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SAFETY, DATA TOOLS HELP WTC DEVELOPERS MANAGE RISKS / PAGE 6

In Brief

Rates stabilizing in P/C lines: Moody's

Commercial insurance rates continued to show signs of stabilization and "modest improvement" in the third quarter of the year, according to an analysis by Moody's Investors Service. In its analysis, Moody's said that net income for publicly traded property/casualty companies dropped to \$1.6 billion in the third quarter of the year compared with \$5.4 billion during the same period last year. The drop was due largely to catastrophe losses, Moody's said. "While Hurricane Irene was not a capital or credit event" for the industry in the third quarter, it still weakened year-to-date income that already was under pressure from winter storm and tornado losses in the first half of the year. Moody's said the "recent stabilization of pricing and relatively benign loss costs should help stem deterioration in future underwriting performance as the premiums are earned." Moody's also said insurers "face head winds" from weak underwriting margins, low investment returns and slow economic growth.

CMS retiree funds 80% exhausted

The Centers for Medicare and Medicaid Services has paid out more than \$4 billion of a \$5 billion fund created by the health care reform law that partially reimburses employers and other organizations that sponsor early retiree health care plans. As of Nov. 3, the latest date for which reimbursement information for the Early Retiree Reinsurance Program is available, just less than \$4.1 billion had been distributed. That's up from \$3.6 billion as of mid-October.

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REINSURERS

Transatlantic accepts offer from Alleghany

Ex-Gen Re exec Joseph Brandon on leadership team

By **SARAH VEYSEY** and **SONJA RYST**

NEW YORK—The monthslong saga involving the ownership of Transatlantic Holdings Inc. appears to be coming to an end as the New York-based reinsurer has agreed to be acquired by Alleghany Corp.

The deal, announced last week, values Transatlantic at \$3.4 billion. When the deal is complete—it remains subject to various approvals—Transatlantic is to become a stand-alone subsidiary of Alleghany, the investment holding company said in a statement.

The deal, which has been approved by the boards of both New York-based companies, is

\$3.4B

The deal, announced last week, values Transatlantic at \$3.4 billion. Transatlantic is to become a stand-alone subsidiary of Alleghany.

expected to close in the first quarter of 2012, Weston M. Hicks, president and CEO of Alleghany, said last week during a call with analysts.

Transatlantic's largest stockholder, Davis Selected Advisers L.P., said it supports the deal, Mr. Hicks said.

Other Transatlantic shareholders, however, filed a lawsuit in New York State Supreme Court charging that the deal violates the board's fiduciary duties.

The suit, led by Transatlantic

investor Marilyn Clark, also alleges the dealmakers pursued a sale "at an unfair price through an unfair and self-serving process" and that the defendants, including Transatlantic CEO Robert F. Orlich, "botched the sale of the company from the start."

Should the deal be completed, Mr. Hicks said Transatlantic will operate as a semiautonomous subsidiary of Alleghany, in much the same way that its wholesale specialty insurance subsidiary, RSUI Group Inc., operates.

The Transatlantic deal will create "an industry leader in U.S. excess and surplus lines and global specialty reinsurance with significant underwriting diversification by product and geography," the companies said in a statement.

"Alleghany has a long history of accumulating a war chest that

See **TRANSATLANTIC** page 22

Business Insurance BUYERS 2011 CHOICE AWARDS

Buyers name top partners, valued traits

New awards honor insurers, brokers, TPAs

By **RODD ZOLKOS**

The votes are in, and risk managers and other insurance buyers have picked the service providers they value most.

The insurers, brokers and third-party administrators honored in the 2011 *Business Insurance* Buyers Choice Awards earned the recognition by being identified by buyers as the companies they would recommend to peers as exemplifying service and expertise attributes they value most.

The inaugural Buyers Choice Awards replace our previous Readers Choice honors. The changes in approach, which include employing an independent market research firm to survey buyers, are intended to bring maximum transparency to the process and put the program's focus on what buyers value most in their industry partners.

Buyers were asked to rank seven key service and seven key expertise attributes in evaluating insurers, brokers and TPAs. *Business Insurance* compiled the lists of key attributes by studying other industry surveys and querying risk managers for suggestions on what they consider key attributes for assessing brokers, insurers and TPAs.

Once buyers ranked the key attributes, they were asked to name the companies they'd most recommend to peers for each, yielding the Buyers Choice honorees.

The honor recognizes insurers, brokers and TPAs selected most often by midsize companies—those with less than \$1 billion in annual revenue—and by large buyers—those with \$1 billion or more in revenue—as tops in the

See **AWARDS** page 9

CYBER RISKS

Breach concerns rise for health care firms

By **JUDY GREENWALD**

Hospitals increasingly need a new kind of specialist on call: data security experts.

Health care institutions are particularly vulnerable to data breaches because of factors that include stringent federal and state regulations, widespread dissemination of patient data and a growing black market for patient medical information.

At CNA Financial Corp., for instance, health care represents about 25% of the data breach insurance business written but 60% of all claims, said Mark Silvestri, Quincy, Mass.-based vp of product development and director of CNA's NetProtect.

There are steps health care firms can take to

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Business Insurance

Online features & highlights
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white paper

BE PREPARED: Insurers and buyers alike increasingly are reporting rate increases for some lines. But is a hard market coming? Don't wait to find out. This white paper offers strategies to soften the impact of a market turn. Visit www.BusinessInsurance.com/whitepapers.

MOST POPULAR STORIES Week of November 21, 2011

1. Greenberg's Starr sues U.S. for \$25B over AIG takeover
2. HHS says Pennsylvania insurer's premium hike is 'excessive'
3. N.Y. law lets insurers issue policies without rate filings
4. Transatlantic agrees to \$3.4B takeover by Alleghany
5. \$532M trade credit policy written for World Bank unit
6. Worker fired for refusing to wear '666' sticker, suit says
7. Treasury to 'vigorously' defend actions in Greenberg claim
8. Kraft can't be sued over injury at Nabisco subsidiary
9. Employer health communication mandate delayed
10. SunTrust freezes pension plan, enhances 401(k) plan

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P/C INSURERS

Greenberg's Starr sues U.S. over AIG bailout actions

Suit says rescue plan unconstitutional, seeks at least \$25B

By MARK A. HOFMANN

WASHINGTON—Starr International Co. Inc. is taking an unusual course in suing the federal government on constitutional grounds for actions it took in 2008 to rescue American International Group Inc. from the brink of collapse, say some legal experts.

In a suit filed last week in the U.S. Court of Federal Claims in Washington, Starr—which is headed by former AIG CEO Maurice R. Greenberg—alleges that by taking control of nearly 80% of

AIG in 2008, the federal government unconstitutionally took the property and rights of AIG's shareholders without compensation.

Beginning in 2008 "and continuing through at least January 2011, the government ignored the Constitution and singled out AIG common stock shareholders for discriminatory and unlawful treatment in clear violation of the takings, due process and equal protection clauses of the United States Constitution," according to the Starr complaint.

The suit seeks at least \$25 billion in damages for shareholders and AIG.

Tim Massad, assistant secretary for financial stability at the Treasury Department, defended the government's actions.

"It is important to remember that the government provided assistance to AIG—and stopped it from collapsing—in order to prevent a meltdown of the entire global financial system," Mr. Massad said in a statement. "Our actions were necessary, legal and constitutional. We are reviewing the lawsuit and expect to defend our actions vigorously."

A few hours after filing the first suit in Washington, Starr filed another suit against the Federal Reserve Bank of New York in federal court in New York. Among other allegations, it holds that the New York bank breached its fiduciary duty to AIG shareholders and that the bank in effect engaged in a "backdoor bailout" of AIG counterparties.



BLOOMBERG

Starr International Co. Inc., which is headed by former AIG CEO Maurice R. Greenberg, alleges that the federal government unconstitutionally took the property and rights of AIG's shareholders without compensation.

"There is no merit to these allegations," a spokesman for the New York Fed said in an email. "AIG's board of directors had an alternative choice to borrowing from the Federal Reserve and that choice was bankruptcy. Bankruptcy would have left all AIG shareholders with worthless stock."

Legal observers questioned the strength of Starr's case.

"It is somewhat unusual, but the constitutional takings clause and the guarantee against taking property without due process of law can apply to things like share-

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P/C INSURERS



Ruud Bosman will retire as vice chairman of Factory Mutual Insurance Co., which does business as FM Global, on Nov. 30 after four decades with the company. Mr. Bosman recently discussed changes in the insurance industry, loss control and how forces like technology will drive the industry in the future, in an interview with Senior Editor Mark A. Hofmann.

FM Global's Bosman looks back on changes

Q: What have been the greatest changes in loss control and insurance since you began your career?

The first one is, without any doubt, globalization. When I joined the company, I joined as part of our international operation. At the time, "international" meant something very different from what "global" means today. The biggest change that impacts us in loss control really is the extent to which the world is sort of an interwoven place of exposures, of manufacturing, of vendors and of supply chains. You really can't talk about countries or nation states anymore. Our client base is large corporations, and their playing field really doesn't recognize any borders, so to speak, in terms of how they arrange their business.

Through that, their exposures have changed very significantly, which is where the loss control comes into it. They're not controlling loss within four walls in a specific location. They're trying to manage all aspects of risk around the world, and not only in their own facilities. In many ways, through their outsourcing of production, they're outsourcing risk. It clearly is a very different environment.

If you put that in the loss control arena, I think the biggest change is what you are controlling is significantly different. It's harder to put your arms around it and make sure you do a good job of assessing where the risks are and how they can be controlled. The actual mechanisms of how

See **BOSMAN** page 19

PRESCRIPTION DRUG BENEFITS

Employers explore PBM integration

Advantages seen in single program for health, comp

By SHEENA HARRISON

Experts in pharmacy benefits management say more employers are considering whether integrated PBM models for their group health and workers compensation programs can help them better manage prescription drug safety and costs.

Consolidated services are getting a closer look as employers strive for savings, insiders say, despite differences in the insurance programs that make pharmacy benefit integration a challenge.

"I think employers are looking for a financial solution, as they should be," said Brian Carpenter, Tucson, Ariz.-based vp of PBM product management for managed care company Coventry Health Care Inc.

PBM integration has been used by such firms as Philadelphia-based ARAMARK Corp., which said this year that it had begun using the same PBM for workers comp and group health. The move allowed the multinational food services company to negotiate lower prices for workers comp prescriptions.

Other companies seem to be following suit, according to St. Louis-based Express Scripts Inc. The PBM, which manages pharmacy programs for workers

comp and group health, said "self-insured, self-administered" employers increasingly are interested in combining pharmacy benefit programs.

Typically, such companies are looking to improve safety for injured employees, said Rich Leonardo, senior director of sales



'Employers see a benefit in having a comprehensive view of their employees' prescription drug use.'

Rich Leonardo, Express Scripts Inc.

for Express Scripts' workers comp unit.

"Employers see a benefit in having a comprehensive view of their employees' prescription drug use," Mr. Leonardo said in a statement.

There are "modest" financial benefits for employers that use Express Scripts for both PBM pro-

grams, Mr. Leonardo said. But the larger advantage, he said, is lowering workers comp costs through improved prescription management and oversight.

"Greater savings opportunities come from employers using the combined data to initiate case management intervention to assist getting an injured worker back to work," Mr. Leonardo said.

Sedgwick Claims Management Services Inc. has sought to strike a middle ground. The third-party administrator, which contracts for PBM services with Express Scripts and Tampa, Fla.-based PMSI Inc., has asked the providers to add group health elements to their workers comp pharmacy services.

That includes using step therapy for workers comp prescriptions, where patients are prescribed low-cost drugs at first and given more expensive medications if the initial treatment is ineffective, said Jim Harvey, Dallas-based vp and managed care practice lead for Sedgwick CMS.

"It's a matter of taking the solutions that work in the group health model and that are allowed in the regulatory environment in the workers comp market," Mr. Harvey said.

There are obstacles to integrating PBMs for workers comp and group health programs. Brenda Motheral, executive director of the Pharmacy Benefit Management Institute in Plano, Texas,

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CONSTRUCTION

Close attention to policies key to avoiding cover fights

Clarifying scope of builders risk, CGL can prevent problems

By **MATT DUNNING**

SAN DIEGO—If their policy forms are well-written and diligently maintained, construction project owners and contractors should see very little overlap between their builders risk and commercial general liability policies—two of the core insurance lines builders and developers use to protect their projects.

However, ambiguous language regarding covered loss events and limits, primary policy designation, insured parties or subrogation rights can lead to costly and time-consuming disputes that can easily jeopardize a project's schedule and budget, experts said during a presentation at the International Risk Management Institute's 31st Construction Risk Conference.

"In theory, these policies don't interact," Karen Reutter, a Minneapolis-based senior vp for Marsh Inc., said during the presentation. "They're designed to dovetail each other and respond during the course of construction claims, but not necessarily to the same exposures. When they do interact, usually it's only when lawyers get involved."

One common way in which a lack of contract certainty can

Who should take charge of wrap-up programs?

By **MATT DUNNING**

SAN DIEGO—Wrap-up programs are commonly agreed on as the most effective means of insuring a large, complex construction project and the workers building it, experts say.

Wrap-up policies usually can provide superior coverage, higher policy limits and greater contract certainty for commercial general liability, workers compensation and, most often, builders risk for all contractors and subcontractors than traditional policies segmented by subcontractor and risk category.

But deciding who ultimately is responsible for procuring and administering the program often can become a contentious issue between project

owners and their contractors, experts said during the Dallas-based International Risk Management Institute's 31st Construction Risk Conference in San Diego.

Experts' opinions diverged on how to decide between a wrap-up program on an owner-controlled insurance program and contractor-controlled insurance program. Some said policy control should go to the entity with the greatest financial risk, while others said it should be given to the entity with the more robust risk expertise. Other factors in those negotiations should include any requirements set forth by project lenders, administrative capacity and, of course, the

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invite conflict between builders risk and CGL policies is to allow progress on a construction project to outpace change order reporting to their builders risk underwriters, Ms. Reutter said.

In February 2004, for example,

an overnight fire wiped out a custom mansion project in Groveland, Fla. The general contractor, Clermont, Fla.-based Key Custom Homes Inc., was able to collect the full \$820,000 policy limit of its builders risk coverage, but the



total cost of the house had risen to more than \$1.6 million in the course of construction, a fact Key Custom Homes failed to report to its underwriter. Key Custom was sued by its lenders and subcontractors for breach of contract as well as money they alleged they were owed.

"There obviously are a number of change orders in the course of construction that should have been communicated to the underwriter, who then could have increased the limit on the policy accordingly," Kelly Kinzer, a Minneapolis-based vp for Marsh said during the presentation. "Had that happened, it's likely that this lawsuit" never would have gotten filed.

Key Custom attempted and was denied recovery of the difference between its builders risk payout and the actual cost of the damage under its CGL policy. The company unsuccessfully sued its insurer, arguing that the policy—which, among other things, covers damage to third-party property—should cover the loss. It also

argued that the CGL policy included language that designated it as excess coverage to the builders risk policy.

A Florida federal judge, however, ruled that Key Custom's claim ultimately was in service of an economic loss, not a property loss, and that the debt to the lenders and subcontractors would exist even if the project had not burned down. As such, the court ruled, excess coverage was not triggered because there was no underlying property damage under the CGL policy.

"The takeaway there is to make sure your builders risk policy is set up to capture costs as the project progresses," Ms. Reutter said. "That way if there's escalation, at the end of the day you'll have the right policy to cover the total loss."

Clearly spelling out in the builders risk and CGL policies exactly which parties are meant to be insured, and what rights of recovery they will be granted

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ALTERNATIVE RISK TRANSFER

Reduced demand for construction curbs captive formations

By **RODD ZOLKOS**

The economic downturn and its impact on construction business seems to have interrupted the formation of new construction captive insurance companies and groups, though existing construction alternative risk transfer programs appear to be holding their ground and, in some cases, enhancing offerings to members.

In Vermont, "Nothing new has been formed this year, nor has anything closed down," said David F. Provost, deputy commissioner in the Captive Insurance Division of the Vermont Department of Banking, Insurance, Securities and Health Care Administration. "I can't recall any in our pipeline that are construction-related either."

But, added Mr. Provost, while no new construction captives are forming, "I haven't heard anything bad, either. I haven't heard of companies really struggling."

"Obviously the market is tight, and real

'We have one dedicated construction group that is maintaining its status quo and growing a little bit. But it is definitely one of the depressed segments out there.'

Les Boughner, Willis Group Holdings P.L.C.

estate is down and things aren't being built that much. But some of our companies actually had specialties, and those specialties are going along just fine," the Vermont regulator said.

"One of them...primarily built buildings on military bases, so they had a fairly long backlog," Mr. Provost said. "Another bunch

was roofers and, well, the roof's got to be fixed even if you're not doing new construction."

As recently as last year, Vermont licensed "several" construction industry captives, Mr. Provost said, and approximately 5% of Vermont's captives are construction industry-related, ranking the industry sixth—just ahead of the retail and energy industries—as a source of captive business for the state. "It's a significant piece of the business," he said.

South Carolina has 15 active construction industry captives, said Jeff Kehler, program manager of Alternative Risk Transfer Services in the South Carolina Department of Insurance.

Since the economic downturn began in 2008, the parent companies of two South Carolina construction captives went into bankruptcy, Mr. Kehler said, but, "The captives were fine. They were well-funded, had no financial solvency issues or anything."

One of those two parent companies ultimately went out of business and the captive

was shut down, but the other remains in operation and the captive is functioning normally, Mr. Kehler said. "The other ones seem to be doing fine," he said.

Regarding new construction industry risk retention groups, "We haven't seen one of those in a while," Mr. Kehler said. "I think the economy has had an impact on new formations."

Les Boughner, executive vp and managing director of Willis Group Holdings P.L.C.'s North American captive practice in Burlington, Vt., is seeing a similar landscape for construction captives.

"We have one dedicated construction group that is maintaining its status quo and growing a little bit. But it is definitely one of the depressed segments out there," he said. "I don't think we have done a wholly owned captive for a construction company for a couple of years now."

"I wouldn't say it's gloom and doom," Mr. Boughner said, adding that the

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WTC reconstruction: Many companies, one goal

Safety tracking, data tools help developers manage risks

By MATT DUNNING

NEW YORK—The sheer volume of the work being done at the World Trade Center site in New York can be daunting.

There are 13 integrated “megaprojects” predicted to cost between \$15 billion and \$20 billion in total, approximately 435 subcontractors employing some 3,500 on-site workers, and more than 167,300 tons of structural steel—enough to build Yankee Stadium 15 times over.

And the work—much of it done by mid-market companies—is being done in a space no bigger than a few football fields, on top of three active subway lines, in a neighborhood packed to capacity with residents, commuters and tourists.

“It’s one of the most complex redevelopment projects in the world because of the combination and co-location of so many separate projects,” said James Keane, general manager of inspection and safety risk management for the Port Authority of New York and New Jersey, which owns the site and is one of two principal developers in its rebuilding. “It’s become quite a complicated and intricate formula that we’re working with each and every day.”

One of the more effective ways the Port Authority and Silverstein Properties Inc.—the site’s other principal developer—have gone about mitigating the ever-shifting constellation of safety, security and other risks associated with the WTC rebuilding has been to implement comprehensive incident, claims and observation-tracking systems for their respective projects on the site.

Since putting in place their Safety Management Systems Tracking Tool three years ago, risk managers for the Port Authority and Chartis Inc.—the agency’s principal insurer for World Trade Center projects, including the 1,776-foot-tall tower at 1 WTC and the sprawling underground transportation hub—said they’ve have seen workplace injuries, reported hazards and workers compensation claims at the site “trending downward.”

“Prior to 2008, the World Trade Center was being handled like a normal construction site,” said Michael Castelli, a senior vp and World Trade Center site manager for Chartis. “You would see a whole bunch of claims come in, and there was really no control of that system.”

On most conventional construction projects, electronic site safety and performance records usually are segmented according to the individual insurers of the project, meaning most projects have separate databases for things such as workers compensation, property claims, injury and on-site medical reports, site safety observations and payroll. By combining all of these fields into a single, multichannel tracking system, Mr. Castelli said the Port Authority has been



JOE WOOLHEAD

WORLD TRADE CENTER RECONSTRUCTION

The \$15 billion to \$20 billion reconstruction of the World Trade Center involves 13 projects overseen by eight general contractors.

TOTAL COST: \$15 billion to \$20 billion
SITE SIZE: 696,960 square feet
TOTAL PROJECTS ON-SITE: 13
TOWER OFFICE SPACE: 11.2 million square feet
GENERAL CONTRACTORS: 8
ARCHITECTURAL FIRMS: 8
SUBCONTRACTORS: 435
TOTAL WORKERS: 3,500+
TOTAL STRUCTURAL STEEL: 167,300 tons
OVERSIGHT GOVERNMENTAL AGENCIES: 18
PROJECTED VISITORS TO MEMORIAL: 20,000/day
DAILY PATH COMMUTERS: 257,000

able to more accurately assess and prevent injuries and accidents on its projects by enabling analysts to cross-reference corresponding entries.

“Our goal is to investigate every incident on the site, not only from a safety standpoint but from a claims standpoint,” Mr. Castelli said.

The reconstruction of the World Trade Center is being performed by more than 3,500 workers, 435 subcontractors and eight general contractors.

Mr. Castelli said combining payroll figures with incident reports, safety observations and insurance claims gives the Port Authority a much more thorough view of the projects’ overall performance by tracking construction progress against workforce safety and spending trends.

“In the real world, as production goes up, safety goes down,” Mr. Castelli said. “What we’ve tried to do is find the point at which those two lines intersect, so that we’re operating at peak efficiency while maintaining our safety performance. That’s a challenge not only at this site, but across the industry on the whole.”

Similarly, risk managers at Silverstein Properties, itself a midsize company by virtue of its employee head count, said they recognized the need for comprehensive data monitoring when work began in earnest on the company’s three skyscrapers in 2007.

By 2009, Silverstein and its broker, Willis North America, had developed through San Diego-based eSafety Systems a program that closely resembles the Port Authority/Chartis model.

“The powerful thing about the eSafety program is that it pulls everything on the site from a data perspective together,” said Robert Azarian, safety and loss control leader at Willis North America, noting that their system also tracks on-site medical incidents,

insurance claims, payroll and site safety observations. “It’s a living document that we’re constantly reviewing and trying to make better.”

Like their counterparts at the Port Authority, Mr. Azarian and Shari Natovitz, Silverstein’s vp of risk management, said the payroll metric becomes particularly important when combined with other performance indicators, “because it’s part of the measure of how well they’re doing from a safety standpoint.”

“If you don’t know how many work hours you’ve got and what kind of payroll you’re generating, you can’t really correlate that with the number of incidents you’re having,” Ms. Natovitz said. “We need those numbers to help us understand what we’re seeing at the job site.”

Because of work delays in 2009 caused by financial disagreements between Silverstein and the Port Authority, Mr. Azarian said the company has yet to determine the actual year-over-year effects of the program. However, he said, predictive modeling based on work hours and claims data indicate “positive results.”

“The key thing about this is it allows us to close these incidents and these claims out much faster and more accurately,” Mr. Azarian said. “On a project of this size and scope, it’s very easy for things to get lost in the shuffle if you’re not tracking things.”

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Opinions

EDITORIAL

Good, bad news on health costs

THERE IS GOOD NEWS and there is bad news in the latest Mercer L.L.C. analysis of group health care plan costs. The bad news: Even in a down economy, group health care costs continue to rise, climbing by an average of 6.1% in 2011. For the first time, costs per employee surpassed \$10,000.

The good news: Cost increases eased from 2010, when costs per employee rose by an average 6.9%. That slight moderation came as many employers had to expand coverage, such as eliminating lifetime dollar limits, to comply with requirements of the federal health care reform law that took effect this year.

More importantly, far more employers have embraced consumer-driven health plans, which we think have much more potential to keep costs under control than other plan designs. CDHPs are becoming a mainstream design, with nearly one-third of large employers now offering CDHPs.

Also, nearly nine out of 10 large employers say they will add or strengthen programs to encourage employees to engage in more health-conscious behavior, therefore lowering health care costs.

Another positive survey finding is that employers are not ready to throw in the towel and fold their health plans, even when the bulk of the health care reform law goes into effect in 2014.

While nearly one in five small employers say it is likely that they will terminate their plans, the situation is very different among larger organizations.

For example, just 4% of employers with at least 5,000 employees say it is likely they will terminate their plans in 2014.

Mercer executives attribute big employers' willingness to continue their health care plans to economics. Employers believe that after paying penalties imposed by the law for not offering health care plans and grossing up employees' salaries so they can purchase comparable coverage in insurance exchanges that will be established, they won't reap any financial savings.

We think another reason is that many employers still believe they can do a better job of controlling costs than exchange programs, which ultimately will be funded, at least in part, by the taxes they will pay.

LETTERS

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SCHILLERSTROM



COMMENTARY

FIO panel needs greater diversity

The Obama administration broke with its usual practice of delaying action on insurance-related matters by moving with due dispatch to fill the slots on the new Federal Advisory Committee on Insurance.

In fact, compared with the lack of urgency with which the administration approached filling the voting insurance seat on the Financial Stability Oversight Council, the speed of the advisory committee appointments was almost blinding. It took the administration less than six months from the initial announcement in early May seeking committee members to announce who those 15 committee members would be.

Among those named to the committee—which is charged with advising the Federal Insurance Office—are some prominent figures in the property/casualty insurance world, such as Marsh & McLennan Cos. Inc. President and CEO Brian Duperreault. In addition, Scott E. Harrington, a professor at the University of Pennsylvania's Wharton School who has written extensively on insurance regulation, is another welcome choice.

But there remain a couple of areas of concern about the panel.

First, the absence of a risk manager or someone with risk management expertise is an unfortunate oversight. While there is a consumer advocate on the board, there is no one representing consumers of commercial insurance.

The concerns of commercial insurance buyers differ from those of people buying homeowners or personal auto coverage. At least for the time being, the

concerns of commercial insurance buyers could receive short shrift.

Second, the Treasury Department has continued to demonstrate a bias toward regulation and regulators. This is to be expected. After all, the administration is of the Democratic persuasion. And the near-financial meltdown of 2008 raised understandable cries for more regulation, which in turn led to the Dodd-Frank Wall Street Reform and Consumer Protection Act that created the FIO. But filling nearly half of the seats on the committee with regulators may be a bit excessive.

After all, the committee is supposed to advise FIO about insurance matters. While regulators should have a seat at the table, this is a situation where having more rather than fewer voices representing the private sector or academia would be welcome. Private sector representatives in particular would bring domestic and international market knowledge to the panel.

Remember, those who serve on the advisory committee aren't drafting federal regulations. Instead, they're providing advice to the federal government's first insurance regulator, limited as the FIO's regulatory powers are. The more diverse the sources of advice happen to be, the better.

Some concerns aside, Treasury's insurance industry appointments are certainly sound ones. Now, let's just hope they get the attentive hearing their voices should command.



MARK A. HOFMANN
SENIOR EDITOR

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Awards: Buyers select valued traits, partners

CONTINUED FROM PAGE 1

service and expertise attributes buyers deemed most important.

Profiles of the honorees, including the awards each won, begin on page 10.

In identifying the Buyers Choice honorees, buyers shed light on what they consider important in expertise and service, showing differences in what's valued most by companies of different sizes.

Insurers

Buyers across all sizes of companies cited possessing and leveraging deep knowledge of their industry/individual risk profile as the most important expertise attribute for insurers. But among insurers' service attributes, buyers with \$500 million or more in annual revenue found providing good value for premium paid the most important attribute, while those under \$500 million most valued reliable customer service and responsiveness in their insurers.

Buyers with more than \$3 billion in annual revenue identified providing timely claims payments as their second most important insurer service attribute, followed by demonstrating reliable customer service and responsiveness.

Buyers with \$500 million to \$3 billion in revenue chose reliable customer service and responsiveness as their second most important insurer service attribute, however, ranking providing timely claim payments third. Buyers with less than \$500 million in revenue cited providing good value for premiums paid as their second choice, with timely claims payment third.

The largest buyers cited maintaining a consistent approach to coverage lines and capacity as the second most important insurer expertise attribute and demonstrating timely innovation to meet emerging or evolving risks third.

Buyers in the middle of the size spectrum also selected a consistent approach to lines and capacity as their second most valued insurer expertise attribute, but cited assigning an appropriate level of underwriting talent in the third slot. Meanwhile, those buyers with less than \$500 million in revenue identified assigning an appropriate level of underwriting talent as the second most important attribute of insurer expertise, slotting a consistent approach to lines and capacity third.

Brokers

Buyers agreed across the size spectrum on the most important attributes for brokers—selecting demonstrating trust, integrity and reliability as the most important service attribute and effectively exploring and negotiating to secure the best pricing and terms of coverage as the most valued expertise attribute.

Despite the agreement among buyers of all sizes on the top broker service and expertise attributes, though, there was significant variety elsewhere in their ranking.

The largest buyers ranked facilitating timely, informed renewal discussions as the second most important broker service attribute and providing effective oversight to the many services clients have in place with other service providers third. The remainder of buyers shared the largest buyers' sentiment about the second most important attribute, but those in the middle of the spectrum selected offering in-person customer service and responsiveness as the third most important broker service attribute, while those below \$500 million in revenue selected offering international services



COMPANY PROFILES

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Gallagher Bassett Services Inc.	Page 15
Marsh Inc.	Pages 12, 14
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and coordination as their third most highly valued broker service attribute.

The largest buyers cited providing customized problem-solving and solution identification as the second most important broker expertise attribute. Possessing and leveraging deep knowledge of industry/individual risk profile was ranked the third most important broker expertise attribute by the largest buyers, but second by the remainder of the group.

Buyers in the middle of the revenue spectrum valued offering insured and self-insured solutions as their third most important broker expertise attribute, with smaller buyers choosing effectively representing client interests in claims handling.

TPAs

The attributes buyers most value in TPAs also showed differences by company size.

Among service attributes, the largest buyers—those with annual revenue greater than \$3 billion—identified using cutting-edge technology and reporting for real-time claims information and communication as the most valued service attribute in their TPA partners. The remainder of buyers cited demonstrating trust, integrity and reliability as the most valued service attribute in their TPAs.

High-revenue buyers identified demonstrating trust, reliability and integrity as second most important and providing timely and insightful reporting third. Buyers in the middle

of the size spectrum identified communicating effectively on key customer concerns and issues as the TPA service attribute they valued second most, and timely and insightful reporting third. Buyers at the low end of the revenue spectrum, meanwhile, reversed the places of those two attributes, placing timely and insightful reporting second and effective communications third.

Likewise, buyers split by size on the question of TPA expertise attributes. While buyers at the large end of the spectrum identified actively focusing on reducing costs or processing times as the top TPA expertise attribute, those with less than \$3 billion in annual revenue weighed-in in favor of TPAs possessing and leveraging deep knowledge of industry/individual risk profiles and claim needs as the most important attribute.

The largest buyers selected assuring compliance with special handling specifications at all levels of service as the second most important TPA expertise attribute, with performing timely reserve calculations third. The remainder of buyers cited effectively coordinating claims management with brokers, insurers, excess insurers and reinsurers as their second most valued TPA expertise attribute, with actively focusing on reducing costs or processing times ranked third.

Additional analysis of the survey, as well as a list of overall winners in each sector, will appear in the Dec. 5 issue of *Business Insurance*.

The Winners

INSURERS

SERVICE

MID-MARKET BUYERS

CHUBB CORP.

EXPERTISE

MID-MARKET BUYERS (TIE)

CHARTIS INC.

CHUBB CORP.

SERVICE

LARGE BUYERS

FM GLOBAL

EXPERTISE

LARGE BUYERS

CHARTIS INC.

BROKERS

SERVICE

MID-MARKET BUYERS

WILLIS GROUP HOLDINGS P.L.C.

EXPERTISE

MID-MARKET BUYERS

WILLIS GROUP HOLDINGS P.L.C.

SERVICE

LARGE BUYERS (TIE)

AON CORP.

MARSH INC.

EXPERTISE

LARGE BUYERS

MARSH INC.

THIRD-PARTY ADMINISTRATORS

SERVICE

MID-MARKET BUYERS

SEDGWICK CLAIMS MANAGEMENT SERVICES INC.

EXPERTISE

MID-MARKET BUYERS (TIE)

GALLAGHER BASSETT SERVICES INC.

SEDGWICK CLAIMS MANAGEMENT SERVICES INC.

SERVICE

LARGE BUYERS

SEDGWICK CLAIMS MANAGEMENT SERVICES INC.

EXPERTISE

LARGE BUYERS

SEDGWICK CLAIMS MANAGEMENT SERVICES INC.

Business Insurance

BUYERS CHOICE AWARDS 2011

Chartis Inc.

INSURERS

EXPERTISE

MID-MARKET BUYERS (TIE)

EXPERTISE

LARGE BUYERS

Chartis Inc.'s expertise is borne of a longstanding business philosophy marked by prudent risk-taking, client responsiveness and a culture of innovation, said Peter Eastwood, president and CEO of the U.S. and Canadian regions.

That business strategy is supported by a corporate structure segmented by product lines, industry practices, client size and geography that fosters the company's expertise, said Mr. Eastwood, who is based in New York. "We're in 92 countries and have a broad geographic footprint."

That structure enables Chartis, the global property/casualty unit of American International Group Inc., to have an in-depth familiarity with where its customers live, understand their businesses and know how they operate.

"We have the ability to understand risk better than others due to our segmented structure and highly qualified talent base," Mr. Eastwood said.

Commercial insurance buyers surveyed for *Business Insurance's* 2011 Buyers Choice Awards are hearing Chartis' message. The insurer was singled out for expertise provided to large buyers and tied for the mid-market expertise honor.

The company reorganized this year, and Mr. Eastwood is part of the new management team led by CEO Peter Hancock.

Chartis is divided into two major global groups—commercial and consumer—each with its own claims, actuarial and underwriting functions. The principal geographic divisions are U.S./Canada, Europe, Far East and growth economies.

Through this reorganization, Chartis aims to globalize its businesses and product lines, and use its scale and expertise worldwide while remaining attuned to regional and local differences in the ways policyholders conduct business, Mr.

Eastwood said.

Expertise also "is about the people we have in the company and the culture," he said. "We have a culture of innovation and client responsiveness."

One Chartis innovation is its reputational risk insurance policy introduced in October to address a growing need, Mr. Eastwood said. The Gulf oil spill last year, for example, demonstrated the vulnerability of corporate reputations and the need for skilled crisis communication and crisis management. The product, called ReputationGuard, covers the cost of

avoiding or mitigating damage to a company's reputation or brand, and provides the services of two giants in the fields of public relations and crisis communications, Burson-Marsteller and Porter Novelli Inc.

Chartis' expertise has been tested and tapped "more than anything over the last 10 years by the frequency and severity of natural catastrophes," Mr. Eastwood said, including the earthquake and tsunami in Japan.

The natural disasters during a soft commercial insurance market have added to challenging times for insurers. Chartis has leveraged several tools to enhance its responsiveness to claims during such catastrophes, introducing the use of iPads in Japan to facilitate insurance adjustments and expedite claims payments after the March disaster, Mr. Eastwood said.

"Challenging times make it more necessary to have your expertise stand out—to differentiate one's company," Mr. Eastwood said. "We have built sustainable business strategies for the long term that are tailored to understanding our customers and their individual environments, the uniqueness of industry-specific exposures and distribution on a global scale."

—By Roseanne White Geisel



Mr. Eastwood

Chubb Corp.

INSURERS

SERVICE

MID-MARKET BUYERS

At Chubb Corp., serving the risk management and insurance needs of mid-market clients requires a thorough understanding of the market's risk exposures as well as its fiscal and cultural tendencies, company executives say.

Where large companies might prefer to diversify their risk-transfer portfolio by purchasing coverage from several underwriters, mid-market firms often seek to limit their portfolio to just one or two insurers, said Scott Gunter, chief underwriting officer of Chubb Commercial Insurance in Whitehouse Station, N.J.

That is not to say that many mid-market firms aren't looking for an insurance program that is as comprehensive as their larger counterparts, Mr. Gunter said, especially as more midsize firms are beginning to trade overseas. The combination of Warren, N.J.-based Chubb's global footprint coupled with its range of insurance products positions it to be a "one-stop shop" for mid-market businesses, Mr. Gunter said.

"Mid-market companies are much less diversified when it comes to their insurance programs, so they expect their one or two carriers to be able to handle most of the lines of insurance they're looking for," Mr. Gunter said. "They want to make their coverage as seamless as possible."

Chubb's work with such clients won it recognition in the category of service provided to mid-market buyers in the 2011 Buyers Choice Awards.

Absent a dedicated risk management department and lacking the financial means to outsource the work

to a third-party consultant, mid-market companies also rely much more heavily on the loss control and claims management capabilities of their underwriters. To that end, Mr. Gunter said, Chubb recently rolled out proprietary software platforms and other products to help midsize firms better control their losses and manage claims, particularly in foreign markets.

"If you've got policies in foreign territories, you really ought to know what's happening in those countries on your account," Mr. Gunter said of

Chubb's Global Loss Run Reports program, introduced in April. "But it can be very complicated to build that kind tracking function in-house, and this program was a direct response to a mid-market problem we saw emerging in the last few years."

As expansion into other countries continues to increase among midsize firms, Mr. Gunter said Chubb has responded by expanding its global reach to 120 offices in

27 countries, plus local alliances and partnerships in more than 70 other nations and territories.

Also, recognizing the preference among mid-market companies for simplicity and ease of interaction, Mr. Gunter said Chubb ensures that all of its underwriters work on a global basis, and are capable of addressing domestic and foreign needs.

"That's a huge advantage when you're talking about the middle market," Mr. Gunter said. "It's important to those clients that they don't feel like they're being handed off to someone else every time they have a question about one policy or another."

—By Matt Dunning



Mr. Gunter

INSURERS

EXPERTISE

MID-MARKET BUYERS (TIE)

In contrast with many large companies, middle-market firms typically approach risk management and insurance procurement in greater need of guidance and greater sensitivity to bottom-line cost.

From the early stages of its pursuit of mid-market buyers, Warren, N.J.-based Chubb Corp. recognized that underwriting for the middle market often means first educating clients on their risks and liability exposures. Through published materials, face-to-face interaction and online programs, Chubb has developed a battery of educational and advisory services that earned it a tie for top honors in the category of expertise provided to mid-market companies in the 2011 *Business Insurance* Buyers Choice Awards.

"What we've been able to do is educate the market on the risks that are out there, and especially how catastrophic those exposures can be to your business if you're not insuring against them," said Jim Bronner, chief underwriting officer for Chubb Specialty Insurance. Mr. Bronner said the company's education initiative has been especially crucial in highlighting executive and employment liability issues, which often overlap and can result in devastating, multi-claim events.

"A loss on any one of those lines is going to have a much greater impact on a mid-market business than a larger firm," Mr. Bronner said.

In recent years, in addition to more traditional published material, Chubb has rolled out several interactive Web-based tools designed to help companies comprehend the breadth of their risk profile, as well as provide access to in-house and third-party experts. In June, Chubb became the latest underwriter to contract with NetDiligence for its eRisk Hub platform, which can help firms identify the ways

they might be exposed to a data breach or other hacking-type incident. Also, in the event that a client has experienced a cyber loss, the program provides access to experts who can guide them through mitigating the damage.

"We want our customers to not only be able to identify the risk, but to put them in the best possible position to transfer the risk," Mr. Bronner said.

In recent years, the main challenge in providing expertise to mid-market clients has been the sluggish state of the global economy, Mr. Bronner said.

Even if they understand the risk exposures facing their companies, midsize buyers still are resistant to the idea of insurance purchases beyond what is required of them by law, he said.

"The fact is, a down economy might be the worst time for them to draw back coverage," Mr. Bronner said. "The economic stress can very well be the biggest risk facing the company and can result in all sorts of executive liability claims, crime and fiduciary claims and employment practices exposures."

Mr. Bronner said Chubb's historical experience in the middle market, together with the breadth of its global footprint and coverage options, have lent it valuable insight into not only the market's exposures and insurance needs, but also how best to approach clients in that space.

"You have to recognize that the buyer, in many cases, for mid-market companies is different than in other segments," Mr. Bronner said. "You're likely dealing with someone who's got a lot of other things on their plate besides insurance, and trying to get them focused on insurance issues is something that can be challenging."

—By Matt Dunning



Mr. Bronner



FIND A STABLE PATH

A Fortune 1,000 real estate holding company recently learned that its property insurer is ending its 100% coverage solution only a year after convincing its risk manager to consolidate the program with a single carrier. The risk manager and broker now have to frantically search the markets for coverage—potentially facing limited cat capacity, markets with suspect financial ratings, and markets that don't understand the nature of the company's business—such as the frequency of acquisitions and divestitures.

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Business Insurance

BUYERS CHOICE AWARDS 2011

FM Global

INSURERS

SERVICE

LARGE BUYERS



'We deliver 70% of our policies on or before the effective date of coverage.'

Tom Lawson,
FM Global

According to Factory Mutual Insurance Co., which does business as FM Global, delivering the best service is all about understanding risk.

The links between FM Global's engineering, underwriting and claims services make it a standout insurer for large insurance buyers, said Tom Lawson, executive vp at FM Global in Johnston, R.I. And such buyers agree, naming FM Global the insurer they'd most recommend for service in the *Business Insurance* Buyers Choice Awards.

"We think we're better underwriters because we engineer, but we're also better engineers because we underwrite," Mr. Lawson said. "Claims is the third part of that triangle," he said, noting that FM Global employs its own claims experts, which eliminates the need to outsource such services. The claims team also interacts with underwriters and has access to engineering services, which together help mitigate client losses, Mr. Lawson said.

FM Global has 1,600 engineers around the globe that work with clients to help them understand the risks and hazards at their facilities and then mitigate those exposures.

"It's all based on 175 years of research at our research campus and facilities," Mr. Lawson said. "That's the foundation of what we do."

FM Global's underwriting focus also sets it apart from its competitors, as it focuses solely on property insurance, Mr. Lawson said.

The insurer boasts a high contract certainty rate, and "we deliver 70% of our policies on or before the effective date of coverage," he said.

Such attention to service extends to all the insurer's operations. "Our platform is consistent around the globe," Mr. Lawson said.

For example, for clients who suffered losses from the Japanese earthquake and tsunami, FM Global was able to mobilize its claims experts and services to Japan and complete most of its work within about three weeks.

"That goes to the fact that we use our own claims folks. So we've got lots of preparation, lots of preloss work. So when the emergency happens, we're ready to mobilize and get there and actually help them get back in business faster," Mr. Lawson said. "That has tremendous impact in minimizing the downtime to their business."

Moving forward, FM Global aims to manage its global scope to continue providing exemplary service.

"One of the key challenges is, as our clients continue to expand around the globe, we expand too," Mr. Lawson said.

To address this challenge, FM Global increased its use of technology for better internal and external communications, giving clients access to account information from anywhere in the world.

—By Mike Tsikoudakis

Aon Corp.

BROKERS

SERVICE

LARGE BUYERS (TIE)

Aon Corp. this year focused much of its business on "risk and people" as it worked to deliver the insurance brokerage's services to clients around the world.

That strategy appears to be working, as Aon is being recognized in the 2011 *Business Insurance's* Buyers Choice Awards, having earned a tie for top honors in the category of service provided to large buyers.

"We've invested more in content and capability than any other firm in the industry," said Steven P. McGill, chairman and CEO of Aon Risk Solutions, Chicago-based Aon's global risk management business. "Certainly that's been apparent in the last three years as we've gone on a journey of developing leading-edge services and solutions for our clients."

The brokerage's acquisition of London-based reinsurance broker Benfield Group Ltd. in 2008 and its 2010 acquisition of Lincolnshire, Ill.-based human resources consultant Hewitt Associates Inc.—the largest deal in the company's history—have reinforced Aon's commitment to risk and people.

In addition, Aon's Global Risk Insight Platform, which the broker developed in 2008, has identified opportunities for Aon to develop exclusive products for its clients, Mr. McGill said.

GRIP "is the most comprehensive proprietary database of risk information in the world. We believe that gives to our brokers, our strategic carriers and our clients unique, fact-based insights of what is going on in the industry," Mr. McGill said.

One of the services provided through GRIP is dis-

cerning how the brokerage matches insurers' risk appetites with client needs, Mr. McGill said.

For example, in the United States, Aon developed a product offering in the liability arena that eliminated the need for collateral for middle-market clients.

Such offerings "were developed exclusively between Aon and carriers for the benefit of our clients," Mr. McGill said. "These product offerings were identified by the GRIP solutions team connecting with our colleagues in Aon broking and connecting with and understanding the needs of our clients."

In addressing some of the challenges of crossing the divide when it comes to risk management and human resources services, Aon created a dedicated team, Aon One, to provide integrated solutions across ARS and Aon Hewitt.

"When we look at risk and people, there are some fairly logical connections," Mr. McGill said.

While Aon develops integrated solutions for all clients across all the segments, larger multinational organizations often focus their risk management and HR programs using captives or self-insurance and are more complex, Mr. McGill said.

Through its Global Client Network of nearly 1,200 professionals that provide multi-national services to clients of all sizes, Aon has a consistent approach.

"At a time where managing regulatory risk and compliance risk is increasing in importance, having a window to the world through a cohesive network like Aon is giving our clients a clarity that they don't have with many of the other firms," Mr. McGill said.

—By Mike Tsikoudakis



Mr. McGill

Marsh Inc.

BROKERS

SERVICE

LARGE BUYERS (TIE)



'We are in a war for talent every day.'

David Bidmead,
Marsh Inc.

Retaining qualified people is a key factor in delivering top-notch service to large insurance buyers, according to David Bidmead, CEO-United States for brokerage Marsh Inc. in New York.

"We are in a war for talent every day," Mr. Bidmead said. "We think our ability to retain and attract the best people in the industry is key to our ongoing success."

Marsh's ability to leverage that talent to deliver standout service to large buyers earned it a tie for top honors in that category in *Business Insurance's* 2011 Buyers Choice awards.

"I think the one telling reality is that we segment our business on buying styles," said Mr. Bidmead. He pointed to Marsh's global risk management practice as an example of the service the broker delivers to large buyers.

"That practice focused solely on providing service to our largest, most complex clients," he said.

"When we think about what they want, whether in service or delivery, we work within what we describe as a dynamic service framework, which we call Marsh 3D," he said. "That's a strategic and analytic approach to risk."

He said the other key area of focus for Marsh is the performance of clients' insur-

ance contracts.

"When you think about it in the context of what we've experienced in 2011—unprecedented large catastrophic losses—our major clients have placed significant reliance on the efficacy of their insurance contracts," said Mr. Bidmead.

"We have devoted considerable time and money to the creation of a very meaningful global claims practice," he said.

"Whether thinking about claims through an industry lens or providing expert forensic accounting support, we've helped many of our large buyers recover from...unprecedented natural catastrophes."

Still, the retention of key people remains a critical challenge in maintaining a high level of service to clients, he said.

Marsh has conducted a global colleague engagement survey several times during the past few years in an attempt "to identify and better understand what is important to our colleagues around the world and then devise very practical plans to better address those issues of interest and concern," he said.

Marsh's ability to execute on those plans increases engagement and allows the broker to retain and attract the right talent, Mr. Bidmead said.

—By Mark A. Hofmann

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Business Insurance

BUYERS 2011

CHOICE AWARDS

Marsh Inc.

BROKERS

EXPERTISE

LARGE BUYERS

What makes Marsh Inc.'s expertise so valuable to large insurance buyers that they singled the brokerage out for top honors in that category in the Buyers Choice Awards?

David Bidmead, Marsh's U.S. CEO, said it's not enough for Marsh to be a big broker and tout its expertise.

Instead, Marsh must prove that it is acting "beyond the insurance transaction" on the client's behalf, he said. "If you accept the notion that we have about 40 industry and specialty practices around the world, our clients who exist in those industry segments expect us to do the basic blocking and tackling of their insurance transactions better than anyone else in the industry because of our market leadership," said Mr. Bidmead.

"Beyond that, they want us to understand and anticipate solutions to emerging risks," he said. Clients also have a growing desire to validate risk financing decisions through the effective use of data and analytics, according to Mr. Bidmead.

He said one of the areas in which Marsh differs from competitors is the "cohesive nature" of its global network. "It's not enough to have operations in over 130 countries," he said. "The people on the ground need to understand the needs of truly global clients and respond with the same sense of urgency."

He said he believes Marsh has developed and delivers superior client technologies. As an example, he cited Marsh's proprietary system devised by Marsh's CS STARS L.L.C. unit. CS STARS' primary software platform, STARS Enterprise, supports comprehensive risk management, enterprise risk management, and compliance and safety management.

"It has met with wide acclaim," he said.

Mr. Bidmead noted that recent events have influenced the type of expertise clients are seeking.

For example, March's earthquake, tsunami and nuclear disaster in Japan illustrated interconnectedness of business around the world, he said.

The Japanese catastrophe "really accentuated two things," he said.

One is the ability to identify, analyze and understand global supply chain risks, said Mr. Bidmead. The other is the ability to undertake meaningful scenario analysis that tests the integrity of clients' business resiliency plans.

Another area of growing interest is coverage associated with investigations in association with the U.S. Foreign Corrupt Practices Act, said Mr. Bidmead. He noted that Marsh launched a new product this year that covers cost of such investigations for individuals and organizations.

—By Mark A. Hofmann

'The people on the ground need to understand the needs of truly global clients and respond with the same sense of urgency.'

David Bidmead,
Marsh Inc.

Willis Group Holdings P.L.C.

BROKERS

SERVICE

MID-MARKET BUYERS



'It's a tough world right now and we have to be empathetic. People don't have a lot of money to throw around.'

Vic Krauze,
Willis North
America

At a time when many middle-market businesses are struggling for survival, they have a tendency to regard insurance as a commodity and shop for price over service.

But clients of Willis Group Holdings P.L.C. are finding they can have the best of both worlds, as is evidenced by the broker's selection as a service leader among middle-market insurance buyers in the 2011 *Business Insurance* Buyers Choice Awards.

"Right now, in an era where most of the mid-market is worried about the future, uncertain about 2012, not necessarily adding to staff and struggling financially, a great service model may not necessarily win at the end of the day," said Vic Krauze, chairman and CEO of Willis North America. "Sometimes, it comes down to pure price, and you've got to be prepared for that. But if you can offer a great solution, be very competitive on price and have a service model that goes beyond being just competitive on price, you can win."

"It's a tough world right now and we have to be empathetic," he said. "People don't have a lot of money to throw around."

The recent spate of natural catastrophes, ranging from the March earthquake and tsunami in Japan to the summer hur-

ricane along the U.S. East Coast, have heightened the need among many of Willis' middle-market clients for service, said Mr. Krauze.

"If you look at today's mid-market client, there are very few that aren't global in their operation, which also means whenever there's a catastrophe, whether it's Japan or it's Thailand, there are a lot of clients that are impacted," Mr. Krauze said.

Fortunately, Willis has access to a global network that can provide assistance with insurance recovery and risk mitigation, including helping to put contingency plans in place to minimize supply chain disruption.

"When there's a catastrophe in a part of the world where you normally wouldn't give a second thought to, there's probably a middle-market company doing business there. And it's not always heavily industrialized companies. We're getting reports from clients about supply chain disruption due to flooding in Thailand. Japan dwarfs it, but it's still there," he said.

Willis North America's strategic outcomes practice also is handling more than 400 damage claims on behalf of middle-market clients affected by Hurricane Irene.

"When 80% of your business is middle-market, every catastrophe has the potential to affect your clients," Mr. Krauze said.

—By Joanne Wojcik

BROKERS

EXPERTISE

MID-MARKET BUYERS

A couple of years ago, when Vic Krauze, chairman and CEO of Willis North America, met with a middle-market client in a Midwestern city, the client told him he was happy with the job Willis was doing for him but was disappointed that the broker didn't have more clients in his industry.

Although Willis had several other clients in that industry, it apparently wasn't doing a very good job of making that known, Mr. Krauze said.

"Clients want local service, but they also want industry specialization. We hadn't done enough to let clients know that we had specialization," he said.

Today, Willis is recognized for its expertise in five specific industries: construction, health care, employee benefits, financial institutions and technology, Mr. Krauze said. In addition, the broker has been recognized by its middle-market clients in the *Business Insurance* Buyers Choice Awards for the level of service it provides.

"We've invested heavily in training around those core specialties, and we are also developing very sophisticated diagnostic tools and resources, so our producers and client advocates can be experts themselves, as opposed to having to bring in an expert from another city," he said. As a result, instead of exchanging small talk with clients "about golf or kids, our client advocates know how to speak with clients about issues pertinent to their particular industries."

For example, in construction, Willis is helping contractors address increases in their workers compensation experience modification factors that impact their ability to compete. "We also provide experience mod audits and projections to help our clients manage and stay one step ahead of the challenges they

will face," Mr. Krauze said.

Willis also has beefed up expertise in its human capital practice after noticing that many middle-market employers were in dire need of resources to understand how the Patient Protection and Affordable Care Act would affect their health benefits programs.

"We've got a national health research group that does nothing but analyze health care reform and put out bulletins and conduct webinars. We provide them with access to information to help them decide what to do," Mr. Krauze said.

Health care reform also is having a significant impact on health care firms themselves, one of Willis' largest middle-market customer segments.

"A lot of our health care clients are either going to contract with or be acquired by accountable care organizations in the next year. We've put a lot of resources into client education and consulting," Mr. Krauze said.

Willis also is working with carriers to develop one-stop risk transfer for health care organizations, combining directors and officers liability coverage with employment practices liability, cyber and fraud into a single package policy, he said.

Meanwhile, Willis is helping clients in its financial institutions and technology practices address cyber security.

Recently publicized news reports about hacking and security breaches "have created a lot of interest there. Everybody's got a website, and within the middle market, a lot of other middle-market organizations transact across those websites, but many of them haven't thought about how to protect against that risk," Mr. Krauze said.

—By Joanne Wojcik

Gallagher Bassett Services Inc.

THIRD-PARTY ADMINISTRATORS

EXPERTISE

MID-MARKET BUYERS (TIE)

Gallagher Bassett Services Inc. has gained a foothold with mid-market employers by striving to give such customers the same treatment as large clients, says President and CEO Scott Hudson.

The Itasca, Ill.-based third-party administrator has focused on providing a range of expertise and services to firms of various sizes, which has made Gallagher Bassett a one-stop shop for smaller companies that do not have in-house claims and risk management capabilities, Mr. Hudson said.

"When a midsize client comes to Gallagher Bassett, they feel they're a large client getting the full benefit of everything we have to offer," he said.

Similar to how it handles large customers, Gallagher Bassett assigns account managers to mid-market clients based on their expertise in each customer's industry. Mr. Hudson said he believes that gives Gallagher Bassett unique insight into the needs of its smaller clients.

Further, he credits Gallagher Bassett's "top-quality" claims adjusters, who receive mentoring and training early in their careers by fostering strong bonds with mid-market firms, the insurance buyers of which awarded Gallagher Bassett a tie for top honors in the mid-market expertise category of the Buyers Choice Awards.

"Our adjusters are our product, and I'm reminded every day by our clients that we have the best claims staff in the industry," Mr. Hudson said.

The TPA, which has more than 4,500 employees worldwide and 100 U.S. offices, has the ability to advise clients from local, regional and international perspectives. Gallagher Bassett's consulting tools, such as a predictive modeling and a proprietary managed care services suite, also have made the TPA a go-to administrator for mid-market clients, Mr. Hudson said.

The company has developed solid relationships with insurers, captives and managing general agents, Mr. Hudson said, which have recommended Gallagher Bassett's expertise and services to smaller clients throughout the years.

"It's easy for a mid-market client to get the support of a carrier to get Gallagher Bassett to work for them," Mr. Hudson said.

With Gallagher Bassett set to celebrate its 50th anniversary next year, Mr. Hudson believes the firm will continue to gain favor with mid-market companies.

"You take that history and there's no one that can match our track record and experience in the industry," Mr. Hudson said.

—By Sheena Harrison



'Our adjusters are our product, and I'm reminded every day by our clients that we have the best claims staff in the industry.'

Scott Hudson, Gallagher Bassett Services Inc.

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Sedgwick Claims Management Services Inc.

THIRD-PARTY ADMINISTRATORS

SERVICE

MID-MARKET BUYERS

SERVICE

LARGE BUYERS



Clients 'want to be able to buy from a single source a full continuum of services that are highly focused on that ultimate outcome.'

David North, Sedgwick Claims Management Services Inc.

A buying spree in the past year has added a range of services for Sedgwick Claims Management Services Inc. that the company believes have bolstered its offerings, President and CEO David North said.

The Memphis, Tenn.-based third-party administrator acquired key competitors in the past year, including Specialty Risk Services L.L.C. and Cambridge Integrated Services Group Inc., as well as investigative service provider Factual Photo Inc.

Those deals have allowed Sedgwick to build on its suite of claims management capabilities, including workers compensation investigations, structured settlements and Medicare compliance.

Its focus on providing top-notch service to all clients has resulted in Sedgwick receiving top honors in the large and mid-market buyer service categories of the 2011 *Business Insurance* Buyers Choice Awards.

Mr. North says added expertise has increased the value of Sedgwick's services for clients of all sizes that strive to mitigate costs in the workers comp, disability and liability markets.

"They want to be able to buy from a single source a full continuum of services that are highly focused on that ultimate outcome," Mr. North said.

Though Sedgwick doesn't require clients to use all facets of its claims management services, Mr. North said the TPA has been able to grow its business by bringing more capabilities in-house.

For instance, about 80% of Sedgwick's clients use the company's internal bill review process—a statistic Mr. North said he believes is significant because Sedgwick largely outsourced its bill reviews five years ago.

He expects to see similar growth trajectories for other Sedgwick services.

"We believed very strongly that if we acquired some of those other capabilities that were historically outsourced to third parties, we could offer a service to our customers that was more integrated, more focused on the outcome and do it in a more cost-effective manner," the Sedgwick executive said.

Sedgwick continues to look for ways to improve service, Mr. North said. That includes using improved technology that allows the TPA to deliver data in printed, digital and mobile formats.

Sedgwick's "growth has occurred not because we have some incredible (research and development) capability in the back room," Mr. North said. "We believe we have incredible listening skills."

—By Sheena Harrison

Business Insurance

BUYERS 2011

CHOICE AWARDS

THIRD-PARTY ADMINISTRATORS

EXPERTISE

MID-MARKET BUYERS (TIE)

EXPERTISE

LARGE BUYERS

Changes to state workers compensation laws and federal Medicare legislation in recent years have pushed Sedgwick Claims Management Services Inc. to become an expert resource for employers managing those issues.

President and CEO David North said the Memphis, Tenn.-based third-party administrator has worked to build national practice teams that can interpret issues such as Medicare secondary payer reporting requirements and workers compensation reforms in such states as Illinois, Washington and Kansas. The company prides itself on using that expertise to help clients create practical solutions for managing claims and costs.

"It's their day-in, day-out job to monitor what's going on in the industry, convert those understandings to improvements in process, and then lead the communication with our colleagues and our customers on what the implications are of the new developments," Mr. North said.

Such expertise clearly is valued by Sedgwick clients of all sizes. In the 2011 Buyers Choice Awards, the TPA tied for top honors in the category of expertise provided to mid-market buyers and won the large buyers category outright.

With regulations continuing to change throughout the workers comp and liability markets, Mr. North said Sedgwick is working to stay ahead of such issues.

"As the employers look at the legislation and see ways of reducing costs, there are others out there that look at the same legislation and think about ways to keep things as they are," Mr. North said. "We have to work hard to actually extract from the legislation what I think was the original legislative intent."

Outside legislative matters, much of Sedgwick's expertise comes from getting to know each of the firm's clients in detail, and creating risk management solutions based on their unique needs, said Darryl Hammann, Sedgwick's senior vp of client services in Eden Prairie, Minn.

For instance, a large retail client recently asked Sedgwick to help with managing the company's employee leave policies for workers comp, short-term disability and family medical leave. Mr. Hammann said the TPA used its experience with other national retail clients to help the customer adopt new processes for managing employee leaves.

"We spend usually a good day or day and a half with them talking about where their current program is today, talking to them about where it is they want to go and then really leveraging the hundreds of clients that Sedgwick has to fill the gaps in on where they're trying to improve their program," Mr. Hammann said.

—By Sheena Harrison

'We have to work hard to actually extract from the legislation what I think was the original legislative intent.'

David North, Sedgwick Claims Management Services Inc.

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Market Moves

Travelers forms practice for clean energy, tech

HARTFORD, Conn.—The Travelers Cos. Inc. has formed a clean energy and technology practice to provide industry-specific insurance coverage and service to companies involved in various areas of clean energy production and technology.

In a statement, Hartford, Conn.-based Travelers said bringing the company's existing clean energy and technology practice into the new practice will provide a streamlined source of insurance products and risk and claim management resources to businesses focused on alternative or environmentally friendly energy sources or energy efficiency.

The practice will target clean energy businesses in areas such as wind and solar power equipment, contractors, power producers, owners and developers, smart power grids, fuel cell development, and alternative and efficient energy solution providers, Travelers said.

Kathy Swendsen, president of Travelers Global Technology, and Joe Tracy, president of Travelers Inland Marine, will lead the practice. It will be co-managed by Kirstin Simonson, underwriting director for global technology, and Lauren Cutro Berry, underwriting vp for inland marine.

Brown & Brown acquires Washington agency

DAYTONA BEACH, Fla.—Brown & Brown of Washington Inc., a subsidiary of Brown & Brown Inc., has acquired substantially all of the assets of Snapper Shuler Kenner Inc. and Snapper Shuler Kenner Insurance L.C.C., a mid-market independent insurance agency that provides property/casualty and employee benefits services throughout the

state of Washington, the companies said in a statement.

Terms of the deal were not disclosed.

With offices in Bellingham and Lynden, Wash., Snapper Shuler Kenner's 30 employees produce annualized revenues of approximately \$3.7 million.

It is the second Washington state acquisition for Daytona Beach, Fla.-based Brown & Brown this year. In August, the broker purchased Thompson, Spears & Associates Ltd. of Bellevue, which provides group medical and dental coverage to small employer groups in the states of Washington and Oregon through Regence BlueShield and United Concordia Insurance Co., respectively.

"Snapper Shuler Kenner's long-time, exceptional service to its clients in Washington will continue to advance Brown & Brown's growing presence in the Pacific Northwest," Nicholas J. Dereszynski, regional vp for Brown & Brown, said in a statement.

Brown & Brown is the world's eighth-largest insurance broker in the 2011 *Business Insurance* rankings, based on 2010 brokerage revenue of \$966.9 million.

LIU opens excess, surplus property office in L.A.

LOS ANGELES—Liberty International Underwriters, the global specialty lines division of Liberty Mutual Group Inc., has opened an excess and surplus lines property operation office in Los Angeles to better serve West Coast wholesale brokers, the Boston-based company said in a statement.

Chet Simmons, a 35-year insurance veteran, has been named regional manager for the operation.

"Having launched our E&S property product in late 2010 with primary focus on the East-

ern and Southeastern United States, we thought the West Coast was a natural step in our ongoing expansion strategy," David Cohen, president of LIU U.S., said in the statement.

LIU's E&S product provides all-risk, named windstorm, difference-in-conditions, flood and earthquake coverage in catastrophe-exposed areas for midsize and large property portfolio risks with capacity of up to \$25 million, according to the company.

MMA buys brokerage in South Florida

MIAMI—Marsh Inc.'s Marsh & McLennan Agency L.L.C. has acquired South Florida brokerage Seitlin Insurance for an undisclosed amount.

Seitlin, which specializes in property/casualty insurance and employee benefits for middle-market companies, will serve as MMA's hub in Florida, Marsh said in a statement.

Seitlin generates annual revenue of about \$24 million and employs 119 workers in Miami, Fort Lauderdale and West Palm Beach. All employees and the leadership team, including Seitlin CEO Tom Cornish, will join MMA, Marsh said.

MMA is an initiative that the New York brokerage Marsh & McLennan Cos. Inc. launched in 2009 to build business in the middle market.

TO SUBMIT ITEMS

BI's Market Moves column reports on activities by insurance industry companies and related entities. Please send news of Market Moves to Mike Tsikoudakis, 360 N. Michigan Ave., Chicago, Ill. 60601 or email mtsikoudakis@businessinsurance.com.

UP COMINGS & GOINGS CLOSE

VALERIE HOUGHTON

NEW JOB TITLE: Atlanta-based health risk manager for the Southeast region of Lockton Cos. L.L.C.

PREVIOUS POSITION: Baku, Azerbaijan-based nutrition consultant for S.O.S. International Clinic.

GOALS FOR NEW POSITION: The Southeast (division of Lockton) has done a great job of implementing (health risk management). My goal is to keep that moving forward. One of the goals is to look at the risks from a client's standpoint and to reduce the risks. Getting to that point requires a team of experts. We want to affect the lives of the employees while helping clients meet their objectives.

INDUSTRY CHALLENGES: The changes in the overall health care scheme will have a huge impact. Being able to recognize the changes and being able to forecast how they will impact our clients' costs and finding the best strategies to manage that before it hits. We know health care costs are going to go up and risks are going to follow that. We are working with clients to strategize that.

INDUSTRY OUTLOOK: I think technology will impact this business; the people who are in their 20s and 30s grew up with the Internet. They will be our CEOs and (chief financial officers) and that will be their way of business.

ADVICE: Anyone who works with health care needs to understand disease management and case management. It helps when looking at a group of employees and the diseases they are managing. You have to understand what has to be in place to work with that. A huge portion of that is understanding how to implement health management from a preventative standpoint.

OUTSIDE THE INDUSTRY, A DREAM JOB: I would love to dance. I like dancing, not that I have the talent; but if I did, I would love to do that.

HOBBIES: I'm an avid reader. I love off-road biking and motorcycling. Exercise is a big part of my week.

FAVORITE MEAL: A really good peanut butter and jelly sandwich. Chunky peanut butter and a small amount of jam or honey on thick slices of wheat bread. I travel with peanut butter; it's a staple in my life.

ON A SATURDAY AFTERNOON: Catching up on my laundry, unpacking my suitcase, repacking for my next trip. Or I'm outside walking, riding my motorcycle. I really love the outdoors.



Comings & Goings

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Bosman: Retiring FM Global executive looks back on major industry changes

CONTINUED FROM PAGE 3

you control it haven't changed all that much. Obviously, there are improvements in protection systems and new ways of installing protection and new versions of sprinkler systems that may or may not be more effective.

But I think the bigger change is really in the underlying risk and really understanding how we should deal with that, and how companies need to be much more global in their thinking about risk.

Q: What impact has technology had on the industry in general and loss control in particular?

From my perspective, the second biggest change is technology. Again, it goes across all sorts of different ways that impact us.

The first one is clearly the communications cycle and the way we interact. When I started 40 years ago, the interaction between London, where I was based, and the United States would be in a two- or three-week time cycle. Now it's instantaneous and much more efficient. We're in a position to be much more effective in how we deal with clients, how we help with their loss-control activities and how we provide services.

Of course, technology has changed the nature of our clients' operations very significantly, too. An assembly line today looks a lot different than what it looked like 40 years ago, a lot more automated, a lot less manual—in a way subject to interruption in different ways, which obviously imposes different protection requirements and just a whole different world to deal with.

In terms of loss control, technology has provided more efficient supervision of protection systems. It's very much helped in understanding the risk because the technology allows us to do a much better job of analyzing data and really understanding exposures better. A good example would be catastrophe models and analyzing natural catastrophe exposures. In our world, where we work a lot with the data about clients' businesses and clients' exposures, we are in a much better

place to help clients understand risk and differentiate between the quality of risk and be much more focused on prioritizing where risk improvement activity should be undertaken. The analytical piece that technology has brought to the world has been very, very helpful. We just understand things better and more quickly.

Q: Do you have any thoughts on what the future will hold?

Where we are today is just the

first steps. Global integration will continue. It's very hard to predict what the world will look like in 40 years, but it will be significantly different. The integration around the world—and certainly in the commercial property arena where we operate—that's going to be significantly multiplied. And one of the things that is clearly happening today is the establishment of large businesses outside of our domestic world. There are so many global companies domiciled outside of the

United States and working around the world as well. You have an environment where competition can come from anywhere. It's exciting but also challenging trying to anticipate where it will end up.

The same is true for technology. I know it will look significantly different. Just the interaction between people with our current technology is hugely different from 40 years ago. I suspect that's going to continue to be the case.

Where today we still have an environment of travel around the world, I'm not sure how much of that will be necessary in the future. You can never eliminate all the contact between peo-

ple personally, but I think technology will allow us to do all sorts of cool stuff that will make that process that much more efficient as well.

Technology will continue to make this world a more efficient place. I'm sure in the arena of loss control it will be the same as well. It's hard to predict, but I think the big challenge for the world is to recognize new exposures as they come along, because you don't really know what they are until losses start to occur or unless you have some real insight into how manufacturing and processes are changing. There's a challenge there: that we stay on top of how exposures evolve.

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Breach: Data risks increase

CONTINUED FROM PAGE 1

minimize breach risks (see related story).

Despite the data security challenges they face, health care institutions generally perform well, experts say.

"By and large, I think they do a good job, some better than others," said Nicholas Economidis, an underwriter of professional liability and specialty lines at Beazley Group P.L.C. in Philadelphia. However, information that "exists in multiple forms throughout an organization," as it does in health care institutions, is a "very difficult expo-

sure to control," he said.

The dispersal of that data is an issue as well. While banks tend to keep information internally, health care data is handled by many more organizations, said Tom Srail, Cleveland-based senior vp with Willis North America Inc. "The nature of the health care business requires the sharing of that same information," he said (see story, page 21).

Patrick Moylan, New York-based senior associate with Dubraski & Associates Insurance Services L.L.C., said health care institutions are increasing their Internet activity with partners that include physicians, health plans and pharmacies.

Having "more people in the line of that chain that have the potential to handle sensitive data simply increases the risk that data will be accessed by accident, or by a

third party," with the potential that it could be used fraudulently, he said.

The sheer breadth of personal information that health care institutions hold complicates the issue.

"More than any other industry, the health care industry really has all of a complete set of information security and privacy exposures to contend with," said Mr. Economidis.

Mr. Srail said retailers may have credit card numbers and financial institutions may have Social Security numbers, but health care entities "have all that as well as protected health care information," so "it really can be problematic for those organizations when that data is lost and troublesome to its customers."

"There's so many ways that the information gets compromised" and "just when

you think you've got it figured out, you've got a twist in it," said Lynn Sessions, counsel at law firm Baker & Hostetler L.L.P. and a former risk manager at Texas Children's Hospital, both in Houston.

Robert Parisi, senior vp at Marsh Inc.'s FINPRO practice in New York, said, "hospitals tend to be less secure than banks, and you've got a situation that obviously can be fairly risky and financially troubling to any medical center."

Meanwhile, a black market for stolen medical identities has developed among people who are underinsured or have no insurance, observers say.

By some estimates, medical information is twice as valuable as more traditional identity information, said Mr. Silvestri. "That becomes a motivation for the criminal element to actually target that so they can sell it to the black market," he said.

Relatively few data breaches at health care institutions are attributable to hacking. "The majority, I'd say, are non-network events," said Mr. Moylan. Lost thumb drives, laptops or cellphones pose a "significant risk," he said.

What makes the problem harder to address is the complex array of federal and state laws that require notification of data breaches. On the federal level, there is the Health Insurance Portability and Accountability Act and the Health Information Technology for Economic and Clinical Health Act, which modifies HIPAA's privacy and security regulations.

In addition, 46 states have laws requiring notification of security breaches involving personal information, according to the Denver-based National Conference of State Legislatures.

"The industry has some of the strictest regulatory compliance issues" with respect to the data it collects, transmits, shares and stores, said Mr. Srail. Because of health care institutions' "more intense" reporting requirements, "they actually report more than your average industry," he said.

Ms. Sessions said HITECH's requirements make it easy to violate HIPAA. "We tell our clients it is not a matter of if" there will be a HIPAA violation, but of when; and in many situations, it is a matter of very small breaches.

Mr. Parisi said as soon as data breach notifications go out, "we've seen the plaintiffs bar jump" on the issue and introduce class action litigation, "so you're basically seeing the health care sector getting pulled in the same direction" as banks and others have gone in terms of litigation.

Federal law pulls health care institutions in opposite directions, said Mr. Srail. On one hand, it "wants health care to be open and portable and interactive" and to facilitate the process so the patient has choices in his health care with accessible medical information. On the other hand, however, "everything has to be kept secret" with no privacy breaches.

In addition, state laws, while similar, also differ from each other and federal law. HIPAA, for example, requires notification of data breaches within 60 days, while several states have a 45-day notification period, said Ms. Sessions.

Another complication is that hospitals must abide by the laws of the jurisdiction where their patient is a resident, even if it is in another state. Because the patients' resident state is the determining factor, Texas Children's Hospital, for instance, which has patients from all 50 states and foreign countries, must comply with all these jurisdictions' statutes, said Ms. Sessions.

Several states have enacted, and other states are moving toward, laws that dictate the protective safeguards that businesses, including health care institutions, must have in place to prevent data breaches from occurring in the first place, observers say.

What are best practices for data security?

By JUDY GREENWALD

Careful planning is a key component of an effective risk management approach by health care institutions to mitigate problems raised by data breaches, experts say.

"Work internally with your security folks and your (information technology) people," said Tom Srail, Cleveland-based senior vp with Willis North America Inc. "Understand what your risk is, where your data is stored and how you plan to handle incident response."

Patrick Moylan, New York-based senior associate with Dubraski & Associates Insurance Services L.L.C., said, "It comes down to knowing the scope and type of data that they're handling; and from there, developing concrete internal and external policies and procedures in terms of uses of technology, their computer network security procedures, the protections around their mobile devices, encryption and firewalls."

It is matter of educating staff on the importance of this issue, said Lynn Sessions, counsel at law firm Baker & Hostetler L.L.P. While data security is very important, it also competes with other priorities, including hurricane and earthquake preparation, ensuring quality care and pay-for-performance issues.

"It's got to be made a priority in the organization, and it really does begin with the C-suite," but is "often overlooked," said Ms. Sessions. Engaging top executives on this issue "goes a very long way."

"Identify a key person with accountability and responsibility within the organization for overall privacy and security," said Oliver Brew, New York-based vp of specialty casualty at Liberty International Underwriters, a unit of Liberty Mutual Group Inc.

"If you have a leader who can embed a culture of privacy, then everything else will flow from that," Mr. Brew said. "You need a champion" who can obtain a budget and interact with multiple departments to define their obligations, he said.

"We view education as critical to this issue," ensuring that people are "aware that what they're doing does carry consequences if they do it inappropriately," said Robert Parisi, senior vp at Marsh Inc.'s FINPRO practice in New York.

"A lot of breaches happen through

just poor practices by individuals—everything from clicking on links they shouldn't click on, to downloading things on the Internet they shouldn't download, to speaking about things they shouldn't speak about," said Nicholas Economidis, an underwriter of professional liability and specialty lines with Beazley Group P.L.C. in Philadelphia.

Encryption is also important. "If the budget is there," encryption can make a dramatic difference; and, in fact, some state regulations already reflect that by offering safe harbors in cases where encryption is in place, said Mr. Brew.

Mr. Economidis said testing computer controls, including firewalls and anti-

health care institutions must remain vigilant in terms of how information can be compromised and seek ways to protect it, Mr. Silvestri said.

Health care providers also should have an incident-response plan in place, said observers.

"The breach response process is complicated and can be a very time-consuming process," said Mr. Moylan. "Having essentially a breach response team in place—and having the internal communication between, say, compliance, legal, risk management, IT, all those departments on the same page in terms of who's doing what and how to respond to a breach—is certainly important," he said.



'Understand what your risk is, where your data is stored and how you plan to handle incident response.'

Tom Srail,
Willis North America Inc.

virus software, remains important. An automated vulnerability scan will provide recommendations on how to fix problems in system security, he said.

It is helpful to compartmentalize information to avoid having a large amount of data in one place that is vulnerable to an attack, said Mark Silvestri, Quincy, Mass.-based vp of product development and director of NetProtect at CNA Financial Corp.

In addition, Mr. Srail said more health care providers are attempting to "mask the information" so workers see only information that is essential for their particular job. "That's obviously a smart thing to do," he said.

"Be mindful of how the environment is changing, because these controls in place are generally pretty static" and

"Communicating those policies internally and externally to any third parties that you're working with, then, is a continual process of reviewing and monitoring and assessment," Mr. Moylan said.

Mr. Srail said, "Know where the contracts are, so you can get the information quickly and determine if there is insurance coverage" when there is a breach. Privacy or cyber coverage is "definitely something to consider."

The marketplace "has gotten softer over the past 10 years," and the coverage available is the cheapest and broadest to date, he said.

However, warned Mr. Parisi, "You don't want to have insurance as an alternative to taking appropriate risk management steps."

Third-party providers add to breach worries

By JUDY GREENWALD

The widespread use of third-party providers is a major contributing factor to data breaches involving health care institutions, observers say.

"It's a fertile area of concern," said Celeste M. King, a partner with law firm Walker Wilcox Matousek L.L.P. in Chicago. "Hospitals may be able to keep watch on what they're doing, but can they keep that same scrutiny on the vendors?"

Some studies have indicated outside providers account for as much as one-third of all breaches, said Tom Srail, Cleveland-based senior vp with Willis North America Inc.

"It's very difficult for health care organizations to manage a lot of those multivendor relationships," which have "been dramatically increased over the last few years, mainly for the significant cost savings they seem able to obtain," said Oliver Brew, New York-based vp of specialty casualty at Liberty International Underwriters, a unit of Liberty Mutual Group Inc.

One additional factor is that the data in the hands of these outside providers may be moved offshore, which creates a "whole new set of obligations, depending on the jurisdiction you're in," he said.

"When you bring vendors inside the walls of the castle, they now have access to everything you have; and you might not necessarily have vetted them as carefully" as if they were employees, even if the company itself was vetted, said Robert Parisi, senior vp at Marsh Inc.'s FINPRO practice in New York.

Observers say under federal law, the health care institution and the third-party provider are legally responsible for data breaches, but the health care provider may find itself the responsible party ultimately.

Mr. Parisi said while hospitals could subrogate in cases where there is a problem with data handled by outside firms, "in many cases they're limited by contract, or they're someone who's judgment-proof or doesn't have money or is in a jurisdiction where they can be easily sued—India, for example."

"The hospital could be the deep pocket," said Patrick Moylan, New York-based senior associate with Dubraski & Associates Insurance Services L.L.C.

Beyond the "pretty obvious" third-party firms, such as networks, to which data is entrusted, health care institutions also should consider less apparent risks, such as the cleaning crew that "comes in several times a day and has the ability to access information," said Mark Silvestri, Quincy, Mass.-based vp of product development and director of NetProtect at CNA Financial Corp.

Health care institutions should ensure that the outside firms to which they are entrusting information have adequate safeguards in place, said Mr. Silvestri. Risk managers also will want to ensure that they assume responsibility for any breaches, "which raises a whole range of contractual issues"—not the least of which is many providers have self-renewing agreements that were established "long before anyone paid attention to privacy," Mr. Silvestri said.

In some agreements, "we're seeing things that were appropriate 20 years ago," but are not today said Mr. Srail.

"Make sure those vendor contractual insurance requirements are up to date and commensurate with the risks that vendor is bringing to the organization," he said.

In addition, be mindful that for commodity-type services, such as couriers, cleaning and document shredding, often there is only a purchase order in place that has "very little in terms of contractual provisions in allocating responsibility" in the case of a data breach, Mr. Silvestri said.

Builders: Clarifying cover can avoid fights

CONTINUED FROM PAGE 4

under each policy, also is critical to avoiding cross-over complications, the speakers said.

In 1994, AGIP Petroleum Co. Inc., a Houston-based petroleum company, learned a difficult lesson in contract certainty when it sued Houma, La.-based Gulf Island Fabrication Inc., the company it contracted with to build, transport and install an offshore drilling platform. During installation, the platform toppled onto its side and nearly sank, costing \$15 million in repairs and delays. AGIP's damage claim was denied by its CGL underwriter—although that policy had been designated as the primary coverage—but it received a full payout from its builders risk carrier.

However, when AGIP and its builders risk insurer tried to collect against Gulf Island's builders risk policy for alleged deviation from the project's designs and specifications, Gulf Island filed a countersuit claiming breach of insurance contract, asserting it was covered as an additional named insured under AGIP's builders risk policy and therefore protected from subrogation.

AGIP "denied that they intended

IRMI draws 1,200 to San Diego

SAN DIEGO—Approximately 1,200 construction risk managers, attorneys, insurance brokers and underwriters attended the 31st IRMI Construction Risk Conference in San Diego.

Presentations and workshops during the Nov. 13-17 conference covered topics such as builders risk insurance trends, wrap-up insurance contracts and contractual risk transfers, World Trade Center rebuilding, safety management, risk financing and recent court decisions affecting the market.

Next year's event will be held Nov. 11-15, 2012, in Orlando, Fla.

For more information, go to www.irmi.com.

—By Matt Dunning

to include Gulf Island as an additional named insured on the policy," Ms. Kinzer said. The company and its insurer also contended that Gulf Island shouldn't have been covered because all of the actual work was done by subcontractors.

In 1996, a Houston federal judge ruled that AGIP did, in fact, intend to include Gulf Island as an additional named insured and, because the policy contained a waiver of subrogation provision, that neither AGIP nor the

insurer could seek relief against Gulf Island or its insurers.

"What's important here is the blanket additional named insured provision under the builders risk policy as well as the waiver of subrogation provision," Ms. Kinzer said. Both provisions, she said, are common inclusions on builders risk policies, and companies on either end of the contracting relationship—in this case, the project owner—gloss over them at their own peril, she said.

Wrap-up: Who should take charge of complex projects?

CONTINUED FROM PAGE 4

nature of the project itself.

"In general, people like to control their own purchase of insurance," Jim Conroy, senior vp and chief underwriting officer for construction at Boston-based Liberty Mutual Group Inc., said in an interview.

If executed well, wrap-ups can lead to a safer and more cost-effective project as well as eliminate much of the cross-litigation that tends to infect construction projects. A wrap-up policy also can translate into profit for the program sponsor based on loss experience over the life of the policy, a key bargaining chip in negotiations over policy control, Mr. Conroy said.

"Usually, I believe the party that has the most to lose should be the party providing the insurance," said Charles Moore, president of Nashville, Tenn.-based insurance consulting firm Moore-McNeil L.L.C. "The problem is, you can have a lot of debate on that between the financial side of the partnership, meaning the owners and their lenders, and the contractors, who likely have the greater risk knowledge."

OCIPs can be the more advantageous model in certain situations. Reputable, large-capacity residential developers still can find favorable rates and/or more complete coverage in wrap-up markets over CCIPs. Even commercial and industrial project owners with relatively little construction expertise but some experience with prior wrap-up agreements might be viewed more charitably by an underwriter than a contractor submitting its first CCIP request, experts said.

Additionally, a project owner's agreements with its financial backers—whether private investors or institutional lenders—often require the owner to maintain control of the project's wrap-up policy.

"Depending on the exact nature of the project, there are some instances where it's going to make more sense

'Depending on the exact nature of the project, there are some instances where it's going to make more sense commercially to let the owner insure the project.'

Susan Staff, Zachry Holdings Inc.

commercially to let the owner insure the project," said Susan Staff, director of risk management at San Antonio-based Zachry Holdings Inc.

In recent years, especially in the commercial and industrial sectors, many construction underwriters have begun to favor wrap-up programs sponsored by general contractors and construction managers, experts said. Largely, that favoritism is driven by an emerging consensus that contractors are better equipped to manage safety and reduce loss events on the worksite.

"Contractors are going to pursue a safe site no matter how you insure it,

but you crank it up if you've got contractor-controlled wrap-up in place, because you're going to have much better and more direct degree of control over how your subcontractors maintain safety on the site," said Richard Resnick, a New York-based senior vp at Aon Risk Services North-east Inc., a unit of Aon Corp. "The owners don't have any control over the contracts with the subcontractors, and there's no teeth in a contract you don't have."

Risk appetite and expertise being equal, experts said the project owner and the contractor should conduct a rigorous self-assessment to determine which type of program is truly the most appropriate. Owner- and contractor-controlled programs usually come with a premium rate that is several times higher than traditional general liability, builders risk and workers compensation policies.

"If you cannot sell your senior executive team on this kind of program, and if they don't get behind it, it's done," Mr. Resnick said. "You have to understand that there's going to be some sticker shock on the premium price, and you have to be able to overcome that psychological barrier."

Also, experts said, management of the policy—including safety and wellness training, loss prevention and claims management for all subcontractors—usually is a labor-intensive exercise. More often, Mr. Conroy said, that element is a deterrent for project owners, but can quickly become an issue for contractors that underestimate the scope of their responsibilities.

"There's a fair amount of administrative work that goes along with running a wrap-up," Mr. Conroy said. "Either party might not really relish the amount of work that goes into running a wrap-up, or it might simply be impractical for them to take on that responsibility."

Transatlantic: Reinsurer accepts Alleghany offer

CONTINUED FROM PAGE 1

can be used opportunistically for acquisitions that we believe are complementary to what we know and understand in our existing businesses," Mr. Hicks said in an interview.

"We have three subsidiaries in the insurance industry. We were familiar with Transatlantic. I was aware of what a really unique franchise it was. When the opportunity emerged for us to get involved and make a competitive offer, we thought it was something we wanted to do," he said.

He said the acquisition would give Alleghany a better spread of risk.

"It gives us more international exposure that we can build on and, probably most importantly, the company shares many of the same values that our other subsidiaries share, which is a focus on underwriting excellence and really dedicated people who are proud of...and are very good at what they do," Mr. Hicks said.

Industry observers gave the deal positive reviews.

The development "seems good for Transatlantic," said Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York. He noted that Alleghany's offer valued Transatlantic at 86% of book value, which is better than the level at which most peer Bermudian reinsurers have been trading.

Resolving the bidding war also would eliminate a distraction for Transatlantic, Mr. Gallant said.

Davis Selected Advisers "is a big shareholder that seems to be in favor, so it's more likely that this deal will close," said Jim Auden, an analyst with Fitch Ratings in Chicago.

Meanwhile, New York-based Moody's Investors Service

affirmed the Baa1 senior debt rating of Transatlantic Holdings and the A1 insurance financial strength rating of Transatlantic Reinsurance Co. after the announcement.

The move "reflects the fact that its acquisition by Alleghany would not significantly alter its current business or financial profile, as the company would operate as a separate business unit within the Alleghany organization," Moody's said in a statement. "In Moody's opinion, the acquisition would be incrementally positive for Transatlantic's policyholders and creditors as the company's private status

within a larger organization could allow the firm to better handle the volatility of property/casualty reinsurance pricing cycles."

Doug Mewhirter, an equity research associate at RBC Capital Markets in Richmond, Va., said: "I'm sure that Alleghany management had to approach Transatlantic's management more from the same level" than a larger bidder that might walk in and dictate deal terms. That probably gave Transatlantic's management more say in what a combined

company would look like, he said. Following the announcement, A.M. Best Co. Inc. said Friday that Alleghany and Transatlantic's ratings would remain unchanged. Alleghany's specialty insurance and Transatlantic's reinsurance business as well as a "shared philosophy of underwriting discipline" will bring greater diversification to Alleghany, Best said in a statement.

Joseph P. Brandon, former CEO of Berkshire Hathaway Inc.'s General Re Corp., will serve as president of Alleghany Insurance Holdings L.L.C. as well as executive vp of Alleghany and chairman of



ONLINE Q&A: For more insights from Alleghany's Joseph Brandon (above) and Weston Hicks, read a full Q&A at www.businessinsurance.com.

KEY EVENTS IN THE TRANSATLANTIC SAGA

JUNE 12—New York-based reinsurer Transatlantic Holdings Inc. and Zug, Switzerland-based specialty insurer Allied World Assurance Co. Holdings A.G. announce a stock-for-stock merger worth about \$3.2 billion at that time.

JUNE 13—Tucson, Ariz.-based investment management firm Davis Selected Advisers L.P., which owns a nearly 24% stake in Transatlantic, says it has "serious concerns" about the Allied World deal.

JULY 13—Bermuda reinsurer and insurer Validus Holdings Ltd. offers a stock-and-cash deal for Transatlantic worth about \$3.5 billion at the time. It also said it would add \$500 million to Transatlantic's reserves, depending on results of its due diligence.

AUG. 7—Berkshire Hathaway Inc. reinsurance unit National Indemnity Co. offers \$52 per share for Transatlantic, or around \$3.25 billion at the time. Stock market turmoil diminishes the value of Allied World's offer to about \$2.74 billion and Validus' offer to about \$2.87 billion.

SEPT. 9—Advisory firm Institutional Shareholder Services Inc. recommends that Transatlantic investors vote against the Allied World merger.

SEPT. 16—The Transatlantic and Allied World merger collapses under investor pressure.

SEPT. 26—Transatlantic says it has entered into talks with an unnamed third party, reportedly involving an investor group that includes Joseph Brandon, former CEO of Berkshire Hathaway Inc.'s General Re Corp.

OCT. 11—Transatlantic says it has entered into deal talks with its fourth potential bidder, reportedly involving Hamilton, Bermuda-based Enstar Group Ltd. and New York-based C.V. Starr & Co.

NOV. 21—Transatlantic agrees to a stock-and-cash deal with New York investment holding company Alleghany Corp. valuing the reinsurer at roughly \$3.4 billion. Transatlantic is to operate as a semiautonomous subsidiary of Alleghany, with Mr. Brandon serving as president of Alleghany Insurance Holdings L.L.C., executive vp of Alleghany and chairman of Transatlantic's board. Davis supports the deal.

Transatlantic's board.

Mr. Brandon's "proven track record and deep understanding of the industry will be a great asset," Mr. Hicks said.

Michael C. Sapnar will continue as president of Transatlantic and will become CEO on Jan. 1, 2012, succeeding Mr. Orlich, who will retire at the end of this year, the companies said.

Mr. Brandon had been a rising star at Berkshire's reinsurance operation, Gen Re. But then the government alleged that Gen Re helped New York-based American International Group Inc. inflate its loss reserves with a pair of sham reinsurance transactions, identifying Mr. Brandon as an unindicted co-conspirator. Although legal experts said at the time that the prosecutors most likely did not have enough evidence to charge Mr. Brandon and no charges were ever filed, he resigned from Gen

Re in April 2008.

Transatlantic has been the subject of several bids during the past year, including its June agreement to merge with Zug, Switzerland-based Allied World Assurance Co. However, the deal, which triggered more bids, fell apart in September. Most recently, Transatlantic rejected a revised bid from Pembroke, Bermuda-based Validus Holdings Inc., which had been the most aggressive suitor. Validus declined comment on the Alleghany deal.

Mr. Orlich said Transatlantic considers the deal with Alleghany a "great outcome for the Transatlantic franchise." He added that Transatlantic has been seeking a partner that would enable it to maintain its financial strength ratings and protect its global franchise, among other aims.

Senior Editor Mark A. Hofmann contributed to this article.

Captives: Falloff in construction curbs formations

CONTINUED FROM PAGE 4

Bermuda-domiciled construction group his office manages "hasn't had problems and they have, in fact, grown incrementally."

Michael O'Neill, president of Dallas-based American Contractors Insurance Group Inc., which operates through a Bermuda-domiciled captive and various U.S. affiliates, noted that the construction industry tends to lag the broader economy. "Construction is not a real good indicator of the economy because it's the last one

into a recession and the last one out," Mr. O'Neill said.

In response to the economy, ACIG has been looking to help members improve their margins by reducing losses. "Their profit margins are under a lot of stress right now, so we're obviously emphasizing risk management and safety and quality," Mr. O'Neill said.

In 2009, ACIG modified its approach to writing insurance for contractors, trying to bring programs more in line with the life cycles of the projects members

were working on.

Rather than annual renewals—which left members looking at the possibility of rates and limits changing over the course of a multiyear project—ACIG began offering a "project attaching approach," Mr. O'Neill said, that sees the coverage running through preconstruction, construction, the warranty period and the state statute of repose.

"You're basically buying a coverage that goes from start to finish," Mr. O'Neill said. "Many of these jobs are taking 24 to 36

months," potentially exposing contractors renewing coverage annually to changing prices and coverage terms over the life of a project.

With the project attaching approach providing certainty about insurance costs and limits for the life of a project, "it allows them to price the project from start to finish," he said.

A sort of "pilot group" of six of ACIG's 38 member insureds are taking advantage of project attaching coverage, Mr. O'Neill said.

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Starr: Greenberg firm sues U.S. over AIG bailout

CONTINUED FROM PAGE 3

holder value," said Paul Rothstein, professor of law at Georgetown University Law School in Washington.

"But I think the suit is weak for several reasons," he said. "First, AIG's board did approve the deal with the government, and AIG got something for what they gave; and as long as the government pays something that can be regarded in any way as fair compensation, the government can take your property for a public use. I would add that the value of what the government took may be a lot smaller than people think because AIG was in severe trouble."

The suit against the Fed "is much more interesting in two notable respects" than the suit against the government, because it focuses on transactions or issues that occurred after the government assumed majority control of AIG, said Lawrence A. Hamermesh, a professor of corporate and business law at Widener University Law School in Wilmington, Del.

"First, there are challenges to post-acquisition decisions that are claimed to have harmed AIG—and indirectly, its com-

mon stockholders—but favored the interests of its controlling stockholder," he said. "I haven't dug into the details of those transactions, but that's a much more plausible claim than the

'It is somewhat unusual, but the constitutional takings clause and the guarantee against taking property without due process of law can apply to things like shareholder value.'

Paul Rothstein,
Georgetown University Law School

one challenging the initial stock acquisition," said Mr. Hamermesh.

"Second—and even more interesting to me—there is a claim that a vote of common

stockholders is required to authorize the common stock necessary to satisfy the government's rights to convert its preferred stock to common stock. The claim is that a reverse stock split was essentially an end run around that required vote of common stockholders voting separately as a class. I'm a little skeptical about this claim, but it seems nontrivial, at the very least," the professor said.

Ronald D. Rotunda, a professor of law at Chapman University School of Law in Orange, Calif., said he hasn't seen a case like this before but also said, "The Great Recession we haven't seen before."

"At the time, people wondered how this could all be done," he said. "General Motors was taken into bankruptcy, but AIG didn't go into bankruptcy. We're not sure of the statutory authority. This was all done in such haste. There well may be something to this because the government did squeeze out the shareholders."

"The takeover prevented the company from filing for bankruptcy," said Roger Pilon, vp-legal affairs at the libertarian-oriented Cato Institute in Washington. "The shareholders would have been at the front of the line for such assets as there were after creditors were paid."

Neither Starr nor its law firm responded to a request for comment. A spokesman for AIG declined to comment.

health and workers comp plans, and it can determine whether a worker is receiving duplicate prescriptions or early refills.

While there are benefits to PBM integration, Mr. Carpenter said the model can be challenging for employers because workers comp and group health plans often are managed by separate departments.

"You have (human resources) running the group health benefit and you have risk managers running workers comp and disability," Mr. Carpenter said. "Financially, those are in different buckets in different employers' houses."

Despite the hurdles, Mr. Carpenter said integrated PBM models could become more commonplace as more employers seek ways to manage their drug costs.

"I think it's exploratory at this point until there's a better alignment within the industry," Mr. Carpenter said.

PBM: Employers explore integration of programs

CONTINUED FROM PAGE 3

notes that health care is regulated by federal guidelines, while workers comp laws differ from state to state.

Those legal nuances, along with different formularies used by the two insurance programs, can make it tough to integrate pharmacy benefits, Ms. Motheral said.

"Operationally, it's not as synergistic as you might think," she said.

David George, chairman and CEO of Duluth, Ga.-based workers comp PBM Healthcare Solutions Inc., says that pharmacy benefit consolidation is an unlikely choice for employers because of inherent differences in how group health and workers

comp plans operate.

For instance, coverage for workers comp medications usually differs from pharmacy copays under a health insurance plan, Mr. George said. The markets also differ, he said, because group health plans cover most or all of a company's employees, while workers comp pharmacy benefits are limited to injured workers.

"The fundamental difference in workers comp is the eligibility is not established until you show up for care or service," Mr. George said.

Coventry's workers comp PBM, dubbed First Script, uses a pharmacy network from PBM Medco Health Solutions Inc. Mr. Carpenter said Medco aggregates employee profiles for group

inBrief

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New York eases rules on commercial filings

New York has issued regulations implementing a new law deregulating most insurance business with companies that employ risk managers or generate annual commercial property/casualty risk premiums of more than \$25,000. The regulation allows insurers to issue commercial policies to large companies with risk managers in New York without submitting rate filings to the New York Department of Financial Services or obtaining official prior approval for the sale of policies.

SunTrust freezes pension plan

SunTrust Banks Inc. says it will freeze its defined benefit pension program and enhance its 401(k) plan. Participants in SunTrust's cash balance plan, which the bank set up in 2008, will stop earning pay-related credits after Dec. 31. In addition, benefit accruals for long-service employees who opted to remain in SunTrust's traditional final average pay plan at the time of the cash balance plan conversion also will stop at end of this year. Instead, effective Jan. 1, 2012, SunTrust will fully match employees' 401(k) plan contributions up to 6% of pay.

Marsh brokers IFC trade credit policy

Marsh Inc. has brokered a \$532 million trade credit insurance policy for the World Bank Group's International Financial Corp. The policy, underwritten by nine insurers, will allow IFC to expand capacity under its Global Trade Finance Program, Marsh said. The program guarantees emerging market trade transactions. The policy, which covers 50 banks in 30 countries, will protect IFC against default by a local bank client.

PBGC increases maximum benefit

The maximum benefit that the Pension Benefit Guaranty Corp. will

guarantee to participants who retire at age 65 and are in plans that the agency takes over next year will be \$55,840.92, up from \$54,000 this year. Changes in the maximum benefit guarantee, which will increase 3.4% next year, are linked to wage inflation. In fiscal 2011, the PBGC paid nearly \$5.5 billion to participants in plans taken over by the agency. Earlier this month, the PBGC reported a record \$26.1 billion deficit—up from \$23 billion in fiscal 2010—in its insurance programs. The programs are funded by premiums paid by employers with defined benefit plans and by investment income earned on assets in failed plans that the agency has taken over.

Medical centers set up N.J. captive

New Jersey has licensed the state's second captive insurance company, an industrial captive formed to write liability coverage for two sister medical centers. Sequoia Insurance Co. of New Jersey was formed by Bayonne Medical Center and Hoboken University Medical Center, both of which are owned by HUMC Holdco L.L.C. According to the association, the state's Department of Banking and Insurance is reviewing another application involving a captive redomestication to New Jersey.

Kraft can't be sued over injury at Nabisco unit

Kraft Foods Global Inc. can't be sued for damages by a Nabisco employee who was severely injured by cracker-cutting equipment, a Pennsylvania court ruled. In a unanimous decision, the Pennsylvania Superior Court said workers compensation was the exclusive remedy for Roque Soto, who lost his left arm and injured his right hand while operating a Ritz Cracker machine in 2007. Mr. Soto began working at the Philadelphia bakery facility in 1999 or 2000, when the plant was owned by Nabisco Inc., according to court records. Nabisco was acquired by Kraft in 2001. Mr. Soto sued Kraft for his injuries, arguing that the company has a "distinct and separate role" from Nabisco that makes it a liable third party in his case, records show. He also claimed that Kraft was liable because it was the successor to Nabisco, which made the machine that injured him. The Pennsylvania court disagreed, saying Kraft does not have a "dual persona" from Nabisco, and that Kraft's liability did not change because of the Nabisco acquisition.



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Promoter no fan of Daddy Yankee

A concert promoter says reggaeton rapper Daddy Yankee caused him more harm than just lost revenues when he canceled an Argentina tour at the last minute. Much more.

The concert promoter, Diego Hernán de Iraola, president of Five For Entertainment S.A. in Buenos Aires, Argentina, filed a lawsuit against Ramón Luis Ayala Rodríguez, whose stage name is Daddy Yankee, for expenses and injuries suffered as a result of breach of contract, according to court documents filed in a federal court in Florida.

According to the suit, Mr. De Iraola paid Daddy Yankee \$820,000 for a six-show tour in Argentina, beginning in November 2010. Promotion of the shows became so popular that an agreement to add four more concerts to the tour was reached for an additional \$480,000, which Mr. De Iraola would pay upon Daddy

Yankee's arrival in Argentina.

After unmet demands that Mr. De Iraola pay the entire sum to the artist in advance, Daddy Yankee canceled the entire tour two days prior to the first scheduled concert appearance, according to court documents.

In the suit, Mr. De Iraola claims the

cancellation caused reputational damage to his business and suffered severe emotional distress.

Mr. Iraola "began to suffer from high blood pressure due to stress, which caused him to experience nosebleeds, bleeding in his eyes and numbness in his limbs" and he "became increasingly depressed and suffered from extreme insomnia," according to court documents.

In the suit, Mr. De Iraola seeks compensatory and punitive damages.



Daddy Yankee

Seacrest show made good girl look bad: Lawsuit

Still months away from airing, Ryan Seacrest's latest reality television venture has landed him in some legal hot water, according to several media outlets.

Mr. Seacrest, his production company and the Bravo TV network are being sued for allegedly duping a woman into playing a "bad girl" role on an episode of "Shahs of Sunset," a reality series about young, affluent Persian-Americans living in Los Angeles, according to the Hollywood Reporter.

Kathy Salem alleges she signed a waiver before entering a Hollywood party in July with the understanding that the show—billed as a "Persian Jersey Shore"—would be filming inside, reports indicated. However, she alleges she was not informed of the context in which she would be portrayed.

While inside the party, Ms. Salem alleges she was bullied and verbally assaulted by several of the show's stars after she struck up a conversation with a man who was apparently engaged, reports said. During the confrontation, she alleges that at least one of the program's stars tried to tear her top off and that a second woman threw a cup of water in her face.

Ms. Salem has asked Mr. Seacrest to cut the footage from the final edit of the episode, alleging she was "humiliated" and "forced against her will" to play a role to which she hadn't agreed. Ms. Salem also is seeking at least \$100,000 in damages, according to the Hollywood Reporter.

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End Page



AP PHOTO

Laura Coppinger was fired as the Sugar Plum Fairy by a St. Charles, Mo., Christmas festival after she violated a policy against the use of 'naughty words.'

Naughty, not nice, puts fairy on ice

Christmas festival organizers in Missouri aren't dancing around a situation involving a potty-mouthed Sugar Plum Fairy.

Laura Coppinger, 29, was fired from her recurring role as the popular Sugar Plum Fairy character in the St. Charles, Mo., Christmas Traditions Festival after she swore during a drug test mandated for all city employees.

While collecting a urine sample, Ms. Coppinger accidentally invalidated the test by flushing the toilet. When she realized her mistake, she uttered the four-letter word that would cost her the role of a character she had perfected throughout the past five years.

"Out of frustration with myself, I said a curse word," Ms. Coppinger said in an interview with KSDK NewsChannel 5 in St. Louis.

After the drug testing facility reported the incident, Ms. Coppinger was informed by the city that she

would not be rehired because she had broken a section of the festival's code of conduct titled "Christmas Characters Don't Know Naughty Words."

Though Ms. Coppinger has apologized publicly for the incident, St. Charles city officials say she will not return to spread Christmas cheer at this year's festival.

"Given her excessively inappropriate behavior and language at the drug testing facility and actions following this process, the city made the right decision in not rehiring this former cast member," St. Charles Mayor Sally Faith said in a statement on the matter.

To demonstrate that not everyone in St. Charles has forgotten the spirit of the season, two local merchants, Grandma's Cookies and Riverside Sweets, have offered Ms. Coppinger temporary holiday employment.

Customer litigation overpowers company

Power Balance L.L.C., the company behind the wildly popular and allegedly bogus "performance-enhancing" bracelet that enthralled professional athletes, pop culture icons and millions of other consumers, has filed for bankruptcy after reportedly agreeing to settle a class action false advertising lawsuit for \$57 million.

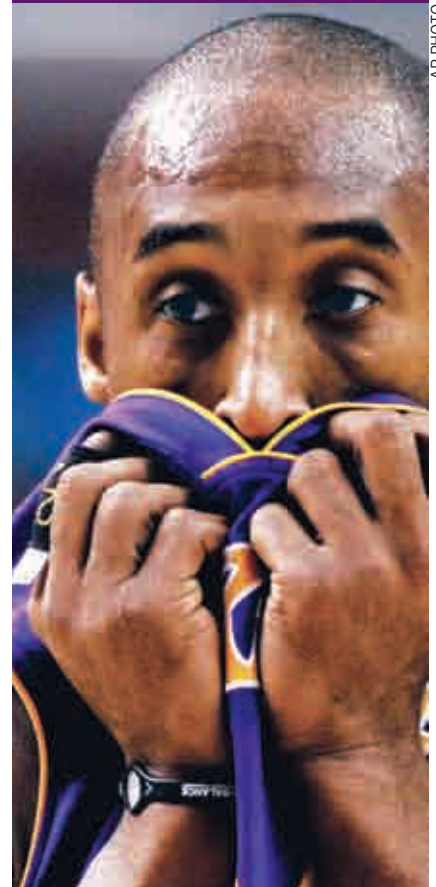
Power Balance filed for Chapter 11 protection Nov. 18 in Los Angeles bankruptcy court, records show.

The Laguna Niguel, Calif.-based company was sued in January by angry customers who alleged the company purposefully exaggerated its products' abilities to improve balance, strength and flexibility.

The \$57 million settlement reportedly was finalized last week, according to several news outlets.

During the course of the lawsuit, Power Balance was unable to produce any tangible evidence that its products—hologram "infused" bracelets, pendants and other jewelry—improved athletic ability or performance as advertised, according to TMZ.com.

The products enjoyed a brief popularity among star athletes such as Shaquille O'Neal, Kobe Bryant and Drew Brees.



AP PHOTO

Kobe Bryant

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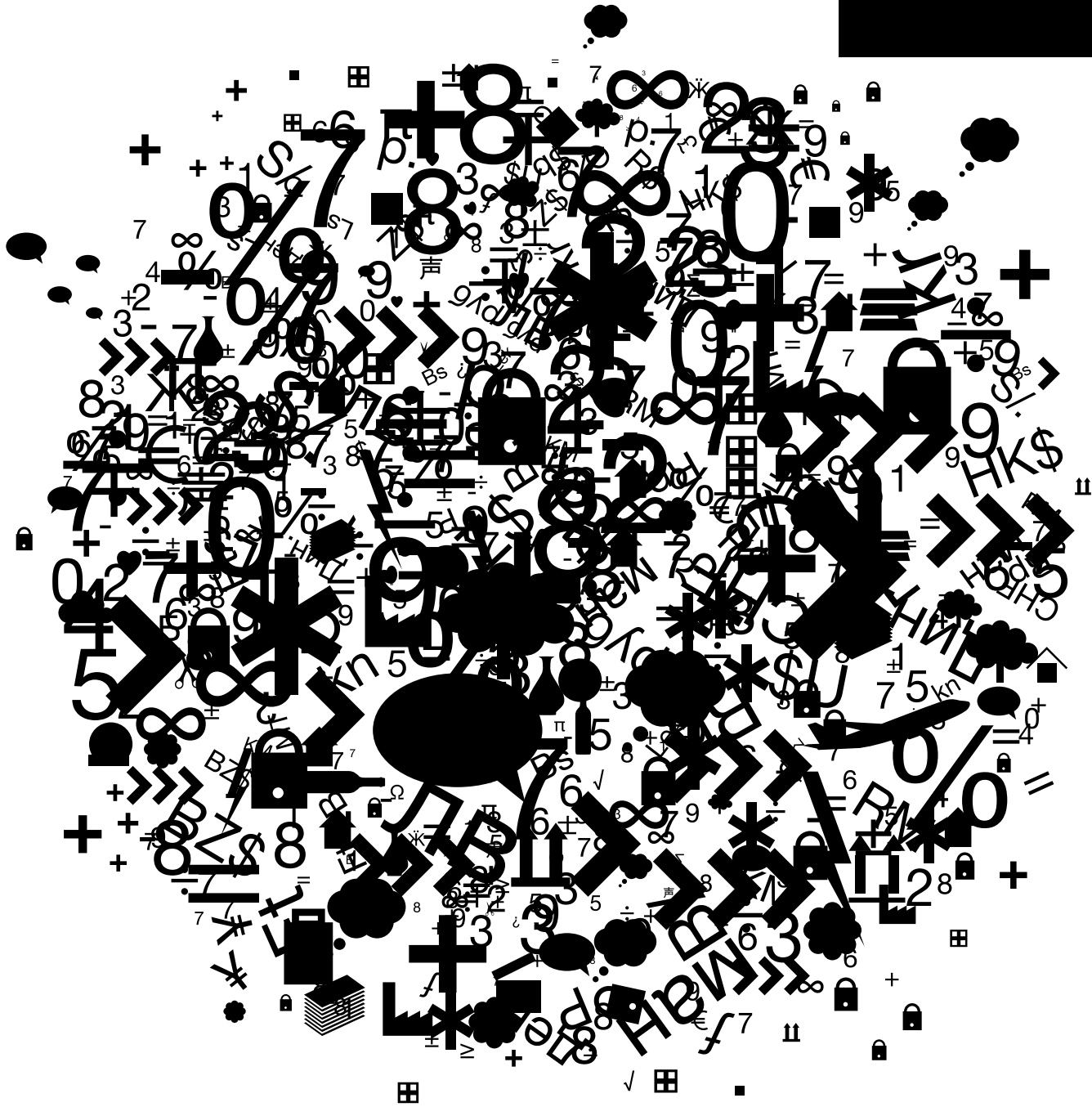
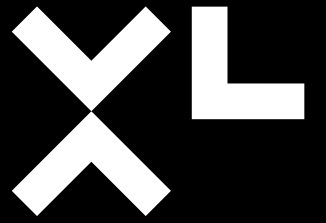
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