

## KEYS ISSUES FOR WORKERS COMP PAYERS ON MEDICAL MARIJUANA



**Establish a workplace standard** to handle medical marijuana claims. A drug-free workplace policy could prevent employees from using medical marijuana, and courts have backed firms that fired workers for using medical marijuana.

**Work with claims handlers** to standardize medical marijuana claims policies.

**Lack of U.S. Food and Drug Administration approval** can serve as the basis for denial of medical marijuana claim payments.

## WORKERS COMPENSATION

### Comp sector braces for medical pot

Employers urged to set policies on marijuana

BY SHEENA HARRISON

The legalization of medical marijuana in nearly two dozen states has the workers compensation industry on guard for a potential surge of claims seeking payment for the drug.

The National Council on Compensation Insurance Inc. highlighted medical marijuana as one of the top emerging workers comp issues to watch in 2014, and says workers comp insurers already are getting an increasing number of requests to pay for prescribed marijuana.

“Because so many states are approving it and the guidelines for use are so vague, it has the potential of becoming a very big deal and it is fraught with danger,” said

See **MARIJUANA** page 32

## LIABILITY & LITIGATION

# METRO-NORTH DERAILMENT OPENS DOOR TO LAWSUITS

Train’s control equipment under scrutiny



AP PHOTO

The Metro-North derailment in New York that left six dead is expected to lead to several lawsuits.

BY JUDY GREENWALD

Litigation resulting from the deadly derailment of a New York Metropolitan Transit Authority Metro-North train may revolve around the authority’s failure to install up-to-date control equipment on the train.

Several lawsuits are expected because of the Dec. 1 derailment that left six dead and more than 60 others injured.

Some 100 to 150 people were on an early Sunday

See **DERAILMENT** page 30

## TRAIN DERAILMENT AT A GLANCE

- A New York Metropolitan Transit Authority Metro-North train derailed Dec. 1, killing six and injuring more than 60 passengers.
- The train traveled at 82 mph, more than twice the permissible speed limit, just before the crash.
- The Metropolitan Transit Authority has \$350 million in coverage in excess of a \$10 million self-insured retention and \$50 million with its captive insurer.
- The train did not have the latest safety equipment, which is at the center of the crash’s federal probe.

Sources: National Transportation Safety Board, Federal Railroad Administration and news reports

## INSURANCE REGULATION

# FIO sees role for state, federal regulation

Model for national system receives mixed response from industry

BY MARK HOFMANN AND BILL KENEALY

The Federal Insurance Office’s long-awaited comprehensive report on how to improve insurance regulation suggests a partnership between state and federal regulators, a recommendation that not surprisingly got a cool reception from certain key industry leaders.

Perhaps the biggest question now that the FIO finally released the report, is whether any of the national insurance office’s many recommendations, particularly the hybrid model of regulation, will be adopted by the industry and enforced by regulators. Congress would have to act to make any of these recommendations stick.

The prompt, often contradictory reactions by insurance industry organizations foretell the report’s uncertain effect on the industry.

Released last week, the 71-page report, “How to Modernize and Improve the System of Insurance Regulation in the United States,” is short on detail but sketches out a national model of insurance regulation, in which both state and federal regulators play complementary roles to improve solvency and market conduct regulation, while leaving the state-based

See **FIO** page 32



## Q&A: JAMES CRYSTAL

Crystal & Company’s chairman and CEO discusses the issues independent brokers face

PAGE 26



## MID-MARKET

Self-insured firms realize health care savings through medical tourism

PAGE 8



## RESEARCH & DATA

Top U.S. college risk management and insurance undergraduate programs

PAGE 22



## BEST PRACTICES IN WORKPLACE DIVERSITY

Insurance industry making progress, but results lag; training programs need C-suite backing; matching a diverse client base; senior executives responsible for inclusion; multilingual workers key to global expansion.

PAGE 14

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CONTENTS

FEATURES

RISK MANAGEMENT

MID-MARKET



Easing at-home worker risks

Mid-market employers can mitigate exposures of at-home workers by formalizing the parameters of their telework arrangements. **6**

PERSPECTIVES

Innovate to recruit top talent



The reinsurance sector needs to do a better job of recruiting and developing top job prospects, says Liam T. Lawrence of executive search firm Reilly Partners Inc. **24**

OFF BEAT



Buggy money just a mirage

An Arizona man allegedly collected \$53,000 from his auto insurer after falsely reporting that his dune buggy had been stolen. **34**

SECTIONS

INTERNATIONAL **10**

OPINIONS **12**

PERSPECTIVES **24**

MARKET PULSE **25**

PEOPLE **26**

OFF BEAT **34**

NEWS

EMPLOYMENT PRACTICES

EMPLOYERS WIN KEY RULING ON ARBITRATION AGREEMENTS

Firms can bar class actions in employment disputes

BY JUDY GREENWALD

Companies can require their workers to sign arbitration agreements waiving their rights to class action lawsuits to resolve any employment-related disputes with little worry thanks to a significant appeals court ruling.

The eagerly awaited ruling in *D.R. Horton Inc. v. National Labor Relations Board* came Dec. 3 when the 5th U.S. Circuit Court of Appeals in New Orleans overturned a January 2012 ruling by two NLRB members who held that a “mutual arbitration agreement” required by the Fort Worth, Texas-based home builder as a condition of employment violated the National Labor Relations Act.

While companies may have held off imposing or implementing such policies while awaiting the ruling, which added to decisions in three other circuits, observers say the NLRB may continue pushing for its policy in circuits that have yet to rule on the issue. Observers say the NLRB is unlikely to prevail.

In its 2-1 ruling, the appeals court said the NLRB board’s decision “did not give proper weight to the Federal Arbitration Act,” a law that provides for private dispute resolution through arbitration and limits courts’ ability to set aside arbitration awards.

“Case law under the FAA points us in a different direction than the course taken by the board,” the 5th

CLASS ACTION WAIVER CASES

Experts say two U.S. Supreme Court cases related to the 5th U.S. Circuit Court of Appeals’ ruling in *D.R. Horton Inc. v. National Labor Relations Board* are:

■ The 2011 ruling in *AT&T Mobility L.L.C. v. Vincent and Liza Concepcion*, in which the Concepcions entered into a contract in 2002 with AT&T that allowed arbitration of disputes but disallowed class actions. The couple sued, challenging a sales tax they had been charged, and sought class action status. In its 5-4 opinion the court upheld class action waivers in arbitration agreements.

■ In its June 2013 ruling in *American Express Co. et al. v. Italian Colors Restaurant et al.*, in a case filed by merchants who objected to the fees charged by American Express, the court said in its 5-3 ruling that class action waivers in arbitration agreements are enforceable.

Circuit ruled. “Neither the NLRB’s statutory text, nor its legislative history, contains a congressional command against application of the FAA.”

The issue in the case, brought by a group of workers who alleged they were misclassified as exempt from overtime, was a narrow one, the court said. “Do the rights of col-

lective action embodied in (the NLRA) make it distinguishable from cases which hold that arbitration must be individual arbitration?” The answer is “no,” the court said.

“We add that we are loathe to create a circuit split,” the ruling said.

“Every one of our sister circuits to consider the issue have either suggested or expressly stated that they would not defer to the NLRB’s rationale, and held arbitration agreements containing class waivers enforceable,” the 5th Circuit panel said, citing rulings earlier this year by the 2nd Circuit in New York, 8th Circuit in St. Louis and 9th Circuit in San Francisco.

In addition, the U.S. Supreme Court in 2011 held in *AT&T Mobility L.L.C. vs. Vincent and Liza Concepcion*, that arbitration agreements may contain a class action waiver. This was followed by this year’s ruling in February in *American Express Co. et al. v. Italian Colors Restaurant et al.*, in which a divided high court said the federal arbitration law does not permit courts to invalidate contractual waivers of class arbitration.

An NLRB spokesman said the board is studying *Horton*.

“I would say this is what everyone sort of expected” as a result of the Supreme Court rulings, said Jaime A. Bianchi, a partner at law

See **ARBITRATION** page 30

BI wins award for tablet app, digital edition

*Business Insurance* won a first-place award for the best tablet app/tablet edition among U.S. business-to-business publications in Folio’s 2013 Eddie & Ozzie Awards.

Folio, the media-management magazine, presented the awards recognizing the nation’s best consumer and trade magazine print and digital editorial content and design Dec. 5 at the Grand Hyatt Hotel in Manhattan. “We are very pleased to be recognized with this award for the hard work and innovation that went into the design of our app,” said Paul Winston, associate publisher and online general manager of Chicago-based *Business Insurance*, published by Crain Communications Inc.

*Business Insurance* launched the tablet version of its interactive digital edition in January via Apple iTunes, allowing subscribers to read an interactive issue of the entire biweekly publication on their iPads. It later



expanded its digital product line to enable subscribers to read each issue on Android and Kindle Fire tablets via Google Play and Amazon apps. In July, the nation’s leading commercial insurance and risk management business-to-business publication unveiled a browser-based version of its interactive digital edition for subscribers to read on their desktop and laptop computers.

With its digital publishing platform, *Business Insurance* enhances its biweekly print content with audio and video interviews, photo galleries, interactive graphics and animation. “Our editors and designers work extremely hard to create a compelling interactive digital edition of the publication that delivers all of the great content of each edition of *Business Insurance* in a way that is engaging and accessible,” Mr. Winston said. For subscription details, go to [www.businessinsurance.com/mobile](http://www.businessinsurance.com/mobile).

GROWTH OF HEALTH SAVINGS ACCOUNTS

Enrollment in high-deductible health plans linked to health savings accounts has grown steadily since 2005.

Year	Enrollment*
2013	15.5 million
2012	13.5 million
2011	11.4 million
2010	10.0 million
2009	8.0 million
2008	6.1 million
2007	4.5 million
2006	3.2 million
2005	1.0 million

\*Number of lives covered  
Source: America’s Health Insurance Plans

HEALTH CARE BENEFITS

HSAs help to moderate health costs

Past 10 years have shown benefits of high-deductible plans

BY JERRY GEISEL

A decade ago, annual double-digit group health care plan cost increases were the norm.

In 2003, for example, costs shot up 10%, the third consecutive year of double-digit cost increases, leading many employers and others to ask whether it was possible to control health care costs.

A decade later, a very different health care plan cost story is playing out. In 2013, group health care plan costs nudged up just over 2%, the lowest increase since 1997, according to consulting firm Mercer L.L.C.

And this year’s cost increase was not a one-year fluke. In 2012, costs rose just 4.1%.

While there is no one reason why health care plan cost increases have come down so dramatically, many experts say a key reason has been the large-scale employer adoption and employee enrollment in a health care plan design that didn’t even exist a decade ago: high-deductible plans linked to health savings accounts.

It was 10 years ago last week that President George W. Bush signed legislation authorizing HSA-linked plans, effective in 2004.

From that beginning, HSAs have grown to be a major health care plan design. At the start of 2013, more than 15 million individuals were enrolled in HSA-linked plans, a 50% increase in just three years,

See **HSA** page 31

ONLINE FEATURES

RMS 2014

Registration open for 2014 Risk Management Summit

Register now for the Risk Management Summit, to be held March 12-13, 2014, in New York. [www.BusinessInsurance.com/RMS2014](http://www.BusinessInsurance.com/RMS2014)

VIDEO



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Video highlights the 2013 Women to Watch awards ceremony, featuring MSNBC's Mika Brzezinski. [www.BusinessInsurance.com/InFocus](http://www.BusinessInsurance.com/InFocus)

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NEWS

LEGISLATION & REGULATION

FIGHT BREWING OVER REINSURANCE TAX DEDUCTIONS

Property/casualty industry divided on issue

BY MARK A. HOFMANN

Risk managers and members of the insurance industry are gearing up for another legislative battle over an effort to eliminate tax deductions for certain reinsurance transactions.

The latest salvo came last month when the Senate Finance Committee released a discussion draft of tax reform legislation that no longer would allow U.S. subsidiaries to deduct the cost of reinsurance that is ceded to affiliates that are not subject to U.S. taxes.

This is similar to legislation introduced earlier this year in the House of Representatives and the Senate by Rep. Richard Neal, D-Mass., and Sen. Robert Menendez, D-N.J., respectively, but never brought to a vote. The Obama administration also has backed the idea of changing the tax treatment of what is known as affiliated reinsurance. The issue has divided the property/casualty insurance industry.



Sen. Robert Menendez

Thirteen U.S.-based insurers formed the Coalition for a Domestic Insurance Industry several years ago to push for the changes. However, other insurers, joined by the Risk & Insurance Management Society Inc., state lawmakers and free market-oriented groups, formed the Coalition for Competitive Insurance Rates to oppose the changes.

William R. Berkley, chairman and CEO of Greenwich, Conn.-based W.R. Berkley Corp., has spearheaded efforts to change the tax treatment of affiliated reinsurance.

"It's in Obama's budget; you have Neal and Menendez who are both supporters," said Mr. Berkley. In the past four and a half years "I have called on probably 100 congressmen and senators and almost all of them have been supportive. Most of them who weren't supportive really didn't

See TAX page 29

TECHNOLOGY

Commercial insurers embrace big data

Familiarity with predictive modeling encourages trend

BY BILL KENEALY

Sophisticated data storage and processing frameworks, collectively known as big data technology, are gaining ground among major commercial insurers as they build complex models to gauge the risks they underwrite.

Sam Medina, New York-based vice president and head of strategy and transformation for insurance and health care at Tata Consultancy Services Ltd., said big data projects are in the pipeline at the insurers with which he consults.

"The progress has been pretty steady," Mr. Medina said. "There is not a single commercial lines carrier that we deal with that does not have big data on their agenda."

He said the insurance industry's longtime use of predictive and catastrophe models give it a head start on big data relative to other industries.

"The big insurers that invested in data all along and have proper data warehouses and already make use of analytics see big data as a way to gather more information to turn into insight," Mr. Medina said. "So they are not phased by it."

Christina Colby, New York-based vice president of insurance of Capgemini Financial Services,

agreed that while the volume and variety of data sets that big data can handle is novel, the underlying

See BIG DATA page 28

REINSURANCE

Hedge funds partner with reinsurers

SAC Re sale legitimizes management approach

BY MATTHEW LERNER

Hedge funds continue to invest in the offshore reinsurance sector, even as reinsurers evaluate what they think of the funds' participation and how much they need them.

And the emergence of industry veteran Brian Duperreault in the sector has highlighted the trend.

The hedge fund activity ranges from well-established vehicles such as catastrophe bonds to more ambitious ventures in which the funds and reinsurers collaborate to achieve the best financial results.

Hedge funds are attracted to the reinsurance business to access and invest underwriting premiums, experts say.

One new arrangement involves hedge funds setting up or partnering with a traditional reinsurer and the asset management is subcontracted back to the hedge fund, said Bermuda-based Matthew Ball, director of risk consulting and software for Towers Watson & Co.

"One of the advantages of this model is that it's an asset management play. The hedge fund takes on management of the reinsurers' assets to use the hedge funds' skill

set to look for returns," Mr. Ball said.

This approach just received a stamp of legitimacy with the sale announced last week of SAC Re Ltd., the

Bermuda reinsurance unit of troubled Stamford, Conn.-based hedge fund SAC Capital Advisors L.P. The buyer is Hamilton Insurance Group Ltd., a special-purpose vehicle run by Mr. Duperreault, former CEO Marsh & McLennan Cos. Inc. and Ace Ltd. Two Sigma Investments L.L.C., a New York-based hedge fund, will become the sole investment manager for Hamilton's reinsurance business.

Analysts are bullish on Mr. Duperreault's entrance into the reinsurance market and the financial prospects for a revamped SAC Re which will be renamed Hamilton Re.

"We would consider him to be a

See HEDGE page 29

BIG DATA SPECS



**Scale:** Big data software can handle data sets too large for traditional database and analytics software.

**Technology:** Many big data products are based on the open-source distributed computing framework Hadoop and run on inexpensive, commodity server hardware.

**Variety:** Big data technologies are able to process traditional, structured data sets as well as unstructured data coming from video, social media and embedded sensors.

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# EMPLOYERS SHOULDER RISKS FROM AT-HOME WORKERS

Firms should set boundaries for daily hours and work areas

BY MATT DUNNING

Mid-market employers can mitigate much of the liability exposures inherent in allowing employees to work remotely by formalizing the parameters of their telework arrangements.

Whether it's to accommodate injured or disabled workers, reduce overhead costs, boost employees' job satisfaction and productivity, or attract and retain high-level talent, nearly 90% of mid-market employers offer some type of telecommuting flexibility to their employees, according to an October survey by WorldatWork, a Scottsdale, Ariz.-based human resources industry association.

However, the survey also found that nearly one-third of all employers that offer telecommuting and other workforce flexibility programs had no written policy or document outlining the rules and requirements for their programs.

By not clearly defining the limits of their telecommuting arrangements, companies could find themselves exposed to a range of labor-related civil and legal liabilities, including workplace discrimination, wage-and-hour disputes and workers compensation claims, employment law and human resources experts said.

"One of the biggest things employers can do to help with the liability issues is having formal policies in place," said Rose Stanley, WorldatWork's Scottsdale-based total rewards practice leader.

The process of drafting such policies should begin with an open dialogue involving all departmental or divisional leaders whose operations could be affected by moving employees' day-to-day activities off-site, Ms. Stanley said.

"You don't do this in a vacuum," Ms. Stanley said. "You have to talk to your facilities management team, your (information technology) department, someone from your senior management and whomever it is that's going to be training your managers and employees to work within this policy. It works best when you have all those different groups working together."

Many legal risks employers face by permitting telework arrangements can be addressed by establishing unambiguous, objective telecommuting eligibility limits based primarily — if not exclusively — on whether employees' core job functions can be performed off-site, experts said.

"It's not going to work in every environment, even among different groups within one company," said Christine Walters, director of the Society for Human Resource Management's Maryland State Council in Baltimore. "It obviously won't work for employees on a factory floor, but it would probably work for a lot administrative or corporate offices."

However, even if employers limit telework eligibility solely by job function — leaving aside more subjective metrics such as individ-

ual employees' reliability, past performance and ability to work independently — perceived bias remains an issue, particularly if groups that are ineligible for telework arrangements are dominated by one or more protected classes under federal and state employment nondiscrimination laws, experts said.

"Employees that do not have the opportunity to telecommute may claim that they're being denied that opportunity based on their age, race, gender or other protected characteristic," said Nancy Vary, a New York-based principal at Buck Consultants L.L.C. "That kind of perception could be dangerous."

Eligibility requirements should also be applied to telecommuting arrangements offered only on an ad-hoc basis to injured or disabled

employees as a "reasonable accommodation" as defined under the federal Americans with Disabilities Act, experts said.

"It's a bit of a Pandora's box, in that once you open up the concept of telecommuting as a reasonable accommodation (without limiting eligibility), you then become susceptible to employees from all job functions filing requests for that same accommodation," said Dean Rocco, a Los Angeles-based partner at law firm Wilson Elser Moskowitz Edelman & Dicker L.L.P.

"It can erode some of an employer's arguments against offering telecommuting arrangements in general."

Another common source of concern for employers offering part-time or full-time telework arrangements — especially those that allow hourly employees to telecommute — is violations of wage-and-hour regulations under the federal Fair Labor Standards Act.

Additionally, permitting employees to work from their home or another remote location could expand the traditional "cause and scope" of their job for the purposes of assigning workers compensation for injuries incurred at home.

For example, an Oregon appellate court ruled in 2011 that an employee was due workers comp when she tripped over her dog while working at home.

Experts said employers can greatly reduce their exposure to potential risks by including in their formal telework framework a set of explicit boundaries, for the hours during the day employees are considered to be on company time and for the areas in their home considered applicable work areas under a workers compensation policy.

"It's important to set out in your policy what the actual work hours are going to be, and where specifically you're going to be working," Ms. Stanley said.

"That way, if a workers comp claim comes in, you'll be able to determine whether you're liable for that claim based on when and where the injury happened."

## TELEWORK ARRANGEMENTS

Employers are most likely to offer work-at-home arrangements to disabled employees and part-time workers.

Employees	Ad-hoc <sup>1</sup>	Part-time (monthly)	Part-time (weekly)	Full-time
100-499	77%	44%	34%	20%
500-999	88%	54%	52%	38%
1,000-2,499	89%	62%	58%	33%
All employers	83%	56%	52%	34%

<sup>1</sup> Includes Americans with Disabilities Act accommodations for injured or disabled employees  
Source: WorldatWork



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## PROPRIETARY DATA MAY BE EXPOSED

In addition to labor-related issues, permitting employees to work remotely can pose a serious threat to the security of an employer's most sensitive data, such as trade secrets, intellectual property, and customer or client information.

"Once you put someone at a remote location, if they're accessing the company's data and files — or even more importantly, customers' data and files — then you've got a real potential for employees to create liability for the company, whether willfully or not," said Dean Rocco, a Los Angeles-based partner at Wilson Elser Moskowitz Edelman & Dicker L.L.P. "That's a huge issue for employers, and it needs to be looked into both for their sake and, potentially, their clients' or customers' sake."

At minimum, employers that allow telecommuting employees to handle sensitive company information should implement a system that narrows their off-site access to information that is germane to their job function, as well as bars them from transferring that information to third parties. To the extent it is feasible, experts said employers also should consider restricting employees' ability to retain information locally once their work is done for the day.

"That can include not allowing them to store, print or otherwise reproduce information from their computer locally if it doesn't absolutely need to be," Mr. Rocco said. "A lot of that can be achieved through secure portal systems where employees go in and access the information that they need, but the data can't be removed or copied from that portal in any appreciable way."

By Matt Dunning

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# MEDICAL TOURISM GROWING AS EMPLOYER HEALTH CARE OPTION

Self-insured firms realize cost savings that some share with employees

BY JOANNE WOJCIK

When HSM Solutions, a Hickory, N.C.-based furniture manufacturer, first gave its employees the option of going overseas for medical care, many balked.

“They looked at us like we were monsters,” said Tim Isenhower, director of benefits, describing the reaction he received six years ago when he traveled around the country to introduce the concept of medical tourism to the midsize company’s 2,500 U.S.-based employees.

Medical tourism involves patients traveling from highly developed nations to other areas of the world for medical care, usually to find treatment at a lower cost. Among the more popular destinations are India, Mexico and Costa Rica.

As an incentive, HSM offered to waive copays and deductibles, cover the cost of travel for the employee and a companion, and even pay a bonus of 20% of the savings the company would experience, up to a cap of \$20,000, he said. “We have about 50 locations. At the last meeting, one of the employees said he would go. So I went with him” to India, as a show of good faith on behalf of HSM, Mr. Isenhower said.

Since that pioneering first trip abroad, approximately 250 HSM employees and dependents have taken advantage of this employee benefit, which is becoming an increasingly popular option for many self-insured employers struggling with the high cost of health care.

Mr. Isenhower estimates the company has saved \$9.5 million in health care costs over a six-year period, and that some of those savings are starting to accrue in the HSM’s workers compensation program.

“We had a lot of back injuries, and those employees didn’t want to get fused anymore,” which is the typical treatment for disk injuries in the United States, he said.

By contrast, doctors in India perform disk replacement surgery, which preserves patient mobility, he said.

## U.S. VS. ABROAD

Costs for medical procedures can be substantially more in the United States than abroad, but there also are procedures that can be performed domestically at nearly the same price as abroad. Costs, rounded to thousands of dollars, are:

### CHEAPER ABROAD

Procedure	U.S. range	India <sup>1</sup>	Costa Rica <sup>1</sup>
Spinal disk replacement	\$160-\$380	\$21	N/A
Single heart valve replacement	\$150-\$200	\$21	N/A
Unilateral hip replacement	\$40-\$55	\$17	\$22
Unilateral knee replacement	\$35-\$50	\$16	\$21
Laparoscopic gastric bypass	\$35-\$45	\$18	\$21

### COST NEARLY THE SAME

Procedure	U.S. range	India <sup>1</sup>	Costa Rica <sup>1</sup>
Rotator cuff repair	\$19-\$28	\$15.0	\$14
Hysterectomy	\$16-\$27	\$15	\$17
Shoulder arthroscopy	\$10-\$18	\$9	\$10
Hernia repair	\$10-\$20	\$10	\$12
Knee arthroscopy	\$9-\$16	\$9	\$9

<sup>1</sup> Average overall package price  
Source: IndUSHealth Inc.

In the United States, “such a surgery would cost \$300,000 to \$400,000,” Mr. Isenhower estimated. “I’m paying \$38,000,” which includes the cost of a \$5,000 airline ticket.

Because HSM’s medical tourism benefit has been so successful, the employer has expanded it to include bariatric surgery, knee and hip replacements, and hernia operations. More recently, HSM employees began going closer to home — Costa Rica — for knee and shoulder endoscopy procedures, Mr. Isenhower said. Such procedures are significantly less expensive than most of the other types of surgical procedures HSM has outsourced to India, but the cost of travel is significantly less, making it cost-effective nonetheless, he said.

“A plane ticket to Costa Rica is only \$500,” he said.

The Deloitte Center for Health Solutions estimated that approximately 1.6 million U.S. residents traveled outside the country for medical care in 2012, with an anticipated annual growth rate of 35%.

While most medical tourism initially involved uninsured or underinsured patients, it is being considered by more employers as a cost-

containment measure, said Joseph Harkins, associate editor of the Medical Tourism Association in Palm Beach Gardens, Fla. Evidencing that fact, the association’s sixth annual World Medical Tourism and Global Healthcare Congress in Las Vegas in early November attracted 2,500 doctors, hospital administrators, clinicians, insurance company executives, employers, government officials, travel agents and medical tourism facilitators. Nearly 200 countries were represented.

“It all comes down to shopping for the best value,” Mr. Harkins said. The association’s “2013 Medical Tourism Survey Report” found that 80% of the demand is driven by cost savings.

What also makes medical tourism attractive is that the hospitals that offer it bundle charges into a single bill that in many cases also includes travel expenses, unlike most U.S. hospitals, said Alex Odell, president of Medical Blossoms, a Mount Vernon, Wash.-based medical tourism facilitator.

Such facilitators contract with medical facilities worldwide that are accredited by the Joint Commission International to partici-

pate in networks not unlike preferred provider networks in the United States, said Kevin Rude, CEO of Medical Treatments Management Inc., another facilitator based in Walnut, Calif., whose network includes 250 hospitals in 40 countries.

To protect against the possibility of complications after a procedure, most medical tourism facilitators recommend that patients purchase “surgery complication insurance,” which pays for any subsequent medical care that might be required, said Kelly Jenkins, CEO of 360 Global Health, a Los Angeles-based facilitator.

“But I’ve never had anyone make a claim,” she said.

Ms. Jenkins, who recently traveled to Puerto Vallarta, Mexico, for her own arthroscopic knee surgery, said medical tourism offers self-insured employers several advantages.

“First off, it saves self-insured employers a lot of money,” she said. For example, her own procedure, which cost \$5,800 including travel expenses, would average \$14,000 in the United States for the procedure alone. Savings are even greater for hip replacements, which average about \$60,000 in the United States compared with \$15,000 in Mexico or as low as \$8,000 in India.

“It also can help to foster employee loyalty and morale,” Ms. Jenkins said. “If someone knows they can save out-of-pocket expenses and also get a bonus, it puts the employee and employer in a partnership. And it also demonstrates a forward-thinking corporate culture.”

Ms. Jenkins, who formerly worked in the corporate wellness industry before starting a medical tourism company, also sees a strong correlation between medical tourism and the health care consumerism movement.

“Employers offered preventive care and wellness benefits in exchange for higher deductibles. This is the next step: offering financial incentives for using medical tourism,” Ms. Jenkins said.

## Political unrest not a hurdle for patients

While political unrest may have deterred U.S. residents from visiting some foreign countries, for the most part it has had little detrimental effect on the growth in the medical tourism market, research shows.

The “2013 Medical Tourism Climate Survey” published by the International Medical Travel Journal found that 60% of clinics and hospitals reported growth in international patient numbers during the past 12 months, while 23% saw no increase and 17% saw a decline.

“We try to go to places with stable governments. We had concerns a few years ago in India after terrorist attacks there. There was a lot of news about how the terrorists had tried to single out Americans as targets. We did take some additional safety measures,” including having hospitals post guards on patient floors with international patients, said Rajesh Rao, founder and CEO of Raleigh, N.C.-based IndUSHealth Inc., a medical tourism facilitator that works with corporate clients, including self-funded employers and benefit consultants.

“We were prepared to cancel a couple of planned surgeries, but ... the patients assessed the potential risks on their own and insisted on going. We told them if we see there were news reports of any other challenges with unrest, we would not allow them to go. Fortunately, there was no other trouble,” Mr. Rao said.

By Joanne Wojcik



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# 2014 thought leadership opportunities from BI Custom Media Group

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## Insurer QBE suffers ratings downgrades

■ A.M. Best Europe revised the outlook for the financial strength rating of Australia's QBE Insurance Group Ltd. to negative from stable, the A.M. Best Co. Inc. subsidiary said. At the same time, the financial strength ratings of A for QBE operating units QBE Insurance (Europe) Ltd.; QBE Re (Europe) Ltd.; and QBE Insurance (International) Ltd. were affirmed, the rating agency said in a statement. However, A.M. Best Europe also downgraded QBE's the issuer credit rating and senior debt ratings to bbb from bbb+ as well as the debt ratings of the insurer's perpetual preferred securities to bb+ from bbb-, A.M. Best Europe said in the statement. The move comes after Sydney-based QBE's announcement that it expects a loss of approximately \$250 million for fiscal year 2013 "due mainly to claims provisioning and intangibles and goodwill writedowns in North America" according to QBE in its statement to the Australian Securities Exchange, and a downgrade by fellow ratings agency Fitch Ratings Inc.

## Global P/C insurance industry outlook stable

■ The outlook for the global property/casualty insurance industry is "stable," according to Moody's Investors Service Inc. In its report, Moody's said it expects property/casualty insurance premiums to grow at low- to mid-single-digit rates in North America and Europe. Moody's said the premiums should grow at a faster rate — high single digits or double digits in Asia and Latin America. "In North America, P&C price increases are moderating, but the cumulative benefit of past increases is still rolling through earnings, notably in U.S. commercial liability lines" said Moody's. It said low interest rates hurt investment income but encourage underwriting discipline. The pricing outlook in Europe is mixed depending on the country, said Moody's.

## Zurich cuts profit target, keeps dividend

■ Zurich Insurance Group Ltd. lowered a key profit target but promised to keep paying an attractive dividend over the next three years as it overhauls its business by investing in high-margin units and selling underperforming lines. In a presentation to investors, Zurich lowered its target for return on equity to 12% to 14% through

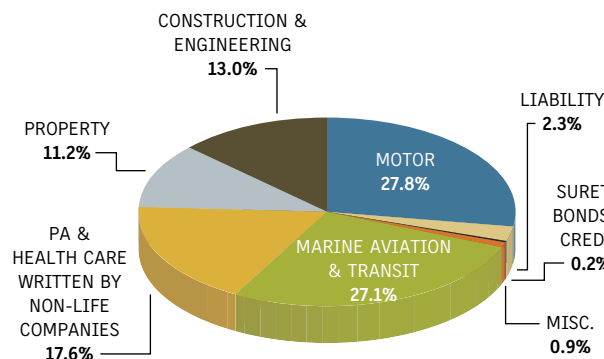
## PROFILE: VIETNAM

**\$1.09**  
BILLION

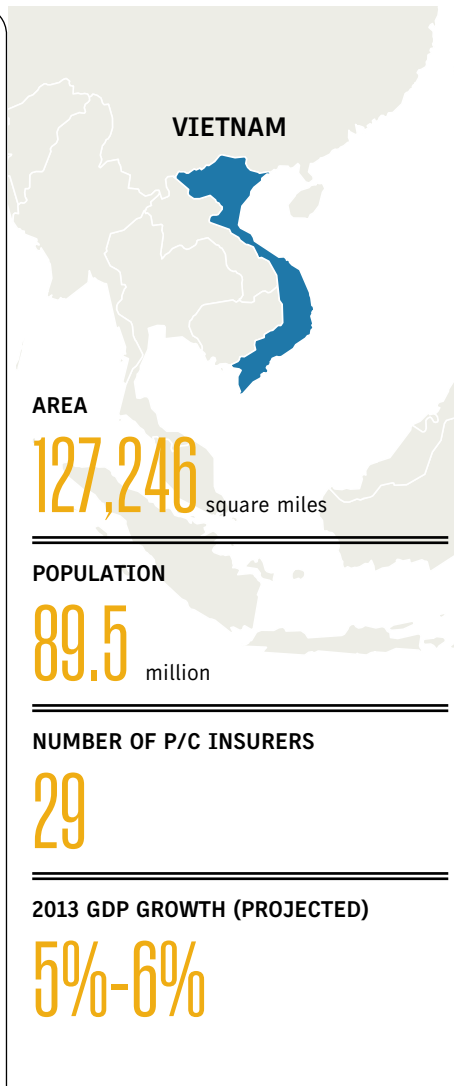
Economic expansion has slowed in Vietnam. The country continues on a path to modernization. There are plenty of challenges for property/casualty insurers. The result has been increasing premiums, especially for property and marine insurance, and unsustainable competition in the insurance market. The market remains short of qualified insurance practitioners at all levels, likely to cause long-term problems. New insurance rules have caused confusion rather than clarity.

◀ 2012 P/C gross premiums

### MARKET SHARE



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



## MARKET DEVELOPMENTS

UPDATED AUGUST 2013

- In September 2012, the Ministry of Finance issued plans to restructure the insurance industry to create a new classification of insurance companies.
- In July 2012, the Ministry of Finance handed down new rules, effective Oct. 1, 2012, for insurance and reinsurance companies, brokers and branches of foreign insurers. The main points are:
  - Insurers are authorized to open a maximum of 20 branches.
  - With permission, insurers can do business in all nonlife insurance products, except aviation and satellite insurance.
  - Brokers who want to work as primary and reinsurance intermediaries must increase their capital by an additional amount set forth by the local authorities.
  - Reinsurers must maintain the same amount of reserves as primary insurers.
  - There are new guidelines for permissible investments for insurers.
  - Insurance companies are required to have an internal auditor and financial statements must be audited annually by an independent financial firm.

### COMPULSORY INSURANCE

- Third-party auto liability
- Aviation third-party passenger liability
- Professional indemnity
- Employers' liability for construction work
- Marine passenger liability
- Travel coverage to go abroad

### NONADMITTED

Nonadmitted insurers are not permitted to carry on insurance activity in Vietnam. By law, insurance must be purchased from authorized local insurers. However, there are exceptions. The nonresident insurer must be in a country with an international trade agreement with Vietnam and have total assets of at least \$2 billion, three consecutive years of profitability before doing business in the nation and no record of illicit trading activities in its own country in those three years, among other requirements. Also, nonadmitted insurance is allowed for reinsurance and international maritime and aviation coverage.

### INTERMEDIARIES

Insurance brokers and agents have to be licensed to operate in Vietnam. They only can sell insurance products approved by or registered with the nation's Ministry of Finance. Agents only can do business with insurance companies they have an agency contract with. Brokers and agents cannot place nonadmitted insurance other than for coverage unavailable in the local market or authorized via an international trade agreement. The country levies up to a \$480 fine for placing insurance for foreign insurers engaging in illegal insurance activity or for compelling clients to obtain insurance abroad.

### MARKET PRACTICE

Most insurers, brokers and foreign-owned buyers have followed the nation's insurance law, but many have taken advantage of fronting arrangements to place the bulk of their insurance programs overseas. Law changes in 2011 and 2012 stipulate when cross-border insurance may be issued but forbids fronting without a local company retention.

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

2016, from 16%. The move was broadly expected as the company said recently damage from low interest rates meant it could be 2 percentage points below target. Chief Executive Martin Senn said the insurer aimed to pay an attractive and sustainable dividend as it worked to hone profitability.

Reuters

## Lloyd's CEO Richard Ward to join Brit as chairman

■ Richard Ward, CEO of Lloyd's of London, will become chairman of Brit Insurance Holdings B.V. and of Brit Syndicates Ltd., effective Feb. 1, 2014, Brit said. Mr. Ward has served as chief executive of Lloyd's since 2006. He announced during the summer that he would

step down as CEO of Lloyd's at the end of the year. Brit is a Dutch-domiciled insurer and reinsurer.

## Indonesia aims for takaful legislation

■ Insurers in Indonesia, Southeast Asia's largest economy, will have to wait until at least next year for a new law that will require the spinoff of their sharia-compliant units, an official at the country's financial regulator told Reuters. The move could reshape Indonesia's Islamic insurance, or takaful, market by spurring mergers as firms try to meet capital requirements for their full-fledged Islamic units. A draft law is now with parliament but other legislative priorities means it won't be enacted

this year as previously anticipated, said Alis Subiyantoro, head of the sharia insurance subdivision at the country's financial services authority. "The draft is still in discussion. The government asked to look at other legislation so it was postponed until next year."

Reuters

## AIR says Cyclone Xaver insured losses \$1 billion

■ Insured wind losses from Europe's Extratropical Cyclone Xaver will range between €700 million (\$959.4 million) and €1.4 billion (\$1.92 billion), Boston-based catastrophe modeler AIR Worldwide Corp. estimated. AIR said the majority of the losses occurred in Denmark, Germany, and the Unit-

ed Kingdom. Losses also occurred in the Netherlands, Belgium, Sweden and Norway. Xaver came ashore on Dec. 5 in Scotland with wind speeds comparable to those of a Category 1 hurricane.

## E.U. insurance watchdog highlights cat bond risks

■ A surge of capital from investors such as pension funds into specialized insurance risks could threaten financial systems and needs to be closely watched, the European Insurance and Occupational Pensions Authority said. Low interest rates on traditional bonds have pensions and hedge funds pouring money into insurance-linked securities.

Reuters

## Storm damage estimate exceeds \$1 billion

■ Late October's Windstorm Christian caused an estimated €994 million (\$1.35 billion) in insured property damage throughout a wide area of Europe, Zurich-based Perils A.G. said. The Oct. 27-29 storm, known widely as Christian but with several names depending on the country, caused widespread damage in Belgium, Denmark, Estonia, Finland, France, Germany, Latvia, Luxembourg, the Netherlands, Sweden and the United Kingdom.

## Willis Re dismisses two in Hong Kong office

■ Willis Re, the reinsurance arm of Willis Group Holdings P.L.C., has dismissed two employees from its Hong Kong office for what the brokerage said were "inappropriate business practices." "Willis recently discovered an incidence of inappropriate business practices within our reinsurance division in Hong Kong. After an internal investigation, Willis dismissed two employees and notified the Hong Kong regulatory authorities. At no point was the reinsurance business of any client at risk or negatively affected," Willis Re said in a statement. Willis did not identify the two fired Hong Kong employees.

## Austria lets insurers lend to big companies

■ Austria's markets watchdog will let insurers make direct loans to top-rated companies starting next year, giving insurers a chance to boost investment returns at a time of low interest rates and providing another source of finance for domestic firms. The Financial Market Authority said the change could generate up to 4.2 billion (\$5.7 billion) in such loans. The estimate is based on the experience in neighboring Germany, which already allows the practice, the FMA said in August when proposing the plan.

Reuters

## German insurers bolstered by rate hikes

■ Rate increases for lines affected by a series of natural catastrophe losses will help bolster German nonlife insurers' underwriting results in 2014, according to a report by Fitch Ratings Ltd. In the report, Fitch said its outlook for the sector remains stable. Severe

flooding, hailstorms and windstorm losses have hit Germany this year.

## RBS to pay \$100 million in U.S. sanctions probe

■ Royal Bank of Scotland Group P.L.C. will pay \$100 million to resolve U.S. probes into the bank's dealings with Sudan, Iran, and other sanctioned countries, U.S.

authorities said. Between 2005 and 2009, the bank processed around \$34 million in wire transfers that violated sanctions against Sudan, Iran, Cuba and Myanmar, the Treasury Department said, adding that \$32 million of that amount came from Sudan. The bank also instructed its employees to remove references to the sanctioned locations from payment messages to U.S. financial institutions so that they would be processed, authorities said.

## Bilfinger resolves case, agrees to \$32 million fine

■ A Germany-based international engineering company has agreed to pay \$32 million to resolve charges it violated the Foreign Corrupt Practices Act by bribing Nigerian government officials, the Department of Justice said. The DOJ said Mannheim, Germany-based Bilfinger S.E. had bribed the

officials to obtain and retain contracts related to its Eastern Gas Gathering system project, which was valued at \$387 million. Under the three-year deferred prosecution agreement, in addition to the fine, Bilfinger agreed to implement rigorous internal controls, continue cooperating fully with the justice department and retain an independent corporate compliance monitor for at least 18 months, the DOJ said

Reuters

SEPTEMBER 5TH, 1:45 A.M.

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EDITORIAL

## CELEBRATING 10 YEARS OF HSAs

**A**nniversaries are times for reflection, and the 10th anniversary of the passage of legislation authorizing health savings accounts is an appropriate time for a few thoughts. Our first thought is HSAs have helped to control health care costs. The costs were completely out of control when Congress passed legislation in 2003 that enabled the creation of HSAs. Costs jumped by more than 10% on average that year, the third consecutive year of double-digit increases.

Compare those increases with today. In 2013, health care costs inched up a little more than 2% on average, following a jump of slightly more than 4% the prior year.

That dramatic slowing of health care cost increases coincides with the spike in employee participation in high-deductible plans linked to HSAs.

This year, 18% of employees nationwide are enrolled in HSAs, or similar ones in which health reimbursement arrangements are linked to high-deductible plans. That means enrollment in the plans has more than tripled in just six years, according to Mercer L.L.C. surveys.

Because of their high deductibles, HSA-linked plans cost dramatically less for employers than traditional group health plans. The \$8,482 average per employee cost for high-deductible plans linked to HSAs is roughly \$1,700 less per employee than traditional preferred provider organization plans.

We think the cost difference is due to the basic design of HSA-linked plans. There is no question the high-deductible feature gives employees a powerful financial incentive to be better consumers of health care services. For example, if employees face a \$2,000 deductible, they are going to take common-sense actions, such as using in-network medical providers, opting for generic drugs over brand names, and going to hospital emergency rooms for services when truly necessary rather than for less serious ailments or injuries.

But the success of HSA-linked plans in helping control costs is not just due to the high deductible. Employees know if they use health care services wisely, the amount they contribute to HSAs to cover out-of-pocket expenses will not be depleted and will be available to cover costs during the current plan year and beyond — even for health care expenses they incur in retirement.

This truly is a happy 10th anniversary for HSAs.

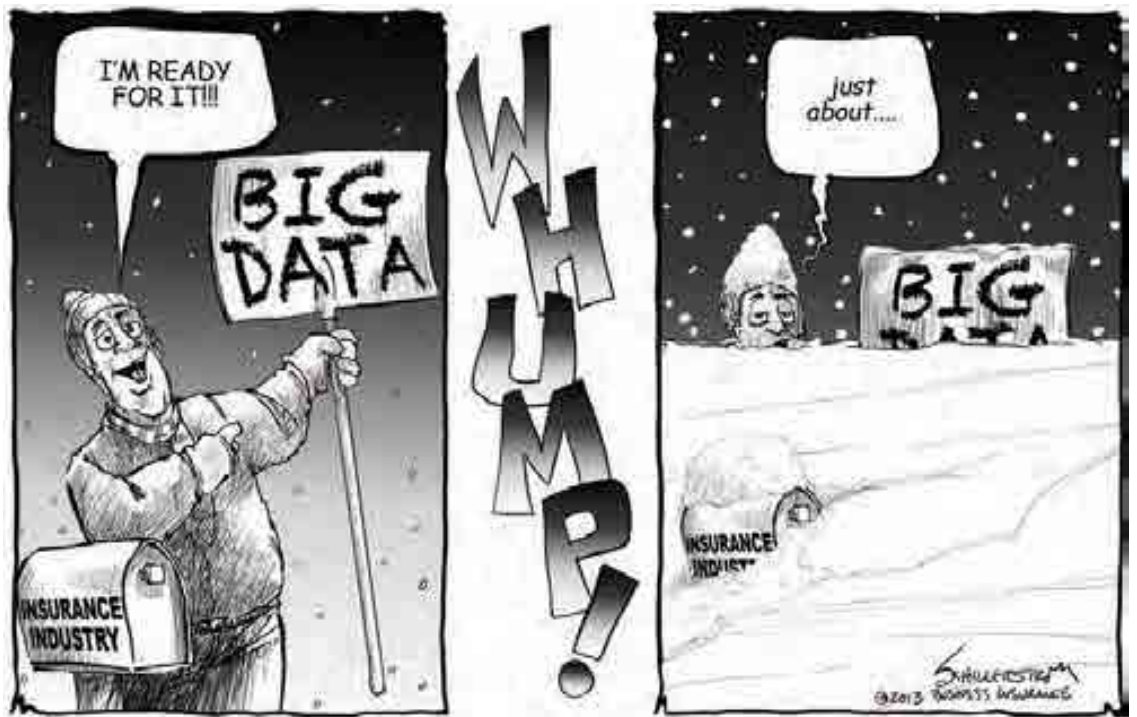
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SCHILLERSTROM



COMMENTARY

## NFIP NEEDS TO BOOST PREMIUMS TO BETTER REFLECT PROPERTY RISK

**I**t wasn't all that long ago that we were being treated to the recurring congressional spectacle of extending the National Flood Insurance Program for a few weeks at a time. In some cases, the program was allowed to lapse, only to be reinstated retroactively. The result was a classic example of Washington dysfunction at its worst.

Fortunately, lawmakers got their act together and approved the Biggert-Waters Flood Insurance Reform Act of 2012. The legislation extended the program for five years and instituted several significant reforms to the debt-ridden NFIP, including requiring actuarially based rates for coverage, which would allow rates to increase by as much as 25% per year.

In the private insurance sector, using actuarially based rates would raise no eyebrows. In fact, doing so would be considered sound underwriting practice.

But things work differently in the public sector. A little more than a year after the passage of the Biggert-Waters act in July 2012, lawmakers from both parties are backing legislation that would prevent the NFIP from using actuarially sound rates for at least four years. Look at a calendar — that means that the revised rate schedule wouldn't take effect until the NFIP was up for yet another extension.

That policyholders wouldn't want to pay higher rates is understandable; nobody likes to pay more for something when its price has been held artificially low like NFIP rates have been. According to a report issued this year by the Government Accountability Office, the NFIP as of November 2012 owed the U.S. Treasury Department about \$20 billion. With that kind of debt involved, this certainly isn't the time to block justified



**MARK A.  
HOFMANN**  
SENIOR EDITOR

rate increases.

Ideally, the program would be at least partially privatized, as has been urged by the Reinsurance Association of America and the Association of Bermuda Insurers and Reinsurers. The Federal Emergency Management Agency, which oversees the NFIP, is expected to issue a report on privatization in the not-too-distant future. But any privatization efforts

would take years to materialize.

If some members of Congress have their way, charging realistic rates for NFIP coverage will take years to accomplish. That's not fair to taxpayers, who are indirectly subsidizing coverage for NFIP policyholders in flood-prone areas. Postponing justified rate increases doesn't do anything for the federal debt, either.

There will be hardship cases as a result of the new rate structure. But those should and can be dealt with on an individual basis. And under some circumstances, actuarially sound rates could signal that a property never should have been developed in the first place because of the severe nature of its exposure.

Postponing the levying of sound rates on NFIP policies will accomplish nothing beyond giving temporary relief to some policyholders while undermining reform of the program. Without reform, the program can only be expected to go deeper into debt, with the taxpayers ultimately picking up the tab.

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SPECIAL REPORT

Diversity training must be wide-ranging

PAGE 16

Pool of talent should reflect customer base

PAGE 20

Senior execs should be more involved

PAGE 20

Multilingual employees key to expansion

PAGE 21



# Diversity by structured design

Insurance industry making progress, but results still lag

BY JOANNE WOJCIK

VIDEO

Access *Business Insurance's* interactive digital edition to watch insurance executives talk about what their workplace diversity programs mean for business growth. Fifty-seven percent of insurers and business insurance buyers have formal diversity programs, a new survey shows.

Insurers and buyers of commercial insurance are more likely to have formal programs designed to foster diversity than brokers and other industry service providers, according to a *Business Insurance* survey.

While 69% of commercial insurance buyers have formal diversity programs, nearly as many — 65% — of commercial insurers have such programs. However, just 53% of brokers, 47% of third-party administrators, and 43% of risk consultants do, according to the survey.

Even though 57% of all organizations surveyed have some sort of formalized diversity program for their staffs, only 40% have similarly structured programs to recruit diverse

talent.

Among insurance buyers, where about half have formal programs to recruit diverse talent, public companies, nonprofit and governmental entities are twice as likely to have a formal program as private companies, the survey found. By contrast, 50% of commercial insurers, 40% of commercial insurance brokers, and 35% of risk consultants have such programs.

Despite the scarcity of formal diversity programs within the commercial insurance industry, most executives surveyed were confident about their effectiveness, with 82% of insurers and 75% of brokers saying they were either very or somewhat effective in achieving their objectives. Similarly, 81% of commercial insurance buyers said they

thought such programs worked.

While tracking the success of diversity initiatives may present challenges, Terri Austin, chief diversity officer at McGraw Hill Financial in New York, said they should be tracked “like any business initiative ... to determine progress from one year to the next.”

“Some of the metrics, like employee demographics, are easy to track,” said the executive at the firm that provides credit ratings, benchmarks and analytics for the global capital and commodity markets. “Other more subjective metrics, like employee engagement or product innovation, can be more difficult to track. Engagement surveys can often serve as a tracking mechanism particularly

See SURVEY page 16

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8/4	Risk Management Technology	The new technology pushing better risk management	July 18	Technology firms, RMIS systems, Consultants	7/25
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# Diversity training programs must be broad, backed by senior managers

Firms can reduce workplace liabilities with such efforts

BY JUDY GREENWALD

**D**iversity training programs can be as different as the companies that introduce them.

Whatever form they take, a successful diversity training program is not conducted in isolation but should be supported by a company's hiring and promotion policies as well as by company officials' endorsement, experts say.

A properly run program has many benefits, including increased profitability, and few, if any, drawbacks, they say.

The precise approach to conducting diversity training can vary widely, depending on the particular program.

"There isn't necessarily a typical training program," said Shirley Davis Sheppard, vice president for global diversity and inclusion and workplace flexibility at the Alexandria, Va.-based Society for Human Resource Management.

"It's so different from organization to organization," she said. "There are different needs, difference experiences. There are some companies that are further along with diversity, and there are others that are just getting started."

Christina A. Stoneburner, a partner with law firm Fox Rothschild L.L.P. in Roseland, N.J., said the particular form diversity training can take can include in-person training, video conferencing and webinars.

Diversity training today goes beyond an understanding that you cannot pick on people and "tries to take it one step further and get employees to be conscious of the benefits of a diverse workforce, and address some of the challenges that people from diverse backgrounds have faced," she said. "Some of it's being sensitive to cultural and ethnic differences."

"At the very basic level, a typical diversity training program tries to teach two things," said Lisa Gardner of Silver Spring, Md.-based

**"From a business standpoint, there's a benefit to having a happy, productive employee."**

Christina A. Stoneburner,  
Fox Rothschild L.L.P.

Lisa Gardner Consulting. "One is a general awareness at the individual level, (including) self-awareness around diversity and personal biases, to make sure associates and employees understand that we all do have biases, and to examine our own biases."

At the next level, a program should "talk about the value of diversity to the organization" and the "business case for diversity. How does it impact employee engagement, how does it impact customer satisfaction and rele-

vance? How are we connecting with our customers in a culturally appropriate way? It helps people understand" why diversity is not just a nice thing to have, but "really an important business strategy as well," Ms. Gardner said.

Diversity training should make sure "people have a clear understanding of the business case" for inclusion, which is "pretty obvious given the changes in demographics," said Howard Ross, founder and chief learning officer at Silver Spring, Md.-based consulting firm Cook Ross Inc.

Another piece of a program should be "an understanding of the importance of culture and how it plays out in the business environment, and particularly in our global business environment today," he said.

Furthermore, a diversity training program should cover the steps people can take to be proactive on this issue rather than just raising awareness, Mr. Ross said.

"Probably the overriding point that we try to convey is the idea of respect" and "an understanding of how the other person wants to be treated," said Bruce Greenfield, a principal, consultant and trainer with Columbus, Ohio-based Diversity Matters. "We focus on that a lot, and we talk about stereotypes and where they come from and what to do about them."

Ms. Gardner said one of the immediate benefits of a diversity



program is that it helps to set the company's culture and expectations about employees' behavior with one another and with the customer.

"It helps to develop a culture of transparency and increase people's comfort with building relationships and more effective teamwork, more effective communication, more effective leadership," she said.

"It can help the company's reputation because employees can then communicate the company's mission and values" which "can create goodwill in the community," she said. That "can increase market share. It can have a real impact on the bottom line," Ms. Gardner said.

The benefits of a successful diversity program include the improved worker productivity that can result from a reduction in conflict, said Ms. Stoneburner. "From a business standpoint, there's a benefit to having a happy, productive employee."

And from a legal standpoint, it helps to avoid liability, she said. When "people embrace the mes-

sage of diversity training, you will have fewer harassment complaints," she said.

Furthermore, the more training you provide your employees, the more affirmative defenses you have in litigation if there is a complaint, Ms. Stoneburner said. It can further solidify the idea of "how seriously the employer takes the issue of diversity."

Mr. Ross said diversity training should be conducted within a "broader training context" rather than "just throwing a training program at something." It is not enough, for example, to hold a meeting in the company cafeteria during Black History Month, he said.

Rather, a program "should be part of a systematic approach within your organization," which is reflected in its hiring, promotion and benefits package, Mr. Ross said.

"You look comprehensively at all the various decisions that are made in the organization to get a sense" of whether you are doing things the best way.

## SURVEY

Continued from page 14

for these 'softer' metrics."

The survey also found that mandatory diversity training is required by 70% of commercial buyer organizations, commercial insurers and consultants, but only 58% of insurance brokers.

When looking at how diversity evolves in any industry, the "first-mover" companies are those that engage consumers, said Bo Young Lee, global diversity and inclusion lead at Marsh Inc. in New York.

"Society at large changes more rapidly than our institutions," Ms. Lee said. "Insurers and buyers are more likely to have to serve and respond to a rapidly diversifying consumer market. Since brokers

are more likely to serve institutional clients, the change in demographic isn't happening as quickly. ... However, change is happening in the institutions. We see that shift every day. Those brokers who are early adopters of diversity and inclusion have a definite advantage in the long run."

Deborah Stalker, deputy general counsel of the North America office of general counsel at Ace Ltd., said the insurer wants to foster a diverse culture globally.

That is "not just because it is the right thing to do, but because it will enhance the value of the company and be good for business and our customers, producers and vendors," said Ms. Stalker, who also is president of Ace Women's Forum, a diversity program that began as a grass-roots effort in 2002 by a small group of women executives

in Philadelphia. Formalized in 2007, the program has grown to 23 chapters throughout Ace's North American operations.

While most companies within the insurance industry think diversity programming is effective, slightly more than one-third of commercial insurance buyers try to measure the effect of diversity on their organizations. Similarly, just 27% of insurers and brokers measure the effect of their diversity programs, while only 20% of risk consultants do.

"It is difficult to get precise measurements for a diversity program," said John Lumelleau, president and CEO of Kansas City, Mo.-based insurance broker Lockton Cos. L.L.C. "There are both objective and subjective measurements

to use. And it's more than just diversity. ... We want to know that all of our associates feel connected and empowered, that their differences are valued, and that our culture is inclusive."

Among methods used to measure the effect of diversity programming, the most common are: identifying levels of diversity at all areas of the workforce, used by 66% of respondents; number of diverse employees recruited, used by 60%; and employee opinion surveys or diversity audits, used by 58% of organizations participating in the *Business Insurance* survey.

While the human resources department leads diversity efforts at the majority of insurers, CEOs are more likely to be held account-

able than risk consultants. Human resources is accountable for diversity programs at 43% of insurers and 48% of insurance buyers vs. 18% of risk consultants. However, the CEO is accountable at 39% of risk consultants vs. 14% of insurers and 18% of insurance buyers. Among brokers, the CEO was accountable at 27% of firms, while human resources had that responsibility at 24% of the firms.

The survey on diversity practices, conducted online in September and October, included responses from 1,335 individuals. Forty-one percent of the respondents were brokers; 21%, insurers; 20%, insurance buyers; 15%, risk consultants; and 3%, TPAs. Questions concerning diversity practices were asked of individuals indicating their organizations have diversity programs.

Only 27% of insurers and brokers and 20% of risk consultants measure the effect of their diversity programs.



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# DIVERSITY GOES BEYOND COLOR, GENDER

Insurers and brokers need to be much more inclusive to match diverse client base

BY MARK A. HOFMANN

For insurers and brokers, recruiting and nurturing a diverse workforce represents a means to gain a competitive edge over their peers.

As the industry's customer base grows ever more diverse in terms of ethnicity, gender and other qualities, insurers and brokers must step up their efforts to diversify their own workforces. They must create a culture of inclusion to draw upon as broad a pool of talent as possible, experts say.

But the same experts say the industry lags others in promoting diversity.

The very definition of diversity, like beauty, lies in the eye of the beholder.

Diversity even extends to military veterans. Last month, Marsh Inc. said it would hire 500 military veterans in the next three years.

"We view diversity not only through the differences you can see, such as gender, ethnicity, age, military service and sexual orientation, but also through the ones you don't see, such as different points of view and culture," said Nichole Barnes Marshall, Aon P.L.C.'s global head of diversity and inclusion in Chicago.

Creating a diverse workforce is a "talent imperative for us," said Trevor Gandy, Warren, N.J.-based chief diversity officer at Chubb Corp. "We need individuals from different backgrounds and perspectives."

He said Chubb looks for people who can bring their unique perspectives and backgrounds to the table. This extends beyond the United States; as a global organization, Chubb is increasingly dependent on non-U.S. staff to contribute their ideas and perspectives. "For quite some time, this has been an imperative for leadership of our organization," he said. "Top talent doesn't come in one package."

"They have to make a strong effort to recruit, develop and promote diverse candidates," said Liam Lawrence, managing

director at Reilly Partners, a Chicago-based executive recruiting firm. "Development and promotion are key. It seems to me that in recent years, more companies are looking beyond diversity numbers across the board and instead focusing on the inclusion of diverse individuals in key senior leadership roles throughout the company."

Diversity among insurers is critical to reaching a changing customer base, said Brian Little, vice president of human resources and head of business partnership at Zurich North America in Schaumburg, Ill.

"Most of the large carriers spend a lot of time ensuring that they look like their customers," he said. "That helps them understand the needs of their customers and to be innovative."

"You have to look at all dimensions of diversity" to make sure products are going to align with what the customer wants, he said.

"The foremost and fundamental reason is

the fact that our clients are becoming more and more diverse; they want to see and buy from a company that supports and has a diverse workforce itself," said David Jacobs, president and chief operating officer of Oswald Cos., a Cleveland-based brokerage.

"On the distribution side, you do see a lot of opportunities for diversity," said Howard Mills, New York-based director and chief adviser of the insurance industry group at Deloitte L.L.P. "A diverse distribution force allows a company to reach out to underinsured people," he said. This provides opportunities to have people from those communities going into them to sell products.

"Clients will buy from those who provide value — and add diversity to that and that brings that much more value," Mr. Jacobs said. But he said the insurance industry has quite a ways to go in creating the diverse workforce it needs. He said that on a scale of one to 10, "the industry rates about a two."

"We're fairly weak when it comes to sup-

porting diversity. It's very much been an industry dominated by white males," he said. "It is getting somewhat better. It's been a very slow process. But at the principal level, it's still not where it needs to be."

Mr. Jacobs said that Oswald Cos. established a partnership with a minority-owned Cleveland insurance agency, Taylor Oswald.

The nature of the industry itself may cause it to lag some other industries in terms of diversifying its workforce, Mr. Little said.

"The insurance industry is very talent-focused, and it takes a while to learn the business, and it has a higher retention rate of employees than most industries, therefore it changes a little bit more slowly than companies that have higher turnover," he said. "Insurance companies are very focused on attracting the best talent from college or high school and the experienced marketplace."

The industry is somewhat challenged in creating more diverse workplaces in part because the insurance industry suffers "from the stigma as not being the most exciting of industries," Mr. Mills said.

David Arenas, managing director at Reilly Partners who is responsible for the firm's diversity and inclusion efforts across all of its practice groups, said the industry doesn't stack up very well against other industries in terms of creating a diverse workplace, "but it is getting better."

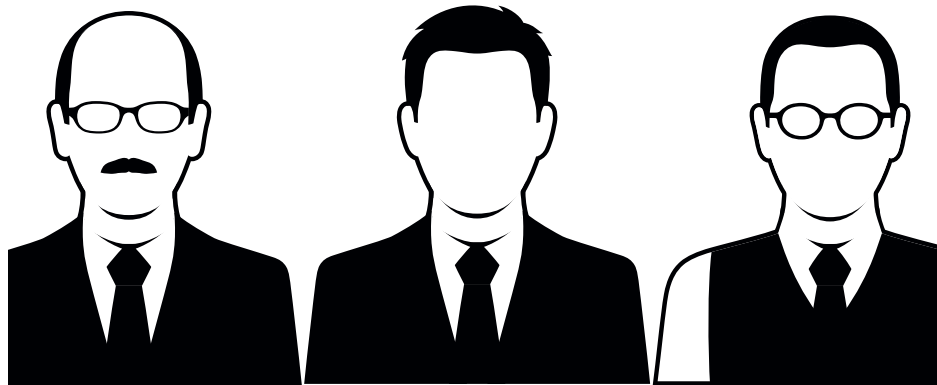
"Consumer companies are closer to the end consumer and do a better job of paying attention to concerns from the growing diverse communities they serve," he said.

Insurance companies dealing in retail products like individual life and personal lines property/casualty insurance are making progress, but other sectors of the industry remain further behind, he said.

"However, the entire industry needs to increase its efforts in attracting diverse talent in an industry lacking attractiveness, when compared to other industries such as technology, consumer, energy or even banking," Mr. Arenas said.

*"We're fairly weak when it comes to supporting diversity. It's very much been an industry dominated by white males. It is getting somewhat better. It's been a very slow process."*

David Jacobs, Oswald Cos.



## Senior execs responsible for establishing company culture of inclusion

BY MATT DUNNING

Most senior executives have embraced the idea that companies with diverse and inclusive workforces — particularly at the management and executive levels — tend to outperform their more homogenous competitors on financial performance, talent retention and overall employee morale.

However, studies show that relatively few CEOs, chief financial officers and other top-level business leaders actively drive performance in corporate diversity programs.

A study released last month by the Los Angeles-based Korn/Ferry Institute found that while 96% of

senior executives polled said workforce diversity can improve business results and employee engagement, only 72% directed their organization to implement a formal diversity strategy or program.

"The senior executive has to play a huge role in setting the expectations (for diversity programs), and it's only after that when you can start to execute on that," said Chris Maleno, Philadelphia-based division president of Ace USA.

To begin with, experts said senior executives bear the responsibility of establishing a corporate culture that values inclusion and diversity of thought at all operational levels, including talent management,

advertising and brand management, client and customer relations, and supplier agreements.

"Diversity has to be seen internally and externally as part of the organizational DNA," said Shirley Davis Sheppard, Alexandria, Va.-based vice president of global diversity, inclusion and workforce flexibility for the Society for Human Resource Management. "It can't be seen as just a program you put in place. It has to be woven into the operational fabric of your company, not just a human resources initiative."

At the operational level, experts outlined several steps senior corporate leaders can take to drive

greater inclusion of women and minorities in their managerial and executive spheres.

One particularly effective method to reinforce the importance of diversity, experts said, is incorporating such benchmarks in managers' and executives' performance appraisals and compensation structures.

"Tactically, CEOs get to approve a lot of things within their organizations that specifically and concretely affect your culture and your programs," said David North, Memphis, Tenn.-based president and CEO of Sedgwick Claims Management Services Inc. "You have to have institutional ways to make

sure that unintentional discrimination doesn't occur, and we have the power to put those programs in place."

Only 52% of executives said their companies' management reviews included diversity as a measure of effectiveness, and only 23% said diversity goals factored into their own compensation structures as of August of this year, according to the Korn/Ferry Institute's report.

Additionally, when employers have established diversity councils or committees within their organization, experts said it is critical senior executives make a visible effort to participate in those groups as a symbolic gesture of



## Multilingual employees crucial to expansion into foreign markets, working with global clients

BY SHEENA HARRISON

Insurance industry experts say having multilingual employees is an important part of conducting business with clients who have an increasingly diverse workforce and global locations.

Insurers and brokers said that employees who can speak more than one language are a crucial part of doing business with domestic companies that have diverse workforces, U.S. firms that are expanding their operations into other countries, and foreign businesses looking to expand their U.S. footprint.

A spokesman for Austin, Texas-based Texas Mutual Insurance Co. said about half of the 25 employees in the insurer's call center speak more than one language. Several of the workers compensation insurer's loss prevention consultants and claims adjusters also speak more than one language, typically English and Spanish.

Having such diversity in Texas Mutual's staff has been helpful when working with business owners who don't speak English as their first language, the company

spokesman said.

In a statement, Zurich Insurance Group Ltd. said that the insurer has 60,000 employees worldwide, and that the company's corporate headquarters in Zurich has employees from nearly 60 nationalities.

"Language skills are ... the key for success," according to Zurich's statement. "As we live in a multicultural environment, the strong command of the local language and at least one other foreign language are important in order to provide customers with (the) best service."

While the ability to talk with clients in their native or preferred language is useful in sales or claims-related interactions, sources say multilingual employees also tend to have knowledge of cultural nuances that can accentuate business relationships.

"Having the ability to communicate in a language other than English is incredibly important, but it's also important to have overall knowledge of a variety of cultures in order to be most effective," said Darcy Kerr, vice president of human resources for Lansing, Mich.-based workers compen-

sation insurer Accident Fund Holdings Inc.

Bo Young Lee, New York-based senior vice president and global diversity and inclusion officer for Marsh Inc., said having multilingual employees is "tremendously important" for the brokerage, particularly in units that conduct international business.

For example, the company's Asian client services group includes many employees who are fluent in multiple Asian languages in addition to English.

"A lot of these individuals who are multilingual also are cross-culturally competent," Ms. Lee said.

support for their efforts, if not to take an active role in steering their activities.

According to a March study by Calvert Investment Management Inc., seven of 10 companies on the Standard & Poor's list of the 100 largest U.S.-based firms have established diversity councils, but only 56 CEOs participate in them.

"Whatever we're doing today, the facts prove that it's not enough," Mr. North said. "CEOs do fundamentally believe that (diversity) is an important thing to pursue; but in spite of that belief, meritocracy by itself is not working very well. We have to go further than saying that we're just going to let the best people move forward."

Predictably, experts said, the lack of engagement in diversity programming among CEOs and other

corporate leaders is reflected most sharply in the consistently paltry representation of women and minorities occupying senior leadership roles. According to the most recent examination of U.S. workforce demographics by the U.S. Bureau of Labor Statistics, less than 25% of chief executive positions were held by women in 2012.

Racial and ethnic minorities have fared even worse. Just 3.7% of U.S. CEOs were black, 4.2% were Asian and 4.7% were Hispanic in 2012.

"From a corporate perspective, that represents a huge loss in resources," said Meryle Mahrer Kaplan, New York-based senior vice president at Catalyst Inc., referring specifically to the dearth of women in senior corporate leadership roles. "I look at this and I see lousy talent stewardship."

"So it's not just that they can speak the language, but they can also understand the different cultures."

The opportunity to work with international clients often is a key recruitment factor for workers who can speak multiple languages, sources say.

"Bilingual colleagues and workers are looking for a place where they can put not just their language capabilities, but also their global business awareness, into practice," Marsh's Ms. Lee said.

"I think because we are a global company, because we do offer that ability to work with global clients, it certainly is an incentive to join us as an organization."

Aon P.L.C.'s Global Client Network allows employees who speak more than one language to work on international accounts and has been helpful in attracting multilingual employees to the brokerage, said John Peterson, Chicago-based co-leader of U.S. national sales for Aon Risk Solutions.

"English remains the international language of business, but the value of being able to communicate in a client's native language cannot be underestimated," Mr. Peterson said.

"We make a concerted effort to hire employees with capabilities and skills, including language skills, to match the demographics of our clients."


"Having the ability to communicate in a language other than English is incredibly important, but it's also important to have overall knowledge of a variety of cultures in order to be most effective."

Darcy Kerr,  
Accident Fund Holdings Inc.


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### TOP UNIVERSITIES

Largest U.S. colleges and universities ranked by the number of 2012/2013 undergraduates majoring in risk management and insurance programs

Rank	School	Main campus	Undergraduates	Graduates
1	Temple University	Philadelphia	450	150
2	University of Georgia	Athens, Ga.	355	146
3	California State University, Fullerton	Fullerton, Calif.	286	12
4	University of Wisconsin-Madison	Madison, Wis	225	97
5	University of South Carolina	Columbia, S.C.	188	36
6	Illinois State University	Normal, Ill.	187	79
7	Appalachian State University	Boone, N.C.	145	57
8	University of Mississippi	Oxford, Miss.	139	59
9	St. Joseph's University	Philadelphia	126	26
10	St. John's University	New York	115	26

Source: BI survey

### INSURER HIRING

Top colleges and universities in insurer hiring of 2012/2013 risk management and insurance undergrads

Rank*	School	% hired
1	California State University, Fullerton	92%
2*	LaSalle University	80%
2*	University of Hartford	80%
4*	Olivet College	75%
4*	University of North Texas	75%
4*	Missouri State University	75%
7*	University of Central Arkansas	70%
7*	University of Wisconsin Oshkosh	70%

\*Tie

### AGENT/BROKER HIRING

Top colleges and universities in agent and broker hiring of 2012/2013 risk management and insurance undergrads

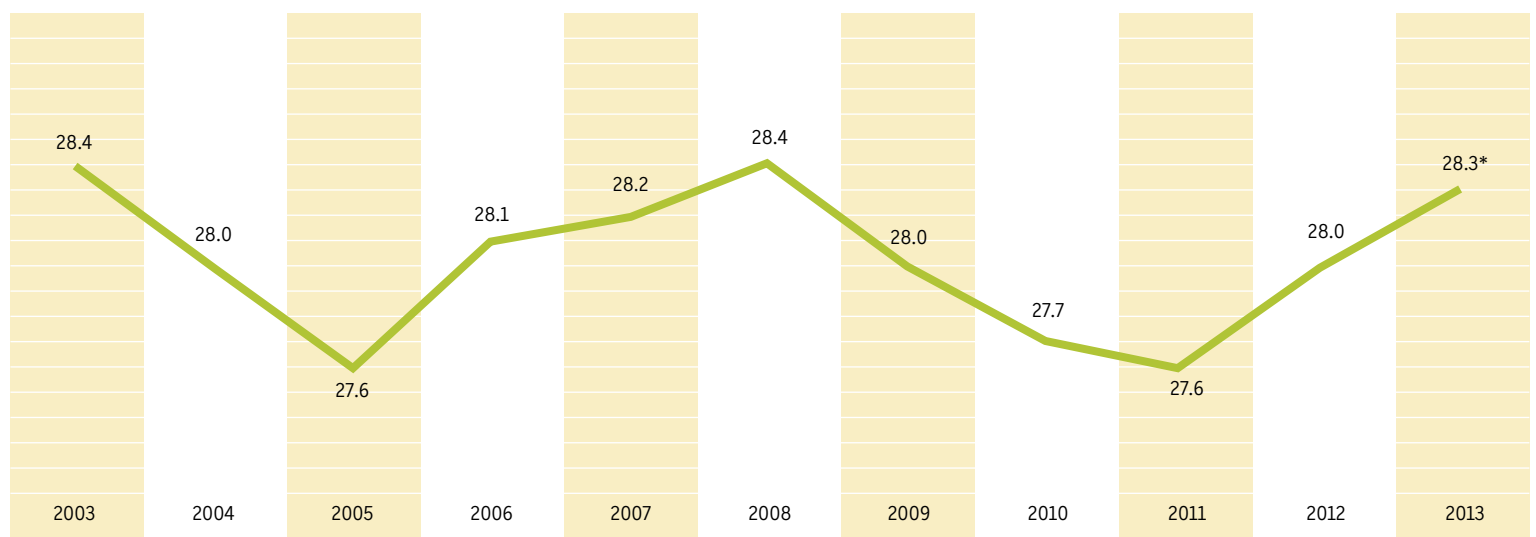
Rank*	School	% hired
1	Old Dominion University	90%
2*	University of Mississippi	70%
3*	Troy University	60%
3*	University of Louisiana at Monroe	60%
5	Virginia Commonwealth University	55%
6*	Mississippi State University	50%
6*	University of Colorado Denver	50%

\*Tie

Source: BI survey

### EMPLOYMENT TRENDS

While employment in the U.S. insurance industry decreased from 2009-2011, it rebounded in 2012 and 2013, in millions.



\* Estimated

Source: Bureau of Labor Statistics

### AVERAGE SALARIES

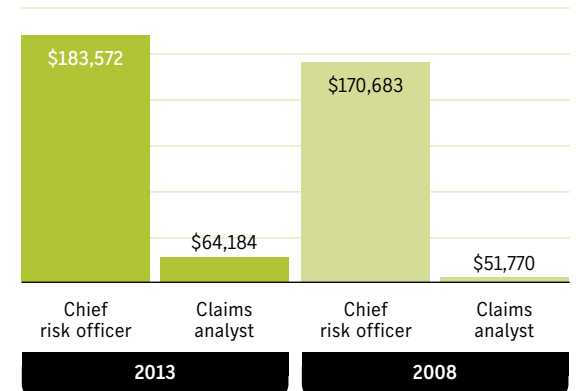
The average annual salary in 2012 for insurance-related occupations

Salary	Occupation	Employment (in millions)
\$69,230	Underwriter	82.8
\$63,510	Agent	323.5
\$61,130	Supervisor/manager	51.7
\$60,330	Claims adjuster, examiner, investigator	185.1
\$37,320	Claims and policy-processing clerk	201.4

Source: Bureau of Labor Statistics

### HIGH & LOW

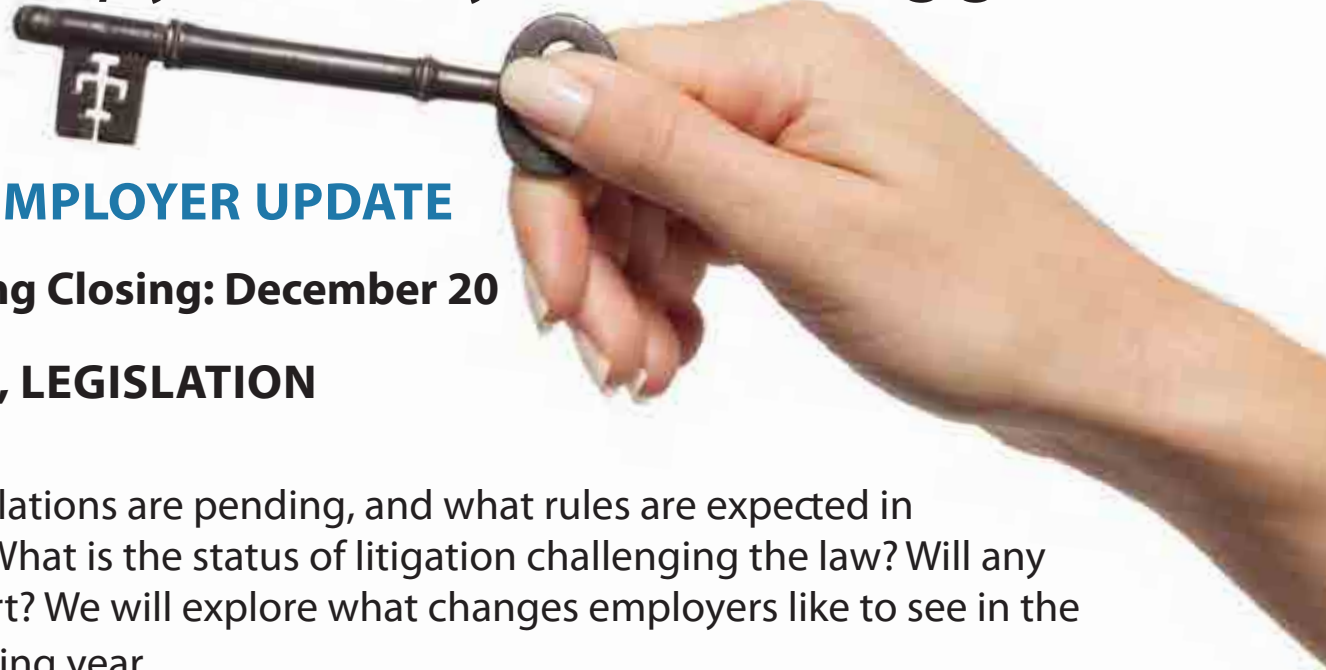
The highest and lowest average base salaries in risk management



Source: Risk & Insurance Management Society Inc.'s "RIMS 2013 Risk Management Compensation Survey"

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## Innovate to recruit top talent



Mr. Lawrence

BY LIAM T. LAWRENCE

The next major catastrophe the reinsurance industry could face is both predictable and preventable. Consolidation, soft market pricing conditions and inadequate public relations all have played a part in causing industry employment numbers to plummet during the past two decades.

The Insurance Information Institute published a report in September showing that, excluding brokers, the number of jobs in the reinsurance sector has decreased by more than 40% since 1990. This is not the kind of trend that will excite many of today's finance majors.

Add in the mistrust that some of the public has in regard to "exotic" financial tools — misplaced as it is in this case — and one can see how the reinsurance industry may have serious issues attracting the next generation of leaders it so badly needs.

There are additional adverse forces affecting talent management in the industry. America is aging and, as a result, the talent pool is shrinking. Thoughtful (and elusive) immigration reform would help, but only to a degree.

There is another more subtle change that has occurred, and it may be one we can actually affect. For the past 25 years, the sense of how individuals consider their relationship with an employer has been changing. This cultural shift is complex, but likely began in the 1980s when many companies began reducing or eliminating training and development budgets.

Corporate America decided it was spending too much time and money training employees that ended up leaving to join their competition. In the C-suite, it was surmised that these employees simply didn't understand the meaning of loyalty. The shift continued in the following decades as various economic and industry bubbles inflated and then burst, leaving many on the outside looking in. The perception is that much of Corporate America has become reactive and impersonal, playing to the demands of shareholders first, customers second and their employees last.

For anyone on the hiring side of the equation, none of this is news. Great

The reinsurance sector needs to do a better job of recruiting and developing top job prospects, says Liam T. Lawrence, managing partner of executive search firm Reilly Partners Inc. While most large firms already have a basic college recruiting plan, the insurance industry in general needs to spread the word that the reinsurance sector is dynamic and vital to recruit the next generation of leaders it so badly needs.

candidates are in short supply. The positions to fill are critical and usually require very specific experience and competencies. The list of qualifications for senior-level positions is long and often describes a "dream" candidate. Very few dream candidates exist. Sprinkle in demands for a very particular segment, product line or geographic experience, diversity, mobility, cultural fit, and my favorite — "runway," which is a combination of potential and time left in the workforce to achieve it, and things get even more challenging.

While brokerages occasionally look outside the industry for junior sales talent, they rarely do this at the higher levels. They typically don't have the luxury of time required to teach someone the business.

If we must hire our leaders from within the industry, then clearly we have to look further down the ladder for opportunities to pull in our future leaders from the outside. A talent gap exists and we have to develop a pipeline to fill it. The corporate titans of the last century spent money on recruiting, training and developing top talent.

They built their brands not only on the strength of their product or service, but on their reputation as an employer. Today, margins are thin and money for expenditures that don't produce quick and clear returns is hard to come by. To a certain extent, we have to go back to the future and do a better job of recruiting, training, developing, and earning back the trust and loyalty of the next generation of high performers.

Smart students today are thinking about college and their careers far earlier than the generations that preceded them. They have a better understanding of the world than most of us did at that age — and they are getting advice from parents and mentors who have lived through the various economic cycles of the past decades. Pragmatic planners are considering careers in sectors they think will provide increased chances of employment opportunities and job security over the course of their working lives. Industries including health care, biotechnology, sustainable energy, security and information

technology, not to mention social media, are attracting the talent the insurance industry needs to thrive in a world full of increasingly complex risks and opportunities.

### Promoting the industry

How can we turn the tide? To business majors, if insurance has always been the less attractive sister in the finance family, reinsurance, particularly to outsiders, has been invisible. Those who have made their careers in this industry know these perceptions are misplaced. Reinsurance is a fascinating, complex and potentially rewarding industry.

Industry veterans and insiders know that while reinsurance may not dominate the employment market, the reinsurance market plays a profound and integral role in the insurance industry, and in the entire worldwide financial marketplace. Many consider reinsurance the backbone of the insurance industry.

The industry needs to do a better job of promoting the opportunities within a career in reinsurance. Most large reinsurance brokers and carriers have at least a basic college recruiting plan in place, but my sense is that much more can and should be done to make these programs more targeted and effective at attracting the talent needed. We read daily about the influx of new capital into the reinsurance arena from institutional and

alternative investors. Because the investors clearly see opportunity, so too should the best and brightest in college today. The industry needs to find innovative ways to prospect this young talent, and bring it in the door.

The industry needs the same brilliant, creative talent that other "sexier" sectors are hiring. And as we all know, the stakes are high. The industry needs a deep understanding of all industries, in order to help them mitigate risk so they can continue to innovate with the knowledge and security they will be covered and insured.

The insurance industry as a whole is just beginning to grasp the possibilities and implications of big data. We are just learning to take advantage of the highly advanced analytics and predictive modeling necessary to serve customers who are learning to survive and thrive in the same rapidly changing and advancing world. Climate change, political instability, the technology explosion are affecting virtually every industry. These are the headlines to leverage in order to tell the story. It's the story of a dynamic, vital industry, with tremendous runway ahead.

*Liam T. Lawrence is managing director at Reilly Partners Inc., a Chicago-based executive search firm. He can be reached at 312-784-1996 or at llawrence@reillypartners.com.*



## Guy Carpenter releases updated modeling tool

Reinsurance brokerage Guy Carpenter & Co. L.L.C. has released an updated version of its risk reserve modeling tool, MetaRisk Reserve, that accounts for Solvency II.

New York-based Guy Carpenter said MetaRisk Reserve 3.0 can be integrated with the latest version of its capital management tool, MetaRisk 7.2, and enables insurers to better quantify reserve risk and allocate capital more effectively.

The updated MetaRisk Reserve accommodates changes in reserve reporting resulting from Solvency II, in addition to having predictive modeling capabilities enabling insurers to improve enterprise risk management.

“MetaRisk Reserve 3.0 is the latest example of Guy Carpenter’s commitment to innovation and improvements in technology as insurance companies look for every competitive advantage in the increasingly complex global insurance environment,” Don Mango, vice chairman and head of enterprise analytics for Guy Carpenter, said in a statement.

Guy Carpenter has secured a patent for its MetaRisk Reserve 3.0 system to determine loss reserves, the reinsurance broker said.

## Liberty Mutual product targets foreign operations

Liberty Mutual Holding Co. Inc.’s commercial insurance business unit has rolled out a product that focuses on property coverage of the foreign operations of midsize U.S. companies and includes a global crisis management endorsement.

The Boston-based insurer’s Global Concierge Plus product provides up to \$25 million in foreign property coverage.

The new product joins Liberty Mutual’s two existing foreign insurance offerings: Global Concierge, which provides incidental foreign coverage for U.S. companies that do not have physical operations overseas; and Controlled Master Programs, which provides custom property/casualty solutions for larger U.S.-based companies’ overseas operations.

Liberty Mutual also will provide a global crisis management endorsement on its Global Concierge Plus and Controlled Master Program policies.

Under the endorsement, policyholders will have up to 72 hours to identify an insured crisis event, file a claim and receive up to \$50,000 in crisis management support from public relations firm Weber Shandwick. Additional crisis management protection up to \$350,000 also can be purchased.

## Chubb enhances cover for business travel abroad

Chubb Corp. is offering access to a travel risk management website to its eligible personal, commercial and accident insurance customers.

The online portal, managed by the Europ Assistance Group, includes country and city risk ratings, real-time security alerts, local security reports, risk

## PRODUCTS & SERVICES

### Willis places weather cover for Roy Hill

Willis Group Holdings P.L.C. has designed and placed a derivative-based risk transfer insurance package to protect what is to become Australia’s largest single iron ore mining operation from cyclones and heavy rain during its construction.

The coverage for Roy Hill Holdings Pty. Ltd. that was provided by a unit of Endurance Specialty Holdings Ltd. has a limit of 56 million Australia dollars (\$51 million), Willis said.

The customized package covers two cyclone seasons and would be triggered by certain cyclone and rainfall events that occur during construction of the \$10 billion mining, rail and port project in the Pilbara region of western Australia that is to become operational in 2015.

“The index-based cover differs from regular indemnity cover in that there is no requirement for the insured to prove any loss or damage to assets from the cyclone,” Willis said in a statement. “The indemnity is based purely upon the performance of the preagreed cyclone and rainfall indices.”

“Traditional construction and property policies will cover the damage caused by a cyclone, but not the financial impact of project delays and additional wages where there is no damage to the insured assets,” Steve Hearn, deputy CEO of Willis Group, said in the statement. “This bespoke solution was designed to cover this traditionally uninsurable risk, which Roy Hill identified as a particular concern.”

mitigation tips, transportation information and tools to manage medical incidents while traveling, the insurer said in a statement.

“Whether you are negotiating a business deal in Shanghai or then meeting your family at the Great Wall, the new online travel risk management portal will supply information to help keep you safe and provide access to critical resources should an emergency arise,” Jim Villa, senior vice president of Chubb Accident & Health, said in the statement.

The services will be available as of Jan. 1, 2014, to eligible Chubb customers.

## Aspen Re establishes Silverton Re

Aspen Reinsurance, a unit of Hamilton, Bermuda-based Aspen Insurance Holdings Ltd., has established special-purpose insurer called Silverton Re.

Bermuda-domiciled Silverton Re provides additional collateralized capacity to support Aspen Re’s global reinsurance business, Aspen Re said in a statement.

Silverton Re is capitalized initially at \$65 million, with \$15 million provided by Aspen Re and additional funding secured from third-party investors.

Silverton Re will enter into a quota-share retrocessional agreement with Aspen under which it will reinsure a share of Aspen’s global property catastrophe excess-of-loss portfolio.

Aon Benfield Securities Inc. acted as the placement agent.

## Ace global export cover tailored to European firms

Ace Ltd. has launched Ace Global Export Protection, an enhanced risk management program for mid-market companies in continental Europe.

The program provides export liability coverage for European companies with revenue up to €1 billion (\$1.36 billion) that supply products from manufacturing locations in continental Europe. It is designed to meet the needs a variety of industries, including heavy and light manufacturing, food and beverage, and consumer goods.

The program includes worldwide jurisdiction protection, vendors indemnity and catastrophe management cover with limits of up to €100 million (\$135.6 million).

“Ace Global Export Protection is an innovative proposition that combines risk transfer with the strategic risk management counsel and crisis support that many middle-market companies seek when expanding overseas,” Connie Germano, regional technical manager for casualty at Ace in continental Europe, said in the statement.

Country-specific offerings will be rolled out in the next several months.

## Willis offers cyber toolkit for U.K. companies

Willis Group Holdings P.L.C. has rolled out Cyber Atlas, a security product to help U.K. companies combat cyber threats.

It is designed to build resilience to help avoid costly fraud and online attacks, the broker said in a statement. Cyber Atlas includes an online learning tool, an online self-audit to allow organizations to test their security level and an incident-response service.

The product was developed in response to a warning from the U.K. government that cyber crime threats are increasing for U.K. companies.

“Cyber criminals know that larger multinationals have the infrastructure to fight cyber crime so they often target the (information technology) network and vulnerabilities of a small company to get into the network of the multinational,” Jonathan Brooks, practice leader for FINEX National at Willis, said in a statement.

## DEALS & MOVES

### JLT Towner buys Conn. captive management company

JLT Towner Insurance Management (USA) L.L.C. has acquired Connecticut captive management company Charter Risk Management Services L.L.C. from Albany, N.Y.-based Compass Co. Consultants L.L.C.

Terms of the transaction were not disclosed.

Thomas F.X. Hodson, Charter’s president and CEO, will lead Burlington, Vt.-based JLT Towner’s Connecticut office, JLT Towner said in a statement.

JLT Towner is a joint venture between Jardine Lloyd Thompson Group P.L.C. and Towner Management.

Compass Co. Consultants is a subsidiary of New York-based Park Strategies L.L.C. In addition to buying Compass’ ownership in Charter, JLT Towner bought a portion of Mr. Hodson’s interest in the captive manager.

### AmWINS buys wholesaler Bliss & Glennon, eReinsure

AmWINS Group Inc. has reached definitive agreements to acquire excess and surplus lines wholesale insurance broker Bliss & Glennon Inc. plus online platform eReinsure for managing the placement of facultative reinsurance.

Both companies are subsidiaries of Jacksonville, Fla.-based Fortegra Financial Corp. Terms of the transaction were not disclosed.

Bliss & Glennon, founded in 1965, has offices in six other states besides California, has longstanding relationships with retail clients and markets, a growing transactional brokerage business, and an array of binding authority contracts, Charlotte, N.C.-based AmWINS said in a statement.

Redondo Beach, Calif.-based Bliss & Glennon was ranked as the 10th largest property/casualty wholesaler in 2013 by *Business Insurance*. AmWINS was ranked No. 1.

Salt Lake City-based eReinsure provides Internet-based technology solutions for managing reinsurance transactions, including the negotiation and placement process, data management and analysis, compliance, integration and automation. In addition to Salt Lake City, the firm has offices in New York and London.

### USI Insurance Services buying Van Gilder Insurance

USI Insurance Services L.L.C. said it has entered into an agreement to acquire Denver-based Van Gilder Insurance Corp.

Terms of the acquisition were not disclosed.

Van Gilder will change its name to USI Colorado, and the company’s office and employees will remain in Denver, USI said in a statement. Van Gilder President Donald McG. Woods and Chief Financial Officer Edward M. Harrington Jr. will remain in their leadership roles.

Former Van Gilder CEO Michael Van Gilder and Roger Parker, former CEO of Delta Petroleum Corp., were named in a 2012 civil action filed by the Securities and Exchange Commission in connection with a criminal indictment alleging that Mr. Van Gilder illegally profited from a December 2007 purchase of stock in the oil and gas exploration company.

Mr. Van Gilder, who resigned as CEO in October 2012, was sentenced in August to five years of probation, six months of house arrest and a \$5,000 fine after pleading guilty to one count of securities fraud. He has repaid \$86,100 of his ill-gotten gains.

## INDEPENDENT BROKERS BECOME CLIENTS' RISK MANAGEMENT ARM

**Q** What are the biggest challenges for an independent broker like Crystal?

**A** We are always challenging ourselves to provide better service and to find the top professionals in our industry. We've been doing it for 80 years. The challenges are different for a private company as compared to a public company. As a private company, you can allocate your resources where you want rather than worrying about earnings per share. Clients get better services.

**Q** Who is your target market, and what do you do to set Crystal apart to reach the target market?

**A** We want clients who desire a consultative partnership — not just a broker — clients that want to partner with us on a consultative basis and use Crystal as an extension of their risk management team.

**Q** What is the largest segment of your business and what special skills does this require?

### Q&A

**A** Financial institutions are the largest single segment of our business. It is a unique industry segment that continues to see significant change both to its business challenges and regulatory environment. This area requires an in-depth knowledge of your client's business, and a dedicated focus and approach in order to be in a position to advise your clients on their ever-changing risks and exposures, and to advocate on their behalf in what is a very segmented and specialized insurance marketplace for financial institutions.

**Q** What have been the biggest changes in the brokerage industry in the past five years?

**A** The elimination of competition, as private equity firms buy out brokers and bigger firms have to acquire for capital purposes. Also, there has been a premium on excellence; you have to be multi-service; you can't just sell a policy. The quality of people in the industry is also better by far. Younger people are coming into the industry as a choice rather than as an alternative. Insurance companies are stronger. The insurance buyer has a better position than five to 10 years ago.

**Q** Will consolidation continue?

**A** I don't doubt that for a minute. It professionalizes the business and creates a barrier for entry. Further, as you consolidate, clients consider new alternatives that may not have been available before. As consolidation continues, I believe we will see more fee business than commission business.



**JAMES W. CRYSTAL**  
CRYSTAL & COMPANY

James W. Crystal is chairman and CEO of New York-based independent insurance brokerage Crystal & Company. Mr. Crystal recently spoke with *Business Insurance* Associate Editor Matthew Lerner about the challenges that independent brokers face and ongoing changes in the industry. Edited excerpts follow.

**Q** Is there an advantage to critical mass?

**A** Definitely. You wind up with better leverage and also have the ability to access different insurance markets. And over time, there's not much you haven't seen.

**Q** Has technology changed the insurance business?

**A** Technology has changed the structure of this country and every other country. The world has changed. Business is global and immediate, and technology makes it easier. Clients have access to more data and more ana-

lytics. Technology also allows people to stay in contact better, so we have more frequent interaction with our clients.

**Q** Is it different having your name on the door?

**A** Absolutely — particularly in the area of responsibility. Your responsibility to clients is much greater.

**Q** Is the industry rewarding?

**A** For me it is. Every day is a challenge, and every day is a competitive plan. It is not for the faint of heart.

### COMINGS & GOINGS

## UP CLOSE: ANGELA SORRENTINI

LOS ANGELES-BASED SENIOR VICE PRESIDENT, FAMILY OFFICE (WEST REGION), PERSONAL LINES PRACTICE  
Willis North America Inc.

**PREVIOUS POSITION:** Los Angeles-based senior vice president and national client executive for private client services with Marsh Inc.

**GOALS FOR NEW POSITION:** To empower and mentor those around me and to share my many years of knowledge with the up-and-coming stars.

**CHALLENGES FACING INDUSTRY:** This industry brings unsavory competition to the table, when the truth is that all professionals should focus on their strengths, learn from each other and simply be respectful. This is a wonderful business to be in, and if you do a great job and focus on the clients, business will come to you.

**INDUSTRY OUTLOOK:** It gets better every year with more creative and innovative ideas in the marketplace.

**FIRST INDUSTRY JOB:** My first job was a part-time job as a mail and file clerk for a small insurance agency in South Carolina. I started to take classes, secured my



broker's license, became a client representative and eventually became the department manager.

**WHAT SURPRISED ME:** That I would find the insurance business interesting and that I would do it for my entire working life.

**ADVICE:** Don't take your current situation for granted, as it can all be pulled out from under you in a split second.

**HOBBIES:** Shop, shop, shop.

**THING MOST PEOPLE DON'T KNOW ABOUT ME:** I was born and raised in the Bronx and am known as "Angie from the Block."

**WHEN I RETIRE:** Travel and do volunteering where needed.

**CAN'T-MISS TELEVISION SHOW:** "American Idol," "The Voice" and "Dancing with the Stars." Anything to do with music and dancing makes me smile and sets the tone for my day.

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Burns & Wilcox Ltd.	Evan Bull
Tysers & Co. Ltd.	Simon Higginson
USI Insurance Services L.L.C.	Ray Bascio

#### INSURERS

Ace in Asia Pacific	Jason Keen
Canopus Group Ltd.	Akhtar Ahmed
Canopus Group Ltd.	Tabitha Nice
Canopus Group Ltd.	Angus Rogers

#### REINSURANCE

Argo Re	Matthew Wilken
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#### OTHER

Towers Watson & Co.	Dr. Henriette Coetzer
Towers Watson & Co.	George Caffrey
Verisk Health Inc.	Nadine Hays
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*Business Insurance* would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to: Kate Shepherd, *Business Insurance*, 150 N. Michigan Ave., Chicago, Ill. 60601-7524. [kshepherd@businessinsurance.com](mailto:kshepherd@businessinsurance.com).

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## PUBLIC NOTICES

### LEGAL NOTICE

**IN THE MATTER OF THE LIQUIDATION OF  
CENTENNIAL INSURANCE COMPANY  
Supreme Court County of New York  
Index No.: 402424/10**

Pursuant to an order of the Supreme Court of the State of New York, County of New York, entered on April 27, 2011, the Superintendent of Insurance of the State of New York and his successors in office were appointed as liquidator ("Liquidator") of Centennial Insurance Company ("Centennial") and, as such, has been directed to take possession of Centennial's property and liquidate its business and affairs pursuant to Article 74 of the New York Insurance Law. The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Liquidator of Centennial.

PLEASE TAKE NOTICE that the Supreme Court of the State of New York, County of New York, has issued an order, entered December 2, 2013: (1) vacating the prior order, signed by the Court on September 17, 2013, establishing September 30, 2013 as the bar date in this proceeding and (2) establishing (i) December 15, 2013, as the bar date ("Bar Date") for the presentation to the Liquidator of all claims against Centennial or its insureds other than the Liquidator's claims for administrative expenses and (ii) January 16, 2015, as the last date on which the holder of such a claim against Centennial or its insureds submitted by the Bar Date, other than the Liquidator's claims for administrative expenses, may submit to the Liquidator proof, including all facts regarding such claim (for the avoidance of doubt, facts include all identifying information of those allegedly injured by an insured), in support of the allowance of such claim.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6665.

Dated: December 6, 2013, Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York as Liquidator of Centennial Insurance Company.

### LEGAL NOTICE

**IN THE MATTER OF THE LIQUIDATION OF  
ATLANTIC MUTUAL INSURANCE COMPANY  
Supreme Court County of New York  
Index No.: 402424/10**

Pursuant to an order of the Supreme Court of the State of New York, County of New York, entered on April 27, 2011, the Superintendent of Insurance of the State of New York and his successors in office were appointed as liquidator ("Liquidator") of Atlantic Mutual Insurance Company ("Atlantic Mutual") and, as such, has been directed to take possession of Atlantic Mutual's property and liquidate its business and affairs pursuant to Article 74 of the New York Insurance Law. The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Liquidator of Atlantic Mutual.

PLEASE TAKE NOTICE that the Supreme Court of the State of New York, County of New York, has issued an order, entered December 2, 2013: (1) vacating the prior order, signed by the Court on September 17, 2013, establishing September 30, 2013 as the bar date in this proceeding and (2) establishing December 15, 2013, as the bar date for the presentation to the Liquidator of all claims against Atlantic Mutual or its insureds other than the Liquidator's claims for administrative expenses.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6665.

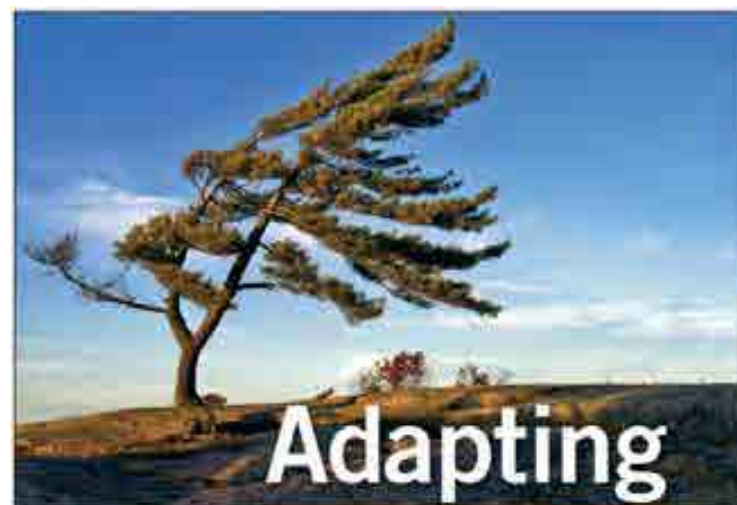
Dated: December 6, 2013, Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York as Liquidator of Atlantic Mutual Insurance Company.

### REQUEST FOR PROPOSAL

Aon Risk Services Central, Inc. (ARS) is seeking bids from qualified insurers (Minimum AM Best rating of A-VII and qualified to write business in the state of Pennsylvania) with respect to commercial insurance for the Philadelphia Housing Authority (PHA). Submissions will be provided to qualified interested parties for the following lines of insurance which renew on March 31, 2014: Property All Risk, General Liability (inc. Law Enforcement, Employee Benefits, Mold, Pesticide, Lead, Terrorism), Auto Liability and Collision, Public Officials Liability and Fidelity. All quotes must be received by ARS from respondents no later than 12:01PM, January 8, 2014.

All interested parties seeking detailed underwriting submissions should contact Mr. David Rosko of ARS (david.rosko@aon.com)

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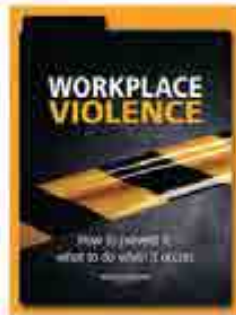
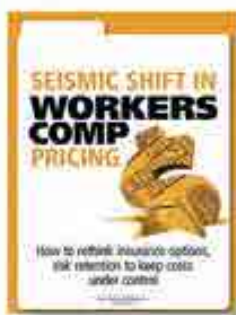
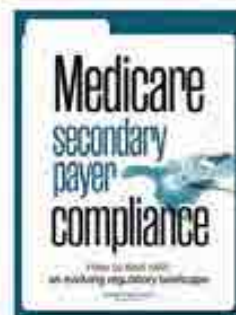
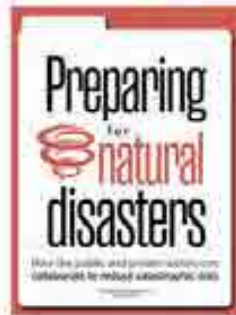
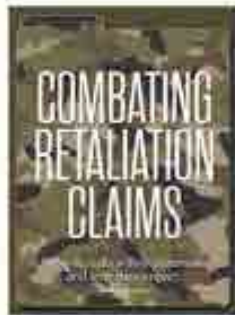
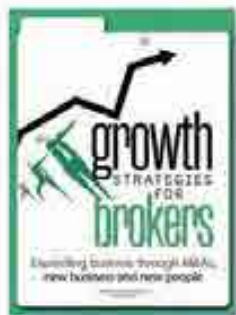
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# BIG DATA

Continued from page 4

process should be familiar to insurers.

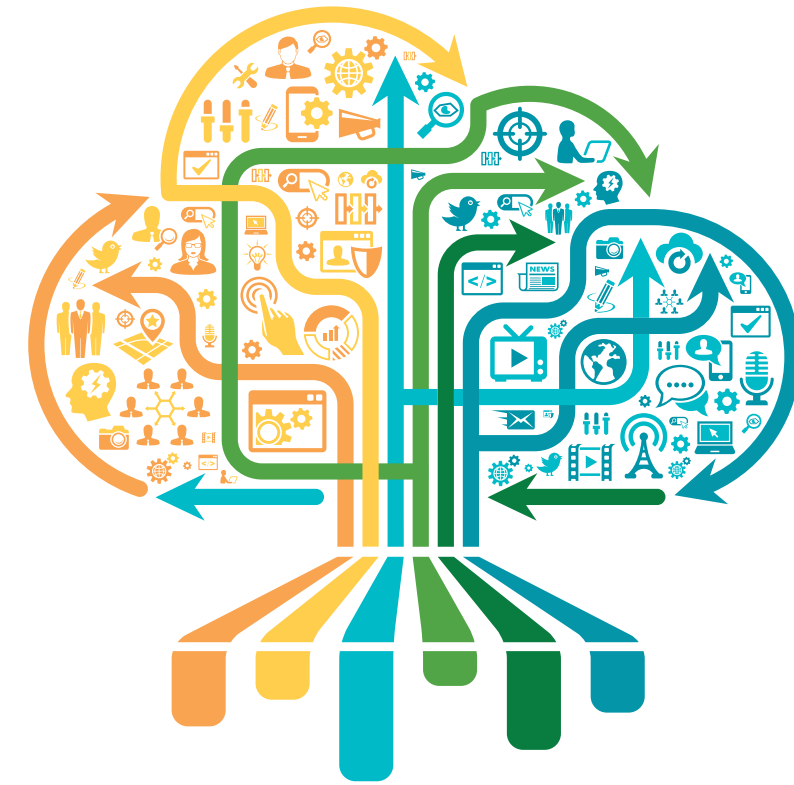
“A lot the buzz about big data has made it more confusing that it needs be,” Ms. Colby said. “It’s about using more advanced technologies than were available previously, but you are applying them to concepts than have been there for a long time.”

Chubb Corp. is one insurer building its big data capabilities.

“We have actually made some significant investments,” said Jon Bidwell, New York-based chief innovation officer at Chubb. “We have our first chief data scientist. There is a tremendous amount of potential given the volume of information we have.”

Likewise, David N. Fields, Boston-based executive vice president and chief underwriting officer at Berkshire Hathaway Specialty Insurance, said big data tools have a variety of uses in insurance, with claims and underwriting being the most obvious uses.

“It’s something that’s immediate and a very useful tool to underwrite business,” but will vary according to the specifics of a particular insurance company and



line of business, he said.

“The more homogenous the business, the larger the business, the more deeply ingrained it will be,” Mr. Fields said. “At the other end of the spectrum, you have unique, one-off transactions where big data is not a relevant factor. But when it comes to ordinary commercial insurance, the use of big data can accelerate your understanding and ability to differentiate risks from another to come up

with the most appropriate price.”

Big data is particularly well-suited to help insurers price risks, as well as individual underwriting decisions, Ms. Colby said.

“You can use a greater volume and variety of factors for analysis when you get into big data technologies,” she said. “So you can run more what-if scenarios against an entire portfolio and, perhaps, shift the risk appetite of a carrier.”

Nonetheless, Jim Guszcza, Santa

Monica, Calif.-based predictive analytics lead at Deloitte Consulting L.L.P., said a crucial consideration for commercial insurers adopting big data is determining the right strategic application of the data and realizing that more data are not necessarily better.

“Particularly for domains like commercial lines insurance where the data can be noisy, I think it’s most helpful to shift the focus away from big data to the right

“A lot the buzz about big data has made it more confusing that it needs be. It’s about using more advanced technologies than were available previously, but you are applying them to concepts than have been there for a long time.”

Christina Colby,  
Cappgemini Financial  
Services

data,” Mr. Guszcza said. “Organizations that undergo expensive data gathering operations before clear-use cases have been articulated are often in for a disappointment.”

Mr. Bidwell agreed that companies approaching big data solely as a technology issue without considering broader operational and staffing issues are likely to fail to derive maximum value from the endeavor.

“You can have all your data on (open source distributed data platform) Hadoop, but you won’t be successful unless you can organize your firm at a granular level to act on it,” Mr. Bidwell said.

## ADVERTISER

# INDEX

### Issue of December 16

ADVERTISER	PAGE #
ACE	5
Berkshire Hathaway	2
Business Insurance	9, 15, 17, 23, 28, 35
C N A	11
Discovery Benefits	21
Florida State University	29
Liberty Mutual	13, 36
Marsh	9A/D
QBE	18/19
World Captive Forum	31
Zurich North America	7

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# HEDGE

Continued from page 4

good person to lend credibility to the organization. This is a positive development going forward," said Brian Schneider, an analyst with Fitch Ratings Inc. in Chicago.

"That will lend instant credibility to the organization. This is good news for the reinsurance business. It's a new lease on life and a break from the shackles of the insider trading scandal," said John Ward, CEO of Cincinnati-based Cincinnati Partners L.L.C., a private equity firm specializing in the insurance industry.

Mr. Ball of Towers Watson said, "This is just the tip of the iceberg. We will continue to see evolution in the reinsurance market as the reinsurance and capital markets continue to converge."

That sentiment was echoed by Romulo Braga, senior vice president for BMS Intermediaries in New York. "I envision that the market will grow as the industry challenges itself to link capital with risk," Mr. Braga said.

"There is an evolution taking place. People are incrementally trying new mixes, and the test of time will show which is the most successful," said Todor Todorov, a New York-based investment consultant for Towers Watson.

As hedge funds, pension funds, endowments and other players increasingly turn to the reinsurance sector in search of invest-

ment returns, capital has begun to accumulate rapidly.

"The space is flush with capital," Mr. Braga said.

So much so, in fact, that it has led some to question whether there can be too much of a good thing.

"Reinsurers see abundant new capital coming in, and it is very curious to them at a time when the space is flush with capital," said Frank Nutter, president of the Reinsurance Association of America in Washington.

Mr. Nutter said it remains to be seen if the hedge funds' interest in reinsurance is long term or more fleeting.

"Everybody realizes they are looking for yield," he said. "The question is, 'Will they find yields and stay, or move on to greater potential?' Will investments in reinsurance meet hedge fund expectations or not?"

The answer may be not.

"Hedge funds are just not seeing the same value returns in the reinsurance space right now," said Bill Dubinsky, New York-based managing director of insurance-linked securities for Willis Capital Markets & Advisory, a unit of Willis Group Holdings P.L.C.

Hedge funds also must compete with other investors in the reinsurance market that do not need to match the returns demanded by hedge funds.

"The talk is about 'fast money' in the reinsurance space, but it is just the opposite. Pensions and endowments have been making large investments" in insurance-linked

securities, Mr. Dubinsky said.

Mr. Nutter agreed with the notion that traditional models and ideas may be under the microscope in the reinsurance sector.

"We may be in one of those transitional periods with everyone figuring out what role will be played by products and people with knowledge of the industry," he said.

With the hedge funds' reinsurance operations thus far limited mainly to nonlife property/casualty reinsurance activities, there may be more room to expand, experts say.

"If we continue to get creative and go beyond P&C (property and casualty) into life, if life becomes a bigger securitization target, then that is a much larger market," Mr. Braga said.

As the reinsurance market and number of players grows, however, it could draw greater regulatory scrutiny.

"There has been some talk about extra scrutiny," Mr. Braga said. "Hedge funds have their own scrutiny. One thing is linked to another. I wouldn't be surprised to see an increased level of transparency and a higher level of oversight."

"I think it is already drawing regulatory scrutiny," Mr. Ball said. "Look at hedge fund-backed reinsurers where the asset strategy is subcontracted back to the hedge fund. That means extra risk. Regulators are likely to raise capital requirements and specify extra liquidity requirements."

have lot of U.S. companies that would have a pretty heavy burden including Mr. Berkley's. This is clearly treating foreign-based companies as different from American companies. That fits my definition of protectionism."

RIMS also opposes the proposal. "This is not an area where the

*"If you wanted to tax all intercompany reinsurance cessions, then you'd have lot of U.S. companies that would have a pretty heavy burden including Mr. Berkley's. This is clearly treating foreign-based companies as different from American companies. That fits my definition of protectionism."*

Ray Lehmann, R Street Institute

government should look to increase tax revenue," Carolyn Snow, a member of RIMS' board, said in a statement. "Penalizing reinsurers would place a significant burden on U.S. businesses and the public. The ripple effect of this decrease in capacity for acts of terrorism, natural disasters and

other risks would force many to forgo new business opportunities and investments — a predicament that could significantly stunt the global economy."

A 2010 study by the Cambridge Mass.-based Brattle Group, the most recent detailed study available, estimated that the Neal bill would reduce reinsurance capacity by about 20% and cost policyholders as much as \$11 billion. The study was commissioned by the Coalition for Competitive Insurance Rates.

But Mr. Berkley questioned how much risk managers gain under the current tax structure.

"The problem is the people who are supportive of the status quo not changing is it gives them a competitive advantage," he said. "They give risk managers a one-sided picture that you'll have to pay more. This is a very competitive business. They're keeping bigger profits. They're giving no benefit to the insured."

Mr. Berkley said without the change, the domestic insurance industry might redomicile.

"You make all the money offshore and you get to pay no tax on the U.S. business," he said. "Eventually, all the U.S. insurance companies will move offshore because they have to."

The legislation to date has only its primary sponsors and no Republican support.

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# TAX

Continued from page 4

understand the economics of the marketplace."

"Once you explain the economics of the issues, they realize this really wouldn't change the available market for any kind of insurance," Mr. Berkley said. "How much taxes you pay doesn't make you do business or not do business. Once you're in the biz, you want to do as much business at a profit that you can do. Frankly, at the moment, there's more capacity especially to do catastrophe reinsurance than the market can use."

The Obama administration has estimated that the change would raise about \$6.2 billion over a 10-year period.

However, the Washington-based R Street Institute, a member of the Coalition for Competitive Insurance Rates, does not buy that argument.

"The primary issue is it clearly will raise the cost of catastrophe insurance," said Ray Lehmann, a senior fellow at the free-market group. "We have an opportunity to take advantage of low reinsurance costs around the world right now and why we would want to raise those costs is not apparent. If you wanted to tax all intercompany reinsurance cessions, then you'd

Continued from page 3

firm White & Case L.L.P. in Miami.

“The big picture is that, with another court of appeals rejecting the NLRB’s rationale, the path is increasingly clear for businesses to adopt fair arbitration agreements with their employees to resolve disputes on an individual basis instead of by class or collective action,” said Archis A. Parasharami, a partner at Mayer Brown L.L.P. in Washington.

Jeffrey T. Johnson, a partner at Holland & Hart L.L.P. in Denver, said the NLRB’s ruling was a “fundamental shift” and had come as a surprise to most labor lawyers who felt the board “really stepped outside of its typical scope of dealing with union matters by saying even nonunion employees can’t have class action waivers in their arbitration agreements because that violates the NLRB.”

“For employers, it’s going to mean that they can proceed as they thought they could before the NLRB” tried to do an “end run” around the arbitration law, said Michael D. Leffel, a partner at Foley & Lardner L.L.P. in Madison, Wis.

However, employers still need to be sure that there is nothing “unconscionable” in the arbitration agreement and that it is clearly written, he said.

The 5th Circuit’s ruling resolves the uncertainty created by NLRB board’s decision, said Mr. Johnson. “Employers don’t like uncertainty. They want to know what the rules are so they can play by the rules,” he said.

“It’s a significant victory” for all employers because it validates the issue of class action waivers, said Ron Chapman Jr., a shareholder at Ogletree, Deakins, Nash, Smoak & Stewart P.C. in Dallas. “There has been a marked increase in the number of class and collective actions filed against employers, usually on unpaid overtime, and many employers have adopted arbitration agreements containing class action waivers as a defense to those claims.”

While other circuits have not yet ruled on the issue, “It’s a good start,” said Christin M. Choi, an associate at Fisher & Phillips L.L.P. in Philadelphia.

However, the NLRB could pursue the issue in the circuits that have not yet dealt with it.

“I do think it would be unfortunate if the NLRB continued to press its rationale, given how weakly that rationale has been received by the courts,” Mr. Parasharami said.



AP PHOTO

Workers repaired sections of railroad track at the site of the train derailment in the Bronx on Dec. 3. Several lawsuits seeking damages will likely be filed.

## DERAILMENT

Continued from page 1

morning train from Poughkeepsie, N.Y., when it rounded a sharp curve in the Bronx near the Hudson River and derailed. According to reports, the train was going more than 80 mph — more than twice the permissible speed at that location — at the time of the crash.

The train’s engineer, who was suspended without pay, reportedly said he was in a “daze” when the crash occurred.

The National Transportation Safety Board continues its investigation of the tragedy.

The MTA has \$350 million in liability coverage in excess of a \$10 million self-insured retention and \$50 million in liability coverage through its New York-licensed captive insurer, First Mutual Transportation Assurance Co., said Lauren Coyne, the MTA’s New York-based director of risk and insurance management.

Under the Rail Safety Improvement Act of 2008, the Federal Railroad Administration mandated that certain rail lines put in place

by 2015 “positive train control” technology, in part to avoid accidents. The Metro-North Hudson Line train that crashed did not have this train control capability, sources said.

According to the Federal Railroad Administration, positive train control systems integrate command, control, communications and information systems to control train movements with “safety, security, precision and efficiency.”

Plaintiff attorney Michael Lamonsoff, a principal of the Law Offices of Michael S. Lamonsoff P.L.L.C. in New York, said the derailment would have been preventable had the MTA been using such equipment, which he said has been available for 30 years.

Metro-North has “one of the most unsafe train systems in the world,” Mr. Lamonsoff said, citing its lack of the latest safety and control mechanisms.

As of last week, he said he anticipated filing notices of six lawsuits related to the derailment, including one on behalf of Dr. Denise Williams, a 55-year old dentist and retired U.S. Army colonel, who suffered serious injuries in the crash.

Defense attorney Michael B. Flynn, president and chief trial attorney at Flynn Wirkus Young P.C. in Quincy, Mass., took issue with blaming the train wreck on outdated technology and equipment.

“It’s easy and irresponsible to suggest that just because certain technology is available, that it would have been the panacea that would have prevented this and all other accidents like it,” said Mr. Flynn, who is not involved in the litigation. “There’s lots of factors

## RAILROAD SAFETY

Congress passed the Rail Safety Improvement Act of 2008 in response to several fatal rail accidents between 2002 and 2008. Among its provisions are:

- Implementation of positive train control systems on certain rail lines by December 2015. A positive control system is defined as a system designed to prevent: collisions between trains; derailments caused when a train exceeds speed limits; incursions into established work zone limits, such as for roadway workers maintaining track; and the movement of a train through an improperly positioned switch.
- Extensively amend the hours of service, including limiting the number of hours certain train employees can work.
- Protect certain safety risk analyses undertaken by railroads from public disclosure under the Freedom of Information Act to “encourage railroads to prepare analyses that are complete and in-depth.”
- Introduce various provisions with regard to highway rail crossing safety.
- Authorize additional Federal Railroad Administration staffing for rail safety oversight purposes.
- Increase maximum penalties for rail safety violations.
- Broaden whistle-blower provisions enforced by the U.S. Department of Labor.
- Direct the National Transportation Safety Board to establish a program to help victims of a rail passenger accident that involves Amtrak or certain high-speed rail passenger carriers and results in a major loss of life.

Source: U.S. Department of Transportation’s Federal Railroad Administration

that go into any accident to determine whether it could have been prevented.”

“Who knows?” as to whether such technology would have prevented the accident, said Don Denbo, CEO of broker Commercial Insurance Associates L.L.C. in Brentwood, Tenn. “Maybe all you can say is, ‘Maybe.’ The bottom line to it is, it’s a technology that’s being mandated by the government. The government has a history of mandating technologies that don’t always work.”

Within a week of the crash, the Federal Railroad Administration said in a statement that it had issued an emergency order to Metro-North, a subsidiary of the

MTA, to take “specific immediate steps to ensure its train crews do not exceed speed limitations.”

The federal agency’s order also requires the MTA to modify its existing signal system on Metro-North trains to ensure speed limits are obeyed and to provide two qualified railroad employees to operate trains where major speed restrictions are in place until the signal system is updated.

In response to the emergency order and at New York Gov. Andrew Cuomo’s request, the MTA said in a statement that it was “making immediate improvements to reinforce safety at critical curves and movable bridges along the railroad’s right-of-way.”

**HEAR INTERVIEW**

Access Business Insurance’s interactive digital edition to hear Don Denbo, CEO of broker Commercial Insurance Associates L.L.C., discuss the liability issues around the Dec. 1 New York passenger train derailment that killed six and injured dozens.

# HSA

Continued from page 3

while the overwhelming majority of employers now offer HSA-linked plans.

“We wanted employees to better understand the cost of health care,” said Ray Allsup, senior director of global benefits at Lam Research Corp. in Fremont, Calif.

At a dinner sponsored by the National Center for Policy Analysis and held in Washington in conjunction with the 10th anniversary of the HSA authorization legislation, a key congressional backer of the legislation reflected on the impact of HSAs on consumer behavior and use of health care services.

“It was about giving people incentives to be cost-conscious. It was incentivizing the consumer to be cost-conscious,” said former Sen. Phil Gramm, R-Texas, who spoke at the dinner.

The design of HSA-linked plans was radically different from that of mainstream plans, such as health maintenance organizations, and their low employee cost sharing requirements.

In 2004 — the first year that employers could offer the arrangement — HSAs had to be linked to health insurance plans with a minimum deductible of \$1,000 for single coverage and \$2,000 for family coverage. Those minimum deductibles — which currently, due to an indexing feature in the law, are \$1,250 for single coverage and \$2,500 for family coverage — were many times higher than the \$100 or \$200 deductibles that were

the norm a decade ago.

But offsetting that much higher exposure to picking up a portion, or even all, of a medical or hospital bill was the HSA feature. Employers and employees could contribute on a tax-favored basis — currently as much as \$3,250 for those with single coverage and \$6,450 for family coverage — to the HSAs.

Under the law, employees can use HSA funds to pay for health care expenses that are not covered, such as those falling under a deductible. Unused funds can be rolled over year after year to pay for succeeding years’ expenses and can also be used to pay for retiree health care expenses on a tax-free basis.

Those high deductibles — coupled with the account feature — have made employees far better consumers of health care services, experts say.

“When you have to use your own money, you start to understand health care costs and you become more prudent in spending on health care services,” said Joseph Jackson, CEO of HSA administrator WageWorks Inc. in San Mateo, Calif.

One HSA executive, Gregg Larson, senior vice president and managing director of health care consumerism for Xerox Corp.’s HR solutions unit, in Minneapolis, cites his own experiences in how participating in an HSA-linked plan has made him a better consumer of health care services.

After his son was injured in a sporting event and taken to an emergency room, the doctor suggested an MRI. Mr. Larson would have had to pay the roughly \$1,500 cost of the MRI out of pocket. So he asked if an MRI were really necessary, and the doctor

acknowledged that an X-ray would be appropriate.

“It was an appropriate question from a consumer,” said Mr. Larson, noting that the exposure to big deductibles makes individuals, like himself, ask more questions as they search for lower-cost but appropriate care.

“Employees learn they can use fewer services and more cost-effective services. They learn they can go to an urgent care center rather than an emergency room,” said Michael Thompson, a principal with PricewaterhouseCoopers L.L.P. in New York.

Asking questions in search of more cost-effective care has helped to make HSA-linked plans far less expensive than more traditional plan designs.

For example, in 2013, HSA-linked plans cost an average of nearly \$8,500 per employee, or about \$1,700 less compared with traditional preferred provider organizations, according to a Mercer survey released last month.

That cost difference is certain to trigger even greater employer adoption of HSA-linked plans in the years ahead, experts say.

“You will see increased popularity in the next five to 10 years. We could get up to 50% enrollment,” said Todd Berkley, president of HSA Consulting Services L.L.C. in Minnetonka, Minn.

Currently, according to Mercer, about 18% of employees are enrolled in HSA-linked plans, or plans linked to health reimbursement arrangements, which are somewhat similar to HSAs.

“We have only seen the tip of the iceberg,” Mr. Thompson added.



“When you have to use your own money, you start to understand health care costs and you become more prudent in spending on health care services.”

Joseph Jackson, WageWorks Inc.

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# MARIJUANA

Continued from page 1

Phil Walls, chief clinical and compliance officer at Matrix Healthcare Services Inc., a Tampa, Fla.-based pharmacy benefit manager.

Some experts say the lack of approval from the U.S. Food and Drug Administration and a federal law banning its use should preclude most workers comp insurers from paying for marijuana as a treatment for injured workers. However, others in the industry think federal law won't be enough to stop more marijuana claims from creeping into the workers comp market. Also, they worry the drug could impair injured workers while increasing comp costs and lengthening the period before people can return to work.

For now, workers comp insiders are still determining how best to approach the possibility of getting a much heavier volume of claims for medical marijuana usage. "I don't really believe it's been looked at as a workers comp issue to date," said Lori Lovgren, division executive-state relations for Boca Raton, Fla.-based NCCI.

Rita Nowak, vice president of commercial lines and research for the Property Casualty Insurers Association of America in Des Plaines, Ill., said insurers are watching closely to see how medical marijuana legislation continues to play out nationwide. In addition states that have approved the use of marijuana for medicinal purposes, Colorado, Washington and the city of Portland, Maine, passed bills this year legalizing recreational marijuana use.

Workers comp experts are divided on whether the state laws, as well as similar legalization bills being considered in additional states, could prompt medical marijuana to be accepted as a treatment for injured workers.

"It's not a huge trend right now," said Mark Pew, senior vice president of product development at Prium, a Duluth, Ga.-based medical management company. "But I think if you don't lay the framework for how you're going to deal with it, if and when it does arrive as a major trend, the ones that prepared for it are going to be much better situated to address it properly."

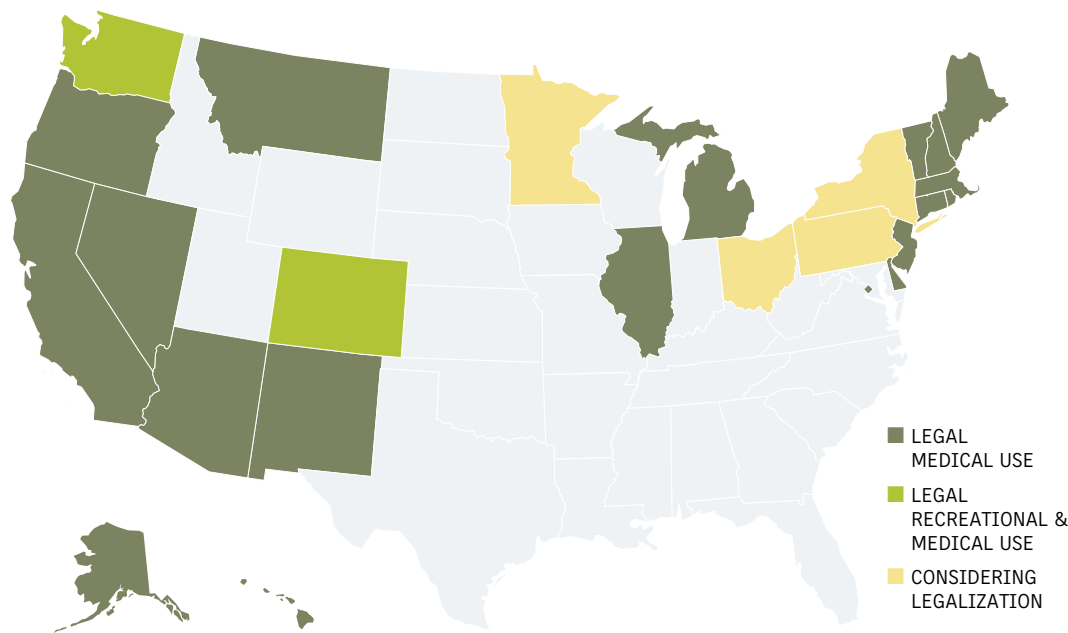
Mark Walls, St. Louis-based senior vice president and workers compensation market research leader at Marsh Inc., said since marijuana is not FDA-approved to treat any medical conditions that likely will keep marijuana out of the workers comp mainstream. And he said several states have laws specifically prohibiting workers comp insurers from paying for marijuana, including Colorado, Michigan, Montana, Oregon and Vermont.

"I don't doubt for a second we're going to see more and more requests to cover medical marijuana under workers compensation," he said. "But, quite frankly, I don't expect anybody will actually pay for it under workers compensation until they're ordered to do so" by a judge.

Joseph Paduda, principal of Madison, Conn.-based consulting firm Health Strategy Associates L.L.C., agreed, saying that medical marijuana "generates a lot of talk, but there's very little ... prescribing or payment activity that actually occurs."

However, Phil Walls of Matrix said, although medical marijuana is a "small" issue in workers comp right now, he thinks it could become a much bigger problem. While federal law may prohibit widespread marijuana workers comp payments, he thinks those laws may not hold up in the long term. "I, in no way, want the federal government to approve it, (but) I think they will because we're repeating history," he said. "This is exactly what happened during

## STATES, JURISDICTIONS THAT ALLOW MEDICAL OR RECREATIONAL MARIJUANA USE



Source: National Council on Compensation Insurance Inc.

Prohibition. All talk changed from concerns about morality ... to how much money we're losing from tax revenue."

Phil Walls and Prium's Mr. Pew also think medical marijuana is likely to be prescribed in ways that keep it off the radar of insurers, third-party administrators and pharmacy benefit managers.

While pharmacy benefit managers and certain states have workers comp prescription formularies that typically exclude marijuana as a permissible medication, Mr. Pew said claims adjusters could still approve marijuana payments if they have lax attitudes about the drug.

"I don't think it's going to come down to 100% of opinion, but I think that certainly is going to influence it," Mr. Pew said.

Phil Walls said pharmacy benefit managers such as Matrix would be unlikely to review medical mar-

ijuana claims because patients typically receive the drug through retail pharmacies or could receive it directly from physicians.

This eliminates a paper trail for workers comp payers to review for potential drug abuse or dangerous interactions between marijuana and other medications, he said.

While the known side effects of marijuana are less serious than those of opioid pain relievers, Mr. Pew said the drug also could impair injured workers in a way that prevents them from returning to work or performing their jobs safely. "It might be a quicker way for them to get back (to work) and kind of mellow out, but do you really want them in that state while they're working at the job?" he said.

Across the board, experts say workers comp payers should draft policies now for how they plan to address medical marijuana claims.

"The first tack that the employer or the TPA or the insurance company should take, is what's the medical necessity of this (prescription) and where's the medical evidence that supports the use of (marijuana) for this particular claimant," Mr. Paduda said. "That request will be met with deafening silence."

Mr. Pew said employers should establish a medical marijuana policy with their workers comp TPAs and pharmacy benefit managers, so claims handlers can use uniform standards, rather than personal opinions, to consider medical marijuana requests.

Workers comp experts said payers should be prepared to flatly deny payment for marijuana claims in workers comp. "The fact that it's not FDA-approved for anything is usually enough to deny compensability ... under workers compensation," Mark Walls said.

# FIO

Continued from page 1

insurance regulatory system largely intact.

"While not beyond reproach, and in need of specific reforms identified in this report, state regulators have developed a system of entity-specific financial oversight that satisfies this most fundamental regulatory objective," according to the report. "Any system with 56 independent jurisdictions is inherently limited in its ability to regulate uniformly and efficiently. The status quo, or a state-only solution, will not resolve the problems of inefficiency, redundancy, or lack of uniformity, or adequately address issues of national interest."

Mandated under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which created the FIO itself, the report was originally due in January 2012. The

reaction to the report is predictable given the broad range of insurance issues it addresses and the positions various industry trade groups long ago adopted on the state vs. federal insurance regulation debate.

For example, Frank Nutter, president of the Reinsurance Association of America in Washington, welcomed the recommendation for the Treasury Department to pursue an agreement to force a more nationally uniform treatment of reinsurers. "I am particularly pleased to see Treasury endorse the use of its authority under Dodd-Frank to negotiate covered agreements," Mr. Nutter said.

Proponents of the state-based regulatory system were skeptical of the report.

"We respectfully disagree that federal involvement is necessarily the default answer to existing regulatory concerns," said Charles M. Chamness, president and CEO of the National Association of Mutu-

al Insurance Cos. "There is much room for improvement at the level of state insurance regulation, but recent experience has not proven that a one-size-fits-all nationally designed and operated program will remedy deficiencies and add real value."

However, Joel Wood, senior vice president of the Washington-based Council of Insurance Agents & Brokers, called the report "authoritative and compelling" and said it struck the right balance between federal and state regulation of insurance. "As the report says, it's not so much the question of federal versus state, but whether there are areas in which federal involvement in regulation under the state-based system is warranted," he said.

Leigh Ann Pusey, CEO and president of the American Insurance Association, thought the report will help chart the direction for the industry. "The report provides a valuable guidepost for collectively

working toward improvements that lead to greater regulatory effectiveness, efficiency, and marketplace competition," she said in a statement.

### Addressing inefficiencies

A longtime congressional critic of state-based insurance regulation said the report "should reignite the debate" on how best to serve insurance consumers in this country. "State insurance regulators have been put on the clock to address the inefficiencies and burdens for consumers, insurers, and the international community in the current regulatory apparatus," said Rep. Ed Royce, R-Calif. "Time is running out."

David Sampson, president of the Property Casualty Insurers Association of America, said the group was concerned the report did not adequately reflect the strengths and historical success of state-based insurance regulation.

"There is little, if any objective proof, that there are critical gaps in state regulation or that it has failed to produce a beneficial market," Mr. Sampson said.

Howard Mills, New York-based director and chief adviser of the insurance industry group at Deloitte L.L.P. and former superintendent of the New York State Insurance Department said it remains to be seen how the report might lead to changes in insurance regulation in the near term.

"Nothing in this report threatens the primacy of state regulators, but it is a challenge to them to do a better job," Mr. Mills said.

Moreover, he said the FIO is limited in what it can do from a regulatory perspective.

"The FIO can't broaden its own power absent action from Congress and nobody expects that to happen," he said. "There's just no appetite in Washington right now for going back and revisiting financial services reform."

## Property/casualty rates increase, but insurer profits may fall in 2014

Commercial property/casualty insurance rates rose an average of 4% in November, MarketScout reported. Among lines of coverage tracked by MarketScout, commercial automobile experienced the largest increase at 5%. Commercial property, general liability and workers compensation registered increases of 4%, while crime and surety coverages posted the smallest increases at 1% each. Manufacturing, contracting and service accounts experienced the greatest increase at 5% each, while public entities had the smallest increase at 3%. Meanwhile, Towers Watson & Co. said in its most recent Commercial Lines Insurance Pricing Survey that price increases moderated for commercial insurance prices fell slightly to 5% in the third quarter of 2013. While this marked the 11th consecutive quarter of price increases, the 5% increase is less than the 6% increase recorded for the second quarter of 2013. An analysis by Drexel Hamilton L.L.C. shows that property/casualty insurer earnings are likely to fall next year. It said the decline likely would be due to an expected return to more normal catastrophe levels and continued low interest rates. The report noted that catastrophe losses during the first nine months of this year were “very light,” but Super Typhoon Haiyan in the Philippines as well as storms and tornadoes that hit the United States will produce some catastrophe losses for the fourth quarter this year. The report also cited legislative issues that will affect insurers next year.

## AIG seen in talks to sell jet-leasing unit to AerCap

American International Group is in talks to sell its aircraft leasing business to AerCap Holdings N.V., a person briefed on the discussions said. AIG, which was nearly wiped out by derivative bets in the financial crash, has been seeking for some time to sell International Lease Finance Corp. Netherlands-based AerCap is also in touch with private equity firms and others who may be interested in taking part of the assets of ILFC, which is the world’s second largest aircraft lessor by fleet size, the person said.

Reuters

## Marsh, Oliver Wyman make executive changes

Scott McDonald, president of Oliver Wyman, the management consulting business of Oliver Wyman Group, has been named CEO of Oliver Wyman Group effective Jan. 1, 2014, Marsh & McLennan Cos. Inc. said. Mr. McDonald, who had been president of Oliver Wyman since 2012, succeeds John Drzik, currently chairman and CEO of Oliver Wyman Group. Mr. Drzik will move to Marsh Inc. as president of global risk and specialties and report to Marsh President and CEO Peter Zaffino, MMC said in a statement. In his new role, Mr. McDonald will have responsibility for Oliver Wyman, NERA Economic Consulting and Lippincott. Mr. McDonald will report to Dan Glaser, president and CEO of MMC, and become a member of the parent’s executive committee. In addition to overseeing Marsh’s global industries, global practices, risk solutions, global analytics and technology units, and the insurer consulting group, Mr. Drzik, also has been named chairman of the newly formed Marsh & McLennan Cos. Global Risk Center, where he will work to strengthen

collaboration across the firm in areas such as global risk analytics, research and thought leadership.

## Health care reform law altering D&O pricing: Marsh

The Patient Protection and Affordable Care Act is altering the price for directors and officers liability coverage for health care companies, a report by Marsh Inc. finds. The report cites Marsh internal data for the third quarter to illustrate that insurers are seeking price increases for D&O liability insurance for health care companies. According to Marsh, average primary D&O rates for midsize and large health systems increased 9.6% in the third quarter of 2013. Moreover, the report found that 73% of midsize and large health companies renewed with rate increases, while 13% saw decreases and 13% remained the same. The report contends that the rising rates are a reflection of health care organizations’ changing business models and risk profiles as result of the Affordable Care Act.

## Pension plan funding levels hit five-year high in November

Buoyed by higher interest rates, which reduced the value of liabilities, and strong investment results, the funded status of pension plans sponsored by large employers rose in November to their highest level in five years, according to a Mercer L.L.C. analysis. On average, pension plans sponsored by companies in the S&P 1500 were 93% funded as of Nov. 30, up from 91% at the end of October and sharply higher from 74% at the end of 2012. Meanwhile, Milliman Inc. said funding levels of pension plans sponsored by large publicly held U.S. employers rose in November, climbing to just under 94%. Defined benefit plans offered by the 100 U.S. employers with the largest pension programs were an average of 93.9% funded, up from 91.9% funded at the end October and 91.5% at the end of September.

## Energy insurance market capacity expected to increase next year

The upstream energy market, which includes exploration and production, now has between \$3.75 billion and \$4 billion in working insurance coverage capacity, which is sufficient for about 90% of the risks that need insuring, says Marsh Inc. in its latest Energy Market Monitor report. “While individual business plans for 2014 are still being worked on, we have already had confirmation that a number of key markets will be increasing their capacity going forward” although the “next big unknown” is what will happen with the January treaty reinsurance renewals, the report states. Meanwhile, in the downstream market, which refers to operations that take place after the production phase, the “general slight upwards trending” noted in Marsh’s August report “has returned to a flat market with a downwards rating bias on a global basis,” says the report.

## Cyber warfare joins list of top insurer concerns

Fear of cyber warfare and technology issues joined pandemics, large-scale natural catastrophes and concerns about food, water and energy shortages as the top five long-term risks for

the insurance industry, a Towers Watson & Co. study concludes. The study placed pandemics first, catastrophes second, shortages third, cyber warfare fourth and other technology issues fifth. Economic depression, the threat of a banking crisis, supply chain failures, a rise in extreme weather events and the possibility of a sovereign default rounded out the top 10.

## 90% of large employers offer same-sex partner benefits

Nine out of 10 large U.S.-based companies reported offering comprehensive health benefits to their employees’ same-sex domestic partners in 2013, according to a survey by the non-profit Human Rights Campaign. As employers continue to adjust their group benefit programs in the wake of the U.S. Supreme Court’s landmark decision in June to partially overturn the federal Defense of Marriage Act, results of the Human Rights Campaign’s 2014 Corporate Equality Index indicated that 90% of the 734 firms rated in the survey currently provide medical, dental, vision, dependent medical and COBRA benefits to their employees’ same-sex domestic partners, up slightly from 89% in the prior plan year. Sixty-eight percent of employers polled in the study offer comprehensive health benefits to same-sex and opposite-sex domestic partners. Additionally, 46% of employers reported offering health benefit plans to transgender individuals without exclusions for medically necessary care in their current plan year, compared with 42% in the 2013 survey.

## Rutgers sets up ERM program in wake of basketball coach firing

Rutgers University has established an enterprise risk management program in response to recommendations following the firing of former men’s basketball coach Mike Rice over his treatment of players. In a statement, the university said establishing an enterprise risk management system was among recommendations of a July report prepared by Skadden, Arps, Slate, Meagher & Flom L.L.P. as a result of an eight-week review of events leading to Mr. Rice’s termination this year and relevant Rutgers policies and procedures. The university has selected Ted Brown, former deputy attorney general in the New Jersey division of criminal justice and former general counsel at the University of Medicine and Dentistry of New Jersey, to lead the ERM program as senior vice president and chief enterprise risk, ethics and compliance officer.

## More young adults covered by parents’ health plans

The percentage of young adults with health insurance coverage has increased since the passage of the health care reform law that requires employers to extend coverage to employees’ adult children up to age 26, according to a new study by the National Center for Health Statistics. During the last six months of 2012, 57.9% of young adults between the ages of 19 and 25 had private health insurance coverage, up from 52% during the last six months of 2010, which was prior to the general Jan. 1, 2011, effective date of the Patient Protection and Affordable Care Act young adult coverage provision. Among the young adults with private health insurance, 72.8% had coverage through a family member during the last six months of 2012, up significantly from 59.2% during the last six months of 2010.

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## Buggy money just a mirage

One Prescott, Ariz., man apparently never learned to quit while he's ahead. The Yavapai County Sheriff's office recently arrested 28-year-old Wade Dickinson on multiple charges related to an alleged scheme to defraud his insurance company and others, according to a report.

Mr. Dickinson allegedly collected \$53,000 from his auto insurer after falsely reporting that his 2009 Sinister SandRail dune buggy had been stolen from his home.

According to the report, Mr. Dickinson sold the buggy weeks before filing the insurance claim.

Mr. Dickinson is facing charges of fraud, trafficking in stolen property, and theft, according to the report.

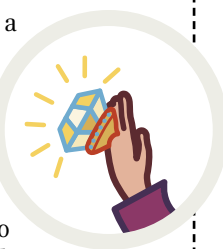
## Man engages in fraud to win fiancée's hand

Police in Minnesota have iced a man's plan to use insurance fraud to finance a diamond ring for his fiancée.

According to a report, an agent from Minnesota's Department of Commerce Fraud Bureau arrested Alberto Jose Marzan in November on felony insurance fraud charges. The criminal complaint alleges Mr. Marzan received a check for \$25,924 from Liberty Mutual Group in March after reporting the ring lost or stolen.

In April, Liberty Mutual received an anonymous tip that the claim was fraudulent and subsequent police investigation revealed that Mr. Marzan had put the ring on layaway at Florida jewelry shop in October 2012 and only paid for it after receiving the check from the insurer in April. The 2.61-carat ring was recovered during a search of Mr. Marzan's residence in November.

While the report states that Mr. Marzan was released from jail on bond, it is uncertain whether he is free from the ire of his fiancée.



## LADY LIBERTY FOREVER LINKED TO LAS VEGAS



VACCLAV/SHUTTERSTOCK.COM

The Statue of Liberty on the post office's 2011 "forever" stamp, it turns out, is not based on the real thing but on the sculpture outside a Las Vegas casino — and the sculptor who created the actual model is suing for copyright infringement.

According to a recent report in the San Francisco Examiner, sculptor Robert Davison claims in a lawsuit that his Lady Liberty, which stands outside the New York-New York Hotel & Casino in Las Vegas, is more "fresh-faced" and "sultry" than the original statue, which is why the post office selected it as its model for the stamp.

His attorney says he has never even visited the original, which was sculpted by Frédéric-Auguste Bartholdi and dedicated in 1886.

One major difference between the two statues is that the Las Vegas statute has a plaque that reads "This One's For You Mom," which fortunately is not visible on the stamp.

Regardless of Mr. Davison's claim that his statue is sultrier, one can only ponder what government officials were thinking when they decided to use a Las Vegas knockoff as the national symbol to run on millions of stamps, assuming it was even deliberate.

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## Chiropractor runs into insurance troubles

A marathon-running chiropractor who got an employee who worked for him to file false records on fictitious business letterhead listing his "treatment" for nonexistent injuries, now faces prison time on a federal fraud charge.



Lawrence S. Herman, 47, whose guilty plea carries a penalty of up to five years in prison, was involved in a traffic accident in August 2011, according to reports.

Although he was not hurt, prosecutors say, he still filed an injury claim with the San Antonio-based U.S. Automobile Association Insurance Co. and hired a law firm to sue the insurer for \$60,000, according to the report.

Meanwhile, Mr. Herman was running in full and half marathons and 5K and 10K races, according to the report.

It is likely going to be hard for Mr. Herman, though, to continue to stay in shape running around the prison yard.



## Squall develops over umbrellas

In Britain it usually pays to carry an umbrella, but London-based life insurer Legal & General P.L.C.'s decision to use its multicolored umbrella logo in the United States has put the company in a legal storm.

The logo has caused consternation at U.S. insurer Travelers Cos. Inc., whose iconic logo is a red umbrella. In a suit filed in late November in federal court in Hartford, Conn., Travelers sued L&G for trademark infringement and is seeking to have L&G banned from using its umbrella logo in the United States.

L&G, with its U.S. headquarters in Urbana, Md., trades in the United States under the Banner Life and William Penn Life brands, which have used the multicolored umbrella logo since 2011.

Travelers alleges that, despite the umbrellas being different colors, L&G's use of the logo "is extremely likely to dilute the famous Travelers umbrella mark, thus severely harming Travelers."

Although the L&G umbrella is blue, green, red and yellow, Travelers alleges customers could be confused by two umbrella-based logos in the financial services field.

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