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inBrief

HHS proposes rules for wellness programs

The U.S. Department of Health and Human Services announced a series of proposed rules under the Patient Protection and Affordable Care Act governing employee wellness programs. Under the proposed rules, employee wellness programs that include rewards or surcharges based on health standards and outcomes can increase the amount of the rewards offered to employees to 30% from 20% of the total cost of their health care coverage, and can raise incentives for smoking reduction programs to up to 50% of total coverage costs. Employers would be required to provide employees with alternative ways to obtain health-related rewards if their

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BUYERS CHOICE AWARDS

Business Insurance profiles winners of this year's Buyers Choice awards among insurers, brokers and third-party administrators. PAGE 10

PROPERTY/CASUALTY INSURERS

AIG shows resilience in turnaround

Many risk managers stuck with insurer throughout crisis

By MIKE TSIKOUDAKIS

Despite the turmoil surrounding American International Group Inc. over the past four years, the company's commercial insurance operations have proved remarkably resilient, risk managers and other observers say.

As the insurer drops the Chartis Inc. name, which it adopted during the financial crisis to distance itself from its parent company's troubles, and reverts to AIG, it continues to provide critical capacity for many programs with much of its reputation intact — including its reputation as a stickler in claims negotiations.

While risk managers were concerned as AIG relied on federal intervention to bring it back from the brink of collapse and watched with concern as key staff exited the insurer, many stuck with AIG.

However, the insurer did see a significant fall in writings after its 2008 government bailout. In 2009, New York-based AIG reported commercial insurance net written premiums of $18.37 billion compared with $24.06 billion in 2007.

Since AIG's troubles and its adoption of the Chartis name in 2009, the insurer's products and services have been "seamless," said Christopher Johnson, director of risk management at Northwestern University in Evanston, Ill. "I have not seen any change," he said.

Northwestern uses AIG units for various layers on its general liability program and for its directors and officers liability coverage.

"We've known throughout the process that they've had plenty of money to pay claims and … that's our primary concern," Mr. Johnson said.

William Montanez, director of risk management for Ace Hardware Corp. in Oak Brook, Ill., said that the insurer lost a lot of talent during the crisis.

"They really seemed to be struggling to keep the people that were innovative, that were really driving the business there with them," he said. "My only argument or complaint was the turnover; I couldn't keep up with the turnover."

AIG provides some primary and excess coverages for Ace Hardware's casualty program and also

See **AIG** page 20

WORKERS COMPENSATION

Wal-Mart comp dispute raises liability concerns

Control of treatment for injured workers at heart of lawsuit

By ROBERTO CENICEROS

Settlement of a class action lawsuit alleging that Wal-Mart Stores Inc. went too far in controlling injured workers' treatment raises concerns because it challenges management practices in general, workers compensation observers say.

The settlement involving Wal-Mart's claims administration unit and Concentra Health Services Inc. in Colorado also is troubling since it is believed to be the first payout resulting from recent suits alleging that employers' and workers comp service providers' claims management practices violated the Racketeer Influenced and Corrupt Organizations Act, several observers say (see box, page 17).

In winning the settlement of *Josephine Gianzero et al. v. Wal-Mart Stores Inc.*, the 13,521 plaintiffs circumvented the exclusive remedy provision typical in state laws that limits employers' liability for injured employees to workers comp payments, observers said.

"It's definitely a crack in the exclusive remedy" defense and creates a road map for plaintiffs in other states, said a workers comp insurer who asked not to be identified.

But several experts on Colorado's workers compensation

See **WAL-MART** page 17

CATASTROPHES

AP PHOTO

Workers in early November pumped water from the basement of an office building in New York that was flooded as a result of Superstorm Sandy. Many firms are expected to file business interruption claims.

Sandy losses keep mounting

Business interruption disputes expected

By RODD ZOLKOS

As businesses in the northeastern United States continue to recover from October's Superstorm Sandy, claims experts fear that business interruption claims will mean that insured losses will reach the high ends of current estimates.

With power and transportation disruptions still ongoing in some areas, some are already predicting claims disputes, particularly over policy language in contingent business interruption coverages or in the treatment of losses arising from storm surge or flood.

"Everyone's trying to get a handle on their BI and expecting the worst right now," said David Finnis, executive vice president and national property practice leader at Willis North America Inc. in Atlanta. "A lot of the insurers are starting to see numbers that are popping their eyes out of their head."

Citing modelers' various estimates of U.S. insured losses from Sandy — with Risk Management

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webinar

CONSTRUCTION RISKS: *Business Insurance* explores risks being faced by the construction industry as contractors take on projects in unfamiliar regions in a Nov. 27 webinar sponsored by Zurich. *www.Business Insurance.com/webinars*

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3. Inability to speak English appropriate in disability ruling
4. HHS proposes rules on wellness, essential health benefits
5. Endurance Specialty names Kuhn CEO of global insurance
6. Comorbidities rise contributes to increasing medical costs
7. GALLERY: Plan for a safe Black Friday
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9. Widow of comp claimant entitled to survivor benefits
10. Exclusive remedy bars bad-faith claim against comp insurer

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Sandy: Business interruption claims keep mounting

CONTINUED FROM PAGE 1

Solutions Inc.'s at the high end of the range with $20 billion to $25 billion — Mr. Finnis said losses will likely be closer to the high end of the range.

"Demand surge" also will drive up insured losses, he said, particularly as winter weather draws near. "You're playing beat the clock for some of these people before the real cold weather sets in. Some of these contractors can name their own price."

"The business interruption claims are going to be the real battles coming out of Sandy in terms of coverage," said Alexander G. Henlin of the Edwards Wildman Palmer L.L.P. law firm in Boston. "It's going to be a challenging environment for anyone to deal with."

Contingent business interruption and supply chain disruption claims also will be significant, Mr. Henlin said, and likely in the billions of dollars.

"New Jersey can't supply its liquor stores. A major warehouse that supplies the entire northern part of the state was destroyed by Hurricane Sandy," Mr. Henlin said. "I would expect claims to come out of that."

With disruptions persisting in some areas, many claims have yet to come in, even as losses continue to grow, Mr. Henlin said. "Any sort of time element coverage that's out there is tied to the period of restoration," he said. For many affected by the storm "there's still an ongoing POR," Mr. Henlin said. "You can't make the claim until the POR's over."

Jay Cannon, assistant vice president and manager of SimZone at FM Global in Johnston, R.I., said power outages and transportation disruptions are causing much of the business interruption after Sandy.

Most businesses can't function without electricity, so shutdowns leading to business interruption claims are likely and, in cases where distribution centers are closed, it could have supply chain implications, he said.

"The other part of that is the transportation network — shipping, trucking and rail. If any of those three transportation modes was impacted, then you're not moving goods from point A to point B," Mr. Cannon said.

Retailers appear to be among the hardest hit by Sandy-related supply chain disruptions, Mr. Cannon said.

"Clearly there's going to be enormous business interruption losses, and I imagine that some of those are going to arise from damage or infrastructure damage that arises somewhere away from the insured's premises," said Richard M. Mackowsky, a member of the Cozen O'Connor law firm in Philadelphia.

AP PHOTO

Retailers appear to be among the types of businesses hit the hardest by disruptions in the weeks following Superstorm Sandy.

"Almost certainly you're going to have a whole range of issues under contingent business interruption coverage," Mr. Mackowsky said. Depending on the type of CBI coverage, there might be such policy provisions as requirements that the dependent business be scheduled or requirements that suppliers or customers must be direct suppliers or customers. Many CBI coverages might require damage to property at the dependent business, often from a named peril.

"Many commercial policies do provide flood coverage, but many still do not provide flood coverage," he said and, in the absence of flood coverage, the policyholder wouldn't be eligible for CBI coverage if the damage to the supplier was caused by flood.

Willis' Mr. Finnis said whether policies treat Sandy losses as the result of a named storm or storm surge and flood also will be a factor for some property insurance policyholders.

"Some policies will treat this as a named storm and the deductibles and limits will be driven by that definition," he said. Those deductibles tend to be low in the Northeast, he said. But other policies will treat the loss event as the result of storm surge and flood and apply flood deductibles and limits, with those deductibles typically higher in the area.

Thomas Varney, risk consulting manager Americas at Allianz Global Corporate & Specialty in Chicago, said that while the March 2011 earthquake and tsunami in Japan and last fall's floods in Thailand opened eyes to supply chain risks, Sandy's proximity will reinforce awareness of those risks.

It's important that businesses understand their supply chain risks and the risks facing their key suppliers, he said, and that they plan accordingly. "It's really doing the due diligence," he said. "And when you're looking at things, make sure it's a living document. Keep it up to date."

Matt Jadacki, an executive director at Ernst & Young L.L.P. who previously worked in emergency management capacities with the federal government, was less certain that the storm would change businesses approach to storm risk management. "There's a misconception out there that the federal government's going to come in and bail people out and bail businesses out," he said.

While there are Federal Emergency Management Agency programs that will assist public entities with restoring facilities and infrastructure, there are no such programs for private entities, he said. And, even with those public entity programs, "There's a cost-sharing element there, too," Mr. Jadacki said.

RISK MANAGEMENT

Guidance on anti-bribery law steers firms operating abroad

Regulators provide centralized resource, concrete examples

By MIKE TSIKOUDAKIS

Long-awaited guidance on the Foreign Corrupt Practices Act puts regulators' thinking in one place for U.S. companies operating abroad and provides examples what may and may not constitute a bribe.

While the guidance released recently by the Department of Justice and the Securities and Exchange Commission offers "no new direction" and "no new policy statements" on the law, it collects in one place "information that was previously scattered in a number of different places," said Mike Koehler, an assistant professor at Southern Illinois University's School of Law in Carbondale, Ill.

"For most of the FCPA's history, the business community lacked something like this and would have to get information through counsel, which obviously increased their legal expenses," Mr. Koehler said of the 1977 law that targets foreign bribery, inaccurate financial records and inadequate internal controls. "This does have value."

The guide, A Resource Guide to the U.S. Foreign Corrupt Practices Act, provides information for any size enterprise involved in multinational business, the Justice Department said in a statement.

Separately, Wal-Mart Stores Inc. disclosed that investigations into alleged bribery had expanded beyond Mexico to Brazil, China and India (see story, page 21).

John C. Kocoras, a Chicago-based partner in McDermott Will & Emery L.L.P.'s white collar and securities defense practice group, agreed that the guidance collects in one location regulators' previously stated thinking on the FCPA.

The guide "reaffirms the principals that the government has indicated in the past and many lawyers have been advising their clients that keys to a successful program include the right

See **FCPA** page 21

HEALTH CARE BENEFITS

Group health plan costs rise 4.1%

Rising CDHP usage slows total spending, Mercer study finds

By JERRY GEISEL

Aided by the growth of high-deductible health plans, group health care plan cost increases are easing.

In 2012, group health care plan costs increased 4.1% to an average of $10,558 per employee compared with $10,146 in 2011, according to a Mercer L.L.C. survey of more than 2,800 employers released earlier this month.

This year's average cost increase is the smallest in 15 years, the New York-based consultant said, and is sharply less than 2011, 2010 and 2009, when costs rose an average of 6.1%, 6.9% and 5.5%, respectively.

Benefit experts attribute the slowing of increases in group health care plan costs in part to the growth of consumer-driven health plans. This year, 16% of employees were enrolled in CDHPs, up from 13% in 2011 and more than double the enrollment just four years ago, when only 8% of employees were covered in the plans.

With CDHPs, in which a health savings account or a health reimbursement arrangement is linked to a high-deductible plan, employers can reap significant savings when only a small number of employees switch to CDHPs, Mercer noted. That is because CDHPs cost about 20% less than traditional plans, such as preferred provider organization coverage.

A double cost saving benefit can be achieved through CDHPs, benefit experts say. The first is that the high deductible brings down the total cost of the plan, while also making employees better consumers of health care services by exposing them to a greater share of the costs.

"When employees have more accountability — more skin in the game — they become more careful consumers," said Michael Thompson, a principal with PricewaterhouseCoopers L.L.P. in New York.

REGIONAL COSTS

Average annual health plan costs per employee for employers with at least 500 employees

REGION	2012	% INCREASE
West	$11,969	7.7%
Northeast	$11,500	1.5%
Midwest	$11,026	6.4%
South	$10,005	6.0%

Source: Mercer L.L.C.

Other factors also are helping hold down costs. For example, the growth of retail clinics allows employees to get needed medical care during times when their doctors' offices are closed while avoiding trips to hospital emergency rooms, where costs would be many times higher than the clinics, said Helen Darling, president of the National Business Group on Health in Washington.

Yet another positive factor in the health care cost control fight has been the redesign of health care plans in which employers require employees to use what are known as centers of excellence for certain high-cost procedures for employees to receive full or greater coverage. That results in better outcomes and, ultimately, lower costs, said Tim Nimmer, chief actuary for Aon Hewitt in Denver.

Others note that the sluggish economy and continued relatively high unemployment also may have helped to slow health plan cost increases.

"Utilization of services has slowed down as household income has gone down," Ms. Darling said.

Other survey findings include:

- Health care plan cost increases vary considerably by region (see chart). For example, costs in 2012 surged by an average of 7.7% for large employers in the West, the highest percentage increase of any region. On the other hand, health care plan costs for large employers in the Northeast increased by just 1.5% — the lowest of any region.

One possible reason for that sharp difference is that CDHP enrollment among large employers in the Northeast jumped more than 50% in 2012, rising from 11% to 17%, while CDHP enrollment among employers in the West remained flat at 10% of employees in both 2012 and 2011, said Beth Umland, Mercer's director of research for health and benefits in New York.

- Fifty-six percent of employers said they would consider providing coverage through private health insurance exchanges. The appeal of private exchanges, Mercer said, is that they allow employers to offer their employees a broader choice of benefits while allowing health insurers to compete for their business.

CYBER LIABILITY

JAMES BERGLIE/ZUMA PRESS

Personal emails that led Gen. David Petraeus to resign as CIA director exemplify the dangers such communications pose, experts say.

Petraeus email probe shows data dangers

Monitoring efforts deter workers from inappropriate use

By RUSS BANHAM

Thousands of personal emails that led to the resignation of Gen. David Petraeus as CIA director have reinforced the need for organizations to take proactive risk management steps to avoid the threats they pose, experts say.

The emails, which reportedly included threats by a one-time mistress against a perceived rival as well as communications with other high-ranking U.S. military officials, pointed out dangers that include defamation, libel and loss of government or trade secrets.

"Email certainly isn't something that a company typically looks at in terms of its critical risk profile, but it should be because of the privacy, data security and network security risk it poses," said Michael Born, vice president and account executive in the global technology and privacy practice of Kansas City, Mo.-based broker Lockton Cos. L.L.C.

Risks of inappropriate email usage run from simply embarrassing to the loss of high-value proprietary information that can impair a company years after the fact.

"Emails are electronically recorded and often archived for a period of time, so they may live well on into the future to haunt you," Mr. Born said.

"We've had clear-cut violations of our email policies here, which we learned about when we shut down some branches five or six years ago, pulled back the servers and the hard drives, and were shocked by what we saw," said Wayne Salen, director of risk management at Labor Finders International Inc., a West Palm Beach, Fla.-based temporary staffing firm. "This led our CEO to initiate means to protect the company."

The changes included writing policies and procedures on email usage, training employees on the policies and routine monitoring of all employee emails.

"Every employee must sign an agreement attesting that they realize any emails they write using company equipment, whether the email is business-oriented or personal, is subject to review by our (information technology) department and administrators," Mr. Salen said.

'Email certainly isn't something that a company typically looks at in terms of its critical risk profile, but it should be because of the privacy, data security and network security risk it poses.'

Michael Born, Lockton Cos. L.L.C.

Penalties for violating the policies can include termination.

At Blue Cross and Blue Shield of Florida Inc., the health plan provider restricts company emails only to business use. It also monitors emails.

"When employees log onto the computer in the morning, a message pops up on the screen alerting them that their email is being monitored, which we do on an ad hoc sampling basis," said John Phelps, director of business risk solutions at the Jacksonville, Fla.-based health insurer.

"The first day you start here, you go through an orientation where we explain the rules regarding confidential and protected information," Mr. Phelps

See **EMAIL** page 18

PROFESSIONAL LIABILITY

Employers face more EEOC scrutiny

Advanced planning cuts claims frequency for professional lines

By MIKE TSIKOUDAKIS

CHICAGO — Employment practices liability charges by the U.S. Equal Employment Opportunity Commission and data privacy breaches are among the top concerns for organizations and the insurers underwriting those risks.

Such were the topics at the 25th annual Professional Liability Underwriting Society conference in Chicago Nov. 7-9 at the Sheraton Chicago Hotel & Towers.

For 2013, the EEOC requested a budget of $373 million, said Diane I. Smason, supervisory trial attorney for the EEOC's Chicago district office, during a session on EPLI litigation. "The agency is trying really hard to come up with a plan to use resources most efficiently," she said. "We're really trying to focus on the best charges — those that are the strongest and have the greatest impact in industries."

Employers in the United States saw an overall spike in EEOC charges, which was directly related to the economy, said panelist Jason A. Fogg, Rolling Meadows, Ill.-based vice president of claims at Monitor Liability Managers L.L.C., during the session.

"We saw an increase of retaliation claims. They're the easier claim to make," he said, noting that middle-market companies face an increased vulnerability of exposures due to EEOC charges.

Ms. Smason said the EEOC investigates many retaliation claims because the underlying claim — for example, race discrimination — isn't very strong. After such a claim is filed, employers often react by firing that employee, ultimately sparking a retaliation claim, she said.

To avoid or at least handle potential EEOC charges, companies and organizations need to know what specific charges the EEOC is focusing on, said panelist Linda G. Burwell, partner at law firm Nemeth Burwell P.C. in Detroit.

"You have to look at what the EEOC is targeting, what they're saying are hotspots, then go to your companies and make sure they have policies in place and train their supervisors," she said.

Thomas P. Hams, managing director and national employment practices liability insurance practice leader for Aon Risk Solutions, said larger employers have learned over the years the need to react quickly in response to an EEOC charge.

As the EPLI environment firms, Mr. Hams advises employers to dive beyond the insurance application process to tell a better story.

"Look outside the application at training initiatives," he said, also noting that companies' legal departments should try to establish a relationship with the EEOC.

The session was moderated by Mercedes Colwin, New York-based managing partner at law firm Gordon & Rees L.L.P.

In a separate session on privacy and data security, panelists said hacking has been the highest incident data breach type since 2003.

But organizations should not put too much weight on data breach statistics, said Theodore J. Kobus, national co-leader of the

See **PLUS** page 19

CONSTRUCTION RISKS

Subcontractor defaults test construction firms

By JUDY GREENWALD

ORLANDO, Fla. — Subcontractor defaults are likely, given the still-shaky economy, but there are steps construction risk managers can take to avoid and mitigate the effect of these defaults, said speakers during the International Risk Management Institute Inc.'s 32nd annual construction conference in Orlando, Fla., last week.

More subcontractor failures can be expected, said James LaMonica, New York-based vice president for XL Insurance America Inc. "Construction spending continues to be anemic," with tighter margins and less work available, he said.

Mr. LaMonica said when Chicago-based Trainor Glass Co., the country's third-largest glazier, closed its doors in February 2012, 500 employees in 15 states were put out of work. "The point is, the loss with subcontractor default can be quite significant," said Mr. LaMonica.

These losses can be direct, such as those associated with obtaining new subcontractors, and indirect, such as the additional time staff must spend on the affected project rather than focusing on future projects. The first step in minimizing the risk of subcontractor default is "selecting the right partners at the right time based on the right information to make your project successful," Mr. LaMonica said. "You need to take the 'pre' out of qualification. It's continuous qualification. It's not a one-time thing. It's a constantly recurring process."

Mr. LaMonica said a financial review is "the hallmark of any qualification. You want to start with financial statements." Factors such as the scope of the subcontractor's previous projects also "matter a lot." This does not mean you cannot give a firm a larger job than it has had in the past, just that you need to be sure it is capable of handling it, he said.

Losses to contractors caused by subcontractor default can be significant, but there are mitigation steps construction risk managers can take.

"You have to have a formal written process in place," said Laura Laurenzi, director with Milford, Conn.-based Turner Surety & Insurance Brokerage Inc. "People throughout the organization have to know the expectations" with respect to subcontractors, including how they are evaluated.

Financial information should be kept up to date. "Any updated information you can get after you award the project is to your benefit," said Ms. Laurenzi. Find out if there were any projects the subcontractor had planned on getting but did not, and what projects it will be bidding on in the future.

See **IRMI** page 19

Deadline approaching for annual risk manager awards

Business Insurance is seeking nominations for the 2013 *Business Insurance* Risk Manager of the Year® Award.

The Risk Manager of the Year® and Risk Management Honor Roll® Awards are presented by Crain Communications Inc.'s *Business Insurance*, in collaboration with the Risk & Insurance Management Society Inc., which is the professional organization dedicated to advancing the practice of risk management.

The Risk Manager of the Year® Award was created in 1977 to increase recognition of the risk management profession and to recognize outstanding performance in the practice of risk management. The first award was presented in 1978. The Risk Management Honor Roll®; Awards were introduced in 1983.

Anyone involved in risk management for a corporation, financial institution, not-for-profit institution or governmental entity can be nominated. The person need not practice risk management full-time, but the candidate must be a full-time employee of the corporation, institution or governmental entity for which he or she practices risk management. Administrators and executive directors of self-insurance funds or self-insurance pools are eligible.

Nominate a candidate at *www.businessinsurance.com/RMOYnominate*. The Risk Manager of the Year® award is presented every year during the Risk & Insurance Management Society Inc. Conference and Exhibition.

RISK MANAGEMENT

Preparing your employees for risks abroad

Webinar focuses on travel overseas

By ANNA GAYNOR

Taking steps before an employee travels abroad may be the best way to respond to risk exposures overseas, experts said during a *Business Insurance* webinar on international travel risks.

From researching potential exposures to working with medical and safety assistance teams on the ground, employers can be better prepared to respond to a medical or safety crisis, experts said during the Nov. 13 webinar, "Minimizing International Business Travel Risks."

Cheryl Lloyd, director, liability and property programs in the office of risk services at the University of California, discussed the intricate plan the university implemented after protests erupted in Egypt in January 2011. The school had more than 35 students, faculty and other university staff who needed to be evacuated from the country, which required more than booking a few plane tickets. The university's proposed plan was to send professionals from a local security company to transport students from host homes to a hotel and eventually to a chartered airplane to Barcelona.

"I say proposed because you come up with a plan, and then you might have to alter it midstream," Ms. Lloyd said. "We contacted our security provider as well as our medical assistance provider and travel assistance provider, and we had routine conference calls every two hours over that weekend — to review the plan, to figure out what new issues were coming up that we would have to deal with, and to fully execute the plan if possible."

This included picking up a couple of student "stragglers," an archaeology team that had been abruptly evicted from a site it occupied for more than 30 years, and even one student's mother.

"We had one student who said to us, 'Hey, can you bring back my mother?" Ms. Lloyd said. "When that question comes up, you can't ask the question, 'Is that covered or not?' You have to bring the mother. The answer to that is always yes."

Bob Callard, managing partner of Robert Callard & Associates L.L.C., a consulting com-

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Mid-Market EXECUTIVE Helping C-level executives at midsize firms overcome critical risk and benefits challenges

Disaster plans need review

Sandy highlights need for municipalities to check emergency preparedness

By MATT DUNNING

Municipal risk and emergency management administrators should treat Superstorm Sandy as an opportunity to review their local disaster preparedness and response plans, even if they were not directly affected by the storm, experts said.

More than 80% of city governments surveyed in the Federal Emergency Management Agency's 2012 National Preparedness Report said they were confident that their current emergency operations plans would adequately respond to a catastrophic event. However, experts said, periodic re-examination of a community's emergency management capabilities often reveals glaring deficiencies in its disaster preparations and response strategies, especially when viewed in the context of an event as destructive as Sandy.

Unfortunately, identifying specific vulnerabilities and potential solutions is only part of the challenge facing most cities and towns. In order to affect substantive disaster readiness and response improvements, municipal risk and emergency management administrators may need to overcome local budget constraints and political temperaments. To do that, administrators will need detailed assessments of their community's current disaster readiness capabilities, event probabilities and loss projections as a result of a disaster.

"Especially since the end of the recession, all of our government clients are faced with having to do more with less in terms of funding and personnel," said Adam Balls, the Cincinnati-based vice president of public risk at Hylant Group Inc. "One of the more worrisome elements of that is that a lot of city management teams can wind up putting off risk management discussions like this in favor of operations that are more critical on a day-to-day basis, so finding the time and the resources to do some of this high-level disaster planning definitely becomes an issue."

One element experts said cities frequently overlook is the degree to which they can pre-emptively mitigate their exposure to catastrophic property damage and loss of life. Approximately 31% of U.S. residents live in cities and towns not covered by a FEMA-approved local mitigation plan, according to the agency's report.

"Everybody that looks at emergency planning looks at two areas, which are preparedness and response. Both of those are great, but those are only half of the puzzle," said Geoffrey Bacci, director of operations at Batavia, Ill.-based Aires Consulting Group Inc., a division of Gallagher Bassett Services Inc. "Mitigation is all of the things you can do to either prevent a disaster from happening in the first place, or at least prevent or reduce the effects of a disaster. The problem is that the conversation about mitigation really only happens after a municipality has some experience with a disaster."

BLOOMBERG

A flooded truck sits in New York on Nov. 1. Superstorm Sandy crippled much of the transportation infrastructure in New York City, Long Island and New Jersey.

Depending on their specific profile of disaster exposures, cities could find themselves with a host of mitigation options. Common solutions for hurricane-exposed communities include structural investments such as levees, dams, floodways and wind-resistant retrofits for public buildings and infrastructure, as well as legislative measures such as stricter building codes, zoning ordinances, risk mapping and hazard vulnerability disclosure requirements.

> 'Everybody that looks at emergency planning looks at two areas, which are preparedness and response. Both of those are great, but those are only half of the puzzle.'
>
> Geoffrey Bacci, Aires Consulting Group Inc.

A 2005 study by the Washington-based Multi-hazard Mitigation Council indicated that every dollar spent on pre-event disaster mitigation measures can save as much as $4 in costs associated with property damage, business interruptions, emergency response operations and loss of life. To the extent that their mitigation plans qualify, communities may be able to access federal funding through FEMA to ease the up-front financial burden of their investments.

Experts said cities will need to weigh the economic effects of any structural or nonstructural mitigation measures they undertake against the probability of a catastrophic event and the severity of projected losses absent the measures to determine whether mitigation is the right course of action.

"There's a fine balance you have to draw between protecting property and overregulating construction and building based on something that might only happen once in a blue moon," said John Grook, risk management administrator at the City of Virginia Beach, Va. "You don't want to wind up overtaxing developers and citizens."

Another common oversight in many municipalities' disaster planning is the absence of contingencies for the unexpected loss of access to resources and personnel. Aside from many billions of dollars in property damage, Superstorm Sandy crippled much of the transportation infrastructure in New York City, Long Island and New Jersey, which in turn dealt a tremendous blow to the effective distribution of emergency personnel and equipment, utility repair teams and relief supplies, and access to designated shelters and emergency checkpoints.

"A lot of times, a plan is really good for meeting the normal exposures that a city anticipates, whether it be a flood or a tornado," said Tom Metzner, senior loss control consultant at the Kansas City, Mo.-based Lockton Cos. L.L.C. "But when it gets into multiple elements and back-up plans being taken out of operation during an event, you can be left with gaping holes in your plan. For example, if a municipality has designated a high school or some other facility as an emergency shelter, have they gone to the extent of figuring out what would happen if that shelter was taken out of the game?"

Superstorm Sandy also exposed substantial weaknesses in many communities' emergency communications models, specifically where rescue and recovery efforts were reliant on access to cell service. According to reports by the Federal Communications Commission, about 25% of the cellular towers along the coastline between Virginia and Massachusetts were disabled during the storm, affecting nearly 160 counties across 10 states.

While improving the resiliency of cellular networks will largely be the responsibility of provider companies and the FCC, experts said local governments can guard against the risk of communication failures by fortifying and enhancing public access to auxiliary systems, such as pre-programmed CB radio channels and satellite phones.

DISASTER AWARENESS, RESPONSE PLANS SPREADING

Among the multitude of findings outlined in its 2012 National Preparedness Report, the Federal Emergency Management Agency noted vast improvements between 2006 and 2010 in the level of confidence expressed by public administrators in urban areas in several key disaster response capabilities, including:

Confidence in overall emergency operations planning	2006: 30% 2010: 81%
Confidence in public information planning	2006: 32% 2010: 73%
Confidence in public protection and evacuation planning	2006: 9% 2010: 63%
Confidence in municipal communications planning	2006: 29% 2010: 72%

The report also noted several other statistics indicating broadening disaster awareness and preparedness among U.S. cities:

Percentage of U.S. population not covered by FEMA-approved local mitigation plans	2007: 43% 2012: 31%
Number of National Flood Insurance Program policies in force	2001: 4.5 million 2011: 5.7 million
Number of cities and towns participating in the NFIP Community Rating System	1991: 254 2011: 1,211
Number of communities participating in National Oceanic and Atmospheric Administration StormReady and TsunamiReady programs	1999: 7 2012: 1,998
Distribution of FEMA hazard mitigation grant awards by purpose, 2007-2011	Approved projects: 88% Management: 6% Planning: 6%

Opinions

EDITORIAL

FCPA guidance helps business

Complying with the U.S. Foreign Corrupt Practices Act can be a major headache for U.S. businesses operating on an international basis.

That's why we welcome a new guidance regarding the FCPA issued this month. As we report on page 3, "A Resource Guide to the U.S. Foreign Corrupt Practices Act," pulls together information about the law that was previously scattered in a variety of places.

Anything that makes complying with the FCPA easier is welcome. The law imposes criminal and civil penalties for a variety of offenses — including foreign bribery, inaccurate financial records and inadequate controls — that potentially are expensive and embarrassing for defendants.

But the guidance doesn't provide new insight on how the Department of Justice and Securities and Exchange Commission — both of which are charged with enforcing the law — approach their tasks. That's a shortcoming, particularly because Congress could attempt to reform the law.

But having what had been a diffuse archive of information in one place — in this case a 120-page document — is definitely a plus for U.S. companies with international operations. Without such a central repository of information, companies had to gather information about the law through counsel, a necessary but often costly exercise.

One of the more valuable aspects of the guidance is that it provides hypothetical situations and case studies, without naming the companies involved. Hypothetical and real-life scenarios deal with such issues as gifts, travel and entertainment of foreign officials. These are areas of FCPA compliance with which U.S. companies have struggled in the past.

The guidance underscores the necessity of having strong corporate compliance programs in place. While that doesn't act as an absolute shield against FCPA actions, having a comprehensive compliance program in place can be a plus when obtaining insurance to respond to FCPA exposures.

The guidance isn't perfect, but it's a valuable tool to deal with what can be a very expensive exposure that can only grow as more U.S. companies turn to overseas opportunities as part of their strategies for growth.

SCHILLERSTROM

COMMENTARY

Sandy complicates NFIP's future

It took Congress several years to agree to a long-term extension and reform of the National Flood Insurance Program. As a result, the program was reauthorized in fits and starts, and even lapsed several times as lawmakers couldn't agree on the breadth of the program.

When legislators finally agreed on the shape of reforms necessary to keep the debt-ridden program viable and reauthorized the NFIP this year, it looked like a contentious issue was off the legislative table for at least the short term.

MARK A. HOFMANN
SENIOR EDITOR

Superstorm Sandy may have changed that, though.

During a meeting this month of the Federal Advisory Committee on Insurance, Edward Connor, deputy associate administrator-federal insurance and mitigation administration at the Federal Emergency Management Agency, said the NFIP doe not have the borrowing capacity to meet Sandy-related losses. In fact, the NFIP can borrow less than $3 billion to cover losses that could rise to $12 billion, he said.

The program already is nearly $18 billion in debt for losses stemming from Hurricane Katrina, with its borrowing cap set at $20.7 billion. Mr. Connor said he expects the Department of Homeland Security, of which FEMA is a part, to ask Congress to authorize an increase in FEMA's borrowing capacity.

That might not go over well with a Congress concerned about spending, taxes and the looming "fiscal cliff." But the NFIP's troubles could be a catalyst to revive consideration of a greater private sector role in covering the peril of flooding.

This isn't a new idea. Nearly two years ago during a public hearing on the NFIP, the Reinsurance Association of America and the Association of Bermuda Insurers & Reinsurers argued that the program should be partially or entirely privatized as a means to protect taxpayers.

This is an idea, that should resonate now. After all, commercial flood insurance is available in this country, albeit often layered atop NFIP policies. And the reinsurer organizations said two years ago that the private reinsurance market and capital markets "have the capacity and interest in underwriting flood insurance risk."

Unfortunately, the challenges facing even a partial privatization of the flood insurance market are less economic than political. A private market would demand premiums set at true risk rates based on sound underwriting. That makes sense in the insurance world, but not necessarily in Washington's world, even when curbing government spending is a must. Too many people would have to pay higher rates for coverage, and that would result in a torrent of complaints washing through lawmakers' offices.

Still, the current situation is untenable. The time to start thinking seriously about some form of privatization of flood coverage was quite a while ago. As the NFIP's debts mount, a debate over how the private sector can reduce some of the federal financial burden stemming from the program is timely and overdue.

Contact: *mhofmann@businessinsurance.com*

LETTERS

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Please send your letters to:
Letters to the Editor, Business Insurance,
150 N. Michigan Ave., Chicago, Ill. 60601-7524

Fax: 312-280-3174; email: *gsouter@businessinsurance.com*

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Market Moves

Marsh & McLennan Agency buys Howalt McDowell

White Plains, N.Y.-based Marsh & McLennan Agency L.L.C., a subsidiary of insurance broker Marsh Inc., is acquiring Howalt McDowell Insurance Inc. Terms of the transaction were not disclosed.

Founded in 1946, Sioux Falls, S.D.-based Howalt McDowell has annual revenue of approximately $16 million and offers property/casualty insurance, surety coverage, personal protection and employee benefits insurance to midsize businesses in the upper Midwest.

All of the agency's leadership and employees, including CEO Jeff Scherschligt, will join MMA's upper Midwest hub in Minneapolis and continue to operate out of the firm's headquarters office.

Howalt McDowell is the 23rd acquisition MMA has completed since November 2009. MMA generates approximately $395 million in revenue annually.

Chaucer to write credit, political risk in New York

London-based Chaucer Holdings P.L.C. has introduced a political risk and trade credit initiative in New York.

Mark McLeod, a political risk underwriter, is developing the political risk and trade credit account for the marine division of Chaucer's Lloyd's of London syndicate 1084, the insurer said in a statement. He has transferred from London to the New York offices of Hanover Insurance Group Inc. Chaucer is a member of Hanover Insurance Group.

The initiative comes in response to changes in the political risk and trade credit market as well as growing economic development in Latin America.

"U.S. financial institutions have dealt more rapidly than their European counterparts with clearing their balance sheets" after the global financial crisis, Mr. McLeod said in an email. "We are seeking to position ourselves to be able to take advantage of what we view as an excellent opportunity for U.S.-based banks to increase their global reach, afforded by the pronounced retraction of the European banks that traditionally fund much of emerging market infrastructure development and trade finance."

Hub acquires business from Mahoney Group

Hub International Ltd. announced that it has acquired a book of commercial lines business from the Las Vegas offices of Phoenix-based brokerage the Mahoney Group.

Terms of the sale were not disclosed.

Accounts and business units acquired from Mahoney will be folded into Hub International Insurance Services' Nevada-based operations.

Diana Jarzen, client executive for Mahoney's commercial lines, will join Hub and report to Greg Pike, Hub's chief sales officer in Nevada.

New organization aims to improve insurance law

The newly formed American College of Coverage and Extracontractual Counsel is aiming to improve the quality of the practice of insurance law by focusing on the creative, ethical and efficient adjudication of insurance coverage disputes and disputes between policyholders and insurers over extracontractual damages, according to a statement from the group.

Members of the professional organization will represent the interests of policyholders and insurers. In the statement, the group said its mission includes educating all sectors involved in insurance disputes, including the judiciary, legal and insurance professionals, and businesses. It will focus on such topics as best practices in policy formation, developing trends in insurance law and bad faith.

The college said it also will seek to increase civility and professionalism in the field and improve relations between policyholder and insurer attorneys in order to achieve better representation for all their clients.

Thomas F. Segalla, founding partner at Goldberg Segalla L.L.P., is the college's first president. Edward J. Currie Jr., founding shareholder in Currie Johnson Griffin Gaines & Myers P.A. is the organization's secretary and treasurer.

For details about the college, visit the organization's website at *www.americancollegecec.org*.

IDP acquires hospitality program

IDP Holdings L.L.C. has acquired the hospitality business of National Specialty Underwriters Inc.

The organization also announced it was purchasing Certus Claims Administration, the hospitality claims handling division for National Specialty Underwriters.

IDP Holdings comprises Ironshore Holdings Inc. and Distinguished Programs Group L.L.C. The joint venture acquisition vehicle focuses on managing general underwriter and program manager segments of the commercial insurance distribution business.

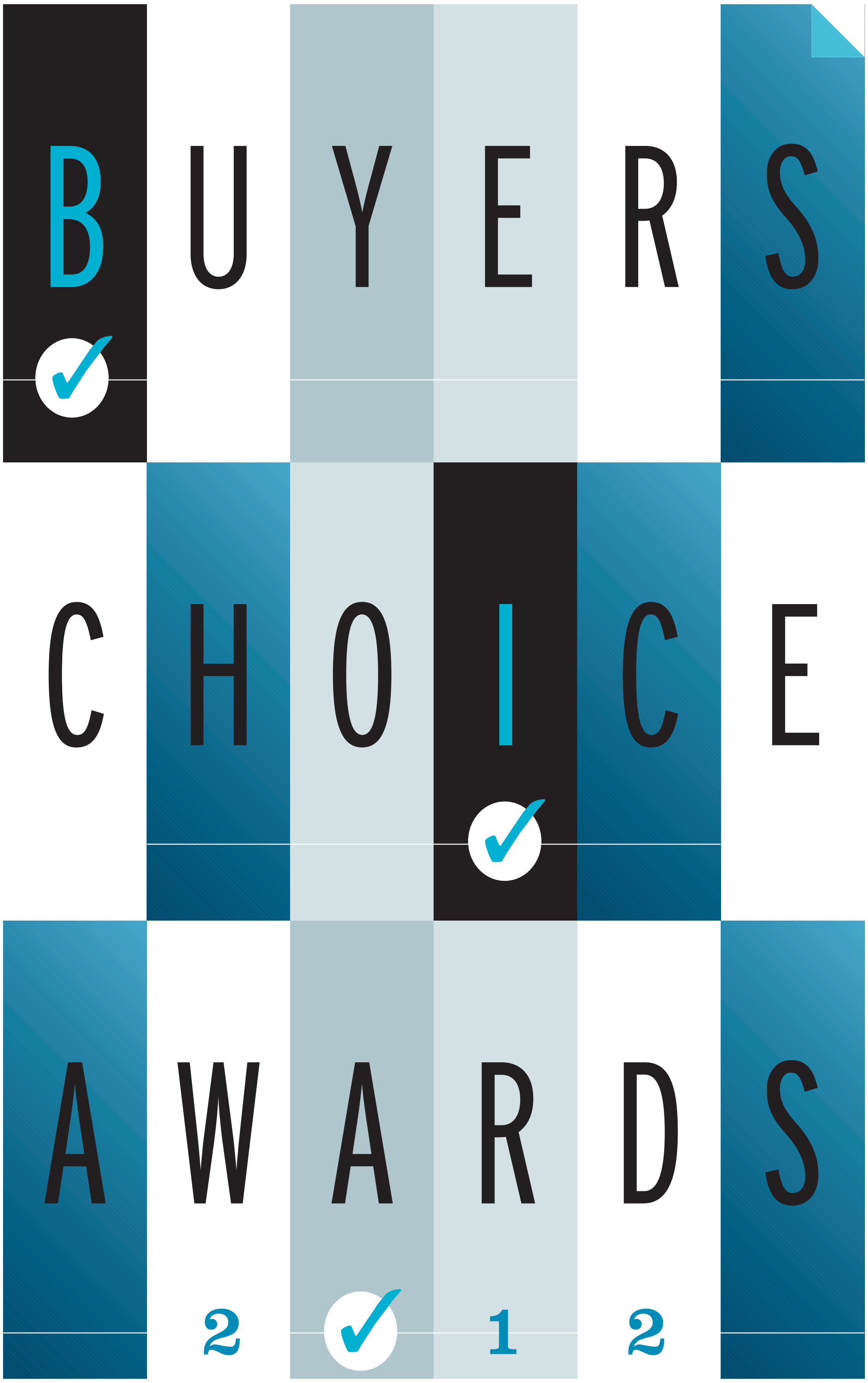
In a separate statement, Bellevue, Wash.-based NSU announced its name change to Ultra Risk Advisors after the acquisition.

Terms of the transaction were not disclosed.

Buyers rank top industry companies

Awards highlight valued attributes

By RODD ZOLKOS



Companies recognized as this year's *Business Insurance* Buyers Choice honorees earned the recognition by being the companies that buyers of commercial insurance products and services recommend based on the attributes they identified as the most important.

As the first step in identifying the Buyers Choice group of "best-in-class" companies, buyers were asked to rank key service and expertise attributes in evaluating insurers, brokers and third-party administrators. Next, they were asked to identify the companies they'd recommend for demonstrating the top three service and expertise attributes they identified.

The Buyers Choice Awards recognize companies identified most often by small buyers, those with less than $500 million in 2011 revenue; midsize buyers, those $500 million to $3 billion in 2011 revenue; and large buyers, those with more than $3 billion in 2011 revenue.

Categories evaluated have been expanded in this year's survey.

In identifying the 2012 Buyers Choice honorees, profiles of which begin on page 11, buyers provided insight into the service and expertise attributes they value most and, in some cases, showed differences in what's valued most by buyers of different sizes. Buyers also identified the insurers, brokers and TPAs as the best overall in the respective categories.

The winners were chosen based on responses submitted out from June through August by 448 qualified decision-makers in surveys conducted by Chicago-based Blackstone Group, an independent provider of surveys.

COMMERCIAL PROPERTY INSURERS

Buyers of all sizes had the same view on the most important service attributes of commercial property insurers, ranking providing good value for premiums paid first, demonstrating reliable customer service and responsiveness second, and providing timely claims payments third.

COMMERCIAL LIABILITY INSURERS

Buyers of all sizes were agreed on the top two service attributes of commercial liability insurers. Providing good value for premiums paid topped their list, followed by demonstrating reliable customer service and responsiveness. While small and large buyers identified providing timely claims payments as the third most-important service attribute, midsize companies ranked communicating effectively on key customer concerns and issues as third.

COMMERCIAL AUTO INSURERS

Small and large buyers rank providing good value for premiums paid as the most important service attribute among commercial auto insurers, while midsize buyers ranked that attribute as third. Small and large buyers agreed again on the second most important service attribute for commercial auto insurers — demonstrating reliable customer service and responsiveness — while midsize companies ranked it first. Small and large companies also agreed on the third service attribute — providing timely claims payments — while that service attribute was ranked second by midsize buyers.

WORKERS COMPENSATION INSURERS

Small and large buyers each ranked demonstrating reliable customer service and responsiveness as the most important service attribute among workers comp insurers and providing good service for premiums paid as second. Midsize buyers reversed that order. Small and midsize buyers ranked providing timely claims payments third, while large buyers ranked communicating effectively on key customer concerns and issues as the third most-important service attribute.

BROKERS

Buyers of all sizes ranked demonstrating trust, integrity and reliability as the top service attribute among insurance brokers. Small buyers ranked offering in-person customer service and responsiveness second and, along with midsize buyers, ranked facilitating timely, informed renewal decisions third, while large buyers ranked that service attribute second.

THIRD-PARTY ADMINISTRATORS

Buyers of all sizes identified the same top two service attributes of third-party administrators as those they valued most: demonstrating trust, integrity and reliability; and communicating effectively on key customer concerns and issues.

THE WINNERS: **INSURERS** Liberty Mutual Group Inc. PAGE 11 | Ace Ltd. PAGE 12 | FM Global PAGE 12 | Travelers Cos. Inc. PAGE 12 | Chubb Corp. PAGE 14 | American International Group Inc. PAGE 14 | Zurich Insurance Co. Ltd. PAGE 14 | **BROKERS** Marsh Inc. PAGE 15 | Aon P.L.C. PAGE 16 | **TPAs** Gallagher Bassett Services Inc. PAGE 16 | Sedgwick Claims Management Services Inc. PAGE 16 |

ONLINE **gallery**

View a photo gallery from the Buyers Choice Awards luncheon, held Nov. 15 in Chicago. Awards were presented to winning companies at the annual event.

INSURERS

Technology, research bolster Liberty

- *Commercial auto insurer service for medium buyers*
- *Commercial auto insurer expertise for medium buyers*
- *Commercial auto insurer overall for medium buyers*
- *Workers compensation provider service for small and medium buyers*
- *Workers compensation provider expertise for small and medium buyers*
- *Workers compensation provider overall for small and medium buyers*

A focus on technology, research and data analytics has helped Liberty Mutual Group Inc. guide its small- and mid-market clients to strategies that reduce their commercial auto insurance and workers compensation costs.

Last year, Boston-based Liberty Mutual launched its VantageComp predictive model, which uses records from 2.5 million claims to detect comp cases that have complicating factors — such as smoking or obesity — and could result in high costs for claims payers.

That model has allowed Liberty Mutual's claims adjusters to recommend intervention strategies, and the company says the technology has helped comp claims close 15% faster than typical in the industry.

"By collecting and harnessing this large volume of data, we're able to make continuous improvements and lead to better patient care and cost control," said Chris Cunniff, Boston-based senior vice president of commercial insurance and product manager at Liberty Mutual.

Loss-control practices

Meanwhile, the insurance company uses data from its Hopkinton, Mass., Liberty Mutual Research Institute for Safety to develop loss-control practices for its policyholders. Those efforts include its Decision Driving training program, which teaches fleet drivers to make better driving decisions and reduce the risk of vehicle accidents.

Liberty Mutual has worked to tailor its data and recommendations for clients of all sizes nationwide, Mr. Cunniff said.

"Our loss control consultants are able to meet with our policyholders locally in all 50 states and deliver recommendations that are most appropriate for our policyholders' specific needs," Mr. Cunniff said.

The insurer's approach to customer service has paid off with small and midsize clients in the 2012 *Business Insurance* Buyers Choice Awards. Liberty Mutual has been recognized by medium-size insurance buyers for its service and expertise in commercial auto insurance, and by small and medium buyers for its service and expertise in workers compensation. Small and medium buyers also voted Liberty Mutual as the overall winner for both lines of insurance.

Liberty Mutual has extended its technology capabilities to clients through its RiskTrac system, an online tool that allows clients to manage and analyze their claims and loss information. Mr. Cunniff said RiskTrac has allowed small and midsize clients to use risk management strategies that previously were available only to major employers.

Moving forward, Liberty Mutual is looking for ways to mitigate increasing workers comp costs linked to an aging U.S. workforce. The insurer also is researching technological advancements that can help improve safety for commercial auto insurance policyholders.

Mr. Cunniff said Liberty Mutual's growing volume of claims information and continued data analysis will help it stay ahead of such trends.

"We're continually looking at research and sharing it with our customers, and we're continually using research to improve our claims expertise," Mr. Cunniff said.

— *By Sheena Harrison*

Mr. Cunniff

INSURERS

Technology tools pay off for Ace

- *Commercial liability insurer expertise for medium buyers*
- *Commercial liability insurer service for large buyers*
- *Commercial auto insurer service for large buyers*
- *Commercial auto insurer expertise for large buyers*
- *Commercial auto insurer overall for large buyers*
- *Workers compensation provider services for large buyers*
- *Workers compensation provider expertise for large buyers*
- *Workers compensation provider overall for large buyers*

A commitment to using technology to improve service has paid dividends for Ace Ltd., the insurer says.

Zurich-based Ace garnered eight *Business Insurance* Buyer's Choice awards for 2012, including commercial liability insurer expertise for medium buyers; commercial liability insurer service for large buyers; commercial auto insurer for service, expertise and overall large buyers; and workers compensation provider for service, expertise and overall for large buyers.

Matt Merna, New York-based division president of Ace's risk management division, a unit of Ace USA, the U.S.-based retail operating division of Ace, said the insurer has invested in technology to differentiate its service offerings and respond to client demand.

"We have client advisory boards across the country and our clients have been asking for the insurance industry to improve its technology," he said.

Mr. Merna pointed to Ace Accelerator, a Web-based portal for risk managers that the company unveiled in March, as an example of how it uses technology to increase service. Using the portal, a risk manager can quickly review and submit the forms needed for their coverage elections in a paperless format.

"We took what had been a very laborious headache for our clients and, by using technology, turned it into something that is very simple for them to complete," he said.

Mr. Merna

The move toward replacing manual underwriting with electronic processes is advancing rapidly, even for large, complex commercial insurance accounts, Mr. Merna said. "Claims had gone paperless years ago and we are now starting to see that on the underwriting side," he said. "This is the future of where the underwriting process is going."

In addition to a substantial capital outlay to build technologies such as Ace Accelerator, the insurer has invested extensive manpower in the project. Mr. Merna said the regulatory aspect of the project was a particular challenge, noting the company surveyed all state insurance regulatory bodies while developing the product. "Making sure you are doing things in a compliant manner takes time," he said.

Gary Kramer, New York-based vice president of Ace risk management, agreed.

"It takes much more than a silo to do this," Mr. Kramer said of Ace Accelerator. "We had to interface with all the different aspects of Ace from claims to underwriting to make sure that we have one, consistent voice."

— By Bill Kenealy

FM Global engineers satisfaction

- *Commercial property insurer service for medium and large buyers*
- *Commercial property insurer expertise for medium and large buyers*
- *Commercial property insurer overall for medium and large buyers*

An emphasis on engineering services is one of the first things buyers cite when they consider what sets FM Global apart, according to one of the insurer's top managers.

"I think they'll say engineering, that's probably their first, typical reaction," said Jon Hall, executive vice president. Added to that is the insurer's underwriting capabilities, its claims capability and a specialty product — "business risk consulting group that helps people understand their supply chain vulnerability," said Mr. Hall. "Those are the four big ones that consistently create a pull on clients. We do these things very well."

That's reflected in the insurer's retention rate, which is well above 90% this year, said Mr. Hall.

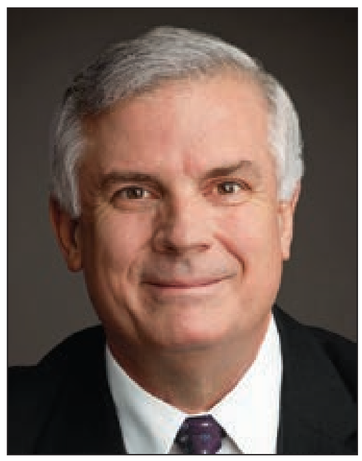
It's also reflected in the fact that FM Global was named a *Business Insurance* Buyers Choice award winner in six categories this year: commercial property insurer overall for medium and large buyers; commercial property insurer service for medium and large buyers; and commercial property insurer expertise for medium and large buyers.

"We're better underwriters because of our engineering, we're better engineers because of our underwriting," said Mr. Hall. "Our hallmark is to provide long-term significant and stable insurance capacity, and we're able to do that through the combination of our underwriting and our great loss-prevention engineering."

Mr. Hall said large and medium-size clients appreciate the insurer's "large, stable capacity" and its engineering capabilities. There is a difference, though, between large and medium-size policyholders' needs.

Middle-market policyholders don't always have a professional risk manager on staff and appreciate the services provided by FM Global's middle-market company, Affiliated FM Insurance Co., said Mr. Hall.

"Most of our large clients are global in nature, and the middle-market clients are more regional — many don't have an international footprint," he said. "Larger clients value global capability more, and I think our middle-market clients, when they have a need, they're happy we can fulfill it on the global side," he said.



Mr. Hall

Mr. Hall said the insurer is constantly looking for ways to improve, especially in technology.

In addition, FM Global has introduced a new process called "accelerated claims," which is designed to process and pay claims faster than ever, he said.

FM Global also has broadened coverage, the most recent example being "the contingent time element extended." Mr. Hall said the new product was worth "hundreds of millions of dollars to our clients in the Thailand floods."

Mr. Hall also said clients like that FM Global is a mutual insurer. "Our clients and our owners are the same people for FM Global."

"We're a specialty company," he said. "We do one thing and one thing only — commercial property — and we focus on that every single day and every single minute."

— By Mark A. Hofmann

Travelers focuses on local expertise

- *Commercial property insurer service for small buyers*
- *Commercial property insurer expertise for small buyers*
- *Commercial property insurer overall for small buyers*
- *Commercial auto insurer service for small buyers*
- *Commercial auto insurer expertise for small buyers*
- *Commercial auto insurer overall for small buyers*

Travelers Cos. Inc.'s scale of U.S. commercial insurance underwriting operations is a source of pride for the Hartford, Conn.-based company.

However, Travelers' value proposition for its clients is its ability to use its size to tailor its products and services at a local level, said Bill Cunningham, Travelers' executive vice president of business insurance.

That focus on localization, Mr. Cunningham said, likely is the reason Travelers took top honors in overall underwriting, services and expertise for small property and commercial auto buyers in *Business Insurance*'s 2012 Buyers Choice Awards.

"We believe that this is a local business," Mr. Cunningham said. "You can't just take national information and assume that it applies to every customer and every business around the country. We distribute these products and services at the local level, and our scale allows us to do that as well or better than virtually everybody that we compete with."

Mr. Cunningham said Travelers' success in leveraging scale to meet local needs can be measured most readily by the insurer's response to Superstorm Sandy, which ravaged the New York and New Jersey coastlines late last month.

Prior to the storm, the company committed more than 5,000 employees — many of whom were specifically tapped for their experience in hurricane-prone regions — to claims management and recovery efforts in the Northeast.

Travelers' ability to provide its property and commercial auto clients with access to in-house adjusters and other personnel even in the most extraordinary circumstances is a key difference between it and its competitors, Mr. Cunningham said.

Mr. Cunningham

"You look at a storm the size and force of Sandy, that can be a daunting and overwhelming situation for the folks in the industry, but we were able to very quickly to deploy a very large number of people locally to the affected region," Mr. Cunningham said.

"We'd much rather have our people out here dealing directly with the situation and addressing those needs as opposed to having our clients go through third-party administrators," he said.

Travelers' localization of its operations is further enhanced by its industry-specific approach to risk advisory services, underwriting and claims management, Mr. Cunningham said.

"If one of our clients is talking to someone who doesn't understand construction and how claims work in that segment, that's a huge disadvantage," Mr. Cunningham said.

"Being able to leverage that scale of capability has put us in a position to understand the needs of each of these individual industries, and provide solutions as tailored as they can be. And I do believe that we're unique in that way," he said.

— By Matt Dunning


FMLA
managed
integrated
services
OSHA
recoveries
unit
investigation
prevention

INSURERS

Chubb gears products to small clients

- Commercial liability insurer service for small buyers
- Commercial liability insurer expertise for small buyers
- Commercial liability insurer overall for small buyers

Chubb Corp. responds to the needs of small commercial insurance buyers by offering programs tailored to their specific industry and business needs, company executives say.

Since many U.S.-based companies now have international exposures, from activities such as exporting goods and services to sending employees abroad on business trips, the insurer also provides global insurance protection for businesses of all sizes, said Julie Stephenson, Whitehouse Station, N.J.-based vice president and liability manager at Chubb.

As such, the Warren, N.J.-based insurer's work with these small business clients has won it recognition in service, expertise and overall among small commercial liability insurance buyers in the 2012 *Business Insurance* Buyers Choice Awards.

For example, Chubb has provided sustainable insurance solutions and engineering expertise to the fledgling "clean tech" industry for more than 30 years, serving clients developing alternative energy sources that include solar, wind, biofuels, hydroelectric and geothermal.

Chubb's signature product, Customarq Classic, offers property and liability insurance protection to companies of all sizes, including mom-and-pop businesses and entrepreneurs.

Chubb's ForeFront Portfolio 3.0, a package policy available to small and midsize private companies, provides a portfolio of protection that includes directors and officers and entity liability coverage, employment practices liability insurance, fiduciary liability insurance, miscellaneous professional liability insurance, cyber liability, crime insurance, workplace violence expense insurance and employed lawyers liability insurance.

Chubb also recently introduced an insurance solution to protect small and midsize health care organizations from liability in the event of data breaches and health care fraud.

Long known for its expertise in the entertainment and broadcasting industries, Chubb also provides industry-specific products and services to wineries, real estate and law firms, cultural and educational institutions, financial institutions and federal government contractors. It also provides commercial liability insurance to the information technology, marine and life sciences industries.

As part of its commercial umbrella liability insurance program for small businesses, Chubb will provide funding for the services of a preapproved crisis assistance provider and any related expenses if a crisis occurs that has the potential of negatively affecting a business by generating adverse regional or national media attention, Ms. Stephenson said.

Chubb's loss-prevention programs and resources for small businesses vary from on-site services and training to printed and CD-based guides plus published articles.

The insurer maintains a global network of offices staffed by Chubb underwriters, risk engineers and claims specialists who are available 24 hours a day, seven days a week, Ms. Stephenson said.

— By Joanne Wojcik

AIG client needs drive innovation

- Commercial liability insurer expertise for large buyers
- Commercial liability insurer overall for large buyers

Focusing on customer needs and solving their problems is key to innovation at American International Group Inc.

The insurer, which rebranded its commercial property/casualty units that had operated under the Chartis name until this month, says no one service sets the company apart from its competitors, according to Russell Johnston, casualty product line executive for U.S. and Canada.

"I think it's the fact that we're flexible and innovative in providing what customers need — whether that's insuring cattle in India or satellites in space," said Mr. Johnston. "Unlike other markets, we're in a position to respond to virtually anything." He noted that AIG provides "heavily specialized" insurance for cyber risk, aerospace and environment risks, as well as professional liability and directors and officers liability.

AIG's customer focus helped it win Business Insurance's Buyers Choice Awards in two categories this year: commercial liability insurer expertise for large buyers and commercial liability insurer overall for large buyers .

For AIG, "if you focus on the customer and solving problems, it's through their needs that you find what you need to innovate," said Mr. Johnston. He said that 10 years ago, no one talked about cyber liability, but now it's a significant product line. "As long as we focus on the customer, that's where the product innovation and services come from," he said.

AIG delivers its services globally and delivers them at the best point of contact for the customer, he said. "If that's a customer based in Asia but involved with infrastructure in Latin America, we deliver that service in Latin America."

Global reach is particularly important, said Mr. Johnston.

"As a company, we're seeing that the bulk of our customers are going to grow outside their own domestic borders," he said. "We need to be able to provide services to them not just in their home country, but in any country in which they operate."

He said the most important challenge is that in order "to deliver services and expertise the right way, you need to understand

Mr. Johnston

the customer." He said AIG has dedicated resources that focus on specific industries such as construction and real estate.

"If you bring loss control, underwriting and claims expertise, you're in a much better position to understand and solve those challenges for your customers," said Mr. Johnston.

"From our point of view, I think at the end of the day when the customer has an event, you need to be able to respond with best loss mitigation and claims expertise in a complex environment to deliver the best outcome to that customer," he said, adding that AIG has invested heavily in having global infrastructure to do that regardless of where the customer operates.

He said in addition, "simply in order to stay relevant with customers, you need to be open and tenacious about innovation, and we believe we do that best." He said AIG can look at data and work with customers to understand what drives loss costs in different areas, whether it's in workers compensation in the United States or looking at data around natural catastrophes and "bringing that information in a meaningful way to customers to help them improve their own operations."

— By Mark A. Hofmann

Zurich draws on global experience

- Commercial liability insurer service for medium buyers
- Commercial liability insurer overall for medium buyers

Zurich Insurance Co. Ltd. approaches the middle-market space by specific industry segments that allow it to craft tailored solutions for midsize companies.

As one of the largest insurance companies underwriting risks around the world, Zurich has been able to distill its expertise into viable solutions for middle-market companies, said Rohit Verma, Schaumburg, Ill.-based regional leader of Midwest commercial markets for Zurich.

"Customer centricity is at the heart of everything we do," he said. "We realize that we make a promise to our customers to deliver when it matters, and that's been the philosophy that we followed."

That philosophy appears to be working, as Zurich is being recognized in the 2012 Business Insurance Buyers Choice Awards, having earned honors in the categories of commercial liability insurer overall for medium buyers and commercial liability insurer service for medium buyers.

Middle-market industry segments such as construction, real estate, technology and health care are among the individual areas the Zurich-based insurer focuses on, Mr. Verma said.

"What that allows us to do is really understand the customer, really develop risk insights that matter to them, really help them understand their exposures, and then tailor very specific programs for them," he said.

For example, Zurich's coverage forms are tailored in a way that addresses a business' specific exposures in its particular industry. For a real estate customer, real estate-related additions will be in that the form. The same goes for other middle-market companies in other industries, Mr. Verma said.

Part of Zurich's success in the middle-market space is its commitment to service, he said.

"Service is an important aspect," Mr. Verma said. "We believe that, a lot of times, the middle-market space gets underserved."

For middle-market policyholders with large exposures, Zurich's risk engineers are on-site helping companies to address risks and exposures. "We have a very strong risk engineering service, which not only allows you to assess risk,

Mr. Verma

but also then to put some things around risk improvement."

Zurich also interacts with middle-market customers through social media platforms, providing risk management tips as a storm approaches, for example.

For middle-market companies that don't have a dedicated risk manager or experienced insurance buyer, Zurich sponsors numerous educational risk management and insurance webinars.

But what sets the insurer apart from its competitors in the middle-market space is Zurich's financial stability, he said.

"From a marketplace standpoint, we believe if you are going to be a liability carrier, it is extremely critical have both the staying power and the financial stability. I think we've demonstrated both," Mr. Verma said.

Another competitive edge for Zurich is its global reach, with offices in 180 countries around the world. "A lot of middle-market companies are now expanding internationally," Mr. Verma said. "Having that international capability that we've built, not only for our large global clients, but also for our middle-market clients … I think that's a huge part of the value proposition."

— By Mike Tsikoudakis

BROKERS

Marsh offers innovation, expertise

- *Service for small and large buyers*
- *Expertise for small and large buyers*
- *Overall for small and large buyers*

Innovation and industry expertise are at the forefront of Marsh Inc.'s strategic development of services across the spectrum of its account sizes, according to David Bidmead, CEO-United States for the New York-based brokerage.

Marsh's focus on pioneering new insurance products to meet emerging risk exposures, as well as its recent emphasis on industry-specific risk advisory services, appears to have paid off with the company earning top honors in overall brokerage, services and expertise for large and small buyers in *Business Insurance*'s 2012 Buyers Choice Awards.

"Our clients expect us to be the leading transactional insurance broker in the U.S. and around the world, but what they're also expecting us to do is to be a thought leader and to partner with them on key strategic issues," Mr. Bidmead said.

One example of Marsh's commitment to innovation, Mr. Bidmead said, is the brokerage's Workers Compensation Center of Excellence, which it launched in July. Mr. Bidmead said the new center is designed to provide seamless delivery of Marsh's workers compensation products and services for large and small clients alike, centralizing the company's workers compensation insurance programs, analytics and modeling, pre- and post-loss strategies, claims management and advocacy operations.

"It was a little surprising that there hadn't really been one major provider in the domestic market that really planted a flag and established a center of excellence for workers compensation, so we've done that," Mr. Bidmead said.

"We hope our clients will perceive that as a more efficient way to really get at their total cost of risk," he said.

Key industries

Other recent Marsh innovations include its CloudProtect, RCO Corporate Response and FCPA Corporate Response insurance products, which were rolled out during the past 18 months.

Marsh's large and small U.S. commercial clients also have responded well to its emphasis on industry-based risk analytics and consulting services, Mr. Bidmead said.

In the past two years, the company's decision to focus its investments in the U.S. on a limited number of key industries has been validated by substantial growth in revenue and account volume in those segments, which he said have consistently outperformed results in the company's non-industry-specific segments.

Mr. Bidmead said the results have been particularly encouraging in its construction segment, especially considering the challenged state of that industry.

"We made a conscious decision to place significant investment into that industry segment at a time that, quite frankly, might be bemusing to some," Mr. Bidmead said. "We see it as an opportunity to really increase the strength of our bench for both our transactional and advisory capabilities, and it's produced a quantum increase in both the number of clients that we have and the revenue that we generate from that segment."

— By Matt Dunning

'Our clients expect us to be the leading transactional insurance broker in the U.S. and around the world, but what they're also expecting us to do is to be a thought leader and to partner with them on key strategic issues.'

DAVID BIDMEAD, MARSH INC.

BROKERS

Aon hones in on mid-market clients

- *Brokers service for medium buyers*
- *Brokers expertise for medium buyers*
- *Brokers overall for medium buyers*

Aon P.L.C.'s selection by medium-sized businesses for *Business Insurance*'s 2012 Buyers Choice honors for insurance brokerage service and expertise and as the overall winner in the category likely can be traced to its approach to middle-market business.

That approach involves a sort of "three-dimensional matrix," said Thomas J. Fitzgerald, CEO of U.S. retail operations at Aon Risk Solutions in Chicago.

The first dimension is a recognition that midsize companies like to interact with a local brokerage team, Mr. Fitzgerald said, and Aon's offices across the U.S. allows it to serve middle-market clients close to their own locations.

The second dimension is Aon's ability to break down its client service focus by industry. "We believe clients like to talk shop around what ails them inside their industry vs. another industry," Mr. Fitzgerald said. "We have industry expertise that lines up around the segment known as middle market."

Finally, he said, Aon is able to deliver appropriate products and help clients understand those products. "We try to deliver on-the-ground product expertise so clients understand the importance of the nuances of any particular insurance contract," he said.

Also significant, Mr. Fitzgerald said, was Aon's move at the start of the year to place its employee health and benefits operation within the Aon Risk Solutions platform. With companies facing a changing benefits landscape with health care reform and ongoing cost pressures as health care prices continue to rise, "We thought organizing our firm around risk and people, moving the health and benefits operation into the Aon Risk Solutions platform to serve middle-market companies was an important decision," he said.

Mr. Fitzgerald said he thinks Aon's middle-market clients also appreciate the analytical power the broker can deliver, such as its

Mr. Fitzgerald

Global Risk Insight Platform with its repository of insurance placement information. "Through analytics, we're bringing a more educational-based solution to middle-market companies. Historically, benchmarking and large-scale analytical evaluations have been reserved for large corporations," Mr. Fitzgerald said. "Through analytics, we're allowing customers to understand what is possible and ultimately make more educated decisions around their risk transfer decisions each and every day."

As businesses grow from small businesses to middle-market companies, their risk profiles change significantly, he said. With many middle-market companies not having a full-time risk manager, however, the broker's role takes on added significance, he said.

"The concept of a full-time risk manager is not necessarily as prevalent in the middle market as it may be in the large-account space," Mr. Fitzgerald said. "So the ability for us to act as an extension of the risk management department and provide industry and product expertise is highly valued by those customers."

— By Rodd Zolkos

TPAs

Gallagher Bassett focuses on service

- *Third-party administrators service for small and medium buyers*
- *Third-party administrators expertise for medium buyers*
- *Third-party administrators overall for small and medium buyers*

Ask Scott R. Hudson, president and CEO of Gallagher Bassett Services Inc., what sets his company apart from competing third-party administrators, and he enthusiastically rattles off a number of recently adopted practices aimed at improving service for clients.

For instance, Gallagher Bassett recently established dedicated operations units to meet the specific needs of different market segments his company serves, be they insurers, captive owners, or employers that unbundle claims management from their insurance coverage purchases, he said.

"There are a whole series of things we are doing to build operations dedicated to those different segments that reflect their unique needs," Mr. Hudson said.

The drive to meet specific customer needs is getting noticed, as Gallagher Bassett received *Business Insurance*'s 2012 Buyers Choice awards in five categories: overall TPA for small buyers and medium buyers, TPA service for small buyers and medium buyers, and TPA expertise for medium-size buyers.

One example of new customer service options Gallagher Bassett provides is a program for employers that foster a pronounced culture of caring for their employees, whether or not workers are injured. They now can contract with the TPA to have "employee care specialists" help manage workers compensation cases from each claim's inception.

Unlike an adjuster who would be the injured worker's typical first contact, the employee care specialists are not regulatory experts, nor are they medical experts such as nurses who manage claims. Instead, they are service experts attuned to meeting the specific care needs of employees.

"The adjuster is still in the process, but in this case they are working behind the scene," Mr. Hudson said.

Mr. Hudson

Then there are the improvements Gallagher Bassett brings to all clients, such as service level. TPAs often are satisfied with audit results that show servicing problems occurred in 10% to 15% of cases, Mr. Hudson said. But "There is a movement afoot inside of GB for zero servicing issues," Mr. Hudson said. "That is clearly a differentiator."

There are also constant improvements in Gallagher Bassett's "medically driven model," Mr. Hudson said. That includes improving the side-by-side work interaction between adjusters and nurses at each branch; advancements in medical provider networks so they are more focused on outcomes achievement rather than on geographical coverage; and constant investment in claims analytics and predictive modeling abilities.

"We are making significant investments in technology," Mr. Hudson said. "We have retooled the (information technology) leadership team … and we are putting in place tools to enable adjusters to make better decisions and putting in place technology that streamlines the interface."

— By Roberto Ceniceros

Technology differentiates Sedgwick

- *Third-party administrators service for large buyers*
- *Third-party administrators expertise for small and large buyers*
- *Third-party administrators overall for large buyers*

Cutting-edge technology delivered by colleagues trained to provide customers with quality service help set Sedgwick Claims Management Services Inc. apart from the competition, said David A. North, the third-party administrator's president and CEO.

And the technology Sedgwick relies on to provide customers with risk services is largely developed in-house by 300 employees dedicated to that task. That means his company can tailor solutions meeting specific customer needs without relying on third-party technology vendors to do so, Mr. North said.

Sedgwick's size and its acquisition of competitors and other service providers over the past two years or so also have put the company in a unique position to deliver tailored solutions to clients, said Elizabeth Demaret, executive vice president and chief customer relationship officer.

The acquisitions add to Sedgwick's depth of expertise at a time when market conditions demand specialization, Ms. Demaret said.

The TPA continually builds its specialization prowess by listening to customers, tailoring solutions specifically for them, then taking the resulting models and customizing them further to meet the needs of still other clients, she added.

Providing customers with products and services they ask for is paying off for Sedgwick, as it was honored with *Business Insurance*'s Buyers Choice awards in four categories for 2012. The awards are for TPA service for large buyers, TPA expertise for small buyers and large buyers, and overall TPA for large buyers, .

TPA operations make up one of the most competitive segments in the property/casualty industry,

Mr. North

Mr. North said. So Sedgwick and its 10,400 employees across the country are proud of the Buyers Choice award recognition, he added.

But Sedgwick also is different from its competitors because it manages property/casualty claims, as well as short- and long-term disability claims, and offers employee leave administration services, Mr. North says.

That has allowed the TPA to "cross-pollinate" or transfer knowledge from one area of its operations to the other. For example, Sedgwick has borrowed lessons learned in the more technologically advanced area of disability management and applied them to its workers compensation practices.

And the TPA continues to make significant investments in expanding its subject-matter experts in areas such as return to work, job accommodation, and legislation, says Steven Penman, executive vice president, specialty operations.

— By Roberto Ceniceros

Wal-Mart: Liability concerns

CONTINUED FROM PAGE 1

law expressed skepticism that Colorado plaintiffs would succeed if they used a similar strategy in new litigation.

"I don't see the basis for a lawsuit like this springing up in other employment scenarios," said Frank Cavanaugh, an associate at workers comp law firm Ruegsegger Simons Smith & Stern L.L.C. in Denver. "It was such a fact-specific problem that I don't see it becoming the basis for other lawsuits."

Legal observers also note that an $8 million settlement given final approval Nov. 13 by U.S. District Court Judge Robert E. Blackburn may be too little to motivate filing similar lawsuits.

"The case settled for nuisance value with no admission (of wrongdoing), so I don't think there is a significant impact on future comp cases," said Brett R. Parnes, a shareholder specializing in workers comp defense at McCollum, Crowley, Moschet, Miller & Laak Ltd. in Denver.

Still, the settlement is cause for concern because the allegations "go right to the heart of medical management," a core function of claims administrators who must make sure that employers and insurers do not pay for wasteful or unnecessary medical care, said a source familiar with third-party administrator operations.

The source asked not to be identified because the case addresses "an extraordinarily sensitive issue" for TPAs.

Several TPAs declined to comment.

The issue is sensitive because the lawsuit raises the question of how far claims administrators can pursue management of questionable medical treatments found through common practices, such as utilization reviews, without violating the law, the source said.

"We don't really know how this is going to work out, but you can bet everyone's attorney is poring over this one because it (raises) a key issue," the source said. "We have to know exactly where we can go without going too far."

In their 2009 suit, the plaintiffs alleged that Wal-Mart and other defendants dictated, restricted or interfered with medical treatment that injured workers are entitled to under Colorado's Workers' Compensation Act and in violation of RICO.

They alleged that while the state law "expressly prohibits dictation of medical treatment," the defendants did so with instructions in protocol notes that treating doctors were required to follow in treating claimants.

The suit also alleged RICO violations for several practices that included collusion to dictate or withhold medical treatment and by scheming to conceal claimants' entitlement to workers comp benefits.

The protocol notes required treating physicians to obtain pre-authorization from Wal-Mart's claims management unit to refer claimants to specialists, resulting in treatment delays and denial of prescribed care, according to the suit.

The suit named Wal-Mart's casualty claims management unit, Claims Management Inc.; Concentra; and American Home Assurance Co., a unit of American International Group Inc. that provided workers comp insurance to Wal-Mart in Colorado.

However, Wal-Mart and the other defendants admitted no wrongdoing in the settlement.

"The health, safety and well-being of our associates are important to Wal-Mart," Wal-Mart said in a statement announcing the settlement. "If associates are injured at work, we and CMI are committed to making available the best treatment and care, so that they can get better. It is up to the doctors to determine the best course of treatment for each person."

Of the $8 million, Wal-Mart will pay $4 million and Concentra's insurer, AIG-owned Lexington Insurance Co., will pay $4 million. Among other injunctive relief, Wal-Mart also has agreed to provide training for its adjusters.

Three RICO plaintiffs prevail in court in 2012

Three lawsuits alleging violations of the federal Racketeer Influenced and Corrupt Organizations Act by employers and their workers compensation service providers have resulted in plaintiff victories during 2012:

■ On Nov. 13, the U.S. District Court for the District of Colorado granted final approval in the class action case of *Josephine Gianzero et al. v. Wal-Mart Stores Inc. et al.*, allowing Wal-Mart and Concentra Health Services Inc. to settle a lawsuit tied to their handling of workers comp claims in Colorado by paying $8 million and agreeing to retrain claims adjusters and other employees.

■ On Nov. 2, the 6th U.S. Circuit Court of Appeals ruled that the U.S. District Court for the Eastern District of Michigan erred in dismissing a lawsuit filed by two workers compensation claimants alleging Coca-Cola Enterprises Inc. and Sedgwick Claims Management Services Inc. violated RICO. The appeals court said in *Clifton E. Jackson v. Sedgwick Claims Management Services Inc.* that the plaintiffs seeking to represent other claimants adequately stated a claim for relief under RICO.

■ On April 6, the 6th U.S. Circuit Court of Appeals ruled in *Paul Brown et al. v. Cassens Transport Co.* that several Michigan transportation workers can sue Edwardsville, Ill.-based Cassens and third-party administrator Crawford & Co. for allegedly violating RICO after their workers comp claims were denied or settled.

— By Roberto Ceniceros

Webinar: Preparing your workers for risks abroad

CONTINUED FROM PAGE 4

pany for insurers and brokers, included his experiences working with employers to help and sometimes extract employees from countries for medical and safety issues, including one client who suffered a deadly insect bite in Brazil and another involved in a car accident in Mexico.

For both cases, the individuals' policies took care of the associated costs. In Brazil, this included medical treatment and transportation out of the country, and in Mexico, the client received help securing bond as well as a meeting with a local lawyer.

Mr. Callard also detailed the policy terms and conditions employers need to keep in mind, from workers compensation to kidnapping and ransom coverage.

David Mair, managing partner and CEO of Soter Healthcare Inc., focused on the importance of preparedness. From knowing destination-specific illness such as malaria to a country's emergency services contact number, employers can better handle or avoid unnecessary exposures with some pointed research, according to Mr. Mair.

Joanne Wojcik, senior editor at *Business Insurance*, moderated the webinar's question-and-answer session, which included a discussion about the needs of students versus employees and the best technology to have in place.

The Zurich-sponsored webinar can be viewed at no cost on demand at *businessinsurance.com/webcasts*.

UP CLOSE

COMINGS & GOINGS

TOM SCHAFFLER

NEW JOB TITLE: Chicago-based president for Lockton Cos. L.L.C.

PREVIOUS POSITION: Chicago-based president of benefits practice for Lockton Cos. L.L.C.

GOALS FOR NEW POSITION: We would like to continue to build on the current platform ... We must effectively manage our organization and the growth. As we grow, we have to make sure we continue to be great. That's my biggest goal.

CHALLENGES FACING INDUSTRY: On the benefits side, it's all things "Obamacare." Understanding the timing (and) how the exchanges are going to impact the industry. Will the exchanges be built? Will the legislation change? On the property side, it's (Superstorm) Sandy.

INDUSTRY OUTLOOK: I'm bullish on all parts of insurance. Clients continue to face challenges, and we continue to provide solutions. We see great opportunity for continued growth.

COLLEGE MAJOR: Insurance and risk management.

ADVICE: Work hard everyday. Always do the right thing. Your reputation is your biggest asset. Align yourself with a great organization. Surround yourself with great talent.

OUTSIDE THE INDUSTRY, A DREAM JOB: Being a college professor or being a professional golfer.

HOBBIES: Golfing. Exercise. Fiddling around in the yard.

BOOKS: A book I go back to a lot is "Fearless Golf: Conquering the Mental Game" by Dr. Gio Valiante. It's good for golf, but it has a lot of advice that applies to both business and life.

CAN'T-MISS TELEVISION SHOW: CNBC in the morning and almost anything sports on the weekend.

FAVORITE MEAL: Just getting back from Italy, almost anything Italian is a favorite meal.

ON A SATURDAY AFTERNOON: Something with the family, golfing, (doing) something in the yard or watching sports.

EMAIL OR PHONE, AND WHY: Both are appropriate in certain scenarios, but when in doubt, pick up the phone.

Public Notices

To place your ad, contact Monique Murray 212.210.0129 • E-mail: mmurray@BusinessInsurance.com

Business Insurance, Classified Department, 711 Third Ave., New York, NY 10017-4036
Call for details on print and internet advertising

LEGAL NOTICE

IN THE SUPREME COURT OF BERMUDA
IN THE MATTER OF CALIDAD INSURANCE COMPANY
AND IN THE MATTER OF THE COMPANIES ACT 1981

NOTICE IS HEREBY GIVEN that on 15 November 2012 the Supreme Court of Bermuda directed that a meeting of scheme creditors of the above company (the "Meeting") be convened for the purposes of considering a scheme of arrangement between the Company and its scheme creditors pursuant to section 99 of the Companies Act 1981 (the "Scheme"). The meeting will be held on January 25th 2013 at the offices of R&Q Insurance Services Limited, 110 Fenchurch Street, London EC3M 5JT, England ("R&Q") commencing at 2 pm (London time).

Scheme creditors are all holders of policies underwritten by the Company or on its behalf through underwriting agencies. Scheme creditors may vote in person at the meeting or may appoint a proxy to attend and vote in their place.

Copies of the Scheme Document and proxy and Voting Forms can be obtained by contacting R&Q or can be downloaded from the Scheme website www.calidad.bm.

Proxy and Voting Forms must be received by R&Q at the above address by 5:00pm (London time) on January 24th 2013. Voting Forms may also be handed to the Meeting Chairman prior to the commencement of the Meeting.

Policyholders with any questions concerning the action they are required to take should contact Richard Finney of R&Q at the address above, by telephone on +44 (0) 207 780 5871 or by email: richard.finney@rqih.com.

DATED: 26 November 2012

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF DAN YORAM SCHWARZMANN, AS ADMINISTRATOR OF FOLKSAM INTERNATIONAL INSURANCE COMPANY (UK) LIMITED,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 02-14070 (SCC)

NOTICE IS HEREBY GIVEN THAT ON NOVEMBER 1, 2012, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON SEPTEMBER 9, 2002. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED FOR APRIL 8, 2013 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE SHELLEY C. CHAPMAN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE SHELLEY C. CHAPMAN AND SERVED ON COUNSEL FOR THE ADMINISTRATOR LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE ADMINISTRATOR.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE ADMINISTRATOR
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112
(212) 408-5100
ATTN: HOWARD SEIFE, ESQ.
FRANCISCO VAZQUEZ, ESQ.

LEGAL NOTICE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PETITION OF ROLF ÅBJÖRNSSON, AS OFFICIAL RECEIVER OF ATERFORSAKRING AB LUAP,
DEBTOR IN A FOREIGN PROCEEDING
CASE NO. 03-10945 (SCC)

NOTICE IS HEREBY GIVEN THAT ON NOVEMBER 1, 2012, THE BANKRUPTCY COURT ENTERED AN ORDER (THE "ORDER") CONTINUING THE PRELIMINARY INJUNCTION ORDER PURSUANT TO 11 U.S.C. §304 ORIGINALLY ENTERED IN THIS CASE ON FEBRUARY 19, 2003. THE ORDER SHALL REMAIN IN EFFECT PENDING A HEARING SCHEDULED FOR APRIL 8, 2013 AT 10:00 A.M. (THE "RETURN DATE") BEFORE THE HONORABLE SHELLEY C. CHAPMAN, UNITED STATES BANKRUPTCY JUDGE, IN THE UNITED STATES BANKRUPTCY COURT LOCATED AT ONE BOWLING GREEN, NEW YORK, NEW YORK. ALL PAPERS SUBMITTED FOR THE PURPOSE OF OPPOSING THE CONTINUATION OF THE ORDER AFTER THE RETURN DATE SHALL BE FILED WITH THE COURT, WITH A COPY TO THE CHAMBERS OF THE HONORABLE SHELLEY C. CHAPMAN AND SERVED ON COUNSEL FOR THE OFFICIAL RECEIVER LISTED BELOW, SO AS TO BE RECEIVED AT LEAST FOURTEEN (14) DAYS PRIOR TO THE RETURN DATE. ANY PERSON WISHING TO OBTAIN A COPY OF THE ORDER SHOULD CONTACT COUNSEL TO THE OFFICIAL RECEIVER.

CHADBOURNE & PARKE LLP
ATTORNEYS FOR THE OFFICIAL RECEIVER
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112
(212) 408-5100
ATTN: HOWARD SEIFE, ESQ.
FRANCISCO VAZQUEZ, ESQ.

Email: Petraeus emails highlight employers' risks

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said of training that ensures employees comply with federal laws and rules that govern patient medical information. "If there is a specific need to send patient information in an attachment to an email, employees know to encrypt this data."

Encryption is "the No. 1 best practice" in defending against inappropriate email use, Mr. Born said. "The second is educating employees that email content should always be professional. One should think about an email being on the front page of the local newspaper before writing it."

Although Labor Finders permits employees to write personal emails on company computers, Mr. Salen said the fact that employees know their email is being monitored reduces the possibility of sending an inappropriate message to a friend or family member.

"We're also monitoring email traffic involving mobile devices and social media, including comments made to Facebook," Mr. Salen said.

As the manager of risk management and insurance services at the University of Saskatchewan, Nowell Seaman confronts email-related risks from students and alumni with email accounts on the institution's servers to sensitive research conducted by academics.

"It's a delicate balance between freedom of expression and something defamatory. Consequently, we spend quite a bit of time educating users as to the proper use of email," Mr. Seaman said.

While cyber insurance can absorb the cost of possible litigation, "Money can't repair a tarnished reputation," he said.

IRMI: Know the chances of default

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Visit the subcontractors on a regular basis, she suggested. If they are having financial issues, you may see evidence of it first in their office location, which is "probably the first place they start cutting back on people," she said.

Investigate how the subcontractor has performed on other jobs, she added. It could be a subcontractor has not defaulted, but has encountered difficulties in other places.

"Develop your mitigation plans up front," Ms. Laurenzi said. With exceptionally large contracts with long lead times, consider other options available to complete the project. "It's better to have a plan and not use it rather than develop a plan at the last minute," she said.

"Keep an ear to the ground," said Jim Richert, New York-based risk engineering leader for construction specialty products at XL Insurance America Inc. Weaknesses may have been identified at the time the subcontractor was first hired, "but along with that, have you had your eyes wide open?" he asked. In developing effective risk mitigation plans, "make sure your plan's clear, who's doing what, and when they are doing it," he said.

Discussing warning signs from the perspective of project management, Mr. Richert said essential factors include getting schedules submitted on time and preplanning. Mr. Richert said he has attended many meetings where the general contractor seems to know more about the scope of the subcontractor's job than the subcontractor. But the subcontractors have been hired as experts, and contractors "want to see them well-prepared," he said.

With respect to field management, two main areas to check are scheduling and quality management. Monitor the schedule on a weekly or monthly basis. Be sure there is adequate manpower to meet goals, and that the subcontractor is meeting planned productivity, he said.

In addition, be sure the subcontractor has the right workers for the job and materials are showing up, Mr. Richert said.

Payment concerns also can provide warning signs, such as if the subcontractor is struggling around producing the proper documents to get paid, or if there are other signs of cash flow needs, such as a request for jointly issued checks.

If you see problems, "don't wait." Start meeting with the subcontractor, Mr. Richert said.

There were about 1,025 attendees at this year's construction risk conference. Next year's conference will be held Nov. 17-21 in San Diego. More information is available at *www.irmi.com/conferences/crc/default.aspx*, or contact the International Risk Management Institute Inc. at 12222 Merit Drive, Suite 1450, Dallas, Texas, 75251, or 800-827-4242.

ADVERTISER INDEX

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PLUS: EEOC scrutiny

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privacy, security and social media team at Baker & Hostetler L.L.P. in New York. "You really have to be careful when looking at stats," he said. "You have to look at their actual value, which is looking at trends by industry."

While complying with local or federal data breach notification laws, it's important for organizations to establish a good relationship and open dialogue with the state's attorney general, who charges data breach notification violations, said Andrew Obuchowski, associate director of disputes and investigations at Navigant Consulting Inc. in New York. "We're learning them the more you include them in the process, the more minimal they are when you're making your conclusion" if a data breach occurred, he said.

Cloud computing risks concern insurance underwriters, as contracts with third-party cloud providers do not necessarily spell out liability, said Michael P. Carr, Chicago-based senior vice president of errors and omissions underwriting at Argo Pro, Argo Group International Holdings Ltd.'s professional lines unit.

David Lewison, vice president of AmWINS Brokerage of New York Inc.'s financial risk group in New York, said insurance coverage for cloud risks varies.

In a basic cyber liability policy, there typically is not a standard form that addresses stored data by a third party, he said.

The session was moderated by Jake Kouns, Glen Allen, Va.-based director of cyber security and technology risks underwriting for Markel Corp.

Approximately 1,800 people attended this year's conference. The next conference is scheduled for Nov. 4-6, 2013, at the JW Marriott and Ritz Carlton at Grande Lakes in Orlando, Fla.

For more information, visit *www.plusweb.org*.

Rebranding shows AIG back in the game

By MARK A. HOFMANN

American International Group Inc.'s announcement this month that it had formally rebranded its Chartis Inc. property/casualty insurance operations as AIG Property Casualty demonstrates just one more sign of how far the insurance giant has recovered since it stood on the brink of collapse in 2008, according to financial analysts.

The AIG name became synonymous with the financial crisis in 2008 as investments in credit default swaps nearly drove AIG out of business. The federal government took ownership of almost 80% of the company in return for nearly $200 billion in financial assistance.

Analysts point out that AIG has paid back the federal government over the years, and the government now owns only 16% of AIG, and intends to sell that share. AIG has paid back all the money provided by the Treasury by divesting itself of some operations, a move cheered by analysts who view the company as concentrating on its core strengths.

But questions remain, such as how profitable the company will be in the future and who will eventually succeed AIG President and CEO Robert Benmosche, who has received credit for the company's improved performance.

"They're becoming more like a traditional insurance company now," said James Auden, an analyst with Fitch Ratings Inc. in Chicago. "They removed some of the noncore assets."

"We think they're on a gradual improving path," said Bruce Ballentine, vp and senior credit officer at Moody's Investors Service in New York. "They have divested numerous businesses for total proceeds exceeding $60 billion, so that has been a helpful simplification of the firm with a bit more to go."

"They are going through a number of changes in organizational structure and product mix and measurement and rewards systems designed to make this a stronger, more stable insurance firm by 2015," he said.

FROM BAILOUT TO RECOVERY

Key events in the fall and revival of American International Group Inc.

2008 SEPTEMBER-DECEMBER: Troubles with investment in credit-default swaps by AIG Financial Products Corp. bring AIG to the brink of collapse. The Treasury Department steps in with more than $180 billion in financial assistance, with the government taking nearly 80% ownership in AIG. The Federal Reserve Board names Edward M. Liddy to replace CEO Robert Willumstad and AIG begins selling assets.

2009 MARCH: AIG says it plans to spin off property/casualty operations into a separate holding company, AIU Holdings Inc., and closes the sale of HSB Group Inc. to Munich Re Group.

APRIL: AIG sells its personal lines automobile insurance business for $2 billion to Farmers Group Inc.

MAY: AIG says Mr. Liddy will step down as CEO as soon as a replacement is found.

AUGUST: Former MetLife Inc. Chairman and CEO Robert Benmosche named president and CEO of AIG. AIG also says it will move its commercial property/casualty business into a new special-purpose vehicle and brand it Chartis Inc.

2010 JANUARY: AIG makes high-level management appointments and reaches agreements to sell some operations as part of its plan to repay the government.

JULY: AIG Chairman Harvey Golub resigns after a boardroom clash with Mr. Benmosche and is succeeded by Steve Miller.

SEPTEMBER: AIG says it plans to speed bailout repayments.

OCTOBER: Mr. Benmosche reveals he has cancer.

2011 JANUARY: Treasury and the Federal Reserve take steps to recapitalize AIG.

APRIL: AIG reorganizes Chartis and names Peter Hancock as CEO of Chartis.

2012 AUGUST: Federal Reserve Bank sells the last of its AIG assets.

SEPTEMBER: AIG repays Treasury, leaving the government with about 16% ownership of the company.

OCTOBER: AIG says it received Federal Reserve notification that it is being considered for designation as a systemically important financial institution subject to heightened regulatory oversight.

NOVEMBER: AIG formally rebrands Chartis as AIG Property Casualty.

"They've been steadily whittling away at all the problems they had coming out of the financial crisis," said John Iten, a director at Standard & Poor's Rating Services Inc. in New York. "In the last year and a half, they've made a huge amount of progress."

"They're not in bad shape at all," said Paul Newsome, managing director and senior insurance analyst at Sandler O'Neill & Partners L.P. in Chicago. "They certainly could be more profitable than they are now; but from a capital position, they look quite strong."

"They are now a much simpler organization in terms of their operations and their ownership," said Meyer Shields, director at Stifel, Nicolaus & Co. in Baltimore. But Mr. Shields said AIG's core businesses of property/casualty and life insurance are "under a lot of pressure."

Life insurance is a "yield spread business" and low interest rates adversely affect it, he said. Although the property/casualty side of the business isn't as weak, it confronts two issues.

He said AIG is still dealing with adverse development of loss reserves. "If we see any signs of inflation actually picking up, they seem to have less of a margin of safety in their reserves," he said.

The company also faces a going-forward issue, he said. "Everything they're saying is exactly right — they're targeting better lines of business and fixing rates and terms and conditions on the legacy lines in which they staying," said Mr. Shields. "The question is: Can a company as big as AIG target a few lines of business without actually affecting the profitability characteristics of those lines?"

"We'll see how much more they can improve going forward," said Fitch's Mr. Auden. He said the ongoing increase in property/casualty insurance rates "could help them with that effort."

"As we look ahead, their ability to generate earnings from their insurance operations" will be important, said Mr. Auden. "We'll see how they can do that."

"They've got to focus more on improving the underlying profitability of their businesses," said Mr. Newsome. "And mostly focus on nonurgent issues, but important issues. This is not about radical changes anymore; this is about incremental changes that are needed to make the company more profitable, such as getting to a solid underwriting profit and improving return on equity on all of its business."

Another issue with which the company will have to deal is finding a successor to Mr. Benmosche.

"Succession is not a focus for investors right now, but something for the future," said Mr. Newsome. But he said there will be succession questions "given how strong a leader" Mr. Benmosche has been. "I don't think the idea that there will be questions about succession will be terribly controversial," he said.

Mr. Shields speculated that Peter Hancock, CEO of AIG Property Casualty, could eventually become Mr. Benmosche's successor.

Meanwhile, the Federal Reserve Bank of New York won the dismissal of a lawsuit brought against it by former AIG CEO Maurice R. Greenberg. In his suit brought on behalf of his company Starr International Co, Mr. Greenberg sought $25 billion from the bank, claiming that it had acted unlawfully in its bailout of AIG in 2008.

AIG: Insurance giant shows resilience in turnaround

CONTINUED FROM PAGE 1

retail and credit insurance programs.

Today, turnover has stabilized at AIG, Mr. Montanez said. And "their reputation for being innovative and providing solutions (is) still a moniker that they can hang up on their wall."

AIG's breadth of products helped the insurer during its crisis, said Jim Auden, managing director of insurance for Fitch Ratings Inc. in Chicago.

"Their franchise and ability to offer unique products on a global basis with high limits — that's what helped them retain their customers," Mr. Auden said.

And some buyers who did not renew their policies with AIG immediately after the bailout are slowly adding AIG back into their insurance programs.

Railcar leasing company GATX Corp. used AIG as part of its D&O coverage, but dropped the insurer after 2008, said Chris Cusack, senior director of corporate insurance for GATX in Chicago. "The meltdown occurred just as we were doing our D&O renewal, and we didn't know where things were going," she said.

GATX has AIG on some of its liability programs and excess liability placements, and would consider bringing AIG back on its D&O program, but at a higher layer, Ms. Cusack said.

After GATX's Nov. 1 renewals on excess liability, "we actually moved them down on the placement to be a little closer to loss," Ms. Cusack said.

Craig Stanovich, principal at risk management consulting firm Austin & Stanovich Risk Managers L.L.C. in Holden, Mass., said AIG plays a significant role in the marketplace, offering unique products and competitive pricing.

But "they've always been regarded as being hard-nosed when it comes to paying claims," he said. "I don't think that's changed."

Wayne Salen, director of risk management for Labor Finders International Inc. in Palm Beach Gardens, Fla., agreed. "They're still hard-nosed, and they still handle things pretty much the same."

At the time of AIG's troubles, Warren C. Perkins, vice president at Boh Brothers Construction Co. L.L.C., said he and senior management at Boh had significant concerns about AIG, which had been on the New Orleans-based construction contractor's program. AIG is Boh's primary property/casualty and first layer excess casualty insurer, Mr. Perkins said.

He marketed the Boh property/casualty program this year for the first time in 20 years, he said.

"We ended up renewing with AIG," he said. "So I guess that speaks very well for AIG."

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Bribery probes involving Wal-Mart expand

Federal, internal investigations eye FCPA compliance

By JUDY GREENWALD

Expanded investigations into Wal-Mart Stores Inc.'s potential violations of the U.S. Foreign Corrupt Practices Act could result in significant fines and penalties for the retailer as well as more shareholder litigation.

The situation also is a warning to other firms to introduce strong compliance programs, particularly in light of the Department of Justice and Securities and Exchange Commission's issuance of long-awaited guidance on the U.S. law that punishes foreign bribery, inaccurate financial records and inadequate controls of U.S. companies doing business abroad.

In an SEC filing this month, Wal-Mart revealed that FCPA investigations had expanded beyond Mexico to include "but not limited to Brazil, China and India."

Wal-Mart said it is "conducting a voluntary global review of its policies, practices and internal controls for FCPA compliance." In addition, Wal-Mart said it had been informed by the Justice Department and SEC "that it is also the subject of their respective investigations into possible violations of the FCPA," and is cooperating with the investigations.

The Bentonville, Ark.-based company, which declined comment on the latest investigations beyond its written statements, already faces a shareholder lawsuit for a 4.7% drop in its stock after its April announcement of potential FCPA violations in Mexico.

The retailer said shareholder suits were among a "variety of negative consequences" it could face as well as fines, penalties and criminal convictions. While it already spent $99 million through October on such issues, it said it doubted these matters would have a "material" effect on its results, but there is "no assurance" this will be the case in the future.

> **'Where companies get in trouble is either when they try to cover it up – a huge mistake – or they don't have a robust compliance plan that's commensurate with the size of the institution.'**
>
> Patrick J. Egan, Fox Rothschild L.L.P.

FCPA expert Matteson Ellis, of Matteson Ellis Law P.L.L.C. in Washington, said the announcement "is a very common progression of internal investigations into potential FCPA violations." However, the fact that Wal-Mart's investigation has expanded "suggests that the issues were systemic at the company, rather than isolated to a specific business unit."

If systemic, widespread corruption is found, "then the resulting fines and penalties are usually much greater," Mr. Ellis said. Should it be found that there was "willful blindness" by top executives, "it could have a damaging effect on their reputation," he said.

However, he noted, Wal-Mart's stock recovered from the 4.7% dip it experienced after the initial announcement about FCPA investigations involving Mexico.

Jeffrey Kaplan, a partner at Princeton, N.J.-based Kaplan & Walker L.L.P., said the Wal-Mart situation must be examined in light of the new FCPA guidance.

"It is an area where you have had enormous fines in the last few years, so it could certainly impact a company in terms of direct fines," Mr. Kaplan said, noting that could spark shareholder suits alleging directors and officers failed to prevent wrongdoing.

"What's different about Wal-Mart" from other cases is that, reportedly, its executives "learned of the problem years ago and, instead of fixing it and reporting it to the government … suppressed it and covered it up," Mr. Kaplan said. "If it turns out to be true, I think you're going to have a very harsh punishment on the part of the government."

Patrick J. Egan, a partner at Fox Rothschild L.L.P. in Philadelphia, said the situation "speaks to the fact that it is very, very difficult for any multinational corporation to maintain control over what takes place in its foreign locations; and even if you have a really robust compliance program, the problem is that there's always the incentive" for corruption "and all you can really do is educate everyone and limit it and deal with it as quickly as possible.

"Where companies get in trouble is either when they try to cover it up — a huge mistake — or they don't have a robust compliance plan that's commensurate with the size of the institution," Mr. Egan said. "But this is not going to go away anytime soon, and the damages are going to get very ugly, no matter who you are."

However, Richard J. Bortnick, a Philadelphia-based member of Cozen O'Connor, said Wal-Mart "is setting a good example as a corporate citizen for investigating allegations, taking them seriously, and working with the government" to determine what happened "and most likely create an infrastructure" to address the situation.

He also noted that after President Barack Obama's re-election, "the government will be more aggressive in investigating and prosecuting FCPA violations."

FCPA: Guidance steers overseas dealings

CONTINUED FROM PAGE 3

communication from high levels of the company, effective policies and procedures, training and a reasonable diligence program to screen partners prior to transactions," he said.

While Mr. Kocoras said the guidance may do nothing to affect efforts by Congress to reform the law, Matthew T. Reinhard, a Washington-based member at law firm Miller & Chevalier Chartered, said some may contend that the guidance is intended to avoid reform efforts.

It could be argued "that this guidance is an effort by the enforcement authorities to indicate to Congress that they are on top of these issues and that they are responding to concerns that have been raised regarding the law's enforcement and further amendment is not necessary," Mr. Reinhard said. "Whether that is ultimately successful, I don't know. Only time will tell."

One of the most valuable aspects of the guidance is information about real cases that omit company names and hypothetical cases about situations that may or may not run afoul of the law, Mr. Reinhard said.

Issues addressed include gifts, travel and entertainment of foreign officials — issues with which companies have struggled with in complying with the FCPA, he said.

"From those hypotheticals, you actually get a much better sense of the enforcement authority's thinking in that regard," Mr. Reinhard said.

One of the most important takeaways is that the guidance confirms the importance of compliance programs, which also can help the insurance underwriting process, said Patricia Pileggi, a partner in the white collar and corporate compliance practice and the litigation practice at Schiff Hardin L.L.P. in New York.

"If a company has a very comprehensive compliance program and it addresses all of the elements that are outlined in this guidance; (and) has a particularly thorough compliance program and can demonstrate that, then I would think that would be very relevant to underwriting," Ms. Pileggi said.

For insurance, the guidance does not affect coverage for FCPA violations and investigation costs, said Mach Millett, Boston-based senior vice president of private equity and mergers and acquisitions at Marsh Inc.'s FINPRO unit.

"It doesn't increase or decrease the risk that international companies face in terms of FCPA investigations or FCPA proceedings," he said. "It leaves that risk exactly where it was and we consider that risk to be quite substantial."

inBrief

CONTINUED FROM PAGE 1

medical conditions preclude them from meeting the reward qualifications. Employers would not be required to establish specific alternative qualification standards, and instead could address employee requests for alternatives on an individual basis. The proposed rules also seek to address confusion over existing notification requirements, under which employers are obligated to notify employees that alternative qualification standards for incentives are available.

PBGC hits record deficit of $34 billion in 2012

The Pension Benefit Guaranty Corp.'s deficit hit a record $34 billion in fiscal 2012, the agency said. The deficit in the PBGC's insurance program for single-employer plans climbed to $29.1 billion in fiscal 2012, up from $23.3 billion the previous year. The deficit in the agency's insurance program that covers multiemployer pension plans climbed to about $5.2 billion, up from $2.8 billion the previous year.

Hardship distribution rules eased for Sandy

The Internal Revenue Service announced that it has relaxed a handful of limitations on employer-sponsored retirement plans to make it easier for plans to provide financial assistance to employees affected by Superstorm Sandy. In a statement, the agency permitted certain types of retirement plans to temporarily suspend rules requiring independent verification for requests for emergency withdrawals from their retirement accounts — known as hardship distributions — for employees living or working in affected cities and towns.

SAN DIEGO COUNTY DISTRICT ATTORNEY

The San Diego County District Attorney is spreading the word about work comp fraud.

COUNTY'S OUTREACH PROGRAM TARGETS COMP FRAUDSTERS

"Commit workers compensation fraud, get a new outfit" warns a new San Diego County District Attorney billboard campaign, with the new outfit being a prison jumpsuit.

Workers comp fraud costs California about $4 billion per year, so 65 billboards and transit shelter posters placed across the county aim to make people think twice about committing the crime, which takes different forms, according to the office of District Attorney Bonnie M. Dumanis.

The fraud is committed by workers faking injuries, employers denying mandated benefits or failing to report accurate payroll data to illegally reduce their premiums, and by health care and legal providers billing for services they don't provide.

The D.A.'s office estimates that 1 million sets of eyes will view its public awareness billboards and posters daily.

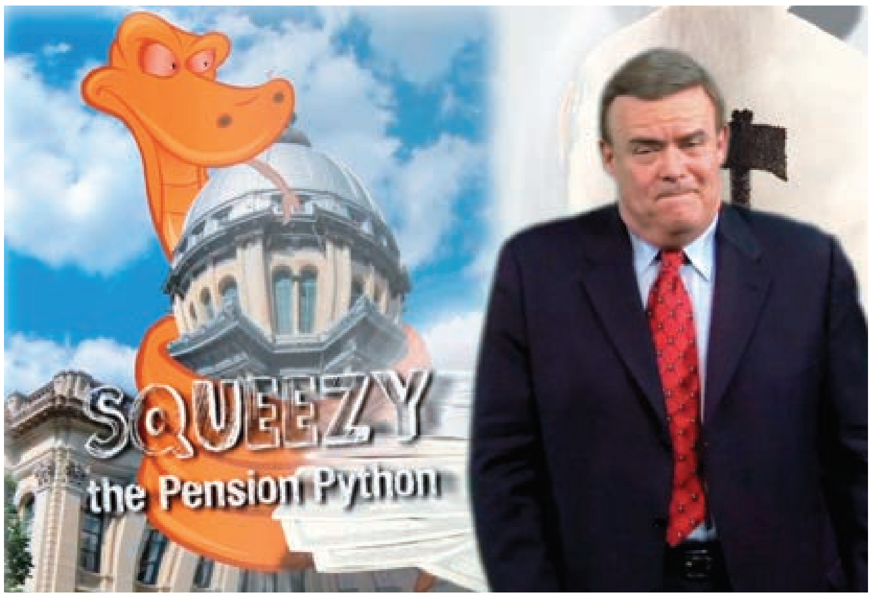
A grant from California's Fraud Assessment Commission and the California Department of Insurance helped fund the program. But two companies, Lamar Advertising Co. and CBS Outdoor, also contributed by significantly reducing their rates, according to a D.A. statement.

"Public outreach remains one of the important components of a successful anti-fraud program," according to the statement.

But no doubt, not everyone will heed the warning. In the past four years the San Diego County D.A.'s office has won workers comp fraud convictions against 399 defendants, while 289 other cases remain under investigation.

CONTRIBUTING: Roberto Ceniceros, Matt Dunning, Sheena Harrison, Mike Tsikoudakis

End Page



THISISMYILLINOIS.COM

Illinois Gov. Pat Quinn's office recently introduced the state to Squeezy, the Pension Python to highlight the perils of underfunded public pensions.

Introducing Squeezy, the Pension Python

Illinois has a new mascot to help illustrate the perils of underfunded public pensions: Squeezy the Pension Python.

In a nearly four-minute video posted at *thisismyillinois.com*, a narrator describes how Illinois government agencies must cut back on services to fund the state's five public pensions. Meanwhile, Squeezy — a fluorescent orange animated snake — is shown squeezing a police officer and a hospital to illustrate cuts to public safety and state health care resources.

The website, launched by Illinois Gov. Pat Quinn, asks Illinois taxpayers to get involved by pushing lawmakers for pension reforms. The state estimates that Illinois' unfunded public pension liability is $95 billion.

Squeezy has been met with some criticism. The Chicago Tribune said the snake fits Gov. Quinn's leadership style, which "sometimes veers into the corny," and the Huffington Post called the campaign "bizarre."

NEW NEIGHBORS TEED OFF OVER STRAY GOLF BALLS

A Montana country club can't be held liable for the hailstorm of errant tee shots landing in a neighboring family's yard, though the club apparently could do with a few more instructors.

A Ravalli County District Judge dismissed a lawsuit against the county and the Hamilton Golf Club in Hamilton, Mont., alleging that both entities had a duty to tell new homeowners living near the club's fairways that its members' shots routinely veer off course and into neighboring properties, according to a report.

The lawsuit was filed in 2011 by Robert and Katherine Brady, who purchased a house next to Hamilton's 18th hole and claimed they were never told that their backyard attracts as many as 1,300 stray golf balls a year, according to the report.

Noting that Mr. Brady had formerly worked as a general contractor and Ms. Brady's background is in real estate, the judge ruled that the Bradys either "knew or easily should have seen" the probability of golf balls landing in their yard, according to the report.

INSURER UNLEASHES CHARGES ON WOMAN OVER KENNEL COST CLAIMS

A woman in Northern Ireland who sought insurance payments for putting her pups up in a pooch hotel is accused of insurance fraud.

Susan McGrattan of Newtownards, Northern Ireland, was sentenced to 240 hours of community service for falsely filing insurance claims in the amount of £13,558.50 ($21,553.95) for kenneling her pets while her home underwent foundational remediation, according to news reports.

Ms. McGrattan reportedly insisted that her landlord did not allow her three dogs and three cats to be kept in the building while her rental house was being worked on.

Because her home insurance claim was valid, Ms. McGrattan's insurer, Zurich Insurance Group Ltd., agreed to also pay for kenneling costs during the repairs.

But Zurich's fraud investigation unit received information that Ms. McGrattan's pets resided with her, in her home.

"Each month we would receive calls or email from Mrs. McGrattan complaining that she had not received payment from us for the kennels and that she was embarrassed to tell the people looking after her dogs and cats that she was unable to pay them," Scott Clayton, claims fraud and investigations manager at Zurich, said in a report.

Zurich is prosecuting for remaining costs related to Ms. McGrattan's home insurance claim, kenneling claims and legal costs in the amount of £140,896.48 ($223,983.13), according to reports.

That hearing is reportedly set to begin Nov. 29.

Filing a fraudulent insurance claim is somewhat like a dog chasing its tail: it gets you nowhere.

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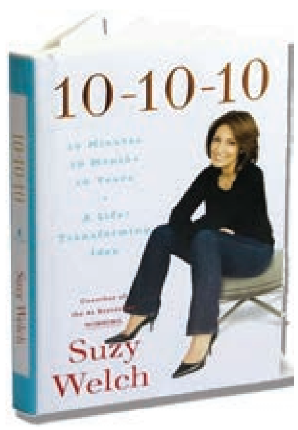

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INSIDE THIS ISSUE

Finding growth in difficult times

FOR BROKERAGES, achieving increased productivity is a never-ending quest. That's particularly true when the economy isn't what it used to be.

Customers, pressed by management to do more with less, want more from their service providers. In fact, they have to rely on their brokers for services they can't provide themselves.

That means brokers, in turn, have to work more effectively with less to meet those demands.

The result? Increased productivity. But, of course, achieving that result is easier said than done.

In this special annual supplement to *Business Insurance*, we spotlight the most productive insurance brokers operating in the United States and examine what the top achievers are doing to grow their business when so many of their competitors are finding it hard to keep up with them.

Their strategies may differ, but all are designed to meet the same goal. Others may find their stories an inspiration to achieve that elusive goal of increased productivity themselves.

—Mark A. Hofmann, Senior Editor

DATA PAGES

Focus on specialty helps AirSure regain spot as most productive broker

By Russ Banham

Bill Behan characterizes the past three years as posing the "greatest challenge" in the 28-year history of AirSure Ltd., the specialty aviation insurance brokerage he owns and leads as CEO.

Nonetheless, by sticking to its knitting — "99% of our business is aviation," he said — AirSure topped the list of most productive agencies/brokerages.

"We've been confronted with both a soft market and a poor economy, and we are beginning to realize this just may be the 'new normal,'" Mr. Behan said. "By staying in our niche, we've been able to drive revenue that may be more difficult for general lines brokers to generate."

In 2011, AirSure's estimated brokerage revenue was $12.4 million, giving the brokerage, which tallies 35 employees, an impressive and leading $355,076 revenue-per-employee metric. This productivity measurement factors heavily into the company's operating strategy, Mr. Behan said.

"Productivity drives a lot of decisions here," he said. "It solves a lot of sins."

This wasn't necessarily the case in the past. In 2005, Mr. Behan, AirSure's founder, sold the firm to a local general lines brokerage in Denver and stayed on as an employee. Prior to the sale, AirSure was in *Business Insurance*'s top five most productive agent/broker category for several years, including four as No. 1.

Post-sale was a different story, however. "When I bought the company back in 2010, I recognized the need to rededicate ourselves to improving productivity," Mr. Behan said.

As part of this agenda, he re-examined the AirSure workforce to determine if employees remained committed to the organization.

"Most were, some weren't," he said. "Others were ready to retire, and frankly some were no longer needed under the 'new normal.' I essentially had to reconfigure our team — one of the toughest decisions I've ever made. But today our leadership really believes we have a smart, knowledgeable and committed staff that works very well together."

In determining the brokerage's personnel, Mr. Behan said he focused first on its clientele and who could best service these accounts with the products, markets and services they required. To motivate the staff, he introduced incentives that were tied to various operating metrics, chief among them productivity.

Consolidating and sharpening the workforce was only part of the renewed emphasis on productivity. AirSure also was beleaguered by legacy information technology systems, mainly hardware that needed significant updating to drive down costs and improve profit margins. Mr. Behan committed the necessary resources to the task, which also included minor software enhancements and major backup redundancy it had previously lacked.

Beyond these measures, Mr. Behan also re-examined the firm's core lines of business, some of which "no longer fit our sweet spot," he said. "For instance, we were doing too much personal lines, so we sold off that business. We still do a bit of personal lines, but it is now a minor part of our revenue stream, and we'll only do it if it is connected to a commercial or corporate account — an important client, for instance, who for some reason wants us to be their (personal lines) broker." As an example, he cited a high-net-worth owner of an expensive airplane.

In the two years since he reacquired AirSure, Mr. Behan says it is back on track.

"We've indoctrinated productivity in every thing we do here — again," he said.

Mr. Behan

AIRSURE LTD.
Golden, Colo.

2011 BROKERAGE REVENUE: $12.4 million

EMPLOYEES: 35

REVENUE PER EMPLOYEE: $355,076

'BY STAYING IN OUR NICHE, we've been able to drive revenue that may be more difficult for general lines brokers to generate.'

BILL BEHAN, AIRSURE LTD.

MOST PRODUCTIVE: ALL AGENTS AND BROKERS

Intermediaries* ranked by 2011 brokerage revenues per employee

	Company	Revenue/Employee 2011	Revenue/Employee 2010	Revenue/Employee % change	Brokerage Revenues 2011	Brokerage Revenues 2010	Brokerage Revenues % change	Employees 2011	Employees 2010	Employees % change
1	AirSure Ltd.	$355,076	$265,808	33.6%	$12,427,650	$11,429,742	8.7%	35	43	(18.6%)
2	Towers Watson & Co.	$344,581	$361,618	(4.7%)	$409,362,054	$415,138,000	(1.4%)	1,188	1,148	3.5%
3	Alliant Insurance Services Inc.	$316,383	$249,068	27.0%	$460,654,200	$357,661,650	28.8%	1,456	1,436	1.4%
4	Crystal & Co.	$313,667	$313,167	0.2%	$131,740,000	$131,530,000	0.2%	420	420	(0.0%)
5	Capacity Group of Cos.	$306,516	$304,017	0.8%	$65,594,355	$60,195,269	9.0%	214	198	8.1%
6	Mesirow Insurance Services Inc.[1]	$299,808	$277,764	7.9%	$91,741,286	$87,495,570	4.9%	306	315	(2.9%)
7	York International Agency L.L.C.	$272,842	$273,595	(0.3%)	$11,732,212	$11,217,405	4.6%	43	41	4.9%
8	Bazzi & Partners S.p.A.	$272,765	$303,109	(10.0%)	$6,273,600	$6,365,280	(1.4%)	23	21	9.5%
9	Frenkel & Co.	$264,534	$242,279	9.2%	$58,461,915	$55,481,947	5.4%	221	229	(3.5%)
10	Bollinger Inc.	$263,515	$261,553	0.8%	$117,791,000	$116,391,174	1.2%	447	445	0.5%
11	Integro USA Inc.	$257,557	$235,190	9.5%	$98,902,000	$80,670,000	22.6%	384	343	12.0%
12	National Financial Partners Corp.	$254,798	$280,804	(9.3%)	$700,694,393	$713,803,626	(1.8%)	2,750	2,542	8.2%
13	BB&T Insurance Services Inc.	$241,868	$245,020	(1.3%)	$1,104,126,900	$1,078,576,900	2.4%	4,565	4,402	3.7%
14	Conner Strong & Buckelew Cos. Inc.	$241,656	$252,452	(4.3%)	$72,980,000	$70,939,000	2.9%	302	281	7.5%
15	The Graham Co.	$239,095	$236,087	1.3%	$35,864,291	$34,940,811	2.6%	150	148	1.4%
16	M&T Insurance Agency	$236,893	$240,811	(1.6%)	$37,666,000	$35,640,000	5.7%	159	148	7.4%
17	Woodruff-Sawyer & Co.	$234,783	$226,417	3.7%	$70,200,000	$65,208,200	7.7%	299	288	3.8%
18	Assurance Agency Ltd.	$232,607	$221,871	4.8%	$52,104,078	$44,818,000	16.3%	224	202	10.9%
19	Beecher Carlson Holdings Inc.	$230,762	$229,252	0.7%	$96,919,865	$94,680,900	2.4%	420	413	1.7%
20	USI Holdings Corp.	$230,758	$226,450	1.9%	$659,276,000	$632,249,000	4.3%	2,857	2,792	2.3%

*Companies deriving more than 49% of their gross revenue from personal lines business are not ranked. 1 Fiscal year ending March 31.
Source: *BI* survey

Reinsurance, risk consulting services put Towers Watson on top

By Russ Banham

Bill Eyre was in Dana Point, Calif., conferring with insurance company customers at the annual meeting of the Property Casualty Insurers Association of America, when he learned Towers Watson & Co.'s brokerage business had achieved *Business Insurance*'s recognition as the most productive agent/broker of U.S. business.

While certainly pleased with the finding, Mr. Eyre, the brokerage's managing director of reinsurance brokerage business, was not particularly surprised.

"In general, reinsurance intermediaries have higher productivity than insurance brokerage firms," he said. Towers Watson derived 35.9% of its 2011 revenues from reinsurance.

As the world's fourth-largest reinsurance broker and a leading insurance risk specialist, Towers Watson chalked up an impressive productivity metric of $350,427 per employee in 2011. The firm covers all major lines of business. It also provides a range of services, including risk capital solutions, crisis management, risk transfer analytics and broker replacement services, among others. The services portion of its business accounted for 43.2% of its 2011 revenues.

Mr. Eyre touted Towers Watson's risk consulting and software businesses as factors in its leading productivity. Its analytics clout is the consequence of the $3.5 billion merger of Towers Perrin and Watson Wyatt in 2010, and the combined firm's acquisition of EMB Consultancy L.L.P., a leading provider of high-performance actuarial software, last year. "The EMB acquisition really enhanced our software capabilities for brokerage and our property and casualty consulting," he said. "It has helped us improve our modeling capabilities, affects our ability to do more at less cost, and had guided more productivity. But, we're also increasing the number of employees (1,028 employees in 2011, a 3.8% year-over-year increase) at the same time we're building revenue."

Towers Watson's robust analytical capabilities further assist productivity by helping to generate more reinsurance business, he added. Insurance companies depend on reinsurance to expand underwriting capacity, reduce income statement volatility, and protect their capital from extreme losses. In this regard, Towers Watson provides analytics that leverage its advanced software to help clients make sound risk-transfer decisions. This, in turn, invites more business to its doors.

The reinsurance brokerage business does not confront the same productivity issues that affect Towers Watson's human resources consulting business. "In our business, when we gain a new client, we don't necessarily have to add a whole new team of employees to service that, versus what sometimes happens in the consulting industry," said Mr. Eyre. "We've got a pretty good leverage model."

Another factor abetting the firm's leading productivity is its primary role as a treaty broker rather than as a facultative reinsurance intermediary.

"The more facultative business you do, the more employees you need to have because the business is on a single-risk-by-single-risk basis," Mr. Eyre said. "With treaty, there's just one contract at the beginning of the year. And there is often more claims activity with facultative, which then requires more people."

Bill Eyre

TOWERS WATSON & CO.

New York

2011 BROKERAGE REVENUE: $360.2 million

EMPLOYEES: 1,028

REVENUE PER EMPLOYEE: $350,427

A reinsurance intermediary also tends to have higher productivity than traditional brokers. "Insurance brokers put together policies that often require several endorsements," he said. "It's a bit more active; consequently, more employees are needed."

The brokerage measures its productivity on a routine basis, finding this a useful metric for operational purposes, Mr. Eyre said. Again, it relies on its sophisticated data modeling software to track and increase its per-employee revenues.

"We take pride in our leading productivity and are committed to maintaining it," he said.

'THE MORE FACULTATIVE BUSINESS YOU DO, the more employees you need to have because the business is on a single-risk-by-single-risk basis.'

BILL EYRE, TOWERS WATSON & CO.

MOST PRODUCTIVE: LARGEST PRODUCERS OF U.S. BUSINESS

Intermediaries* ranked by 2011 brokerage revenues per employee from U.S.-based clients**

		REVENUE/EMPLOYEE			BROKERAGE REVENUES			EMPLOYEES		
	Company	2011	2010	% change	2011	2010	% change	2011	2010	% change
1	Towers Watson & Co.[1]	$350,427	$356,432	(1.7%)	$360,238,608	$352,867,300	2.1%	1,028	990	3.8%
2	Alliant Insurance Services Inc.	$316,067	$248,819	27.0%	$460,193,546	$357,303,988	28.8%	1,456	1,436	1.4%
3	Crystal & Co.	$313,667	$313,167	0.2%	$131,740,000	$131,530,000	0.2%	420	420	0.0%
4	Capacity Group of Cos.	$306,516	$304,017	0.8%	$65,594,355	$60,195,269	9.0%	214	198	8.1%
5	Mesirow Insurance Services Inc.[2]	$299,808	$277,764	7.9%	$91,741,286	$87,495,570	4.9%	306	315	(2.9%)
6	Frenkel & Co.	$264,534	$239,251	10.6%	$58,461,915	$54,788,423	6.7%	221	229	(3.5%)
7	Bollinger Inc.	$263,515	$261,553	0.8%	$117,791,000	$116,391,174	1.2%	447	445	0.5%
8	Willis Group Holdings P.L.C.	$263,046	$250,000	5.2%	$1,604,580,000	$1,650,000,000	(2.8%)	6,100	6,600	(7.6%)
9	National Financial Partners Corp.	$255,809	$281,720	(9.2%)	$692,986,755	$708,807,001	(2.2%)	2,709	2,516	7.7%
10	BB&T Insurance Services Inc.	$241,868	$245,020	(1.3%)	$1,104,126,900	$1,078,576,900	2.4%	4,565	4,402	3.7%

*Companies that derive more than 49% of their gross revenue from personal lines business are not ranked. **Companies that did not provide U.S. employees count are not ranked.
1 Fiscal year ending June 30. 2 Fiscal year ending March 31.
Source: *BI* survey

BB&T keeps focused on expense, talent management

By Russ Banham

For eight consecutive years, BB&T Insurance Services Inc., one of the world's 10 largest insurance brokers, also has ranked as the most productive.

Not that Chairman and CEO H. Wade Reece is ready to rest on these laurels.

"It doesn't matter if the economy is heating up or cooling down, we have a constant focus on disciplined expense management," Mr. Reece said.

The firm also has its eye on talent management, the other factor besides stringent expense control that explains why BB&T is the world's most productive large broker.

"Talent management begins with top-notch recruitment and ends with the retention of talented people," said Mr. Reece. "When you have great people committed to your organization, they manage their tasks in a very disciplined way. You need both sides of the equation to maintain the highest productivity."

Raleigh, N.C.-based BB&T has earned its just rewards: the highest revenue per employee among the 10 largest brokerages in the world. With 4,565 employees in 2011, the firm chalked up a leading $241,868 in revenue per employee, a slight decline from 2010 figures, but not enough to knock it from the top spot it enjoyed in 2011. "We were a bit off because of the impact of the recession on revenues," Mr. Reece said. "Obviously, we held on pretty good anyway."

Talent management at BB&T revolves around a formal, semiannual employee appraisal process that ferrets out particular skills and perceived deficiencies; provides training where needed to close these gaps; and improves long-term personal career development potential; and, where needed, shifts employees to areas where their talents may better serve strategic goals.

At the same time, the process unearths employees who are not cutting the mustard — "the folks not producing the kinds of numbers we need or aren't measuring up," the CEO said. "In such cases, we always do our best to give them the resources to do better or to take on tasks that better suit them."

Founded in 1922, BB&T is a wholly owned subsidiary of Branch Banking & Trust Co., a large publicly traded financial services company. Its reach extends across much of the country, although its primary presence is in the Midwest. The brokerage, with 2011 revenues of $1.1 billion, comprises more than 100 agency locations and more than 150 locations for insurance operations in all. Services include personal and commercial lines, employee benefits, life and financial planning, surety and commercial bonds, and title insurance.

Diversification has proved important to the firm's high productivity, Mr. Reece said. BB&T's AmRisc L.P. unit, for instance, is a managing general agency providing insurance capacity for catastrophe wind exposures in the U.S. Two other MGAs, Southern Cross and TAPCO Underwriters Inc. (combined as Southern Cross/TAPCO within BB&T's CRC Cos. division) offer other services. TAPCO specializes in high-volume, middle-market excess and surplus insurance lines, while Southern Cross, one of the Southeast's largest insurance wholesalers, underwrites specialty commercial transportation, property/casualty liability, marine liability, and directors and officers liability.

H. Wade Reece

BB&T INSURANCE SERVICES INC.

Raleigh, N.C.

2011 BROKERAGE REVENUE: $1.10 billion

EMPLOYEES: 4,565

REVENUE PER EMPLOYEE: $241,868

This year's purchase of wholesale insurance broker Crump Property & Casualty Insurance Services, a large wholesale life insurance distributor, adds yet another dimension.

"These are all known brands and higher-margin businesses," Mr. Reece said. "We've got lots of revenue streams to draw from, no matter the direction the economy takes."

Solid revenues and superior talent management equals great productivity — the equation that will continue to drive operations at BB&T.

"I've been here 34 years, more than 20 of them heading BB&T's insurance operations," Mr. Reece said. "We take pride in our leading productivity and are committed to maintaining it."

'TALENT MANAGEMENT BEGINS with top-notch recruitment and ends with the retention of talented people.'

H. WADE REECE, BB&T INSURANCE SERVICES INC.

MOST PRODUCTIVE: WORLD'S 10 LARGEST BROKERS

Intermediaries* ranked by 2011 brokerage revenues per employee

		REVENUE/EMPLOYEE			BROKERAGE REVENUES			EMPLOYEES		
	Company	2011	2010	% change	2011	2010	% change	2011	2010	% change
1	BB&T Insurance Services Inc.	$241,868	$245,020	(1.3%)	$1,104,126,900	$1,078,576,900	2.4%	4,565	4,402	3.7%
2	Marsh & McLennan Cos. Inc.	$221,519	$207,765	6.6%	$11,519,000,000	$10,596,000,000[1]	8.7%	52,000	51,000	2.0%
3	Wells Fargo Insurance Services USA Inc.	$216,195	$219,179	(1.4%)	$1,626,869,000	$1,649,538,000	(1.4%)	7,525	7,526	0.0%
4	Lockton Cos. L.L.C.	$203,237	$201,329	1.0%	$904,403,000[2]	$826,857,000[2]	9.4%	4,450	4,107	8.4%
5	Willis Group Holdings P.L.C.	$200,824	$194,118	3.5%	$3,414,000,000	$3,300,000,000	3.5%	17,000	17,000	0.0%
6	Jardine Lloyd Thompson Group P.L.C.	$188,437	$182,944	3.0%	$1,266,671,620[3]	$1,137,730,760[4]	11.3%	6,722	6,219	8.1%
7	Brown & Brown Inc.	$183,485	$182,920	0.3%	$1,112,104,659	$966,917,112	15.0%	6,061	5,286	14.7%
8	Aon P.L.C.	$181,097	$179,459	0.9%	$11,228,000,000	$10,606,000,000[5]	5.9%	62,000	59,100	4.9%
9	Arthur J. Gallagher & Co.	$168,917	$166,718	1.3%	$2,091,700,000	$1,789,884,000	16.9%	12,383	10,736	15.3%
10	Hub International Ltd.	$154,689	$155,424	(0.5%)	$878,321,552	$761,577,000	15.3%	5,678	4,900	15.9%

*Companies deriving more than 49% of their gross revenue from personal lines business are not ranked. 1 Pro forma to include a full year of HSBC Insurance Brokers Ltd. 2 Fiscal year ending April 30. 3 British pound = $1.5698 as of Dec 31, 2011, fiscal year ending Dec 31. 4 British pound = $1.5452 as of Dec 31, 2010, fiscal year ending Dec 31. 5 Pro forma to include a full year of Hewitt Associates Inc.
Source: *BI* survey

Council looks to the future

Andrew G. Cassidy is 2013 chairman of the Washington-based Council of Insurance Agents & Brokers. Mr. Cassidy, who also is executive vice president of brokerage and risk management firm Early, Cassidy & Schilling Inc., in Rockville, Md., recently spoke with Senior Editor Mark A. Hofmann about the council's priorities and the state of the insurance brokerage industry.

Q: What are the biggest challenges facing the council, its members and the insurance brokerage industry?

The council is in a great place. In terms of the council, we have great leadership, and the senior leadership's been in place for quite some time — Ken (Crerar) and company. They know our business. We have strong membership.

Health care reform is probably the biggest issue facing the commercial broking industry. We don't know what it is that we're facing. The membership of the council doesn't have a problem with anything that's on the table. They're not worried about competition from exchanges — everybody will do a great job. The problem is we don't know what all the rules are. Half of the states haven't done anything in regard to the exchanges.

Those that are doing something with the exchanges are not communicating very effectively.

The rules and (regulations) that are coming out from Health and Human Services are still somewhat baffling and certainly not finalized. Our job is to communicate that to our customers and help them understand what their options are. It's very difficult. We've certainly spent time and resources on making sure that we're at least as much at the table with regard to what's happening as anybody else is.

Q: Looking ahead, what are the council's legislative and regulatory goals, and is there anything in particular that you're doing to achieve them?

I think (extension) of the government terrorism insurance backstop is a large concern. We really should be doing something about it right now. We've dealt with this problem before. If the government is going to stay involved with it, it would be helpful to have, again, some idea as to what their plan is. Come Jan. 1, we will start renewing policies that go into 2014. Congress has shown no interest in taking up certain legislation until the eleventh hour, and it's not going to work here.

We haven't heard much from the carrier side what their capabilities are if the program is not extended, and I know that it is still a concern with regard to the carriers in certain big areas — Washington, New York, Los Angeles, Chicago. It might not be as big a problem in other parts of the country, but we still have lots of underwriting questions with regard to location and number of people when we're placing business in downtown D.C. And that's not going to change. It's problematic to lose part of that market, to say the least. I think (the extension of the federal terrorism risk insurance program) is a big question mark — I don't know if it's a problem.

We'd love to see the work that we've done on surplus lines legislation move forward. Again, uncertainty throughout the process is what the problem is there.

Q: Any nonlegislative initiatives the council is undertaking?

It's our 100th anniversary. The association has been in business 100 years in 2013. We have plans throughout the year to keep the association and the industry, if we can, in the forefront of things. We have a plan to put out each month information about the real game changers in the industry in the last 100 years. It's done an awful lot for people.

We are involved in education. We work to attract and cultivate talent. We put a huge focus on recruiting young talent. The Foundation for Agency Management Excellence is a big part of attracting young people to the industry. We've given more than 130 scholarships in six years.

It's a great business, but it doesn't get the best rap. It's a fascinating business. The brokerage business is a marathon; it's not a sprint.

Q: Any advice for someone considering entering the brokerage industry?

Don't get discouraged — it can be tough at first — and work hard. You do have to work hard; you've got to be better than the competition. You have to know your competition, you have to be better than your competition, and you have to know your business. But don't get discouraged. It doesn't necessarily happen rapidly, but after five, six, seven years, you realize, "I've got a book of business, I've got customers — things are coming along."

Brokers use M&A, diversification to grow

By Bill Kenealy

Insurance intermediaries are finding several ways to achieve growth despite a middling economy, and a primary strategy is growth by acquisition.

Clark Wormer, Chicago-based director of mergers and acquisitions at Hub International Ltd., the 11th-largest broker of U.S. business in *Business Insurance*'s 2012 rankings, said market conditions are conducive to acquisitions.

Continued on next page

'BROKERS ARE NOT MONOLITHIC, but many are struggling to grow organically, so they are opting to buy.'

TIMOTHY J. CUNNINGHAM
OPTIS PARTNERS L.L.C

Continued from previous page

"The uncertainty with potential changes to capital gains taxes provides an environment where many sellers want to crystallize their value now by selling their businesses to larger national brokers," Mr. Wormer said, noting that the company made "in excess of 30" acquisitions in 2011. "That, in conjunction with the perception of a potentially firming market, provides a good opportunity for both buyers and sellers."

Absent action by Congress, the long-term capital gains tax will revert to 20% next year from 15%, which would make such deals more expensive next year than this year.

Cory T. Walker, senior vice president, treasurer and chief financial officer at Daytona Beach, Fla.-based Brown & Brown Inc., said with an estimated 10,000 to 20,000 independent agents across the country, acquisitions have been an important key to growth. In 2011, Brown and Brown acquired 22 agency operations with $88.7 million in aggregate annualized revenues.

"This is a cottage industry," Mr. Walker said. "Everyone will eventually sell."

Timothy J. Cunningham, managing director of Chicago-based Optis Partners L.L.C., an investment banking and financial consulting firm serv-

SEEKING GROWTH IN A TOUGH ECONOMY

ing insurance intermediaries, said whether growth by acquisition makes sense for brokers depends on the particulars of their business.

"Brokers are not monolithic, but many are struggling to grow organically, so they are opting to buy," Mr. Cunningham said. "To a smaller degree, some are strategic buyers looking to add a geography or specialty practice."

Potential sticking points for acquisitions include excessive complexity in the book of business of the seller and broader concerns about the state of the economy and potential for political gridlock, Mr. Cunningham said.

Buyers also carefully evaluate the company being acquired, especially if some of the target's top producers are nearing retirement age. "Virtually every acquisition is an exit for the principals, so consequently buyers need to be aware of where the sellers are in their life cycle," he said.

Mr. Wormer said that while he has used a variety of financial metrics to gauge potential deals, he also looks for a cultural affinity between the organizations when sizing up agencies to acquire.

"Generally, we are looking for agencies with strong production talent that want to join a larger organization to be able to deliver better products

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SEEKING GROWTH IN A TOUGH ECONOMY

Continued from previous page

and services for their customers," Mr. Wormer said. "For Hub, it is all about finding people that fit our culture and people that want to continue to drive growth."

Another growth strategy is diversification.

Adam Klauber, Chicago-based analyst at investment banking and asset management firm William Blair & Co. L.L.C., said in October that the health care exchanges mandated by the Patient Protection and Affordable Care Act represent a new source of growth for brokerages over the next several years and should begin affecting topline growth in meaningful ways starting in 2013.

"This is an area to watch going forward," Mr. Klauber said in an investor note. "At the large end, the potential is sizable as Fortune 1000 clients begin to plan for health care reforms slated to begin in 2014. In coming quarters, this could translate into increased consulting growth and the potential to generate critical mass for health care exchanges."

Glenn Spencer, chief operating officer of Lockton Cos. L.L.C., said the Kansas City, Mo.-based brokerage, the 10th-largest broker of U.S. business in the *Business Insurance* 2012 rankings, is broadening its services for clients.

For example, the company is investing in its specialty consulting capabilities to provide employers with more employee benefits expertise. "We are focusing a lot of attention on having a highly differentiated service offering," Mr. Spencer said.

On top of diversified product offerings, the firm also is redoubling efforts to better understand the underlying business of its clients. By better understanding a client's business objective, even down to the department level, Lockton is better able to tailor its service offerings to the client's business objectives, Mr. Spencer said.

To support this customer-centric approach, Lockton has increased training of its new hires as well as its existing top performers.

"We've poured a lot into the professional development of our producers," Mr. Spencer said, noting the company has put 65 to 70 of its producers through an intensive producer development program in the past three years. "Everybody who has been through the producer development program is growing their book of business in the mid-teens," he said, linking the training to the increased productivity.

Lockton also is augmenting its data and analytics capabilities. This way, it can offer services such as performing predictive modeling on claims, or help clients with more general data mining and benchmarking tasks, Mr. Spencer said.

"Data and data analytics are really resonating with clients, so we are investing a ton of money around analytics both on the benefits and the (property/casualty) side," he said.

International expansion is another critical component to better serve clients, Mr. Spencer said.

As many of Lockton's clients, which tend to come from the upper end of the middle market, expand into fast-growing markets overseas, so, too, must the broker, Mr. Spencer said. Accordingly, the firm is hiring staff and building infrastructure in growth markets throughout Asia, South America and the Middle East.

"To support multinational clients, we have to build out our competencies around the world," Mr. Spencer said. "So we are investing in growth markets both to acquire new business there and to support our global clients."

Conversely, Brown & Brown, the sixth-largest broker of U.S. business in the 2012 *Business Insurance* rankings, is experiencing rapid growth by focusing solely on the United States.

"We are all in the U.S. and our clients are predominately middle-market companies," Mr. Walker said.

While brokerages with a large percentage of international business have seen their financial numbers impeded by the economic malaise in the European Union and the slowdown in China, brokers focused on the U.S. market have been able to capitalize on the relative strength of the U.S. economy, he added.

"We are in a different market than the global brokers. The middle-market economy does not move in lock step with the global economy, so middle-market brokers are seeing their commission base grow," Mr. Walker said.

While the middle market is growing, he said, a full economic recovery will be a gradual process. While some of Brown & Brown's clients are beginning to grow and request new coverage, a bunker mentality still persists among many firms that saw their business shrink during the financial crisis.

"Nobody is jumping out of the bunker yet, but a few people are beginning to stick their heads up," Mr. Walker said.

Given the measured nature of economic growth for the foreseeable future, brokers know that most new business that they gain likely will come at a competitor's expense.

"At a high level, there is plenty of room for growth just winning business from competitors," Mr. Spencer said. "There's no need for us to hunker down and try to squeeze every bit of profit out of existing accounts, so we are more focused on gaining market share."

PRODUCTIVITY CHANGES

During the second quarter of 2012, productivity increased in all sectors except nondurable manufacturing when compared with the previous quarter and year. Output, hours worked and hourly compensation, expressed in percent change, increased across all categories.

	NONFARM BUSINESS		BUSINESS		MANUFACTURING		DURABLE MANUFACTURING		NONDURABLE MANUFACTURING	
Category	Quarter to Quarter	Year to Year	Quarter to Quarter	Year to Year	Quarter to Quarter	Year to Year	Quarter to Quarter	Year to Year	Quarter to Quarter	Year to Year
Productivity	2.2%	1.2%	2.5%	1.3%	0.1%	2.9%	3.7%	6.1%	(3.8%)	(0.2%)
Output	2.4%	3.0%	2.6%	3.1%	1.5%	5.5%	5.4%	9.5%	(2.8%)	1.2%
Hours	0.1%	1.7%	0.1%	1.8%	1.4%	2.6%	1.6%	3.2%	1.0%	1.5%
Hourly compensation	3.7%	2.2%	3.7%	2.1%	0.9%	0.4%	0.4%	0.3%	2.0%	0.5%
Real hourly compensation	2.9%	0.3%	2.9%	0.2%	0.2%	(1.4%)	(0.4%)	(1.5%)	1.3%	(1.4%)
Unit labor costs	1.5%	0.9%	1.2%	0.8%	0.8%	(2.4%)	(3.2%)	(5.4%)	6.1%	0.7%

Source: U.S. Department of Labor's Bureau of Labor Statistics

Justin Berry is a vice president at Marsh, Berry & Co., a consultant to the insurance distribution industry. He can be reached at 440-220-5431 or *Justin.Berry@MarshBerry.com.*

Agency owners rethink business models to grow revenues in changed economy

By Justin Berry

The insurance industry has witnessed three property/casualty premium swings in the past 50 years, with a traditional hard market lasting no more than three years.

During such periods, most agency owners and executives let the market steer organic growth on all major lines of business. Revenues have risen and fallen with the market.

With impending changes due to the health care reform law, medical revenues will not provide the premium bump that has been carrying many organizations during the soft property/casualty market.

A true hard market in property/casualty insurance is further out than most expected. High-growth agencies and brokerages, however, have used the prolonged economic decline and slow rate environment to institute or cultivate organic growth best practices and have continued to grow organically despite the outside factors.

Today, agency leaders are going back to the drawing board. First, they are building a budget validation growth model as a starting point. This helps agencies validate their growth goals by recognizing each producer's potential for new business and aligning resources to support them to increase sales capacity. It also helps them identify possible shortfalls in each department.

In many cases, additional producers are needed to make up the difference between expected growth and validated budgeted growth.

CONSULTATIVE SALES

High-growth agencies have changed the sales model to a true consultative approach relative to the economic times. Insurance buyers no longer are segregating insurance by products.

In the past, executives assigned the human resources department to handle medical insurance needs and the executive team would decide which commercial insurance to buy. Producers wore only a commercial hat or a benefits hat. Successful producers have realized that in the eyes of the buyer, insurance is insurance no matter the line of coverage. High-performing producers are focusing on being a single-source solution for employers, regardless of their expertise.

We have seen that most million-dollar producers have, on average, three to five niche industries they target. For those producers that focused solely on construction prior to 2008, most likely saw the negative effects of having only one niche. Successful producers stay ahead of the curve and identify emerging markets very early, such as oil and gas, energy, health care, environmental and technology — categories where insurance purchases are increasing.

TODAY, agency leaders are going back to the drawing board.

TEAM SELLING

Team selling also is becoming a dynamic approach for producers. Not only are they having more fun, but a recent study shows the increased success of team selling for the following five reasons:

1. Increased activity due to the innate team accountability;
2. More strategic selling;
3. Higher probability of closing the sale;
4. Increased knowledge of all product lines; and
5. Increased service standards.

SALES MODELING

Firms are using a selling system that allows producers to run on a proven model. The model includes detailed prospecting techniques, specific target accounts, overservicing top-tier accounts, proper delegation, internal cross-selling and project work.

An overall focus on new business production is the genesis for driving sustainable and predicable growth.

EMPLOYMENT IN INSURANCE

Number of people in the U.S. insurance industry, 2002-2011, in thousands

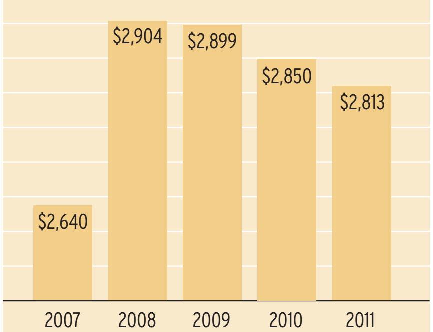
Year	Life, health and medical[1]	Property/casualty[1]	Reinsurers	Agents, brokers, related services[2]	Total
2002	791.1	590.0	31.7	820.4	2,233.2
2003	789.0	608.6	31.0	837.4	2,266.0
2004	764.4	604.4	29.8	860.1	2,258.6
2005	761.9	595.0	28.8	873.6	2,259.3
2006	787.4	597.4	28.0	890.8	2,303.7
2007	784.0	586.1	27.0	909.8	2,306.8
2008	797.6	571.2	27.9	908.5	2,305.2
2009	799.7	550.2	27.5	886.8	2,264.1
2010	801.0	558.2	26.8	875.2	2,261.1
2011	772.5	599.3	26.3	883.7	2,281.6

1 Direct insurers. 2 Includes claims adjusters, third-party administrators, advisory and insurance ratemaking services.

Source: U.S. Department of Labor's Bureau of Labor Statistics

BANKS IN INSURANCE

Insurance brokerage income per bank employee*, 2007-2011

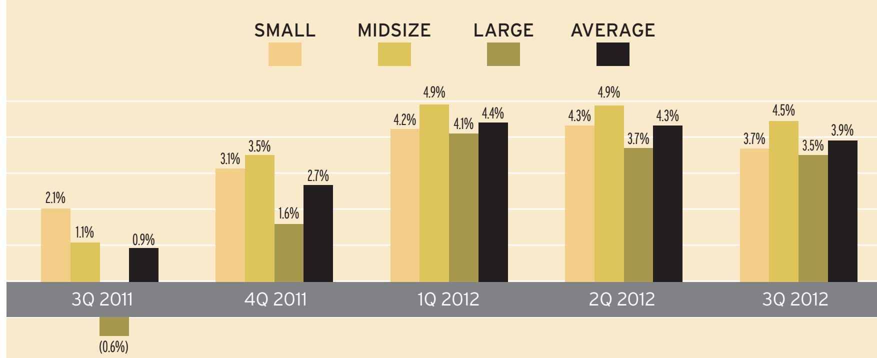


*Bank holding companies with consolidated assets greater than $500 million. Those with less than $500 million are exempt from line item reporting.

Source: Michael White Associates L.L.C.

P/C RATE CHANGES, BY ACCOUNT SIZE*

As insurers focused on tightening terms and conditions, prices rose an average of 3.9% in the third quarter of 2012, a lesser increase than the previous two quarters.



*Small accounts up to $25,000 in annual fees, commissions; midsize accounts, up to $100,000; large accounts, more than $100,000.

Source: The Council of Insurance Agents & Brokers, Barclays Research

BY THE NUMBERS

LEADING U.S. P/C RETAIL BROKERS

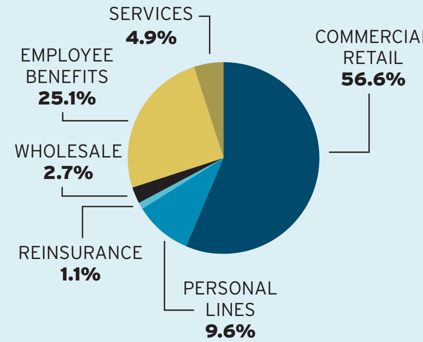
Ranked by 2011 commercial retail brokerage revenues from U.S. offices*

Rank	Company	Revenue**	% change
1	Marsh & McLennan Cos. Inc.	$2,471,000,000	8.1%
2	Aon P.L.C.	$2,383,000,000	27.2%
3	Wells Fargo Insurance Services Inc.	$1,119,180,000	(2.8%)
4	Willis Group Holdings P.L.C.	$1,029,000,000	(1.8%)
5	Arthur J. Gallagher & Co.	$698,403,000	4.7%
6	Brown & Brown Inc.	$580,749,657	9.8%
7	BB&T Insurance Services Inc.	$570,826,300	2.4%
8	Lockton Cos. L.L.C.[1]	$439,565,000	6.4%
9	Hub International Ltd.	$338,633,963	8.5%
10	Alliant Insurance Services Inc.	$297,591,500	21.1%
11	USI Holdings Corp.	$248,915,000	2.6%
12	Leavitt Group	$104,775,000	0.9%
13	AssuredPartners Inc.	$99,636,735	7.9%
14	Integro USA Inc.	$98,902,000	18.4%
15	Crystal & Co.	$98,490,000	(1.0%)
16	John L. Wortham & Son L.P.	$75,980,000	0.6%
17	Beecher Carlson Holdings Inc.	$75,363,778	5.0%
18	J. Smith Lanier & Co.	$67,991,089	4.3%
19	Hays Group Inc., dba Hays Cos.	$67,800,000	6.1%
20	Insurance Office of America Inc.	$66,499,367	11.5%
21	Hylant Group Inc.	$65,752,380	5.1%
22	BancorpSouth Insurance Services Inc.	$56,863,536	12.8%
23	Mesirow Insurance Services Inc.	$55,716,005	(3.3%)
24	Regions Insurance Group Inc.	$53,711,000	1.2%
25	The IMA Financial Group Inc.	$50,930,905	2.7%

*Companies that derive more than 49% of their gross revenue from personal lines business are not ranked.
**Excludes revenue from placement of employee benefits. 1 Fiscal year ending April 30.
Source: *BI* Survey

AGENT & BROKER BUSINESS MIX

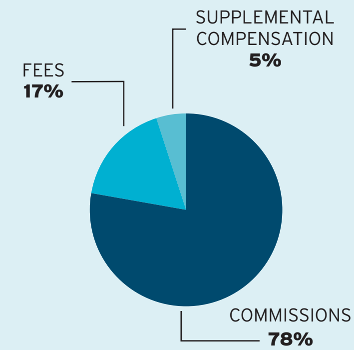
Commercial retail and employee benefits account for nearly 82% of business conducted by all agents and brokers in the *Business Insurance* directory.



Source: *BI* survey

TYPES OF REVENUES

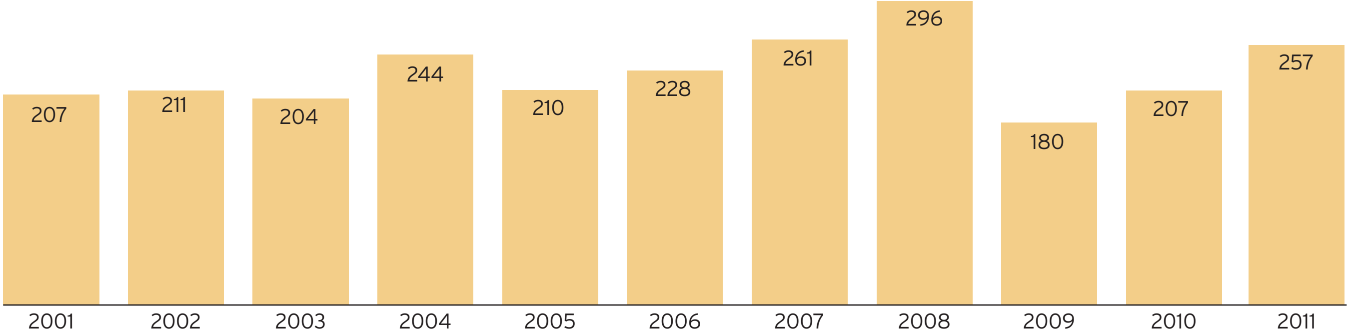
Commissions still make up the largest portion of brokerage revenues.



Source: *BI* survey

BROKERAGE DEALS

There were 257 brokerage deals in 2011, the third-most since 2001.



Source: SNL Financial

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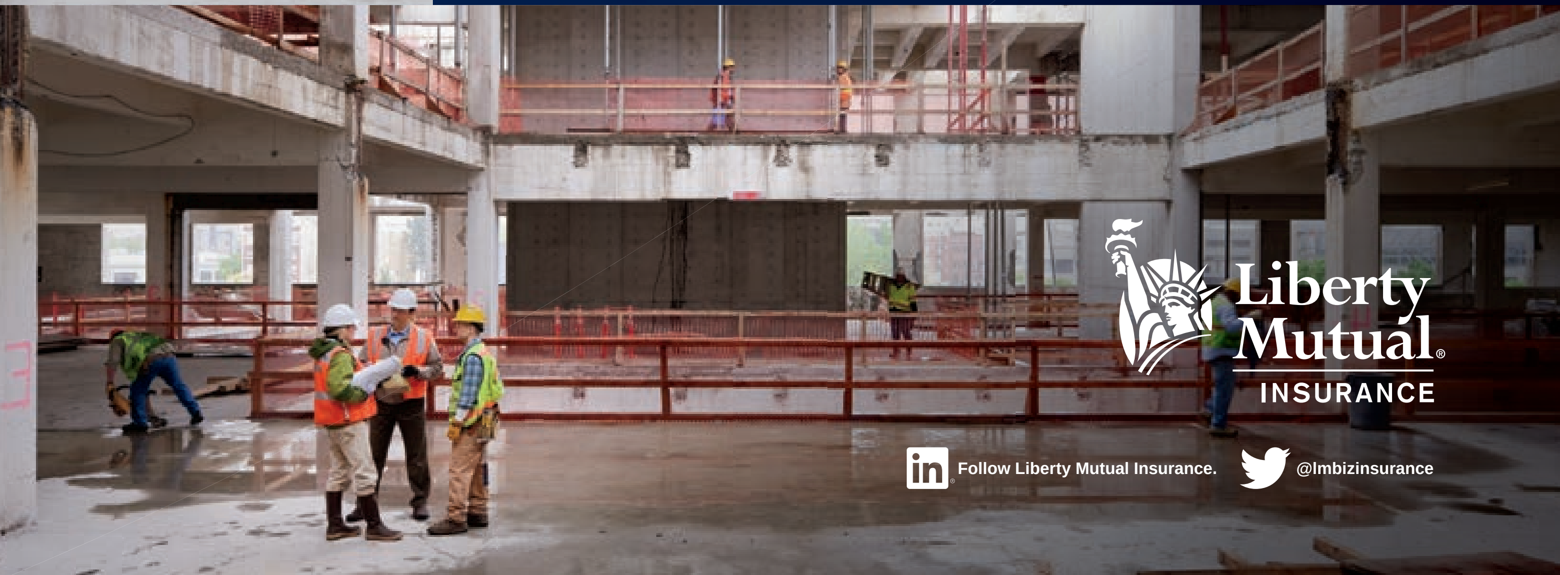

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