

## VIOLENCE AT WORK

Health care and social assistance workers are nearly four times as likely to be the victims of violence on the job as the general workforce. In 2012, the latest data available, there were:

**15.1** violent incidents per 10,000 full-time workers for health care sector

**4.0** violent incidents per 10,000 full-time workers in all private industries

Source: Bureau of Labor Statistics

## RISK MANAGEMENT

### Hospital attacks drive efforts to shield nurses

States pass laws requiring protection

BY STEPHANIE GOLDBERG

Recent acts of violence against health care employees are leading more states to take action to protect medical workers' safety.

California Gov. Jerry Brown signed a bill into law in September that requires hospitals to implement plans to protect workers from aggressive and violent behavior. Illinois and New Jersey are among states with similar laws. More than 25 states, including California and New York, already have tougher criminal penalties for people who assault health care workers.

Health care workers nationwide are nearly four times as likely to be injured on the job as the general working population, according to the Bureau of Labor Statistics'

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## CYBER LIABILITY

### WILL OBAMA, REPUBLICANS AGREE ON CYBER SECURITY?

Breaches expected to prompt Congress into action



BY JUDY GREENWALD

With Republicans gaining control of the U.S. Senate in January, long-stalled cyber security legislation finally stands a strong chance of gaining approval by Congress and being signed into law.

Despite a Democratic president, there should be enough areas of agreement — such as the desire for voluntary cyber security standards for businesses — between a Republican-led Congress and President Barack Obama to enable the parties to forge a bipartisan compromise on the legislation, expert say. Even ongoing, thorny concerns over people's privacy are not expected to ultimately scuttle the measure.

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## COMPROMISE CYBER SECURITY BILL

Cyber security issues expected to be part of federal legislation include:

- Making compliance with standards voluntary to gain congressional and presidential support.
- Establishing company notification standards about data breaches.
- Providing financial incentives for companies that follow National Institute of Standards and Technology suggested standards.
- Encouraging businesses to buy cyber insurance.

## WORKERS COMPENSATION

### Comp rate cuts may follow profitable 2014

Insurers report best results in eight years

BY SHEENA HARRISON

Workers compensation insurers could see their first year of underwriting profitability in nearly a decade due to rate increases, an improving economy, and a focus on data analytics that has helped improve underwriting and workplace safety.

A preliminary analysis by the National Council on Compensation Insurance Inc. earlier this month shows private workers comp insurers are expected to have an aggregate combined ratio of 96% this year. If that holds up when NCCI finalizes its data next spring, it would be the first time the workers comp industry has been profitable since 2006, according to the Boca Raton, Florida-based ratemaking agency.

Insurers' financial gain likely will result in lower workers comp rates for employers, experts say. They're cautiously optimistic that the positive financial trends in the workers comp market will be sustainable past 2014.

"We have seen a return to underwriting discipline, and if NCCI's projections are accurate, then this discipline has paid off for the marketplace," Stacy Seaburg, executive vice president at Lockton Cos. L.L.C. in Houston, said in an email. Private insurers had a combined

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## Q&A: MICHELE ADAMS

Head of Medicare Advocacy Recovery Coalition discusses SMART Act progress.

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Pension benefits trends; what workers value and how employers fund their plans.

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Renewing TRIA should be top of the agenda for the lame duck Congress.

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## SPECIAL REPORT



## RETIREMENT BENEFITS & PENSIONS

More employers are using private exchanges to offer benefits to post-65 retirees, with many exchange options available; no rush to send early retirees to public exchanges; investment woes cause workers to delay retirement.

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\$117.8 billion in combined policyholders' surplus\*



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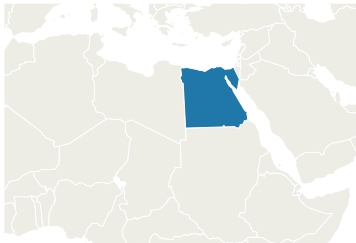
Strength.

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

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effectively address the technology, says Jonathan S. Ziss of law firm Goldberg Segalla L.L.P.

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HEALTH CARE BENEFITS

PREMIUM SUBSIDY CASE RAISES STAKES ON HEALTH COSTS

Supreme Court to rule on key reform law provision

BY JERRY GEISEL

The ability of employers to slash their early retiree health care costs will depend on the outcome of an upcoming U.S. Supreme Court decision on whether federal premium subsidies authorized by the health care reform law can be used by retirees to purchase coverage in federal health insurance exchanges.

Under that cost-saving approach, employers would end the health care coverage they now provide to pre-Medicare-eligible retirees and, with some employer financial support, direct the retirees to the public exchanges for coverage.

The ability of employers to utilize that approach would be sharply curtailed if the high court rules — as plaintiffs are seeking — that the Patient Protection and Affordable Care Act limits those subsidies to exchanges set up by the states.

Just 14 states and the District of Columbia have set up exchanges, while the federal government operates the exchanges in 36 states after those states declined to do so.

“The appeal of that approach would decrease,” said Ed Fensholt, senior vice president and director of compliance services at Lockton Cos. L.L.C.’s benefit group in



ORHAN CAM/SHUTTERSTOCK.COM

The Supreme Court is expected to rule by next June whether federal health insurance exchange users will be allowed subsidies.

Kansas City, Missouri, referring to the decline in the number of exchanges in which retirees would be eligible to use health care reform premium subsidies if the high court limits the subsidies’ use to state exchanges only.

More broadly, employers’ efforts to hold down health care costs also could be at risk depending on how the court rules. If millions of people lose federal premium subsidies and again become uninsured, hospitals, for example, would see a surge in uncompensated care costs — costs they previously passed on, when possible, to

insured patients in the form of higher charges, some say.

“One of the benefits of the ACA to providers is that their uncompensated care costs would decrease,” said Michael Thompson, a principal with PricewaterhouseCoopers L.L.P. in New York.

An increase in uncompensated care could hurt employers’ efforts to reduce their costs, Mr. Thompson said.

At issue are 2012 IRS rules that said the premium subsidies would be available to the low-income

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LEGISLATION & REGULATION

Tax compliance rules have insurers scrambling

BY MATTHEW LERNER

Even as the insurance industry moves to meet the first reporting deadlines under the Foreign Account Tax Compliance Act, the law and compliance remain works in progress.

In fact, some experts still question the logic in applying the law to insurers. FATCA was passed in 2010 to combat tax evasion via the offshore transfer of funds and became effective July 1, with initial reporting set to start the first quarter of 2015.

“We feel quite confident that we’re ready to respond to what we need to do,” said Craig Coit, Chicago-based deputy chief financial officer for Aon Risk Solutions.

As part of the effort to ramp up for FATCA compliance, the company added five people to its market security team, which is split between the United States and the United Kingdom. Aon also hired an outside firm to perform the validation of the required Internal Revenue Service forms.

Other brokers and insurance companies are also adding FATCA staff, according to Colleen Waddell, New York-based director, tax, for accounting and consulting firm WeiserMazars L.L.P. A daily alert showing jobs available in the FATCA arena includes insurance

companies looking to hire, she said.

What began as an internal effort at Aon to characterize all of its entities grew into a full-fledged FATCA compliance team of 12 with a project leader and in-country experts and contacts overseas.

“We quickly realized that there was a very large operational component to the FATCA changes we would be required to make,” said Mr. Coit, who added that Aon had collected over 2,800 forms and contacted over 600 insurer groups that need to provide it with forms with respect to FATCA status.

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INTERNATIONAL

Rate declines put pressure on London brokers

More M&As expected as profits shrink

BY SARAH VEYSEY

More mergers and acquisitions among London market insurance brokers are likely if current market conditions persist.

Softening rates for many lines of insurance and reinsurance are squeezing the margins that many smaller brokerages, in particular, are able to make, experts say in reacting to a flurry of M&A interest in recent weeks.

The recent activity includes Willis Group Holdings P.L.C.’s late October announcement that it plans to take a majority stake in independent brokerage Miller Insurance Services L.L.P. and set up a London-based specialty brokerage handling Lloyd’s of London and wholesale business (see box, Page 23).

Separately, independent London-based insurance and reinsurance brokerages Hyperion Insurance Group Ltd. and R.K. Harrison Holdings Ltd. announced earlier in November that they were in exclusive merger talks.

As part of a deal announced last week for Hamilton Insurance Group Ltd. to acquire Lloyd’s managing agency Sportscover Underwriting Ltd., the Hamilton, Bermuda-based insurer also will acquire Kinetic Insurance Brokers Ltd., a Lloyd’s broker.

Also last week, Towergate Insurance Partnership Ltd., a broker consolidator with Lloyd’s operations, said it had been approached by unnamed parties interested in acquiring it.

One source, who asked not to be named, said the proposed Willis-Miller and Hyperion-R.K. Harrison deals are driven largely by the companies’ desire to increase their scale in a shrinking London wholesale marketplace.

Another driver of recent M&A interest is considerable downward pressure on rates for many of the lines of insurance underwritten in the London market, notably wholesale business, said Eamonn Flanagan, head of the Liverpool office of Shore Capital Group Ltd.

Declining insurance and reinsurance rates result in smaller commissions paid to brokers, he said. If organic revenue is hard to come

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ONLINE  
FEATURES

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NEWS

LEGISLATION & REGULATION

INSURER GROUPS BACK WINNERS  
IN CONGRESSIONAL RACES

Republican surge supports industry-backed candidates

BY MARK A. HOFMANN

Property/casualty insurance industry political action committees did well in the midterm elections, and officials say member input was crucial to their success.

Members of industry associations can gather impressions and facts that might not be available to Washington-based government affairs professionals, a vetting that helps PACs choose strong candidates who support members' political positions, they say.

For example, the Alexandria, Virginia-based Independent Insurance Agents & Brokers of America's PAC, InsurPac, distributed more than \$1.8 million in the 2014 campaign cycle for a 93% congressional victory rate.

"When we're looking at open seats and challenger races, one of the luxuries we have in being a confederation of state associations is that we have boots on the ground in every congressional district," said Nathan M. Riedel, the IIABA's vice president of political affairs. "When we're vetting challengers or open-seat candidates, we reach out to our locals."

"Obviously, the relationships that PCI member companies have are a driving force, particularly

See PACS page 22



SAFETY

Construction labor shortage raises safety concerns

BY BILL KENEALY

NASHVILLE, Tennessee — As a global trend toward urbanization and large infrastructure projects looks to spike demand for services in the coming decades, the construction industry is at a crossroads.

While the industry has benefited from a raft of advances in building design and technology, it still needs to address lingering concerns about labor shortages and construction defects. The recession decimated the construction industry and thinned the ranks of skilled workers, and worries persist about whether there

are enough workers to go around as the industry's workload scales up, experts say.

"You need the right people for the right job," said Timothy R. Kania, New York-based senior vice president for energy and construction with Liberty International Underwriters. "So you have to be concerned about the qualifications of the people executing the job."

Many in the industry express concern about the implications of the labor shortage for worker safety.

David B. Walls, Dallas-based president and CEO of Austin Industries, said the issue of work-

er safety became an overriding passion for him early in his career after the father of an inexperienced worker who was killed on a jobsite Mr. Walls was overseeing confronted him with the words, "Why did you kill my son?"

"The good news is that the construction industry has continued to improve its safety record over the last few years," Mr. Walls said earlier this month at the International Risk Management Institute Inc.'s 34th Construction Risk Conference in Nashville, Tennessee. "The bad news is that it is, according to the Bureau of Labor

See IRMI page 22

HEALTH CARE BENEFITS

Employers  
change tactics  
on health plans

Efforts focus on better care, lower costs

BY MATT DUNNING

WASHINGTON — Employers and health insurers are pursuing fresh benefit plan designs and communication strategies aimed at reducing medical costs and improving overall health conditions among employees and their families.

In 2016, Philadelphia-based Comcast Corp. plans to address the persistent issue of unnecessary and/or misinformed medical care and other types of systemic waste within its \$1.25 billion health plan by implementing a "process-based plan design," said Shawn Leavitt, Comcast's senior vice president of global benefits.

"What we're saying is that it's our money, and we have a right and a responsibility to our employees to ensure that it's spent wisely," Mr. Leavitt said earlier this month during a presentation at the 19th annual National Business Coalition on Health Conference in Washington.

Consumerism by itself — at least as it is contemplated under many current high-deductible health plan designs — is unlikely to cut medical care costs or improve health outcomes, Mr. Leavitt said. Comcast is preparing a benefit plan design that couples value-based health care purchasing with independent third-party "personal shoppers" contracted to help employees and their families "receive the right care, in the right setting and at the right price from the right provider and at the right time," he said.

"The concept is that rather than in-network or out-of-network, you're either in-process or out-of-process," Mr. Leavitt said. "You're considered in-process if you're using the concierge services to make appointments for high-tech imaging, which ensures that you're being driven into high-quality, freestanding, lower-cost providers; or out-of-process if you're selecting it yourself and being reimbursed at a lower rate."

Mr. Leavitt said other examples of in-process utilization would likely include requests for additional medical opinions and cancer treatment plans that have been

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# EEOC OVERREACHES IN DISABILITY PROBE OF CRUISE LINE

Appeals court rules subpoena  
against Royal Caribbean too broad

BY JUDY GREENWALD

A recent appeals court ruling chastising the U.S. Equal Employment Opportunity Commission for issuing an overly broad and burdensome subpoena in a discrimination case is expected to help other employers combat similar orders.

The ruling in *Equal Employment Opportunity Commission v. Royal Caribbean Cruises Ltd.* earlier this month by the 11th U.S. Circuit Court of Appeals in Atlanta concerned Argentine national Jose Morabito, who alleged in a 2010 discrimination charge filed with the EEOC that Miami-based Royal Caribbean violated the Americans with Disabilities Act by refusing to renew his employment contract after he was diagnosed with HIV and Kaposi's sarcoma, a cancer frequently associated with AIDS.

The EEOC issued an administrative subpoena seeking a list of all Royal Caribbean employees who were discharged, or whose contracts were not renewed, dating back to August 2009, as well as additional details about them.

In arguing against the subpoena, Royal Caribbean said Mr. Morabito was not a U.S. citizen and that his ship flew under Bahamas' flag. It also estimated that gathering the data would require work by five to seven employees for two months.

In its recent ruling, a three-judge panel of the 11th Circuit unanimously upheld a magistrate judge's and a Miami federal judge's rulings in the case, stating it was "not immediately clear" why the data sought by the EEOC was relevant to Mr. Morabito's suit and that it was unduly burdensome.

The information sought is "at best tangentially relevant to Mr. Morabito's individual charge of discrimination," said the ruling.

The EEOC is reviewing the decision and has no further comment at this point, a spokeswoman said in a statement.

Observers say the court's ruling

is significant.

"It takes the commission to task for fishing for a class through a subpoena much broader than the scope of the charge," said David Gevertz, a shareholder at law firm Baker, Donelson, Bearman, Caldwell & Berkowitz P.C. in Atlanta,

"It was just a nakedly aggressive move on the EEOC's part ... and I'm surprised they decided to litigate this up to the 11th Circuit, given the really tenuous link that the subpoena had" to the charge brought by Mr. Morabito, Mr. Gevertz said.

"If the EEOC really wanted to fight this battle, they picked the wrong circuit and the wrong set of facts," he said.

"In this case, they got a little clouded in their judgment" in issuing the subpoena because the EEOC did not take into consideration the case involves a foreign nation and an employee who is not a U.S. citizen, said Emily S. Borna,

## KEY POINTS

Experts say guidance that firms should consider if they are faced with broadly worded EEOC subpoenas includes:

- Don't automatically agree to broad EEOC information requests; try negotiating to narrow down the data required.
- Weigh the time and costs involved to fight a broadly worded EEOC subpoena.
- Consider refusing to comply with an EEOC order and let a court decide on enforcement.
- Companies have only five days to object to an EEOC subpoena.
- Do not voluntarily provide information beyond that requested by the EEOC.
- Consider sending only the information relevant to the case, regardless of the EEOC's subpoena.
- Providing all information the EEOC requests could exonerate a company.



AP PHOTO

An 11th Circuit ruling in an EEOC case against Royal Caribbean Cruises may help employers defend against overly broad agency subpoenas.

a shareholder at Jackson Lewis P.C. in Atlanta.

While earlier decisions in the 3rd, 6th and 9th circuits upheld broadly worded EEOC subpoenas, more recent rulings, including a 2012 10th Circuit decision, impose "some real limitations" on the EEOC, said J. Randall Coffey, a partner at Fisher & Phillips L.L.P. in Kansas City, Missouri.

In the 2012 case, the Denver-based court held the EEOC attempted "to justify an incredibly broad request for information" in its subpoena of BNSF Railway Co.

The subpoena had sought information on current and/or former employees throughout the United States since 2006.

The Atlanta appeals court's ruling also continues a more general trend of courts "not agreeing with the EEOC's view of the law or the EEOC's authority, especially in recent years, because the EEOC seems to be increasingly aggressive, and the courts seem to be aggressive in reining in the EEOC," said Richard D. Tuschman a partner at Akerman L.L.P. in Miami.

In its 2013 ruling in *Equal Employment Opportunity Commission v. Peoplemark Inc.*, the Cincinnati-based 6th Circuit ruled that it was unreasonable for the EEOC to pursue a case against temporary staffing firm Peoplemark Inc. after learning that a company official's initial statement about a companywide policy of rejecting job applicants who are felons was untrue.

Gerald L. Maatman Jr., a partner at Seyfarth Shaw L.L.P. in Chicago, said he anticipates that other employers will cite *Royal Caribbean* in arguing an EEOC subpoena is overly broad and allow employers to say "here's why."

But Michael C. Wilhelm, a shareholder with law firm Briggs & Morgan P.A. in Minneapolis, said often "the expense of litigating something like this vs. complying can be a hindrance" to employers challenging an EEOC subpoena.

"I think they frequently are far better off trying to negotiate resolution with the EEOC if it's something they can live with," Mr. Coffey of Fisher & Phillips said.

# NAIC supports more reinsurer jurisdictions

BY SARAH VEYSEY

While a group representing London market underwriters welcomes a National Association of Insurance Commissioners recommendation that five international regulators be added to its list of qualified jurisdictions, the International Underwriting Association says it does not go far enough in leveling the playing field for overseas reinsurers operating in the United States.

The NAIC said last week that five regulators should be added to its list of qualified jurisdictions effective Jan. 1, 2015.

If the full NAIC membership agrees this week, reinsurers from those five jurisdictions would be able to post less collateral to underwrite reinsurance in the United States under the NAIC's Credit for Reinsurance Model Law.

The five regulatory bodies are the Bermuda Monetary Authority; Germany's BaFin, which translates to the German Federal Financial Supervisor Authority; the Paris-based Autorite de Controle Prudentiel et de Resolution; the Central Bank of Ireland; and the Bank of England's Prudential Regulation Authority.

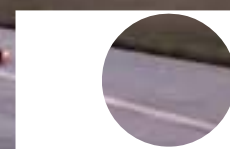
"Reinsurance collateral reform continues to play a prominent role in discussions with federal and international authorities. This move toward adding jurisdictions enhances the NAIC's position on this issue," Adam Hamm, president of the NAIC and insurance commissioner for North Dakota, said in a statement.

The recommendation for the Bermuda "is an endorsement of the BMA's robust and comprehensive supervisory regime," said Bradley Kading, president of the Association of Bermuda Insurers and Reinsurers.

The London-based IUA, which represents London company market insurers, welcomed addition of the U.K. Prudential Regulatory Authority to the list, but also said the proposal should go further. While U.K.-regulated reinsurers should see reduced collateral requirements, "we'd like to see covered agreements," a spokesman said.

Covered agreements are arrangements where the Federal Insurance Office can preempt state law and reduce or remove collateral requirements.

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## PBGC deficit hits record \$61.7B as more multiemployer plans fail

■ The Pension Benefit Guaranty Corp.'s deficit hit a record \$61.7 billion in fiscal 2014, the agency said. The deficit in the PBGC's insurance program for single-employer plans fell to \$19.3 billion, down from \$27.4 billion in fiscal 2013. But that decline was more than offset by a huge rise in the deficit in the agency's insurance program covering multiemployer plans, which jumped to \$42.4 billion, up from \$8.3 billion in fiscal 2013. "The program's increased deficit is largely due to the fact that several additional large multi-employer plans are expected to become insolvent within the next decade," the PBGC said in a statement. There has been no broad-based move by federal lawmakers to address the plans' problems.

## NAIC task force to target cyber security issues

■ The National Association of Insurance Commissioners has created a task force to help coordinate insurance issues related to cyber security, the NAIC announced during its fall meeting in Washington. "The task force will make recommendations and coordinate NAIC efforts regarding: the protection of information housed in insurance departments and the NAIC; the protection of consumer information collected by insurers; and collecting information on cyber liability policies being issued in the marketplace," the NAIC said in a statement. "The threat of a cyber attack is very real, and state regulators are committed to developing the tools we need to ensure effective regulation in this area," said NAIC President Adam Hamm, who also serves as North Dakota insurance commissioner, in the statement.

## Home Depot says data breach will cost at least \$34M in 2014

■ The Home Depot Inc. has reported pretax net expenses of \$28 million related to its recent data breach and said it anticipates the total cost will be about at least \$34 million for the year. But the Atlanta-based retailer added that it does not know how much the breach will ultimately cost. Home Depot said in an earnings statement that

its 2014 estimate "does not include an accrual for other probable losses related to the breach that cannot be estimated at this time," such as liabilities to payment card networks for reimbursements of credit card fraud and card re-issuance costs. Home Depot has said the breach put about 56 million payment cards' information at risk. The retailer has about \$105 million in cyber insurance, according to sources.

## More firms add auto-enrollment to 401(k) retirement programs

■ More employers are adding automatic enrollment features to their 401(k) and other defined contribution plans, according to a survey by Towers Watson & Co. In 2014, 68% of employers surveyed offered an automatic enrollment feature, up from 65% in 2012 and 57% in 2011. The survey also found that while 54% of employers offer a Roth feature to their defined contribution plans, that feature is underutilized. Just 8% of highly compensated employees and 11% of non-highly compensated employees make Roth contributions, the survey found. The results are based on responses from 457 plan sponsors.

## Marsh places \$3.5B in limits in transactional risk market

■ A total of \$3.5 billion in insured limits was placed in the transactional risk insurance market in the first half of 2014 by Marsh L.L.C., a 59% increase over the same period in 2013, the broker reported. The United States and Canada showed the greatest growth in the purchase of transactional, or representations and warranties, insurance, with a 225% increase in the limits of insurance placed, to \$1.25 billion. The growing awareness among companies involved in mergers and acquisitions of the coverage has driven demand for the product in jurisdictions where take-up rates have historically been low, including German-speaking jurisdictions, according to the report.

## Wholesalers band together on Lloyd's D&O facility

■ U.S. wholesale brokers CRC Insurance Services Inc., AmWINS Group Inc., and The Swett & Crawford Group Inc. have formed a new

directors and officers program at Lloyd's of London called the CAS Facility. Intended for the North American market, the D&O program offers \$25 million in capacity and provides excess and Side A difference-in-conditions coverage, which offers additional liability protection for a company's directors and officers, according to a Swett & Crawford statement. Lloyd's syndicates of Chubb Corp., Hiscox Ltd. and Starr Cos. will provide the capacity, a spokesman for the facility said. The brokers will begin binding coverage Dec. 1, according to the statement.

## Obese workers' absenteeism costs U.S. employers \$8.65B a year

■ Absenteeism among obese workers in the United States costs employers about \$8.65 billion annually, says a study published in the latest issue of the Journal of Occupational and Environmental Medicine. Costs associated with obesity-related work absences account for 9.3% of all absenteeism costs nationwide, ranging from 6.5% in Washington, D.C., to 12.6% in Arkansas, and obese workers miss an extra 1.1 to 1.7 days of work each year compared with overweight or normal-weight workers, the study found. Adults who have a body mass index of 30 or higher are considered obese, according to the U.S. Centers for Disease Control and Prevention.

## Connecticut insurance regulator to join Evercore Partners

■ Connecticut Insurance Commissioner Thomas Leonardi is resigning to join New York-based investment banking advisory firm Evercore Partners Inc. as a senior adviser focusing on insurance. Appointed commissioner by Connecticut Gov. Dannel Malloy in February 2011, Mr. Leonardi will leave on Dec. 11, according to a statement by the governor's office. A replacement has not yet been named. Mr. Leonardi was on the executive, technical and financial stability committees of the International Association of Insurance Supervisors and was CEO of Avon, Connecticut-based Northington Partners Inc., an investment banking firm that specialized in the insurance sector, for 22 years, according to the statement. Based in Connecticut, Mr. Leonardi will work with Evercore's New York and London offices.

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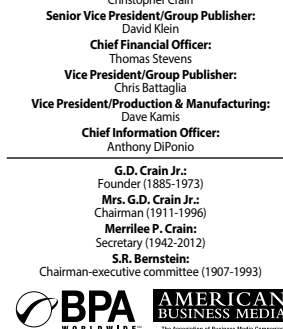
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# New staffers join *Business Insurance*

*Business Insurance* has added three people to its marketing, events and editorial staff.

Clifton Simmons has been hired as marketing director to help drive growth in advertising sales and conferences and events. Mr. Simmons has more than 10 years of experience in business-to-business and business-to-consumer multi-media marketing, mobile marketing and events marketing.

Previously, he was a senior copywriter and social media manager at US Foods Inc. Earlier in his career, he worked for two large advertising agencies: Lowe Campbell Ewald, where he was a vice president and creative supervisor; and at BBDO Worldwide, where he was a senior copywriter.

Mr. Simmons holds a bachelor's

degree in journalism from Wayne State University in Detroit.

Julie Ford has joined *BI* as events manager, leading events and conferences planning, budgeting and execution for all of *Business Insurance's* events and conferences. Ms. Ford had been interim conferences manager at Modern Healthcare, a sister publication of *Business Insurance*. Earlier in her career, she worked for six years at Crain's Chicago Business, another sister publication.

Ms. Ford holds a bachelor's degree in general studies and business, with a marketing emphasis, from the University of Iowa.

Shelby Livingston has joined the staff as an editorial assistant. In this role, she is working to support the editorial team in the produc-



Mr. Simmons



Ms. Ford



Ms. Livingston

tion of a variety of content delivered on digital, print and mobile platforms.

Ms. Livingston had been an intern reporter and researcher for Chicago lifestyle magazine Michigan Avenue and a business reporter for the Medill Reports

News Service in Chicago.

She holds a bachelor's degree in English, magna cum laude, from Clemson University, and a master's degree in journalism, with concentrations in magazine and business reporting, from Northwestern University.

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## Sanctions against Russia prompt insurers to exit

Russian companies face billions of dollars in extra insurance costs as Western sanctions prompt foreign insurance firms to start pulling out. Existing sanctions, along with an oil price tumble, have brought Russia to the brink of recession. The ruble is down about 30% over the year, and lending costs are soaring for all companies, be they on sanctions lists or not. That has led foreign insurers to conclude that it's simply not worth the risk of offering their services, say industry sources. "There is a concern that further sanctions could be imposed, (and) there is uncertainty about where they might be imposed," said Andrew van den Born at insurance broker Willis Group Holdings P.L.C. "If (insurance companies) were to write credit risk for Russia — even if the companies are not sanctioned — and they were to default, they would have a difficult conversation as to why they chose to write the risk." Russian President Vladimir Putin came under heavy criticism at a recent G-20 summit, where Western leaders accused him of continuing to destabilize Ukraine in violation of a September peace agreement.

Reuters

## Towergate reveals acquisition approaches

London-based brokerage consolidator Towergate Partnership Ltd. said it had received approaches from parties interested in acquiring the group and is assessing those offers. In its interim management statement, Towergate, which operates insurance brokers distributing products to small businesses and individuals, a managing general agency and other assets, said it had appointed advisers to help evaluate the potential offers. "The approaches we have received are testament to the group's strength in its primary markets. Whilst there can be no certainty that these approaches will result in a sale, it is our responsibility as a board to evaluate them thoroughly," said Alastair Lyons, the company's interim executive chairman, in the statement.

## Talbot Underwriting opens Sydney office

Talbot Underwriting Ltd., a unit of Validus Holdings Ltd., is opening an office in Sydney, to be headed by Adam Matteson. It will offer

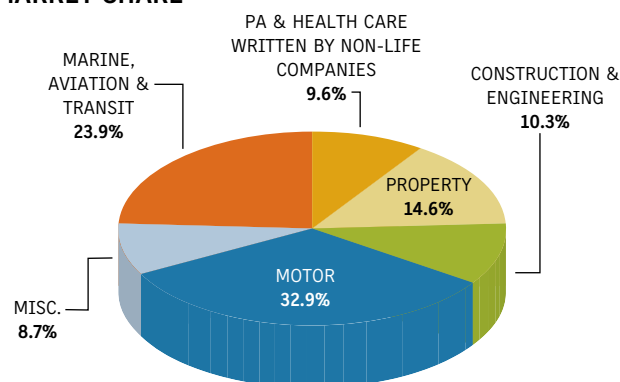
## PROFILE: EGYPT

**\$6.22**  
BILLION

The Egyptian property/casualty insurance market remains underdeveloped because of the nation's large poor population. However, the market is regarded by foreign insurers as having potential, particularly for microinsurance and takaful coverage. To that end, five new sharia-compliant takaful insurers started in 2012 with market share of 10%, which is expected to grow by 2015 to 15%. The nation still needs a clear set of rules to govern this growth sector.

◀ 2013 P/C gross premiums

### MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

### COMPULSORY INSURANCE

- Auto third-party liability
- Aviation third-party liability
- Workers compensation
- Professional indemnity for insurance brokers
- Shipowners liability for oil pollution

### NONADMITTED

Insurance must be purchased in Egypt from locally licensed insurers, with some exceptions. The exceptions are marine hull, cargo, liability, and aviation risks which can be placed anywhere.

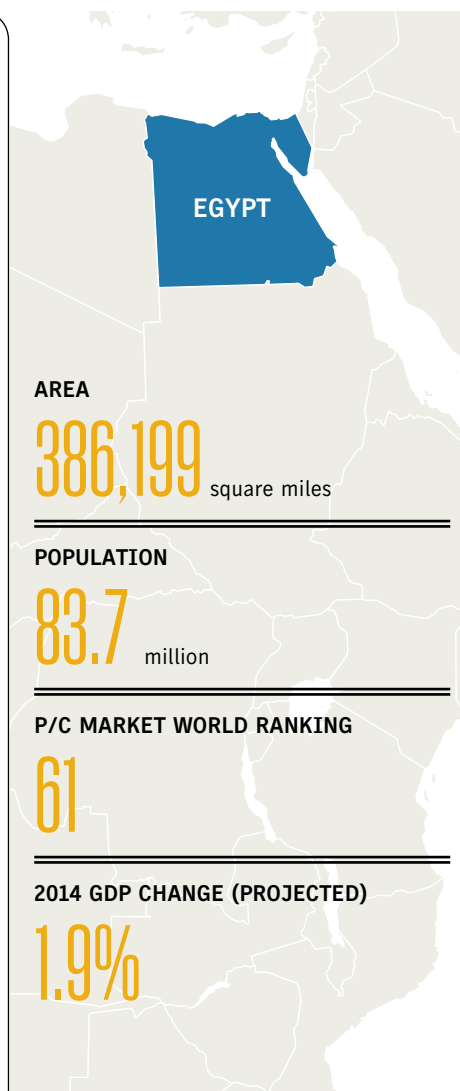
### INTERMEDIARIES

Agents and brokers have to be licensed by the nation's insurance regulator to sell insurance. Intermediaries are typically not allowed to place property/casualty business with nonadmitted insurers. Egyptian law is silent on whether brokers can purchase personal accident and private medical coverage outside the country.

### MARKET PRACTICE

Generally, intermediaries adhere to the law against nonadmitted placements. When insurance is sold outside Egypt under a multinational program, no claims are submitted or paid locally, so the insurance regulator is unaware of the arrangement.

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



## MARKET DEVELOPMENTS

UPDATED  
NOVEMBER 2014

- In July 2014, the Egyptian Financial Supervisory Authority enacted amended governance rules for insurance brokers.
- In July 2014, Egyptian financial regulators approved mandatory professional indemnity coverage for travel agencies to improve the public trust after several tourists were involved in traffic and other accidents.
- In July 2014, regulators allowed insurers to market products through post offices.
- In February 2014, the nation amended its tax law so that companies are subject to an income tax rate of 25% regardless of profit level.
- In February 2014, Egyptian financial regulators said they planned to amend insurance legislation regarding solvency rules.

products available from Talbot's managed syndicate 1183 at Lloyd's of London, Talbot said in a statement. Mr. Matteson joins Talbot from Arch Underwriting at Lloyd's (Australia) Pte Ltd., where he served as regional director. "This new initiative will allow us to better serve our existing and expanding client base and shows the importance of and commitment to the region," John Ewington, CEO of Talbot Asia Pacific, said in a statement.

## Stephen Catlin elected ABIR chair

Catlin Group Ltd. CEO Stephen Catlin has been elected chair of the Association of Bermuda Insurers and Reinsurers. Mr. Catlin's two-year term begins Jan. 1. He will succeed XL Group P.L.C. CEO Mike McGavick, whose term ends Dec. 31. Other officers elected were

PartnerRe Ltd. President and CEO Costas Miranthis as first deputy chair, and RenaissanceRe Holdings Ltd. President and CEO Kevin O'Donnell as second deputy chair.

## Huw Evans named ABI director general

Huw Evans will succeed Otto Thoresen as director general of the Association of British Insurers in February. Mr. Evans currently is director of policy and deputy director general at the London-based trade body for insurers in the United Kingdom. Also in February, Mr. Thoresen will become chairman of the National Employment Savings Trust, an automatic enrollment pension plan for employers and the self-employed set up by the U.K. government. "In the current environment of high levels of regulatory and legislative change across the

insurance sector, the need for an effective trade body is greater than ever — there is huge value to be gained from collaborative efforts on key policy issues," Mr. Evans said in a statement. "My experience of working with ABI members on issues as varied as Flood Re, pension reform and the aging society has shown me the power and potential of what we can achieve as an industry when we work together."

## E.U. watchdog warns on 'undue' incentives

The European Union's top insurance watchdog has warned against giving insurers strong incentives to invest in particular asset classes, saying it would run counter to prudent supervision. "We need to emphasize continually that undue incentives to buy any asset class should not be part

of a risk-based, prudent regime," Gabriel Bernardino, chairman of the European Insurance and Occupational Pensions Authority, told a financial conference. European politicians want insurers to put more of their €8.5 trillion (\$10.65 trillion) in assets under management into investments that will boost the bloc's struggling economy. Big insurers such as Allianz S.E., Axa S.A. and Assicurazioni Generali S.p.A. are looking to make long-term investments, such as in infrastructure or clean energy, that match their commitments to policyholders often decades in the future, but they say European capital rules coming into force in 2016 make it too expensive for them to invest in these assets and are pushing for a better deal from regulators. "We are all struggling to find good investments," Laurent Clamagirand, group chief investment officer at Axa, told the conference.

Reuters



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## EMPLOYERS GET SMART ON MEDICARE PAYMENTS

**Q** What is the status of implementation of the SMART Act?

**A** Since President Obama signed the SMART Act in January 2013, the MARC coalition has been working with the Centers for Medicare and Medicaid Services to implement the requirements of the new law. Several of the SMART Act provisions are self-implementing, such as a statute of limitations and the elimination of strict liability for reporting penalties. Yet several other provisions required new CMS regulation or policy.

CMS has already implemented several of the provisions. For example, CMS recently eliminated the requirement that Medicare beneficiaries provide a full Social Security number so that settling parties can navigate the Medicare Secondary Payer Section 111 reporting process. Similarly, the agency has raised the threshold to \$1,000, below which Medicare Secondary Payers will not apply to settlements — easing the settlement process for small claims and saving the government millions of dollars in avoided costs of claims recovery.

### Q & A

**Q** Is the SMART Act implementation process going as MARC coalition members had hoped when they originally supported the bill's passage?

**A** Several improvements remain pending in the rule-making process. For example, the law calls for an electronic portal to expedite Medicare repayments during the settlement process. Although the law called for the portal to be running by October 2013, the agency has announced a delay in full functionality until 2016. Similarly, the agency continues to work on rule-making, creating the reporting

safe harbors and the appeals process for responsible reporting entities.

**Q** What challenges remain in the Medicare Secondary Payer compliance process, and where will the MARC coalition focus its efforts?

**A** With several rule-makings left to complete, the coalition continues to meet and work with CMS to finalize those rules as soon as possible. Beyond SMART Act implementation, there are a number of secondary payer issues that claims managers will need to watch for. MARC has been actively working on secondary payer issues related to Medicare Advantage Part D prescription drug plans and Medicaid programs so benefits can be appropriately coordinated at the time of settlement with these plans as well.

**Q** What advice would you give to risk managers who are trying to stay ahead of the curve on Medicare Secondary Payer issues?

**A** Certainly there is no shortage of Medicare Secondary Payer



**MICHELE ADAMS**

**MEDICARE ADVOCACY RECOVERY COALITION**

Michele Adams is chairwoman of the Washington-based Medicare Advocacy Recovery Coalition and director of claims management, business strategies and risk management services at Walt Disney World Resort in Orlando, Florida. She recently spoke with *Business Insurance* Associate Editor Sheena Harrison about how the Strengthening Medicare and Repaying Taxpayers Act, known as the SMART Act, is progressing, along with

upcoming challenges related to Medicare Secondary Payer issues. Edited excerpts follow.

issues affecting the claims process. As the population expands and a greater number of Medicare beneficiaries are in the general population, and in the employee base, we will continue to see a rise in Medicare Secondary Payer claims. Further, numerous other entities, including Medicare Advantage and Part D insurers may seek to assert their interests in settlements. Claims may become more complicated to resolve, and anticipating the numerous entities that

may have a lien on settlement proceeds will become increasingly complex. By joining together, claims professionals have already achieved much success in improving the Medicare Secondary Payer process, but our work is not over. We welcome the claims and risk management community working together, through MARC and other advocacy efforts, to ensure that our successes remain, and we continue to improve those areas of concern that still remain.

### COMINGS & GOINGS

## UP CLOSE: MIKE BARONE

**SAN DIEGO-BASED PRESIDENT OF EMPLOYEE BENEFITS**  
Hub International Ltd.

**PREVIOUS POSITION:** San Diego-based president and founder, Intercare Insurance Solutions Inc.

**LOOKING FORWARD TO:** I've been doing this for 25 years; I am incredibly excited. We are going to have more change in our industry in the next few years than I've seen in my 25 years with the industry ... Being part of an era in our business where massive change will take place: technology, big data, acquisitions, health improvement, consumerism (and) private exchanges. If you're bored today, you are truly in the wrong business.

**GOALS FOR NEW POSITION:** With all of this massive change, it's ensuring we have the people, the processes and the technology to ensure we continue to deliver best-in-class solutions to our clients. Create an environment for our employees so they wake up every day excited about what they do

**CHALLENGES FACING INDUSTRY:** Health care costs are still our biggest issue.



**FIRST INDUSTRY JOB:** Underwriter at what was Prudential Insurance Co. of America.

**WHAT SURPRISED ME:** Just how much personal relationships influence decisions, small and large. We are very much in a people business.

**ADVICE:** Find a job you really like. It is too important to spend this much time doing anything else.

**OUTSIDE THE INDUSTRY, A DREAM JOB:** IndyCar racer.

**HOBBIES:** Golf and betting on sports.

**THING MOST PEOPLE DON'T KNOW ABOUT ME:** I skateboard to the gym.

**BEST CITY:** San Diego (duh).

**FAVORITE MEAL:** Sushi.

**WHEN I RETIRE:** I want to live in Spain for a few years.

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<b>POLYBAGGED WITH <i>BUSINESS INSURANCE</i></b>				
<b>ISSUE DATE:</b>	March 30	June 22	September 14	November 9
<b>AD CLOSE:</b>	March 9	May 25	August 24	October 19
<b>MATERIAL DUE:</b>	March 12	May 28	August 27	October 22

## POLYBAGGED WITH *PENSIONS & INVESTMENTS*

<b>ISSUE DATE:</b>	April 6	June 29	September 21	November 16
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EDITORIAL

## CYBER HOPE ON THE HORIZON

It's about time — and long overdue. That's our reaction to many experts' belief that there is, at long last, a good chance of Congress and the president finally agreeing on cyber security legislation. Even if there is not total agreement on every single issue, legislation would be more than welcome at this point after years of risk managers standing by in dismay as they watch the political infighting and one-upmanship that has marked the debate over cyber security to date.

Now, however, the pressing need for legislation, as well as perhaps the maturing of this issue, apparently has created hope for some concrete action.

So what can a Republican-controlled Congress and a Democratic president agree upon? As we point out in our story on page 1, it is likely to be a voluntary program that establishes standards for best practices and calls for the development of market incentives to promote their adoption.

While there are not expected to be regulations per se — of which, certainly, risk managers already have more than enough to deal with — there are expected to be incentives for the private sector to engage in a variety of pro-security activities, such as liability protection for sharing more information.

There may also be a streamlining of regulation and, perhaps, incentives to use insurance as well.

In addition, there may be incentives to promote the wider adoption of the National Institute of Standard and Technology's proposed voluntary cyber security framework, issued in October 2013, which was in response to President Barack Obama's May 2013 executive order.

As has been pointed out, although the NIST framework was designed for critical infrastructure entities only, it also provides good guidance to others regarding what may be appropriate for security measures.

And certainly it would be a welcome relief to businesses if Congress tackles the hodgepodge of state data breach notification laws that firms must deal with and comes up with some sort of national standard.

Of course, with Congress there is always the danger of getting bogged down in partisan squabbling. But we remain optimistic the new year will mean a fresh start in addressing this critical issue.

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

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SCHILLERSTROM



COMMENTARY

## A RISK MANAGEMENT AGENDA FOR CONGRESS TO ADDRESS

Political prediction is an iffy business at best, particularly when Congress is involved. After all, some observers thought lawmakers would have extended the federal terrorism insurance backstop created by the Terrorism Risk Insurance Act of 2002 long before its Dec. 31 sunset. They didn't, and the issue remains for the current lame-duck session to decide.

Looking ahead to the new Congress that convenes in January, I'm willing to hazard a guess about a few risk management issues that will be addressed. Remember, "addressed" isn't the same as "resolved."

With Republican majorities in both houses, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 will come under scrutiny. The chairman of the House Financial Services Committee — Rep. Jeb Hensarling, R-Texas — has made clear that he thinks the law overreaches.

Exactly which provisions of the massive law will demand attention first remains unclear. The Consumer Financial Protection Bureau appears certain to draw critical attention, as do some provisions dealing with housing finance.

An unanswered question is whether Congress will zero in on the Financial Stability Oversight Council as well.

FSOC has the power to designate nonbank financial institutions — including both life and property/casualty insurance companies — as significantly important financial institutions, and thus subject them to enhanced federal regulation. FSOC has come under fire for what some observers think is a lack of transparency about its work. Not the sexiest issue on Capi-



**MARK A. HOFMANN**

SENIOR EDITOR

tol Hill, but one that may pique some lawmaker's curiosity.

Bearing in mind that Congress is as much a reactive body as a deliberative one, expect some discussion of how the country deals with outbreaks of infectious disease such as Ebola. The federal response to Ebola has drawn considerable criticism from lawmakers and from some of the public.

While some of the criticism in this particular case appears overblown, epidemics present real threats to the public. An examination of what went right and what went wrong with the federal approach to Ebola could put the country in a better position to deal with a real U.S. epidemic, such as a new and deadly strain of influenza.

Infections of another sort altogether — computer viruses and hack attacks — will no doubt also draw the new Congress' attention. The Hill's foremost cyber warrior, Mike Rogers, R-Mich., chairman of the House Permanent Select Committee on Intelligence, did not seek re-election, but that doesn't mean congressional interest will wane. In fact, the next major credit card security breach — and such a breach is inevitable — is certain to lead to more hearings on the subject.

Of course, more hearings on cyber security or anything else don't necessarily translate into action. That's one political prediction that's anything but iffy.

# Commercial drones take off into uncharted regulatory skies

Civilian use of unmanned aerial systems, or drones, is transforming certain industries but current aviation regulations don't effectively address the technology, says Jonathan S. Ziss of law firm Goldberg Segalla L.L.P. Once regulations are in place, a liability framework should emerge that will lead to an increased need for insurance.

**A**rguably for the first time in the history of the Federal Aviation Administration — that prime example of regulatory purpose and productivity — the agency has slipped.

Technology and innovation, in the form of unmanned aerial systems (UAS or drones, in the vernacular), has vaulted far ahead of the FAA's rules and regulations. The skies are beginning to buzz with low-cost, high-performance craft capable of gathering and transmitting data, delivering goods and so much more. From pipeline surveys to residential real estate photography and filmmaking, drones literally have taken off in the past few years, offering a truly transformative technology with enormous efficiency and eye-popping returns on investment.

The only problem is that they're currently illegal in the United States. Civilian and industrial drone operations are less restricted in Canada and in the European Union, but widespread use is still inhibited there, as here, by an uncertain regulatory environment.

For decades, there have been unmanned aircraft in military service and in law enforcement, but little public adaptation aside from noisy, doomed model aircraft. (Sorry, hobbyists.) In fact, the only public contemplation of drone flights to be found in the regulatory literature was precisely that: model aircraft. The FAA, which governs the National Airspace System, had no need to consider the integration of unmanned aircraft into the nation's airspace system. Model craft were flown at low altitude, and always within line of sight of their radio controllers, who had little ambition beyond the pure joy of flight itself.

Enter the GoPro® camera, digital wireless controls and some quantum leaps in power plant performance that allowed for lightweight and nearly silent motors, and anyone with a few hundred dollars can become a ground-based pilot-in-command, soaring above previously inaccessible vistas. More than that, they can become entrepreneurs — and, currently, outlaws. Still, they don't seem to mind.

FAA regulations prohibit commercial use of drones. With the exception of a very limited number of certificates of waiver or authorization — granted on a case-by-case basis — the entire civilian drone enterprise is an unwelcome user of the airspace system.

Safety is the FAA's primary focus, and the lack

of systemwide safeguards against collisions involving drones ("see and avoid," in aviation parlance) poses an enormous challenge, as does coordination and tracking of drone traffic overall. Air traffic control has managed the skies since the 1930s. There needs to be a new sheriff in town to manage all drone traffic. At present, a sizable number of enforcement actions are in varying stages, as the FAA issues cease-and-desist letters, mainly to commercial drone operators. At least one case is being litigated that involves an aerial video camera operator fined for hazardous operation over a college campus. But the FAA understands that litigation is ultimately not the route to safe skies.

In fact, the FAA is under pressure from Congress to comprehensively adapt the NAS to drones. Congress has mandated the development of a

*From pipeline surveys to residential real estate photography and filmmaking, drones literally have taken off in the past few years, offering a truly transformative technology with enormous efficiency and eye-popping returns on investment.*



comprehensive plan or safely integrating unmanned aerial systems into the NAS by late 2015. This is a daunting and complex task. Likely, integration will occur in phases, and as such will remain a source of frustration and complaints over stalling development of an industry some estimate will grow to \$13 billion within the first three years, according to a December 2013 USA Today article.

Experts see it as likely that federal regulation will include minimum insurance requirements, at least for liability coverage. With little experiential data — and even precious little anecdotal information — to apply, the chore of underwriting commercial drone operations will resemble the Wild West in its early days. New technology (quadcopters and octo-copters), operating in a new environment (flying low and slow in skies over populated territory), doing new things (inspecting roofs, gathering news, delivering pizza and beer), makes for a challenge to the insurance industry basically without precedent.

General liability insurance is only a part of the story, of course. Many camera-equipped drones will have broadcast communication capability, or at least will be linked to such a system. Media liability risk will be a constant in-flight companion. The aircraft themselves, as well as their computer-based control systems on the ground, will be as vulnerable to hacking, virus transmission, software and hardware defects, and other system corruption threats as any other terrestrial cyber system. The drone hulls will need to be covered as well.

In this sense, drones combine attributes of motor vehicles, aircraft, satellites, and computers. Unlike aircraft and satellites, which can cost tens or hundreds of millions of dollars, drones will be available — in fact, are available — for a few hundred dollars and will perform many low-cost, low-margin tasks. One has to wonder what sort of appetite U.S. businesses will have for anything above federally mandated minimum insurance coverage limits.

In addition to the drone owner/operators, there will be a need for product liability and personal injury/property damage coverage for manufacturers, distributors, data/avionics companies, consultants, and customers entering the UAS market.

With much about the coming Age of Drones still up in the air, if you will, the business community and insurance markets have little choice but to wait on Washington for additional cues. This could take several years, as is widely predicted. However, not unlike Hemingway's observation about a man going broke (it happened gradually, then suddenly), the FAA, spurred by Congress and by the lure of unleashing fantastic innovation, may rise to the challenge.

When regulations are in place, this industry will suddenly flourish. For the insurance markets that are in position, and the brokers that are able to handle the learning curve, the sky will be the limit.



Jonathan S. Ziss is a partner in the aviation litigation practice group at the law firm Goldberg Segalla L.L.P. in Philadelphia. He represents regional, national and international air carriers, and other public and private entities in the aviation sector, in property and casualty liability litigation. He can be reached at (267) 519-6820 and [jziss@goldbergsegalla.com](mailto:jziss@goldbergsegalla.com).

# SPECIAL REPORT

## Retirement benefits

## & Pensions

**No rush to send early retirees to public exchanges**

PAGE 17

**Investment woes cause more workers to delay retirement**

PAGE 18

**Research & Data: Pension trends by the numbers**

PAGE 19

# Exchanging retiree health cover

More employers use private insurance exchanges to offer benefits to post-65 retirees

BY JOANNE WOJCIK

**A** growing number of employers that offer health insurance to post-65 retirees are turning to private exchanges since the health care reform law took effect to provide coverage on an individual basis, often at a lower cost than their group plans could.

The percentage of employers with 200 or more employees offering retiree health coverage had dropped to 28% in 2013 from 66% in 1988, according to the 2014 Kaiser Family Foundation/Health Research & Educational Trust survey of employer-sponsored health benefits.

And while about 29% of employers that offer post-65 retiree health benefits are using private health exchanges, 27% of employers are considering doing so in the future and 44% are evaluating changes, according to a survey of 424 private and public plan sponsors representing 3.8 million retirees, benefit consultant Aon Hewitt said in a study released in February.

Drivers of the movement that grew further as a result of the Patient Protection and Affordable Care Act were the 2013 elimination of the tax-favored status of the retiree drug subsidy and improvements to the Medicare Part D program that will eliminate the so-called “donut hole” by 2020, according to the Aon Hewitt survey.

“In the post-ACA market, individual coverage has been more cost-effective for retirees, all while preserving retiree benefit value,” said John Grosso, Norwalk, Connecticut-based actuary and leader of Aon Hewitt’s retiree health care task force.

“Most employers that provide group health benefits to post-65 retirees are at the very least evaluating whether an exchange would work for them and their retirees,” said Eric Stanger, principal of health exchange solutions at Buck Consultants at Xerox in East Greenwich, Rhode Island. “We’re not looking at first movers anymore. The level of activity we’re seeing from employers has increased almost exponentially every year.”

Moreover, by using exchanges, “it caps the costs for employers if they move to a defined contribution approach” to fund the benefits, and “it gives the retirees the ability to customize their benefits to what they really need,” said Barbara Gniewek, a principal at Price-waterhouseCoopers L.L.P. in New York. “It also eliminates the burden of administration.”

Atlanta-based United Parcel Service Inc. moved its 17,000 nonunion post-65 retirees and spouses to Aon Hewitt’s private exchange in 2012.

Now, the retirees, depending on where they reside, can have nearly three dozen plans from which to choose to find one that best fits their health care needs. Previously, UPS had a “one-size-fits-all” medical plan with a

### PRIVATE EXCHANGES

Largest private insurance exchanges in enrollment for Medicare-eligible retirees

Name (provider)	2014 enrollment
AARP MedicareComplete (AARP/UnitedHealthcare Insurance Co.)	11,000,000
Extend Health (Towers Watson & Co.)	800,000*
Aon Retiree Health Exchange (Aon Hewitt)	350,000
Retiree Health Access (HR Policy Association)	150,000
RightOpt (Buck Consultants at Xerox)	100,000
SelectQuote Senior (SelectQuote Benefit Solutions)	65,000
Mercer Marketplace (Mercer L.L.C.)	60,000

\*Includes pre-65 retirees  
Source: Company reports



deductible and coinsurance, but paid a subsidy to post-65 retirees to purchase Part D coverage on the individual market, said B.J. Dorfman, Atlanta-based director of U.S. benefits.

“We had a lot of feedback before from our retirees that there wasn’t much value to our existing plan,” Ms. Dorfman said. “It was secondary to Medicare and didn’t pay unless they hit a \$1,000 out-of-pocket maximum. So from a design standpoint, the fact that they could pick their own plan and they had more choice — it was really appealing to them.”

To fund its post-65 retiree health benefits, UPS in 2015 will put \$2,157 per plan member into a health reimbursement arrangement, which the retirees use to purchase exchange coverage. If they purchase a less costly plan, they can use the funds in their HRA to pay out-of-pocket medical expenses.

“It was a cost-neutral solution. We saw it as a way to provide better value for the same cost,” Ms. Dorfman said.

### Millions in savings

While UPS’ decision kept its costs the same, the Alameda County Employees’ Retirement Association halved its costs by moving 1,300 post-65 retirees in 2013 to Extend Health Inc., a private exchange Towers Watson & Co. purchased in 2012.

“We were paying \$5 million in 2012 for the group plan,” said Kathy Foster, assistant CEO for the Oakland, California-based association. “We also had some retirees call us and ask why they could get an individual plan through AARP that was basically the same plan but half the cost.”

By switching to individual coverage via the exchange, the association’s costs dropped to \$2.5 million and kept coverage levels the same while giving retirees more

choice.

“Our retirees are enrolled in 214 different plans with 55 different carriers,” Ms. Foster said.

One reason the cost is often less for individual post-65 retiree coverage purchased on an exchange is the risk is spread more than for a single-employer plan, experts say.

“Your retiree group typically is getting smaller, older and sicker. The individual market has baby boomers retiring into it, most of whom don’t have employer coverage. This is a better risk group because it’s relatively healthy,” said John Barkett, director of health policy affairs at Towers Watson in Arlington, Virginia.

Still, the change can be confusing for retirees, who have little or no experience in shopping for health insurance, experts say. But most private health exchanges have customer service representatives to help post-65 retirees through the process.

“Hand-holding, communications, customer service is critical to employers that send their retirees to the private exchanges,” said David Embry, president of Lockton Marketplace, a private exchange platform offered by Kansas City, Missouri-based insurance broker Lockton Cos. L.L.C. that is powered by SelectQuote Insurance Services.

When the Alameda County retiree group evaluated exchange options prior to selecting Extend Health, “one of our main goals was to make sure retirees had a good level of customer service,” said Ms. Foster. “Prior to that, retirees would contact my staff regularly. They liked to call us and have us fix their problems. Since we didn’t have control over the plans they would be enrolled in, we wanted to make sure that they had that same level of service.”

In fact, even after contracting with an exchange, “we still do Medicare transition seminars and provide assistance to those who need it,” Ms. Foster said.

# Employers hesitant to push early retirees into public health insurance exchanges

## Lawsuits challenging premium subsidy rules giving plan sponsors pause

BY JERRY GEISEL

### PRIVATE EXCHANGE OPTIONS

There are as many as 100 private exchange options available to employers offering post-65 retiree health benefits, according to research by the Henry J. Kaiser Family Foundation.

Two general types of private retiree health exchanges exist: models in which retirees have a choice of health insurance options offered by multiple insurers or those where a single insurer offers medical plan options.

The AARP's exchange, a single-insurer model administered and underwritten by Minnetonka, Minnesota-based UnitedHealth Group Inc., is the largest retiree health exchange, providing Medicare supplemental coverage to more than 11 million post-65 retirees.

San Mateo, California-based Extend Health Inc., recently acquired by benefit consultant Towers Watson & Co., is the largest multiple-insurer retiree health insurance exchange, providing coverage to some 800,000 Medicare-eligible retirees.

The HR Policy Association's Retiree Health Access, an early private health insurance exchange for large employers, is the only one that allows employers to purchase retiree health care coverage on either a group or individual basis. Two-thirds of the more than 150,000 post-65 retirees accessing health benefits via the exchange, launched in 2008, are enrolled in group plans, said Colleen McHugh, executive vice president of health care initiatives at the Health Care Policy Roundtable L.L.C. in Washington, a unit of the association.

The individual plans are underwritten by multiple competing insurers, while the group plan option is provided by Aetna Inc.

By Joanne Wojcik

Most employers are taking a wait-and-see approach before sending their early retirees to public exchanges to get health insurance.

The health care reform law opened up that approach, which is being analyzed but has rarely been implemented by employers still offering the costly coverage.

Last year, 22% of employers with at least 500 employees provided coverage to their pre-Medicare eligible retirees, a nearly 50% drop since 1995, according to Mercer L.L.C.

Provisions in the Patient Protection and Affordable Care Act that went into effect this year could lead to a further drop in employer plan sponsorship. Those provisions established public insurance exchanges in every state, as well as federal premium subsidies for lower income retirees who buy health insurance through the exchanges.

"This is something employers are seriously looking at. It is a way of getting out of the hassle of offering coverage" to the retirees, said Bruce Richards, a partner and marketplace individual insurance exchange leader in Mercer's Richmond, Virginia office.

Under the public exchange approach, employers can terminate their early retiree health plans and establish and contribute to health reimbursement arrangements for retirees.

Retirees then have a choice: tap the HRA to pay health insurance premiums purchased through a public exchange or, particularly for lower-income retirees, skip the

### PRE-MEDICARE RETIREES COULD SEE REDUCED COSTS

Thanks to the health care reform law, lower-income pre-Medicare eligible retirees no longer are big losers if their former employers terminate health care coverage.

That is because they will be eligible for federal premium subsidies to offset the cost of coverage for plans they purchase in public health insurance exchanges authorized by the Patient Protection and Affordable Care Act.

In some cases, the retirees could be better off.

Take the case of a 60-year-old retiree with an adjusted gross income of \$25,000 residing in Chicago who seeks midlevel coverage, known as a silver plan, next year in a public insurance exchange.

According to a Kaiser Family Foundation online cost calculator, the annual premium for that plan would be \$5,484. With the federal premium subsidy, the retiree would pay \$1,710, or 31% of the total.

By contrast, the retiree likely would pay more for coverage from his or her former employer.

According to a study released earlier this year by Towers Watson & Co. and the National Business Group on Health, the annual premium for single coverage for a pre-Medicare-eligible retiree averaged \$9,276, with the retiree on average picking up just over 40% of the premium, or \$3,710.

By Jerry Geisel

HRA contribution in favor of a likely larger federal premium subsidy to buy coverage.

While the IRS last year said retirees cannot take an HRA contribution and a premium subsidy to buy health insurance in a public exchange, it left it to retirees to decide which option to choose.

Before the health care reform law, "retirees would have had no place to go" if an employer terminated health care coverage, said Richard Stover, a principal at Buck Consultants at Xerox in Secaucus, New Jersey. "This approach could be a win for all."

But employers are not yet adopting the HRA approach in large numbers, experts said.

"There has been a lot of discussion and analysis, but not much action yet," said John Grosso, health care actuary and leader of Aon Hewitt's retiree health care task force in Norwalk, Connecticut.

"We are not ready yet. We want to see what is happening at the exchanges," said Dijana Predich, director of benefits strategy and retirement administration at North Shore-LIJ Health System in New Hyde Park, New York.

"There have been some early

adopters, but very few," said John Barkett, director of health policy affairs at Towers Watson Exchange Solutions in Arlington, Virginia.

One reason many employers are waiting to make changes concerning their early retirees is several lawsuits challenging IRS rules authorizing premium subsidies in both federal- and state-run exchanges. Federal appeals courts have split on whether the subsidies can be used in federally operated exchanges, with the U.S. Supreme Court agreeing earlier this month to review the issue.

"There will be slow movement" on the early retiree approach until the Supreme Court rules, Aon Hewitt's Mr. Grosso said.

Other uncertainties include whether insurers writing exchange coverage will be able to hold down costs and their ability to attract medical providers to their networks.

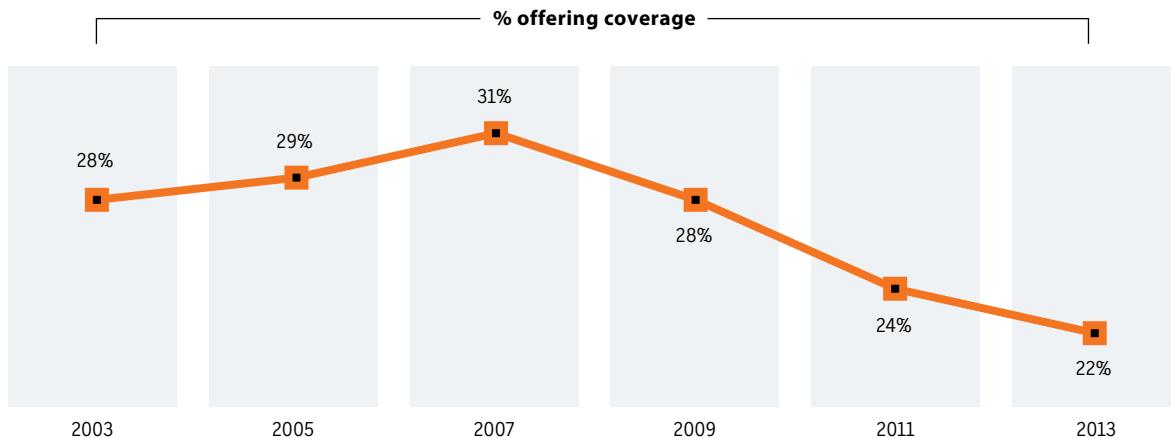
"That is an employer concern. Will there be relative rate stability, and how broad will the networks be," said Eric Stanger a Buck Consultants at Xerox principal in East Greenwich, Rhode Island.

"Employers are examining this very intensively," said Mercer's Mr. Richards. But once the first "big name" employer does adopt the approach, others will follow, he said.

Public exchanges provide "a market for pre-Medicare-eligible retirees that did not exist before, and that is a good thing" for retirees and employers, said Brian Marcotte, president of the National Business Group on Health in Washington.

## FALLING COVERAGE

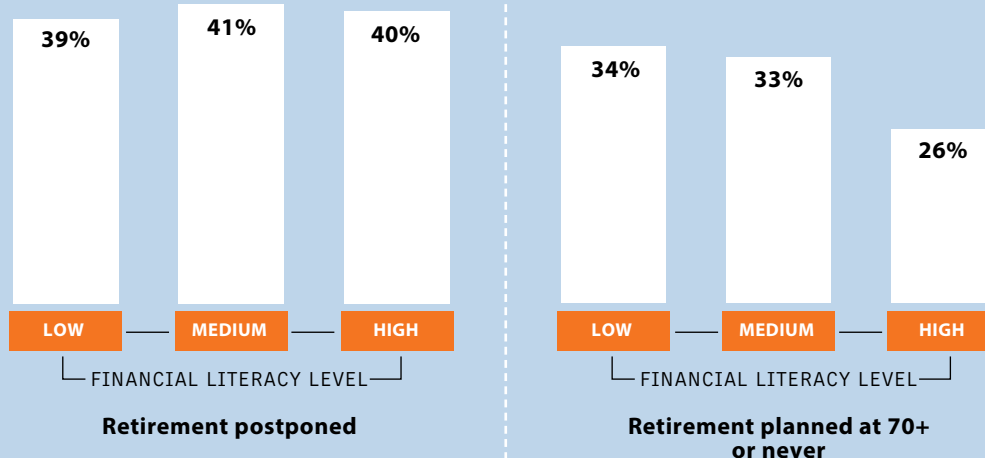
The percentage of large employers — those with at least 500 employees — offering health insurance to pre-Medicare-eligible retirees has fallen dramatically since the mid-1990s. In 1995, four out of 10 large employers offered the coverage, while just over two out of 10 now extend the coverage.



Source: Mercer L.L.C.

## READY TO RETIRE?

Financial literacy, long thought by employers to be the key to preparing employees for retirement, appears to have little effect on employees' planned retirement dates.



Source: Towers Watson & Co.

# EDUCATION PROGRAMS STRENGTHEN WORKERS' RETIREMENT READINESS

Financial wellness incentives include extra 401(k) contributions

BY MATT DUNNING

Many older employees have delayed retirement in response to investment losses during the prolonged soft economy, motivating some employers to explore more comprehensive financial education resources.

Until recently, most defined contribution plan sponsors' efforts to prepare plan participants for retirement were designed mainly to improve employees' financial literacy and investment skills. But according to a survey released in September by New York-based Towers Watson & Co., educational programs focused narrowly on employees' management of their defined contribution plan accounts have had little effect on changing workers' decisions to delay retirement (see chart).

To address the issue on a more holistic level, experts say as many as 25% of employers today are broadening their financial education programs and resources under the heading of financial wellness programs, which can include home budgeting, mortgage lending, debt and loans, spending plans, long-term health care, estate planning and other financial issues.

"Financial wellness is really the overall concept of helping employees make better financial decisions, which allows them to feel less stressed, which leads to a more productive and loyal workforce," said Ellen Blumstein, assistant vice president at MetLife Inc. "Underneath that, retirement readiness is a very big component of that concept and ... covers the whole spectrum of employment, from new hires all the way through preretirement and retirement."

While employers face reduced productivity, higher medical care costs and jobsite safety issues (see related story) due to older

workers staying on the job longer, Andrew Rosenkranz, managing director of Renton, Washington-based Pacific Market Research Inc., said the company's offer of basic financial literacy and counseling services to its more than 300 call center workers beginning in 2013 was done primarily to be a good corporate citizen.

"We knew then that we were paying to educate people who may or may not be with us even a year from now," Mr. Rosenkranz said. "I think we just did it because we felt like the employees needed it. So we looked at what can we do that's useful with the limited resources that we do have."

Employers and their benefit service providers looking to implement comprehensive financial wellness programs can look to their health care counterparts for examples, experts said.

"When we looked at alternative approaches to how we do our job as consultants and

advisers, we really looked at the health and wellness side of the equation and decided we needed to parallel what's going on in that space," said Kent Allison, a New York-based partner at PricewaterhouseCoopers L.L.P.

"Employers that appear to be ahead of the curve have probably already integrated financial wellness into overall employee wellness programs to make what you could call a total wellness program," Mr. Allison said. "A lot of other employers have done a good job of mirroring what they're doing on the physical wellness side, but haven't necessarily integrated the two efforts."

One core element that experts say must be incorporated into a successful financial wellness strategy is a suite of programs and resources to motivate employees to change their behavior regarding finances.

"Moving the needle on retirement readiness is really about behavior change, and that only happens with time," Ms. Blumstein

said. "It's the kind of thing that needs to continue over time, and should always have a place in front of employees so you can continue to build awareness."

Another widely accepted workplace wellness best practice that experts said should be incorporated into a financial wellness strategy is employee surveys and needs assessments to tailor financial wellness programs and resources to the needs and preferences of a specific group of employees.

"I think the companies that do those advance assessments are probably also the ones that understand the need for these kinds of resources and are dedicated to providing them," said Julie Stich, director of research at the Brookfield, Wisconsin-based International Foundation of Employee Benefit Plans.

While most employers use financial incentives in workplace wellness programs, few do so in their financial wellness efforts. However, experts say, that could easily change as more benefits brokers and consultants develop ways for employers to increase their contributions to employees' defined contribution plan accounts.

"It's a mechanism very similar to what you see on the health management and wellness programs, where employers are rewarding certain behaviors with discounts on their health insurance premiums," said Ted Goldman, North American practice leader at New York-based Buck Consultants at Xerox. "We've come up with a way to apply the same logic to the savings plan, where if you exhibit certain financial wellness behaviors, you'll be rewarded with extra contributions in your 401(k) plan."

It's "something we think could move the needle in terms of making it easier for people to make these changes in their day-to-day lives," he said.

## FINANCIAL ACUMEN HELPS EMPLOYERS

Despite not bearing any of the direct financial risk associated with 401(k) and other defined contribution retirement plans, many employers provide financial education resources to employees for several reasons.

Employees' decisions to delay their retirement dates by one or even several years can result in substantial financial and operational obstacles for employers, including reduced productivity, inflated medical care costs and jobsite safety issues, experts say.

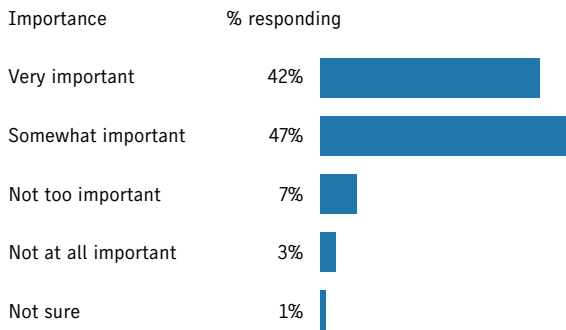
A high rate of employees choosing to postpone retirement — particularly at

the management and senior executive levels — also tends to negatively affect an employer's ability to attract and retain young talent.

"It makes moving people through your organization much more challenging," said Robyn Credico, a Washington-based defined contribution practice leader at Towers Watson & Co. "You can't move those employees out of the workforce, which blocks opportunities for your up-and-coming workers. (Older workers) also tend to be more costly from a health care perspective."

By Matt Dunning

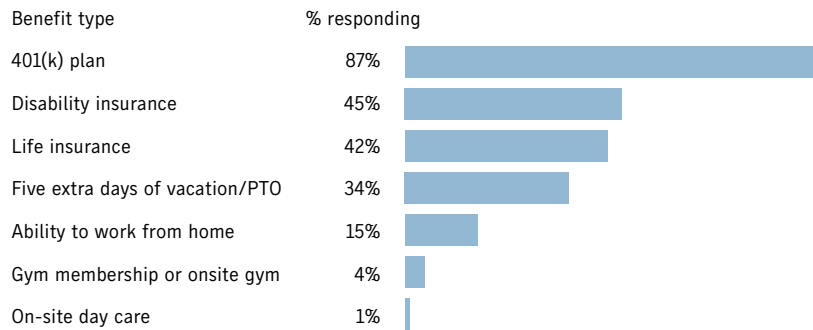
### RETIREMENT BENEFITS VALUE: EMPLOYER



How important is a 401(k) plan or similar plans for attracting and retaining employees?

Source: 2014 Transamerica Retirement Survey of 715 employers

### WHAT EMPLOYEES VALUE

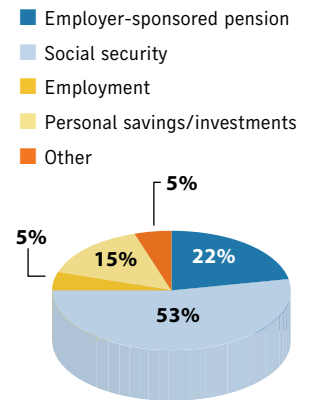


Aside from health insurance, the retirement benefit employees value most is a 401(k) plan. Must-have benefits, not including health insurance

Source: Charles Schwab & Co. Inc. survey of 1,000 participants

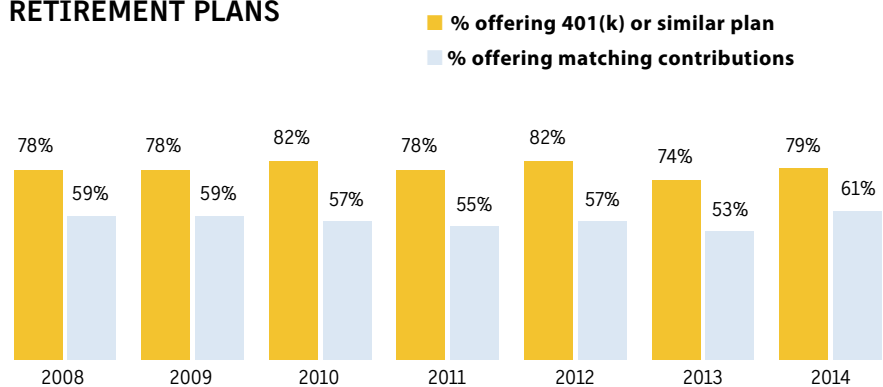
### RETIREMENT INCOME SOURCES

The expected sources of income in retirement vary across generations.



### SILENT GENERATION AGES 69-89

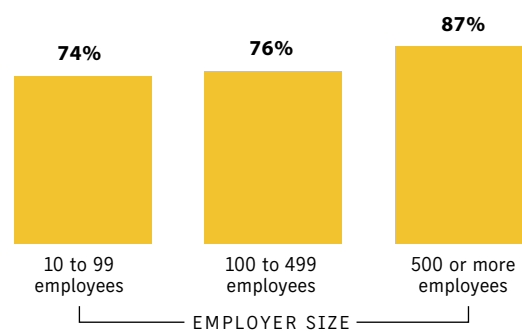
### RETIREMENT PLANS



Despite the recession and slow recovery, many companies continue to offer a 401(k) or similar defined contribution plan, but matching contributions have not changed significantly.

Source: 2014 Transamerica Center for Retirement Studies

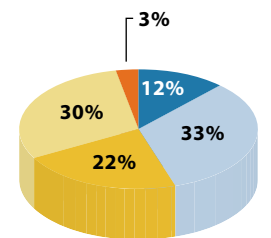
### MATCHING CONTRIBUTION



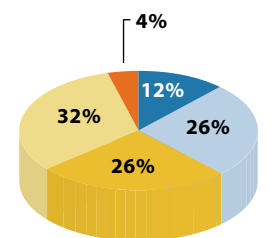
Roughly four out of five companies offer employees a 401(k) or similar defined contribution plan. In 2014, 77% of employers that offered a defined contribution plan also offered a matching contribution.

Source: 2014 Transamerica Center for Retirement Studies

### BABY BOOMERS AGES 50-68



### GENERATION X AGES 38-49



### MILLENNIALS AGES 25-37

Sources: Merrill Lynch Global Wealth Management

### EMPLOYEE PARTICIPATION

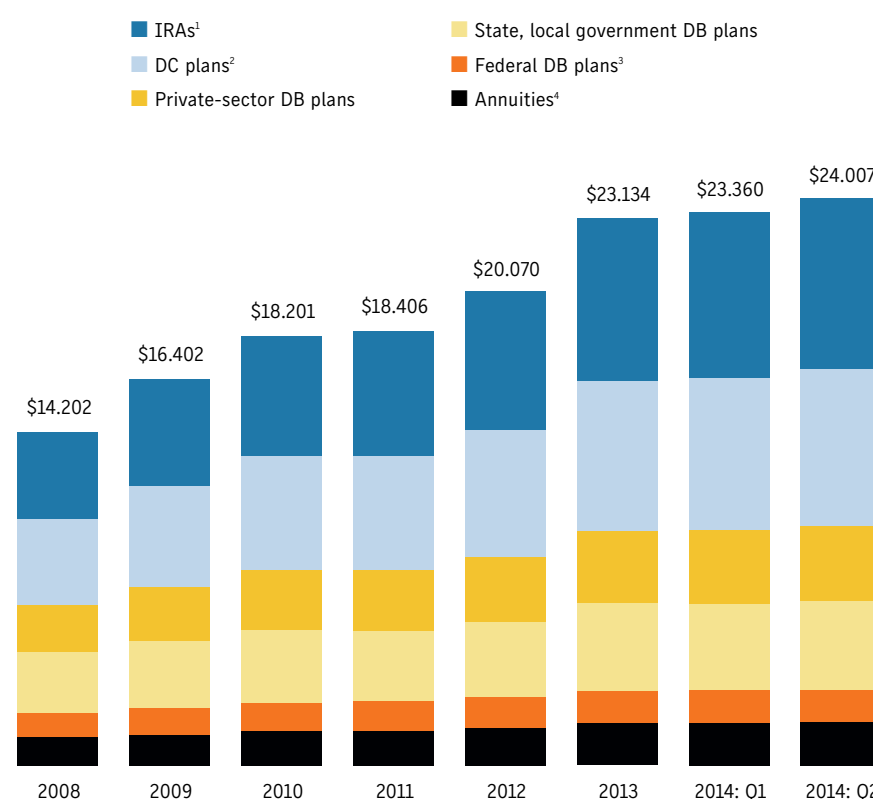
Public employees are more likely to participate in a pension plan than workers in the private sector.

Year	Total	Private sector	Federal, state, local government
2013	44.0%	39.0%	71.3%
2012	42.3%	37.3%	69.1%
2011	42.7%	37.4%	70.7%
2010	42.9%	37.6%	69.4%
2009	42.7%	37.3%	69.9%
2008	43.4%	38.1%	71.1%
2007	44.7%	39.4%	72.3%
2006	43.0%	37.8%	71.1%
2005	44.0%	38.8%	72.2%
2004	45.2%	39.8%	73.1%

Source: Employee Benefit Research Institute analysis of U.S. Census data.

### RETIREMENT ASSETS

Total U.S. retirement assets have grown steadily since 2008, in trillions of dollars.



1 Estimated from 2011 to 2014. 2 Includes private employer-sponsored DC plans including 401(k) plans, 403(b) plans, 457 plans, and the Federal Employees Retirement System (FERS) Thrift Savings Plan (TSP). 3 Federal pension plans include U.S. Treasury security holdings of the civil service retirement and disability fund, the military retirement fund, the judicial retirement funds, the Railroad Retirement Board, and the foreign service retirement and disability fund. These plans also include securities held in the National Railroad Retirement Investment Trust. 4 Annuities include all fixed and variable annuity reserves at life insurance companies less annuities held by IRAs, 403(b) plans, 457 plans, and private pension funds.

Source: Investment Company Institute

### 2013 RETIREMENT INCOME SOURCES

Percentage of total retiree<sup>1</sup> income by source on a per capita basis<sup>2</sup>

Social security	57.1%
Public assistance	1.2%
Private pension	14.0%
Government pension	13.2%
Asset income <sup>3</sup>	9.9%
Other income <sup>4</sup>	4.6%

1 Individuals 65 or older with nonzero income and who are not working, for married couples, neither the individual nor the spouse was working. Sample excludes highest 1% and lowest 1% of the income distribution. 2 Income of married couples is pooled, and each spouse is allocated half of total income, as well as half of income from each source. 3 Includes interest, dividends, and rents earned on assets held outside of retirement accounts. 4 Includes income from employment after retirement, including freelance, part-time, and full-time work.

Sources: U.S. Census Bureau Current Population Surveys and the Board of Governors of the Federal Reserve 2013 Annual Report

## Gallagher expands D&O coverage

Arthur J. Gallagher & Co. has launched two new insurance policies expanding the coverage of the firm's traditional directors and officers coverage, AJG Absolute.

AJG Solo and AJG Optimum offer Side A coverage, which covers directors and officers, difference in conditions, that aims to "close the gaps in standard D&O cover," Gallagher said in a statement.

A Lloyd's of London syndicate managed by Brit P.L.C. will provide the capacity, underwritten by Giles Stockton, Gallagher's London-based executive director for D&O, David Ritchie, told *Business Insurance*.

Solo is an "any one claim" policy with up to a \$25 million limit, covering directors and officers based outside of the United States. Optimum provides aggregate limits of coverage for directors of U.S.-domiciled companies and offers multiple reinstatements of liability, according to the statement.

Solo and Optimum extend coverage to "mainboard legal expenses and additional defense costs," and allow one reinstatement of limit for a single claim for a pre-established premium, Gallagher said in the statement.

The products also offer narrow fraud exclusions; no bodily injury, property damage or pollution exclusions; no prior and pending exclusion; and a nonlicensed difference in conditions in which the policy will drop down if the underlying insurer is unable to pay.

## Construction risk profiles outlined by locations

Aon Risk Solutions' construction services group unveiled a Web-based tool to help clients manage the risks posed by working in multiple locations.

The Construction Risk Portal comprises a risk map and register that detail specific construction risk issues in various jurisdictions while allowing clients to create risk profiles based on contributed data, Aon said in a statement.

The risk map, a construction risk reference library, outlines specific risk issues that contribute to a jurisdiction's overall construction risk rating, including litigation environments, legislation and insurance requirements, according to the statement.

Clients also can contribute data to the risk register, which then produces a project- and location-specific risk profile that includes jurisdictional issues, such as state-specific statutes and case law; catastrophic risk exposure, such as windstorms and earthquakes; and a plot of the severity of the risks that may affect a construction project, Aon said in the statement.

"As the construction landscape continues to grow, contractors entering new states continually express frustration when confronted with differences in regulation, statutory requirements and hazard risks between geographies," Matt Walsh, executive vice president of Aon's construction services group, said in the statement. "The Construction Risk Por-



## Hiscox selling cyber deception coverage

Hiscox Ltd. has added cyber deception coverage to its crime insurance program to help protect against losses incurred by employees tricked into transferring company funds.

The cyber deception coverage, offered alone or with other executive risk coverages, is meant to protect against attempts to obtain personal information via phishing, social engineering and confidence tricks over email, phone and other electronics, Hiscox said in a statement.

The cyber deception coverage, with limits of up to \$250,000, is available as an endorsement to users of Hiscox's crime insurance coverage, Hiscox said.

"It is important that insurance coverages evolve to address new risks," Bertrand Spunberg, executive risks practice leader for Hiscox USA, said in the statement. "Cyber deception differs from hacking, there are no technology solutions to effectively prevent it, and every organization is vulnerable."

tal will allow our clients and colleagues to have access 24 hours a day, seven days a week to statutory developments, case law, risk trends and regulatory updates to help facilitate the understanding of these dynamics."

## Berkshire adds wrap-up, crisis coverage to CGL

Berkshire Hathaway Specialty Insurance has expanded its contractors' general liability practice policy with two additional coverages.

Contractors now will have access to a new broad form coverage, as well as business crisis event cost coverage, to be included as a package with the primary practice policy, Berkshire Hathaway Specialty Insurance said in a statement.

We're "taking a lot of the add-ons usually offered separately and putting them into one holistic endorsement," Bill Sullivan, the specialty insurer's Boston-based vice president of construction casualty, told *Business Insurance*.

The broad form coverage provides aggregate limits of insurance per project, extends coverage to construction wrap-up programs and tailors many terms and

conditions that can affect coverage with respect to construction defects, the insurer said in the statement.

The business crisis event cost coverage provides up to \$100,000 for costs that may arise during crises, such as funeral expenses and psychological counseling for victims and family members.

## J.W. Terrill develops health benefits exchange

J.W. Terrill Inc. has launched its own private health benefits exchange, the St. Louis-based insurance and benefits broker said.

The exchange, called TerrillChoice, allows employers with 100 or more benefits-eligible workers to provide their employees with fixed contributions toward the cost of health insurance and other benefits, coupled with multiple benefit plan options and decision support tools designed to help individual employees select the coverage that best fits their finances and health care needs, the company said in a statement.

Within the TerrillChoice exchange, employers can select from among a group of contracted insurance companies and, in turn, are able to present their employees with a broader range of coverage options than would have been available in a traditional arrangement.

Susan Sanders, J.W. Terrill's vice president of benefits and project manager for TerrillChoice, said in an interview with *Business Insurance* that the exchange offers group health care coverage underwritten by four national insurers, including United Healthcare Services Inc., Anthem Blue Cross, Aetna Inc. and Cigna Corp., with effective dates as early as Jan. 1, 2015.

Additionally, the exchange provides access to voluntary dental, life, vision and other benefit plans through Delta Dental Plans Association, Lincoln Financial Group, MetLife Inc., Unum Group and LegalShield, Ms. Sanders said.

The TerrillChoice exchange platform was developed primarily in-house, the company said, with administration, education and enrollment services provided by Conyers, Georgia-based SmartBen Inc.

## Hub launches practice for entertainment industry

Hub International Ltd. is launching an entertainment practice to focus on providing risk management and insurance solutions for all segments of the entertainment industry

The practice will provide customized coverage and risk management solutions for film and television production; music and touring; high-risk live events; financial management for high-net-worth individuals; live theater; video gaming, both online and console publishers and developers; performance venues for live audiences; and contingency risks, including event cancellation and nonappearance.

The practice will be based in Los Angeles and will have offices and experts in locations including New York, Nashville, Miami and Toronto.

## DEALS & MOVES

### Hub sells Latin American brokerage it had acquired three years ago

Hub International Ltd. has sold Harmonia Corretora de Seguros Ltda., the Sao Paulo, Brazil-based insurance brokerage it acquired in 2011, to Howden Insurance Brokers Ltd.

Specializing in employment benefits and commercial lines, Harmonia Corretora de Seguros was Chicago-based Hub's first and only Latin American acquisition.

At the time, Hub Chairman and CEO Martin P. Hughes called the transaction "transformational for our company" in a 2011 statement announcing the acquisition.

Howden, a unit of Hyperion Insurance Group Ltd., said in a statement that the acquisition is subject to regulatory approval. A company spokesman declined to release information on terms of the deal.

Harmonia Chairman José Roberto Conduta and CEO Priscila Conduta Elias, among other members of the Conduta family, will continue to lead operations at Harmonia Corretora de Seguros, according to the statement.

### York Risk Services buys Risk Management Planning Group

Third-party administrator York Risk Services Group Inc. has acquired Mineola, New York-based Risk Management Planning Group.

A spokeswoman declined to disclose terms of the deal.

RMPG provides claims and risk management services for workers compensation accounts, as well as a disability benefits insurance program, Parsippany, New Jersey-based York said in a statement.

York was acquired in October by Toronto-based private equity firm Onex Corp. for \$1.325 billion.

### Genex Services acquires Maryland managed care firm

Managed care services provider Genex Services L.L.C. has acquired Hunt Valley, Maryland-based managed care company M Hayes.

Terms of the deal were not disclosed.

The founders of M Hayes, President and CEO Melinda Hayes and professional services director Helen Froehlich, will take leadership positions at Genex to help ensure a smooth transition for customers, Genex said in a statement.

The acquisition brings the number of Genex employee case managers to more than 1,600, according to the statement.

### R-T Specialty purchases Tennessee Underwriters

R-T Specialty L.L.C., the wholesale brokerage unit of Ryan Specialty Group L.L.C., has acquired the assets of excess and surplus lines broker Tennessee Underwriters Inc.

Terms of the deal were not disclosed.

Based in Franklin, Tennessee, family-owned Tennessee Underwriters will become part of Chicago-based R-T Specialty, R-T said in a statement.

A spokeswoman for Ryan Specialty declined to provide further details.

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### LEGAL NOTICE

**IN THE MATTER OF THE LIQUIDATION OF FRONTIER INSURANCE COMPANY**  
 Supreme Court County of Albany  
 Index No.: 000097/2006

**NOTICE**

Pursuant to an order of the Supreme Court of the State of New York, County of Albany, entered on November 16, 2012 (the "Liquidation Order"), the Superintendent of Financial Services of the State of New York and his successors in office were appointed as liquidator ("Liquidator") of Frontier Insurance Company ("Frontier") and, as such, has been directed to take possession of Frontier's property, liquidate its business and affairs, and dissolve its corporate charter pursuant to Article 74 of the New York Insurance Law ("Insurance Law"). The Liquidator has, pursuant to Insurance Law Article 74, appointed Scott D. Fischer, Acting Special Deputy Superintendent ("Acting Special Deputy"), as his agent to liquidate the business of Frontier. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038.

PLEASE TAKE NOTICE that the Supreme Court of the State of New York, County of Albany, has issued an order, entered October 24, 2014, establishing December 31, 2014 as the final bar date, the final date by which the Liquidator must actually receive in respect of any claim presented prior to December 31, 2013 any and all evidence demonstrating (a) that such claim has been liquidated and (b) that there has been actual loss and/or payment in respect of such claim. Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6809.

Dated: October 30, 2014, Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York as Liquidator of Frontier Insurance Company.

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 WHAT MATTERS MOST

RESOURCE CENTER

# PACS

Continued from page 4

when it extends over a long period of time, such as when they might have known them when they were in the state house or other elected positions,” said Nat Wienecke, senior vice president of federal government relations in the Property Casualty Insurers Association of America’s Washington office.

PCI PAC raised more than \$881,000 in the recent federal election cycle and posted an 88% victory rate, he said.

“Political giving is as much art as science,” he said.

Mr. Wienecke said PCI has a PAC board, which has a contributions committee. PCI staff members make recommendations to the contributions committee, which is made up of “PCI member companies only.”

Joel Wood, senior vice president of the Council of Insurance Agents & Brokers in Washington, said in an email that the “No. 1 criteria” for the organization’s giving is “the recommendations of our member executives.” Council PAC raised more than \$1.6 million in the

recent election cycle, which Mr. Wood said was “by far our biggest two-year haul. Pretty good, I think, for 200 member firms.”

He said council member executives are gaining understanding that “it’s essential to fully participate in the political process, and PAC dollars are pretty much the cleanest dollars in politics — limited,



ed, transparent, all coming from personal donations, well-regulated. We try to connect the dots wherever possible between candidates and the civic leadership of our firms.”

Jimi Grande, senior vice president in the National Association of Mutual Insurance Cos.’ Washing-

ton office, said NAMICPAC raised nearly \$1 million this year, with about 10% of that going to state races.

Although the PAC posted a victory rate of more than 90%, “that’s certainly not our focus,” Mr. Grande said. “We give to challengers, (candidates for) open seats and try to give in every competitive race where the money can make a difference.” NAMIC backs candidates who support free and open markets, less regulation, less litigation and lower taxes, he said.

The American Insurance Association’s PAC contributed \$129,000 to federal candidate committees during the past election cycle, and nearly 95% of AIA-supported candidates won their elections, the AIA said.

“AIA supports candidates who understand the fundamental role that property/casualty insurance plays in protecting consumers while providing a foundation for our nation’s economy,” said a spokesman for the Washington-based insurer group.

“The nature of a federal PAC is that you support candidates who are supportive of your industry. In many cases, that track record is built over many years in

Congress,” Mr. Wienecke said. “Notwithstanding, PCI PAC does get involved in open-seat and challenger races when a candidate has a history of being supportive of the industry.”

A relative newcomer among property/casualty PACs is the Risk & Insurance Management Society Inc.’s Risk PAC. Six of the seven congressional candidates Risk PAC has supported since its 2011 launch have won, said Scott Clark, chair of the board of trustees of Risk PAC and RIMS’ president when it formed the PAC.

The No. 1 priority of Risk PAC is a long-term reauthorization of the federal government’s terrorism insurance backstop, Mr. Clark said. The program will sunset Dec. 31 unless Congress reauthorizes it during the current lame-duck session.

Of course, a little bit of luck doesn’t hurt, as was evident during the congressional midterm elections earlier this month when a Republican tide helped the fortunes of industry-backed candidates.

“Being a more pro-business PAC, the victory rate will always be little higher when pro-business candidates are elected,” said the IABA’s Mr. Riedel.



Council member executives are gaining understanding that “it’s essential to fully participate in the political process, and PAC dollars are pretty much the cleanest dollars in politics — limited, transparent, all coming from personal donations, well-regulated.”

Joel Wood, Council of Insurance Agents & Brokers

# NBCH

Continued from page 4

reviewed by top-rated specialist medical centers.

“We’re kind of giving up on the concept that narrowing the network is going to help, or that direct contracting is the big ticket. Potentially, it will involve reference pricing,” Mr. Leavitt said. “We can take one of these big, broad networks that everyone has and, through effective consumerism and the support and concierge services, we’ll only use the parts of the network that actually work and are necessary.”

Health insurers have also been investing time and resources to develop new programs and tools designed to improve the quality of both the medical care and health management communications

employees and their families receive through their health benefit plans.

Two years after rolling out its Member Centric Decision Management analytics and automated communications software platform in 2012, Chattanooga-based BlueCross BlueShield Tennessee Inc. estimates that the 36 clinical outreach campaigns it has launched using the platform have resulted in more than \$1.5 million in averted medical costs by closing gaps in patient care and treatment regimens.

The key to the platform’s success is its capacity to work through a complex matrix of patients’ previous claims, health risks, demographic and lifestyle information and communicate delivery preferences, said Lesia Stuart, director of predictive and accreditation analytics at BlueCross BlueShield Tennessee, during a panel discus-

sion at the NBCH conference.

“When you marry all of those pieces of information together, you get a 360-degree view of the member,” Ms. Stuart said.

Insurers also are developing programs that can help employers address their single biggest benefits communication challenge, according to survey data published earlier this month by the NBCH and San Francisco-based Benz Communications Inc.: driving higher levels of benefits engagement among employees and their families, particularly when it comes to health management and preventive care services (see chart).

One such program is Indianapolis-based WellPoint Inc.’s Habit Heroes, a multimedia collaboration between WellPoint, Marvel Worldwide Inc. and its parent company, The Walt Disney Co., designed to inspire healthier nutrition and exercise habits in children.

“We worked with Disney and Marvel Comics to take a few basic psychological principals to develop within kids an internal sense of control over their behavior and choices,” said Davis Klaila, behavioral sciences director at WellPoint.

The program, which consists of online and mobile-enabled videos, games and challenges, as well as a special edition comic book featuring popular Marvel characters, is free for all health insurance enrollees covered by WellPoint or one of its subsidiaries.

“This is a primary intervention that can be done to help change behaviors, and it’s something that every parent can do to help control health care costs,” Mr. Klaila said.

# IRMI

Continued from page 4

Statistics, still the worst of any industry.”

In addition to implementing best practices to avoid common jobsite accidents such as falls and electrocution, a world-class safety regimen must value people and be effectively communicated at all levels of an enterprise, Mr. Walls said.

“Leadership is the weakness when it comes to safety at construction firms,” Mr. Walls said. “Most companies nail the structural processes for safety, but forget about the leadership.”

Bill Noonan, New York-based vice president of risk management at construction services provider Structure Tone, agreed that effective communication is vital to worker safety.

“The only thing worse than not having a safety program is having one that nobody pays attention to,” Mr. Noonan said. “You get the behavior you tolerate, so you have to have employee buy-in from the start.”

Effective communication is critical when dealing with subcontractors, Mr. Noonan said, adding that to be truly effective, risk managers need to move beyond email exchanges and insist on face-to-face meetings with the people on their jobsites.

“I think town hall meetings are extremely important,” Mr. Noonan said. “It’s important that we invite subcontractors in to talk to us instead of just firing off a letter.”

Likewise, Frank Keres, Chicago-based risk manager with Clune

Construction Co., said safety and risk management are inherently linked.

“I can’t be a risk manager unless I’m the safety guy,” he said. “So, if you are a risk manager, you have to be out in the field.”

Moreover, risk managers need to leverage the expertise of their insurers to ensure they get the proper coverage.

“When it comes to worker safety, the broker/agent might be the most important person we have,” Mr. Keres said. “They can be a true intermediary and smooth communication between a contractor and underwriter.”

Nonetheless, he said risk managers looking to create a better safety culture need to be receptive to input from all quarters.

“Safety should flow from the bottom up because workers are the ones getting hurt,” Mr. Keres said. “You should be listening to your employees, not just your owner and insurance people.”

Sonja Guenther, Denver-based vice president and workers compensation specialist at IMA Financial Group Inc., said no suggestion to improve workplace safety should go unexamined.

For example, when data revealed a propensity for soft-tissue injuries and muscle strains in certain trades, such as masons, on jobsites, a relatively straightforward, low-cost resolution presented itself, Ms. Guenther said.

“We used to laugh at the idea of workers stretching before work,” Ms. Guenther said. “You wouldn’t think about playing golf without stretching, so why would you allow a mason to lay brick in cold weather at 7 a.m. without stretching?”

## BENEFITS COMMUNICATION CHALLENGES & BEST PRACTICES

A survey of insurers shows how they rank communication challenges and what percentage are using best practices for communication.

### Biggest challenges

Getting employees and their families engaged year-round: **75%**

Increasing participation in programs and benefits: **47%**

Personalizing materials so they are meaningful: **44%**

Getting employees and families to make good choices during open enrollment: **44%**

### Best practices

Segment communications by benefit behavior: **36%**

Target communications to reach employees’ family members: **27%**

Communicate year-round with employees and dependents about benefits: **18%**

Segment communications according to specific demographic groups: **11%**



# FATCA

Continued from page 3

All of these efforts, while arduous, have yielded some additional benefits, said Mr. Coit. These included positive changes to the company's market security platform and learning more about its own carriers and data, he said.

Much of the compliance burden has to do with the huge amount of paperwork associated with the FATCA regime.

"The burden is really with the due diligence; the collecting of tax documentation and the validation to identify counterparties," said Tim Evans, New York-based senior, tax, with WeiserMazars.

"These forms are so complicated and they're difficult to understand," said Denise Hintzke, New York-based tax director and global FATCA tax leader for Deloitte Tax L.L.P., who adds that she spends a great deal of time walking clients through the myriad forms.

The Washington-based Council of Insurance Agents & Brokers established an online web portal on July 1. The portal is accessed through the council's website and

is designed to aid insurers and brokers in complying with FATCA.

"That's where we hope our portal will be helpful. It is a bit of a chicken/egg game, in that until the enforcement begins in January, we have yet to see carriers flocking to the site," said Joel Wood, the council's senior vice president, government affairs.

"We're working on that and do hope that it'll be a helpful tool for our members," he said.

To alleviate some of the pressure on parties working to comply with FATCA, the IRS has designated 2014 and 2015 as a "transition period" during which time it will look for entities including insurers to make a good faith effort to meet certain compliance requirements, according to its notice 2014-33.

Those making such good faith efforts will likely not be subject to IRS enforcement for minor non-compliance, said Mr. Evans.

According to the IRS notice, however, "an entity that has not made good faith efforts to comply with the new requirements will not be given any relief from IRS enforcement during the transition period."

While the insurance sector moves to comply with the requirements of the legislation, there are

some who still believe that while well-intended, the law is being misapplied to the property/casualty insurance industry.

"We continue to assert that non-cash-value commercial insurance transactions aren't a mechanism for international tax avoidance and shouldn't be covered under FATCA," said the Council's Mr. Wood.

"I think that FATCA had a purpose of rooting out those payments that were being made to offshore banks out of the U.S. ultimately to U.S. account holders. Does that fit the property/casualty insurance industry all that well? Not really," said William Pauls, Washington-based partner with law firm Sutherland Asbill & Brennan L.L.P.

"We don't necessarily feel like property and casualty insurance fits within the goals of the FATCA compliance regime," said Dwayne Dupree, Washington-based counsel for financial policy for the Property Casualty Insurers Association of America.

"You're not buying a property/casualty policy to transfer or hide funds. You're buying it to mitigate a risk that you have, a real risk," said Mr. Dupree.

# SUBSIDY

Continued from page 3

uninsured — those earning up to 400% of the federal poverty level, which is \$46,800 for an individual — seeking coverage in the federal and state exchanges.

Certain state regulators and others challenged the rules, arguing that ACA clearly limits the subsidies to those obtaining coverage in state exchanges.

Lower courts have split on the issue, with the Supreme Court agreeing earlier this month to review those rulings. The high court will hand down its decision by the end of June.

How the court will rule, of course, is not known. What is known is how many people could be affected.

At the end of the first open enrollment season earlier this year, nearly 5.5 million people secured coverage in the federal exchanges, with just over 85% receiving a federal premium subsidy (see chart).

Those subsidies are why employers are considering tapping the exchanges as a way to make health coverage available to their pre-Medicare eligible retirees, said John Barkett, director of health policy affairs at Towers Watson Exchange Solutions in Arlington, Virginia.

Under the approach, employers would jettison their expensive early retiree health plans and set up and contribute to health reimbursement arrangements, which retirees could use to buy unsubsidized exchange coverage.

However, nothing would prevent lower-income retirees from turning down the HRA and opting instead for federal premium subsidies, which could be much bigger than the HRA contribution, to buy coverage — an option that would end in the federal exchanges if the Supreme Court rejects the IRS rules.

"A viable alternative to employer coverage would be taken away," Mr. Barkett said.

If the Supreme Court were to overturn the IRS rules, Congress could rewrite the law to make it clear that the premium subsidies are available in all exchanges.

But the likelihood of lawmakers doing that is "about zero," said Gretchen Young, senior vice president of health policy at the ERISA Industry Committee in Washington.

Still, such a rewriting of the law could be a bargaining chip, Ms. Young said.

Under one scenario laid out by Washington observers, Democrats would accept certain Republican-sought changes in the law, such as increasing the number of hours an employee would have to work to be considered full-time. Currently, employers are liable for a stiff financial penalty if they do not offer coverage to full-time employees, which the ACA defines as those working an average of at

least 30 hours per week. In return for bumping up, perhaps to an average of 40 hours per week, the definition of a full-time employee, GOP lawmakers would accept a change in the reform law to make clear that federal subsidies are permitted in federal and state exchanges.

In addition, some states might set up their own exchanges to make sure their lower-income residents can continue to get the premium subsidies, said Brian Marcotte, president and CEO of the National Business Group on Health in Washington.

# WHO COULD LOSE?

Of the more than 5.4 million people enrolled in federal health insurance exchanges, just over 85%, or nearly 4.7 million, are receiving federal premium subsidies. The fate of those premium subsidies now is in the hands of the Supreme Court, which will rule by June on whether the health care reform law permits premium subsidies to those enrolled in federal exchanges.

State	Total enrollees*	% receiving subsidy
Alabama	97,870	85%
Alaska	12,890	88%
Arizona	120,071	77%
Arkansas	43,446	90%
Delaware	14,087	81%
Florida	983,775	91%
Georgia	316,543	87%
Idaho	76,061	92%
Illinois	217,492	77%
Indiana	132,423	89%
Iowa	29,163	84%
Kansas	57,013	79%
Louisiana	101,778	88%
Maine	44,258	90%
Michigan	272,539	87%
Mississippi	61,494	94%
Missouri	152,335	85%
Montana	36,584	86%
Nebraska	42,975	87%
New Hampshire	40,262	77%
New Jersey	161,775	84%
New Mexico	32,062	79%
North Carolina	357,584	91%
North Dakota	10,597	85%
Ohio	154,668	85%
Oklahoma	69,221	79%
Pennsylvania	318,077	81%
South Carolina	118,324	88%
South Dakota	13,104	90%
Tennessee	151,352	80%
Texas	733,757	84%
Utah	84,601	87%
Virginia	216,356	82%
West Virginia	19,856	86%
Wisconsin	139,815	91%
Wyoming	11,970	93%

\*Through April 19, 2014  
Source: U.S. Department of Health and Human Services

# LONDON

Continued from page 3

by, then brokerages may look to acquire, he said.

And, combining two businesses may reduce costs. Since "revenue minus costs equals profit," that may further drive M&As, he said.

Increased insurance and reinsurance buyer use of alternative sources of capital add to the M&A pressures, Mr. Flanagan said.

The situation poses challenges for brokers with a more traditional model since larger brokers are more likely to have the capabilities to help alternative capital access the market — if that capital chooses to use brokers at all, he said.

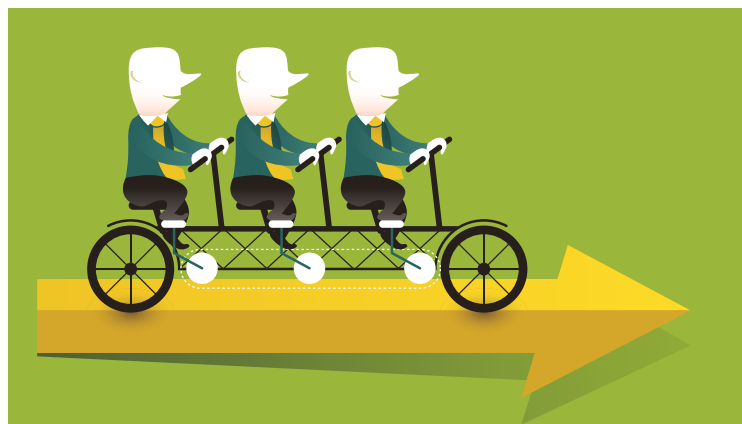
In addition, Mr. Flanagan said, facilities some brokerages have set up to place business in the Lloyd's market may mean that brokers that typically were involved at the bottom of underwriting slips could miss out as facilities sweep up the business.

This is adding pressure on smaller brokers, which includes all but the few biggest players, he said.

Another factor pressuring smaller brokers is the trend among large insurers to deal with fewer counterparties, said Mark Nicholson, a lead analyst of Lloyd's at Standard & Poor's Corp. in London.

Factors adding to the broker M&A interest include good availability of debt and equity financing for potential investors, said Stephen Skeels, a partner and national head of valuations at advisory and accountancy firm Mazars L.L.P. in London.

The recent economic recovery



## PROPOSED DEALS

Willis Group Holdings P.L.C., the world's third largest insurance brokerage, in October announced it had begun exclusive talks with Miller Insurance Services L.L.P. to establish a wholesale specialist brokerage under the Miller brand as a stand-alone legal entity and Lloyd's of London broker.

■ Miller, founded in 1902, is a limited liability partnership with no outside shareholders. It employs 580 people in eight offices around the world and specializes in reinsurance and large, complex commercial insurance placements.

■ In November, Hyperion Insurance Group Ltd. and R.K. Harrison Holdings Ltd. said they had entered into exclusive merger talks.

■ Joining the firms, both of which are employee-owned, would establish a brokerage with projected annual revenue of £400 million (\$626.7 million) and nearly 3,000 employees in 100 offices across 37 countries.

■ A merger also would create a separate global specialist managing general agent group with gross written premiums of more than £625 million (\$979.3 million) and 550 employees.

has given acquirers more confidence to spend their money and niche businesses that offer something additional to acquiring companies are likely to be sought-after targets, he said.

A fear of "regulatory creep" also could further M&A interest, sources said.

For example, the Financial Conduct Authority, which regulates brokers in the United Kingdom, launched a review earlier this year of broker conflicts of interest.

While such reviews may not necessarily lead to regulatory action, there is a fear that any action

could increase brokerages' regulatory burden, sources said.

Any increased regulatory burden could greatly affect smaller brokers, Mr. Nicholson said, and prompt some brokers to put themselves up for sale, Mr. Skeels said.

A recent report by the London Market Group, which includes representatives of the underwriting and brokerage industries in London and aims to reform the marketplace, said that "maintaining an attractive environment for brokers and carriers will become increasingly important in order to be competitive."

# COMP

Continued from page 1

ratio of 101% in 2013, a number that has fallen steadily since reaching 115% in 2010 and 2011.

Meanwhile, workers comp premiums are expected to grow 7% this year over 2013 to \$39.3 billion, NCCI said, vs. an increase of 4.5% in 2013.

Angela McGhee, practice leader and senior actuary with NCCI, said the 2014 projections are based on declining frequency of workers comp claims in 2013 that outpaced “modest” increases in indemnity and severity of claims.

Additionally, higher workers comp premiums — which have been driven by increasing employer payrolls and higher insurer pricing — contributed to positive financial projections this year, she said.

“These are averages country-wide, so there can be very significant variation by state and by company,” Ms. McGhee said.

NCCI’s projections align with a report earlier this month by Oldwick, N.J.-based rating agency A.M. Best Co. Inc.

Best found that combined ratios for workers comp insurers fell to 98.6% in 2013, down from 110.3% in 2012 and a high of 118.1% in 2010.

That was based on “modestly better core underwriting performance” and “ongoing technological advancements” that have allowed insurers “to recognize and react more quickly to negative trends” in the workers comp market, according to the Best report.

Pam Ferrandino, executive vice president and casualty practice leader at Willis North America Inc.

in New York, said poor workers comp financial performance in recent years prompted insurers to seek repeated rate increases in workers comp pricing.

She said insurers also have focused on using analytics to determine if an employer’s account would be profitable and have declined to underwrite companies that were deemed too big of a risk for workers comp.

“They were taking actionable steps to change their profitability, either through rate (increases) where they could get it or just walking away from accounts

where they couldn’t,” Ms. Ferrandino said.

Additionally, workers comp insurers have used data in recent years to determine safety processes and best practices that could help employers lower their workers comp liabilities, said Thomas Rowe, managing director at PricewaterhouseCoopers L.L.P. in San Francisco.

“Workers compensation underwriters, because of their improvements in analytics, can better estimate what drives ... favorable outcomes for the employers and make recommendations and create

incentives for employers to invest in workplace training, invest in safety equipment (and) do the things that the employers should do to reduce frequency and severity of loss,” Mr. Rowe said.

Insurers’ improved performance likely will translate to lower workers comp pricing for buyers, said Thomas Ryan, New York-based workers compensation market research leader at Marsh L.L.C.’s Workers’ Compensation Center of Excellence.

“We’re actually seeing the market kind of softening as a result and becoming a little more favor-

able for employers,” he said.

Sources say it’s difficult to determine whether the current positive financial conditions for workers comp will be short- or long-lived.

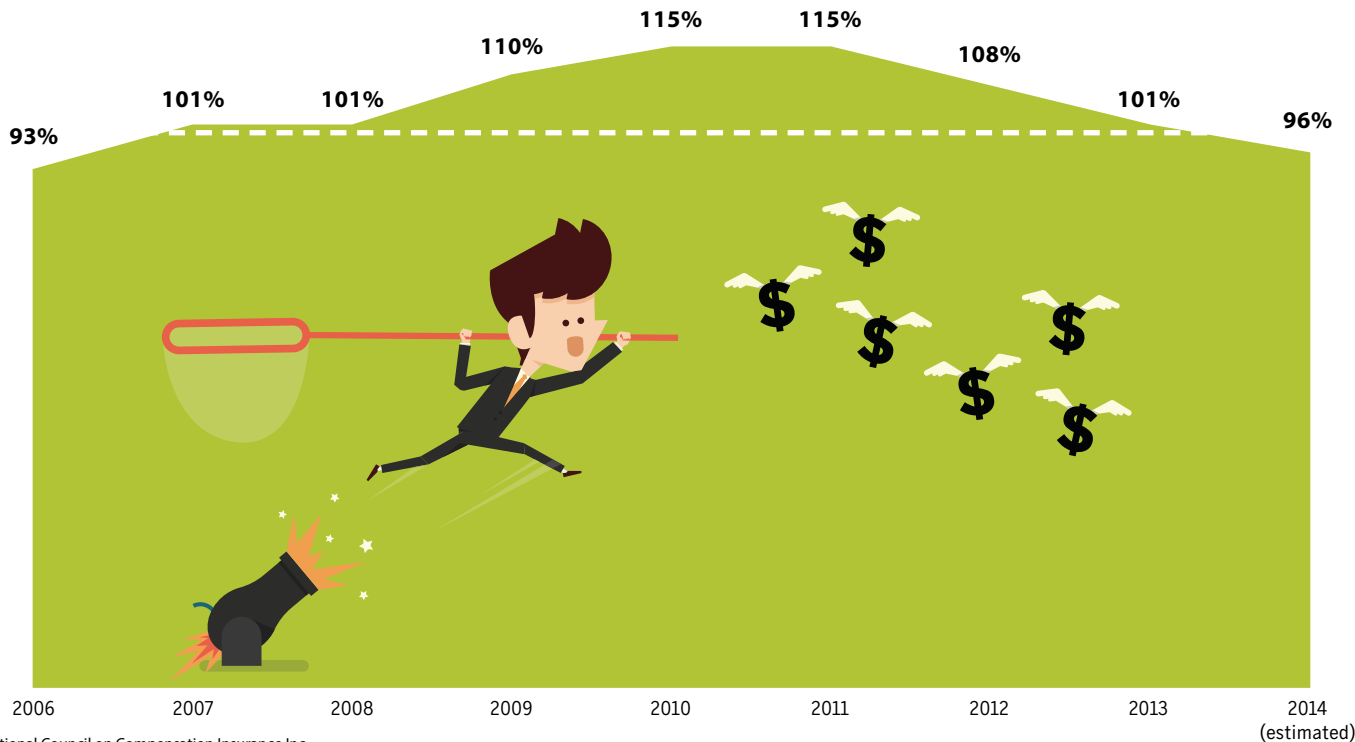
“It’s a very cyclical environment, so I think we’re being cautious in hopefully seeing a positive trend,” Mr. Ryan said.

“We feel underwriters will continue to be stringent on their underwriting guidelines,” Ms. Seaburg said.

Calls seeking comment from the Property Casualty Insurers Association of America and major comp insurers were not returned.

## PROFITABILITY

Workers comp combined ratios, below 100% is profitable and above 100% is a loss, peaked in 2010 and 2011 at 115%.



Source: National Council on Compensation Insurance Inc.

## VIOLENCE

Continued from page 1

latest data. Particularly at risk are people working in emergency rooms, psychiatric units, long-term care facilities and nursing homes, expert say.

Acts of violence against health care workers are “happening with increasing frequency, so health care facilities need to start looking at this more than they used to and ... start being more proactive and preventive,” said Carolyn Reinach Wolf, executive partner at Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara & Wolf L.L.P. in New York and a former hospital risk manager.

Recent incidents include a patient at St. John’s Hospital in Maplewood, Minnesota, who assaulted four nurses with a metal bar from his hospital bed on Nov. 2. Two of the nurses were hospitalized, one with a collapsed lung. The patient, who reportedly was suffering from “episodes of confusion,” died a short time later.

On Feb. 7, a nurse at New York’s Brookdale University Hospital and Medical Center suffered brain

injuries when a patient reportedly stomped several times on her head.

In August, the Occupational Safety and Health Administration cited Brookdale for failing to adequately protect employees in 40 cases of workplace violence between Feb. 7 and April 12. OSHA also fined Brookdale \$78,000 and ordered it to immediately implement a workplace violence prevention program.

The incidents at the Minnesota and New York hospitals are two of the more widely reported examples of violence against health care workers, but are not isolated cases. That is why states are pushing for employer-run workplace violence programs or tougher penalties for assaulting health care workers, experts say.

In addition, nursing groups and a service workers’ union in California want the state to set more specific workplace violence and prevention standards, including broadening the scope of what’s considered workplace violence to include psychological trauma and counting all hospital employees as health care workers.

Experts say more patients seeking treatment for dementia and

mental health issues are contributing to the upswing in violence against medical workers.

Lynn Echols, director of emergency department, respiratory services and prime care at Habersham Medical Center in Demorest, Georgia, said more patients are visiting the emergency room for primary care, and mental health patients sometimes wait days for proper treatment because of a lack of available hospital beds. Patients might get tired of waiting and lash out, or become frustrated if they don’t receive narcotics they request, Ms. Echols said.

Last year, she and a clinical support assistant were assaulted in the emergency room by a patient who “became angry with the plan of care,” Ms. Echols said. Neither filed workers compensation claims because their injuries weren’t permanent and didn’t require time away from work.

Ms. Reinach Wolf said health care workers and their employers are so focused on keeping patients safe that they don’t always pay enough attention to their own workers’ safety.

In Minnesota at St. John’s Hospital where the four nurses were attacked earlier this month, a hos-

pital spokeswoman declined comment on whether the nurses have filed or plan to file workers comp claims.

Through September in Minnesota there have been a record 46 workers comp indemnity claims filed by nurses assaulted or intentionally injured in hospitals, according to the state Department of Labor and Industry. That’s more than the 29 claims filed by the state’s nurses in all of 2013. Last week, a Minnesota state representative proposed legislation that would increase prison sentences and fines for people who assault nurses, a measure that would offer nurses the same level of protection as public safety employees.

Furthermore, violence nationwide against health care workers likely is underreported because “workers are trained to deal with people who are unstable — whether it’s mentally or physically,” Ms. Reinach Wolf said. Health care workers generally feel, “We should be able to handle this.”

Health care workers have long considered physical and verbal assaults by patients and visitors as “part of the job,” said Marilyn Holler, president of the International Association for Healthcare Securi-

ty and Safety and director of hospital safety and security for University of Michigan Hospitals and Health Centers in Ann Arbor, Michigan. “They feel bad for these patients because they know they can’t help themselves. That’s the struggle.”

Ms. Echols, the hospital emergency department director, also serves on Georgia’s Joint Study Committee on Violence against Health Care Workers. She said she hopes the committee, established in April as a result of a Georgia Senate resolution, will propose making “any incidents of violence toward a health care worker a serious offense.”

Ric Henry, president of health care risk management consulting firm Pendulum L.L.C. in Albuquerque, New Mexico, said he doesn’t discount the importance of legislation when it comes to promoting health care worker safety, but “the primary driver for change in the workplace is training.”

Health care workers should be trained to deal with behavior-related incidents, cognitive impairment issues such as dementia, and learn how to defuse heated situations when they do arise, Mr. Henry said.

# CYBER

Continued from page 1

“It’s safe to assume it will be a No. 1 priority” with the next Congress, Norma M. Krayem, a principal with law firm Patton Boggs L.L.P. in Washington, said of working on finalizing cyber security legislation.

“Having both houses in the hands of one party is going to be very, very helpful. It will be easier for the two houses of Congress to come to a greater agreement with regard to what ought to be in the legislation,” said Larry Clinton, president and CEO of the Arlington, Virginia-based Internet Security Alliance, a multi-industry trade association.

“This was much harder with a divided Congress,” he said.

Another factor, Mr. Clinton said, is that “this issue has matured.” Historically, major pieces of legislation “rarely pass when they first come up. It takes a little while for the members of Congress to be comfortable with the issue ... I think we’re in the same situation now with cyber security.”

Indeed, the issue of cyber security burst into the national forefront this year with the series of high-profile and costly data breaches affecting the public and private sectors.

“There have been enough committees who have done some research on it” and have paid attention to the numbers to the point where they are “more comfortable with the issue than they have been, so that helps,” Mr. Clinton said.

In addition, “there’s a great deal more coherence to the president’s approach and that of the Republicans, so I think ... we can potentially see some substantive legislation in this area,” Mr. Clinton said.

The only mitigating factor will be the time it takes for incoming Senate committee chairmen, including those for homeland security, government affairs, intelligence and commerce, to assess their take on cyber security, “not whether they plan to do anything about it,” Ms. Krayem said.

Mauricio Paez, a partner with law firm Jones Day in Washington, said there are still divergent views within the political parties on issues including the requirements that should be imposed on companies for data breach notification, “and a host of other hot-



## NIST revealing next steps to bolster cyber security

**T**he National Institute of Standards and Technology, which proposed a voluntary cyber security framework for critical U.S. infrastructure last year, plans to issue a report next month on its intended next steps.

Adam Sedgewick, senior information technology policy adviser at the Gaithersburg, Maryland-based agency, said the report will be based on the more than 50 comments it received following a “request for information” it issued in August, as well as on the sixth Cybersecurity Framework workshop it sponsored late last month in Tampa.

The NIST proposal, issued in October 2013, was in response to President Barack Obama’s May 2013 executive order, a component of a broader effort to strengthen the cyber security of the nation’s infrastructure.

The standards, widely regarded as a good first step, identified five core functions: to identify, protect, detect, respond and recover from cyber risks and breaches.

Among the themes that have emerged from the comments and work-

shop, Mr. Sedgewick said, is, “we’re doing pretty well with awareness” of cyber security risks, but “there’s a need for some targeted work around small and medium businesses, and also a need to get outside critical infrastructure expertise and try to get to other business leaders who may not be aware of cyber security.”

Mr. Sedgewick said sectors “that have existing processes already in place have been quicker to adopt the framework.” These include the electric utility, telecommunications and financial sectors. “Those sectors are very well organized and have done the most initial work,” he said.

Meanwhile, the agency earlier this month issued a draft “Guide to Cyber Threat Information Sharing” intended to give organizations the key practices they need to consider when planning, implementing and maintaining information-sharing relationships, the agency said. NIST is asking for comments on the draft by Nov. 28.

By Judy Greenwald

button issues for data breach response.”

However, “The change in Congress shows that there’s likely to be more debate around the issue and potentially a bit more consensus building,” Mr. Paez said. “There is an opportunity, I think, for getting some areas addressed,” including information sharing.

If the new Senate chairman wanted to go off in a “substantially different direction, that would have to play itself out,” between the administration, the private sector and Congress, Ms. Krayem said.

“You have an outgoing president who is interested in the issue,” and there is “much less distance between Republicans and Democrats on cyber security” than there had been before, Mr. Clinton said.

A GOP task force has issued recommendations on cyber security that “doesn’t look terribly different than what is essentially proposed

in President Obama’s executive order on cyber security,” which was issued in May 2013, he said.

Mr. Clinton said both the GOP task force and the president propose a voluntary program, and standards for best practice, and call for the development of market incentives to promote their voluntary adoption by companies.

Mr. Clinton said he does not expect anything regulatory in nature to be approved, “but there will be incentives for the private sector to engage in a variety of pro-security actions,” such as liability protection for sharing more information.

### NIST framework

There also may be incentives put in place to “promote the wider use” of the National Institute of Standards and Technology’s proposed voluntary cyber security framework, Mr. Clinton said.

In addition, he said, “I wouldn’t

be surprised if there is probably some streamlining of current regulatory bodies, perhaps something done to promote insurance use, various market incentives” and perhaps some benefits provided to firms that “demonstrate higher degrees of security.”

For instance, many businesses are seeking some uniformity of rules regarding data breach notification.

In the incoming Congress, “we could see them actually coalescing around” uniform data breach notification standards, said Francine E. Friedman, Washington-based senior policy counsel with law firm Akin, Gump, Strauss, Hauer & Feld L.L.P.

Privacy is likely to continue to be a sticking point to a certain degree, though, some experts say.

Harley Geiger, advocacy director and senior counsel at the Washington-based Center for Democracy and Technology, said that although he would expect contin-

ued pressure on Congress to pass cyber security legislation, the issue is whether it will “allow information about civilians to go directly to the National Security Agency, or some other federal agency such as Homeland Security, before going to the NSA” and then used for law enforcement purposes.

“The administration under President Obama has done enough to create privacy and civil liberties concerns, that I think the bulk of Republicans will adopt those concerns, and not want to hand the Administration any more powers,” said Jim Harper, a senior fellow with the Washington-based Cato Institute.

However, David LeDuc, senior director of public policy for the Washington-based Software & Information Industry Association said that while it is still a consideration, he thinks the privacy issue is an impediment that “can certainly be overcome.”



### HEAR INTERVIEW

Access Business Insurance’s interactive digital

edition to hear Larry Clinton, CEO, Internet Security Alliance, discuss his expectation for action from the next Congress with Business Insurance Senior Editor Judy Greenwald.

Contributing: Sheena Harrison, Bill Kenealy, Dave Roknic, Sarah Veysey



AP PHOTO

Hulk Hogan sued Gawker Media L.L.C. for \$100 million.

## Insurer, Hulkster slam media firm

A media company engaged in legal grappling with a wrestling legend is now finding itself tag-teamed by its own insurance company.

New York-based Gawker Media L.L.C. is being sued by one of its insurance companies, Nautilus Insurance Co., over a dispute regarding the legal expenses Gawker has accrued in its legal scrap with wrestler Hulk Hogan.

In 2012, Mr. Hogan sued Gawker for \$100 million after one of the company's websites posted a clip of a sex tape involving the Hulkamaniac and a friend's wife.

Nautilus claims it is not responsible for Gawker's legal expenses relating to the suit. Gawker, which has acknowledged that it has already spent \$600,000 defending Mr. Hogan's legal body slam, says the insurance company is required to pay under the provisions of a commercial general liability policy it purchased because the "emotional distress and mental anguish" Mr. Hogan claims to have suffered are "bodily injury" and therefore covered.

## Tenn. sheriff snared by cyber thief

A Tennessee sheriff's department reportedly faced a virtual stick-up earlier this month from a cyber robber that charged the agency a ransom of nearly \$600 in bitcoins.

Detectives from the Dickson County, Tennessee, Sheriff's Office told media outlets that a cyber thief installed malware on the department's computers. The program blocked the agency from accessing 72,000 vital files, such as crime scene photos and witness statements.

The alleged extortionist, whose user name is "Nimrod Gruber," reportedly demanded that the department pay \$572 in bitcoins in order to unlock the files. The ransom was reportedly paid through Western Union by a sheriff's department employee, who was later reimbursed by the Dickson County Commission.

Representatives from the department told media outlets that the "ransomware" entered the agency's computers while an employee was listening to a local radio station's online live stream.

## STONES, LLOYD'S GET SATISFACTION SETTLING CLAIM



AP PHOTOS

The Rolling Stones postponed its 2014 tour of Australia and New Zealand following the death of L'Wren Scott (inset).

Cathedral Capital Ltd.'s Lloyd's of London syndicate 2010 led the insurers settling a claim brought by rock group The Rolling Stones following the band's cancellation of a tour to Australasia. The Rolling Stones postponed its 2014 tour of Australia and New Zealand following the death of L'Wren Scott, the partner of Rolling Stones frontman Sir Mick Jagger, in March.

Ms. Scott was found to have committed suicide by hanging.

The Rolling Stones' company, Stone Touring Services L.L.P., sought to recover about \$12.7 million from a contingency policy underwritten by 12 Lloyd's of London and London market companies and led by Cathedral's syndicate 2010.

The policy covered cancellation of the tour arising from the sudden and unforeseen death of a number of named members of the bands' families, including Ms. Scott.

But the underwriters claimed that Ms. Scott's death was not unforeseeable.

Court papers filed in the U.S. District Court in Utah, which sought information from Ms. Scott's brother, a Utah resident, showed that the Rolling Stones also argued that the cancellation of the tour was caused in part by the acute stress suffered by Sir Mick after the death of Ms. Scott which, the group argued, also should have been covered by the policy.

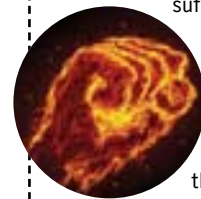
The two sides recently settled the claim.

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## Fake injury lands woman in hot water

Spilling a false coffee-injury story requires keeping a tight lid on the facts or you might get burned, a California woman has learned.

Selena Edwards, 38, of Victorville, California, has been charged with fraud for claiming she had been scalded by coffee Jan. 28, 2013, at a McDonald's drive-thru in Fontana, California, then downloading online photos to try to illustrate that she had suffered second-degree burns on her hand, according to media reports.



She faces 21 felony counts of fraud for filing an injury claim in which she said she was handed a cup of coffee at a McDonald's drive-thru with an improperly secured lid that allowed the hot liquid to spill on her hand, the California Department of Insurance said, according to Reuters. She submitted an injury claim with photos from a hospital website of a burned hand she said was her own, and submitted bogus documentation describing treatment she said she received, according to the Department of Insurance.

The Los Angeles Times recently reported that Ms. Edwards was seeking \$10,000 from her claims. She was charged by the San Bernardino County District Attorney's Office, according to the paper.

"By copying legitimate burn photos from the Internet, Edwards attempted to make a profit from another person's pain and suffering, and for this she will be prosecuted to the full extent of the law," California Insurance Commissioner Dave Jones said in a statement obtained by Reuters.

## Drug test cheat carrying a rider

Cheating on drug tests has become almost as common as the tests themselves, but one bus driver found out he was carrying an extra rider while carrying out his bluff.

In many industries, the random urine-sample test is just a routine way of minimizing the risk of worker accidents and employer liability.

But one hapless Egyptian bus driver learned the hard way that cheating the test and beating the test are two different

matters, the BBC reports.

The BBC said Egyptian media outlets reported that testers asked the driver to confirm that his submitted sample was actually his own. When he said it was, they congratulated him on his pregnancy, as he had submitted a sample from his wife.

Egyptian transportation authorities reportedly will change their policies to add blood samples to driver testing.





KEYNOTE SPEAKER  
Brian Duperreault  
CEO of Hamilton  
Insurance Group



KEYNOTE SPEAKER  
Sally Hogshead  
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AGENDA AT A GLANCE:

- I. **Morning Keynote:**  
**Where are the Women?**  
Brian Duperreault, CEO, *Hamilton Insurance Group*
- II. **Panel Discussion:**  
**The Business Case for Gender Diversity: Why the Insurance Industry Needs More Women Leaders**  
**Moderator:** Yvette Connor, Managing Director, *Alvarez & Marsal*, 2013 W2W  
**Panelists:** Bo Young Lee, Chief Diversity Officer, *Marsh L.L.C.*; Corbette Doyle, Lecturer in Organizational Leadership, *Department of Leadership, Policy & Organizations, Peabody College, Vanderbilt University*, 2006 W2W; David North, President and CEO, *Sedgwick Claims Management Services Inc.*; Grace Crickette, Senior Vice President, Chief Risk and Compliance Officer, *AAA of Northern California, Nevada and Utah*, 2011 W2W; Heather Masterson, President and CEO, *Totten Insurance Group Inc.*, 2013 W2W; Brian Little, Head of Human Resources, *Zurich North America*
- III. **Panel Discussion:**  
**Case Studies of Successful Women's Leadership Initiatives**  
**Moderator:** Kathie Maley, Executive Vice President, *IMA Financial Group Inc.*, 2013 W2W  
**Panelists:** Deborah Giss Stalker, Deputy General Counsel, *ACE Group*; Bob Klonek, President and CEO, *The Oswald Cos.*; Janice Tomlinson, former Executive Vice President, International Field Operations Manager, *Chubb Corp, Member the Oswald Co. Board of Directors*; Steven Testan, Partner, *Adelson, Testan, Brundo, Novell & Jimenez*; Karen Stankevitz, Director of Consulting Services, *Adelson, Testan, Brundo, Novell & Jimenez*; Kim Waller, Executive Vice President, *Willis North America*, 2013 W2W
- IV. **Luncheon Keynote:**  
**How the World Sees You: Discover Your Highest Value Through the Science of Fascination**  
Sally Hogshead, Author
- V. **W2W Roundtable - JUST ADDED**  
Past and present W2W honorees lead intimate conversations addressing the advancement of women in the commercial insurance industry and related fields
- VI. **Closing Remarks:**  
Joanne Wojcik, Senior Editor, *Business Insurance*

**FOR THE COMPLETE AGENDA AND TO REGISTER:  
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