

# Business Insurance

November 1, 2010

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**BRIT INSURANCE AGREES TO \$1.4B TAKEOVER BY INVESTOR GROUPS / PAGE 3**



**EX-MARSH EXEC SUE TO RECOVER BACK PAY / PAGE 3**



**FORMER BROKERAGE EXECUTIVE SENTENCED TO PRISON TERM IN BRIBERY CASE / PAGE 3**

## In Brief

Judge dismisses suit against MMC

A Missouri judge has rejected claims that Marsh & McLennan Cos. Inc. and several related defendants breached fiduciary duty to a client under state law by allegedly receiving contingent commissions and earning interest on premium payments sent to MMC before it sent them on to the insurer. *In Emerson Electric Co. vs. Marsh & McLennan Cos. et al.*, Emerson brought the action against MMC, Marsh USA Inc., Marsh Inc. and a Marsh employee that alleged breach of fiduciary duty for receiving and failing to disclose contingent commissions. Emerson also held that Marsh engaged in civil conspiracy.

Treasury not transparent about AIG: TARP report

The U.S. Treasury Department failed to meet "basic transparency

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## SPOTLIGHT

**WORKERS COMP & DISABILITY MANAGEMENT**

Employers' supervision key to performance by third-party administrators; risk

managers cap caseload numbers to enhance quality; hospital system takes fresh tack on TPA

compensation; tracking leave presents challenges; *Business Insurance* ranking of leading safety consultants. **PAGE 9**

### RISK MANAGEMENT

## Construction defect ruling spurs changes

*Insurers alter policies to reassure buyers*

By **MICHAEL BRADFORD**

**HONOLULU**—A controversial ruling in Hawaii that damage resulting from construction defects does not constitute an occurrence triggering coverage under a commercial general liability policy has prompted some insurers to alter policy language to make it clear that they intend to pay such losses.

Hawaii's Intermediate Court of Appeals further concluded in its May 19 decision in *Group Builders Inc. and Tradewind Insurance Co. Ltd. vs. Admiral Insurance Co.* that breach-of-contract claims based on allegations of shoddy performance

are not covered under CGL policies and that tort-based claims derivative of such breach of contract claims also are not covered.

The Hawaii court upheld a lower court ruling that Admiral had no obligation under a CGL policy to defend or indemnify its policyholder, Honolulu-based Group Builders Inc., a subcontractor that installed insulation during construction of the Hilton Hawaiian Village's Kalia Tower in 2001.

A year after the tower opened, Hilton was forced to close 21 floors after discovering extensive mold in

See **DEFECTS** page 22

### P/C INSURERS

## AIG Chair Miller to lead if Benmosche steps down

*CEO's illness prompts succession plan*

By **JUDY GREENWALD**

**NEW YORK**—American International Group Inc. is at a point in its recovery where the insurer's next CEO could focus on running day-to-day operations rather than crisis management, observers say.

The issue arose last week when AIG disclosed that President and CEO Robert H. Benmosche is suffering from an undisclosed form of cancer and is undergoing "aggressive chemotherapy."

In a statement, Mr. Benmosche said he feels fine and continues to follow his normal schedule. Later in the week, AIG's board said Chairman Steve Miller would step in as interim CEO should Mr. Benmosche step down.

But that leaves the question of who would be a



**Mr. Benmosche**

Attorney says former AIG chief Greenberg will be vindicated. **PAGE 8**

See **AIG** page 22

### ERRORS & OMISSIONS LIABILITY



BLOOMBERG

A sign advertises a Las Vegas home for sale this month as some banks halted foreclosures due to faulty paperwork concerns.

## Foreclosure mess to hit E&O cover?

*Insurers working to gauge exposure*

By **ROBERTO CENICEROS**

Amid investigations into allegedly faulty foreclosure practices by banks and mortgage servicing companies, errors and omissions liability insurers for such firms are bracing for potential claims.

Directors and officers liability losses also are possible, sources said.

But whether E&O insurance or bankers professional liability policies respond to allegations that financial institution employees failed to read foreclosure affidavits they signed by the thousands likely will depend in part on a company's efforts to comply with regulatory standards, insurance experts said.

Allegations that financial institutions may have violated laws and improperly seized properties by cutting corners when foreclosing on mortgages gained further attention last week when Federal Reserve Board Chairman Ben S. Bernanke told a housing conference in Arlington, Va., that federal regulators are "con-

cerned about reported irregularities in foreclosure practices at a number of large financial institutions."

Federal banking agencies are looking "intensively at the firms' policies, procedures and internal controls" to learn whether systemic weaknesses led to improper foreclosures, he said.

According to RealtyTrac, there were 930,437 foreclosure filings in the third quarter of this year, a nearly 4% increase from the previous quarter.

State attorneys general from all 50 states, joined by state mortgage and banking regulators, announced a coordinated investigation in mid-October and sought information from financial services companies with mortgage servicing operations.

Recent reports allege employees at some companies routinely signed foreclosure affidavits attesting they personally verified loan file information when they hadn't, said New York Attorney General

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"Virtual Advantage: Best Practices in Workers Comp Management," an online virtual conference, is set for Dec. 9. The keynote speaker is the Insurance Information Institute's Robert P. Hartwig. Go to: [www.BusinessInsurance.com/VirtualAdvantage](http://www.BusinessInsurance.com/VirtualAdvantage).



Did you miss the 2010 Property Casualty Insurers Assn. of America conference in Colorado Springs, Colo.? Not to worry! Catch up on all of this year's news with *B*'s show dailies, now online at [www.BusinessInsurance.com/PCI](http://www.BusinessInsurance.com/PCI).

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## CONSTRUCTION DEFECT WEBCAST

"Blueprint for Construction Defects: Managing the Risks and Coverage," with experts Brian Casey and Michael Szot, is scheduled for 2 p.m. EST Nov. 10. [www.BusinessInsurance.com/webcasts](http://www.BusinessInsurance.com/webcasts).



Mr. Casey Mr. Szot

## MOST POPULAR STORIES

Week of October 25, 2010

1. Ex-Marsh execs Gilman, McNenney sue broker for bonuses
2. Former reinsurance executive sentenced in bribery case
3. Walgreen said to seek sale of PBM unit
4. AIG's Benmosche being treated for cancer
5. Honeywell stops offering some retirees group coverage
6. U.S. Chamber of Commerce releases guide on cyberthreats
7. AIG announces succession plan for Benmosche
8. Retirement plan maximums to remain flat in 2011
9. Berkshire moves step closer to Buffett succession
10. Treasury not transparent about AIG: TARP report

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## SPOTLIGHT PODCAST

Listen to the full version of page 13's Q&A with Judie Tsanopoulos, director of workers comp at St. Joseph Health System, online. Click through the Multimedia tab.



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## AGENTS &amp; BROKERS

# Ex-execus sue Marsh over lost pay, bonuses

After bid-rigging convictions overturned, Gilman and McNenney say broker fired without cause

By MARK A. HOFMANN

**NEW YORK**—Two former Marsh Inc. executives whose bid-rigging convictions have been overturned have accused their former employer of violating federal law and breach of contract.

In a lawsuit filed last week in the U.S. District Court for the Southern District of New York against Marsh, parent company Marsh & McLennan Cos. Inc. and two other MMC units, William M. Gilman and Edward J. McNenney Jr. said Marsh fired them without cause in late 2004, shortly after then-New York Attorney General Eliot Spitzer filed a complaint against Marsh regarding contingent commissions.

Both men served as managing directors of Marsh.

The men allege Marsh did not pay them the severance to which they were contractually entitled. They also allege they were not paid stock bonuses to which they were entitled under the parent company's stock award plan. They allege the brokerage's actions in regard to the severance pay and the stock bonuses violated the federal Employee Retirement Income Security Act.

Both men were indicted in 2005 on 37 counts regarding alleged bid-rigging. Before that, MMC



BLOOMBERG

**Former Marsh Inc. executives William M. Gilman and Edward J. McNenney Jr. have accused the brokerage of violating federal law and breach of contract.**

settled New York state's civil suit regarding contingent commissions for \$850 million.

Messrs. Gilman and McNenney each were found guilty in February 2008 on a single count of restraint of trade and competition. But last summer, New York County Supreme Court

Judge James A. Yates overturned the convictions of both men, citing new evidence that "undermines the court's confidence in the verdict" (BI, July 12).

The evidence included undisclosed documents that would have been "invaluable" to the defense and contradictory statements by witnesses who cooperated with prosecutors, the judge ruled.

In their suit, Messrs. Gilman and McNenney hold that they did "not commit any inappropriate or illegal actions" while employed by Marsh. They also hold that other Marsh employees who were terminated as result of the Spitzer investigations received severance payments.

The suit alleges that the refusal to pay them severance and bonuses was "arbitrary and capricious" under ERISA. Among other things, they also allege breach of contract and unjust enrichment.

The suit does not specify the amount of damages sought.

An attorney representing the plaintiffs was not immediately available for comment.

MMC declined to discuss the case. "We have no comment on this matter at this time," said an MMC spokeswoman in an e-mail.

## MERGERS &amp; ACQUISITIONS



**Brit Insurance Holdings N.V. last week agreed to takeover terms with Achilles Netherlands Holdings B.V.**

## Brit agrees to takeover by investment groups

Sweetened \$1.4B offer for Lloyd's company wins OK from board

By SARAH VEYSEY

**AMSTERDAM**—Brit Insurance Holdings N.V. last week ended a long-running bidding battle in agreeing on takeover terms with Achilles Netherlands Holdings B.V. and recommending that its shareholders accept Achilles' offer.

Achilles, a newly incorporated company formed on behalf of funds managed by Apollo Management VII L.P. and funds advised by CVC Capital Partners Ltd., will pay about £888 million (\$1.39 billion) for Brit.

Apollo first approached Amsterdam-based Brit, which operates a multiline Lloyd's of London syndicate and a U.K.-based insurance company, in June.

Brit rejected Apollo's initial bid and two subsequent offers, made in July, as being too low. In September, CVC joined Apollo to make an improved offer.

In takeover documents, Achilles said it believed that under private ownership, Brit "will be better able to actively manage its underwriting exposures and react more nimbly to market opportunities and challenges."

Shareholders representing 95% of Brit's share capital must accept the

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## REINSURANCE

## Ex-chief of broker PWS sentenced to jail time

Messent paid bribes to win reinsurance deals

By SARAH VEYSEY

**LONDON**—The former CEO of PWS International Ltd. has been sentenced to 21 months in prison for his conviction on charges of paying bribes to win reinsurance contracts in Costa Rica.

Julian Messent pleaded guilty last month in London to two counts of corruption in making 41 payments totaling about \$2 million to win reinsurance business in Costa Rica between 1999 and 2002.

During that period, London-based PWS was the broker for Costa Rican state-backed insurer Instituto Nacional de Seguros. The insurer covered state-run electricity and telecommunications company Instituto Costarricense de Electricidad.

Mr. Messent, who at that time was head of the Americas property division at PWS, authorized payments to officials of the insurer and the utility company, their wives and other associated companies to ensure that PWS was appointed and retained as broker for the insurer's reinsurance contract, according to the U.K.'s Serious Fraud Office, an independent government agency that investigates fraud.

After national elections in Costa Rica in 2002, high-ranking officials at the state-backed insurer and utility company were replaced and an investigation was launched into PWS' contract and the suspicious payments, according to the Serious Fraud Office, to which the British

Foreign & Commonwealth Office referred the case in 2005.

During a hearing last week at Southwark Crown Court in London, Mr. Messent was sentenced to 21 months in prison and ordered to pay a £100,000 (\$157,000) fine to the Republic of Costa Rica or face an additional 12 months in prison.

Mr. Messent, whose pay was performance-related, made a profit of £265,011 (\$416,000) from the business won by making the improper payments, the agency alleged in the prosecution.

Mr. Messent stepped down as CEO of PWS in 2006 after an internal investigation into the improper payments.

Prosecutors in the United States and Panama have contacted the U.K. investigators about the case, the Serious Fraud Office said. A trial of those accused of accepting bribes from Mr. Messent is slated for next year in Costa Rica.

"This case shows how determined we are to pursue businessmen who bribe," Richard Alderman, Serious Fraud Office director, said in a statement. "Working with agencies in other countries is a key feature in our approach, which can result in action being taken against both sides of the bribe," he added.

Unrelated to the case, London-based THB International Holdings Ltd. in 2008 acquired the Lloyd's of London and reinsurance broking business of PWS.

## Add value with ERM

Enterprise risk management can direct an organization's risk mitigation efforts and identify opportunities when embedded in a company's strategic planning and senior management, participants said during a *Business Insurance* webcast last week.

While there are many differing approaches, an effective ERM program can contribute value to an organization, experts said.

"ERM is looked at as a process...comprising strategic, tactical and compliance efforts that are both interrelated and require the interaction of multiple functional and line organizations," said Laura L. Brooks, vp of risk management and chief risk officer of Public Service Enterprise Group Inc. in Newark, N.J., during the *BI* webcast "Value in Enterprise Risk Management: Making ERM Pay Off."

At the energy holding company, Ms. Brooks said multiple executive board committees oversee various risks the firm faces.

"One suggestion to make ERM pay off is to create a central risk function," agreed John J. Hampton, professor of business at St. Peter's College in Jersey City, N.J.

Mr. Hampton said ERM practitioners should identify changing conditions and communicate them to key players and "aggressively and continuously scan for risk and opportunity," he said.

"The desire here is to make risk management a part of the way of life for all of the lines of businesses and to make sure that what we offer as part of the program is to keep those lines of businesses and their employees informed so that they know when to elevate critical decisions," Ms. Brooks said.

She also noted that implementing an ERM program does not need to be expensive for an organization and tools used to identify, monitor and communicate risks to key players often already are in place, such as an analysis of strengths, weaknesses, opportunities, threats, risk scorecards and risk dashboards.

Integrating those tools into an ERM framework adds organizational value by providing a method of risk identification, an alignment of risk-taking and risk mitigation strategies, and allocating resources accordingly, Ms. Brooks said.

*BI* Senior Editor Mark A. Hofmann moderated the webcast, which is available at [www.BusinessInsurance.com/webcasts](http://www.BusinessInsurance.com/webcasts).

—By Mike Tsikoudakis

## RISK MANAGEMENT

# Holiday cheer brings rise in cargo theft

*Criminals targeting high-value shipments*

By MARK A. HOFMANN

Christmas is coming and thieves have already kicked off the cargo theft season, experts say.

The season means more high-value, high-demand goods are hitting the highways. That presents opportunities for cargo thieves, experts say.

Fortunately, risk managers, security managers and others responsible for cargo protection can take steps to increase the likelihood that shipments will arrive at their destinations intact, according to observers.

Discussing the general issue of cargo theft at the recent National Cargo Theft Summit in Washington, Kevin L. Perkins, the assistant director of the Federal Bureau of Investigation's criminal investigation division, estimated that cargo theft costs \$30 billion annually.

Cargo theft involves an increasingly sophisticated criminal enterprise, often involving gangs from Latin America, Asia and the Caribbean, Mr. Perkins said. Cargo theft presents "much less risk than other forms of criminal activity," such as selling drugs, he said. Prison sentences typically are much shorter than they would be for other potentially very lucrative crimes, he said.

"It would make sense that the number of thefts would go up" as the holidays approach, said Joe Wehrle, president and CEO of the Des Plaines, Ill.-based National Insurance Crime Bureau. "Especially during the holiday season, why would you want to break into a store and steal a handful of TVs when you can get hundreds of them off of one load?" he said.

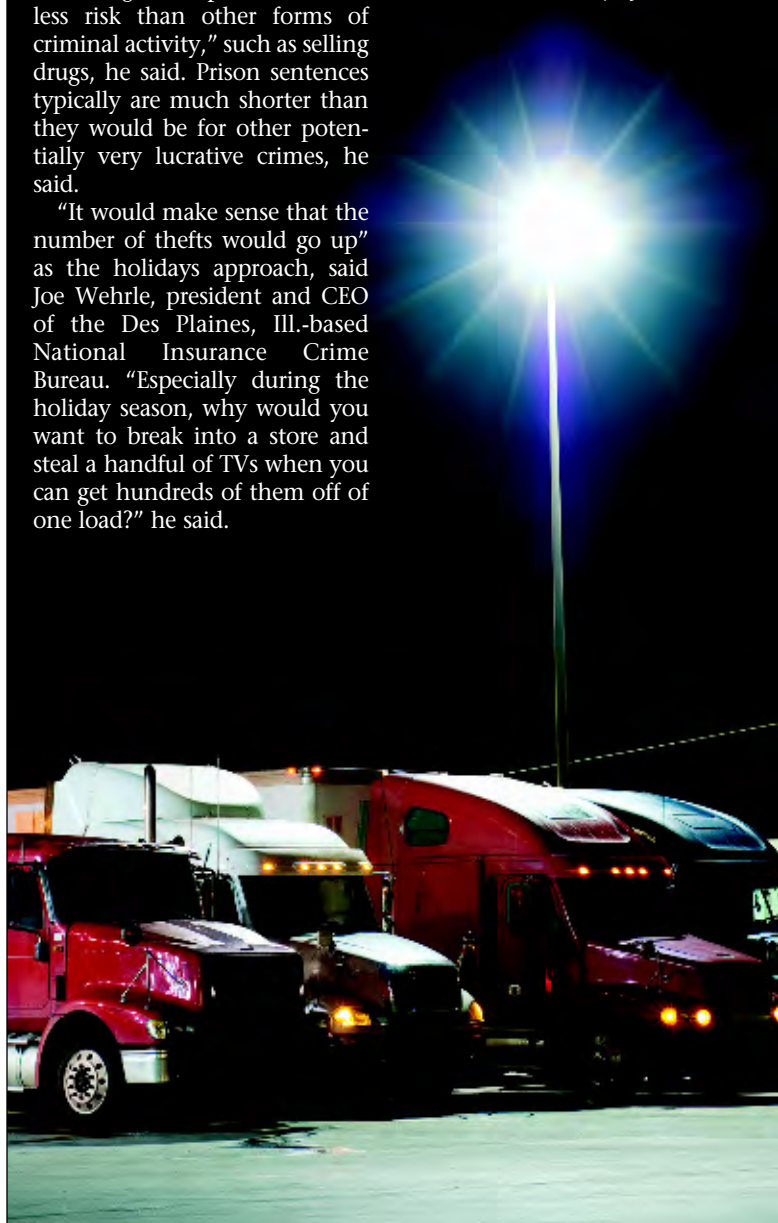
"When people think of Christmas, they think of toys," said Scott A. Cornell, national manager-special investigations group in Travelers Cos. Inc.'s Rochester, N.Y., office. "When we see the first load of video games or something related to video games, the toys are on the road and here we go."

Holiday cargo begins to move in September, Mr. Cornell said. There's more cargo than usual the rest of the year on the road and, equally important, the cargo tends to be high-demand items.

"That type of volume creates more targets for bad guys and more backlog for trucking companies and shippers," he said. Cargo has to be stored in secondary storage, such as trailers, before it's delivered, he said.

In addition, to deal with the increased volume, shippers may have to hire trucking companies they never have used before, said Mr. Cornell. As a result, they are not familiar with the truckers'

See **CARGO** page 31



## MERGERS &amp; ACQUISITIONS

# Deals widen ACE's global footprint

*Analysts expect insurer to make more buys as it spends excess capital*

By SONJA RYST

**ZURICH**—In an April conference call, Evan G. Greenberg, chairman, president and CEO of insurer ACE Ltd., didn't seem to think 2010 would be a big acquisition year for the company. As it turns out, he may have underestimated.

"Could be, may not be," he said, according to a transcript of the call. "I don't know. It's opportunistic. And if it doesn't happen in '10, then there's always '11."

But ACE has announced a string of acquisitions in recent months in a strategy that analysts expect to continue.

Last week, Zurich-based ACE said it agreed to purchase New York Life Insurance Co.'s operations in Hong Kong and South Korea for \$425 million. In September, ACE said it planned to pay around \$1.1 billion for all the outstanding common

stock it did not already own in the Johnston, Iowa-based crop insurance underwriter Rain & Hail Insurance Service Inc. And in the same month, ACE said it agreed to acquire the Malaysian general insurer Jerneh Insurance Berhad for about \$200 million.

When asked in a conference call Thursday whether he's still looking for acquisitions, Mr. Greenberg said nothing was imminent, but added: "We're constantly looking and we will (do acquisitions,) but we're very, very disciplined," according to a transcript of



Mr. Greenberg

the call.

Mr. Greenberg is shopping in a market that hasn't had much activity in the wake of the recent recession. With stock prices far lower than in 2007, many sellers have been asking for prices that potential acquirers don't want to pay. Meanwhile, other insurers with excess

capital have been using their money to buy back their own cheapened shares rather than acquire other companies, analysts say.

"For certain companies, acquisitions might be a good way to put excess capital to work," said Drew Woodbury, an analyst at Morningstar in Chicago. He said that expanding internationally is a way that insurers can tap into growth, because the U.S. insurance market is heavily penetrated.

ACE generates roughly 60% of its written premiums in North America, 20% in Europe, 12% in Asia and 5% in Latin America. Mr. Greenberg has plenty of global experience at ACE and previously at American International Group Inc., where he ran the insurer's international property/casualty business. Mr. Greenberg is the son of former AIG CEO Maurice R. Greenberg.

ACE's "strategy is to incrementally grow internationally and to build a diverse global platform," said Cliff Gallant, an insurance analyst at

See **ACE** page 22

## MARINE

# P&I club Skuld charts new course

*Mutual no longer will announce general rate increase before renewals*

By MICHAEL BRADFORD

A Norwegian protection and indemnity club is abandoning the traditional practice of issuing general increases as other P&I clubs announce rate hikes of as much as 5% for the 2011 policy year.

Assuranceforeningen Skuld, an Oslo-based P&I club, said it no longer will adhere to an unwritten rule among the mutual insurers to announce a general increase in members' rates ahead of February renewals.

Skuld will forgo the announcement and set rates based on each member's experience, a practice it already was following in most cases, said Eric Jacobs, the club's executive vp of communications and

general counsel.

A general increase represents an amount a P&I club needs to collect from its members as a whole, even though negotiations with each shipowner typically are carried out and result in some paying more than others, sources said.

The announcements in the fall historically have been used to give shipowners at least a rough idea of their insurance costs for the next year, sources said.

"We and the other clubs have been giving general increases for as long as I can remember," said Mr. Jacobs. The practice has been a way to provide figures that P&I club members could use for budgeting ahead of renewals, he said.

"Today, insureds have very pro-

fessional insurance managers and brokers who are more than able to put a budget out before we come up with general increases," Mr. Jacobs said.

General increases have come to hold little meaning for Skuld, according to Mr. Jacobs, because the experience of individual members determines changes in their rates.

"I suspect many other clubs are operating the same way," Mr. Jacobs said. "In my mind it is the only way to go," he said of doing away with general increases.

Skuld is the only club to announce that it no longer will issue general increases.

"Most clubs seem to be of the

See **P&I CLUBS** page 21

## RETIREMENT BENEFITS

# Guidance expected on Roth rules

*Advice will establish how 401(k) balances can be rolled over*

By JERRY GEISEL

**WASHINGTON**—Federal regulators soon will issue eagerly sought guidance to aid employers that want to amend their 401(k) plans to allow participants to roll over account balances into a Roth 401(k) plan.

That rollover feature was included in a small-business jobs bill that Congress passed in September and President Barack Obama signed into law. If employers add the conver-

sion feature this year, employees who roll over funds into a Roth 401(k) will get an extra tax break.

Under the law, employees who roll over funds from their regular 401(k) plan to a Roth 401(k) account by the end of this year can pay taxes that are due on the money in equal parts in 2011 and 2012 rather than pay the entire tax liability next year.

But employers have been reluctant to add the feature until regula-

tors resolve numerous questions that arose since the legislation passed.

"Guidance is very much needed," said Valerie Kupferschmidt, senior counsel with Aon Hewitt Inc. in Lincolnshire, Ill.

Questions include whether the rollover funds are subject to a 20% withholding tax on certain pension distributions and whether the money

See **ROTH** page 19

## A MINOR RENOVATION TO THE FACTORY AVOIDED A MAJOR OPERATION ON THE EMPLOYEE.

When an employee from a large furniture manufacturer developed recurring wrist pain, our Workers Compensation experts teamed with his doctor to quickly assess the situation. We discovered that changing the layout of his workspace would avoid painful surgery and allow him to continue working while he healed. Our regional medical directors, 24-hour claim response teams and loss control experts work together with you and your broker to develop effective solutions that help you keep employees safer and get them back to work. That's our policy. For more information, contact your broker or agent or visit [libertymutualgroup.com/workerscomp](http://libertymutualgroup.com/workerscomp).



# Mortgage: Banks may file E&O claims

CONTINUED FROM PAGE 1

Andrew M. Cuomo. In some cases, employees may have signed documents they didn't even read, a practice known as "robo-signing."

Unread affidavits raise the possibility that lender claims about homebuyers' foreclosure eligibility are inaccurate.

Last week, Wells Fargo said that as part of a review of its foreclosure affidavit procedure, it identified instances where its practices "did not adhere to the required procedures."

Meanwhile, Bank of America restarted its foreclosure process in about half of the United States, ending a moratorium it imposed last month while it reviewed its procedures. Its review in the remainder of states continued.

As of last week, observers said they were unaware of consumer class action lawsuits filed due to issues associated with "robo-signers."

"I'm not aware of a class action yet," said Daniel L. McGookey, an attorney at McGookey Law Offices L.L.C. in Sandusky, Ohio. Mr. McGookey filed a lawsuit Oct. 20 on behalf of a client seeking to reverse a completed foreclosure. The client alleges Bank of America improperly relied on "robo-signers" to expedite foreclosures and reduce its costs.

With few lawsuits in the pipeline as of last week, E&O insurance experts said they had not seen related coverage claims, but also said it could be just a matter of time.

"I can certainly visualize that" claims could be on the horizon, said

Phil Norton, a division president and management liability practice expert at Arthur J. Gallagher & Co. in Itasca, Ill.

The insurance industry has not seen a wave of robo-signing claims, agreed Jim Donovan, senior vp in the professional liability unit at Liberty International Underwriters, a unit of Boston-based Liberty Mutual Group Inc. "But I am sure there is some concern," he said. "Obviously,

**'E&O is for a mistake being made; but if it's a flagrant violation of regulatory action, my guess is that the policy would not provide coverage.'**

William Austin, Austin & Stonavich Risk Managers L.L.C.

we are looking at the mortgage brokers book (to see) overall how many accounts do we have and get a feel for what our exposure would be ultimately, but there is no dire panic."

A representative of New York-based Chartis Inc. said the insurer is reviewing its portfolio to assess its potential exposure. In particular, Chartis is looking at accounts with lender liability coverage, which specifically addresses foreclosure-

related claims.

Several other E&O insurers declined to comment or could not be reached.

The policies differ substantially in their coverage language. Some are bankers professional liability products, others may be called mortgage banking E&O policies and still others may be called lenders liability coverage.

Whether financial institutions could tap any E&O coverage, however, could depend on regulatory exclusions or policy conditions, said William Austin, a principal and consultant in Providence, R.I., at Austin & Stonavich Risk Managers L.L.C.

Fraud likely would be excluded from coverage, while a breach of due diligence in complying with regulatory requirements also could void coverage, Mr. Austin said.

"E&O is for a mistake being made; but if it's a flagrant violation of regulatory action, my guess is that the policy would not provide coverage," Mr. Austin said.

There also is potential that foreclosure issues could result in directors and officers liability claims, added Michael White, senior vp in the executive risks practice at Willis Group Holdings P.L.C. in New York.

That could occur if financial institutions eventually see a related drop in their market value, or shareholder derivative lawsuits could emerge should plaintiffs allege that directors and officers failed to properly manage foreclosure operations, Mr. White said.

"The lawyers at very least will be looking at this" Mr. White said.

## Commentary

# GEICO's ad strategy gets attention, business

I empathize with the bewilderment that actor Matt Damon's character expressed during a recent episode of the television sitcom "30 Rock" over GEICO's many advertising pitchmen.

"Why does GEICO have three different spokesmen?" he asked Tina Fey's character, responding to her query about what may have triggered his anger while watching a New York Giants game.

"They have got the gecko, the caveman and the stack of money with the eyeballs," Mr. Damon said.

"And the fake Rod Serling guy," Ms. Fey reminded him.

GEICO for years has aired TV and radio commercials featuring numerous pitchmen and many different themes that it's hard to tell whether the company is more interested in entertaining us than in selling insurance.

Besides the cute little gecko with the cockney accent whose longstanding tenure has made GEICO a household name, we've been introduced to a parade of pitchmen including overly sensitive Neanderthal cavemen; a stack of money named "Kash" with "googly" eyeballs; and the dapper Mike McGlone, who asks rhetorical questions in a haunting voice reminiscent of Rod Serling, creator and narrator of "The Twilight Zone."

Then there's the annoying little piggy who cries, "Wee! Wee! Wee!" all the way home; a Southern belle pothole that apologizes for not having a cell phone to call a tow truck after flattening a tire; a pair of wood-chucking woodchucks; and even a vintage film featuring an actor playing Mary Todd Lincoln asking Honest Abe if her dress makes her look fat.

And don't forget previous years' memorable marketing moments including an AFLAC-like duck that touted the advantages of GEICO's smaller "bill" and two squirrels giving each other fist-bumps and high-fives after one of them sends a car careening off the road.

It seems you can't sit through a commercial break these days without seeing at least one GEICO ad, and sometimes there are several different GEICO spots appearing sequentially. At times, it makes for good entertainment, perhaps even rivaling the shows that the ads are interrupting.

According to New York-based Kantar Media, which tracks ad spending, GEICO spent more than \$600 million last year on advertising. By comparison, its three main competitors—State Farm Mutual Automobile Insur-



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ance Co., Progressive Insurance Co. and Allstate Insurance Co.—spent \$385 million, \$323 million and \$272 million, respectively.

Now GEICO is peddling advertising-related merchandise on its website to gain even more brand recognition. Not only can you order a gecko bobble head or a caveman mask for a nominal price, there also are gecko and Kash Christmas tree ornaments and holiday greeting cards.

**You can't sit through a commercial break without seeing at least one GEICO ad.**

GEICO also is gaining kudos from the advertising industry.

In fact, Ted Ward, GEICO's vp of marketing, was named Advertising Person of the Year by the Advertising Club of New York, while both the gecko and the caveman were honored as favorite U.S. advertising icons.

Regardless of my GEICO TV commercial conundrum, the campaign appears to be working. Though GEICO is currently the third-largest U.S. auto insurer with 7.7% of the U.S. market—following State Farm, which has 17.8% of market share, and Allstate, with 11%—it's catching up. GEICO's policyholder count grew from 8 million in 2007 to more than 9 million 2009, according to the company's website. They expect to top 10 million in the next month, a company spokesman said.

I guess it all goes to show what quirky marketing can do for a company that started out during the Great Depression to provide auto insurance to federal employees. Apparently, it does pay to advertise.

And I'm sure having the financial resources of Berkshire Hathaway to bankroll that advertising spend helps, too.



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# Business Insurance OPINIONS

## Guidance on pensions welcome despite delay

IN LOOKING AT cash balance pension plan regulations the Internal Revenue Service issued this month, the words "what if" come to mind.

As we reported, the regulations fairly and comprehensively provide guidance in many areas, such as ways employers can credit interest to plan enrollees' account balances.

The regulations will provide a guide for employers that sponsor the plans, as well as for those who are considering moving to the arrangements.

But we have to ask why it took the IRS so long to develop the regulations. The first cash balance plan was launched nearly a quarter of a century ago and since then hundreds of major employers adopted them.

To be fair, a portion of the regulations deal with issues relating to cash balance provisions that were included as part of pension funding reform in legislation Congress passed in 2006. And other parts of the regulations were issued in proposed form in 2007.

Still, regulators took an unreasonably long time to provide guidance.

Regulators aren't the only ones who deserve blame. Congress also dragged its feet.

Today, the path is clear for employers who want to adopt cash balance plans, which in many ways combine the best features of defined benefit and defined contribution plans.

Unfortunately, though, for many employers, the regulations come too late. Amid the barrage of litigation and regulatory uncertainty, they lost their interest in the arrangements and the plans many adopted will not do the same job as cash balance plans in providing secure benefits.

We hope the lesson for regulators and legislators is that when new plan designs emerge, it is in the interests of all to provide quick and comprehensive guidance.

*It is in the interests of all to provide quick and comprehensive guidance.*

## Silver lining for buyers in insurer's court win

IT'S NOT OFTEN that insurance buyers can come away from a pro-insurer court ruling with anything positive, but that may be the case in a construction defect ruling handed down by an appeals court in Hawaii.

As we report on page 1, the Intermediate Court of Appeals affirmed a lower court ruling that the insurer in the case did not have to indemnify a subcontractor after its alleged shoddy work at a hotel led to mold damage. According to the court, the construction defects were not an occurrence triggering coverage under a commercial general liability policy.

In similar cases, the reaction of insurers often is to note the ruling and file it away for use as a precedent in other disputes with policyholders. In this case, however, several insurers appear to be taking the opportunity to change their policy wordings to assure their policyholders that they intend to indemnify construction defect losses that arise in similar circumstances.

We realize that, in a soft market, insurers often look to expand their coverage to attract and retain business, and we are under no illusions regarding any possible ending of the litigious environment for liability claims. Nevertheless, it is reassuring to see that, whatever the underlying reasons, insurers are stepping up to ensure coverage is in place for what many observers would say was a reasonable expectation of indemnification by policyholders.



### WRITE

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

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#### THIS WEEK'S RESULTS

**Q** Will AIG fully repay its federal bailout?



#### NEXT WEEK'S QUESTION

**Q:** Should Marsh have to pay bonuses to fired execs whose convictions were overturned?

### LETTERS

#### Greenberg rebuts AIG-Gen Re claim

TO THE EDITOR: Maurice "Hank" Greenberg has always rigorously denied participation in or knowledge of any fraud connected to a reinsurance transaction between AIG and Gen Re some 10 years ago. As recognized in the opinion of Justice (Charles E.) Ramos, filed last week, no one has ever directly disputed Mr. Greenberg's assertions.

Thus, it is not surprising that Justice Ramos found in Mr. Greenberg's favor on this issue in denying the attorney general's motion for summary judgment. This lack of evidentiary support and the inability of the attorney general to muster a single witness to directly refute Mr. Greenberg's denial indicates that the outcome of any trial will also follow suit.

The Capco (Reinsurance Co. Ltd.) transaction, which has been deemed impermissible by Justice Ramos on an entirely novel theory, was structured and reviewed by 20 different attorneys at AIG. The evidence conclusively

See **LETTERS** page 19

### PERSPECTIVES

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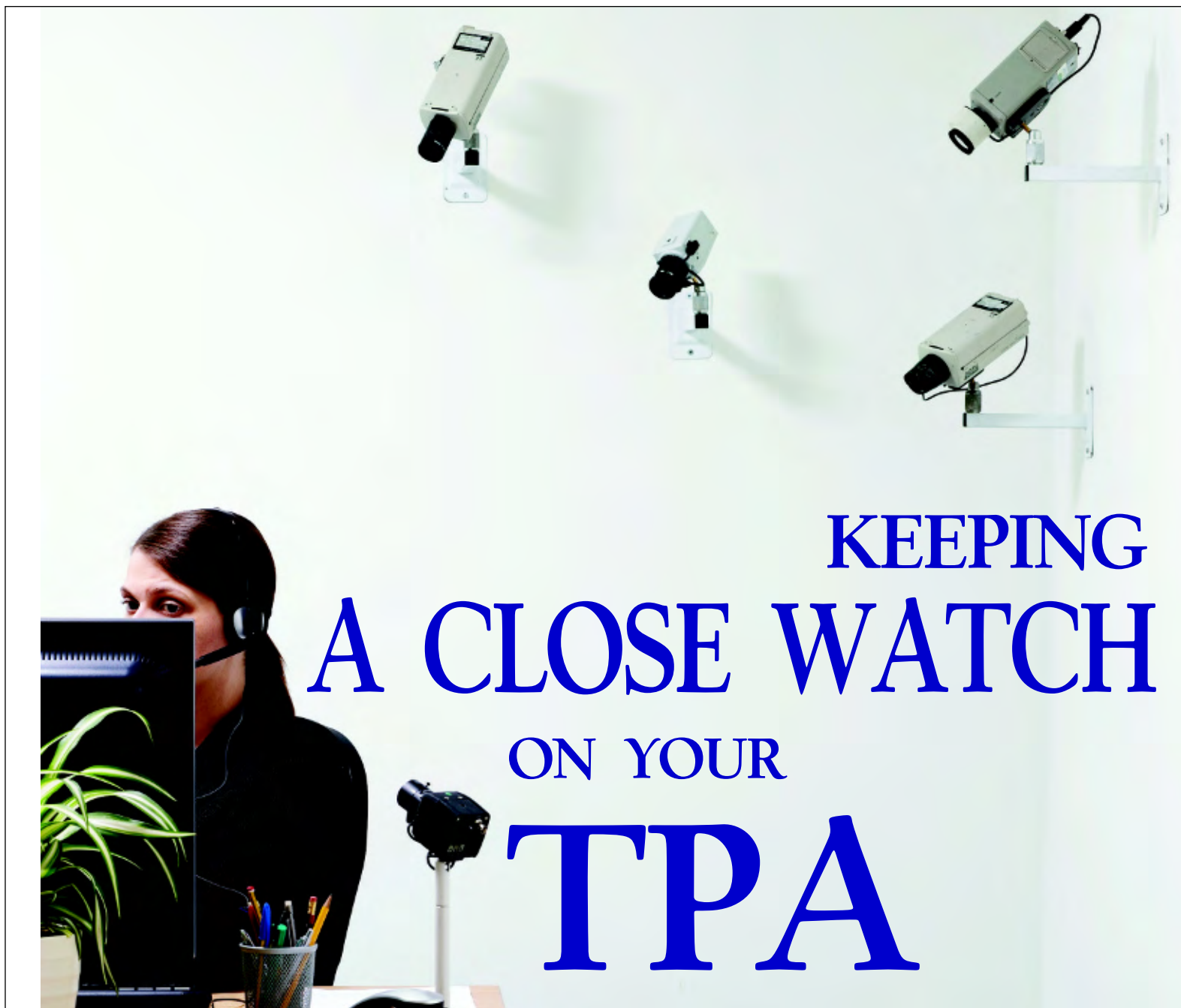
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# KEEPING A CLOSE WATCH ON YOUR TPA

## *Employers' supervision, instructions key to TPA's performance*

By **ROBERTO CENICEROS**

The degree of direct supervision that employers exercise over their third-party administrators' handling of workers compensation claims varies substantially, say several risk managers who use differing strategies.

But not providing adequate claims-handling instructions and then failing to monitor a TPA's performance will result in poor claims outcomes no matter the TPA, said Charles F. Martin, a managing director and U.S. claims consulting practice leader for Marsh Risk Consulting, Marsh Inc.'s risk consulting practice in Norwalk, Conn.

"If you are not providing oversight or managing the TPA or have processes and protocols in place on communication with the TPA so that you know what is going on, then I guarantee performance is going to slip," Mr. Martin said.

The level of day-to-day employer involvement in a TPA's handling of workers comp claims varies depending on the employer's philosophy, past experiences with vendors and the client's in-house resources, said David A. North, president and CEO of Sedgwick Claims Management Services Inc. in Memphis, Tenn.

Increasingly, he said he is seeing more "results-oriented" employers that want to

expend less effort directing specific processes their TPA applies to resolve claims, Mr. North said. Instead, their contracts set specific goals for the TPA, such as improving return-to-work outcomes or reducing the average cost per claim by a certain percentage, for example.

Improved sophistication in managed care practices and data analytics are making it easier for customers to set specific outcome goals and monitor the results, he said.

"There is a diminishing group of customers

**'If you are not providing oversight or managing the TPA or have processes and protocols in place on communication with the TPA so that you know what is going on, then I guarantee performance is going to slip.'**

Charles F. Martin, Marsh Risk Consulting

who do pure oversight...where their primary objective is to second-guess the TPA," Mr. North said. "Employers don't have extra resources to do that anymore. If they have to second-guess the TPA, they have the wrong TPA and (they) move on."

However, risk managers say they have prac-

tices in place to help assure their TPAs follow client instructions and deliver favorable claims outcomes.

For example, Santa Barbara, Calif.-based Select Staffing Inc. applies five layers of claims management oversight, including watching over the work of TPA adjusters, to resolve claims as quickly as possible, said Fred O. Pachón, Select Staffing's vp of risk management and insurance.

The layers include review of claims by in-house analysts and claims supervisors and a quarterly review of open claims. Mr. Pachón's staff also includes three "claims quarterbacks" that work at the offices of Select Staffing's main TPA, ESIS Inc.

Because Select has acquired several former rivals and their insurance coverage, Mr. Pachón said he works with 10 TPAs including ESIS, which is based in Philadelphia.

By working in the same offices as ESIS' adjusters dedicated to Select's account, Mr. Pachón's "quarterbacks" can, among other duties, help the adjusters pay appropriate attention to challenging claims and help assure any system failures are addressed quickly, Mr. Pachón said.

While five layers of oversight may sound

See **TPA** page 10

Workers Comp  
& Disability  
Management

# SPOTLIGHT

**RISK MANAGERS CAP  
CASE LOAD NUMBERS  
TO ENHANCE QUALITY**  
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**HOSPITAL SYSTEM  
TAKES NEW APPROACH  
TO TPA COMPENSATION**  
PAGE 13

**B/I RANKING OF LEADING  
SAFETY CONSULTANTS**  
PAGE 14

**TRACKING LEAVE TIME  
PRESENTS CHALLENGE**  
PAGE 15

## WORKERS COMPENSATION PHARMACY BENEFIT MANAGERS

Companies that specialize in providing PBM services for workers compensation cases

Company	Active workers compensation lives
myMatrixx	976,425
ScripNet Inc.	360,534
First Script Network Services	175,000
Progressive Medical Inc.	153,013
Healthsystems L.L.C.	144,000

Source: BI survey  
 Researched by Karen Tucker

## TPA: Employers' supervision, instructions key to maintaining performance levels

CONTINUED FROM PREVIOUS PAGE

redundant, "in reality the work comp system is so complicated and full of challenges and intricacies that it simply requires that much oversight to make it work," Mr. Pachón said.

Too much employer oversight, however, also can hamper TPAs' work, said Tom Dolan, senior manager of workers compensation for the Houston Independent School District, which says it is the largest school district in Texas and sev-

enth-largest nationwide.

Mr. Dolan is among veteran workers comp managers who said they believe that fostering a team relationship between their TPA and in-house staff is a form of oversight that produces the best outcomes, Mr. Dolan said.

To further that philosophy, seven claims adjusters from Dublin, Ohio-based Avigent work from his office—not Avigent's. That stimulates a dynamic process in which Avigent employees fuse their expertise with the district's culture to

establish a workers comp "program culture," he said. "Together we are coming up with a direction and a common theme of how we handle things," Mr. Dolan said.

It also improves his ability to supervise the adjusters, but "it's not Big Brother" watching over them, Mr. Dolan said. "We are in this together."

Large employers systematically survey their business unit operations supervisors to monitor whether Broadspire Services Inc. is providing the level of service their corporate workers compensation managers expected, Ken Martino, president and CEO of the Atlanta-based TPA and unit of Crawford & Co.

Progressive employers typically look to form a partnership with their TPA, Mr. Martino said. After going through a rigorous TPA selection process and pouring energy into developing the claims handling system they want their TPA to implement for them, employer clients shouldn't have to expend resources looking to find fault with the vendor, he added.

"You went through all this process (and then) if the idea is to say, 'I am going to get the TPA,' well, then you shouldn't have started a partnership with somebody that you are worried about," Mr. Martino said. "It should be about: What are the things we need to do right and what are the things we need to do on a regular basis to improve?"

An employer's expectations, though, must be stated clearly early in the relationship, Mr. Martino said.

Still, individual adjusters and their claims assistants vary in their skills, work ethics and attention to detail, several sources said.

"There are some that are going to be very good, and...there are going to be some at the other end of the spectrum," Marsh's Mr. Martin said.

Judie Tsanopoulos, director of workers comp and loss control for Orange, Calif.-based St. Joseph Health Systems assures that TPA claims professionals dedicated to her account perform at their best by including in her contract with Sedgwick a pay-for-performance component that requires part of the TPA's bonus money go directly to individual adjusters when they meet certain goals, she said (see story, page 13).

Because of the pay-for-performance arrangement, Sedgwick audits the services it provides to St. Joseph, but Ms. Tsanopoulos also has an independent auditor evaluate Sedgwick.

Even with those layers of oversight, Ms. Tsanopoulos said she remains a "very involved employer" who visits her TPA's office "frequently and often."

Throughout the years, however, she has learned that some TPAs do not appreciate that level of employer scrutiny.

"There is a lot of resistance to that," Ms. Tsanopoulos said. "They don't like to let you in that close, peering at everything."



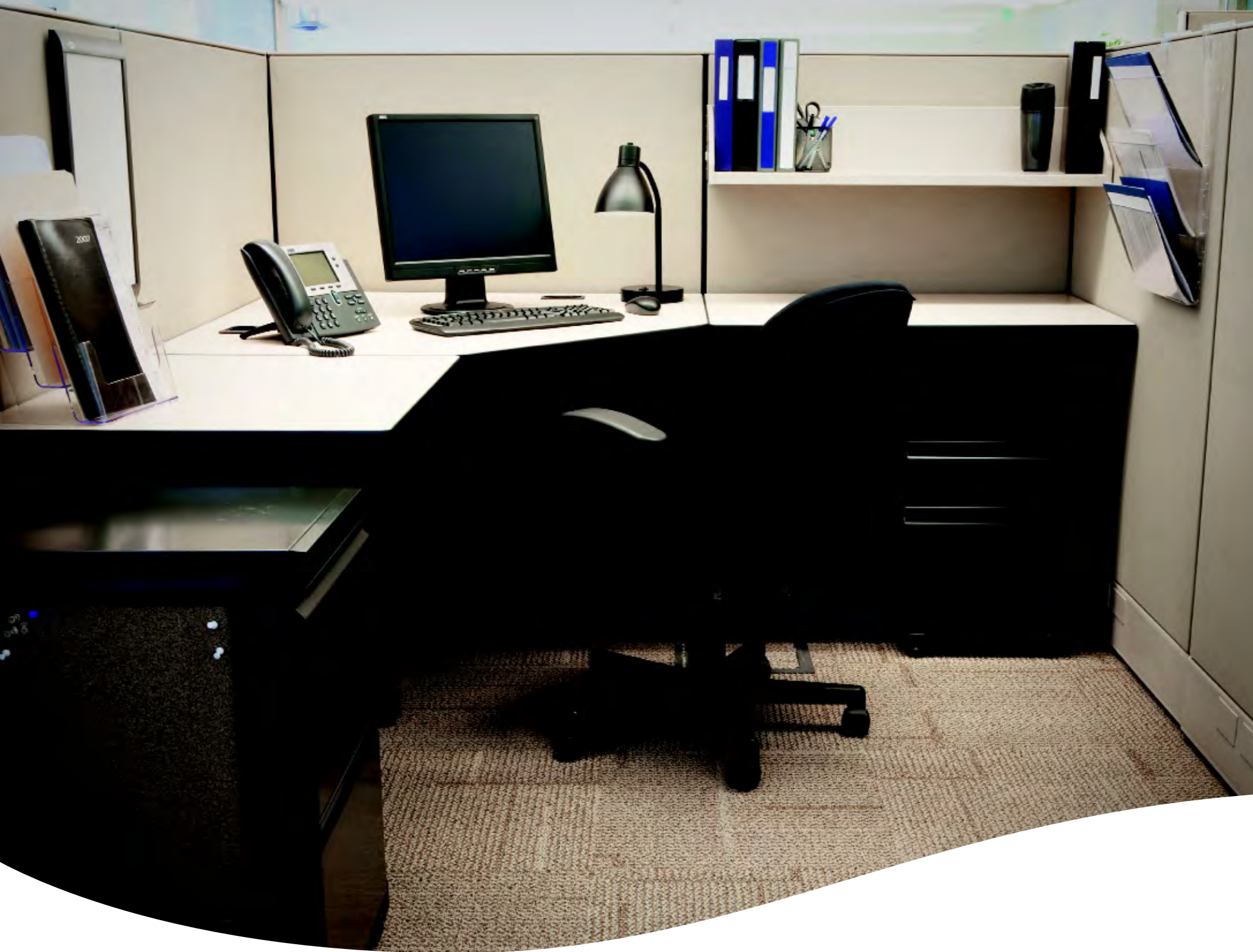
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# Employers cap adjuster caseloads to improve service

*Optimum number for claims limit varies by state*

By **ROBERTO CENICEROS**

Adjusters for third-party administrators may have too many cases to handle, especially when employers are unable or unwilling to pay for high-quality service, several risk and workers compensation managers say.

In turn, that can drive less-than-desirable outcomes, with injured employees not getting the attention

they deserve and medical and indemnity expenses dragging out longer than necessary.

To avoid that, workers compensation managers and risk managers say their TPA contracts limit the number of claims each adjuster can manage at a time, a number that varies depending on several factors.

"Clearly, the more cases an adjuster has to handle means he or she has less time to spend on a case," said Stephen Truono, vp of global risk management for Starwood Hotels & Resorts Worldwide Inc. in White Plains, N.Y. "When

you get up to 175 to 200 claims (per adjuster), you have to ask yourself, 'Are they really able to spend the time on those claims as closely as they need to?' And if not, does the claims expense run away?"

It is better to pay for more adjusters to keep an individual adjuster's caseload than spend more on runaway claims costs, said Mr. Truono and other employers.

But some employers impose strict limits on their TPA's compensation, which limits the number of adjusters the TPA assigns to their account.

"As a result, the outcomes are

horrible," said Tom Dolan, senior manager of workers compensation for the Houston Independent School District.

The TPA has "to skinny up things so you find your adjusters handling 150 or 200 files, and what do you expect?" Mr. Dolan asked rhetorically. "Do you think the adjusters will have time to analyze, strategize and implement" practices that help improve outcomes?

Mr. Dolan says his TPA contract requires that adjusters dedicated to his account handle no more than 100 open claims.

He derived that number by weighing factors such as the amount of record documentation he requires and characteristics of the school district's employee population. He also analyzed data to determine factors such as how long claims remained open and the district's past performance in managing claims.

But the weak economy is placing greater pressure on employers, driving some to reduce their immediate expenses by cutting the amount they pay their TPAs, said Judie Tsanopoulos, director of workers comp and loss control for St. Joseph Health System in Orange, Calif.

But excessively squeezing a TPA's pay can be misguided and result in an inadequate number of adjusters provided by the TPA, Ms. Tsanopoulos added.

"You are going to get the lowest common denominator in terms of experience; and if you put that (financial) restriction on your TPA, they are going to adjust to that dollar demand and you are going to have high case loads," Ms. Tsanopoulos said.

To help win the loyalty of her TPA's adjusters and limit their turnover, Ms. Tsanopoulos said she limits their load in California to an average of 88 open claims, a number she acknowledges is "very low."

However, she also said she has "very stringent client service instructions" and high expectations that the adjusters will meet St. Joseph's philosophy of caring for its employees.

Meeting those expectations, as measured through audits, is "very time-consuming and cumbersome," so adjusters' caseloads are kept to a minimum, Ms. Tsanopoulos added.

The state where claims are filed should be a factor in determining the optimum number of claims that adjusters manage at any one time, said Fred O. Pachón, vp of risk management and insurance for Select Staffing Inc. in Santa Barbara, Calif.

The number of claims that adjusters handle in California should be capped at around 90 to 100 because of frequent litigation in the state, Mr. Pachón said. In other states, a caseload of 120 claims may be appropriate.

In addition to the number of adjusters per account, they also must have sufficient experience, Mr. Pachón added. Cases involving claims denials or serious medical issues, such as back surgeries, require senior-level adjusters with at least five years of experience, he said.

In the Chicago area, meanwhile, Advocate Health Care Network recently renewed its TPA services contract with Itasca, Ill.-based Gallagher Bassett Services Inc. and paid for an additional adjuster to manage its claims, said Diane M. Pidgeon, Advocate's director of workers compensation.

That will lower the caseload of each adjuster handling Advocate's claims to 125 from 150 to 170, she said.

"We did that because of the size of our program and we are so 'hands on' that it makes for a better (work) flow if adjusters at Gallagher drop their load a little," Ms. Pidgeon said.



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## Questions Answers



Judie Tsanopoulos is director of workers comp and loss control for St. Joseph Health System in Orange, Calif., which contracts with Sedgwick Claims Management Services Inc. The contract requires that part of the pay-for-performance money for which the TPA is eligible be paid directly to individual Sedgwick adjusters dedicated to St. Joseph's account, and not just to the Sedgwick's overall revenue. Business Insurance Senior Editor Roberto Cenicerros talked with Ms. Tsanopoulos about the innovative approach.

**Q: Have you heard of other employers that have taken this approach?**

I canvassed this question with Sedgwick and there are four other employers nationally that they work with that have this in place.

**Q: What must Sedgwick's claims professionals do to earn pay-for-performance bonuses?**

There are six criteria that the adjusters are audited for and those are specific to our client service instructions. First, an adjuster team target score must be met. If they don't achieve this together as a team, they're not eligible. It's a two-tiered approach. They have to meet the team score first; and secondarily, it's a personal score based on their own individual performance.

**Q: When did you first arrange your contract in this way?**

Approximately two years ago.

**Q: What prompted you to adopt this strategy?**

We raised the bar in what we expect from our claims staff and we have a comprehensive customized client service instruction that we expect them to perform to. Because the agreement contains so many things additional to what is typically expected of a claims adjuster, I think they felt perhaps it was a little burdensome. To remove that burden, we readjusted their caseloads and we wanted to give them that incentive to achieve the standards that we were putting in place.

**Q: It's extra motivation for them?**

Absolutely.

# Compensation arrangement motivates TPA

**Q: Was the TPA receptive to your approach?**

They were very receptive and encouraging. They noted that clients that had this in place, the adjuster performance increased and it really helped foster team participation.

**Q: Are there other benefits?**

Yes. Our adjusters already were giving great service to our employees. That is something that is certainly expected of them, but it also helped align them to our client-specific

identity so that they felt they were part of our organization as much as they're a part of Sedgwick's. And we wanted them to have buy-in for continued performance improvement. So we challenged them to identify resolutions to trends and issues that occur during the life of the claim.

**Q: Is this going to help St. Joe's employees get prompt attention paid to their claims?**

That was already in place and the commitment level was there. It was more motivation to meet my expect-

tations as a client and to really raise the bar.

**Q: Are you expecting cost savings to result from this arrangement?**

I believe that we already have. We're still trying to quantify that measurement, but definitely we have seen a reduction in our overall severity and frequency; and I'll attribute the severity improvement to the claims management aspect of what our

claim staff has been held to.

**Q: I assume this practice doesn't end the need for you to supervise the TPA and the adjusters?**

Everyone needs accountability. But our claims staff is two blocks away from me. We have a very interactive relationship. I believe that they also see a dotted line between our organization and our standards and values. We are constantly raising the bar and having a continued process improvement opportunity that we challenge them to meet.



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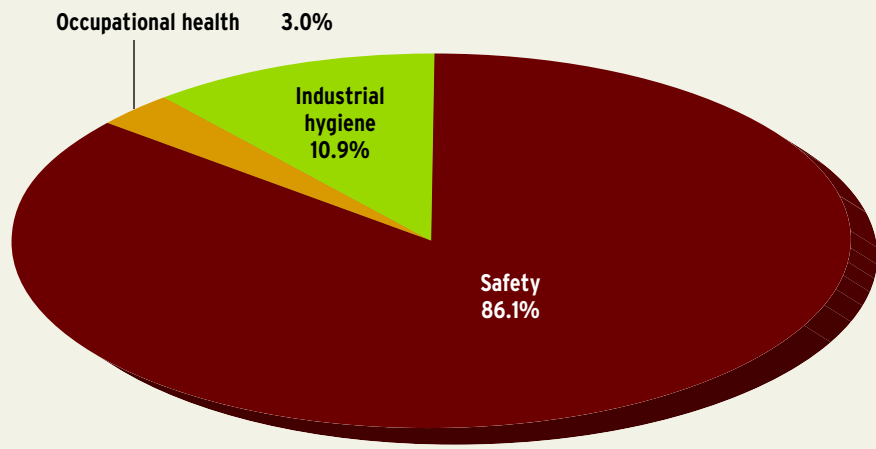


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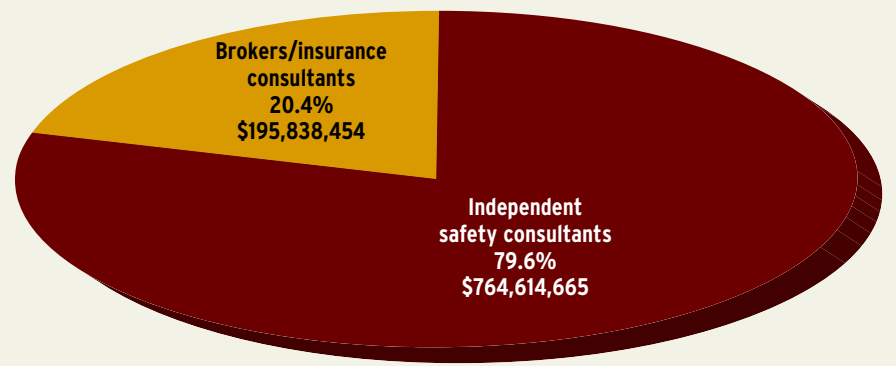
Percentages reflect total professional staff of all companies surveyed



Source: BI survey

**SHARE OF THE SAFETY CONSULTING MARKET**

Percentage of market controlled by independent consultants vs. consultants owned by brokers/insurance companies\*



\*Based on 2009 unbundled safety consulting revenues for all companies surveyed  
Source: BI survey

# Largest independent safety consultants\*

Ranked by 2009 revenues from unbundled safety consulting services\*\*

Rank	Company/address	Phone/website	Unbundled safety consulting revenues	Total staff	Total unbundled clients	Corporate/institutional clients	Principal officer
<b>1</b>	<b>Bureau Veritas</b> 1601 Sawgrass Corporate Parkway, Suite 400, Sunrise, Ohio 33323	888-357-7020 <a href="http://www.us.bureauveritas.com">www.us.bureauveritas.com</a>	\$490,626,000	3,810	49,400	48,985	Mike McKibben, COO
<b>2</b>	<b>DuPont Sustainable Solutions</b> 4417 Lancaster Pike, Wilmington, Del. 19805	800-532-7233 <a href="http://www.safety.dupont.com">www.safety.dupont.com</a>	\$156,000,000	500	300	250	Jim Weigand, president
<b>3</b>	<b>ATC Associates Inc.</b> 600 W. Cummings Park, Suite 500, Woburn, Mass. 01801	877-282-4756 <a href="http://www.atcassociates.com">www.atcassociates.com</a>	\$50,104,740 <sup>1</sup>	125	9,814	9,525	Bobby Toups, president/CEO
<b>4</b>	<b>Regional Reporting Inc.</b> 90 John St., New York, N.Y. 10038	212-964-5973 <a href="http://www.regionalreporting.com">www.regionalreporting.com</a>	\$12,000,000	300	300	20	Martin Myers, CEO
<b>5</b>	<b>Safety Management Group</b> 6500 Technology Center Drive, Suite 200, Indianapolis, Ind. 46278	800-435-8850 <a href="http://www.safetymanagementgroup.com">www.safetymanagementgroup.com</a>	\$10,300,594	77	218	213	Kent Burget, president
<b>6</b>	<b>Safety Resources</b> 10975 Grandview Drive, Suite 400, Overland Park, Kan. 66210	877-856-8599 <a href="http://www.olsi.net">www.olsi.net</a>	\$9,331,000	150	300	300	Paul Mazzei, president
<b>7</b>	<b>F.A. Richard &amp; Associates Inc., dba FARA</b> 1625 W. Causeway Approach, Mandeville, La. 70471	800-259-8388 <a href="http://www.fara.com">www.fara.com</a>	\$7,575,000	193	90	27	M. Todd Richard, president/CEO
<b>8</b>	<b>FDRsafety L.L.C.</b> 278 Franklin Road, Suite 123, Brentwood, Tenn. 37027	888-755-8010 <a href="http://www.fdrsafety.com">www.fdrsafety.com</a>	\$6,500,000	42	200	200	Fred Rine, CEO
<b>9</b>	<b>Risk Consultants Inc.</b> 6611 Watson St., Union City, Ga. 30291	770-964-1226 <a href="http://www.riskcon.com">www.riskcon.com</a>	\$4,800,000	67	314	250	R. Michael Malone, president/CEO
<b>10</b>	<b>PSRG Inc.</b> 800 W. Sam Houston Parkway S., Suite 107, Houston, Texas 77042-1908	713-532-8800 <a href="http://www.psrgroup.com">www.psrgroup.com</a>	\$4,500,000	58	500	450	Robert J. Weber, president/CEO

\*Includes companies not owned by brokers or insurers. \*\*Reflects safety consulting revenues provided on a direct, unbundled basis. 1 Estimate.

Source: BI survey  
Researched by Karen Tucker

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# Web of leave laws creates headache for many employers

*More employers seek assistance on absence management issues as costs for lost production mount*

By JOANNE WOJCIK

Tracking and managing employee leave time is one of employers' biggest challenges given the federal- and state-mandated leave laws, workers compensation claims and employer-provided leave, say absence management experts.

The cost of employee absence can be substantial, amounting to as much as 8.7% of payroll, according to a recent study by New York-based Mercer L.L.C. That accounts for more than half the cost of health care benefits, which Mercer's 2009 "Survey of Employer-Sponsored Health Plans" estimated at 13.6% of payroll when the latest survey was released in April.

Moreover, lost productivity associated with employee absence can amount to 80% of an employer's total health-associated costs, according to the San Francisco-based Integrated Benefits Institute. The U.S. Labor Department estimates that more than \$100 billion is lost each year to workplace absenteeism.

**'Every state...has some form of job-protected leave that's above and beyond federal FMLA.'**

Marjorie Savage,  
Hartford Financial Services Group

To make matters worse, employers that fail to comply with mandated leave laws face stiff penalties as well as the risk of litigation, experts said. According to the Washington-based Society for Human Resource Management, the average cost to defend a lawsuit filed under the federal Family and Medical Leave Act is nearly \$80,000, regardless of the outcome.

To better manage this risk and its associated costs, more employers are outsourcing the absence management function to providers that are better equipped to keep tabs on the approximately 135 federal, state and local leave laws. In some cases, they also manage workers compensation claims that require employees to take time off from work.

A 2009 survey by Boston-based Spring Consulting Group L.L.C. found that three out of four employers want to administer employee leave consistently, and more than half—65%—are interested in outsourcing their leave management.

"Five years ago, employers asked whether we could do leave management. Today it's unusual that we don't have a proposal for short-term disability administration that doesn't also ask for a quote for total leave management," said Marjorie Savage, director of absence management products at Hartford Financial Services Group in Simsbury, Conn.

The reason for such requests is

the increasing number of leave laws; Hartford counts 135, each with different eligibility requirements and duration, she said.

"We used to call it FMLA, but we don't anymore because it's gotten so complex. As of today, every state in the union has some form of job-protected leave that's above and beyond federal FMLA," Ms. Savage said.

"In some cases, state leave laws run consecutively to FMLA. Others have less stringent eligibility

requirements than FMLA. Connecticut, for example, gives up to 16 weeks off, extending federal FMLA by four weeks," Ms. Savage said.

California laws are especially problematic for employers, she said.

Aside from FMLA, employers also must offer up to 16 weeks of pregnancy disability leave under the California Fair Employment and Housing Act; 16 weeks of leave under the State Disability Insurance program; leave under the California Family Rights Act, which adds up to

12 weeks to the FMLA's 12 weeks (see chart, page 16).

These mandated leaves generally come on top of any corporate leave that an employer may extend to employees, Ms. Savage said.

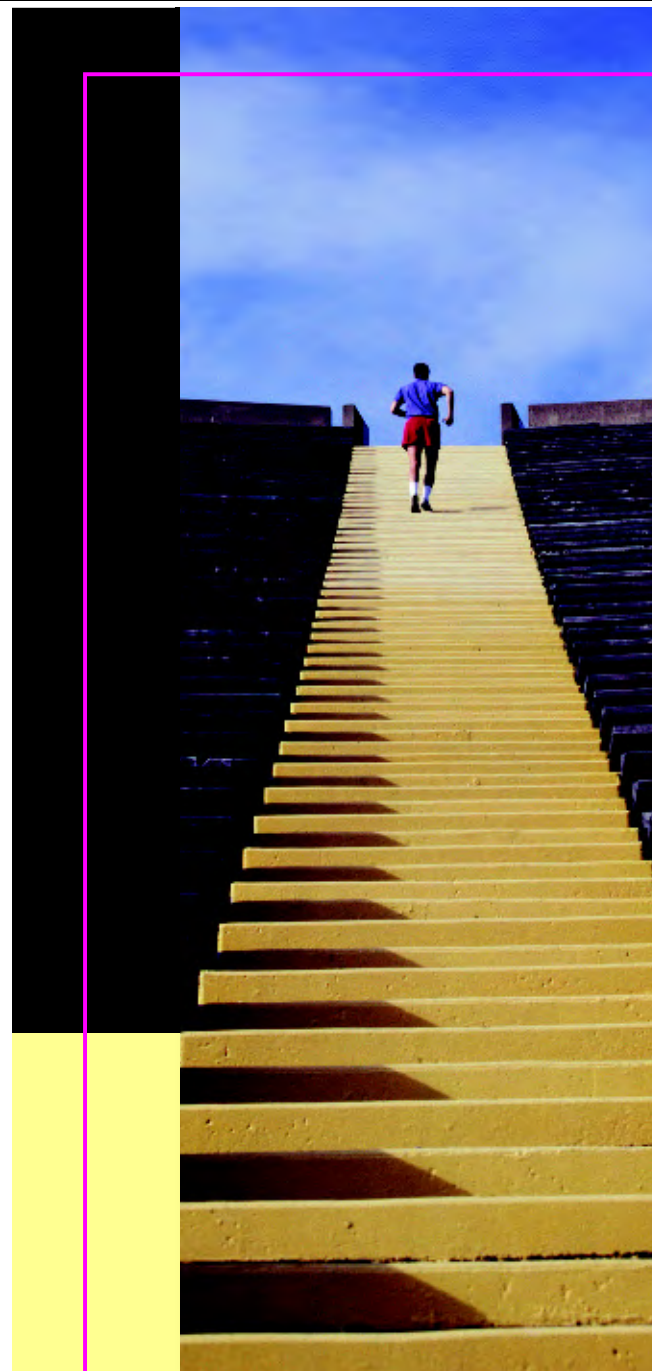
Marcia Carruthers, CEO and president of the Disability Management Employers Coalition in San Diego, said the decision to outsource absence management depends largely on in-house expertise, the volume of claims, the amount of litigation over leave issues and corpo-

rate philosophy.

"If you have a large claims volume, you probably should outsource;" whereas "if you have a low volume, maybe you can handle it internally," Ms. Carruthers said. "Then there's the question whether to outsource all or some."

Among other reasons employers may want to outsource leave management are greater speed in handling, improved communications

See **ABSENTEEISM** next page



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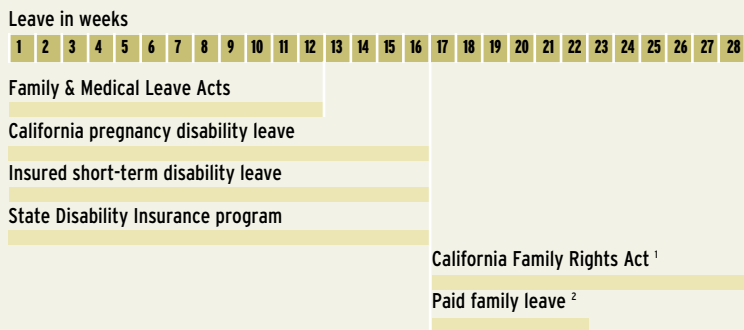
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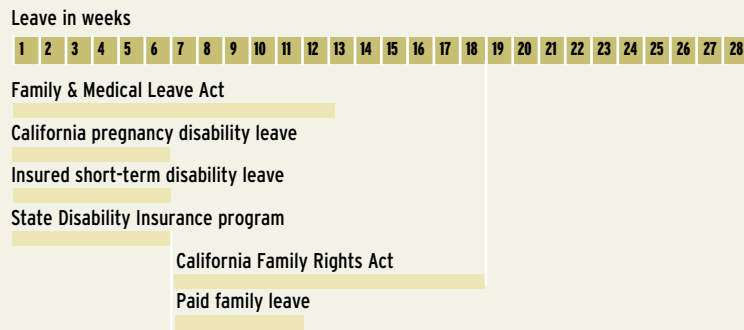
CALIFORNIA EXTENDED LEAVE LAWS

Compliance with California laws can prove challenging for employers, an example of Hartford Financial Services Group Inc. cases in California

CALIFORNIA PREGNANCY WITH COMPLICATIONS



CALIFORNIA PREGNANCY WITHOUT COMPLICATIONS



<sup>1</sup> Duration longer with complications. <sup>2</sup> Paid family leave begins after pregnancy disability leave and state disability income are used up.

Note: California pregnancy disability leave, insured short-term disability and state disability income run concurrently with the federal Family & Medical Leave Act. California Family Rights Act and paid family leave begin after other state leaves have been used up, but can run concurrently with FMLA.

Source: Hartford Financial Services Group Inc.

# Absenteeism: Employer challenges

CONTINUED FROM PAGE 15

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A vendor specializing in absence management also can provide specialty resources, such as access to clinical support or legal expertise, that can expedite the claims administration process, said Laura Beckmann, vp of benefits services at UNUM Group in Portland, Maine.

Providers usually are better positioned to keep up with changes in leave laws as well as court cases that may influence how they are administered, Mr. Klachefsky said.

For example, the Labor Department in June clarified the definition of "son" or "daughter" for purposes of FMLA eligibility that it said extended the rights of the gay, lesbian and/or transgender community to take federally protected time off to care for their partners' children.

**'When you outsource, you should get objective, consistent administration.'**

Cheryl Pasa, USAA People Services

The San Antonio-based United Services Automobile Assn., which has more than 22,000 U.S. employees, outsourced its absence management to ensure consistency, compliance and confidentiality in handling claims.

"When you outsource, you should get objective, consistent administration. You are taking highly confidential transactional work and contracting with a third party to administer," said Cheryl Pasa, executive director of USAA People Services. "I believe it is a better arrangement for all when a third party makes those decisions because they're looking solely at the facts. In an outsourced arrangement, the employee's supervisor or manager receives pertinent information relative to the absence, but does not receive employee medical information."

Smithfield, R.I.-based Sperian Protection USA Inc. outsourced its leave administration in January to Boston-based Liberty Mutual Insurance Co. to ensure privacy and expedite the administration process.

"We were renewing our insurance contracts and the life and disability insurance came up and we wanted to find a way to simplify this and make it more effective," said J. Michael Vittoria, vp of human resources at Sperian. "Then

Continued next page

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CALIFORNIA EXTENDED LEAVE LAWS

Compliance with California laws can prove challenging for employers, an example of Hartford Financial Services Group Inc. cases in California

CALIFORNIA PREGNANCY WITH COMPLICATIONS

Leave in weeks	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	
Family & Medical Leave Acts																													
California pregnancy disability leave																													
Insured short-term disability leave																													
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California Family Rights Act <sup>1</sup>																													
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you do have employee privacy concerns, which would make it better for employees if you outsource. For example, if they have a dependent child with behavioral issues or addiction problems, it's not something they want to go in and talk to people at work about.

Because Sperian's largest location has just 300 employees, "everybody kind of knows everybody and it's very hard to maintain a level of privacy. There's this risk that information can be inadvertently disclosed," he said, a risk that is avoided by using an outside absence management firm.

Outsourcing to a third-party provider also expedites the administration process, which ultimately should lower Sperian's absence costs, Mr. Vittoria said.

"By leveraging all of our STD, our

LTD spend and paying the administrative fee, it was very affordable. At worst, it will be cost-neutral," Mr. Vittoria said.

Cleveland-based Sherwin-Williams Co., with 28,000 U.S. employees and 3,200 stores across the country, outsourced its absence management function to UNUM to ensure consistency in the way claims were handled nationwide and compliance with myriad state disability laws, said Martha Lanning, director of health and welfare plans.

"Historically, we have had decentralized administration of FMLA primarily through HR professionals in the field," she said. "We found that as the new regulations made FMLA even more complex, we probably

weren't administering it consistently across all of our divisions. It was just too much for a busy HR profes-

**'You have employee privacy concerns, which would make it better for employees if you outsource.'**

J. Michael Vittoria,  
Sperian Protection USA

sional to keep up with the changes. There was certainly the possibility

of us not being in compliance in certain situations."

Outside absence management providers often also are better equipped to handle intermittent leave and disability programs that allow employees to work part-time while they are on disability, said Greg VanDam, Dover, N.H.-based senior vp of disability claims and technology at Liberty Mutual.

"Over and over, we hear from employers that the burden of managing intermittent time off...is more than they can handle," Mr. VanDam said.

"For example, say someone gets a diagnosis of cancer. They have surgery, receive STD for three weeks and then come back to work. Now the STD component is done, but

under federal law they are allowed up to 12 weeks to care for their illness. Say they are receiving chemotherapy or radiation three times a week. The employee reports that time off so that it is tracked against their individual entitlement for leave," Mr. VanDam said.

Additional administrative concerns are posed when LTD programs include partial return-to-work benefits, allowing employees to re-enter the workforce part time. In such cases, an employee can earn up to a certain percentage of predisability income and still receive LTD benefits. Absence management providers can take the burden of making those calculations and tracking the hours worked off employers' hands, Mr. VanDam said.



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To all persons or entities interested in the affairs of  
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**Notice is Hereby Given:**

I. James J. Wynn, Superintendent of Insurance of the State of New York, has been appointed by an order of the Supreme Court of the State of New York, New York County ("Court"), entered October 4, 2010 (the "Liquidation Order"), as the Liquidator (the "Liquidator") of Colonial Cooperative Insurance Company ("CCIC") and, as such, has been vested with all powers and authority expressed or implied under New York Insurance Law ("Insurance Law") Article 77, in addition to the powers and authority set forth in this Liquidation Order, (i) vested with title to CCIC's property and books, rights, franchises and all its books and records and (ii) directed to liquidate CCIC's business and affairs in accordance with Insurance Law Article 74. The Liquidator has, pursuant to Insurance Law Article 74, appointed Dennis J. Hayes, Special Deputy Superintendent of Insurance (the "Special Deputy") as his agent to liquidate the business of CCIC. The Special Deputy carries out his duties through the New York Liquidation Bureau, 123 William Street, New York, New York 10038-3889.

II. The Liquidator may deal with the property and business of CCIC in its name or in the name of the Liquidator.

III. The officers, directors, shareholders, members, depositors, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of CCIC and all other persons (other than the Liquidator and the agents) are permanently enjoined and restrained, except as authorized by the Liquidator, from (i) transacting the business of CCIC, (ii) wasting or disposing of or permitting to be done any act or thing that might waste or dispose of CCIC's property, (iii) interfering with the Liquidator in the possession, control and management of CCIC's property or in the discharge of his duties, and (iv) disclosing the name, address or contact information of CCIC's policyholders, or any other information that is proprietary to CCIC, or not in the public domain.

IV. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against CCIC, the Liquidator or the New York Liquidation Bureau, its employees, attorneys and/or agents with respect to any claims against CCIC.

V. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against CCIC's assets or any part thereof.

VI. All parties to actions, lawsuits, and special or other proceedings ("Litigation") in which CCIC is obligated to defend a party pursuant to an insurance policy bond, contract or otherwise are enjoined and restrained from prosecuting and litigating or otherwise taking any action with respect to such Litigation, including but not limited to: (i) filing or commencing or other court proceedings, motions or other requests to the court of any nature, proceedings on default judgments or judgments, service of documents, discovery or any other litigation tasks or procedures for a period of 300 days from the date of entry of the Liquidation Order.

VII. All persons who have filed party petitions or filed loss claims pursuant to Article 51 of the Insurance Law against CCIC are enjoined from presenting and filing claims with the Liquidator and a period of 180 days from the date of entry of this Order.

VIII. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds or securities of CCIC at market prices or offers, or if there is no market price, at the best price obtainable at private sale at such times and upon such terms and conditions as, in his discretion, he deems to be in the best interest of the creditors of CCIC, and he is further authorized to take such steps and to make and execute such assignments and other papers as may be necessary to effect and carry out such sales, transfers and assignments.

IX. In accordance with Insurance Law Section 7105, all contracts and agreements, including all leases, tax sharing agreements and employment contracts of CCIC, however described, shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of this Order unless expressly assumed in writing by the Liquidator.

X. CCIC and each of its officers, directors, shareholders, members, depositors, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations and other persons or entities having any property belonging to or controlled by CCIC, including but not limited to business records, insurance policies, estate files (electronic or paper), software programs, bank records or any tangible or intangible items of value, shall preserve such property and are directed, upon the Liquidator's request, to promptly assign, transfer, turn over and deliver such property to the Liquidator or his designees.

XI. Any person or entity providing claims processing services, data processing services, electronic records retention services or other information technology services to CCIC shall maintain and preserve all information in its possession ("Information") relating in any way to CCIC, whether labeled, including but not limited to all documents, data, electronic files and records, computer equipment (i.e., servers and printers), software programs and software licenses owned or leased by CCIC and are directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator or his designees.

XII. Any bank, savings and loan association, other financial institution or any other entity or person, which has on deposit or in its possession, custody or control of any of CCIC's funds, accounts or assets shall immediately, upon the Liquidator's request and direction, (i) turn over custody and control of such funds, accounts or assets to the Liquidator, (ii) transfer bills of such funds, accounts or assets to the Liquidator, (iii) change the name of such accounts to the name of the Liquidator, (iv) withdraw funds from such bank, savings and loan association or other financial institution, or (v) take any lesser action necessary for the proper conduct of the liquidation proceeding.

XIII. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74.

XIV. Judicial immunity is extended to the Superintendent in his capacity as Liquidator and his successors in office and their agents and employees and such immunity is extended to them for any cause of action of any nature against them, individually or jointly, for any action or omission by any one or more of them when acting in good faith, in accordance with the Liquidation Order, or in the performance of their duties pursuant to Insurance Law Article 74.

XV. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit.

XVI. The Court shall retain jurisdiction over this matter for all purposes.

XVII. All communications relating to CCIC and to the liquidation of the same should be addressed to:  
New York Liquidation Bureau, 123 William Street, New York, New York 10038-3889 • (212) 341-6755

**JAMES J. WYNN**  
Superintendent of Insurance of the State of New York as Liquidator  
of Colonial Cooperative Insurance Company

**DENNIS J. HAYES**  
Special Deputy Superintendent of Insurance and Agent for the Superintendent as  
Liquidator of Colonial Cooperative Insurance Company

## LEGAL NOTICE

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**IN RE:**  
English & American Insurance Company Limited,  
Debtor in Foreign Proceedings

In a Case Under Section 304  
of the Bankruptcy Code  
Case No. 09-42695 (JMP)

**NOTICE OF MOTION PURSUANT TO SECTIONS 105 AND 304 OF THE BANKRUPTCY CODE TO AMEND PERMANENT INJUNCTION ORDER TO AID ENFORCEMENT OF AMENDED SCHEME OF ARRANGEMENT**

PLEASE TAKE NOTICE that pursuant to an order of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), a hearing is scheduled to be held on November 23, 2010 at 10:00 a.m., or as soon thereafter as practicable may be heard (the "Return Date"), before the Honorable James M. Peck in Courtroom 601 of the Bankruptcy Court which is located at The Alexander Hamilton Custom House, One Bowling Green, New York, New York, 10004, to consider the motion (the "Motion") of the Scheme Manager of English & American Insurance Company Limited ("English American") for entry of an order (the "Amending Scheme Permanent Injunction Order") pursuant to 11 U.S.C. §§ 105 and 304 modifying the Permanent Injunction Order entered by this Court on January 31, 1995 and previously amended on July 26, 2000 (the "Permanent Injunction Order"), and giving full force and effect in the United States to the Amended Scheme of Arrangement (the "Amended Scheme") between English American and its Scheme Creditors (capitalized terms not defined herein shall have the meaning defined in the Amended Scheme).

The Amended Scheme, which was proposed pursuant to part 26 of the Companies Act 2006 of Great Britain, was approved by Scheme Creditors in the requisite statutory majority at the Scheme Creditors meeting convened on April 30, 2010. On October 6, 2010, the Amended Scheme was sanctioned by the High Court of Justice of England and Wales (the "High Court"). The Amended Scheme was delivered to the Registrar of Companies in England and Wales on October 12, 2010. Accordingly, the Scheme Manager intends now to proceed with its Motion and request entry of the Amending Scheme Permanent Injunction Order, which would: (A) give effect to the Amended Scheme in the United States so that it is binding and enforceable against all Scheme Creditors, including Scheme Creditors of the other Scheme Companies; and (B) modify and reaffirm the relief previously granted in the Permanent Injunction Order.

Copies of the Scheme Documents, the Motion, the form of the Proposed Amending Scheme Permanent Injunction Order to be presented on the Return Date, and the Memorandum of Points and Authorities in Support of the Motion are available to review and download at [www.englishandamericainurance.com](http://www.englishandamericainurance.com), as well as by fax, email or written request to the Scheme Manager's US counsel at Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020, (212) 610-6300 (Facsimile: (212) 610-6300, Attention: Stephen Doody, Esq., [stephen.doody@allenoverly.com](mailto:stephen.doody@allenoverly.com)).

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion must be made in writing describing the basis therefor and shall be filed with the Court electronically in accordance with General Order M-393 by registered users of the Court's electronic case filing system, and by all other parties in printed, on a 3.5 inch disk, preferably in Portable Document Format (PDF), Word, Perfect or any other Windows-based word processing format, with hard copy to the Chambers of the Honorable James M. Peck, and served upon Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020 (Attention: Stephen Doody, counsel to the Scheme Manager) so as to be received on or before November 15, 2010 at 5:00 p.m., New York time.

Dated: New York, New York, October 26, 2010

ALLEN & OVERY LLP, Attorneys for the Scheme Manager, Ken Coleman, Stephen Doody,  
1221 Avenue of the Americas, New York, New York 10020, (212) 610-6300



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## LEGAL NOTICE

**THE BALANCE SCHEME OF ARRANGEMENT  
NOTIFICATION OF EFFECTIVE AND BAR DATE**

**ENGLISH & AMERICAN INSURANCE COMPANY LIMITED  
THE INSURANCE CORPORATION OF SINGAPORE (U.K.) LIMITED  
BALOISE INSURANCE LIMITED  
CITY INTERNATIONAL INSURANCE COMPANY LIMITED  
DOWA INSURANCE COMPANY (EUROPE) LIMITED  
EAST WEST INSURANCE COMPANY LIMITED  
FUJI INTERNATIONAL INSURANCE COMPANY LIMITED  
HISCOX INSURANCE COMPANY LIMITED  
THE HOME INSURANCE COMPANY (IN LIQUIDATION)  
KX REINSURANCE COMPANY LIMITED  
METROPOLITAN REINSURANCE COMPANY (U.K.) LIMITED  
MOORGATE INSURANCE COMPANY LIMITED  
NIPPON INSURANCE COMPANY OF EUROPE LIMITED  
POLYGON INSURANCE COMPANY LIMITED  
SWISS RE INTERNATIONAL SE, UK BRANCH  
TOWER INSURANCE LIMITED**  
(together the "SCHEME COMPANIES")

NOTICE is HEREBY GIVEN that on October 20, 2010, the High Court of Justice of England and Wales sanctioned the arrangement proposed to be made between the Scheme Companies and their Scheme Creditors (the "Scheme"). Copies of the Order sanctioning the Scheme were delivered to the Registrar of Companies in England and Wales on October 20, 2010 and the Scheme became effective for each of the Scheme Companies on that date (the "Effective Date").

Please note that all Scheme Creditors are bound by the provisions of the Scheme.

The Scheme Documents, Court Orders and related information are available to download from the W.A. Daily Website at [www.englishandamericainurance.com](http://www.englishandamericainurance.com) or by clicking on the links on the W.A. Daily Website. The Scheme Manager (PFI) Insurance Solutions Limited ("PFI")

**Return of Claim Form**  
Scheme Creditors must submit their Claim Form to the PFI's Claims Portal at [www.englishandamericainurance.com/claims](http://www.englishandamericainurance.com/claims) or by completing and returning a copy of the Claim Form to us, by email at [claims@pfi.com](mailto:claims@pfi.com) by 12:00 hours on 13:00 (the "Bar Date"). The Website and the documents that accompany them are available from [www.englishandamericainurance.com/guides](http://www.englishandamericainurance.com/guides) providing the precise instructions to your Claim Form.

For each Scheme Company of which you are a creditor, PFI will require a Claim Form to be completed and returned to PFI by the Bar Date. PFI will also need to be able to contact you to verify the details of your Claim Form. It is your responsibility to complete these details on your Claim Form.

Scheme Creditors should note that PFI will not accept a Claim Form unless it is received by PFI by the Bar Date and is accompanied by a copy of the Claim Form as required by PFI. If you have already done so, when you submit your Claim Form to the PFI's Claims Portal, you will need to provide a copy of the Claim Form as required by PFI.

The Scheme Creditors should not submit a Claim Form to the W.A. Daily Website or to the Bar Date until they have received a copy of the Scheme Documents, including the Claim Form, and the Bar Date until they have received a copy of the Scheme Documents. If you have submitted a Claim Form to the W.A. Daily Website or to the Bar Date, you should immediately advise the PFI.

Any Scheme Creditors which have questions concerning the above information should refer to the Table 1.3 required to file your Claim Form. The contact details are as follows:  
ENGLIS & AMERICAN INSURANCE COMPANY LIMITED, KEN COLEMAN, HENRY COLEMAN, 1221 AVENUE OF THE AMERICAS, NEW YORK, NEW YORK 10020  
Phone: +44 (0)20 6300 6300  
Email: [ken.coleman@allenoverly.com](mailto:ken.coleman@allenoverly.com)  
Dated: 14/10/2010 13:00 (13)

## LEGAL NOTICE

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**IN RE:**  
Petition of PFI Insurance Solutions Limited, as foreign representative of BALOISE INSURANCE LTD., CITY INTERNATIONAL INSURANCE COMPANY LIMITED, DOWA INSURANCE COMPANY (EUROPE) LIMITED, EAST WEST INSURANCE COMPANY LIMITED, FUJI INTERNATIONAL INSURANCE COMPANY LIMITED, HISCOX INSURANCE COMPANY LIMITED, KX REINSURANCE COMPANY LIMITED, METROPOLITAN REINSURANCE COMPANY (U.K.) LIMITED, MOORGATE INSURANCE COMPANY LIMITED, NIPPON INSURANCE COMPANY OF EUROPE LIMITED, POLYGON INSURANCE COMPANY LIMITED, SWISS RE INTERNATIONAL SE, UK BRANCH, AND TOWER INSURANCE LIMITED Debtors in a Foreign Proceeding.

**CHAPTER 15  
Case No. 10-15368 (JMP)  
Jointly Administrated**

**NOTICE OF FILING AND HEARING ON PETITIONS SEEKING RECOGNITION OF FOREIGN PROCEEDING PURSUANT TO CHAPTER 15 OF THE UNITED STATES BANKRUPTCY CODE**

PLEASE TAKE NOTICE that on October 15, 2010 PFI Insurance Solutions Limited, the designated foreign representative (the "Petitioner") of the above-captioned debtors (together, the "Petitioning Companies") in schemes of arrangement (the "Schemes") and associated proceedings under part 26 of the English Companies Act 2006 (the "English Proceedings") before the High Court of Justice of England and Wales filed petitions (the "Chapter 15 Petitions") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") under chapter 15 of title 11 of the United States Code commencing cases (the "Chapter 15 Cases") ancillary to the English Proceedings, and seeking recognition of such foreign proceedings as "foreign main proceedings," or in the alternative as "foreign non-main proceedings," and relief in and through the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that the Petitioner seeks, among other things, entry of an order giving full force and effect in the United States to the Schemes, a permanent injunction and related relief.

PLEASE TAKE FURTHER NOTICE that by Order dated October 21, 2010, the Chapter 15 Cases are being jointly administered and procedural purposes only and all pleadings filed in the Chapter 15 Cases should bear the above-referenced caption.

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to present a response or objection to the Chapter 15 Petitions must do so pursuant to the Bankruptcy Code and the Local and Federal Rules of Bankruptcy Procedure. Such response or objection must be made in writing describing the basis therefor and filed with the Bankruptcy Court electronically in accordance with General Order M-393 by registered users of the Court's electronic case filing system, and by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), Word Perfect or any other Windows-based word processing format, with a hard copy to the Chambers of the Honorable James M. Peck, United States Bankruptcy Judge, and served upon the counsel for the Petitioner so as to be received by them on or before **November 15, 2010 at 5:00 p.m. (ET)**. Notices in connection with the Petitions should be addressed to Allen & Overy LLP, 1221 Avenue of the Americas, New York, NY 10020, Attention: Ken Coleman and Stephen Doody.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court has scheduled a hearing on **November 23, 2010 at 10:00 a.m. (ET)** (the "Recognition Hearing") before the Honorable James M. Peck in Courtroom 601 of the Bankruptcy Court, One Bowling Green, New York, New York 10004-1400 to consider the Chapter 15 Petitions and any responses or objections thereto.

PLEASE TAKE FURTHER NOTICE that if no response or objection is timely filed and served as provided above, the Bankruptcy Court may grant the recognition and relief requested by the Petitioner without further notice or hearing.

PLEASE TAKE FURTHER NOTICE that the Recognition Hearing may be adjourned from time to time without further notice other than an announcement in open court at the Recognition Hearing of the adjourned date or dates or any further adjourned hearing.

PLEASE TAKE FURTHER NOTICE that the details regarding the filing and processing of claims are set forth in the Schemes, and no claims should be filed in these Chapter 15 Cases.

Copies of the Chapter 15 Petitions, the Scheme Documents, and other filings in this case are available (i) on the Bankruptcy Court's Electronic Case Filing System, which can be accessed from the Bankruptcy Court's website at [www.usdc.sdnyc.gov](http://www.usdc.sdnyc.gov) (PACER login and a password are required to retrieve a document), (2) at the Petitioner's website, [www.englishandamericainurance.com](http://www.englishandamericainurance.com), and/or (3) upon written request to the Petitioner's counsel addressed to: Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020, Telephone: (212) 610-6300, Facsimile: (212) 610-6300, Attention: Jonathan Chou, [jonathan.chou@allenoverly.com](mailto:jonathan.chou@allenoverly.com).

Dated: New York, New York, October 26, 2010

ALLEN & OVERY LLP, Ken Coleman, Stephen Doody, 1221 Avenue of the Americas, New York, New York 10020  
Telephone: (212) 610-6300, Facsimile: (212) 610-6300, [ken.coleman@allenoverly.com](mailto:ken.coleman@allenoverly.com), [stephen.doody@allenoverly.com](mailto:stephen.doody@allenoverly.com)

**Need to publish a Legal Notice, Announcement or RFP?**  
Contact Monique at 212-210-0129.

# Roth: Guidance expected to answer employers' rollover questions

CONTINUED FROM PAGE 4

has to be segregated from funds already in employees' Roth 401(k) accounts.

"We have numerous issues" for which guidance is necessary, said Larry Goldbrum, general counsel for the Spark Institute in Charlotte, N.C., which represents retirement plan service providers and investment managers.

Treasury Department officials said they are aware of the need for guidance and they are moving quickly to provide it.

"It is something we are working on as quickly as we can. It is on a fast track," said Mark Iwry, deputy assistant secretary for retirement and health policy at the Treasury Department.

The tax treatment of funds contributed to Roth 401(k) accounts is different than traditional 401(k) plans. In a traditional 401(k), employees make pretax contributions. Those contributions, as well as employer matching contributions and investment income, are taxed when the participant receives a distribution, such as at retirement.

In a Roth 401(k), contributions are made with aftertax money. Contributions and investment income that is earned are not taxed when the participant receives a distribution, if certain conditions are met.

Under the recent federal legislation, participants who rolled over funds from a regular 401(k) to a Roth 401(k) account would be taxed on the funds that were rolled over, which then would earn tax-free investment income and be exempt from taxes when distributed to participants.

Depending on participants' current and future tax bracket, rolling

over funds could reduce their tax liability. For example, if tax rates increase in the future, participants who rolled over funds from a 401(k) plan to a Roth 401(k) and paid taxes now on the transferred amount would pay less in taxes than if they kept the money in a regular 401(k) plan and took a distribution later.

"First we had Investment Education 101, which was about the importance of diversifying investments. This is Investing 102, which is about tax liability diversification," said Marina Edwards, a senior consultant with Towers Watson & Co. in Chicago, referring to invest-

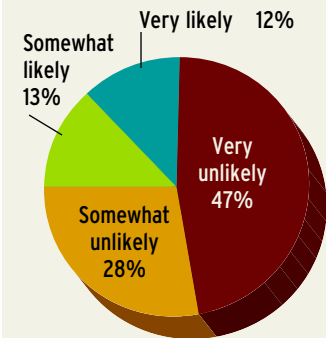
ing in a Roth account.

"It is a way of hedging your bets" by having funds in traditional and Roth 401(k) accounts, said Bill McClain, a principal in the Seattle office of Mercer L.L.C.

To offer the option, employers must have or add a Roth feature in their 401(k) plans. A survey last year by Hewitt Associates Inc., which subsequently was purchased by Aon Corp. and renamed Aon Hewitt, found that 29% of respondents already offered a Roth 401(k) option, while one-quarter said they were either likely or somewhat likely to add the feature this year.

## READY FOR ROTH?

Percentage of employers considering adding a Roth feature to their 401(k) plans



Source: Aon Hewitt Inc.

## LETTERS

CONTINUED FROM PAGE 8

establishes that Mr. Greenberg was specifically advised that the form of the transaction would meet the requirements of all legal, regulatory and tax laws. As any chief executive officer, Mr. Greenberg had a right to rely upon this advice from his experts. Inexplicably, the opinion of Justice Ramos rejects this fundamental principle of corporate governance.

Mr. Greenberg is confident that his appeal will re-establish the standards governing corporate executive reliance and responsibility and the appropriateness of his conduct.

### Robert G. Morvillo

Attorney for Maurice "Hank" Greenberg  
Principal at Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer P.C.

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## ADVERTISER

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## Market Moves

### Sedgwick CMS acquires investigative firm

**NAPERVILLE, Ill.**—Sedgwick Claims Management Services Inc. has acquired investigative services provider Factual Photo Inc.

The deal, for which terms were not disclosed, expands Sedgwick CMS' strategy to detect, investigate and prevent fraudulent claims, the Memphis, Tenn.-based third-party administrator said in a statement.

"We see this acquisition as an opportunity to enhance fundamentally the value and scope of fraud prevention services for Sedgwick CMS clients," David A. North, president and CEO of Sedgwick CMS, said in the statement.

Naperville, Ill.-based Factual Photo, which will continue to operate under its existing leadership and name, provides investigative services for employers, insurers and claims management professionals with a focus on workers compensation, disability and other claims related to employment. The deal is expected to be completed Nov. 1.

### Brown & Brown unit expands

**BERWYN, Pa.**—Brown & Brown of Pennsylvania Inc. has expanded its employee benefits portfolio with the acquisition of certain assets of Greystone Benefits Inc. for an undisclosed amount.

The acquired assets include the book of business serviced by Daniel C. McCormick, principal of Greystone Benefits, which consists mainly of employee benefits products and services offered through-

out eastern Pennsylvania and Philadelphia with annual revenues of \$1.2 million, the Plymouth Meeting, Pa.-based unit of Brown & Brown Inc. said in a statement.

As part of the deal, Mr. McCormick and his team will relocate to Brown & Brown's Plymouth Meeting offices and report to Rob Heller, profit center leader for Brown & Brown of Pennsylvania.

Berwyn, Pa.-based employee benefits brokerage Greystone Benefits will continue to operate under the direction of Principal Joseph Vogt.

### Markel acquires renewal rights from Talbot

**LONDON**—Markel International Ltd. has acquired the renewal rights of the bloodstock and livestock book of business written by Talbot Underwriting Ltd.

The acquisition, for which terms were not disclosed, expands Markel's strategy to "to build a global book in this sector" of the bloodstock and livestock business, William Stovin, president and chief operating officer of London-based Markel, said in a statement.

The deal is Markel's third equine and livestock acquisition this year. In July, Markel acquired French managing general agency Le Centaure. In August, Markel Insurance Co., a Richmond, Va.-based unit of Markel Corp., acquired the animal mortality business of American Live Stock Inc.

Talbot Underwriting, which operates syndicate 1183 in the Lloyd's of London market, is a unit of Talbot Holdings Ltd., which Validus Holdings Ltd. acquired in 2007.

Sophie Dunkerly and Alex Colquhoun will join Markel's team in London from Talbot Underwriting to handle the renewals, Markel said.

### Global Aerospace, MSIG partner on aviation comp

**PARSIPPANY, N.J.**—Global Aerospace Inc. and Mitsui Sumitomo Insurance Group Holdings Inc.

have entered into an agreement to underwrite workers compensation insurance for the general aviation industry in the United States.

The coverage is offered by Global Aerospace, Mitsui Sumitomo Insurance Co. of America and Mitsui Sumitomo Insurance USA Inc. through Mitsui Sumitomo Marine Management (U.S.A.) Inc., London-based Global Aerospace said in a statement.

The insurance is available for corporate flight departments, flight management services, charter aircraft operators, select rotor wing operations, and small to midsize airports, among others, and will be underwritten through Global Aerospace's U.S. headquarters in Parsippany, N.J.

The partnership replaces an underwriting agreement between Global Aerospace and Tokio Marine & Nichido Fire Insurance Co. Ltd.

### Clements Europe acquires business from Lockton

**LONDON**—Clements Europe, a unit of Washington-based managing general agency Clements International, has acquired international vehicle risk management business from Lockton Cos. L.L.C.

The acquisition, for which terms were not disclosed, is part of a strategy to expand Clements International's European business through its London office, London-based Clements Europe said in a statement.

Clements International provides insurance for U.S. expatriates and U.S.-based international organizations.

#### TO SUBMIT ITEMS

*BI's Market Moves* column reports on activities by insurance industry companies and related entities. Please send news of Market Moves to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. or e-mail [mtsikoudakis@businessinsurance.com](mailto:mtsikoudakis@businessinsurance.com).

## UP Comings & Goings CLOSE



#### HEATHER KING

**NEW JOB TITLE:** San Antonio-based director of health risk management at Lockton Cos. L.L.C.

**PREVIOUS POSITION:** San Antonio-based regional nutrition programming manager for Spectrum Athletic Clubs.

**GOALS FOR NEW POSITION:** Evaluate pertinent claims data from our clients and determine the best comprehensive health promotion and disease management solutions for their organization. Successfully implement long-range strategic plans that measurably improve the health of employees and their families, minimize escalating health care costs and foster a culture of true health/wellness.

**CAREER HIGHLIGHTS:** Through the course of my career, I have traversed through clinical care, counseling/behavioral modification, group weight loss and disease management programming, corporate strategy, and mass marketing and communications. The chance to do regular television reporting on wellness and health happened by

accident and opened up a whole new range of opportunities. My expertise with these diverse disciplines has allowed me to seize this great new opportunity with Lockton.

**DREAM JOB OUTSIDE THE INDUSTRY:** Sommelier. Who wouldn't love traveling the world drinking great wine?

**MOST PASSIONATE ABOUT:** Living life to the fullest, enjoying each day, experiencing the special moments with your family, and not taking life for granted. My years in the oncology and bone-marrow transplant area provided me a deep appreciation for the fragility of life.

**CAN'T-MISS TV SHOW:** "Glee." Don't laugh; they sing, they dance. It's all about pop culture. It's a guilty pleasure.

**ON A SATURDAY AFTERNOON:** Keeping up with my girls' activities: soccer games, cheer competitions and volleyball meets. My husband and I will hit the gym, and then off to a great dinner. When all is right with the world, my family is boating or wakeboarding on the lake with friends.

## Business Resources

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**Employment Liability Risk Management Publishing: November 8**  
**Classified Ad Close: Nov. 2**  
**Extra Distribution: PLUS, WCF**

Contact Monique Murray at 212-210-0129 For Details

## Comings & Goings

# ONLINE

VISIT [www.businessinsurance.com/ComingsandGoings](http://www.businessinsurance.com/ComingsandGoings) for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly e-mail.

#### TO SUBMIT ITEMS

*Business Insurance* would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

Mike Tsikoudakis  
*Business Insurance*  
360 N. Michigan Ave.  
Chicago, Ill. 60601-3806

[mtsikoudakis@businessinsurance.com](mailto:mtsikoudakis@businessinsurance.com)

#### POSTING THIS WEEK

##### ASSOCIATIONS:

■ Geneva Assn.

##### BROKERS:

■ Aon Risk Solutions  
■ CRC Insurance Services Inc.  
■ Independent Services Group  
■ Jardine Lloyd Thompson Ltd.  
■ Lockton Cos. L.L.C.  
■ Marsh Inc.  
■ S.H. Smith & Co. Inc.

##### INSURERS:

■ CGU Insurance Ltd.  
■ Liberty International Underwriters  
■ Sunshine State Insurance Co.  
■ Torus Insurance Holdings Ltd.  
■ Zurich North America Commercial

# Brit: Insurer agrees to \$1.4 billion takeover by investment groups

CONTINUED FROM PAGE 3

deal for it to proceed.

The deal also is subject to approval of the U.K. Financial Services Authority, Lloyd's of London and the Gibraltar Financial Services Commission.

Under terms of the deal, Brit shareholders would receive £10.25 (\$16.07) per share in cash plus a contingent value payment of up to 25 pence (39 cents) per share. Shareholders who were on the company's shareholder register as of Oct. 22 will be eligible for a 30 pence (47 cents) capital distribution.

The deal is expected to be finalized in the first quarter of 2011.

In a statement last week, Brit Chairman John Barton said the independent directors of the company believed the deal represents good value for shareholders.

The Achilles consortium said in the takeover documents that it believes that a "generally challenging insurance underwriting environment characterized by 'soft' market conditions in a number of lines, combined with a low interest environment has, in the consortium's view, enabled it to offer a very substantial premium to shareholders."

Investment banking firm Jefferies International Ltd., a unit of Jefferies & Co. Inc., recommended that Brit shareholders accept Achilles' offer.

Some risks remain, though, Jefferies said in a research note.

The deal is subject to FSA approval, which could take up to 90 days, it said. In addition, the deal requires a high shareholder acceptance rate—95%, though there may be room for this to be altered, Jefferies analysts said.

A weakening in the U.S. dollar or a major catastrophe loss in the final quarter of the year could jeopardize the contingent value payment, up to 25 pence a share, which depends on Brit's results.

## Mixed rating agency reaction

Rating Agency A.M. Best Co. Inc. last week placed its ratings of Brit on review with negative implications, citing "uncertainties surrounding the post-acquisition capital structure of Brit Insurance."

Best, which rates the financial strength of Brit Insurance Ltd. at A, said it placed the company's ratings under review because it believed that Achilles could adopt a strategy of maintaining a lower risk-adjusted capitalization level for Brit Insurance than Best previously had expected.

However, Fitch Ratings Ltd.

affirmed its A rating of Brit insurance and removed it from its credit-watch list.

Fitch said it had met with representatives of Apollo and CVC and, based on information they provided, it believed that if an acquisition goes ahead, Brit's capitalization will be maintained at a level equivalent to an A rating.

"Regarding strategy, Fitch anticipates that Brit Insurance's existing management team will retain the day-to-day running of the business and maintain underwriting discipline, with future premium growth being reflective of market conditions," it said in a statement.

Fitch said it would continue to monitor the takeover's effect on Brit's ability to retain both business and staff.

Meanwhile, Brit last week reported an 8.5% fall in gross written pre-

miums to £1.22 billion (\$1.91 billion) for the first nine months of the year. The company said the decrease reflected its "disciplined approach to the renewals where premium rates are under excessive pressure."

In its interim management statement, Brit said that on average, premium rates for renewed business increased 1.1% for the first nine months of 2010, compared with an average 4.8% increase in the same period last year.

The insurance and reinsurance markets are forecast to remain competitive for the remainder of 2010 and into 2011, Brit said.

For the nine months through Sept. 30, Brit's investment return was £101.8 million (\$159.6 million), down from £119.8 million (\$187.9 million) for the comparable period in 2009.

## P&I CLUB INCREASES

Protection and indemnity club rate increases for members, for policy years 2007-2011.

Club	2007	2008	2009	2010	2011
American Steamship Owners Mutual Protection & Indemnity Assn. Inc.	10%	20%	29.0%	4.16%	N/A*
Assuranceforeningen Skuld	2.5	7.5	15	5	0
Britannia Steam Ship Insurance Assn. Ltd.	5	23.8	12.5	5	5%
Gard P&I (Bermuda) Ltd.	5	10	15	0	0
Japan Ship Owners' Mutual P&I Assn.	10	20	21.1	12.5	N/A
London Steam Ship Owners' Mutual Insurance Assn. Ltd.	7.5	17.5	15	5	N/A
North of England P&I Assn. Ltd.	7.5	17.5	17.5	5	N/A
Ship Owners Mutual Insurance Assn. Ltd.	5	15	10	5	N/A
Standard Steamship Owners' Protection & Indemnity Assn. (Bermuda) Ltd.	5	15	15	3	3.5
Steamship Mutual Underwriting Assn. (Bermuda) Ltd.	9	15	17.5	5	0
Swedish Club	7.5	15	15	2.5	N/A
United Kingdom Mutual Steam Ship Assurance Assn. Bermuda Ltd.	7.5	17.5	12.5	5	5
West of England Ship Owners Mutual Insurance Assn. (Luxembourg)	5	15	19.2	5	N/A

\* N/A=Not available

Source: "Protection & Indemnity Mid-Term Review 2010," Aon Ltd.

## P&I clubs: Skuld charts new rating course

CONTINUED FROM PAGE 4

opinion that the method of general increases will remain," said Stephen Griffiths, director of Aon Risk Solutions' marine team in London.

"Others are sticking to the general-increase route," agreed Andrew Bardot, CEO of the International Group of P&I Clubs in London.

"I don't know how much you can read into it," Mr. Bardot said of Skuld's move to abandon general increases. "Every renewal is a matter of negotiation. A club comes out with a general increase, then the negotiations begin."

"All the clubs will say that it's the individual member's record that is the final determinant whether or not they have a general increase, which is a starting point for negotiations," said Joseph E.M. Hughes, chairman and CEO of Shipowners Claims Bureau Inc., the New York-based manager of American Steamship Owners Mutual Protection & Indemnity Assn. Inc.

While Skuld is the first to formally abandon general increases, other P&I clubs have had "occasions

when we have not published a general increase because we thought it was more appropriate to adopt a different approach" to deal with specific member issues, said Alistair Groom, chief executive of Charles Taylor & Co. Ltd., the London-based manager of Standard Steamship Owners' Protection & Indemnity Assn. (Bermuda) Ltd.

Aon's Mr. Griffiths said that abandoning general increases will make little difference at a time when the increases are small, but it could result in interesting negotiations if market conditions return to previous years when P&I clubs sought double-digit increases.

A shipowner with a good loss record when general increases are 15% might be assessed only half that amount, Mr. Griffiths said. While such an increase would be far lower than other members are charged, it still could be considered high by a shipowner with few or no losses, he said.

Skuld's approach seems to suggest that if a shipowner has no claims, it would see no rate increase, said Mr. Griffiths. "It's difficult to

imagine how they will distribute the losses" among the mutual insurer's members, he said.

Mr. Jacobs said Skuld for several years has calculated rates based on individual members' experience before its decision to formally abandon general rate hikes. The club will continue to consider the principle of mutuality in its operations, he said, but is moving to a more accurate method of determining rates.

"We were looking at individual members' experience anyway," Mr. Jacobs said. "To use a Norwegian saying, 'We're just adjusting the map to fit the terrain.'"

Meanwhile, other P&I clubs have been announcing their general increases (see chart).

The Britannia Steam Ship Insurance Assn. Ltd. and the United Kingdom Mutual Steamship Assurance Assn. (Bermuda) Ltd. this month said rates would rise 5% for 2011. The Standard Club said its increase amounts to 3.5%.

Gard P&I (Bermuda) Ltd. and the Steamship Mutual Underwriting Assn. (Bermuda) Ltd. said there would be no general increases in 2011.

## Cargo: Holiday shipping season brings rise in thefts

CONTINUED FROM PAGE 4

security practices, he said. It's important for the shippers to talk with the trucking company's risk control manager and make clear what sort of security measures have to be implemented, he said.

"The thieves are out there doing their own Christmas shopping," Mr. Cornell said.

Regardless of the season, "if you take every theft that has occurred, especially in truck stops or warehouses, you're going to find that the employee or the driver had made some mistakes," said Capt. Tommy Bibb of the Marion County Sheriff's Office in Ocala, Fla.

### Kingpin locks

An unattended and detached trailer is a particularly inviting target for thieves, Capt. Bibb said. "If you're going to leave the trailer unattended and detached, they need to have a good kingpin locking device," which goes over the yoke that attaches to the tractor, he said.

Quality is critical. "A cheap one won't do it," he said. Well-made kingpin locks could cost \$100 each.

If a trucker pulls into a truck stop for a meal or shower, the driver should pull the rig straight in rather than back it in, Capt. Bibb said. "Park it where you can somehow keep an eye on it," he said, adding that most cargo thieves are very good at surveillance, watching drivers and waiting for the best opportunity to steal the cargo.

Travelers' Mr. Cornell offered similar advice. Loads should not be left unattended and unsecured, he said.

Risk managers need to review and reinforce security policy, he said. They need to make sure that drivers use the locking devices they have been provided as well as covert tracking devices, which ideally are placed within the cargo year-round, he said. He noted that some trucking companies rent the tracking devices during the high-volume

holiday season.

"The biggest method of prevention is good policies and good enforcement of them," said Mr. Cornell. He advocated an "overall layered security approach" involving trained and vetted employees who are updated on policies and engaged in policies.

In addition, the risk manager or another manager needs to check to make sure that employees are following company policies, Mr. Cornell said.

Although not engaged in the making and shipping of holiday gifts, Johnson & Johnson nevertheless experiences an increase in the number and value of shipments at year's end, said Wayne Klokis, manager of the corporate risk management department. The New Brunswick, N.J.-based company's transit program falls into Mr. Klokis' bailiwick.

"We've have a pretty successful story in regard to our cargo thefts in general," said Mr. Klokis. In 2008, the company suffered a series of large pharmaceutical thefts, he said (BI, April 26).

But through a partnership with J&J's cargo insurer—London-based RSA Insurance Group P.L.C.—and internal security personnel, "we basically have had no thefts on the pharma side of the house" since enhanced security procedures were put in place in 2009, Mr. Klokis said.

He said J&J "tried to find the best of the best" of transporters to carry company products. This meant using GPS systems, having two drivers on shipments and even tailing shipments with security cars, Mr. Klokis said.

"Clearly when it comes to year-end, trying to get sales, it's critical. We undoubtedly see shipments and the value of the shipments increase, so we're on even higher alert at year-end to see that our shipments are protected," Mr. Klokis said. "As a result, our antenna is up to be on the watch against increased theft activity."

## News In Brief

standards" when it adopted a new methodology to determine how much federal assistance to American International Group Inc. would cost taxpayers, according to a report.

### Everest Re CEO named Insurance Leader

St. John's University's School of Risk Management has named Joseph V. Taranto, chairman and CEO of Everest Re Group Ltd., as its 2010 Insurance Leader of the Year. Mr. Taranto will be honored at a Jan. 19, 2011, dinner at the Marriott Marquis in New York.

### Firm to plead guilty in defective drug case

GlaxoSmithKline P.L.C. agreed last week to plead guilty to charges relating to the manufacture and distribution of defective drugs and pay a criminal fine and forfeiture totaling \$150 million and a \$600 million civil settlement under the federal False Claims Act and related state claims, the Justice Department said. The defective drugs were made at GSK's now-closed Cidra, Puerto Rico, manufacturing facility. The drugs, manufactured at the plant between 2001 and 2005, are Kytril, Bactroban, Paxil CR and Avandamet.

### Retirement plan limits stay flat in 2011

For the second year in a row due to the low inflation rate, the maximum allowed contribution to 401(k) and other defined contribution plans, and the maximum benefit that can be funded through defined benefit plans, will hold even, the Internal Revenue Service said.

### Swiss Re bonds linked to life insurance risks

Swiss Reinsurance Co. Ltd. has transferred \$175 million of extreme mortality risk to the capital markets through its Vita Capital IV Ltd. program. Under the program, Swiss Re would receive from the facility up to \$100 million to pay claims from an event causing extreme loss of life in the United States or Japan, and up to \$75 million for such losses in Canada or Germany.

### U.S. Chamber releases cyberthreat guide

The U.S. Chamber of Commerce released a guide to help business owners and managers identify cyberthreats, as well as adopt solutions to reduce threats and increase network security. "Internet Security Essentials for Business," released by the chamber at its National Cybersecurity Awareness Month meeting in Washington, is aimed at educating businesses about common threats they face online, specifically cybercrimes such as stealing intelligence, identity theft and trade secrets.

# Defects: Ruling spurs insurers to make policy changes

CONTINUED FROM PAGE 1

guest rooms. Hilton sued Group Builders and other defendants, alleging, among other things, that the subcontractor's shoddy work caused construction defects that led to property damage.

The ruling stated that an investigation "revealed numerous material defects in the design and construction of the tower. Some of these defects substantially contributed to or caused the mold growth."

The court acknowledged that the mold damage and loss of use of the facility qualified as property damage, but it ruled that the construction defects were not an occurrence triggering coverage under a CGL policy.

In upholding the lower court ruling, the appeals court relied on prior federal court opinions, including one by the 9th U.S. Circuit Court of Appeals. That court ruled that to allow recovery for disputes between parties in a contractual relationship over the quality of work would essentially convert a CGL policy into a professional liability policy or performance bond.

The pro-insurer ruling surprised brokers and policyholders, who feared it could mean their claims for property damage resulting from construction defects caused by poor-quality work would be denied routinely by insurers in Hawaii and elsewhere.

The Hawaii decision is the latest of several such cases, with courts split on whether defects are an occurrence and thus trigger CGL coverage.

The case is the "most recent adverse decision" for policyholders, said Frank Armstrong, Tampa, Fla.-based senior vp, national director of Willis Construction Claims, a unit of Willis Group Holdings P.L.C. A Sept. 30 ruling by the Supreme Court of



AP PHOTOS

Construction defects caused mold at Hilton Hawaiian Village's Kalia Tower.

Indiana in *Sheehan Construction Co. Inc. vs. Continental Casualty Co.* ruled that construction defects constitute an occurrence under a CGL policy, he said.

"The adverse cases tend to get more attention, as they should," Mr. Armstrong said.

"I've had several calls on this case," said Paul Primavera, senior vp in Washington for Lockton Construction Services Group, a unit of Lockton Cos. L.L.C. "Periodically, we see cases that find an occurrence and cases that do not...In my mind, it's not different from other cases," he said of the Hawaii ruling.

Warren C. Perkins Jr., vp-risk manager at Boh Bros. Construction Co. L.L.C. in New Orleans, said the Hawaii case is especially troublesome because the court did not consider policy language after deciding a defect does not constitute an occurrence.

"It basically says that if it's not an occurrence, it doesn't matter" what

the policy says and there is no need to investigate the policy wording," Mr. Perkins said. Still, it is "promising" that insurers are clarifying their coverage intent, he said.

Among insurers modifying policy language, Swiss Reinsurance America Corp. added an endorsement to its CGL policy in Hawaii stating that poor workmanship is not in and of itself considered an occurrence, but resulting property damage would be treated as a triggering occurrence, said Brian Evans, senior vp of the Overland Park, Kan.-based company.

The reinsurer last year also added the endorsement to CGL policies in Pennsylvania, where a court ruled that defects are not occurrences.

"From our perspective, this was the intent of the policy all along" and Swiss Re decided to re-evaluate its policy wording based on client feedback, Mr. Evans said.

Zurich North America also changed wording in its CGL policies to ensure that defects are considered occurrences, "especially in light of the ruling in Hawaii," a spokesman for the insurer confirmed.

Other insurers are making similar moves, said Bob Dixon, Los Angeles-based senior vp at Aon Risk Solutions' construction services group.

"There are a number of insurers that write coverage in the Hawaiian market," Mr. Dixon said, and nearly all have made coverage changes to assure policyholders that construction defect claims related to shoddy work would be covered.

Willis' Mr. Armstrong pointed out that there are some differences in how larger construction general liability insurers and those in the middle market approach coverage regarding construction defects from an underwriting and claims standpoint.

In light of the Hawaii ruling and others, some larger underwriters have been willing, if asked, to negotiate terms that essentially amount to an "underwriting clarification" that for policyholders presents a more favorable coverage view toward faulty work constituting an occurrence, while that's not necessarily the case among smaller insurers, he said.

Lockton's Mr. Primavera said he believes most of the market's large insurers always intended to cover property damage resulting from poor workmanship.

Admiral's attorney said the concerns are an overreaction and the ruling upheld policy language that rightfully protects insurers from exposures they didn't intend to cover.

"I have been contacted by contractors who have Chicken Little concerns that the sky is falling," said Allen R. Wolff, New York-based attorney with Olshan Grundman Frome Rosenzweig & Wolosky L.L.P. "At the end of the day, the question comes down to: What is it that an insurance company agrees is the risk it has insured against?" Mr. Wolff said. "I think it arguably can be said that the insurer agreed to take on the risk of accidents. But an insurance company does not take on the risk of the quality of the training programs you have for your employees."

## BI WEBCAST ONLINE

"Blueprint for Construction Defects: Managing the Risks and Coverage" featuring experts Brian Casey and Michael Szot will be at 2 p.m. EST Nov. 10. Go to [www.BusinessInsurance.com/webcasts](http://www.BusinessInsurance.com/webcasts).

## ACE: Widens footprint

CONTINUED FROM PAGE 4

Keefe, Bruyette & Woods Inc. in New York.

ACE expects its deal with New York Life to improve earnings and book value per share within the first full year of ownership, according to an ACE statement.

Regarding ACE's other acquisitions, Mr. Greenberg said in the call last week that ACE and Jerneh are "complementary." Jerneh has about 1,300 agents and 22 branches, whereas ACE Malaysia is more of a brokerage company. Jerneh's expertise is personal lines and small and midsize commercial business, whereas ACE is focused primarily on medium-size and large commercial accounts, as well as specialty products, Mr. Greenberg said.

ACE also has been establishing life insurance operations in various countries since 2005, although they remain a fraction of its overall business. The company had \$263 million in net premiums from life insurance during the first half of 2010, or 4% of its overall business. In contrast, it had generated \$225 million in net premiums from life insurance during the same period of 2009, or 3% of its overall business, an ACE spokesman said. Meanwhile New

York Life's Hong Kong and Korea life insurance operations generated about \$327 million in incremental life insurance revenues in 2009.

And then there's the crop insurance business. ACE already owned 20% of Rain & Hail, which was established in 1919. The company has detailed data about on farm fields in the United States.

"They're moving toward products that are more unusual," said J. Paul Newsome, senior insurance analyst in the research department of Sandler O'Neill & Partners L.P.

Michael G. Paisan, analyst at Stifel, Nicolaus & Co. Inc. thinks ACE will need time to integrate the new investments into the company. But he estimated that ACE had accumulated more than \$7 billion in excess capital before the recently announced acquisitions. That would leave room for Mr. Greenberg to make more acquisitions down the line. Mr. Paisan thinks that if ACE were to do any more acquisitions, they most likely would be outside the U.S. He noted that Latin America's economy has grown friendlier to insurance companies in recent years.

"I don't think you'll see an announcement in the next couple months, but in the next six months maybe," he said.

## AIG: Board reacts to illness

CONTINUED FROM PAGE 1

permanent replacement should Mr. Benmosche leave.

There are several likely internal candidates, although observers said AIG could seek an outsider with extensive capital management experience.

Mr. Benmosche, the fourth CEO to succeed former Chairman and CEO Maurice R. Greenberg since 2005, is widely credited with doing an effective job of reorganizing the insurer and positioning it for its ultimate independence from the federal government, which bailed out AIG in September 2008.

Mr. Benmosche's success means AIG may no longer need a crisis manager, many observers said.

"The task might be easier today given the excellent job that (Mr. Benmosche) has done," said John Wicher, principal with John Wicher & Associates Inc. in San Francisco.

"You still need a great leader" but "I don't think you necessarily need someone who has crisis management in his or her resume," he said.

However, Cathy Seifert, an equity analyst with Standard & Poor's Corp. in New York, said a successor still would need to be someone who is capable of developing a savvy capital market strategy, with the

federal government planning ultimately to monetize its AIG stake, as well as have knowledge of the business in order to "rebuild the insurance franchise."

Possible internal candidates cited by analysts include Peter D. Hancock, executive vp of finance, risk and investments; Chartis Inc. Executive Vp Kristian P. Moor; Jay Wintrob, executive vp of AIG's U.S. life and retirement services; and Thomas Russo, executive vp of legal compliance, regulatory affairs and government affairs and general counsel.

"Someone who knows the company well" and has been through its stabilization period might be a better candidate than an outsider, said Mark Purowitz, a partner with Diamond Management & Technology Consultants Inc. in New York.

Stewart Johnson, a portfolio manager with Stamford, Conn.-based Philo Smith & Co., said an outsider needs international, insurance experience, and good relationships with regulators. "That kind of sums up why I think there's pretty big shoes to fill. There aren't a lot of people" who can fill them, he said. "You need someone of (former General Electric Co. leader Jack Welch's) caliber," he said.

## Class action filed against classy joint

The Penthouse Executive Club in New York, which offers an opportunity to enjoy “beauty and refinement,” is staring at an ugly class action lawsuit.

A federal judge last week granted class action status to a lawsuit in which nine exotic dancers allege the club violates the federal Fair Labor Standards Act and New York state labor law.

The judge’s ruling came after a February complaint alleging that the club failed to pay its entertainers minimum

wage and overtime pay.

The women also allege that the club charges them unlawful fees for each shift they work and confiscates part of their tips.

Attorneys from the Sex Workers Project at the New York-based Urban Justice Center, which helped bring the suit, previously said that while the club’s practices are

common in the adult entertainment industry, they must end.

“Despite previous government and civil legal action, the adult entertainment industry in New York City and elsewhere remains largely out of compliance with basic worker protection statutes,” the organization said in a statement. “The Penthouse Executive Club, a leader in the industry, should set a better example.”

Dancer Leslie Liwanag, the first plaintiff in the case, also alleges that the club made her buy her own costumes, according to news reports.

With the judge’s ruling, other women who worked at the club during the past three years can join the lawsuit.



# Business Insurance END PAGE



MARKEL  
Stewart Cruickshank, left, and Kevin Carlier of Aon Corp. traded blows for charity at a Markel International Ltd. event. Other entertainment was provided by Mitch Winehouse, inset.

## Underwriters on the undercard

Insurance industry professionals recently made the short trip from the City of London to the East End and shed their business suits in favor of boxing gloves.

As part of a charity event last month sponsored by Markel International Ltd., a London-based unit of Markel Corp., insurance workers mingled with celebrities at a “white collar” boxing event.

White collar boxing, which is gaining popularity, pits professionals in industries that do not require manual labor—and often with no previous boxing experience—against each other in the ring.

The event in London’s historic East End, once known for the Jack the Ripper murders and notorious gangsters the Kray twins, was intended to capture the atmosphere of the East End during the 1950s and 1960s—including the area’s long

association with boxing.

The main bout was between actor Tony Denham, known for his role in the film “The Football Factory,” and amateur heavyweight Kevin Ritchie.

On the undercard were several insurance industry professionals, including Aon Corp. brokers Stewart Cruickshank and Kevin Carlier, who fought in Markel colors.

Burlesque dancers and Mitch Winehouse, the father of singer Amy Winehouse, provided entertainment. Mr. Winehouse, a former London taxi driver who grew up in the East End, recently released his debut album.

The event raised money for charities including Cancer Research U.K. and the James Naylor Memorial Trust, which counsels young people against committing suicide, and Second Time Around, an organization that helps reformed addicts.

## NFL players check coverage

Professional football players are concerned about the future of their health care coverage—especially with the threat of a work stoppage.

The National Football League Players Assn. is preparing for the possibility of having its health care cut in March 2011 if it is unable to come to terms with the National Football League on a new collective bargaining agreement, according to media reports.

The NFL has not had a lockout since 1987.

An NFL spokesman told the Associated Press that the need for players to have health insurance is important, both for the players and their families.

The league spokesman noted that federal COBRA law allows employees to continue their existing coverage without interruption at their own expense.

“This means that no player or family member would experience any change in coverage for so much as a single day because of a work stoppage,” the NFL spokesman reportedly said. “The union surely knows this and there is no excuse for suggesting otherwise.”

The players union and NFL owners have been in discussions since before the start of this season in efforts to come up with a deal without a work stoppage. However, representatives of both sides have said the outlook is dim.

According to media reports, New England Patriots owner Robert Kraft and NFLPA President Kevin Mawae said they would like to have an agreement reached before the holidays.



AP PHOTO  
Professional football players fear a potential lockout could affect their health care coverage.

## Court pooh-poohs coverage denial

Bat poop may not be the most pleasant substance to have in your house but it isn’t pollution, the Wisconsin Court of Appeals ruled this month.

In a case involving whether the pollution exclusion in a homeowners policy precluded coverage for the cleanup of bat guano left behind after bats infested an Oneida County home, the court found that because the policy exclusion did not include

“excrement” in its definition of “waste,” the exclusion did not apply.

“Indeed, waste can mean excrement. But in the context it is presented here, when a person reading the definition arrives at the term ‘waste,’ poop does not pop into one’s mind,” the court concluded in reviewing the appeal of *Hirschhorn vs. Auto-Owners Insurance Co.*

A trial court had found in favor

of the insurer and denied coverage to homeowners Joel and Evelyn Hirschhorn, who decided to bulldoze their house after the “penetrating and offensive odor” of bat guano could not be eradicated despite the efforts of a remediation contractor.

The homeowners’ policy excluded coverage for the “discharge, release, escape, seepage, migration or dispersal

of pollutants.” However, “none of those terms particularly suggest the movement of excrement,” the court noted.

“The bodily processes by which wastes such as carbon dioxide, urine, or feces move out of an organism would more commonly be described as respiration, elimination, excretion or some other term suggesting a biological process,” the court stated.





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# TUNED IN TO THE MIDDLE MARKET



## Industry news

Willis Research Network, NARA, Majestic, CIAB and others exploring options with new ventures, projects. [page 2](#)

## New chamber of commerce

Social media becoming more prominent among agents and brokers as a way to connect with existing and prospective clients. [page 8](#)

## Online training

Web-based training tools help agents and brokers develop their skill set, but it's not always the best way to go. [page 11](#)

## Broker survey

Survey of agents and brokers shows optimism about year ahead, although staffing levels, tech expenses close to the same. [page 12](#)

## Technology challenges

New online insurance exchange is running; IIABA council releases prototype security plan; Marsh improves broking operations. [page 14](#)

## Last word

Dave Willis, senior associate at Aartrijk, says more agents and brokers are embracing social networking to improve business. [page 16](#)

## Looking for a better way to do business

**REGARDLESS OF THEIR SIZE** or the segment of the market they're serving, successful agents and brokers always are looking for better ways of doing business.

At *Business Insurance*, we've long reported on the business of agents and brokers and their interactions with clients. In this "The Business of Better Broking" supplement, we're taking a look at several ways that successful agents and brokers are serving those clients or positioning themselves to find new business opportunities.



Whether it's recognizing the characteristics that set middle-market clients apart from larger accounts, venturing into social media to find new ways to connect with prospects and enhance client relationships, or using the right methods for the subject in employee training and development programs, it's all about doing business more effectively. Elsewhere in this supplement, we take a look at what some of you told us in response to a survey on various issues confronting agents and brokers.

So, we hope you find some of the ideas in these pages useful and that they stimulate some thinking. And we wish you every success as your companies chart their own courses toward better broking.

—RODD ZOLKOS,  
SPECIAL PROJECTS EDITOR

## Willis adds partners to research network

**LONDON**—The Willis Research Network has added 10 U.S. partners to the 30 science institutions that already were part of the global collaboration between public science institutions and the research center.

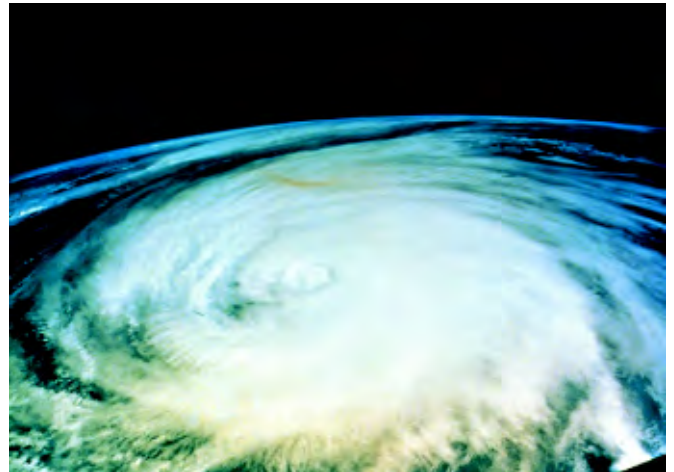
The network is part of Willis Re, the reinsurance arm of global insurance broker Willis Group Holdings P.L.C.

Willis said the new academic partners bring additional scientific expertise to the effort to confront industry challenges of managing extremes and supporting sustainability through research in areas such as natural catastrophes, building structure vulnerability, life reinsurance, capital modeling, workers compensation

and other fields.

The new partners include the National Oceanic and Atmospheric Administration's Geophysical Fluid Dynamics Laboratory, Florida State University's Florida Catastrophic Storm Risk Management Center, the University of Oklahoma's School of Meteorology, the University of California-Merced's School of Engineering and the Institute of Building & Home Safety.

Other new Willis Research Network partners include the Climate Decision Making Center of Carnegie Mellon University, the School of Civil & Environmental Engineering of the Georgia Institute of Technology, the Wharton School of Business of the Uni-



**Willis said its new academic partners bring scientific expertise to the effort to confront industry challenges of managing extremes such as natural catastrophes.**

versity of Pennsylvania, the Department of Strategic General Management at the Fox School of Business of Temple

University, and the Department of Risk Management and Insurance of Georgia State University.

## NARA publishes newest edition of 'Producer Profile'

**AUSTIN, Texas**—The National Alliance Research Academy has published its revised 4th edition of "Producer Profile: Compensation, Productions and Responsibilities."

The new edition is designed to allow agencies to compare their producer compensation plans to other agencies' annual compensation, commission rates, benefits and covered expenses. The volume allows agency owners to learn about the study's average account size, new business production, growth rates and hit ratios of calls or proposals that result in a sale.

A companion compact disc provides sample producer contracts and job descriptions that can be used to construct new producer agreements or refine existing ones.

Among the findings in the 274-

page volume are that 46% of producers gained experience in other businesses before joining the insurance industry, the most difficult task for a new producer is "cold calling" prospects, average commissions are 35% for new business and 30% for renewals, the average annual sales production is \$322,000 in total commission, on average 36% of a producer's annual production is new business, and the average producer spends 41% of his or her time on sales.

The "Producer Profile: Compensation, Production and Responsibilities" is priced at \$75. For more information, visit the National Alliance website at [www.TheNationalAlliance.com](http://www.TheNationalAlliance.com).

**46%**

46% of producers gained experience in other sectors before joining the insurance industry.

## Boutique wholesaler set to serve large brokers

**SAN FRANCISCO**—Edgewood Partners Insurance Center, co-founder John Hahn and insurance industry investor Jeff Cappel have formed a new boutique wholesale brokerage firm.

Wholesale Trading Co-Op Insurance Services L.L.C. plans to serve approximately 30 of the largest privately held U.S. retail insurance brokers. The new firm is jointly owned by its retail insurance broker members, Wholesale Trading Co-Op executives, its sponsors and select financial partners that include Islington Holdings L.P., the investment firm managed by Mr. Cappel.

The firm set up operations in September in San Francisco, New York and Atlanta, and expects to add locations in the Midwest and Texas during 2011.

Wholesale Trading Co-Op is licensed in all states and expects to begin transacting business by the end of the year.

# EMPLOYEE CHANGE AT WORLD'S LARGEST BROKERS

Intermediaries ranked by percentage change in number of employees

	Company	EMPLOYEES			2009 Brokerage revenues	2009 offices
		2009	2008	% change		
1	Jardine Lloyd Thompson Group P.L.C.	6,097	5,488	11.1%	\$957,983,370 <sup>1</sup>	80
2	BB&T Insurance Services Inc.	4,669	4,462	4.6%	\$1,081,485,400	115
3	Lockton Cos. L.L.C.	3,880	3,850	0.8%	\$765,885,000 <sup>2</sup>	51
4	Gras Savoye & Cie.	3,670	3,650	0.5%	\$754,719,600 <sup>3</sup>	105
5	Willis Group Holdings P.L.C.	17,000	17,000	0.0%	\$3,210,000,000	402
6	Arthur J. Gallagher & Co.	9,840	9,863	-0.2%	\$1,711,683,000	200
7	Brown & Brown Inc.	5,206	5,398	-3.6%	\$964,862,833	138
8	Aon Corp.	36,200	37,700	-4.0%	\$7,410,000,000	397
9	Marsh & McLennan Cos. Inc.	52,000	54,400	-4.4%	\$10,507,000,000 <sup>4</sup>	700
10	Wells Fargo Insurance Services Inc.	7,412	7,905	-6.2%	\$1,560,908,000	170

1 Converted at applicable rate British pound=\$1.5661 (2009) fiscal year ending Dec. 31. 2 Fiscal year ending April 30 3 Converted at applicable rate Euro=\$1.3935 (2009) fiscal year ending Dec. 31.

4 Revenues do not include HSBC Insurance Brokers Ltd, purchased April 2010.

Source: *BI* survey

Researched by Kevin Edison

## Majestic joins Trusted Choice

**ALEXANDRIA, Va.**—Majestic Insurance Co. has joined the Trusted Choice consumer branding program for independent insurance agents and brokers.

Headquartered in San Francisco, Majestic is a major U.S. provider of specialty workers compensation insurance. The company joined 55 other leading insurance companies around the country as Trusted Choice partners.

Founded in 1986, Majestic Insurance reaches buyers through independent insurance agents in Arizona, California, Nevada, New Jersey, New York and Oregon.

In a statement, the insurer said the Trusted Choice affiliation reinforces its strategy of

working directly with independent insurance brokers to deliver workers compensation insurance, dedicated loss control and claims administration services to clients.

Launched by the Independent Insurance Agents & Brokers of America and several independent agency companies, Trusted Choice is intended to highlight the benefits that independent agencies can offer insurance buyers and provides independent agents national advertising and other strategic tools.

Trusted Choice serves as the consumer marketing identity for more than 11,000 independent insurance agencies and brokerages and 56 insurance companies.

## CIAB membership grows with 22 new companies

**WASHINGTON**—The Council of Insurance Agents & Brokers has added 22 new members.

The CIAB said the additions to its membership are intended to create new global insurance market opportunities.

The additional CIAB members include brokerages and intermediaries in North America, Asia, Europe and Latin America.

Companies that have joined the CIAB this year include Ximco Corp. in China, J.B. Boda & Co. Pvt. Ltd. and Prudent Insurance Brokers Pvt. Ltd. in India, Sterling Knight Pte. Ltd. in Singapore, Lonmar Global Risks Ltd. in the United Kingdom, Gamasi S.A. and Makler S.A. in Argentina, Lilienfeld Corredores de Seguros in Chile, Correcol S.A. in Colombia and Eikos Agente Seguros y de Fianzas S.A. de C.V. in Mexico.

Other new members include Confie Seguros Inc., Equity Risk Partners, Fringe Benefit Group, Hagerty Insurance Agency L.L.C., Horton Group, Insurance Exchange Ltd., Kraus-Anderson Insurance, Stephens Insurance, TDIC The Dentists Insurance Co., Thompson Flanagan & Co. L.L.C., United Valley Insurance Services, and W.S. Pharr & Co. in the United States.



### THE QUOTE

**'I THINK YEARS AGO** you could get away with being a generalist and make a pretty good living as a generalist chasing middle-market business. I think those days have come and gone.'

**DON BAILEY,**  
CHAIRMAN AND CEO, WILLIS NORTH AMERICA

## Hispanic agents, brokers form association

**PLAINVIEW, N.Y.**—A group of Hispanic agents and brokers in the Northeast United States has formed an association intended to bring together Hispanic agents and brokers and others looking to help Hispanic insurance consumers and better understand nuances of the Hispanic community.

The Plainview, N.Y.-based Latin Agents & Brokers Assn. is intended to provide a mentorship vehicle for those new to the insurance industry as well as a channel through which insurers can reach Latin American agents and brokers.

Those eligible for membership in the

organization include individuals working in the property/casualty, life and health and benefits lines of insurance.

Rather than attempting to replace existing agent and broker groups, the association is intended to work in concert with them.

Organizers indicated that rather than attempting to replace existing agent and broker groups, the association is intended to work in concert with them.

The group's founders recognize that most of its members also will be members of other insurance industry organizations.

For more information about LABA, contact Elsa Fernandez, corresponding secretary, at [efernandez@jimcor.com](mailto:efernandez@jimcor.com) or 631-531-9595, ext. 3304.

# TUNED IN TO THE MIDDLE MARKET

By Rodd Zolkos

While many brokers—regional firms in particular—long have focused much of their business model on middle-market clients, the efforts by some larger brokers have drawn considerable attention in recent years.

Exactly what constitutes the “middle market” in terms of company size might vary a bit from broker to broker, but a common characteristic setting middle-market companies apart from larger national companies typically is who purchases insurance.

While a large company typically has a full-time risk manager and maybe

even a risk management staff, a middle-market company may have the CEO, the chief financial officer or even the owner buying insurance.

That distinction—and others at middle-market companies—mean there are certain elements that brokers of any size have to bring to the table if they want to succeed in the “race to the middle.”

“Typically, you’ve got different buyer capabilities,” said Timothy J. Cunningham, principal at OPTIS Partners L.L.C. in Chicago. The broker probably is not dealing with a risk manager, he said. “The broker can be



# BUSINESS OF BETTER BROKING

dealing with anyone from the owner in a small middle-market to the CEO or an assistant treasurer on a large middle-market.”

The fact that the insurance buyer at a middle-market company isn't a full-time risk manager doesn't mean they're unsophisticated insurance buyers, which is something else brokers must consider in approaching middle-market business, said Glenn Spencer, chief operating officer of U.S. business at Lockton Cos. L.L.C. in Kansas City, Mo.

“It's a misnomer to think they're not sophisticated. They're very sophisticated. They just don't have all the jargon,” Mr. Spencer said. “So a lot of it is translating, simplifying. Taking technical insurance speak and turning it into business speak.”

“At middle-market companies, you're dealing with a CFO or a general counsel of a \$500 million company. They're very bright people; they just don't have the experience with insurance,” Mr. Spencer said. “It's our job to translate technical insurance speak to business language for them. So our associates and producers need to take a complicated insurance topic and talk to a business guy on his terms. So the communications process also tends to be different.”

Regina Spratt, national brokerage leader at Marsh Inc. in



**'AT MIDDLE-MARKET COMPANIES, you're dealing with a CFO or a general counsel of a \$500 million company. They're very bright people; they just don't have the experience with insurance. It's our job to translate technical insurance speak to business language for them.'**

**GLENN SPENCER,**  
LOCKTON COS. L.L.C.

New York, offered a similar view.

“One, there's a difference in terms of long-term expertise relative to insurance. It doesn't mean they're not savvy buyers, because I think they are savvy financially oriented buyers,” she said. “But then the other piece is it's often a small percentage of their time compared to the other responsibilities that we have.”

“So I think it means we have to be very time-efficient with them,” Ms. Spratt said. “Because they're very financially oriented, I think we have to be very crisp in terms of how we communicate with them, ensure that it has a financial orientation to it.”

There are other differences brokers need to consider in dealing with companies without a formal risk manager.

“They come at us with different needs and expectations because, for the most part, many of those customers, if not all of them, don't have the internal resources to support things such as a claims person or a loss control person in-house,” said Mike Pesch, area president of Arthur J. Gallagher Risk Management Services Inc. in Chicago.

“So they really rely upon the broker to be that person or to be those people,” Mr. Pesch said. “So the way we've always viewed it, the expectations of our customers are that while we are asked to place their insurance, that's usually the last thing that we do. Everything else is a prelude leading up to that.”

Providing such services as loss control is one way a broker can add value to the relationship with a middle-market client, Mr. Pesch said.

“Sort of the second leg of it...is the knowledge you can bring to the table, to be able to explain and articulate what each of the coverages mean for their business,” Mr. Pesch said. “Because the buyer of the insurance wears numerous other hats, being constantly up to date with the coverages and the changes in the various coverages is something the middle-market company relies on their broker for, and being able to explain it in English and not insurance legalese.”

A third factor is, “How do you make that process (simpler) for them?” Mr. Pesch said. “What sort of electronic data transfer tools do you have? What sort of things do you have at hand as a broker that can make their job an easier one?”

Ultimately, though, “probably overriding everything is the one-on-one relationship that a broker can foster with those people,” said the Gallagher executive. “Being able to have one point of contact, one person that can help guide you through this process is an important asset that we as brokers bring to the table.”

“You've got to be sophisticated enough to have the different people and different resources that they need, yet be intimate enough to have that one-on-one relationship,” said Mr. Pesch.

Marsh's Ms. Spratt offered a similar view of that middle-market expectation. “They want the benefit of what we may be learning up and down an industry vertical from big clients to smaller clients, but they want it to be delivered to them through an efficient team,” she said.

“They want one or two people to help them navigate the resources and services,” Ms. Spratt said. “They do want the

benefit of that expertise, but they want it delivered to them efficiently and cost-effectively.”

“One of the things we have done—it’s straightforward but very necessary—we have people who are dedicated to servicing these types of clients,” she said. “We don’t want it to be a concern in the minds of these clients that they would ever get lost in the shuffle.”

An offshoot of that characteristic of middle-market business is that such accounts tend to be more producer-focused than broker-focused, said Mr. Cunningham, while large national accounts are more likely to have institutionalized relationships with brokers and are less likely to move their business.

“Part of it is the complexity,” he said. “It makes it harder to move a risk management account. The risk manager is not going to move it whimsically.”

Another factor that distinguishes middle-market clients is the way they view themselves, several brokers said.

“I think that one of the things that we’ve come to realize is that very few companies think of themselves as a middle-market company. What they think of themselves as is, ‘I’m a software developer for the education industry,’ or ‘I’m a food manufacturer,’” said Ms. Spratt.

“For us, it means we have to go first through the industry door and talk about their business and talk about the risks that impact their industry and them specifically,” she said. “So I think that dialogue is critically important to establish credibility with them.”

Don Bailey, chairman and CEO of Willis North America in New York, said the way middle-market companies tend to identify themselves shapes the way Willis approaches doing business in that market segment.

“Increasingly what you see in the middle market is companies that identify themselves in terms of the industry,” Mr. Bailey said. “They see themselves more from an industry perspective than anything else.”

“Larger accounts tend to see themselves as large or complex,” he said. “They certainly have an industry orientation, but they’re probably more oriented toward the fact that they tend to be large, complex risk organizations and have certain needs as a result.”

So as Willis approaches middle-market business, “having intense technical skills from an industry standpoint are absolutely essential these days,” Mr. Bailey said. “I think years ago you could get away with being a generalist and make a pretty good living as a generalist chasing middle-market business. I think those days have come and gone.”

Willis’ view of middle-market business is that it demands “having global resources—still middle-market in orientation—but delivering those effectively to industry-organized middle-market classes of business,” the Willis North America CEO said. “For us, there really is no such thing as the middle market. What we have is a series of industry verticals that make up our core business.”

Aon Corp. takes a variety of steps to serve the non-risk managers typically purchasing insurance at middle-market companies.

“In each of our local offices, we think education is really

important, so we run a lot of seminars,” said Phil Luecht, executive vp at Aon Risk Solutions in San Francisco. The most popular, he said, is a daylong offering designed for non-risk managers called Insurance 101.

The broker also works to position itself as a trusted adviser to middle-market clients. “They really don’t have professional risk managers, so they’re really looking for people they trust,” said Mr. Luecht. “They’re looking for that adviser that can not only help me today, but, more importantly, help understand my risks and can help me position myself for tomorrow.”

Mr. Luecht said he sees the CEOs and CFOs buying insurance at middle-market companies often looking for benchmarking against their peers, something Aon provides through its Aon Global Risk Insight Platform, a Web-based system that captures and reports on Aon placement information worldwide.

The broker also offers middle-market clients contract review services, focusing on contracts’ potential risk implications. “From an insurance standpoint, a really good adviser will help a customer understand the risk they’re entering into in those contracts,” Mr. Luecht said.

Understanding the middle-market client’s business and essentially developing a partnership with them in addressing their exposures also is essential for success, several experts said.

To succeed, “You’re getting close and understanding the exposures, bringing them to the attention of your client,” said John W. Wicher, principal at John Wicher & Associates Inc. in San Francisco. “You’ll generally be involved in the placement of these services. You’re not turning it over to worldwide placement.”

The actual insurance placement is the very last piece of the job, said Gallagher’s Mr. Pesch.

“Our job as brokers is to try to make the renewal a process rather than an event,” Mr. Pesch said. If a client has a Jan. 1 renewal, that means sitting down in August with the CEO or the CFO to start talking about market conditions and develop a renewal strategy “so there aren’t any surprises,” he said.

“Any broker would probably tell you—and we try to harp on it at Gallagher—if you’re coming in the door at the 11th hour with a surprise for the CFO, that’s probably a sure way to get fired,” he said.

“That’s really where the industry’s gone in the last eight to 10 years, really being a consultant in terms of how we coach them through the process,” Mr. Pesch said. “Rather than being an event where you all gather together on Dec. 15 for a January renewal, it’s all about creating that process.”

It’s also essential to remember that insurance is just one responsibility of the middle-market company executives the brokers are dealing with, so it’s essential to “synthesize and summarize,” said Lockton’s Mr. Spencer.

“When we’re dealing with a risk manager, we’ll go through every detail of the program because it’s important to them to check all the boxes,” he said. “And then the risk manager’s job is really to synthesize and summarize for their senior management. When we’re dealing with a middle-market company, that’s really our role, and the senior management expects us to have checked all the boxes and gone through all the details,” Mr. Spencer said.

## Social media the new chamber of commerce

By **Rodd Zolkos**

**S**ocial media are taking on undeniable prominence as a mode of communications in contemporary society, and some agents and brokers see them as a new way of connecting with existing clients and prospects.

Some new-media experts say channels such as blogs, Facebook, Twitter and LinkedIn offer agents and brokers opportunities limited only by their creativity and the nature of the clients or prospects they're looking to reach.

Agents and brokers embracing the use of social media has taken hold during the past year, said Peter van Aartrijk, CEO of the Fairfax, Va.-based consulting firm Aartrijk. "There's been quite a lot of movement in the last year," Mr. van Aartrijk said. "After a while, the anecdotes lead up to an actual trend."

"It seems to me now that there is a groundswell that is being driven by not just the youngish folks in the agency, though that's certainly happening," Mr. van Aartrijk said. "As a matter of fact, there are entire agencies that are growing up around social media."

If one thinks of the insurance industry as a reflection of the world, "you can't prevent the consumer fascination with social networking," he said. "And the smart agency owners are recognizing that there's something to this."

In large part, social media could pro-

vide a high-tech equivalent of the role that chambers of commerce or other local business groups long have played for insurance producers looking to cultivate relationships with clients and prospects, though with a significantly greater reach.

"It's kind of like a chamber of commerce on steroids," Mr. van Aartrijk said. "I know a lot of young producers are spending a lot of time with Facebook and LinkedIn because that's how they connect to the market they're reaching out to."

"There's a much better understanding now of the opportunity," said Rick Morgan, vp of new media at Aartrijk, who contributed to materials about social media use and procedures posted on the website of the Agents Council for Technology of the Independent Insurance Agents & Brokers of America. "Different agencies are grabbing onto different components of it now and using it differently."

"I think the way they're using it and the way they should be using it depends on the agency personality, if you will," Mr. Morgan said. "It depends also on

where your customers are," he said. "Most of all, what it really is is to connect with potential prospects, potential customers."

### HELPING FIRMS STAND OUT

The Bellevue, Wash.-based Parker, Smith & Feek Inc. agency began looking at how social media could help the

agency differentiate itself early this year, said Doug Pullman, a member of the agency's marketing team.

The agency began with two initiatives, Mr. Pullman said. The first was a blog, with items written by C-level staff addressing various business issues. "Essentially, that was to give our clients and our prospects insight into our company culture," Mr. Pullman said.

The agency also had information from third-party sources it wanted to pass along to clients in a cost-effective manner. "That's what got us into Twitter," Mr. Pullman said. "Since then, we've come to use it to reinforce our thought leadership in the marketplace. Then Facebook came into it."

As the agency started its use of social media, the Parker, Smith & Feek team decided that "our own website should be the hub," Mr. Pullman said. "All the information that you get from Twitter, get from Facebook comes from our website."

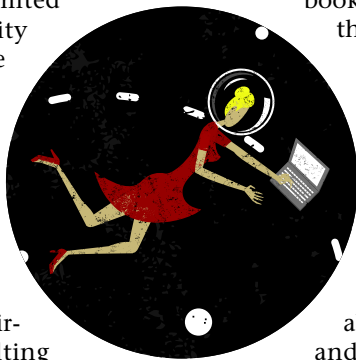
The agency asked employees to link to its social media offerings on their own LinkedIn pages on an optional basis to further expand Parker, Smith & Feek's social media reach. "It also keeps the individual staff members or those individual producers top of mind," Mr. Pullman said, as each time the agency posts an item, it goes out to the staff member's LinkedIn contacts.

"We're getting great feedback from the industry," Mr. Pullman said. "Everybody loves the website, they love the blog."

"The Twitter numbers are not actually as high as I'd like them to be," he added, though he's hoping that channel will gain traction over time.

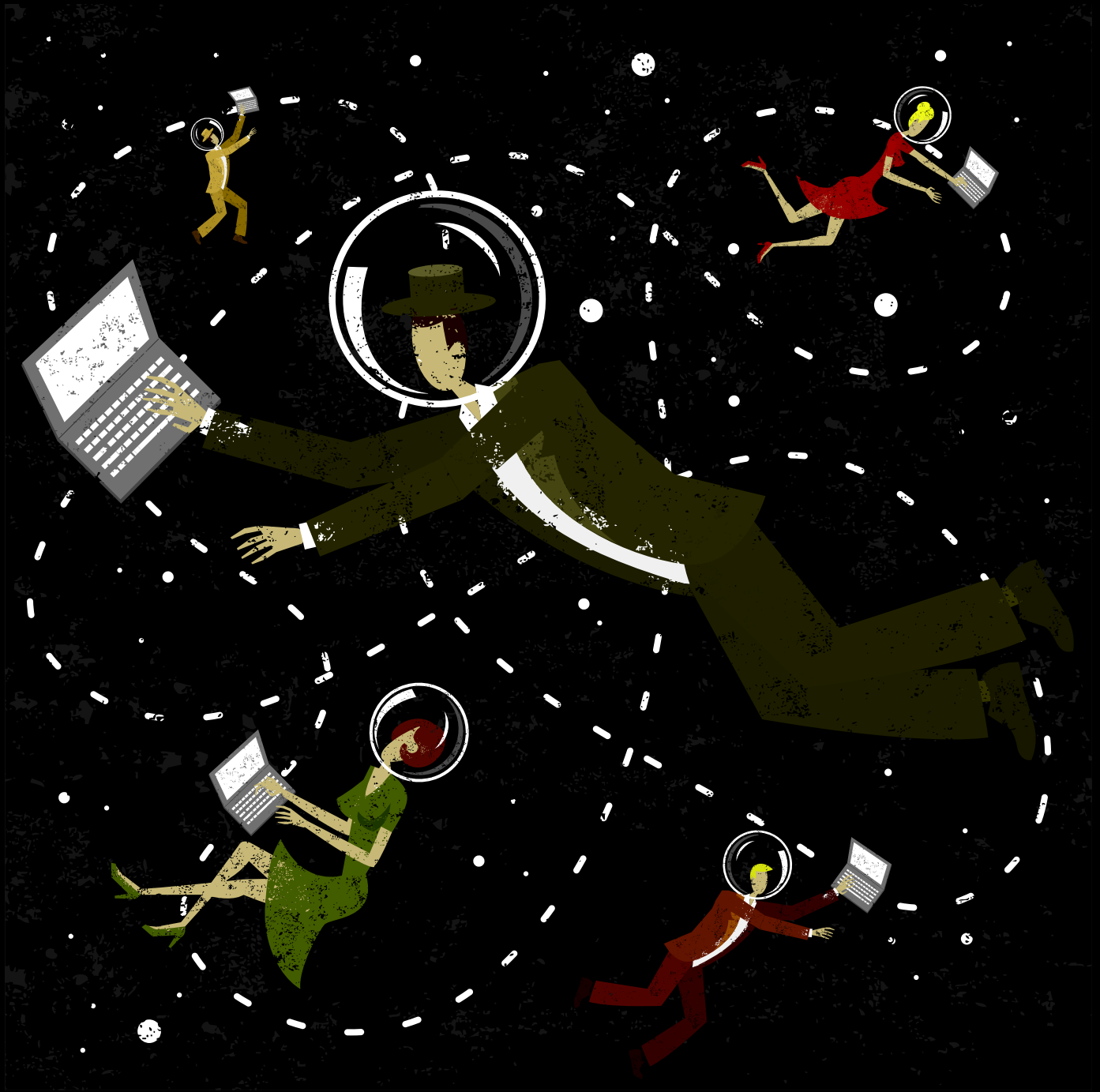
But, since the company began its social media efforts, traffic at the Parker, Smith & Feek website has increased 27%, with the average amount of time spent per visit increasing by more than one minute. "They're exploring the website and getting more information about what Parker, Smith & Feek really is," Mr. Pullman said.

Willis Group Holdings P.L.C. is closely following how agents and brokers are using social media in the U.S. and around the world with an eye toward the best practices that are exhibited,



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**PETER VAN AARTRIJK,**  
AARTRIJK



said Josh King, senior vp of Willis Group marketing and communications.

During the past year the broker has launched its "Clients Before Contingents" microsite on its website, Mr. King said, which is giving it exposure to aspects of social media.

"That's almost a laboratory of sorts to let us experiment with WordPress, experiment with blogging, experiment

with online video," he said. The broker's experience with the microsite will provide something of a guide for its social media efforts in the months to come, he said.

Bolton, Mass.-based Murphy Insurance Agency Inc. also has become active in social media. "We have a Facebook page, we have a Twitter page and we're in the process of modifying our website and creating a blog," said

Wayne Texeira, the agency's marketing director.

"We've been on Facebook well over a year," Mr. Texeira said, adding that the agency uses the social media site to post informational items that direct readers back to the agency's website.

"We have a LinkedIn page, too, for our company," he said. "So we're trying to encourage people to think about how they can use it for

# BUSINESS OF BETTER BROKING

the agency's benefit."

"Ultimately, the goal is to use some of the visibility to drive people back to the website, because the website tells people who we are," Mr. Teixeira said. "It's definitely a way to communicate with our existing customers," he said. "It's good to use as a tool for your producers and your customer service reps as a way for getting additional information out. It's good to get additional touches."

Social media channels also "create a human face for your agency, create a personality for your agency, so when people come for insurance, it's almost as if they already know you," Mr. Morgan said. "I think that's what these agencies that already use it understand."

Social media allow smart agents to share information "in a very emotional, human way," Mr. van Aartrijk said.

"This is just perfect for the insurance agents and brokers that are out there locally."

Social media aren't just a "push" means of communications but a "pull" by way of online searches, he said.

"As producers are out trying to drum up business, there is research, due diligence done by the prospective client," Mr. van Aartrijk said. Prospects often are looking online for that information, and a company's social media presence often will rank higher in online searches than the agency's own website, he said, adding, "It's not just about having a static site anymore."

"What it's really all about is in today's world this is how people are found," said Mr. Morgan. "And you're not going to be found if you're not present." He likened the role that a company's online presence plays today to that the Yellow Pages once played.

There are some common mistakes agents and brokers make as they move into the social media, Mr. Morgan said. "Probably the biggest mistake that people make is to use this as an amplifica-

tion of a sales message or a megaphone," he said.

"What you're doing with social media is what you'd be doing at a chamber meeting or on the golf course," he said of crafting relationships. "Use it to demonstrate subject matter expertise, build personality around your agency or the people in your agency," Mr. Morgan said. He advised agents and brokers to mix specific subject matter with human stories about people at the broker or agency. "And be creative," he said.

## HAVE A PLAN IN PLACE

Another mistake is "just jumping into this," said Mr. Morgan. "You want to have fun with this and experiment, but I think agencies have got to have a plan."

"It's not a social media strategy," Mr. Morgan

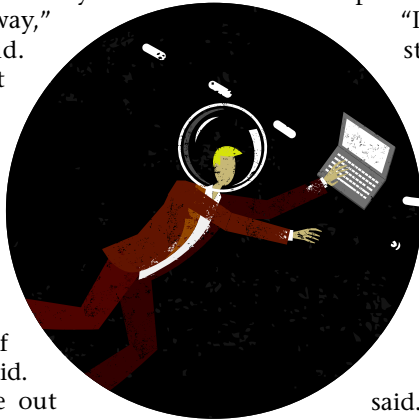
to leverage them."

"It's a challenge because it really does take everybody to work as a concerted effort, as a team," he said. "It's an ongoing process. There's no silver bullet for social media."

Mr. van Aartrijk said he's seeing examples of agents and brokers integrating traditional media—"which work quite nicely"—with social media. An agent's mailings, for example, might include a note to "Follow us on Twitter," or "Become a fan."

Online video is another opportunity for agents and brokers, he said. "I think YouTube is the second-largest search engine now," Mr. van Aartrijk said. "What a great way to bring out the personality of your people."

"There's no reason to have a videographer anymore. Just get a Flip Video camera for a hundred bucks and you can be up on YouTube in minutes," he said.



**'WE'RE GETTING GREAT FEEDBACK** from the industry. Everybody loves the website, they love the blog. The Twitter numbers are not actually as high as I'd like them to be.'

**DOUG PULLMAN,**  
PARKER, SMITH & FEEK INC.

said. "It's a business strategy with a social media component."

Mr. Pullman said another potential mistake he sees is relying too much on social media, saying he thinks some are overestimating new media's importance. Trying to replace traditional media with social media is a mistake, but "if you do it in combination with traditional media, you have a much greater chance of success," he said.

"It's really just a shift. The social media and the social media elements are just another tool in the marketer's tool box," Mr. Pullman said. "The same thing happened when TV came on board."

At Murphy Insurance Agency, Mr. Teixeira said those driving the social media effort remind the agency's staff that the agency can create social media channels, "but you have to know how

"There are almost unlimited ways when people start getting creative in the way these tools can be used," Mr. Morgan said, and most of the social media channels are largely free. A social media presence by agents and brokers is also a great way to begin the next generation of producers and insurance consumers, he said.

"It's a great way to open our industry to a whole new generation," said Mr. Morgan, adding that insurance industry social media efforts can help attack the "insurance is boring" notion pervasive with young people.

Social media can also provide one more way to try to overcome difficult business conditions, said Mr. van Aartrijk.

"In a tough economy and a really tough commercial lines pricing environment, you've got to do some things differently," he said.

# Online training tools help agents, brokers develop skills

By Rodd Zolkos

**W**eb-based vehicles are offering agents and brokers some new employee development and training tools, though some note not every training situation is best-suited to an online setting.

Many Web-based training programs can offer flexibility, allowing the employee to choose when to log in, but in some cases a traditional instructor-led program remains most beneficial, according to some responsible for employee training and development at their brokerages.

"I think that Gallagher has adjusted and really done a great job at using technology from the point of view that we do what I call a professional development webinar series," said Tracey Wik, vp of leadership development and corporate training at Arthur J. Gallagher & Co. in Itasca, Ill.

Gallagher's online training offerings include topics such as writing effective e-mails, dealing with generational conflicts, time management, using social media in business and the "Seven Habits of Highly Effective People."

Gallagher's online training offerings include instructor-led and self-paced courses.

"We do them all the time. We do one to two a week, maybe more," Ms. Wik said. "Would we like to do more? Sure. We're always adding topics based on what people are looking for."

Ms. Wik noted that Gallagher's training offerings include "synchronous"—which see all participants involved in the training at the same time—and "asynchronous," which participants can complete on their own schedule.

"We cap them at 20 (participants) if we're doing synchronous, because we want them to be dynamic and have people have the ability to ask questions," Ms. Wik said.

"What's great about these profession-



**'YOU CAN'T REPLACE face to face for topics that are essential leadership skills or sales or things like that. Face-to-face has its own unique space in a curriculum. I think the optimal is blended.'**

**TRACEY WIK,**  
ARTHUR J. GALLAGHER & CO.

al development webinars is they're open to anyone, regardless of title, and they're really core skills that anyone can benefit from," she said.

Despite Gallagher's success with the online programs, Ms. Wik said the broker will continue using face-to-face training.

"You can't replace face to face for topics that are essential leadership skills or sales or things like that," Ms. Wik said. "Face to face has its own unique space in a curriculum."

"I think the optimal is blended," she said. "And I think the question is what can you push out through e-learning and when does it make sense to bring people together?"

Claudia Mandato, executive vp of operations at Kansas City, Mo.-based Lockton Cos. L.L.C., also said online training won't replace face-to-face

instruction at her company.

"We've had a rather robust associate development program for the past 10 years," Ms. Mandato said. While Lockton invested in a Web-based learning management system, its role is to reinforce training delivered in instructor-led sessions, she said.

"We find our associates feel it is much more effective to have a session instructor-led simply because it is much more interactive," she said.

Web-based learning management systems have become relatively affordable, Ms. Mandato said, and certain topics such as learning to use new software lend themselves better to an online setting.

But for instruction on topics such as a new line of coverage, an instructor-led session is preferable, Ms. Mandato said.

From the feedback it's receiving from state associations, the Malvern, Pa.-based American Institute for Chartered Property Casualty Underwriters also sees future training efforts centering on a blend of instructor-led and asynchronous online offerings.

David P. Thomas, the institute's director of sales, said state associations report that their members—while expressing a preference for classroom instruction—have indicated the need for online course availability for several reasons.

One is expense management. Online learning often is more cost-effective than classroom instruction due to the elimination of travel expenses and lower costs of content delivery. Also, in a time when many offices are thinly staffed, online instruction means less time out of the office for employees doing the coursework.

Also, instructor-led classes aren't always geographically convenient, said Mr. Thomas, and online training might help fill a gap when an employee needs just a few credits to complete a certification or training requirement.

Of course, online training offers the benefit of just-in-time delivery. "Procrastinators exist and need a few credits to satisfy their (continuing education) renewal," said Mr. Thomas. Sometimes, "that realization occurs too late to take advantage of an instructor-led class that has already come and gone."

## Brokers expect uptick in demand for services

By **Rodd Zolkos**

**W**hile a survey of agents and brokers shows the past year has been largely one of maintaining existing positions in areas such as staffing levels and technology expenditures, the findings show some signs of optimism for the year ahead.

Agents and brokers apparently place a high value on information technology, as the recent economic conditions seem to have had little negative effect on IT expenditures.

Asked about the impact of current economic conditions on their expenditures, 25.9% of agents and brokers responding to a *Business Insurance* survey said they have increased IT spending, 65.5% said they've maintained existing levels of IT expenditures and 8.6% said they've reduced their IT spending.

The weak economy—likely coupled with an ongoing soft commercial market—has held back hiring among agents and brokers surveyed, with 26.8% indicating they increased staff in the past year, 44.6% reporting that they maintained staff levels and 28.6% indicating they reduced staff levels.

But survey respondents seem more optimistic about the coming year's prospects, with 46.2% of the agents and brokers responding indicating they anticipate adding staff in the next year. Some 44.4% said they'll likely maintain existing staff levels, while only 9.4% said they expect to reduce staff in 2011.

"I would say broadly that I think the mood of the broker community is certainly much better today than it was 12 months ago," said Timothy J. Cunningham, principal at OPTIS Partners L.L.C. in Chicago, in assessing agents' and brokers' more optimistic hiring outlook.

Agents and brokers are beginning to place some additional premium, he said. As clients' businesses get healthier, agents and brokers are getting well

with them, Mr. Cunningham said.

"I think they were renewing some accounts in '10 based on higher sales and payroll estimates," he said. "'10 was better than '09."

An uptick in his own firm's business also reflects that change, Mr. Cunningham said. "We're seeing more activity...and that's just on the core consulting stuff. In '09, everybody was just trying to survive the year," he said. "I think the overall mood is better."

However, John W. Wicher, principal at John Wicher & Associates Inc. in San Francisco, doubts there will be significant additional agent/broker hiring in 2011 and said he thinks a more signif-



**'VERY FEW PEOPLE** whom I speak to have adopted a "good-luck" policy; that is, that the cycle is at its bottom and we're going to get a big boost.'

**JOHN W. WICHER**  
JOHN WICHER & ASSOCIATES INC.

icant figure might be the percentage of survey respondents who anticipate maintaining existing staff levels next year.

"I think looking across my clients...the question which many are asking is, 'Is this a new normalcy?'" Mr. Wicher said.

A question to consider, he said, is: Is the reality facing agents and brokers today fundamentally changed in terms of economics and prospects? "If so, they ask, 'How do we size our business appropriately,' and you get back to what is the value proposition with the client."

"Very few people whom I speak to have adopted a 'good-luck' policy; that is, that the cycle is at its bottom and we're going to get a big boost," Mr. Wicher said. "They're cautious. They're continuing to look at each and every new hire." For most companies in the

agent/broker space, the combined experience of the economy, the downturn in insured values and an ongoing soft market in recent years has been "sobering," he said.

Looking at the percentage of companies that anticipate no change in staff levels, perhaps "they've already sized their business to the new reality," Mr. Wicher said.

Survey results also showed respondents seeing a slightly different merger and acquisition picture in 2011 than 2010. Among the agents and brokers responding, 43.9% said they had been involved in M&A activity in 2010 and 56.1% said they had not.

However, the numbers basically flip when asked about their expectations for 2011. Some 55.4% of the agents and brokers responding said they expect to be involved in M&A activity in 2011 and 44.6% said they don't anticipate being involved in mergers and acquisi-

tions next year.

Looking at those results, Mr. Cunningham said he isn't sure there will be a noticeable uptick in the level of agent and broker M&A activity in 2011. "I've been kind of the contrarian," he said, noting that many industry pundits predicted a level of M&A activity this year that never materialized.

"I think from the sell side, I've told clients, 'If you're going to do a deal this year or next year, do it this year,'" Mr. Cunningham said. "But if you're really looking at it from the medium view, your street value's going to be higher three, four, five years hence." Companies that can wait several years may have greater value a few years from now as a result of a market turn and improved economic conditions, he said.

"There may be involvement (in M&As)," he said, though adding, "I

don't know how many deals are going to go down."

He noted that with their business prospects improving, many agency and broker executives now have more time to consider various options. "You've got more time to think tactically or strategically," he said. "I've kept my powder dry by acting conservatively. Now maybe it's time for me to get back in the game."

Mr. Wicher also had doubts about an increase in agency and broker M&A activity in the year ahead. "Here in the States, if you look across the marketplace...many potential sellers, because of current pricing, have moved from a growth mode into a defensive mode," waiting for the economy and the insurance market to improve," he said.

But, there are dangers associated with such a defensive posture, he said. "The danger in that for those who, if not for the economy and the market, would be sellers today...is if you're in a defensive mode, it means you're not in a growth mode," Mr. Wicher said.

"You can only be in a defensive mode for a couple of years," he said. "If you're in a defensive mode, you begin to backslide. Then you become a seller of necessity."

"We hear from sellers all the time, 'I wish we'd called you in 2007. I wish we'd had this conversation in 2007,'" he said.

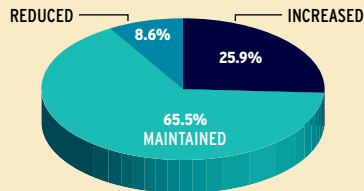
Among the other findings of the *Business Insurance* survey of agents and brokers, a sizable percentage indicated at least dipping their toes in social media vehicles such as Facebook or Twitter, with 63.8% saying their company had explored the use of social media and 36.2% saying they hadn't.

In terms of employee development, a sizable percentage of those responding indicated they provide employee tuition or other education cost reimbursement programs. Of those responding, 79.3% said they provide such programs with restrictions while 3.4% provide them with no restrictions. Only 17.3% of those surveyed indicated they provide no tuition or education cost reimbursement.

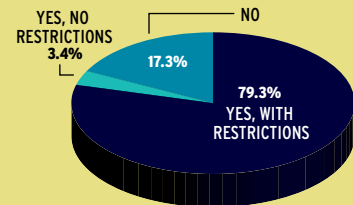
Asked about their expectations for the insurance market, most see little

## 2010 AGENTS & BROKERS SURVEY RESULTS

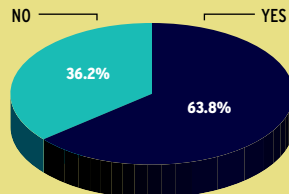
How have current economic conditions affected your company's information technology expenditures?



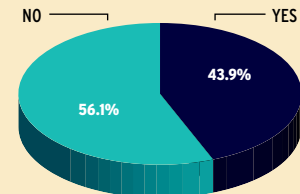
Does your company provide employee tuition or other education cost reimbursement programs?



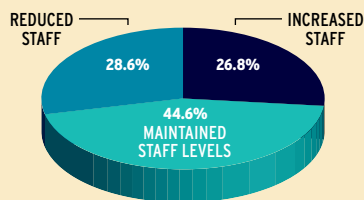
Has your company explored the use of social media (Facebook, Twitter, etc.) for marketing, customer service or other purposes?



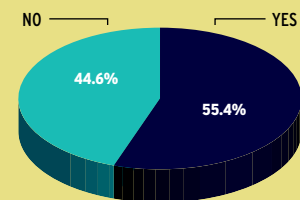
Has your company been involved in any merger and acquisition activity in 2010?



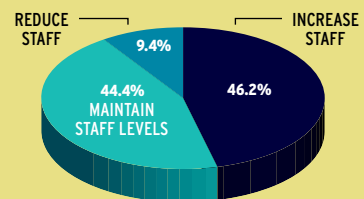
In the past year, has your company



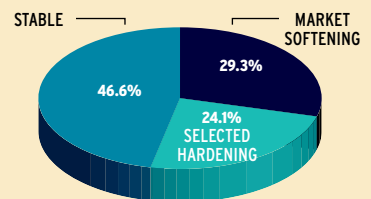
Do you expect your company to be involved in merger and acquisition activity in 2011?



What are your 2011 staffing projections



What is your expectation for insurance market conditions in 2011?



Source: *Business Insurance* survey

change from existing conditions.

None of the agents and brokers responding to the survey expected a broad market hardening in 2011, while 29.3% anticipated further softening. Slight hardening or hardening in selected lines and regions was expected by

24.1% of those surveyed, while 46.6% expected the market environment to remain stable.

The survey, conducted by *BI* in September and October of companies included in its Agents & Brokers report, had 58 responses.

## Online insurance exchange begins first phase rollout

By Rodd Zolkos

A new online insurance exchange is up and running in its “early adopter” phase, with the partnership between the Washington-based Council of Insurance Agents & Brokers and LexisNexis expected to roll out more broadly in mid-2011.

“We went live with the first firm of one of the 16 early adopter brokerage firms” on Oct. 15, said CIAB President Ken A. Crerar.

Meanwhile, trustees of the Insurance Exchange Trust, which oversees the Insurance Exchange, held their first meeting at the CIAB’s annual gathering in Colorado Springs, Colo., earlier in October.

The trust is considered a key to mak-

**‘WE’VE CREATED** basically an agnostic platform to allow submissions from brokers anywhere to any insurer.’

**KEN A. CRERAR**

COUNCIL OF INSURANCE AGENTS & BROKERS

ing the exchange work, responsible for ensuring the covenants negotiated between the industry and LexisNexis are met and that data collected by the online exchange is protected.

The exchange is expected to generate market and exposure data that could benefit insurance buyers, brokers and insurers. The trust is intended to protect all the data collected by the system, and such data can’t be used unless it is approved by the trust. The various covenants the trust oversees include six agreements negotiated between the industry and LexisNexis concerning the exchange, Mr. Crerar said.

He emphasized that the exchange was established to foster a more efficient insurance placement process.

“I think what’s happened is it’s become pretty clear there’s a strong issue out there about the inefficiencies in the submissions process,” Mr. Crerar

said. “We’ve created basically an agnostic platform to allow submissions from brokers anywhere to any insurer.”

In addition to its “neutrality,” the system is intended to be transparent and is based on a commitment to use Assn. for Cooperative Operations Research and Development standards.

This “early adopter” phase is intended to allow the CIAB and LexisNexis to iron out wrinkles in the system before it expands to other users. “It won’t go broadly to brokers everywhere until the middle of next year,” Mr. Crerar said. “We’re in a period of tweaking and honing the system.”

“There’s a lot of strong broker interest,” Mr. Crerar said. “And it will be available to everybody—large firms to small firms.”

Another 30 broker firms are in the “follow-on” category that will join the system at the end of the early adopter phase.

“The goal is to get it right so when we do scale up, it will go pretty quickly,” Mr. Crerar said.

Insurers also are interested in the system, he said. “There’s been strong interest on the carriers’ part,” Mr. Crerar said. “We’ve been talking to a number of them.”

Chartis Inc., Liberty Mutual Group Inc. and Zurich North America are the first three insurers participating in the online exchange, Mr. Crerar said. “The three of them have come on as early adopters and another six or seven are evaluating it,” Mr. Crerar said.

All three of the “early adopter” insurers are members of the Insurance Exchange Trust, he said.

Responding to suggestions that online exchanges might commoditize insurance, Mr. Crerar said, “The system is set up so it does just the opposite.”

“One of the covenants of this effort has been all around being agnostic, being open to everyone and making sure that we encourage competition,” he said.

## Broker tech group releases security plan

**ALEXANDRIA, Va.**—The Independent Insurance Agents & Brokers of America’s Agents Council for Technology has released a prototype agency information security plan.

The plan is intended to assist agents and brokers in devising their own security plans to safeguard clients’ and employees’ private information, the agency’s physical security and the integrity of electronic systems so they function smoothly and without interruption.

The ACT prototype security plan covers the protection of private information in any form including voice, electronic or paper. It also contains a series of notes designed to provide additional tips to agents as they customize the plan, links to laws that might apply and additional resources that are available.

The prototype agency information security plan can be downloaded free at [www.independentagent/act](http://www.independentagent/act).

## Marsh upgrades system for London operations

**LONDON**—Marsh Ltd., the London-based insurance operations of Marsh & McLennan Cos. Inc., has purchased Sequel’s Eclipse Broking software to improve its broking operations by replacing various heritage systems with a single broking package.

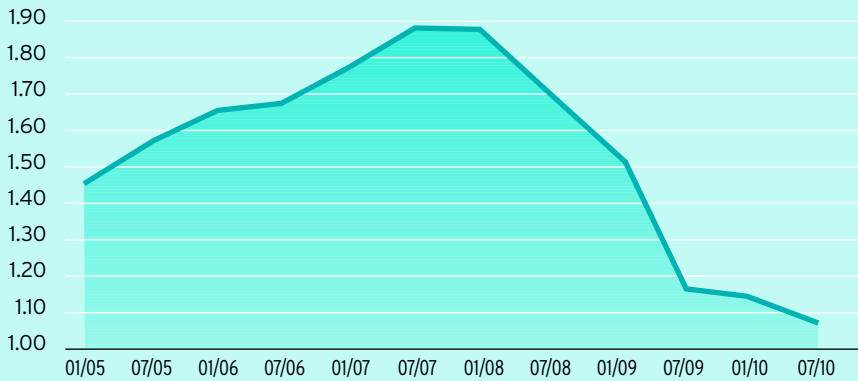
In addition to the software, Sequel will provide consulting support to the broker. The first phase of Sequel’s Marsh project is expected to be live in late spring 2011.

In a statement, Martin South, CEO Marsh U.K. & Ireland, said, “Eclipse Broking will improve our processes and thus improve the quality of service we give to our clients.”

The new software, he said, “will be at the heart of our London-based operation, supporting our key business, and will give us the right platform from which we can provide our clients with a full range of risk and insurance products in the most effective way.”

## PROPERTY VALUES

All properties, national index, in the Moodys/REAL Commercial Property Price Index



Source: MIT Center for Real Estate, Real Capital Analytics Inc.

## BANKS IN INSURANCE

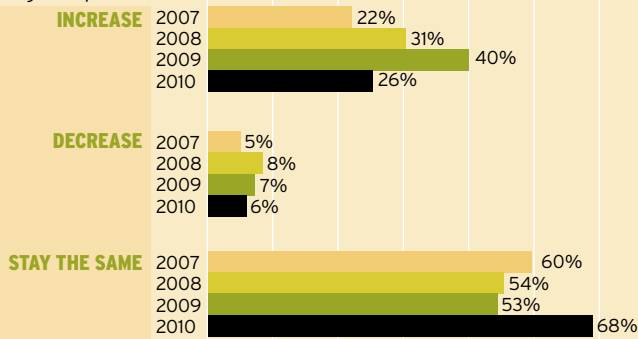
Top 10 bank holding companies in insurance brokerage fee income, first quarter year-to-date

Rank	Insurance brokerage fee income (thousands of dollars)		Company
	20 2010	20 2009	
1	1,005,000	995,000	Wells Fargo & Co.
2	771,000	505,000	Citigroup Inc.
3	484,042	478,743	BB&T Corp.
4	267,623	243,610	Bank of America Corp.
5	136,000	45,000	Morgan Stanley
6	93,555	47,309	American Express Co.
7	70,000	31,000	Goldman Sachs Group Inc.
8	67,966	63,022	Discover Financial Services
9	58,000	52,000	Ally Financial Inc.
10	54,713	57,372	Regions Financial Corp.

Source: Michael White Associates

## LEGAL DISPUTES

After three years of increases, this year there was a decline in the proportion of corporations that expect to be involved in more legal disputes.



Source: Fulbright & Jaworski L.L.P.

## EMPLOYMENT IN INSURANCE

Employment in insurance, 2000-2009, in thousands

Year	INSURANCE COMPANIES*			Insurance agencies and brokerages**	Total industry
	Life, health and medical	Property/casualty	Reinsurers		
2000	808.8	591.6	32.3	787.8	2,220.6
2001	807.7	591.3	31.4	803.2	2,233.7
2002	791.1	590.0	31.7	820.4	2,233.2
2003	789.0	608.6	31.0	837.4	2,266.0
2004	764.4	604.4	29.8	860.1	2,258.6
2005	761.9	595.0	28.8	873.6	2,259.3
2006	787.4	597.4	28.0	890.8	2,303.7
2007	784.0	586.1	27.0	909.8	2,306.8
2008	797.6	571.2	27.9	908.5	2,305.2
2009	789.8	549.3	27.1	880.5	2,246.7

\*Described by the Bureau of Labor Statistics as "direct insurers."

\*\*Includes claims adjusters, third-party administrators of insurance funds and other service personnel such as advisory and insurance ratemaking services.

Source: U.S. Department of Labor, Bureau of Labor Statistics

## PRODUCTIVITY CHANGES

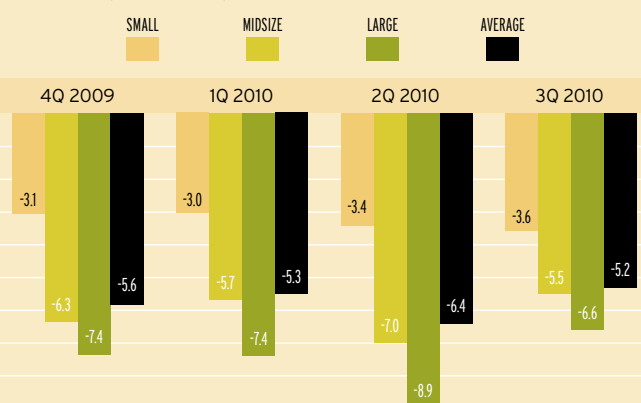
Revised second quarter 2010 productivity percentage change from previous quarter and second quarter 2009, by sector

	Nonfarm business		Business		Manufacturing		Durable manufacturing		Nondurable manufacturing	
	Q to Q	Y to Y	Q to Q	Y to Y	Q to Q	Y to Y	Q to Q	Y to Y	Q to Q	Y to Y
Productivity	-1.8	3.7	-1.9	3.7	4.1	7.5	9.9	11.4	-2.4	3.2
Output	1.6	3.7	1.7	3.7	8.4	8.4	13.6	12.0	2.8	4.5
Hours	3.5	0.0	3.7	0.0	4.1	0.8	3.4	0.5	5.3	1.2
Hourly compensation	-0.7	0.8	-0.8	0.8	-2.0	-0.3	-1.9	-0.5	-2.1	0.1
Real hourly compensation	0.0	-1.0	-0.1	-1.0	-1.3	-2.1	-1.2	-2.3	-1.4	-1.6
Unit labor costs	1.1	-2.8	1.1	-2.8	-5.9	-7.3	-10.7	-10.7	0.3	-3.0

Source: U.S. Department of Labor, Bureau of Labor Statistics

## COMMERCIAL P/C PREMIUMS SOFTEN

Rate change percentage by account size



Source: Council of Insurance Agents & Brokers

## Social networking valuable for business

**M**ost definitely here to stay," is how one CEO described social networking to agents and brokers at a recent agency management system users' group meeting.

Another said, "Ignore it at your own peril." Do agents and brokers believe them? Many do. Are they acting on this belief? Some are.

Others are taking a wait-and-see approach. They're observing, analyzing and strategizing. Others still are resisting. Their "hell no, we won't go" attitude is driven, in some cases, by valid liability concerns. Too often, though, they just fail to see the value of social networking.

Those that are finding success using the Web and social networking functionality are using it to boost visibility, bolster relationships, and deliver faster and more responsive service to customers, all in the way today's consumers want to receive it.

For instance, Angelyn Treutel, chair of the Independent Insurance Agents & Brokers of America's Agents Council for Technology and vp and chief information officer at Bay St. Louis, Miss.-based Treutel Insurance Agency, is widely credited as being the first independent agent to create an iPhone app for customers and prospects.

Consumers use the application to report claims; get policy info or assistance; access agency contact info; and request personal, business, life or health insurance quotes. Designed for "i"-products, the app also runs on Windows Mobile and other platforms with browser access.

New England-based Encharter Insurance L.L.C., a multilocation agency that this year won the National Assn. of Professional Insurance Agents' inaugural Excellence in Social Media Award, uses its Web presence to boost brand awareness, generate leads and deliver service. Among its website features is a "partners" page that helps drive business to nearly 100 agency commercial lines customers and related organizations by promoting them to the agency's other clients and prospects.

Many agents and brokers are making strategic use of broadly available social networking tools. For example, a multisite Connecticut broker builds brand awareness through a blog. The blog connects readers with staff and leadership on a personal and professional level. Postings offer insurance

and risk management insight designed to further the organization's mission of helping clients protect their assets.

A New York agent has made a name for himself—and his business—in Twitterdom. By integrating Tweets with blog postings, the agent shares information with more than 3,100 followers. With a bio that reads, "Dropping Insurance Knowledge on Upstate New York and the World!," the agent uses Twitter to, as he says, drip market for his blog posts, follow local and national business news, re-Tweet client and prospect marketing messages, network with fellow insurance professionals, and stay current on the latest insurance industry trends.

In Atlanta, an agent combined YouTube, Facebook and other tools as he built awareness for his then-new business. A flair for the dramatic (his YouTube videos include one of him making snow angels on his deck in Atlanta and one from a bathtub) helped him build personal connections with clients and prospects as he advised on everything from winter driving tips

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**'THEIR "HELL NO, WE WON'T GO" attitude is driven, in some cases, by valid liability concerns. Too often, though, they just fail to see the value of social networking.'**

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to the need for life insurance and more. The agent's success in digital marketing led him to leave the agency and consult with other agents and brokers on social media.

Agents and brokers that succeed in the digital world incorporate the use of new tools as part of an overall strategy. They have a plan and deploy social media and Web functionality to meet plan objectives.

The CEO who said social networking is "here to stay" says the tools help insurance professionals be relevant, authentic and transparent with customers on Facebook, Twitter, YouTube and blogs. More and more, agents and brokers agree.

*Dave Willis is a senior associate at Fairfax, Va.-based insurance branding firm Aartrijk, where he helps agent and broker associations and their members communicate using traditional and new communication tools.*



**DAVE WILLIS**  
Senior Associate  
Aartrijk

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