., said tools available to risk managers have evolved markedly in the past five to six years and now do a better job of assessing risk at the enterprise and strategic level.

"The toolkit is evolving and expanding," he said.

Mr. Cartwright said well-designed risk management tools should afford a risk manager the ability to speak a common language about risk with other stakeholders in the enterprise in areas such as information technology

and human resources, as well as at the C-level. "The most important thing is the communication of risk tolerance," he said.

Moreover, risk management tools need to be adaptable enough to address the constantly changing array of risks that risk managers contend with.

While five years ago, risk managers were working to get their arms around financial risk, now many are contending with new challenges such as IT-related risk and reputational risk, Mr. Cartwright said.

"We don't know what the next emerging risk is going to be," he said. "As the underlying technology and risks change, the tools will catch up."

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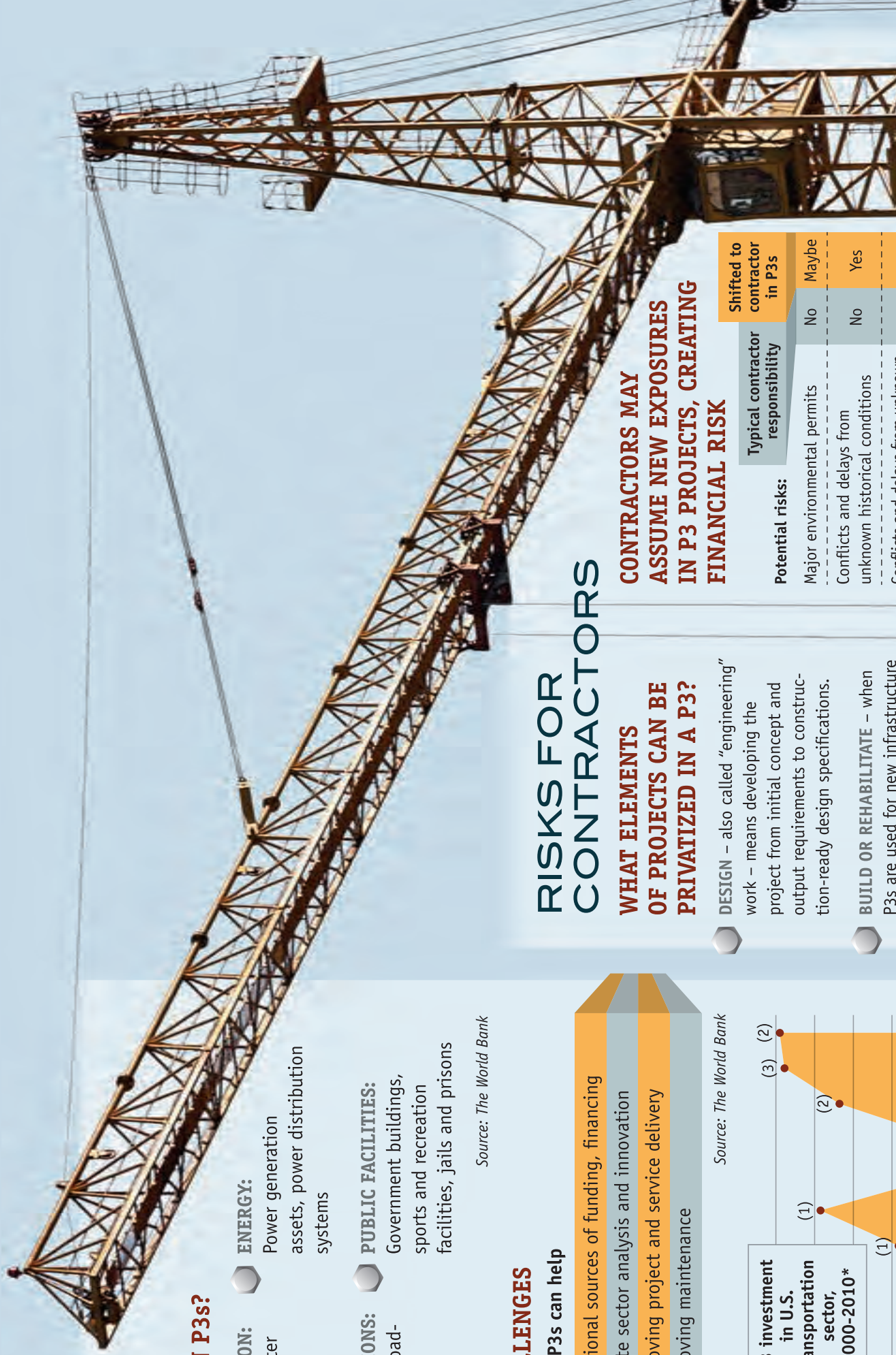


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Public-private partnerships, or P3s, are long-term contracts between a public agency and a private entity that allow for greater private participation in the delivery of an asset or service, such as infrastructure construction. Already used widely around the globe, increasingly they are being looked at as an alternative procurement and funding method for trillions of dollars of federal, state and local projects to update and maintain aging infrastructure in the United States.



SOLUTIONS FOR GOVERNMENT

WHAT KINDS OF SECTORS HAVE RELIED ON P3s?

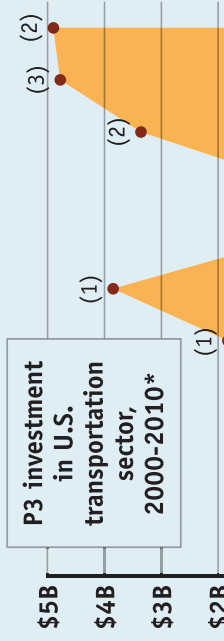
- **TRANSPORTATION:** Roads, tunnels, bridges, rail, mass transit systems, ports, airports
- **WATER & SANITATION:** Water treatment, water distribution, waste management
- **ENERGY:** Power generation assets, power distribution systems
- **HEALTH CARE:** Hospitals, health facilities
- **TELECOMMUNICATIONS:** Fiber-optic cable, broadband infrastructure
- **PUBLIC FACILITIES:** Government buildings, sports and recreation facilities, jails and prisons
- **EDUCATION:** School buildings and facilities

Source: The World Bank

HELPING RESPOND TO GOVERNMENT CHALLENGES

Government agency problem	How P3s can help
Insufficient funds, budgets	Additional sources of funding, financing
Poor planning and project selection	Private sector analysis and innovation
Inefficient management	Improving project and service delivery
Inadequate maintenance	Improving maintenance

Source: The World Bank



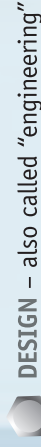
DEMAND GROWING FOR LARGER P3 INVESTMENT IN U.S., ALMOST EXCLUSIVELY IN TRANSPORTATION SECTOR...

RISKS FOR CONTRACTORS

WHAT ELEMENTS OF PROJECTS CAN BE PRIVATIZED IN A P3?

DESIGN – also called “engineering” work – means developing the project from initial concept and output requirements to construction-ready design specifications.

BUILD OR REHABILITATE – when P3s are used for new infrastructure



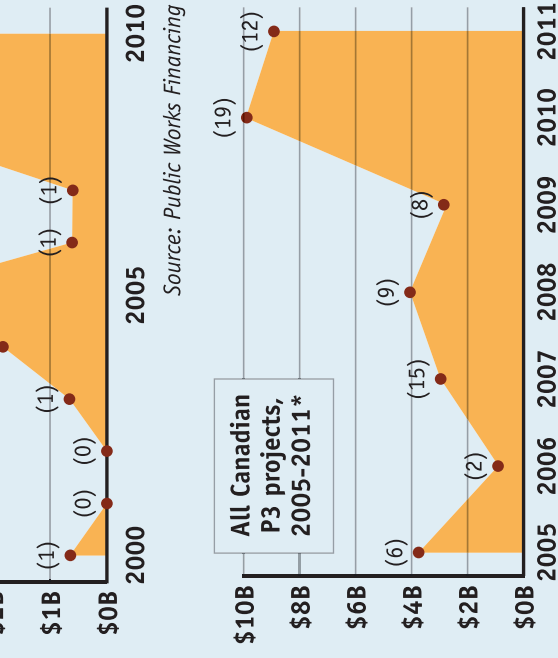
CONTRACTORS MAY ASSUME NEW EXPOSURES IN P3 PROJECTS, CREATING FINANCIAL RISK

Potential risks:	Typical contractor responsibility	Shifted to contractor in P3s
Major environmental permits	No	Maybe
Conflicts and delays from unknown historical conditions	No	Yes

* () = Number of projects that year

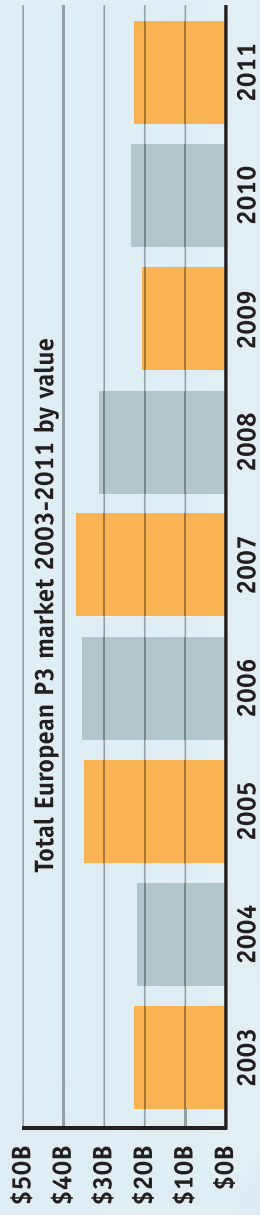
... BUT U.S. LAGS CANADA IN NUMBER AND VALUE OF P3 PROJECTS ...

* () = Number of projects that year



Source: The Canadian Council for Public-Private Partnerships
Converted to \$US at current exchange rate

... AND LAGS EUROPE IN VALUE OF P3 PROJECTS



Converted to \$US at current exchange rate
Source: European PPP Expertise Centre

assets, they typically require the private party to construct the asset and install all equipment. Where P3s involve existing assets, the private party might be responsible for rehabilitating or extending the asset.

FINANCE – when a P3 includes building or rehabilitating the asset, the private party typically also is required to finance all or part of the necessary capital expenditure.

MAINTAIN – P3s assign responsibility to the private party for maintaining an infrastructure asset to a specified standard over the life of the contract.

OPERATE – the operating responsibilities of the private party to a P3 can vary widely, depending on the nature of the underlying asset and associated service: For example, operating a bulk water treatment plant after construction.

Source: The World Bank

Condition	No	Yes
Conflicts and delays from unknown archaeological conditions	No	Yes
Conflicts and delays from unknown utility conditions	Maybe	Yes
Costs and delays from hazardous waste unidentified and not caused by contractor	No	Likely
Accuracy of design and survey data initially supplied	No	Yes
Geotechnical and soil conditions	No	Yes
Differing site conditions	No	Yes
Delays from legal action against the project	No	Yes
Delays from public interference	No	Yes
Changes in zoning, laws or rules that may affect the project	No	Yes
Insurance coverage	Partial	Likely
Long-term liability exposure for maintenance, structures	Maybe	Likely
Extraordinary guarantees, such as substantial letters of credit in addition to surety bonds	Maybe	Likely

Source: Associated General Contractors of America

SURETY PROTECTION FOR CONTRACTORS

TRADITIONAL PROTECTION AGAINST RISKS OF CONTRACTOR DEFAULT

- BID BOND** – A type of surety bond that protects the owner in the event a successful bidder for a contract will not enter a contract or does not provide performance and payment bonds.
- PERFORMANCE BOND** – A type of surety bond that protects the owner if the contractor is unable or fails to perform their obligations under the contract, paying for completion of a contracted project.
- PAYMENT BOND** – A type of surety bond that pays material suppliers and subcontractors in the event the contractor defaults on its payments to those third parties, thereby avoiding the potential for project delays and mechanics' liens.

HOW ARE SURETY UNDERWRITERS ADAPTING TO UNIQUE P3 NEEDS?

- HIGHER LIMITS** – Market offering up to \$1 billion or more in capacity per project
- LONGER TERMS** – Long-tail financial obligations require long-term coverage
- LIQUIDITY ELEMENTS** – Advanced loss payments make competitive with LOCs
- FASTER DISPUTE RESOLUTION** – Limits claims delays causing project delays
- CONTRACT ASSISTANCE** – Advice in interpreting exposures in P3 projects
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- OPPORTUNITY** – Surety products give contractors flexibility and security to bid and win P3 projects

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Data analytics can aid enterprise risk management

By **BILL KENEALY**

As risk managers from all industries look to better assess risk through enterprise risk management programs, the lessons of the insurance industry in incorporating data science and complex analytical models into the ERM process may well prove instructive, experts say.

Because insurance is an intangible product, data is the primary constituent of an insurance company. Accordingly, insurance companies have groups of employees, such as actuaries and underwriters, inherently well-versed at collecting and analyzing data. However, getting data and insight out of the models used in actuarial departments and enmeshing a broader ERM initiative within them remains a challenge, said David Cummings, vice president and chief actuary of ISO Innovative Analytics, a unit of Insurance Services Office Inc. of Jersey City, N.J.-based Verisk Analytics Inc.

"Risk managers and predictive modelers are going after different problems in some ways," Mr. Cummings said. "However, there is an opportunity to marry enterprise risk management and predictive modeling together to produce new insights."

Mr. Cummings said this synthesis between analytics and risk management is contingent on investment in complementary technologies that improve the availability and quality of data that flows between departments.

Kimberly Holmes, head of strategic analytics for XL Group P.L.C., said the insurer's intent is to embed analytic decision management process and application systems throughout the enterprise. To aid in this endeavor, the company recently implemented the SAS Visual Analytics platform from Cary, N.C.-based SAS Institute Inc.

Ms. Holmes said the platform's visualization capabilities will make the insights that her team gleans from multivariate progression models and other predictive models more accessible to more people across the organization.

Conveying complex information visually is often more effective than presenting co-workers with a large table of numbers, she said.

"This changes how (analytics team members) communicate with decision-makers and eliminates the perception that getting insights from large data sets is hard," Ms. Holmes said, adding that increased analytical rigor around decision-making in more parts of the enterprise is likely to yield new insights. "It will inspire questions that would not otherwise have been asked."

Another important platform capability is speed, Ms. Holmes said. The SAS platform uses an in-memory architecture, which primarily stores data and models in the main system memory rather than on a hard drive, substantially reducing computation time for models.

"The speed is revolutionary for us," she said. "The visualization of

the data in real time allows the user to feel that it is more accessible, more tangible."

Stuart Rose, global insurance marketing manager at SAS, said there are three major areas where analytics can help improve ERM: data management, risk analysis and reporting.

Mr. Rose said pressure from regulators and ratings agencies were causing many in the insurance industry to readdress how they quantify risk. "We are seeing more insurance companies implementing insurance-specific data models," he said. "This is because a

comprehensive data model serves as a single version of the truth for an enterprise data warehouse and is essential for regulations like Solvency II that have specific requirements for data quality."

Matthew Josefowicz, managing director and partner of insurance advisory firm Novarica, a division of New York-based Novantas L.L.C., agreed that an emphasis on data quality is critical to fusing analytics and ERM.

"ERM has always been about analytics," Mr. Josefowicz said. "Improved data quality and analytical capabilities can have a huge

impact on ERM."

In addition to data quality, challenges surrounding the amounts and types of data needed by modelers will likely become more acute in the era of big data.

"Few companies are set up to handle unstructured data or super-high volumes," Mr. Josefowicz said, noting that traditional data management and query tools are not designed for these tasks. "The biggest question is how will insurers adjust their business models to take advantage of a world of data super-abundance."

Moreover, Mr. Josefowicz noted

that much of the data insurers once spent operations dollars gathering now can be accessed from external providers at much lower expense.

Ms. Holmes said the new tools at her team's disposal will help them deal with the issue of data abundance.

"Historically, we have always accessed external data," she said. "The difference in what's happening now is that we are starting to automate that access and directly incorporate it into our decision tools as well as store it for further analysis later."



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Use ERM approach to gauge cloud computing risks

Not a big difference between cloud-based, in-house IT options

By **RODD ZOLKOS**

An enterprise risk management approach can help organizations make better decisions concerning the use of cloud computing, as well as help them address exposures associated with moving to the cloud.

Savings and efficiencies are key factors in many companies' decisions to move data to cloud computing service providers. At the same time, however, concerns over risks associated with the move challenge many organizations as they weigh cloud versus in-house information technology options.

According to some experts, the data owners often make a key mistake in assuming that the risks associated with placing data in the cloud are somehow fundamentally different than those associated with internal data applications.

"What happens today is they get all caught up in, 'Do I want to be in the cloud or not?'" said Steven Minsky, CEO of ERM software and solutions provider LogicManager Inc. in Boston. "It's control of your data that you're concerned about, not whether control of that data is from an internally built application or the cloud.

"The biggest problem people have with cloud computing today is they think it's something different than what they're doing internally," Mr. Minsky said. In considering cloud computing, purchasing applications or building applications internally, "People think of those as three different things."

"When I was heading up the ERM at (United Services Automobile Association) one of the biggest problems we had was with our lawyers over the protection of sensitive information," said Chris Mandel, executive vice president at enterprise risk management consultant and solutions provider rPM3 Solutions L.L.C. in Nashville, Tenn.

About five years ago, while looking into the second iteration of ERM technology solutions for USAA, Mr. Mandel said he tried to make a case for a cloud-based solution "and the lawyers just hated that idea."

"They viewed our ERM database from a risk standpoint as some of the most sensitive information about the company," he said. "I lost that argument for the longest

time on that basis."

By 2009, "there was ultimately capitulation around this issue," he said, but to reach that point he had to find a way to develop a strategy and a set of controls in an evolving environment. "Cloud-based computing now is on everybody's radar," Mr. Mandel said. "Everybody needs to get where I had to get."

Jim Whetstone, senior vice president and U.S. technology and privacy manager at Hiscox Inc. in Chicago, said that whether the data is in an internal application or with a cloud service provider, a key consideration is how sensitive your data is.

Think of data as though it was cash, he said: "You wouldn't just have a stack of \$1,000 bills sitting around in your office unprotected."

Mr. Minsky said an ERM approach helps organizations view the in-house vs. cloud risk debate in a proper framework.

"Enterprise risk management gets you out of this discussion," he said. "What is enterprise risk management, and what is its contribution to everything? Whether you put cloud computing in there or you put compliance in there or you put lending in there, what does enterprise risk management do? It creates a set of standards."

When a company moves data to a cloud provider, risks include data security, implementation and user adoption, Mr. Minsky said.

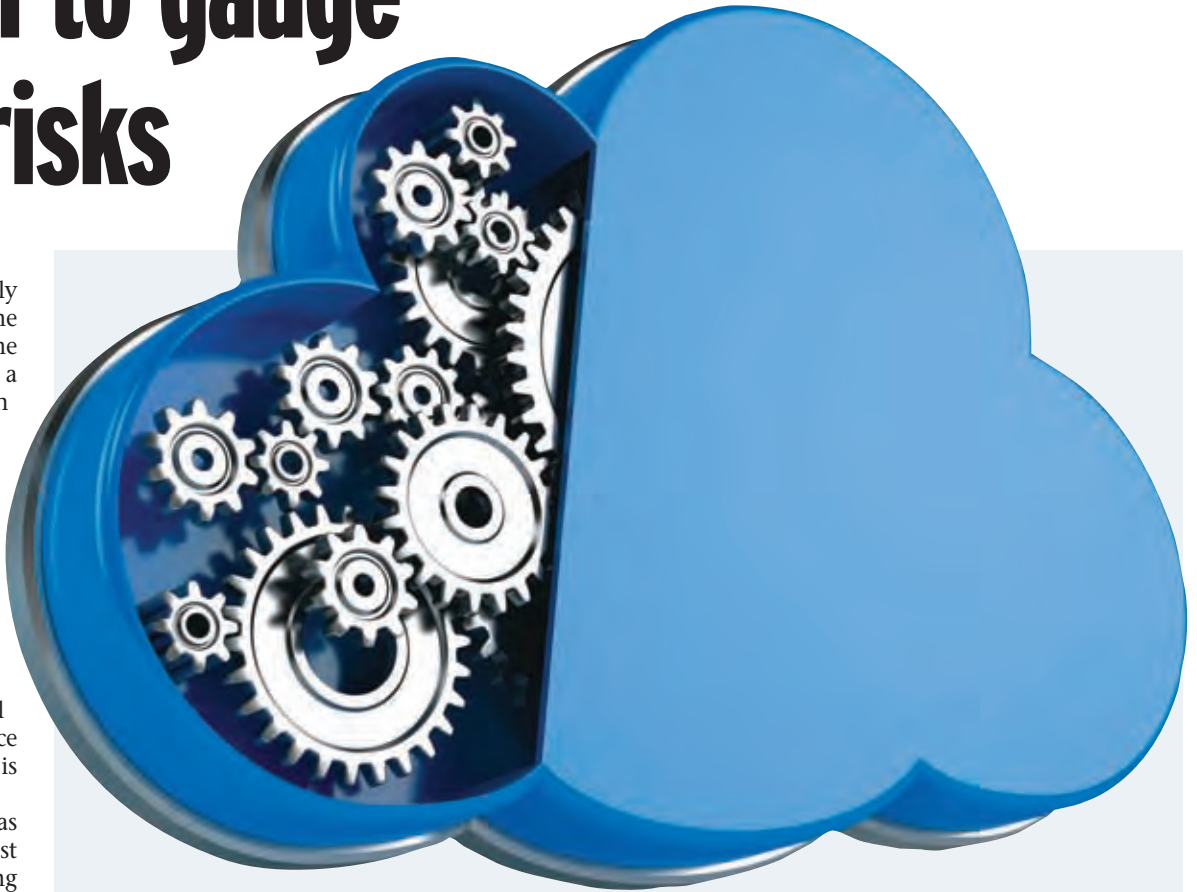
"Enterprise risk management is about applying standards to these different silos," Mr. Minsky said. "You're just saying, 'I'm going to come up with a set of standards that apply across all these silos.'"

Defining those standards involves a risk assessment that identifies root causes of exposures, he said.

"By getting to the cause of the risks, you can figure out what the controls need to be," Mr. Minsky said. Then a company can test how well the provider meets the standards.

Once that's done, "Then it just comes down to outsourcing, doesn't it? Then cloud computing doesn't sound so scary," Mr. Minsky said. "Nobody's going to say, 'I'm not going to outsource non-core activities anymore.'"

Mr. Mandel likened addressing exposures with cloud service providers to managing supply chain risks, with a company needing to make sure its cloud providers have good risk strategies and auditing those providers regu-



Plan key to cloud computing strategy

A paper released this year, "Enterprise Risk Management for Cloud Computing," produced by Crowe Horwath L.L.P. for the Committee of Sponsoring Organizations of the Treadway Commission, stressed the importance of a well-developed plan setting out the organization's cloud computing objectives and the specific role cloud computing will play.

"Some of the ERM prerequisites that should be factored into a quality cloud computing plan, and ultimately the cloud solution, are a strong governance model, a sound reporting structure, an accurate understanding of internal IT skills and abilities, and a defined risk appetite," the paper said.

While it's "not uncommon for organizations to adopt cloud computing solutions without applying a formal risk evaluation or expending any effort to adjust its ERM or governance program," best practice is to incorporate cloud governance in the early stages of defining a cloud computing strategy, the paper said. And, for organizations that adopted cloud solutions without fol-

lowing ERM best practices, performing a risk assessment and establishing cloud governance remains a prudent step.

"Unfortunately, sometimes people take all the easy steps," said Warren Chan, principal at Crowe Horwath in Oak Brook, Ill., and one of the paper's authors. "Sometimes the benefits ... look very good, so they only look at the upside rather than the downside."

"What's happening is people are not doing an end-to-end evaluation of at least the critical points," Mr. Chan said. There could be legal risks, business interruption exposures or other business risks, he said. And, he said, once companies engage a third-party provider, many times their risks expand.

"Just because I outsource the responsibility does not necessarily mean I've outsourced the liability," Mr. Chan said. "Most of the cloud provider contracts that I've seen, if you've experienced any sort of problem or outage with the provider, your main form of compensation is credits."

— By Rodd Zolkos

larly to make sure those strategies are being implemented appropriately.

Discussing ways organizations can address cloud exposures, Mr. Whetstone said that contract language frequently favors the service provider, though service buyers may be able to negotiate favorable indemnification language with smaller cloud providers.

In those cases, he said, the service buyers need to consider whether the smaller cloud provider has the financial strength to meet those indemnification

provisions should there be a data breach, outage or other incident, as well as potential aggregation issues if other service buyers have negotiated the same provisions.

"It's going to be problematic when it comes to actually getting them to stand behind it," Mr. Whetstone said.

And, he said, cloud service buyers need to be prepared to face various pricing options providing different levels of data security.

"It's almost as if you get a menu of the options that you have in terms of how the information you

provide is secured," he said.

Mr. Whetstone said brokers can be good resources as organizations look to assess and address risks associated with cloud computing services.

"Brokers do more than just place the insurance for their clients. They can help them understand what their exposures are," he said. "The business entities can work with their brokers to start to understand what their exposures are even before they consider whether insurance is right for them."

'The biggest problem people have with cloud computing today is they think it's something different than what they're doing internally.'

Steven Minsky, LogicManager Inc.

Market Moves

Ryan Specialty Group buys MGA Direct Group

Ryan Specialty Group L.L.C. has agreed to acquire British insurance services provider Direct Group Ltd. for an undisclosed amount, Chicago-based Ryan Specialty announced.

In a statement announcing the transaction, Ryan Specialty said the move "will significantly strengthen" its managing general agent and third-party administration capabilities in the United Kingdom.

Ryan Specialty said that Doncaster, England-based Direct Group has been a partner to specialist Lloyd's insurer Jubilee, part of Ryan Specialty, for years.

"The acquisition will build on Jubilee's existing TPA operation, Jubilee Service Solutions, and enable the company to access a wider range of complementary services to strengthen its offering to brokers and clients," Ryan Specialty said in the statement.

Ryan Specialty said Direct Group delivers a range of MGA and TPA services across the insurance industry. The services include underwriting, proposition delivery, policy administration, premium collection, distribution services, insurer and captive reporting and comprehensive claims handling services.

The deal needs regulatory approval.

Guy Carpenter branch to open in Shanghai

Marsh & McLennan Cos. Inc.'s Guy Carpenter & Co. unit has approval from the China Insurance Regulatory Commission to open a new branch office in Shanghai.

In a statement announcing the approval, Guy Carpenter said the move is part of its efforts to build a "strong local presence in China."

This year, Guy Carpenter expanded its leadership team at Guy Carpenter Insurance Brokers (Beijing) Co. Ltd., the firm's wholly owned subsidiary on mainland China.

"The opening of our new Shanghai branch office represents an important and exciting step forward in Guy Carpenter's long-term commitment to the Chinese insurance industry," James Nash, CEO of Guy Carpenter's Asia Pacific Region, said in the statement.

Marsh unit acquires S.C. mid-market broker

Marsh & McLennan Agency L.L.C. has acquired Rosenfeld Einstein, a property/casualty and employee benefits agency in Greenville, S.C.

Terms of the transaction were not disclosed in the announcement by the subsidiary of Marsh Inc.

Rosenfeld Einstein, which works with clients in the Southeast and Mid-Atlantic regions, will be led by Rutherford, Marsh & McLennan's Mid-Atlantic hub. All of the company's employees will continue working out of South Carolina.

"As a well-managed and growing enterprise with a strong platform of property/casualty and employee benefits and a reputation for service excellence, Rosenfeld Einstein is a perfect fit to join MMA in the Mid-Atlantic," Thomas R. Brown, vice chair of Rutherford/MMA, said. "With this transaction, we are expanding our market position into South Carolina and enhancing property/casualty and employee benefit capabilities to better serve the needs of our clients."

Risk International opens Columbus office

Risk International Services Inc. has announced the opening of a new office in Columbus, Ohio.

Leading the new branch is Philip S. Renaud II as managing director. Previously, Mr. Renaud was global vice president of operational risk safety, health and business continuity planning at Deutsche Post A.G.

Risk International also has offices in Fairlawn, Ohio, and Charlotte, N.C., and opened a London location in 2010 and a Singapore location in 2011.

"We are pleased to establish a presence in an area of the state with a strong and growing econo-

my," Michael D. Davis, president and CEO said. "As our clients have growing needs throughout the world, we continue to grow with them."

The address of the new office is 4449 Easton Way, Second Floor, Columbus, OH 43219.

Liberty Mutual acquires two Ecuadorian insurers

Liberty Mutual Group Inc. has acquired the Ecuadorian insurers Panamericana de Seguros del Ecuador S.A. and Cervantes S.A. Compania de Seguros y Reaseguros.

The insurers mainly offer auto insurance, other property and casualty products, and group life and health insurance.

Terms of the transactions were not disclosed.

Both companies are headquartered in Quito, Ecuador. Panamericana also has locations in Guayaquil, Cuenca and Manta.

"With the additions of Panamericana and Cervantes, we enter Ecuador's dynamic and growing insurance market from a position of strength," David H. Long, Liberty Mutual Holding Co. president and chief executive officer, said in a statement.

"Both companies have complementary distribution channels and excellent reputations. We look forward to offering Ecuador's consumers the products and services they desire and choices in how they wish to purchase them."

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Obesity: Trends could add \$66B to health care costs

CONTINUED FROM PAGE 3

employees typically are much higher than those generated by “healthy weight” workers, though it did not provide a year-over-year prediction for cost growth under current conditions.

Risa Lavizzo-Mourey, president and CEO of the Princeton, N.J.-based Robert Wood Johnson Foundation, which co-sponsored the research, said in a statement that the study “shows us two futures for America’s health.”

The projected growth rate of obesity and its attendant health and financial effect could be lowered significantly if individual states can reduce the average body mass index of their residents by

5% by 2030, Ms. Lavizzo-Mourey said.

“At every level of government, we must pursue policies that preserve health, prevent disease and reduce health care costs. Nothing less is acceptable,” she said.

As dire as the study’s predictions are for the nation as a whole, they are even more so for certain states. Under current growth projections, obesity rates in 13 states — including Kansas, Kentucky, Mississippi, Missouri and Oklahoma — likely would rise above 60% by 2030. Nine states — including Alaska, Colorado, New Hampshire and New Jersey — would see annual medical costs associated with obesity-related treatments increase 20% to 34.5%

by 2030.

Conversely, a reduction of their residents’ average BMI by 5% over those same 20 years would shave as much as 7.8% off projected medical cost growth in every state but Florida, which would likely see a 2.1% reduction in obesity-related costs due largely to the relatively high average age of its population, the study said.

“We know a lot more about how to prevent obesity than we did 10 years ago,” said Jeff Levi, executive director of Trust for America’s Health. “This report outlines how policies like increasing physical activity time in schools and making fresh fruits and vegetables more affordable can help make healthier choices easier. Small changes can add up to a big difference. Policy changes can help make healthier choices easier for Americans in their daily lives.”

UP COMINGS & GOINGS CLOSE



TERRY BRANDT

NEW JOB TITLE: San Francisco-based executive director of Lockton Alliance for Ministry Protection, a unit of Lockton Cos. L.L.C.

PREVIOUS POSITION: Minneapolis-based resident director for Aon Risk Solutions.

LOOKING FORWARD TO: The new relationships with a new client base. I love building relationships with new clients.

GOALS FOR NEW POSITION: To continue to build the practice. The client base is a who’s who for the nonprofit and ministry base. Our goal is to provide risk management to help them complete their mission.

CHALLENGES FACING INDUSTRY: We’re trying to stay ahead of emerging risks associated with widespread operations that are expanding internationally.

FIRST EXPERIENCE IN JOB MARKET: My first real experience was touring Lloyd’s of London with my father when I was 18. It was the old Lloyd’s building. It was very traditional, very steeped in history. I remember looking at their losses over the years, where they used to hand-scribe their losses back to even the 1800s. I was looking at which ships were sunk. I remember being fascinated with that. Then when I got out of the college I started working for FM Global.

ADVICE: In matters of principle, stand like a rock.

OUTSIDE THE INDUSTRY, A DREAM JOB: Serving on a nonprofit advisory board. Five years ago, two of my sons were involved in a car accident. As a result one of them is handicapped. Two of my clients came to the hospital just to see how he was doing; I had people who just wanted to let me know that they cared. Because of that, I would like to help organizations that let people know that other people care about them. It’s one of the reasons I made this change to work with nonprofits. What could be more exciting than waking up in the morning knowing you are going to help nonprofits with their mission?

HOBBIES: I hunt, I fish, I golf, and I read.

FAVORITE BOOK: “The Hobbit” by J.R.R. Tolkien. The main character gains a new level of confidence and wisdom as a result of his journey. That’s what I am going to attain here.

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LEGAL NOTICE

**IN THE MATTER OF THE LIQUIDATION OF
THE INSURANCE CORPORATION OF NEW YORK**
Supreme Court County of New York
Index No.: 401477/09
NOTICE

Pursuant to an order of the Supreme Court of the State of New York, County of New York (“Court”), entered on March 10, 2010 (“Liquidation Order”), the then-Superintendent of Insurance of the State of New York and his successors in office were appointed as liquidator (“Liquidator”) of The Insurance Corporation of New York (“InsCorp”) and, as such, has been directed to take possession of InsCorp’s property, liquidate its business and affairs, and dissolve its corporate charter pursuant to Article 74 of the New York Insurance Law (“Insurance Law”). The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Liquidator of InsCorp. The Liquidator has, pursuant to Insurance Law Article 74, appointed Michael J. Casey, Acting Special Deputy Superintendent of Financial Services (“Acting Special Deputy”), as his agent to liquidate the business of InsCorp. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Liquidator has submitted to the Court a verified petition (“Verified Petition”) seeking an order: (i) approving the Liquidator’s report on the status of InsCorp’s liquidation proceeding (“Liquidation Proceeding”); (ii) establishing December 31, 2012, as the bar date (“Bar Date”) for presentation of all claims other than claims for administrative costs and expenses; (iii) authorizing and directing the Liquidator to consider only those claims for actual losses arising under policies issued by InsCorp that are presented to the Liquidator on or before the Bar Date; (iv) barring and discharging all claims for losses reported after the Bar Date; (v) authorizing the continued payment of administrative costs and expenses; (vi) authorizing the Liquidator to distribute InsCorp’s assets, consistent with this Court’s orders and the priorities set forth in Insurance Law Section 7434, to those creditors of InsCorp with allowed claims, to the extent that, in the Liquidator’s discretion, sufficient funds are available; (vii) extending judicial immunity to the Superintendent in his capacity as Liquidator of InsCorp, his successors in office and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74; and (viii) providing for such other and further relief as this Court deems appropriate and just.

A hearing is scheduled on the Verified Petition on the 25th day of October, 2012, at 10:00 a.m., before the Honorable Joan M. Kenney, JSC, New York Supreme Court at the Courthouse, 1AS Part 8, 71 Thomas Street, Room 304, in the County, City and State of New York, 10013. If you wish to object to the Verified Petition, you must serve a written statement setting forth your objections and all supporting documentation upon the Liquidator and Clerk of the Court, at least seven business days prior to the hearing. Service on the Liquidator shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York as
Liquidator of The Insurance Corporation of New York
110 William Street
New York, New York 10038
Attention: John Pearson Kelly
General Counsel

In order to participate in InsCorp’s liquidation proceeding, all claims, with all supporting documentation, must be presented to the Liquidator on or before the Bar Date, which is the last date set by the Court to present claims in InsCorp’s liquidation proceeding. The Verified Petition and Report are available for inspection at the above address. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control. Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6665.

Dated: August 28, 2012

Benjamin M. Lawsky
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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:

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Stamford, CT 06901-3227
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 26, 2012**.

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

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OTHER PROVIDERS

- Mercer L.L.C.

Work Comp: Doubts expressed about savings from new Calif. law

CONTINUED FROM PAGE 4

agreed that it's difficult to determine for now whether S.B. 863 will lead to lower costs for California's comp system.

"Our position is costs are going to go up, at least initially," Mr. DeStefano said during the panel.

Although insurers and claims handlers were wary of S.B. 863's effect, some estimates show that the legislation could reduce California's workers comp costs. On Friday, Fitch Ratings Ltd. said it expects the California reforms to reduce costs by \$300 million, or 1.4%, annually.

At the conference last week, state officials said they are preparing to implement the workers comp reforms effective Jan. 1, 2013. The changes include an independent review process for medical treatment and billing disputes, fee schedules for home health care, language interpretation and other comp-related services, and fees for current and future lien filings.

Katherine Zalewski, chief counsel with California's Department of Industrial Relations, and Ronnie Caplane, chairwoman of California's Workers' Compensation Appeals Board, said both agencies plan to hire staff to help implement the changes and help handle an expected uptick in contested claims.

"There's always a big surge in appeals whenever we have a reform," Ms. Caplane said.

In a session on Medicare secondary payer compliance, experts said Medicare set-aside accounts have been receiving faster approvals in recent months since the Centers for Medicare and Medicaid Services switched contractors for the review process.

Panelists discussed government approvals for Medicare set-asides, which are funds used in workers comp settlements to pay future medical costs for Medicare-eligible workers. The optional approval process is conducted by a contractor, and Medicare experts have said it can take several months to receive approvals for set-asides.

However, Michelle Allan, an attorney with law firm Burns White L.L.C. in Pittsburgh, said her firm has seen faster results with Provider Resources Inc., the Erie, Pa.-based contractor that began reviewing Medicare set-aside agreements in July. Approvals previously were handled by Annapolis Junction, Md.

based contractor Lifecare Management Partners.

"We've been seeing turnaround times in under three months, two months in some cases," Ms. Allan said. "So it seems as though they're doing a pretty good job in trying to be timely and keeping things moving."

Jennifer Jordan, general counsel of Medicare compliance company Medval L.L.C., estimated that there is a backlog of about 8,000 of Medicare secondary payer cases that accumulated before Provider Resources took over this summer. She said it appears that the new contractor is working to reduce

the accumulation of cases.

Despite seeing a quicker approval process, Provider Resources appears to be going through a "learning curve" as a new Medicare contractor, said Daniel Anders, compliance director for MedAllocators Inc., a Medicare compliance firm in Lawrenceville, Ga. He said that some Medicare set-aside reviews received by MedAllocators have had errors.

"I assume after a while, after they get through the bugs and the mistakes, that it will level off in terms of the errors we're seeing in the MSA approval letters we're getting back," Mr. Anders said.

CONFERENCE DRAWS 850 TO DANA POINT

DANA POINT, Calif. — The California Workers Compensation & Risk Conference, held Sept. 19-21 in Dana Point, Calif., drew more than 850 attendees from California and around the country. The event was organized by Risk Management Education Associates L.L.C. of Charlotte, N.C.

Conference sessions included topics such as safety program improvement, best practices for managing opioid use and preventing workers comp fraud.

The next California Workers Compensation & Risk Conference is scheduled to be held Oct. 1-4, 2013, in Dana Point. For more information, visit www.cwcriskconference.org.

— By Sheena Harrison

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IUMI: Marine insurers can expect more losses

CONTINUED FROM PAGE 4

However, ocean hull insurance premiums increased just 1% in 2011 from 2010 to \$8.3 billion, Ms. Seltmann said.

"What we can say is that the hull market will record its 16th consecutive pure underwriting loss," she said. "We have to have a better understanding of all the dependencies between macroeconomic parameters and repair costs."

Financial and economic uncertainty also have caused shipping companies and vessel owners to reduce spending on risk management and safety, which may result in an increase in claims, said conference panelist Urs Uhlmann, Toronto-based senior vice president of global corporate at Zurich Canada, a unit of Zurich Insurance Co. Ltd.

Marine insurers are aware of the lack of risk management among their clients, but missed the opportunity to deal with it four years ago, he said, when they had knowledge of weakening risk

management while initially underwriting the risks and did not appropriately adjust pricing.

"We are at the point where we are going to get the bill presented to us," Mr. Uhlmann said. "Eventually, you'll see more losses."

He also said buyers purchase low retentions on their marine insurance and often focus on cheap insurance solutions that don't necessarily fully cover the risks underwritten.

"I think there are two reasons: Underwriting tools and underwriting discipline are not quite the same as we have in other lines of businesses," he said. "That allows our customers and brokers to arbitrage a little bit."

The key to weathering the financial and economic crisis for marine insurers is a keen understanding of their clients' needs, said Martin St. Pierre, London-based managing director at JLT Marine and Energy, a unit of Jardine Lloyd Thompson Group P.L.C., who offered a broker's perspective during a conference session.

IUMI MEETING DRAWS 470 TO SAN DIEGO

SAN DIEGO — The International Union of Marine Insurance drew about 470 participants to its annual conference held Sept. 16-19 at the Manchester Grand Hyatt in San Diego.

The conference with the theme of "Marine Insurance — Charting the Course Through Economic Uncertainty," hosted 32 sponsors, and attendees included marine insurance leaders from 53 countries.

Conference sessions and workshops discussed the state of the marine market and a host of other topics, including salvage issues, nonstandard cargo wordings and loss prevention.

The next IUMI conference is scheduled for Sept. 15-18, 2013, in London. For information, visit www.iumi.com.

— By Mike Tsikoudakis

"I see a shocking lack of imagination in how you sell your products," Mr. St. Pierre said, address-

ing participants. "Be passionate about your business. It's infectious."

In 2011, one of the worst natural catastrophe years on record, the marine industry has paid every valid claim — "a good story" to tell clients, Mr. St. Pierre said.

To better understand clients and shipping risks, marine insurers looking to reduce claims and improve returns need to increase their scope of questions during the underwriting process, said Richard Gayton, regional director of the Americas for marine surveying firm Braemar Technical Services Ltd. in New York, during the conference.

"The bottom line is, ship vulnerabilities become your own business vulnerabilities as soon the vessel takes on cover," Mr. Gayton said.

When placing or renewing marine coverage, underwriters can ask questions related to vessel design, crew training and experience, operational issues and manning levels, among others.

More pointed questions by underwriters when placing or renewing coverage should lessen exposure, Mr. Gayton said, adding that responses to such questions may form the basis for rating and risk assessments.

Marsh: New CEO starts in January

CONTINUED FROM PAGE 1

Before joining Ace, he was a longtime executive at American International Group Inc.

"We are immensely grateful to Brian for the significant turnaround the company accomplished under his stewardship," said Lord Lang of Monkton, chairman of the board of directors of MMC, in a statement announcing Mr. Duperreault's retirement.

"Being part of the turnaround of Marsh & McLennan Cos. has been one of the most gratifying aspects of my career," Mr. Duperreault said in a statement.

Mr. Glaser joined MMC in 2007 to head retail brokerage unit Marsh Inc. Like Mr. Duperreault, he was a longtime AIG executive, although he had previously worked for MMC.

The change at the top should not lead to major changes at the organization, industry analysts say.

"I don't think it's very surprising," said Mark Dwelle, an insurance analyst at RBC Capital Markets, a unit of RBC Dominion Securities Inc., in Richmond, Va. He said Mr. Glaser has "been front and center as the heir apparent" for some time.

"Initially, I wouldn't expect vast

changes," Mr. Dwelle said. He said Mr. Glaser has "been pretty deeply embedded in the senior management core there for several years."

"I would be shocked if there are any noticeable changes," said Meyer Shields, director at Stifel Nicolaus & Co. in Baltimore. "I think there's been an intentional campaign to have Dan Glaser assume a more public and prominent role."

Keith Walsh, director of insurance research at Citi Investment Research in New York, also said the change in management should not mean significant changes at MMC.

"They put Dan Glaser in this role of COO 17 months ago, and



Brian Duperreault
President and CEO,
Marsh & McLennan Cos. Inc.
JOINED MMC: January 2008
AGE: 65
2011 BASE SALARY:
\$1 million

that was really telegraphing to the Street that that was our guy to succeed Brian Duperreault," he said.

"They didn't have the COO position before they put Dan in that position," he said. "And Brian was very open from Day 1 about what he wanted to accomplish at Marsh, and he succeeded beyond everyone's expectations."

Like Mr. Walsh, Messrs. Dwelle and Shields credited Mr. Duperreault with a job well done.

"When Mr. Duperreault came in four years ago, he was brought in to turn things around, and now he can say mission accomplished," Mr. Dwelle said.

"Marsh turned around from a dreadfully struggling company into a powerhouse."

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Threats: Plan in case of violence

CONTINUED FROM PAGE 1

president at Lockton Insurance Brokers. But they may become more common, she said. "The world is changing."

Over a few days this month, bomb threats were phoned in or emailed to the University of Texas at Austin; Louisiana State University in Baton Rouge; North Dakota State University at Fargo; and Hiram College in Hiram, Ohio. The UT-Austin and LSU callers warned of multiple bombs planted around campus, and the Austin caller identified himself as a member of al-Qaida.

Authorities evacuated all four campuses and searched their buildings. The searches turned up no explosives, and the schools reopened within 24 hours. In the LSU case, police arrested a 42-year-old Baton Rouge man who was charged last week with making the threat.

Meanwhile, a dorm at Arkansas State University in Jonesboro was evacuated and searched last week after a bomb scare; and police arrested a student at the University of Texas-Brownsville for allegedly phoning in a bomb threat targeting a fellow student.

Importance of planning

The unusual spate of threats underscores the importance of emergency planning.

"You need to have a flawless evacuation plan, and you need to be running that well," Ms. Hostovich said.

Plans should include steps for coordinating with local government authorities, directing evacuees to staging areas or to various types of transportation away from campus, and managing traffic and handling security within and at the perimeter of the campus, experts say.

Schools also need to be able to reach students and faculty quickly, and most long ago installed "reverse 911" systems that send emergency notifications via phone, email or text message, or through social media like Facebook.

UT-Austin, for example, transmitted 69,000 text messages to

Clery Act requires colleges to report campus crime

Colleges dealing with bomb threats and other emergencies have to comply with the Clery Act, a federal law that governs reporting of campus crime.

Enacted in 1990 to require collection and disclosure of crime statistics at colleges that participate in federal financial aid programs, the law was expanded in 2008, more than a year after the massacre at Virginia Tech in which an armed student killed 32 people and wounded 17.

Under the revised Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, schools must report annually on campus emergency response and evacuation procedures, including systems to notify students and employees of emergencies. Schools must:

- Immediately notify the campus community "upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff."
- Communicate emergency procedures to students and staff annually.
- Test emergency response and evacuation procedures annually.

Penalties for violating the Clery Act, levied by the U.S. Department of Education, can reach \$27,500 per violation.

While the penalties can be

significant, they typically have paled in comparison to liability settlements in cases of campus violence.

Eastern Michigan University in Ypsilanti, for example, agreed in June to pay a record \$350,000 in Clery Act fines for falsely reporting that a female student murdered in her dorm room in 2006 had died of natural causes. The college separately paid \$2.5 million to settle claims by the victim's family.

Education Secretary Arne Duncan last month reinstated a \$27,500 fine against Virginia Tech for the April 2007 mass shooting after an administrative law judge had thrown it out. Mr. Duncan — who has the authority to review such rulings, and whose department argued that the incident merited penalties "far in excess" of what the statute allows — found that the school violated the Clery Act's timely notice rule by waiting two hours to notify the campus of the shooting of two students in a dorm, shootings that preceded the later massacre. Virginia Tech agreed in 2008 to pay \$11 million to settle claims brought by most of the victims or their families.

While Clery Act penalties can be relatively small, they can trigger the filing of private liability lawsuits against colleges, experts say.

— By Doug McLeod

students, faculty and employees notifying them of the Sept. 14 bomb threat, according to the university.

Virtually every college in the U.S. has implemented such a system, and many are on the second or third generation of the systems, which have improved "by leaps and bounds," said Rick Vohden, public entity and education practice leader with Marsh Risk Consulting in Morristown, N.J.

Still, the timing and content of emergency notifications and

decisions to evacuate are judgment calls for college administrators that present their own problems, said Vincent Morris, executive director of the higher education practice at Arthur J. Gallagher & Co. in Itasca, Ill.

School officials, he said, can be caught between the opposing risks of overreacting or underreacting to a perceived threat: evacuating a campus unnecessarily in the case of a hoax, or failing to evacuate in a case where a bomb threat is real.

A decision can be made more

complicated by the federal Clery Act (see related story), which requires a timely warning to the campus community, as soon as a school confirms an "immediate threat to the health or safety" of students and employees. While the requirement seems straightforward, it can leave room for second-guessing decisions after the fact, Mr. Morris said.

At UT-Austin, for instance, some students complained that the university waited 75 minutes to issue a warning after receiving the threat at 8:35 a.m. that bombs would go off on campus in 90 minutes, according to news reports.

UT Chancellor Francisco Cigarroa said in a statement the school and police "responded quickly and appropriately" to the situation.

The specificity of a threat — a caller describing the number or placement of bombs, for example — makes officials' decisions to act easier, Mr. Morris said.

The recent series of threats, though, confirms that schools generally are more apt to evacuate in a perceived emergency than they might have been in the past, risk management experts say.

"You always want to err on the side of caution when there's a bomb threat on campus," Ms. Hostovich said.

Just a hoax

In cases when a threat turns out to be a hoax, meanwhile, colleges are unlikely to recover their response costs from insurers unless they maintain specialized coverage, experts say.

Costs can include additional security to handle evacuations and search buildings, and expenses to shut down and later resume classroom, laboratory and other activities.

Without property damage or bodily injury from an incident, property and liability policies generally wouldn't cover these expenses, experts say.

Some property policies including coverage for expenses to preserve and protect property may come into play, Mr. Vohden said.

An increasing number of colleges also are buying kidnap and ransom coverage, mainly for faculty and students traveling abroad, Ms. Hostovich said. If structured properly, these policies can include coverage for costs of responding to extortionate threats, which might include bomb threats, she said.

inBrief

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least a year the effective date of cash balance pension plan rules it proposed in 2010. The proposed rules involve a provision in the Pension Protection Act of 2006 that allows plan sponsors to use a "market rate" to credit interest to participants' account balances. In a notice issued last week, the IRS said the finalized rules would be effective no earlier than Jan. 1, 2014.

Munich Re exec named Leader of the Year

Nikolaus von Bomhard was named 2012 Insurance Leader of the Year by St. John's University's School of Risk Management in New York. Mr. von Bomhard is chairman of the board of management of Munich Reinsurance Co. He will be honored at a dinner in New York on Jan. 16.

Coca-Cola to receive World captive award

The Coca-Cola Co. has been named recipient of the World Captive Forum's next Award of Excellence. Laurie Solomon, director of risk management, and Stacy Apter, director of global benefits financing and asset management, will accept the award on behalf of Coca-Cola in a ceremony Jan. 29 during the 22nd annual World Captive Forum conference in Aventura, Fla. The WCF's annual Award of Excellence recognizes the parent of a single-owner captive and its representatives for thought leadership on the global use of a captive insurance company; contributions to the enterprise's strategy and objectives and those of businesses in the field; and contributions to the risk and insurance profession, especially with regard to the use of captive insurance programs.

Entrepreneurial Insurance Award winners named

American International Group Inc., ProspX Inc. and Stealth Monitoring Inc. have been named this year's Entrepreneurial Insurance Award winners. Finalists for the awards were chosen from among more than 100 entries by members of the Entrepreneurial Insurance Alliance.

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GAME SHOW WINNER AT A LOSS IN COURT

A contestant from “Who Wants to Be a Millionaire?” has found herself a defendant in a lawsuit emanating from her appearance on the television quiz show.

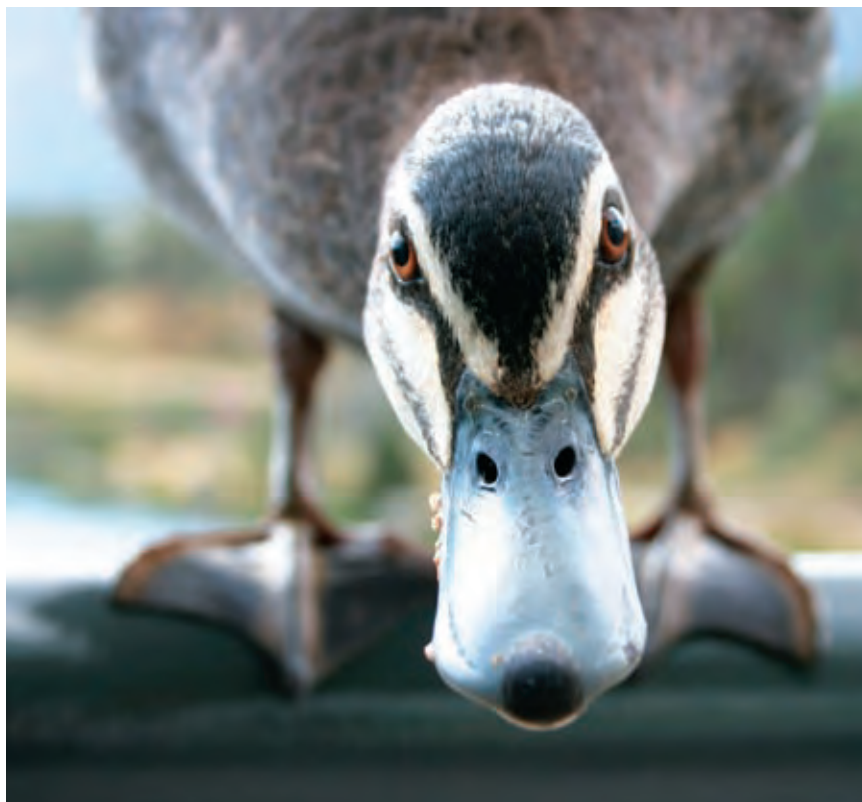
Rebecca Kesler, an attorney from Van Buren Township in Michigan, is appealing a decision after District Court Judge David Parrott ruled Ms. Kesler must fork over one-third of her winnings to a Kevin Hirsch, a fellow attorney and former friend.

According to the Detroit News, Mr. Hirsch sued Ms. Kesler for breach of contract, claiming he agreed to help her get on the show in exchange for a share of the prize money, thereby entitling him to one-third of the \$50,000 Ms. Kesler won. In a letter to the judge, Ms. Kesler said Mr. Hirsch was motivated out of jealousy and greed and manufactured the claim.

With the judge so far siding with Mr. Hirsch, it may be time for Ms. Kesler to phone a friend who won't demand money from her.

CONTRIBUTING: Matt Dunning, Bill Kenealy

End Page



Golfer cries foul on aggressive fowl

A county in Hawaii is crying foul after being sued by a golfer who said he was attacked by a bird on the county's course.

Ray Sakamura filed the lawsuit against Maui County, saying he was bitten on the hand by either a goose or duck as he played golf at Waiehu Golf Course. According to published reports, Mr. Sakamura claims he was set upon by the ambiguous avian as he teed off on the second hole. In the suit, Mr.

Sakamura said he fell while attempting to retreat from the goose/duck, which subsequently bit him on the hand causing a compression fracture and a puncture wound.

The lawsuit said the golf course knew about the prior instances of aggressive behavior from the bird but neglected to warn golfers.

A counselor for Maui County calls the Wailuku man's case meritless.

CHILLY RECEPTION FROM CITY OF BROTHERLY LOVE

The City of Brotherly Love is not exactly exhibiting warmth toward a local man who removed 40 tons of trash from a vacant lot in his Philadelphia neighborhood.

The Philadelphia Office of Housing and Community Development is threatening to sue real estate developer Ori Feibush for cleaning up the derelict lot next to his coffee shop without its permission.

According to the Philadelphia Daily News, Mr. Feibush decided to clean up the lot at his own expense after repeated requests to the Philadelphia Redevelopment Authority went unheeded. Mr. Feibush spent some \$20,000 refurbishing the eyesore, adding cherry trees, benches and fencing.

While local residents are giving the makeover a thumbs-up, the city wants the lot returned to its previous condition, saying Mr. Feibush had no right to transform the property.

While his good deed may well be punished, Mr. Feibush remains philosophical, finding irony in the city's newfound interest in the lot.

“They've been bad stewards for so many years, and suddenly it's the most critical lot in the world,” he told the paper.



PROTECT YOUR SOCIAL MEDIA REP

Given the ever-expanding ubiquity of social media — and the constellation of risks and liability exposures that it has created — an insurance product designed to protect individual users from reputational harm and identity theft was probably inevitable.

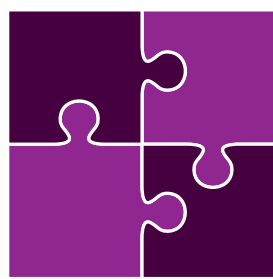
Enter London-based cyber security firm Allow Ltd., who last week announced the rollout of a new insurance policy that will be included free of charge with its data monitoring and protection services.

The policy, according to the company's website, will provide up to £10,000 (\$16,216) in coverage for professional fees and other costs incurred from any one incident of identity theft or “account jacking,” and £3,500 (\$5,676) for fees associated with reputational damage.

In the event that a user's protected social media account is hacked, the policy also will cover any costs associated with disabling the account.

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Session 2: What employers need to know about predictive modeling as a tool to identify tough claims earlier in the process and guide successful intervention

Speakers: Gary Anderberg, Practice leader for analytics and outcomes, Broadspire Services Inc.; Michael Gavin, Chief Strategy Officer, PRIUM; and Carol Ungaretti, Director, Aon Global Risk Consulting.

Session 3: Retaining more risk under workers comp programs will require greater corporate-wide commitment to safety from the C-suite to the rank and file

Speakers: Patricia M. Ennis, Senior Risk Control Consultant for Willis Group and Senior Vp for the American Society of Safety Engineers; and Kevin Finn, Vp of National Accounts at The Hartford

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