COVID-19 SAFETY: High-risk industries subject to increased scrutiny - PAGE 4

BUSINESS INSURANCE®

www.businessinsurance.com

APRIL 2021

SPECIAL REPORT

RISK MANAGEMENT INNOVATION

PAGE 22

CLIMATE CHANGE RISKS INTENSIFY

Texas-sized winter storm, shift in regulatory priorities create tough new exposures

PAGE 19

BUSINESS INSURANCE®

PRESIDENT
Steve Acunto
(Greenwich)
sa@businessinsurance.com

PUBLISHER
Keith Kenner
(Chicago)
kkenner@businessinsurance.com

EDITOR
Gavin Souter
(Chicago)
gsouter@businessinsurance.com

DEPUTY EDITOR
Claire Wilkinson
(New York)
cwilkinson@businessinsurance.com

ASSISTANT EDITOR
Louise Esola
(New Orleans)
lesola@businessinsurance.com

SENIOR REPORTER
Judy Greenwald
(San Jose)
jgreenwald@businessinsurance.com

REPORTER
Angela Childers
(Chicago)
achilders@businessinsurance.com

REPORTER
Matthew Lerner
(New York)
mlerner@businessinsurance.com

COPY CHIEF
John Obrecht
(Chicago)
jobrecht@businessinsurance.com

COPY EDITOR
Brian Gaynor
(Portland)
bgaynor@businessinsurance.com

ART DIRECTOR
Jeremy Werling
(Cincinnati)
jwerling@businessinsurance.com

DIRECTOR OF RESEARCH, PLANNING AND INSIGHTS
Andy Toh
(Chicago)
atoh@businessinsurance.com

MAJOR ACCOUNTS DIRECTOR - NORTHEASTERN U.S. & INTERNATIONAL
Ron Kolgraf
(Boston)
rkolgraf@businessinsurance.com

SENIOR VICE PRESIDENT, BUSINESS DEVELOPMENT
Stephen Acunto
(Princeton)
stephen@businessinsurance.com

HEAD OF SALES, EVENTS & REPRINT SALES MANAGER
Susan Stilwill
(Nashville)
sstilwill@businessinsurance.com

VICE PRESIDENT OF MARKETING
Brian McGann
(Buffalo)
bmcgann@businessinsurance.com

DIGITAL AD OPERATIONS MANAGER
Jordan Kilty
(Raleigh)
jkilty@businessinsurance.com

DIGITAL MARKETING MANAGER
Jen Jonasson
(Chicago)
jjonasson@businessinsurance.com

MARKETING & EVENTS MANAGER
Brittany Collins
(Lafayette)
bcollins@businessinsurance.com

MARKETING & EVENTS SPECIALIST
Beth Wojdyla
(Chicago)
bwojdyla@businessinsurance.com

SUBSCRIPTIONS & SINGLE COPY SALES
membership@businessinsurance.com
954-449-0736

COVER STORY

Unusual weather events, such as February's Texas freeze, and rapidly changing U.S. climate policies are creating a host of liabilities and exposures for businesses. Meanwhile, companies are also facing greater scrutiny from investors and regulators on environmental, social and governance issues. **PAGE 19**

INSIDE

SPECIAL REPORT: RISK MANAGEMENT INNOVATION

Tools are available for employers to track whether workers have received COVID-19 vaccinations; 'supertall' buildings heighten risk management challenges; sharply rising insurance prices are driving increased interest in parametric coverages. **PAGE 22**

NEWS ANALYSIS

FOR BREAKING NEWS COVERAGE, VISIT ***businessinsurance.com***

RAILROAD RISKS
The implementation of positive train control technology should significantly reduce railroads' liability. **PAGE 6**

PANDEMIC FATIGUE
Employers are finding it increasingly difficult to enforce workplace pandemic safety protocols. **PAGE 10**

INTERNATIONAL
Although small, Iceland's insurance market is relatively well developed and competitive, with a full range of covers available. **PAGE 11**

PERSPECTIVES
Settling personal injury cases amid the pandemic has offered challenges and opportunities, writes Jeffrey Miller of Pillinger Miller Tarallo LLP. **PAGE 29**

LEGAL BRIEFS
Recent court opinions **PAGE 13**

OPINIONS
Workplace safety challenges; making the most of technology. **PAGE 28**

MARKET PULSE
Products, deals and more **PAGE 27**

PEOPLE
Insurance industry moves **PAGE 30**

OFF BEAT
Bucknell University calls in fraternity brothers to help manage pandemic risk at recreation center. **PAGE 31**

VIEW FROM THE TOP

MIKE KERNER
Mike Kerner joined Munich Reinsurance America Inc. in December 2018 as CEO of Munich Re Specialty Insurance. He previously served as executive vice president, risk management and strategy, at Everest Re Group Ltd. and prior to that spent 23 years at Zurich Insurance Co. Mr. Kerner discusses Munich Re's commercial insurance strategy and how the hardening market is affecting its business and policyholders. **PAGE 14**

BUSINESS INSURANCE (ISSN 0007-6864) Vol. 55, No. 5, Copyright © 2021 by Business Insurance Holdings, Inc. is published monthly by Business Insurance Holdings, Inc., 1030 Lake Avenue, Greenwich, CT 06831. Accounting, business, circulation and editorial offices: PO Box 1010, Greenwich, CT 06836. Call 954-449-0736 to subscribe. Periodicals postage is paid at Greenwich, CT. Printed in the USA. **POSTMASTER:** Send address changes to Business Insurance at PO Box 1010, Greenwich, CT 06836.

OSHA sharpens focus of COVID-19 safety efforts

BY LOUISE ESOLA
lesola@businessinsurance.com

Employers nationwide and those managing workplace safety have had their eyes on the U.S. Occupational Safety and Health Administration, which in accordance with directives from the Biden administration has been making guidance and enforcement changes to better protect workers from COVID-19.

On March 12, the agency launched its National Emphasis Program to focus its enforcement efforts on industries with the largest number of workers at serious risk of contracting the coronavirus. The program will remain in effect for up to one year, though OSHA said it has the flexibility to amend or cancel it as the pandemic subsides.

The enforcement announcement arrived as employers and watchdogs awaited an emergency COVID-19 safety standard, which some experts had expected under an executive order issued by President Joe Biden on Jan. 21 that asked OSHA by March 15 to consider establishing such a standard (see related story).

While many believe a standard is still in the works, experts say the new enforcement program represents a resource management strategy that will divert more attention to industries where workers are more exposed to COVID-19, because they interact with the public more or because social distancing is more difficult, as in some manufacturing settings.

Without a specific standard that dictates what employers must do to prevent COVID-19, experts say the program could result in citations justified by violations of regulations such as the general duty clause, a catch-all rule that requires employers to maintain a safe workplace free of hazards for employees. Standards that mandate respiratory protection and training, personal protective equipment and record-keeping could also be cited.

The agency is also leaning on new guidelines, issued Jan. 29 in accordance with the president's executive order, that reiterated the need for such mitigations as mask-wearing and social distancing in the workplace to prevent COVID-19 outbreaks. Meanwhile, the NEP states that "in the event that OSHA issues an emergency temporary standard, those provisions will take precedence over citations of the general duty clause."

In March, OSHA launched its National Emphasis Program to enforce safety during the COVID-19 pandemic among frontline workers, such as grocery store employees.

TALLY OF OSHA COMPLAINTS — BY INDUSTRY

The Occupational Safety and Health Administration has been keeping count of complaints reported to the agency, by industry, since the start of the coronavirus pandemic.

	Number of complaints
Health care	3,142
Retail trade	1,706
Grocery stores	240
Construction	417
General warehousing and storage	270
Restaurants and other eating places	877
Automotive repair	126

Source: OSHA, as of March 14, 2021

Even without a COVID-19 standard, "the agency has more than enough regulatory authority to cite a large number of employers for not following rules and regulations that are in the books," said Andrew Brought, a Kansas City, Missouri-based attorney with Spencer Fane LLP.

The NEP program "is less a shift in policy and more a shift in resourcing," said Courtney Malveaux, Richmond, Virginia-based principal and co-leader of the workplace safety and health practice group at Jackson Lewis P.C. "This is hunting where the ducks are. … The agency has identified health care providers and higher-hazard employers in terms of COVID."

The program will target 21 industry codes in the North American Industry Classification System, with 11 codes pertaining to health care facilities, such as nursing homes, hospitals and dental offices. The remaining 10 codes pertain to other high-risk work sites, including restaurants, supermarkets, correctional facilities and meat processing plants.

The targets named in the NEP have "demonstrated to be at a higher risk" over the past year, according to John Ho, New York-based chair of the OSHA practice for Cozen O'Connor P.C. "It makes sense to me," he said.

Employers can also expect more on-site inspections, which were curbed during the pandemic due to safety concerns. According to OSHA documents, the NEP program "reaffirms OSHA's adherence to longstanding inspection policy that relies predominantly on on-site (in person) presence for most inspections."

With an increase in federal funding — the latest COVID-19 stimulus bill earmarked $75 million in pandemic-related funding to the agency — the new program could result in up to 2,000 more inspections a year for targeted employers, said Eric Conn, Washington-based founding partner of Conn Maciel Carey LLP. "They are not just talking about enforcement," he said. "They are putting a lot of money and effort behind it."

The program's launch follows a Feb. 25 report from the U.S. Department of Labor Office of Inspector General that found inefficiencies in OSHA's handling of inspections during the pandemic.

Specifically, investigators found that while OSHA received 15% more workplace safety complaints between Feb. 1, 2020, and Oct. 2, 2020, it performed 50% fewer inspections than during a similar period in 2019.

"Due to the increase in complaints, reduction in inspections, and most inspections not being conducted onsite, there is an increased risk that OSHA has not been providing the level of protection that workers need at various job sites," the report stated, adding, "we are concerned that since most OSHA inspections were done remotely during the pandemic, hazards may go unidentified and unabated longer, with employees being more vulnerable to hazardous risk exposure while working."

OSHA said the new surge in inspections will include "some follow-up inspections of worksites inspected in 2020."

OSHA MISSES DEADLINE ON NATIONAL SAFETY STANDARD FOR COVID-19

The March 15 deadline passed without the U.S. Occupational Safety and Health Administration delivering details of an expected emergency temporary standard for COVID-19 workplace safety, as it had been directed to do under an executive order.

Meanwhile, numerous labor groups have publicly stated that a standard is still in the works, and an OSHA spokeswoman said the agency would be "taking the time to get this right" but did not provide further details of an extended timeline.

President Joe Biden on Jan. 21 signed an executive order calling on OSHA to issue an emergency temporary standard if "determined to be necessary," among other safety guidelines. Such emergency standards have already been put in place in California, Michigan, Oregon and Virginia.

When questioned about the deadline, a White House spokeswoman said in a media briefing on March 15 that "OSHA has been working diligently, but we, of course, believe they should have the time to get it right and time to ensure it's right, and so we're waiting for them to make a conclusion."

Several experts said the delay was no surprise.

"The issues and consequences of this emergency standard are so big that they could not get it done on time," said Gary Pearce, Waterford, Michigan-based chief risk architect at risk and analytics company Aclaimant Inc. "What the ETS does is bypass two to three years of rulemaking and compresses it down to something that is immediate," he said.

The new standard "is a given," said Eric Conn, Washington-based founding partner of Conn Maciel Carey LLP. "It's not a question of whether; it's a question of when."

Louise Esola

Technology helps reduce railroad risks

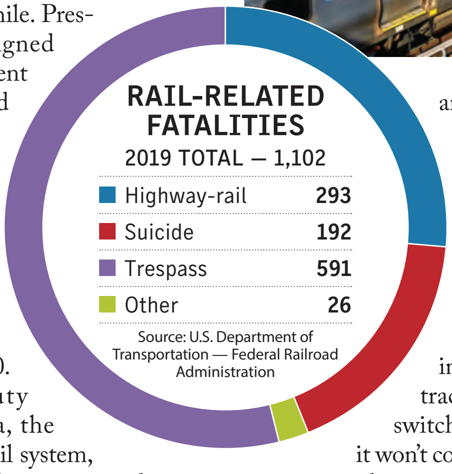
BY JUDY GREENWALD
jgreenwald@businessinsurance.com

The general implementation of positive train control, technology intended to stop trains before accidents can occur, will significantly reduce railroads liability but is not a cure-all, experts warn.

The Federal Railroad Authority announced in December that PTC systems — designed to prevent train-to-train collisions, overspeed-caused derailments, incursions into established work zones and train movements through switches left in the wrong position — have been widely adopted.

The agency said the technology was in operation in all 57,536 required freight and passenger railroad route miles prior to the Dec. 31, 2020, statutory deadline set forth by Congress.

But the process took awhile. President George W. Bush signed the Rail Safety Improvement Act of 2008, which required PTC systems to be fully implemented by Dec. 31, 2015, on main lines with regularly scheduled inter-city or commuter rail passenger service. The deadline was twice extended, first to Dec. 31, 2018, then to year-end 2020.



John Anderson, deputy general counsel at Metra, the Chicago-area commuter rail system, said the technology would have prevented a 2005 Metra train derailment in Chicago due to "the engineer's lack of attention and speeding" in which two people were killed and 200 injured.

Mr. Anderson said PTC also may have prevented Amtrak derailments in Philadelphia and Washington state in 2015 and 2017, respectively, that were attributed to excess speed.

"It's certainly a step in the right direction insofar as improving safety measures, but it's new technology," said David Adamczyk, New York-based executive vice president of U.S. railroad for Aspen Insurance Holdings Ltd. "We're just going to monitor what's happening out there with PTC, and hopefully it does everything that has been talked about that it will do, but at this point it's wait and see."

"There are still some misconceptions about PTC," said Daniel Bancroft, New York-based North American transportation practice leader for Willis Towers Watson PLC. "The greatest one I see is the misconception that trains can go faster now, so we can have fewer trains" and need fewer railcars, which "is not really true."

"PTC was installed for safety purposes, not necessarily productivity improvement, and so I think underwriters are happy to see that," he said. In the past, underwriters had to worry whether, if commuter and freight railroads shared a track, one was compliant with PTC and the other not, and that concern now "goes away in large part," he said.

While PTC is helpful, it doesn't fix every problem Metra might encounter, Mr. Anderson said.

PTC can be effective for such things as controlling a train's speed or preventing it from moving from one track to another because of a switch misalignment. "But what it won't control is, if a truck gets stuck at a grade crossing" or if a pedestrian is on the track, Mr. Anderson said.

One major problem remaining in the industry is accidents that occur along railroad rights-of-way and at railroad crossings. A Federal Railroad Administration study released in December found a motorist is 40 times more likely to be killed in a vehicle-train accident than in any other type of highway collision. It said there were 18,289 vehicle-train collisions between 2008 and 2017, resulting in 2,250 fatalities and more than 8,000 injuries.

The study said an investigation of more than 9,000 crossings "revealed that most drivers did not visually scan for trains and did not prepare to stop, regardless of the type of warning device present and the crossing or the environmental conditions at the time of transversal."

It said a better understanding of driver behavior at crossings, which could be helped through machine learning and artificial intelligence, would help predict situations where drivers are less cautious and could be at risk of accidents.

According to the Federal Highway Administration, as of 2017, rail crossings were about evenly divided between those that have active warning devices, including flashing lights and gates that descend as a train approaches, and those with passive devices, such as stop signs and "crossbucks," which are X-shaped warning signs.

Railroad crossings are an issue "because there's a lot of moving parts," with in some instances a municipality owning the crossings and in others the railroad owning them and being responsible for their upkeep and maintenance, said Kevin Wood, Monroe, Louisiana-based national director for rail services at Arthur J. Gallagher & Co.

"You're talking about a pretty expensive conversation" when it comes to installing fully operational crossings, he said.

Mr. Anderson said grade crossings designs and the types of safety devices used have improved significantly, including fail-safe mechanical devices that prevent crossings.

Mr. Adamczyk said railroads have done an effective job informing communities on this issue, but there are always "going to be people who always are going to take a chance to go around those crossings or gates or blow through the lights and try to beat the train."

"It's a dangerous situation, but I don't know how you can change human nature," he said.

"There are situations where railroads have been sued for accidents at crossings even where they have complied with local ordinances and requirements. There is coverage for these claims within the railroad policy, of course, subject to policy terms and conditions," Mr. Adamczyk said.

Fred Millar, an Arlington, Virginia-based independent transportation consultant, said he would like to see trains be required to have electronically controlled pneumatic brakes, which can stop them at shorter distances.

Effective in September 2018, the Department of Transportation repealed a 2015 rule requiring the installation of the advanced braking systems on tank cars that carry explosive fuels, based on its determination that the costs "would exceed three-fold the benefits it would produce," according to the department.

Sen. Charles Schumer, D-N.Y., was among those who objected to the repeal, calling it "absolutely unacceptable" because of safety concerns.

SUICIDES REMAIN TOUGH PROBLEM

Suicide is a tough, and in some respects intractable, risk management issue facing railroads.

"Just think of the physical characteristics of a railroad," said David Adamczyk, New York-based executive vice president of U.S. railroad for Aspen Insurance Holdings Ltd. "You've got railroad track throughout the country."

"It's wide open. You can't put a fence around the entire stretch of track, and you've got people living near railroad property," he said. "(Suicide) is an exposure that's inherent to railroads."

"Basically, there's nothing anyone can do to someone who wants to commit suicide by train," said John Anderson, deputy general counsel for Metra, a Chicago-area transit system.

Metra offers educational programs focused on trains and mental health, including speaking at high schools, he said.

It has also trained station personnel, conductors and engineers to detect behavior they suspect signals a planned suicide, such as "people who stand on the platform and don't get on the train," Mr. Anderson said.

"We have had several successful interventions of people who were contemplating suicide by jumping in front of a train," Mr. Anderson said.

Judy Greenwald

NEWS ANALYSIS

Buoyant insurance M&A market rolls on amid abundant capital, hardening rates

BY MATTHEW LERNER
mlerner@businessinsurance.com

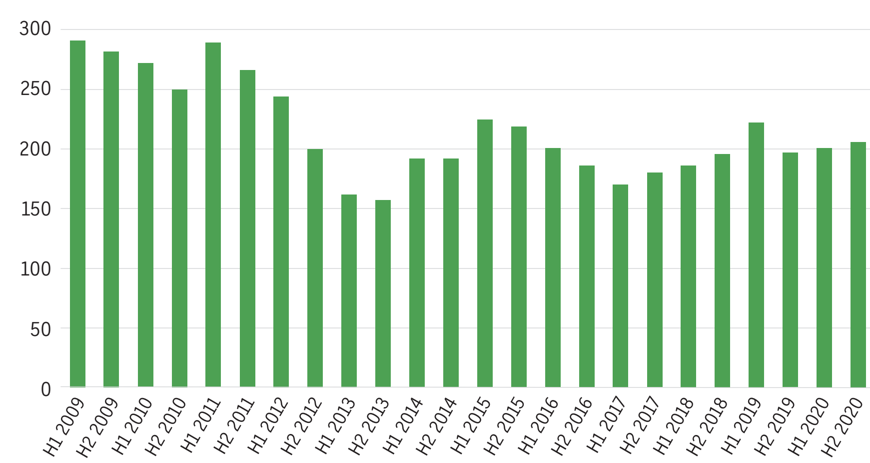
Mergers and acquisitions activity in the insurance sector was strong in 2020 despite COVID-19 and is expected to remain robust in 2021 as rising commercial insurance rates bolster earnings, making insurers attractive targets, and "deployable capital" remains abundant, analysts and others say.

Insurance technology investments have also grown, providing another avenue to enter the sector. In addition, special purpose acquisition companies, the use of which has boomed in many sectors over the past year, are being used in the insurance sector as a means of potentially taking companies public.

Another indication of this year's strong M&A market is Chubb Ltd.'s offer in late March to buy rival Hartford Financial Services Inc.

> "The mergers and acquisitions market in general, not just insurance, has been off the charts from last June."
>
> Mark Purowitz,
> Deloitte Consulting LLP

VOLUME OF DEALS COMPLETED GLOBALLY — 2009-2020



Source: Clyde & Co.

"The mergers and acquisitions market in general, not just insurance, has been off the charts from last June through today, and we aren't seeing anything right now that says that will slow down anytime soon," said Mark Purowitz, senior partner in the mergers and acquisitions practice of Deloitte Consulting LLP in New York.

Some in the insurance industry were "surprised at how much deal activity there ended up being last year," despite the interruption to markets in the spring due to the coronavirus pandemic, said Vikram Sidhu, New York-based partner at law firm Clyde & Co.

Deal advisors expected COVID-19 to chill activity, but 2020 proved to be a busy M&A year for the sector globally, he said.

Similarly, deal activity in the broker sector paused only briefly, said John Marra, a deals partner with PricewaterhouseCoopers LLP in New York.

"The distribution space continues to be very attractive," he said. Broker M&A "saw a bit of a pause in the second quarter last year as those businesses were focusing on themselves and how to adapt to working from home" and other manifestations of the pandemic.

Some deals that were put on hold due to pandemic-related issues will likely be completed in the first half of this year, Mr. Purowitz said.

The total of 407 mergers and acquisitions completed worldwide in the insurance sector in 2020 was down slightly from 419 the previous year, according to a late February report from Clyde & Co. The number of deals completed in the second half of 2020 was slightly higher than the first half, with 206 deals compared with 201.

Although "deal activity in the insurance sector slowed in the spring of 2020," it came "roaring back in the second half of the year," PwC said in a late January deals report. "We expect strong M&A activity to continue as we head into 2021," buoyed by "the hardening of specialty (property/casualty) markets and significant levels of deployable capital."

As the insurance industry sees increased rates, buyers in search of returns in a low interest rate environment may be more attracted to the sector, said J. Paul Newsome Jr., Chicago-based managing director at investment brokerage Piper Sandler Cos.

The low interest rate environment also contributes to the availability of capital, which, combined with the search for returns, helps drive M&A activity, he said.

On the other hand, rising rates and premiums could blunt M&A activity as insurers focus on organic growth as opposed to growth via acquisition, said Meyer Shields, Baltimore-based managing director at Keefe, Bruyette & Woods Inc.

"There are enough opportunities for growth that companies are not looking for more complicated growth available through acquisition," which carries integration and reserve risks, he said.

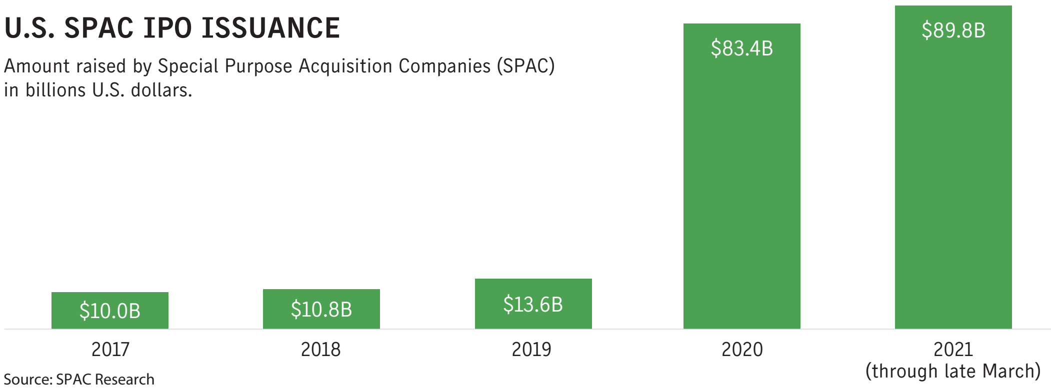
Technology investing also continues to grow in the insurance sector.

Investors are "very solidly coming in" to the insurtech space, said Mr. Sidhu of Clyde & Co. The sector has seen significant investment over the past five to seven years, he said.

Major investment activity in the insurtech sector last year included Aon

U.S. SPAC IPO ISSUANCE

Amount raised by Special Purpose Acquisition Companies (SPAC) in billions U.S. dollars.



Source: SPAC Research

PLC's purchase of Coverwallet Inc. for an undisclosed sum and Duck Creek Technologies Inc.'s successful initial public offering, which raised $405 million and valued the company at about $5.2 billion. In addition, "multiple investments" in insurer Hippo Enterprises Inc. propelled its valuation to more than $1 billion, according to the report by Clyde & Co.

KBW's Mr. Shields said that while insurtech deals have largely been smaller thus far, "we're starting to see some very prominent insurtech companies with, in many cases, very impressive valuations."

> "There are enough opportunities for growth that companies are not looking for more complicated growth available through acquisition."
>
> Meyer Shields,
> Keefe, Bruyette & Woods Inc.

One insurtech, Integrated Specialty Coverages LLC, a Carlsbad, California-based program administrator, had a majority stake acquired by KKR & Co. Inc. in March. KKR bought the stake from Sightway Capital, which will continue to hold a minority interest in the company.

KKR, which made its investment through its Americas XII Fund, also holds investments in USI Insurance Services Inc., Alliant Insurance Services Inc. and Sedgwick Claims Management Services Inc.

Founded in 2017 by CEO Matt Grossberg, Integrated Specialty writes approximately $300 million of specialty premium annually.

KKR brings "a depth and wealth of knowledge in the insurance space, and they have a lot of relationships, which will be beneficial from an acquisition perspective," Mr. Grossberg said.

In addition to insurtech M&As, several established insurtech companies raised significant funds in the past several weeks, including San Francisco-based cyber managing general agent Coalition Inc., which raised an additional $175 million in capital, and Boston-based cyber managing general underwriter Corvus Insurance Holdings Inc., which raised $100 million.

Growth in SPACs

Special purpose acquisition companies, shell companies formed to raise capital without the need for a traditional IPO, have been growing wildly in popularity.

By late March 2021, there has been $89.8 billion raised across 276 SPAC deals, compared with $83.4 billion in 248 deals in all of 2020, according to data from SPAC Research, an industry tracker. In 2019, there was just $13.9 billion raised in 59 deals, showing how quickly the market has grown.

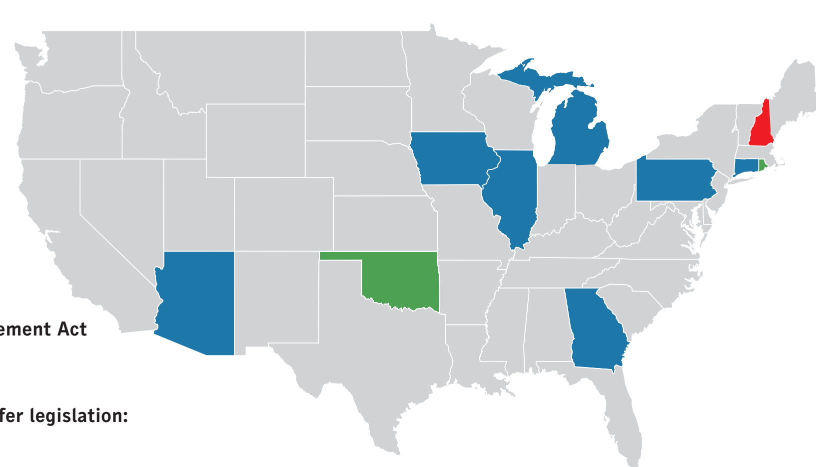
Personal lines insurer Hippo Enterprises, based in Palo Alto, California, is going public through a merger with Reinvent Technology Partners Z, a SPAC that launched last year, in a deal that values Hippo at $5 billion.

The growing popularity of SPACs should provide another avenue for insurtech investing, according to Martha Notaras, managing partner at Brewer Lane Management LLC, a venture capital firm in Los Angeles.

"The mergers and acquisitions market continues to heat up," said Mr. Grossberg of Integrated Specialty.

"It's incredibly active right now, especially given many participants still don't get to meet face to face. Acquirers don't get to meet in person with most of the candidates they're buying. There's a lot of willing and excited capital out there looking to enter the space."

RECENT DEVELOPMENTS: RESTRUCTURING LEGISLATION



- **Legacy Insurance Management Act transfer legislation:** Vermont
- **Insurance business transfer legislation:** Rhode Island, Oklahoma
- **Various forms of division legislation:** Arizona, Connecticut, Georgia, Illinois, Iowa, Michigan, Pennsylvania

Source: Association of Insurance and Reinsurance Run Off Companies

States introduce changes to promote legacy deals for insurance sector

Mergers and acquisitions among ongoing insurance sector companies are triggering more interest in runoff transactions to seal off old liabilities, and the trend has been boosted by legislation in various states seeking to simplify the process.

Legislation passed in 2018 in Oklahoma led to the first transaction being approved in the state last year and several other states have either enacted or are considering enacting similar laws.

Oklahoma's Insurance Business Transfer Act provides a mechanism "for insurers to absolutely transfer blocks of insurance business to another insurance company," according to the Oklahoma Insurance Department.

The law allows for insurers to achieve contractual finality on the policies being sold or transferred as well as allowing for court, insurance department and independent review and approval of all transactions in the interest of policyholder protections.

The first successful transaction under the Oklahoma law was completed in October 2020 when a court approved Providence Washington Insurance Co.'s plan to transfer substantially all the insurance and reinsurance business underwritten by PWIC to Yosemite Insurance Co. of Oklahoma.

The deal included the liabilities associated with those policies as well as $38.5 million transferred from PWIC to Yosemite as consideration for assuming the liabilities. Both PWIC and Yosemite are wholly owned subsidiaries of Enstar Group Ltd.

The law was modeled on Part 7 transfers in Europe, according to Oklahoma Insurance Commissioner Glen Mulready, who as a state legislator prior to becoming commissioner co-authored the legislation.

Mr. Mulready said the completion of the first deal was "an historic moment." Another transaction is working its way through the approval process at the court level, and there has been further interest in additional transactions, he added.

Each proposed transaction must be reviewed and approved by an independent expert, the state insurance commissioner's office and the courts.

"The sole intent of each one of those steps is to ensure policyholders are not materially adversely impacted," Mr. Mulready said. Impetus for the initiative was born of a conversation at a meeting of the National Association of Insurance Commissioners about runoff transactions, he said.

Total global reserves for runoff business increased to $864 billion in 2020, a 9% increase over 2019, according to PricewaterhouseCoopers LLC, which tracks the sector.

The United States is the largest runoff market, with an estimated runoff reserve of $385 billion, and North America is the largest region at $402 billion, followed by Europe at $302 billion, according to PwC.

"We support (IBTs) as another possible tool for our companies to use to complete transactions," said Carolyn Fahey, executive director of the Association of Insurance and Reinsurance Run Off Companies.

Other states with laws or regulations addressing runoff transactions include Rhode Island, whose law predates Oklahoma's but which has yet to see its first transaction, and Vermont.

Arizona, Connecticut, Georgia, Illinois, Iowa, Michigan and Pennsylvania have introduced various measures allowing insurers to divide, according to information from AIRROC.

The laws and state initiatives help bring attention to runoffs and "help more people look at runoff and help understand what runoff is," Ms. Fahey said.

The hardening property/casualty market also has a bearing on the runoff market.

"There's a lot going on in the legacy market right now, and part of the reason why is companies are looking to free up capital to focus on core business, for example," Ms. Fahey said. "As insurers look at the hardening market and ways to free up capital, we believe they will look at legacy transactions as a way to do that."

Matthew Lerner

Employers wrestle with pandemic fatigue

BY LOUISE ESOLA
lesola@businessinsurance.com

Widespread vaccinations and states' easing of pandemic mandates have sent the message that the country could resume normal activities soon — a message that has trickled down to the workforce, leaving employers grappling with expectations versus reality.

"We are seeing this play out in the political arena," said Twane Duckworth, risk manager for the city of Garland, Texas, and member of the board of directors of the Risk and Insurance Management Society Inc. Mr. Duckworth noted governors in Texas and Mississippi lifting mask mandates and authorizing the reopening of businesses, along with ongoing public debate over vaccine safety. The same division "is playing out in the employment aspect as well," he said. "You have some people who are not in agreement with the protective measures."

Some attribute the problem to "pandemic fatigue."

"Pandemic fatigue is very real and has been for a number of months, both in the workplace and outside of it," said John Dony, senior director of thought leadership at the Itasca, Illinois-based National Safety Council.

"Personal stressors and work stressors often compound one another, and after a challenging year, it's understandable why some workers and employers … may be falling behind on or getting distracted when it comes to adherence to proper pandemic protocols."

Mr. Dony said the vaccine rollout has created significant optimism, "which can, in turn, make it easy to let down our guard around the basics such as physical distancing, masks, disinfection, testing and contact tracing."

Vik Ramaswamy, Nashville, Tennessee-based senior risk control manager for Safety National Casualty Corp., said workplace "leadership is having a much more challenging time (and) over the next month it is going to get much, much harder. … Everybody is getting fatigued."

"We are seeing a lot of fatigue around those safety issues," said Martine Wells, a Denver-based shareholder with Brownstein Hyatt Farber Schreck LLP, which represents employers. "It's a profound slowdown. … People walking around without masks. Those fundamental tenets of masking, distancing, hygiene and air flow are the things that many employers and businesses have deprioritized worrying about."

Ms. Wells added: "The employers are saying 'vaccine this, vaccine that.' Until we reach herd immunity, all of the safety stuff is more important than the vaccine."

"There were people in the beginning who were saying, 'We can do this' … and now you see people with masks down and a why-bother attitude," said Linda Tapp, Madison, New Jersey-based president of safety training company SafetyFUNdamentals and member of the board of directors of the American Society of Safety Professionals. "It's important for employers to stay on top of safety and not get complacent themselves."

Pat Tyson, partner and head of the OSHA practice in the Atlanta office of Constangy, Brooks, Smith and Prophete LLP, said employers are increasingly aware of the challenges.

"It's hard to enforce mask wearing all the time, and it's hard to enforce social distancing all the time," he said. "We have clients that have monitors going around all the time to make sure (workers) are social distancing and disciplining those who aren't."

Communication is the answer, experts say.

Mr. Dony said employers should reinforce the basic risk mitigations put in place in the early days of the pandemic and stress their continued importance during the vaccine rollout.

Louise Vallee, Morristown, New Jersey-based vice president of risk engineering for Crum & Forster Holdings Corp., wrote in an email that employers should "emphasize meaningful and ongoing two-way communication with their employees" to battle pandemic fatigue.

"While this has always been an important characteristic of any successful company, during this 'new normal' employers should redouble their strong-leadership-by-example efforts, reassuring their teams they are an integral part of the company, while also recognizing employee contributions and celebrating meaningful events," she said. "In other words — making them feel as fully engaged and heard as possible."

Ms. Tapp said a mainstay of safety programs is key in this case as well: explaining why.

"Like most safety stuff, people have to understand why they are doing it," she said. "In the beginning, we were good at explaining why we are wearing a mask, washing our hands (and) social distancing. It's about keeping that (explaining) up and not letting people down … not letting people get fatigued and not following procedures."

Mr. Dony said fatigue is a factor in any major program, including safety and health initiatives, and that is why employers should give a great deal of attention to change management.

"In many ways, pandemic fatigue is simply a symptom of a long and difficult change process that has affected nearly every aspect of our lives," he said.

OPTIMISM ABOUT A RETURN TO NORMAL

Philadelphia-based law firm Blank Rome LLP queried 130 C-suite executives, in-house attorneys, and human resources professionals in March for its fourth COVID-19 survey.

80% of employers are more hopeful that things are beginning to return to normal, up from 43% who said so in a similar survey in July 2020.

87% of employers plan to take the COVID-19 vaccine themselves but are hesitant to institute a mandate that employees be vaccinated. Only 15% plan to require vaccinations, while 47% aren't sure of their plans.

32% of employers say they could get back to "business as usual" in less than a month if COVID-19 were to end "today."

COMMUNITY SPREAD OUTPACES WORKPLACE TRANSMISSION

While pandemic fatigue may be causing some laxity in adherence to COVID-19 workplace safety measures, a new study has shown that most coronavirus exposure comes from community spread, not the workplace.

A study of 24,000 workers in four large health care systems between April and August 2020 found the majority of COVID-19 exposures resulted from community spread, according to researchers from Emory University in Atlanta, Johns Hopkins University and the University of Maryland in Baltimore, Rush University in Chicago and the Centers for Disease Control and Prevention.

The researchers analyzed the antibodies of participants in Georgia, Maryland and Illinois and had them complete questionnaires about their occupational activities and possible exposures to coronavirus both inside and outside the workplace.

They found that health care workers who worked in a COVID-19 unit or with COVID-19 patients did not increase their odds of seropositivity, and that there was no clear association between workplace contact with coronavirus patients and a positive antibody test.

"We've seen similar kinds of anecdotal data," said Deborah Roy, Falmouth, Maine-based president of SafeTech Consultants Inc. and president-elect of the American Society of Safety Professionals. "(Employers with) good procedures in place, they have had very little transmission, if any. …It makes perfect sense that the positive cases (in the study) were likely coming from the community."

The study did note that health care workers younger than 30 years of age had higher odds of positive antibody tests compared with older health care workers, but the researchers said that is likely due to the "community-based behaviors of younger people."

The full study was published March 10 in the Journal of the American Medical Association.

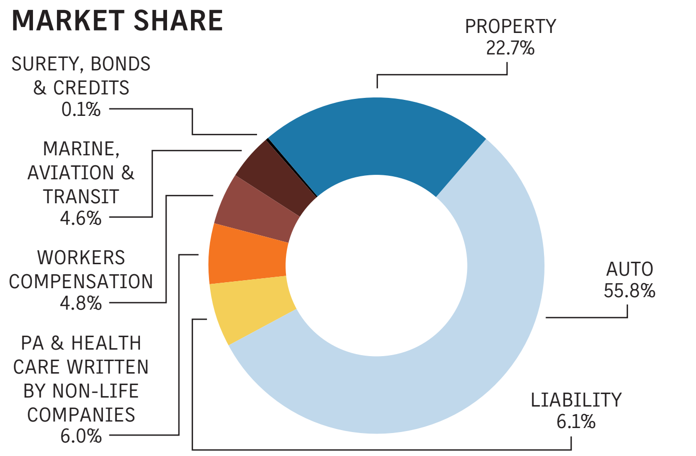
Angela Childers

PROFILE: ICELAND

82
GLOBAL P/C MARKET RANKING

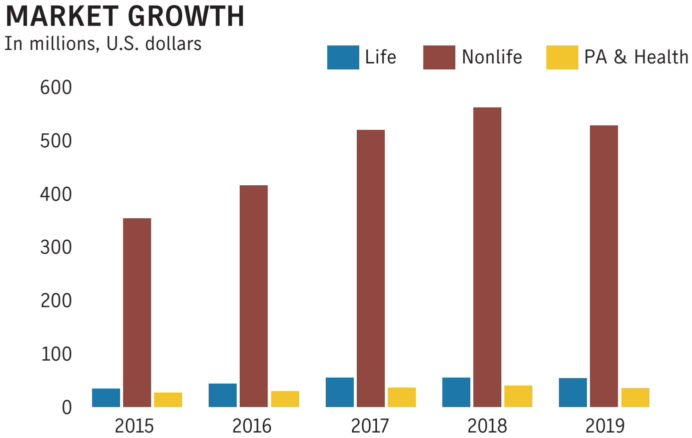
Although small, the Icelandic insurance market is relatively well developed. A full range of covers is available, using both local or foreign expertise. While competition in the market has been strong, there is only a limited amount of "new" business, and competition has tended to be for the 5% to 10% of risks that are open to new offers of insurance or which the current insurer does not wish to keep. Foreign insurers, particularly in the London and Scandinavian markets, are involved in Iceland on both a direct and indirect basis. Indirectly, foreign insurers and reinsurers provide the local market with the capacity and expertise to write some of the more specialist classes, such as directors and officers liability. Iceland's major property risks are placed abroad because international markets are required to provide capacity or because they are foreign-owned and are covered by multinational insurance programs.

MARKET SHARE

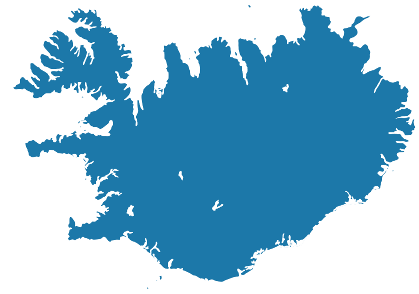


MARKET GROWTH

In millions, U.S. dollars



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies



AREA

39,769

square miles

POPULATION

354,234

MARKET CONCENTRATION

85.25%

market share of top three insurers

2021 GDP CHANGE (PROJECTED)

4.1%

MARKET DEVELOPMENTS

Updated March 2021

- The Central Bank of Iceland took over responsibility for the supervision of insurance companies, pension funds, savings banks and all other financial institutions on Jan. 1, 2020, in accordance with the Act on the Central Bank of Iceland No 92/2019.
- The full impact of the COVID-19 pandemic on the Icelandic nonlife market remains to be seen. It was expected that any reduction in the size of the economy because of the dramatic decline in tourism and the increase in unemployment would negatively affect nonlife insurers' premium income. According to market estimates, overall nonlife premium may have declined 5% in 2020 compared with 2019.
- Figures for auto business for the first six months of 2020 showed premium down about 6% compared with the same period in 2019. Given the reduced claims frequency in early spring — down 40% for one insurer — insurers returned premiums for the month of May as a gesture of goodwill.
- In December 2020, Howden Broking announced the opening of a branch office in Reykjavik, the first to be established by an international broker in Iceland.
- With economic activity in the country recovering in the wake of the COVID-19 pandemic, the main trends in the insurance market in the next year are going to be influenced by competition, particularly in property and auto. Price movements in international markets will affect risks requiring foreign capacity.

COMPULSORY INSURANCE

- Fire and natural catastrophe insurance on buildings
- Auto third-party liability insurance
- Professional indemnity for insurance brokers, real estate agents, stockbrokers, used-car dealers, solicitors, architects, design engineers, construction engineers, chartered accountants and health care institutions
- Medical malpractice, including clinical trials
- Pollution liability (coasts and coastal waters)
- Shipowners liability against marine oil pollution (financial guarantee or insurance)
- Workers compensation (state scheme)

NONADMITTED

By law insurers must be locally licensed to carry on insurance business in Iceland. At the same time, there is nothing in the law to indicate that insurance must be purchased from locally licensed insurers, with some exceptions. This is generally interpreted to mean that insurers can issue policies from abroad, with exceptions, if approached by a buyer and/or an intermediary, but unlicensed insurers may not solicit business.

INTERMEDIARIES

Local brokers and agents are required to be locally licensed to do insurance business. Where local risks are placed as part of a multinational insurance program, brokers involved in nonadmitted placements do not have to warn buyers that their insurer is not subject to local supervision. Overseas intermediaries from outside the European Economic Area cannot be involved in the placement of local insurance business without establishing a branch operation licensed by the Icelandic supervisory authority.

MARKET PRACTICE

Although there is nothing to stop an Icelandic individual or corporation from arranging insurance outside the European Union/ European Economic Area, this practice is not thought to be common and is not seen as a particularly important issue for the authorities.

Information provided by Axco.
For free trial access to global insurance intelligence, visit axcoinfo.com.

Insurer must fund D&O settlements

■ The Delaware Supreme Court upheld a lower court and ruled an Alleghany Corp. unit is obligated to fund the settlement of two directors and officers liability insurance settlements involving Dole Food Co. Inc.

Alleghany unit RSUI Indemnity Co. had sought a declaration it was not obligated to fund the settlement of a breach of fiduciary duty action filed in Delaware Chancery Court and a federal securities action filed in the U.S. District Court in Delaware under its excess coverage, according to the Delaware Supreme Court's unanimous ruling in *RSUI Indemnity Co. v. David H. Murdock and Dole Food Co., Inc.*

Westlake Village, California-based Dole holds a $15 million D&O insurance policy issued by Axis Insurance Co. RSUI has the eighth layer of coverage, providing $10 million payable upon the exhaustion of $75 million in coverage from the underlying coverage and payment of a $500,000 retention by Dole. All the other insurers have paid their policy limits or settled with Dole, the ruling said.

In November 2013, Mr. Murdock, Dole director and CEO, took the company private through a merger transaction that was approved by shareholders. However, some Dole stockholders filed a lawsuit in chancery court challenging the transaction.

The court found Mr. Murdock and Dole's general counsel jointly and severally liable for $148.2 million. Separately, a securities class action was filed in federal court, which Dole settled.

Meanwhile, litigation filed in state court by RSUI, among other insurers, resulted in the court ruling against the insurers. Issues raised on appeal by RSUI included whether California law, rather than Delaware law, applied.

The Supreme Court ruling said, "the Insureds' legal ties to Delaware are more significant — and therefore should be afforded greater weight — than their physical location in California."

"Nor do we find the other previously discussed California contacts to be legally significant or as laden with policy considerations as Dole's status as a Delaware corporation and the individual insureds' status as directors and officers, all operating under the authority and guidance of Delaware law," the ruling said.

Hotel trust prevails in COVID-19 case

■ A Sompo International Holdings Ltd. unit inappropriately tied its denial of a hotel investment trust's COVID-19 business interruption claim to a separate cleanup provision in its environmental policy, a federal district court ruled.

Irvine, California-based Sunstone Hotel Investors Inc., an investment trust with 20 hotel properties, including the Marriott Boston Long Wharf, had a "site environmental impairment liability" policy from Sompo unit Endurance America Specialty Insurance Co., according to the ruling in *Sunstone Hotel Investors Inc. v. Endurance American Specialty Insurance Co.*

In February 2020, the Marriott hosted an international meeting of leaders from Cambridge, Massachusetts-based Biogen Inc., a biotechnology company.

After the Centers for Disease Control and Prevention notified Sunstone in March that three attendees tested positive for coronavirus, the hotel closed for months. The conference was subsequently deemed a superspreader event that led to more than 20,000 coronavirus cases globally.

Sunstone sought business interruption coverage for the closing under its environmental policy, but Endurance denied the claim, saying the policy's business interruption coverage was subject to a $100,000 self-insured retention for cleanup costs.

The trust sued Endurance, and the U.S. District Court in Santa Ana, California, ruled in Sunstone's favor, saying that nowhere in the policy's section on business interruption "does it say that an insured must incur $100,000 in cleanup costs to trigger" business interruption coverage.

"What is more, there are express indications" that the cleanup coverage's self-insured retention "does not apply" to the business interruption coverage "and that only a 3-day waiting period applies instead," the ruling said.

Court dismisses 'outlier' virus suit

■ A federal district court in Boston agreed to dismiss a COVID-19 business interruption case filed by a real estate company against a Berkshire Hathaway Inc. unit, stating it is joining other courts that have also agreed to dismiss similar "outlier" cases.

SAS International Ltd., which operates a real estate business in Fall River, Massachusetts, sued Berkshire Hathaway Group Inc. unit General Star Indemnity Co. after it refused to indemnify SAS for COVID-19-related business interruption losses, according to the ruling by the federal district court in *SAS International Ltd. v. General Star Indemnity Co.*

"This dispute turns on the meaning of the phrase 'direct physical loss of or damage to' property, which cabins the Policy's scope of coverage," the ruling said.

"Taken together, these terms require some enduring impact on the actual integrity of the property at issue. In other words, the phrase 'direct physical loss of or damage to' doesn't encompass transient phenomena of no lasting effect much less real or imagined reputational harm," it said.

"Moreover, reading the phrase 'direct physical loss' in the context of the Policy underscores the lack of coverage for losses arising from a virus."

The policy excludes remediation for the presence of bacteria, the ruling said. "A construction of the policy that covers losses related to COVID-19 yet excludes losses arising from substances of a similar nature — e.g., biological microscopic parts — is unreasonable. By extension, the absence of an express (virus) exclusion does not operate to create coverage for pandemic-related losses," it said, citing a 2003 case.

The ruling concluded that "numerous cases have endeavored to stretch the terms of insurance policies to their limits in the wake of the widespread losses caused by COVID-19. … In fact, courts have also uniformly declined to follow outlier cases that have allowed complaints containing similar allegations to survive dismissal. The court will follow suit here."

Salt mining firm can't nix settlement

■ A policyholder does not have standing to object to a $1 million settlement reached by units of American International Group Inc. and Zurich Insurance Group Ltd. in connection with a huge Louisiana sinkhole, a federal appeals court ruled in affirming a lower court decision.

The case involves the emergence of the Bayou Corne sinkhole in Assumption Parish nearly 10 years ago, according to the ruling by the 5th U.S. Circuit Court of Appeals in New Orleans in *Dianne Sanchez et al. v. Texas Brine Co.; American Guarantee & Liability Insurance Co. et al.*

In August 2012, a salt dome operated by Houston-based Texas Brine collapsed, creating a sinkhole that has expanded to about 34 acres, swallowing trees in its path and releasing methane gas, according to news reports.

Before the collapse, units of AIG and Zurich had insured Texas Brine, which had conducted decades-long salt-mining activities in the area.

AIG and Zurich reached a $1 million settlement with a group of area landowners related to pre-sinkhole subsidence damage, the ruling said. Texas Brine, which was not a party to the settlement, objected because the settlement did not release all of the plaintiffs' claims against the company.

DOCKET

NO REQUIREMENT TO COVER MARIJUANA

The Appeals Court of Massachusetts in Boston ruled a self-insured employer does not have to reimburse medical marijuana costs to an injured worker. The court ruled that the federal stance that marijuana is illegal means the state cannot require that an insurer reimburse such costs. Mark T. Delano sought reimbursement for medical marijuana used to treat pain stemming from a work-related injury he suffered in 2014. Partners Healthcare System Inc., which was self-insured for workers compensation benefits, denied the claim.

INSURER MUST PAY CONDO ASSOCIATION

A condominium association is entitled to damages for 22 boat slips destroyed by water released from the Lake Conroe Dam in Texas to prevent its overflowing during Hurricane Harvey in August 2017. The 5th U.S. Circuit Court of Appeals in New Orleans affirmed a lower court ruling that the association, Playa Vista Conroe, was entitled to $190,828 in damages and $50,000 in attorneys fees from San Diego-based Insurance Co. of the West, a unit of ICW Group Holdings Inc., which had denied coverage on the basis its policy did not cover flooding caused by a hurricane or tropical storm.

OSHRC VACATES ELECTROCUTION CITATION

The Occupational Safety and Health Review Commission, citing a lack of proof that an employer had "knowledge of a violative condition," vacated a serious citation issued to a construction company in 2014 after an employee was electrocuted while working in an aerial bucket relocating energized, overhead power lines. The Occupational Safety and Health Administration had issued Coral Gables, Florida-based MasTec North America Inc. a citation alleging a serious violation of the Electric Power Transmission and Distribution Standard after the incident in Merritt Island, Florida.

Mike Kerner

MUNICH RE SPECIALTY INSURANCE

Mike Kerner joined Munich Reinsurance America Inc. in December 2018 as CEO of its specialty commercial insurance unit, Munich Re Specialty Insurance in New York. Before joining Munich Re, he served as executive vice president, risk management and strategy, at Everest Re Group Ltd. and prior to that spent 23 years at Zurich Insurance Co. in a variety of senior executive roles, including CEO of general insurance. He recently spoke with *Business Insurance* Deputy Editor Claire Wilkinson about Munich Re's commercial insurance strategy and how the hardening market is affecting its business and policyholders. Edited excerpts follow.

Q What type of business is Munich Re Specialty Insurance writing today?

A We build off the strong legacy we've had at Munich Re for a long time. Most of the business is and remains business that we've been doing for a while, including our programs business, so delegated authority to program administrators both in the U.S. and Canada. We've also been in the public entity business for decades as Munich Re, so that's a big chunk of the business, and then, of course, we've been working to build out our internal underwriting and claims capabilities. We started with an offering of primary casualty, expanded last year into excess casualty, (excess and surplus lines) property, and then as well into miscellaneous professional liability, employers professional liability and senior living and medical malpractice. And this year at Jan. 1 we rolled out an allied health care malpractice product line.

Q How big is the book of business? What are the biggest lines of business?

A Last year MRSI's gross written premium was $1.4 billion. If we look at the portfolio by line of business, we have a substantial portfolio of property, and probably neck and neck with that is our general liability business. We also do a little bit of workers comp and some commercial auto business, and then we round it out with professional liability. We're a little bit more general liability than property, but we have been growing the property portfolio quite aggressively.

Q How are policyholders responding to rate increases?

A Policyholders in general don't like rate increases, but the marketplace is allowing for rates to go up and correction to take place, which is absolutely necessary. Having said that, it's not consistent across the board, so there are different pockets of business that are performing in different ways. Probably the biggest highlight on the downside is workers comp, where we continue to see rate decreases in the market. In general, primary casualty is among the lines of business without very significant rate increases. Then in some of the property lines and some of the excess business we see very significant rate increases. More than the rate increases, we see incumbents pulling back on the amount of limit that they're providing and that provides an opportunity for us to step in and fill the void that the incumbents have left.

Q Are you seeing any pushback from policyholders?

A We're not seeing an awful lot of pushback, especially in the areas where we've entered as a new market because we're not looking for an increase year after year in our premium; we're looking to fill the voids. But what we do see is that certain clients buy less coverage. If they've got a budget for what they're prepared to spend, maybe they bought a bigger limit last year than they're buying this year, so they're cutting back on capacity and they're taking deductibles up to keep the costs of coverage reasonable.

Q&A

Q Where do you see opportunities for growth?

A The most significant opportunities are in our in-house underwriting capabilities because we start there essentially at zero and we're building out new product capabilities, we're hiring new teams of people, we're building new relationships with brokers. In a market that is firming you can get some growth pretty quickly. We expect within the next five years or so to build a leading specialty commercial insurer in North America. We think we're going to have the opportunity over the next couple of years at least to grow significantly because we think the market will remain firm throughout 2021 and likely into 2022. Some areas in some segments will be a hard market. The market will determine where the opportunities are and the exact amounts, but we are going to stay focused on the bottom line. We're not going to grow for growth's sake.

Q What coverages are you looking to add?

A Surety, nonprofit directors and officers liability for example are things we are looking at right now as potential market entry as we go through the rest of the year. We also see a lot of opportunities in the program space, particularly as incumbents reevaluate their underwriting appetite and if something has a catastrophe exposure. The market is struggling to digest the amount of cat exposure out there so we will look at opportunities on a selective basis and deploy capacity where we think it makes sense.

Q Where are you adding capacity in the catastrophe space?

A We've added exposure and added capacity to California earthquake over the last couple of years. We also see opportunities in the tropical storm, windstorm area. We've added capacity to windstorm-exposed property programs and in the individual risks space as well. The way the group looks at capacity, we want to try to avoid peaks and valleys. We like plateaus a lot better, so we like to have a relatively equal amount of capacity exposed to different kinds of catastrophe perils.

Q Has Munich Re Specialty changed wordings in light of COVID-19?

A Absolutely. When we entered the senior living professional liability space we did that with a communicable disease exclusion. We have in certain circumstances deployed either pandemic exclusions or communicable disease exclusions for other classes of business as well. That's clearly a reaction to the events of 2020.

Q Are you writing any pandemic covers?

A Through Munich Re Specialty Insurance we are not writing anything that we consider to be a pandemic cover.

Policyholders in general don't like rate increases, but the marketplace is allowing for rates to go up and correction to take place, which is absolutely necessary.

ORIGAMI RISK

RISK MANAGEMENT TECHNOLOGY SURVEY

BUSINESS INSURANCE®

BUSINESS INSURANCE®

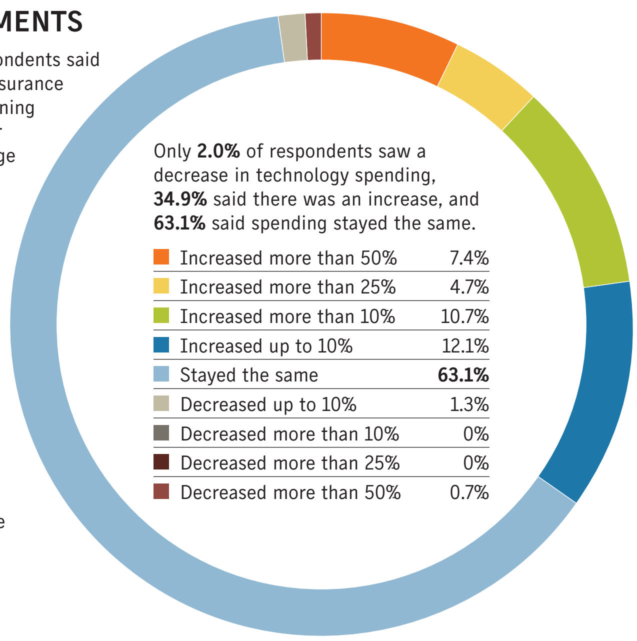
RISK MANAGEMENT TECHNOLOGY SURVEY

The average annual expenditure on risk management information systems technology is $157,240, according to the 2021 *Business Insurance* online survey on risk management technology. The survey also found only 2.0% of respondents reported a decrease in technology spending in the past year, while 28.8% of those who saw technology spending rise said the increase was due to the COVID-19 pandemic. About 15% of respondents said their companies' RMIS are bundled with other insurance products and services. The survey was conducted between Jan. 29 and March 1. The results are based on 229 respondents who indicated they are corporate insurance buyers/users and are involved in their company's/organization's risk management technology purchase decisions. The base used is the total answering each question.

Source: *BI* Survey

TECHNOLOGY INVESTMENTS

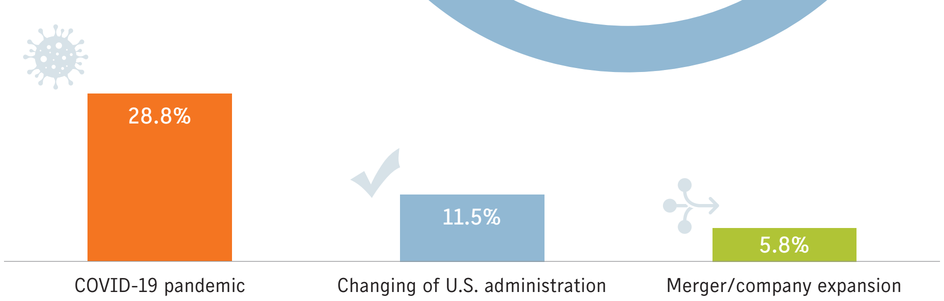
In this year's survey, 14.9% of respondents said their RMIS is bundled with other insurance products and services. Of the remaining companies that did not bundle their RMIS software/platform, the average expenditure is **$157,240**.



Only **2.0%** of respondents saw a decrease in technology spending, **34.9%** said there was an increase, and **63.1%** said spending stayed the same.

Increased more than 50%	7.4%
Increased more than 25%	4.7%
Increased more than 10%	10.7%
Increased up to 10%	12.1%
Stayed the same	**63.1%**
Decreased up to 10%	1.3%
Decreased more than 10%	0%
Decreased more than 25%	0%
Decreased more than 50%	0.7%

28.8% of those who saw expenditure increases attributed the boost to the COVID-19 pandemic.

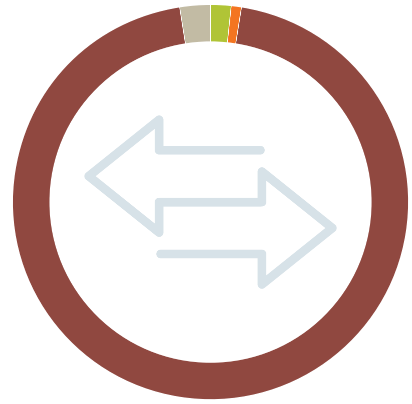


TOP RMIS FUNCTIONALITIES

Claims management	62.6%
Claims administration	33.3%
Incident reporting	33.3%
Enterprise risk management	25.2%
Loss control/safety analysis	23.1%
Policy management	16.3%
Renewals/data collection	12.9%
Asset management	12.2%
Contract/vendor management	11.6%
Benchmarking	6.8%
Litigation management	6.8%
OSHA compliance	6.8%
Premium allocation and calculation	6.1%
Risk financing	2.7%
Insurer ratings	2.0%
Captive/pool management	1.4%
Other	6.8%
Don't know/not sure	3.5%

26.5% of respondents using RMIS said their providers added general functionalities at no cost, while **10.2%** added COVID-19-specific capabilities at no cost.

Added general functionalities at no cost	**26.5%**
Added general functionalities at additional cost	13.6%
Added COVID-19-specific capabilities at no cost	**10.2%**
Added COVID-19-specific capabilities at additional cost	2.7%
Did not add new functionalities	29.3%



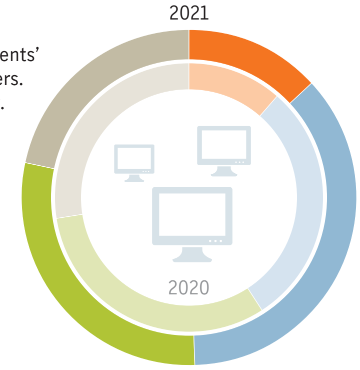
Only **2.5%** started to adopt or switch to a new RMIS vendor because of the COVID-19 pandemic.

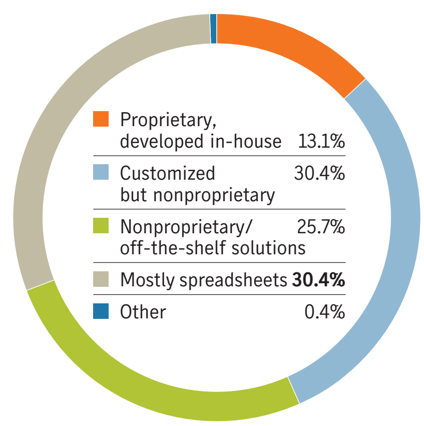
Adopted RMIS because of COVID-19	**1.9%**
Switched to a new RMIS vendor because of COVID-19	**0.6%**
Did not switch RMIS	95.0%
Don't know/not sure	2.5%

RMIS USAGE

This year's survey found that **21.5%** of respondents' organizations are not RMIS technology users. That compares with 27.3% last year.

	2021	2020
Heavy user	13.1%	11.6%
Moderate	36.4%	29.5%
Light	29.0%	31.6%
Not a user	**21.5%**	**27.3%**

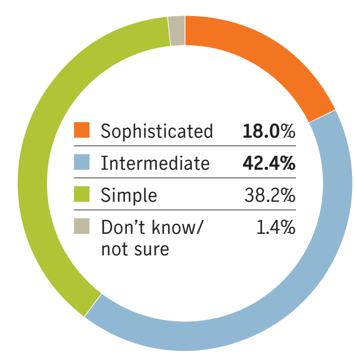




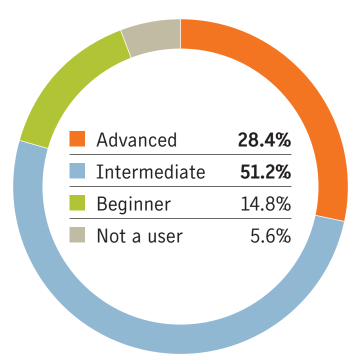
Proprietary, developed in-house	13.1%
Customized but nonproprietary	30.4%
Nonproprietary/off-the-shelf solutions	25.7%
Mostly spreadsheets	**30.4%**
Other	0.4%

43.5% of respondents' systems are customized, but **30.4%** still rely on spreadsheets versus 34.5% in 2020.

60.4%, versus 47.3% last year, of the respondents described their organization's RMIS system as intermediate or sophisticated.



Sophisticated	**18.0%**
Intermediate	**42.4%**
Simple	38.2%
Don't know/not sure	1.4%



Advanced	**28.4%**
Intermediate	**51.2%**
Beginner	14.8%
Not a user	5.6%

Of those whose companies use RMIS technology, **79.6%** described themselves as intermediate or advanced users.

Less than 5% said their companies have been using RMIS technology for less than a year. The average time companies have been using RMIS technology is **8.2 years.**

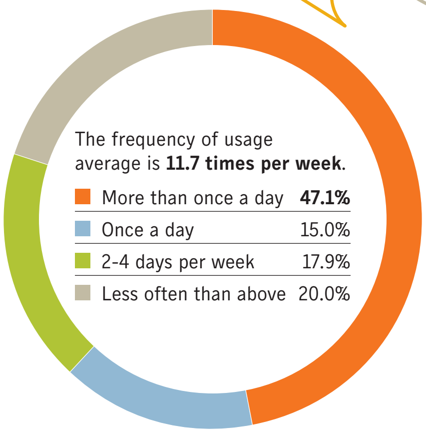
More than 15 years	10.1%
10-15 years	18.9%
6-9 years	21.7%
3-5 years	21.7%
1-2 years	12.8%
Less than a year	**4.7%**
Don't know	10.1%

Produced by the *Business Insurance* Research Department and published in the April 2021 issue of *Business Insurance*.

ACTIVITIES AND TASKS

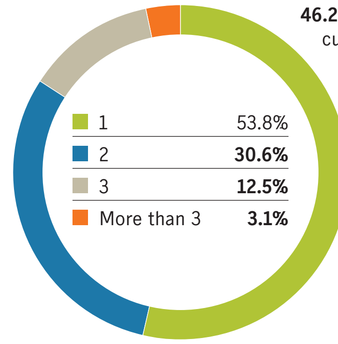
Activities and tasks users can handle today with RMIS software/technology that they previously were unable to perform:

- **55.7%** Improve risk analysis, risk assessments, quantifying risks.
- **46.6%** Produce detailed internal reports.
- **41.2%** Capture and analyze risk data.
- **38.2%** Workers compensation claims management and monitoring.
- **38.2%** Risk data analysis/risk data mining/modeling/forecasting/monitoring.
- **37.4%** Risk and insurance management.
- **32.8%** Share information across organization.
- **31.3%** Establish/improve overall in-house risk data/capturing capabilities.
- **26.7%** Insurance management (track changes, limits, coverage, etc.).
- **22.9%** Establish benchmarks and metrics.
- **13.0%** None of the above.
- **2.3%** Other.



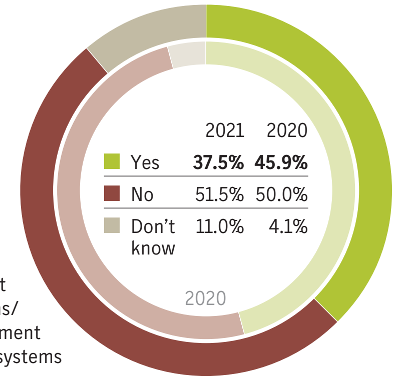
The frequency of usage average is **11.7 times per week**.

More than once a day	**47.1%**
Once a day	15.0%
2-4 days per week	17.9%
Less often than above	20.0%



1	53.8%
2	**30.6%**
3	**12.5%**
More than 3	**3.1%**

46.2% said their companies are currently using more than one RMIS technology software/platform.



	2021	2020
Yes	**37.5%**	**45.9%**
No	51.5%	50.0%
Don't know	11.0%	4.1%

And **37.5%**, compared with 45.9% last year, are using other technology platforms/apps/software solutions for risk management other than company's RMIS systems

RMIS PROVIDERS

Of those using RMIS, **61.9%** are using technology software/platform provided by an independent RMIS or specialty technology provider. Respondents are also using RMIS that are bundled by providers with their insurance products and services.

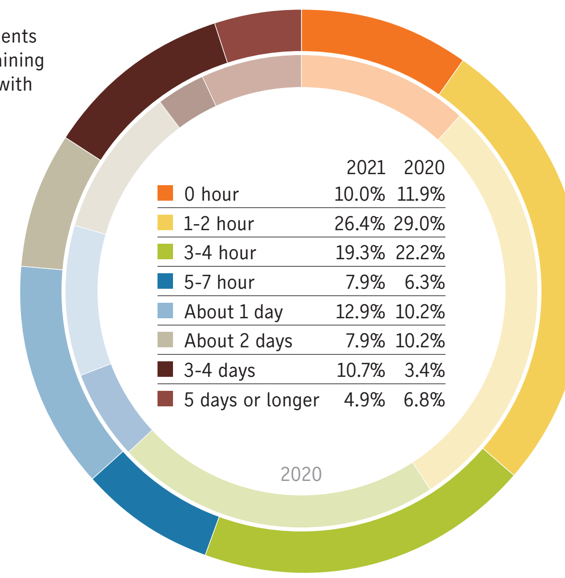
Independent RMIS/specialty technology provider	**61.9%**
Third-party administrator	32.9%
Insurance carrier	17.4%
Broker	9.0%
Internal/proprietary	6.5%
Other	5.8%

More than a quarter of users said they are using Riskonnect RMIS or ClearSight RMIS. Riskonnect acquired Marsh ClearSight in October 2018. **12.7%** are using systems by Origami Risk LLC, while **11.3%** are developing their own in-house systems.

Provider	Percent using
Riskonnect Inc's Riskonnect RMIS or ClearSight RMIS	**27.3%**
Origami Risk LLC	**12.7%**
Proprietary system developed in-house	**11.3%**
Sedgwick Claims Management Services Inc.'s viaONE	8.7%
Liberty Mutual Insurance Co.'s RiskTrac	8.0%
Gallagher Bassett Services Inc.'s Luminos	6.7%
Zurich Insurance Group Ltd.'s RiskIntelligence	5.3%
ESIS Inc.'s Global Risk Advantage	4.7%
The Travelers Cos. Inc.'s eCARMA	4.7%
American International Group Inc.'s IntelliRisk	4.1%
Helmsman Management Services LLC's RISKTRAC	3.3%
Willis Towers Watson PLC's Intelligence Central	3.3%
CCMSI Holdings Inc.'s iCE	2.7%
CorVel Corp.'s system	2.7%
Crawford Risk Sciences Group Inc.'s/Broadspire's DMITRI	2.7%
Sedgwick Claims Management Services Inc.'s FOCUS	2.7%
Ventiv Technology Inc.'s RiskConsole	2.7%
Ebix Inc.'s RiskEnvision	2.0%
The Hartfold's TREO	2.0%
DXC Technology Co.'s RISKMASTER	1.3%
APP Technologies LLC's Cloud Claims and other solutions	0.7%
CHSI Technologies' Connections	0.7%
CrossMark Risk Solutions LLC's solutions	0.7%
Insurity LLC's solutions	0.7%
PCIS Inc.'s ClaimsVISION	0.7%
Other	23.3%
None of the above	19.3%

TRAINING

On average, respondents spent **10.8 hours** training in RMIS, compared with 8.47 hours last year.

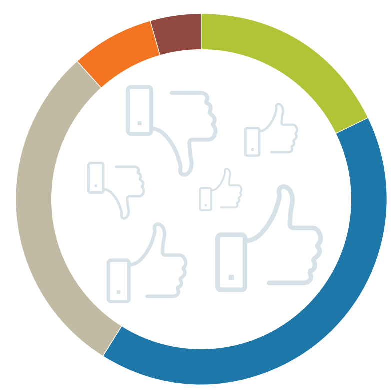


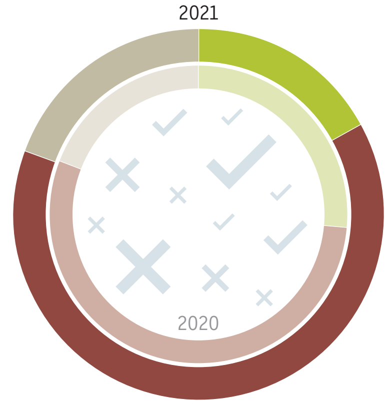
	2021	2020
0 hour	10.0%	11.9%
1-2 hour	26.4%	29.0%
3-4 hour	19.3%	22.2%
5-7 hour	7.9%	6.3%
About 1 day	12.9%	10.2%
About 2 days	7.9%	10.2%
3-4 days	10.7%	3.4%
5 days or longer	4.9%	6.8%

LEVEL OF SATISFACTION

59.0% of respondents are either extremely satisfied or satisfied with their current RMIS systems.

Extremely satisfied	**18.0%**
Satisfied	**41.0%**
Neither satisfied nor dissatisfied	29.5%
Dissatisfied	7.2%
Extremely dissatisfied	4.3%





63.7% of respondents this year said they are not considering changing their RMIS systems in the next 12-24 months.

	2021	2020
Yes	17.1%	26.6%
No	**63.7%**	**54.4%**
Don't know	19.2%	19.0%

12.2% hired a RMIS consultant to assist with choosing and implementing their RMIS technology.

Yes	**12.2%**
No	74.2%
Don't know	13.6%

CLIMATE CHANGE SHINES LIGHT ON RISK MANAGEMENT

Bizarre weather, green transition, more regulation create perfect storm of increased business exposures

BY CLAIRE WILKINSON
cwilkinson@businessinsurance.com

Risk managers face evolving climate-related liabilities and exposures as they grapple with rising losses from unusual weather events and rapidly changing climate policies in the United States.

The raised bar on regulation and disclosure requirements and how companies prepare for climate risks comes amid greater investor scrutiny of their exposures to environmental, social and governance issues, experts say.

TECHNOLOGY ADDRESSES CLIMATE RISK

Improved data and rapidly developing technology are helping companies better manage climate-related risks, with satellite imagery, internet of things sensors and machine learning being deployed.

Swiss Re Ltd. is making significant investments in technology and data assets to help insurers access tools that help improve safety and respond effectively after an event, said Pranav Pasricha, global head of property and casualty solutions at Swiss Re in New York.

The reinsurer recently partnered with Espoo, Finland-based Iceye Oy, a commercial radar satellite operator and flood monitoring provider. "Iceye's ability to leverage synthetic aperture radar data to give us quick and accurate flood-related information gives us a critical capability to monitor natural catastrophe events," Mr. Pasricha said.

Hartford Steam Boiler Inspection & Insurance Co.'s remote sensor IoT technology issues real-time alerts to help prevent risks like water leaks, frozen pipes and power failures, using cellular rather than WiFi systems.

During the polar vortex in February "we had 10 times the number of power failure alerts and five times the number of frozen pipe alerts that we normally have in a given week," said Gordon Hui, vice president of applied technology solutions at Hartford, Connecticut-based HSB, a unit of Munich Reinsurance Co.

A hospital in downtown Dallas equipped with the sensors was able to prevent a major loss when an alert came in that a roof hatch was open. If the open hatch had not been detected that could have triggered a water leak into an electrical panel during the storm, he said.

"This polar vortex proved to us that IoT is incredibly powerful in terms of a risk mitigation tool," Mr. Wu said.

Being able to look back to understand how best to move forward is critical, especially as it relates to supply chain risk, said Alan Halaway, chief revenue officer at ClimaCell, a Boston-based weather intelligence company.

ClimaCell worked with Uber Technologies Inc. to understand how to create incentives for drivers in worsening weather conditions by combining the ride-sharing company's historical data around demand and number of rides with ClimaCell's real-time weather data.

Through that historical process Uber has been able to automate algorithms that feed decisions around surge pricing and incentive programs, he said.

While data modeling, computer technology and artificial intelligence can help underwriters understand and evaluate climate risk, when it comes to reducing risk, basic tools such as flood barriers will make the difference between a major or minor event, said Katherine Klosowski, global vice president of natural hazards and structures at FM Global, in Johnston, Rhode Island.

Claire Wilkinson

It also comes as governments, businesses and investors accelerate efforts to transition to a greener economy.

The cumulative effect of recent weather disasters, such as the February polar vortex and winter storm that hit Texas and the South, causing widespread power outages and billions of dollars of damage, has brought management of these risks into sharp focus.

Last year was memorable for many reasons, said Joseph Gates, chief risk officer at American Family Mutual Insurance Co. in Madison, Wisconsin.

In addition to historic wildfire events in the western United States, severe convective storm activity and a derecho that hit Iowa and Illinois, the year saw a record hurricane season, he said.

Natural disasters in the U.S. caused $95 billion in economic losses in 2020 with $67 billion in insured losses, versus $51 billion in economic losses and $26 billion in insured losses in 2019, according to data from Munich Reinsurance Co.

Even if a specific weather event cannot be tied to climate change, the increases in frequency and severity of losses must be recognized, experts say.

With accelerating wildfire, hail and winter storm events "what we're seeing is that there are new asset exposures that haven't really been contemplated," said Amy Barnes, London-based head of sustainability and climate change strategy at Marsh LLC.

As a result, risk managers have to re-evaluate their portfolio and modeling, she said.

"Financial planners say the past is not always a guide to the future, and that is really proving to be the case with a lot of the modeling that we do around natural catastrophes," Ms. Barnes said.

In March catastrophe modeler Risk Management Solutions Inc. said it will incorporate forward-looking analysis of climate change into its major catastrophe risk models, including its North Atlantic hurricane model, from June.

Swiss Re Ltd. analyzes not just historical trends and loss experience but increasingly forward-looking climate-based projections in its underwriting, said Pranav Pasricha, New York-based global head of property and casualty solutions at the reinsurer.

"This might mean that, based on the peril or region, we may consider a longer or shorter time period for our models that more accurately reflects our view of how climate change may influence the frequency or severity of that peril," Mr. Pasricha said.

The unprecedented winter storm that blanketed Texas caused widespread damage, said Jennifer Waldner, Houston-based chief sustainability officer at American International Group Inc.

"The state's independent power grid failed. It left millions of people without heat or power for many days; many were left to deal with frozen and busted pipes, and about half the state's population was without potable water. Many things went wrong," she said.

Ms. Waldner made the comments during a webinar hosted last month by the Institute of International Finance and EY Global Insurance practice.

"It's clear there's much more work to be done to advance climate adaptation initiatives to help communities in building to withstand the physical impacts of climate change," she said.

Policy shift

As weather and climate-related losses continue to exact a growing toll on businesses and their insurers, the Biden administration has placed environmental, social and governance issues and climate change firmly on its agenda.

On Jan. 27, President Joe Biden issued executive orders mandating that climate change must be at the center of national security and foreign policy. This followed actions taken on his first day in office, such as rejoining the Paris climate agreement, canceling the Keystone XL pipeline permit and reinstating numerous environmental regulations rolled back by former President Donald Trump.

Another executive order, issued by President Biden on Feb. 24, is aimed at making supply chains in the U.S. more resilient, diverse and secure. It references threats to supply chains from "climate shocks and extreme weather events," among the various conditions that should be reviewed.

ESG and climate change are no longer just a discussion or a societal issue but are fundamentally driven by government,

INSURERS REJECT COAL RISKS

A growing number of insurers and reinsurers are withdrawing or limiting their coverage for coal projects amid concerns over climate risk. Recent actions include:

- **Swiss Re Ltd.** will begin tightening its treaty reinsurance underwriting policy for thermal coal risks from 2023, exiting all exposures in Organization for Economic Cooperation and Development countries by 2030 and the rest of the world by 2040.
- **Zurich Insurance Group Ltd.** as of 2020 stopped insuring and will no longer invest in more than one-third of companies exposed to thermal coal, oil sands and oil shale.
- **Lloyd's of London** asked member syndicates to stop providing new insurance cover for thermal coal, oil sands or new Arctic energy exploration from Jan. 1, 2022.

Insurers are also withdrawing from insuring controversial projects such as Adani Enterprises Ltd.'s Carmichael thermal coal mine in Australia and the Canadian government's Trans Mountain oil pipeline.

Source: News reports

CLIMATE EXPOSURES PLACED ON BOARDROOM AGENDA

As regulators increasingly focus on climate-related disclosures and environmental, social and governance issues, public company boards should review their operations and U.S. Securities and Exchange Commission filings, industry experts say.

Like cyber security, climate change is becoming a regular topic at company board meetings, and boards need to take a hard look at the issue as part of their oversight role, said Vince Morgan, a partner at Houston-based law firm Bracewell LLP.

Boards should make certain the company is doing what it can to ensure access to resources and to try to reduce its carbon footprint, he said.

One tool that will continue to be used is shareholder suits against companies for allegedly failing to disclose business and other risks related to climate change, said Brian Moskal, a partner at Greenberg Glusker LLP in Los Angeles.

However, climate change and its effects are so ubiquitous that "we're going to start seeing types of litigation that we might not be able to predict now," he said.

Energy and power generation companies have borne the brunt of climate-related litigation so far, but other industry sectors should start thinking about these issues, Mr. Moskal said.

More than 1,500 climate-related lawsuits have been filed globally, of which three-quarters have been in the U.S., said Nigel Brook, London-based partner at Clyde & Co.

Litigation related to climate impacts is expanding and companies should do their due diligence, he said.

Much of the impact of climate change on liability insurance and financial lines will stem from the indirect effects of extreme weather on claims, said Jennifer Waldner, Houston-based chief sustainability officer at American International Group Inc.

"More frequent severe storms, floods, wildfires and extreme temperatures can increase claim frequency and severity," she said. Third-party claims resulting from lawsuits against utilities for wildfire damages are an example.

"Event-driven directors and officers litigation stemming from any bad news resulting in share price decline has grown significantly in recent years, and where climate change causes or intensifies adverse events, securities litigation will follow," she said.

Ms. Waldner made the comments during a March 5 webinar hosted by the Institute of International Finance and EY Global Insurance practice.

Claire Wilkinson

said Atul Vashistha, founder and chairman of Supply Wisdom, a risk intelligence company based in New York.

The trickle-down effect started with a March 3 announcement by the U.S. Securities and Exchange Commission's examinations division that said the agency "will need to see firms integrate climate and ESG considerations into their disclosures and into their practices related to investments," he said.

In its statement, the division said it will review "whether firms are considering effective practices to help improve responses to large-scale events."

On March 4, the SEC announced the creation of a climate and ESG task force in its enforcement division.

Climate change has also become a focus of the U.S. Federal Reserve, said Nigel Brook, a London-based partner at Clyde & Co. The development is not just because of the change in administration but because "it's more and more obvious that this is a risk affecting financial institutions more broadly," he said.

The situation is dynamic, with a lot of change, and "risk managers have to get ahead of it," said Vince Morgan, a partner at Houston-based law firm Bracewell LLP and a past chair of the insurance law section of the State Bar of Texas.

Like the tobacco litigation that took awhile to work its way through the courts "you're going to see people raising (climate) issues in all kinds of ways that you

TOP GLOBAL RISKS IN 2021 — BY LIKELIHOOD

Environmental | Geopolitical | Societal | Technological

1st	2nd	3rd	4th	5th	6th	7th
Extreme weather	Climate action failure	Human environmental damage	Infectious diseases	Biodiversity loss	Digital power concentration	Digital inequality

TOP GLOBAL RISKS IN 2021 — BY IMPACT

1st	2nd	3rd	4th	5th	6th	7th
Infectious diseases	Climate action failure	Weapons of mass destruction	Biodiversity loss	Natural resource crises	Human environmental damage	Livelihood crises

Source: World Economic Forum

can't predict," Mr. Morgan said (see story related story, page 20).

In addition to enforcement and regulatory changes, there will be changes as President Biden appoints federal judges, he said.

Pricing challenges

Meanwhile, risk managers looking to better mitigate the financial effect of climate risks continue to navigate challenging commercial insurance market conditions.

In a tightening market it is more difficult to place insurance coverage, and the greater the risk, the harder it is to place the coverage, said Katherine Klosowski, global vice president of natural hazards and structures at FM Global, in Johnston, Rhode Island.

Companies need to protect against the damage of climate change, because "they may not be able to get full insurance coverage for that risk," Ms. Klosowski said.

Technology is playing a growing role in helping companies understand, evaluate and reduce climate risks, she said (see related story, page 20).

Insurers are in a difficult spot in terms of selecting the right risk or binding the right coverage at the right price, said Scott Ritto, vice president of risk management at Kilroy Realty Corp. in Los Angeles.

"Sometimes we say this market is hardening because insurers have paid on losses that they're trying to claw back or to collect premium back to make up for the losses they've paid, but they have to look at the future losses as well," Mr. Ritto said.

It is important for businesses to make sure their insurers understand exactly what they're doing to manage the physical and reputational risks related to the climate, he said.

Insurers have a role to play to make sure that communities are resilient moving forward with the expectation that the climate is going to be more volatile than it has been in the past, said Mr. Gates of American Family.

"As best we can, we're responding to try to strike that right balance between the risks we're onboarding to the company and the premium that we're taking to offset that," he said.

Natural catastrophe risks may become "less insurable" in the future due to climate change, a rise in insurance density and economic growth, analysts at Fitch Ratings Inc. said in a report Feb. 22.

Policyholders may become unwilling or unable to pay for costly natural catastrophe protection, which could lead to a gradual withdrawal of insurance for natural catastrophe risks, Fitch said.

SPECIAL REPORT

RISK MANAGEMENT INNOVATION

Vaccine tracking: Proceed with caution

INSIDE

BY ANGELA CHILDERS

achilders@businessinsurance.com

Employers are eager for their workers to get vaccinated and return to the workplace, as questions linger over how they can track who has been vaccinated, whether they should track such information and how they should use it if they do.

"There are a great deal of questions around tracking programs," said Dr. Neal Mills, Portland, Oregon-based chief medical officer at Aon PLC. "Employers have to be careful with how they're going to ask for this information and what they're going to do about the information when they have it."

A survey released in late February by Arlington, Virginia-based Eagle Hill Consulting LLC found that 42% of U.S. workers polled said their employers should wait to re-open workplaces until COVID-19 vaccines are widely available, and 52% said their employers should require workers be vaccinated.

The knowledge that co-workers in the workplace are vaccinated can "provide some assurance around the safety of the environment," said Jennifer Santiago, assistant vice president and chief risk officer of Pennsylvania State University.

Sedgwick Claims Management Services Inc. in February launched a vaccination-tracking program that enables employers to collect employee data on a voluntary basis using a cloud-based tool. The information gathered includes whether a worker has been vaccinated, if a second dose is needed and if a worker experienced side effects, said Kimberly George, Chicago-based global head of product development and innovation at Sedgwick.

"It helps employers understand and monitor the safety of their employees," she said.

Employees can acknowledge if they've been vaccinated, with the understanding that the information will be shared with their employer. The tool also lets employers ask for and record proof of vaccination, which some companies are requiring before paying out any offered vaccination incentives, Ms. George said.

> "Employers have to be careful with how they're going to ask for this information and what they're going to do about the information when they have it."
>
> Dr. Neal Mills, Aon PLC

Risk management software company Origami Risk LLC released a vaccination-tracking program that includes tracking for positive COVID-19 test results. It also keeps track of the number of vaccine doses a worker has received and the dosing schedule, and generates reminders to keep employees on track for full vaccination, said Ellen Moser, Atlanta-based senior client executive at Origami.

"Having stats at your fingertips is key, being able to see what percentage of folks are vaccinated," Ms. Moser said.

So far, the industries most interested in tracking vaccinations include health care systems, senior care facilities, food service distributors for the hospital and senior care sectors, and health care linen and uniform laundering services, she said.

Ms. George said that Sedgwick has found that employers in retail, transportation, manufacturing and education are most interested in tracking vaccinations.

Before tracking vaccinations, employers should consider barriers to strategically collecting the information, said Dr. Jonathan Weiner, professor of health policy management and health informatics at the Johns Hopkins Bloomberg School of Public Health.

An employer cannot access an employee's medical record "unless we give permission or unless we do things in an aggregated way that abides by (the Health Insurance Portability and Accountability Act)," Dr. Weiner said.

Employers also must ensure they don't run afoul of anti-discrimination laws if they question workers who choose not to be vaccinated about why they've declined, Dr. Mills of Aon said.

Is the data collected "a verbal anonymous survey, or employee specific being done to track an incentive … or is it really around return to work?" he asked.

If employers ask for proof of vaccination, they must decide how they will store the information, Dr. Mills said. "That information has to be kept in a separate place from the employee's personnel file, and additional privacy laws are applicable," he said.

And given the wide number of vaccine distributors — as well as several different vaccines — how can an employer be sure that the "proof" of vaccination provided by a worker is legitimate? he said.

Regardless of what tracking mechanism an employer uses, with only about 15% of the U.S. population fully vaccinated as of March, employers must maintain coronavirus safety protocols, said Dr. John Howard, director of the National Institute for Occupational Safety and Health.

> "Having stats at your fingertips is key, being able to see what percentage of folks are vaccinated."
>
> Ellen Moser, Origami Risk LLC

"In this transition period, there are a small percentage of Americans who are vaccinated, but the vast majority are not," he said. "We're really not in that phase when we can do a lot of major changes (to the workplace)."

WORKERS DIFFER ON VACCINE MANDATES, RETURN TO OFFICE

In a national poll of more than 1,000 working Americans randomly contacted across the country in February, more than half said their employers should require employees to receive COVID-19 vaccinations.

Of the employees surveyed:

42% said employers should wait to re-open until vaccines are widely available.

52% want vaccinations to be required.

57% said employers should offer incentives for employees to get vaccinated.

89% want to maintain social distancing in the workplace.

87% want masks to be mandated.

81% said temperature checks should be standard.

71% want to wear personal protective equipment.

69% want to see regular COVID-19 testing conducted.

Source: Eagle Hill Consulting LLC

Wearable devices may help stop COVID-19 workplace spread

Despite rising vaccination rates, researchers continue to investigate ways to mitigate the spread of COVID-19 in workplaces, and technology companies are creating ways to help workers comply with Centers for Disease Control and Prevention coronavirus guidelines.

The University of Miami Miller School of Medicine is studying whether a watch-like device can alert wearers of subtle physiological changes that may indicate that they have COVID-19 — before clinical signs or symptoms begin. The aim is to prompt wearers to get tested for the virus and if the test is positive to quarantine earlier to prevent the spread.

In similar studies, University of California-San Diego researchers found that collecting temperature data via devices worn on a finger can reliably detect the onset of fever — a leading indicator of COVID-19, as well as the flu. And Mount Sinai Health System in New York found that measuring heart rate variability through an Apple Watch could signal the onset of coronavirus up to seven days before a test-confirmed diagnosis.

Several technology companies have entered the coronavirus safety marketplace with wearables.

Norwalk, Connecticut-based Triax Technologies Inc. released a tracking device to help employers trace the source of a potential COVID-19 outbreak and quarantine workers, while Ithaca, New York-based Iterate Labs Inc. tailored its preexisting wearable technology to alert employees when they come within six feet of a co-worker.

Angela Childers

SPECIAL REPORT

Daunting views come with sky-high risks

BY JUDY GREENWALD
jgreenwald@businessinsurance.com


432 Park Avenue soars above Central Park in Manhattan at 1,396 feet.

The growing number of extraordinarily tall, or "supertall," buildings that have shot up around the globe can present significant risk management concerns in construction and maintenance.

Concerns can include seismic and natural catastrophe activity, dangers posed by wind loads and fire, the choice of building materials, threats posed by cranes, congestion surrounding a building site, the environmental impact and worker safety.

These issues aren't unique to supertall buildings, but they are exacerbated in their complexity the higher the buildings are constructed and call for sophisticated risk management techniques, experts say (see related story).

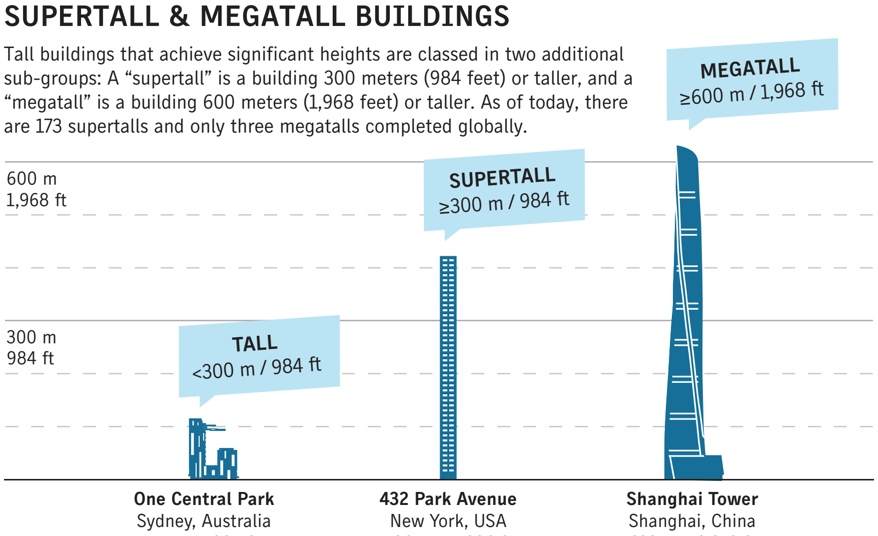
While there is no official standard for what is considered a supertall building, the Chicago-based Council on Tall Buildings and Urban Habitat considers a "supertall" building to be at least 300 meters (984 feet) tall and a "megatall" building to be at least 600 meters (1,968 feet). A total of 173 supertalls and three megatalls have been completed globally, according to the organization.

As a building gets taller, it is "going to have more risks and exposures associated with it, both from a risk management standpoint and from a building standpoint, with respect to the contractors and the actions they need to take," said Erik Davis, Los Angeles-based managing director, construction practice, for R-T Specialty LLC. The risks include the long-term nature of the building "and how well it's going to perform over time," he said.

Fire is a particular hazard, observers say. Just as in building a bonfire, with the materials stacked rather than laid flat, by stacking combustibles one atop the other "you're now creating the condition where a really large fire can spread floor to floor," said Katherine Klosowski, global vice president of natural hazards and structures engineering at FM Global in Johnston, Rhode Island. The structures' height makes it harder for firefighters to extinguish blazes, though fire protection systems can address this issue, she said.

SUPERTALL & MEGATALL BUILDINGS

Tall buildings that achieve significant heights are classed in two additional sub-groups: A "supertall" is a building 300 meters (984 feet) or taller, and a "megatall" is a building 600 meters (1,968 feet) or taller. As of today, there are 173 supertalls and only three megatalls completed globally.



Source: Council on Tall Buildings and Urban Habitat

Wind risk is a concern facing construction firms, said John Peronto, senior principal with engineering firm Thornton Tomasetti in Chicago, who has worked on the Jeddah Tower in Saudi Arabia, which upon completion — now delayed because of the pandemic — would be the world's tallest building at 3,280 feet. "Just because they're tall, they move a larger amount," he said.

"There are different tolerances when you build something that tall," particularly related to nonstructural issues such as components used to finish the building, some of which could be perceived as brittle, said Mr. Peronto, who chaired an American Society of Civil Engineers committee that published a manual on the design and performance of tall buildings that proposed standards to be followed.

Windshear and ice buildup are major exterior issues, and the use of a greater percentage of glass cladding to cover the exterior, rather than masonry concrete, can pose water risks, said Tom Grandmaison, Aon PLC's Boston-based chief broking officer for its construction practice.

Rob McDonough, New York-based U.S. construction leader for Marsh LLC, said, "We are seeing more focus on resilient materials and more preconstruction engineering to make sure buildings can adapt for different weather events" as well as for ground disturbances such as earthquakes, he said.

A building site's geographic suitability is also a consideration. "We've seen several projects" where it was not suitable to construct at a particular location, Mr. Davis said.

> "We are seeing more focus on resilient materials and more preconstruction engineering to make sure buildings can adapt for different weather events."
>
> Rob McDonough, Marsh LLC

Many experts point to San Francisco's Millennium Tower, a 645-foot-tall residential building whose foundation sank 18 inches, in part, tilting the building and requiring a $100 million fix, according to news reports. Ensuing litigation led to a settlement of about $500 million in 2019.

Environmental impact is another consideration. Studies have shown these buildings can deter the wind's ability to disperse pollution, Mr. Davis said.

"Most of these buildings are in urban environments, where there's a significant amount of building density around" the construction site, which "highly dictates how you're able to use and prepare the site," said Brandon Perry, architects and engineers large firms program manager for Victor Inc., based in Bethesda, Maryland.

Sunlight is another issue. Brian Cooper, senior managing director, U.S. construction, at Arthur J. Gallagher & Co., said most high-rise buildings are clad with reflective glass and their placement, size, shape and adjacent facilities must be considered. Drivers on a nearby highway, for instance, could be dangerously blinded by a reflection.

The most obvious risk to workers at supertall construction sites is falling. Some companies use "cocoon" systems at construction sites, which keep workers from falling farther than five feet, Mr. Grandmaison said. These are safety enclosures that are raised higher as the construction proceeds, protecting both workers and pedestrians.

In addition, "to protect workers, you want to create an environment" where they enter and leave the building as infrequently as possible, Mr. Cooper said. In some high-risk construction projects, this has been addressed by using large cargo ship containers to house facilities such as nursing stations and even restaurants, he said. The containers are hoisted to higher floors as construction proceeds.

Another recent innovation is incorporating hooks on the structure's steel beams, so workers can easily connect their fall protection devices, and wearables, which can warn workers during the pandemic if someone is too close, Mr. Cooper said.

> "To protect workers, you want to create an environment where they enter and leave the building as infrequently as possible."
>
> Brian Cooper, Arthur J. Gallagher & Co.

Observers say one unknown factor regarding the future of supertall buildings is whether demand will be permanently diminished by the pandemic-induced increase in telecommuting.

Many observers believe, however, that while there may be a short-term effect, the appeal of cities will eventually be revived. People will say, "I'm sick of looking out my window. I want to be back in the city," Mr. Cooper said.

FOR COMPLEX PROJECTS PLANNING IS KEY

Good planning, coordination and adopting up-to-date techniques are essential elements in supertall buildings' risk management, experts say.

Brandon Perry, architects and engineers large firms program manager for Victor Inc., based in Bethesda, Maryland, said tall buildings do not generate a proportionately larger number of claims.

This is because "they are generally highly engineered projects, where the contractors building them also have a high degree of skill," as well as being marquee projects with sophisticated owners, Mr. Perry said.

"Obviously, great planning is essential between the design team and the building team to make sure they're in lockstep for taking into consideration" environmental or weather-related risks, said Tom Grandmaison, Boston-based chief broking officer for Aon PLC's construction practice.

In addition there should be documentation "every step of the way," so that if litigation arises "the contracting team is prepared to defend the work they did," he said.

Rob McDonough, New York-based U.S. construction leader for Marsh LLC, said, "Probably the biggest positive way to ensure a project's success is preconstruction planning and using more computer-enhanced technology and predesign. That is something we see all the leading contractors and developers doing."

Jeddah Tower in Saudi Arabia which, upon completion, will be the world's tallest building at 3,280 feet.

"The key to success is to make sure that you're surrounded by the right people with the expertise to give sound advice based on actual experience," said Erik Davis, Los Angeles-based managing director, construction practice, for R-T Specialty LLC.

"You want to make sure that you're hiring the right team at every level whether it's the contractors, professionals, risk management professionals or anyone else involved in the project."

"As projects become ever more complex, the techniques and systems used in risk management are also evolving, using such things as Web-enabled remote surveys and drones," Clive Trencher, senior risk consultant with Allianz Global Corporate & Specialty Co. in London, said in an email.

AI and algorithms may become important in managing construction risks, he said.

Mr. Davis said brokers look for information "to show that this particular risk is a strong risk, and this is oftentimes based on the strength of the architects, the engineers and the general contractors" and "the experience that the developer has in managing a project of this size."

Judy Greenwald

CLASSIFIED

CR-2020-004278
CR-2020-004271

STRONGHOLD INSURANCE COMPANY LIMITED (IN ADMINISTRATION)
NOTICE OF EFFECTIVE DATES AND DIRECT FINAL CLAIMS TIME

We refer to the scheme documents issued by Stronghold Insurance Company Limited (In Administration) (the "**Company**") on 16 December 2020 in relation to the Direct Scheme (the "**Direct Scheme Document**") and the General Scheme (the "**General Scheme Document**"). Terms used but not defined in this notice shall have the meaning given to them in the scheme documents.

The court hearing to sanction the Direct Scheme and the General Scheme commenced at 10.30am (London time) on Wednesday 10 February 2021 and took place remotely. The Company is pleased to announce that, by orders of the same date, the Court sanctioned both the Direct Scheme and the General Scheme proposed by the Company. The orders were subsequently delivered to the Registrar of Companies on 11 February 2021 as required by the Companies Act 2006.

NOTICE IS HEREBY GIVEN that:

- the Effective Date in respect of the Direct Scheme and the General Scheme is 11 February 2021;
- the Direct Final Claims Time will occur at 11.59pm (London time) on 10 August 2021; and
- the General Final Claims Time, should the General Scheme Administrators determine that the General Final Claims Time can be set for submission of General Scheme Claims in accordance with the terms of the General Scheme, will be notified to General Scheme Creditors with 180 calendar days notice.

IMPORTANT: ALL DIRECT SCHEME CREDITORS ARE REMINDED THAT THEY MUST SUBMIT THEIR DIRECT SCHEME CLAIMS TO THE COMPANY BY NO LATER THAN THE DIRECT FINAL CLAIMS TIME.

No Direct Scheme Creditor shall be entitled to receive any payment from the Company under the Direct Scheme in respect of a Direct Scheme Claim unless that Direct Scheme Claim is:

- set out in an Existing Claim Form;
- set out in a Voting and Proxy Form in which the Direct Scheme Creditor has elected to have such form treated as its Claim Form; or
- notified to the Company by the Direct Scheme Creditor returning a completed New Claim Form.

Direct Scheme Creditors who require a New Claim Form can download it from the Administrators' website (www.pwc.co.uk/services/business-restructuring/administrations/stronghold.html) or the Company's website (www.strongholdinsco.co.uk). Alternatively, the Company will provide a paper copy free of charge to any Direct Scheme Creditor upon request to: uk_stronghold2@pwc.com.

Dated: 15 February 2021
Contact: uk_stronghold2@pwc.com
Stronghold Insurance Company Limited (In Administration)

REQUEST FOR PROPOSAL (RFP)
FY2022 Group Health Insurance Program
DOA/HRD/EB-RFP-GHI-22-001

The Government of Guam will be announcing the annual RFP for interested health insurance companies licensed under the applicable Guam laws, to provide group health insurance coverage for eligible Government of Guam active employees, retirees, survivors, their dependents and foster children under the legal custody of the Child Protective Services Division of the Department of Public Health and Social Services.

Prospective carriers are advised to monitor the Department of Administration, Human Resources Division's website at www.hr.doa.guam.gov for the RFP publication.

All questions regarding this RFP must be submitted in writing and received by the Director of the Department of Administration, as identified in the RFP.

All hard copies and electronic files of the entire proposal must be received by the Director of the Department of Administration as indicated in the RFP.

DOA reserves the right to amend the RFP at any time during the procurement process. Potential offerors that submit their acknowledgement receipt as instructed by this RFP will be notified of any amendments and inquiries to the RFP. Should you have any questions regarding this RFP, please call the Employee Benefits Branch, Department of Administration at (671) 475-1179/1121.

NOTICE OF TERMINATION OF SCHEME OF ARRANGEMENT

IN THE HIGH COURT OF JUSTICE **No. 3827 of 2001 / CR-2001-000014**
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY & COMPANIES LIST (ChD)

IN THE MATTER OF
INDEPENDENT INSURANCE COMPANY LIMITED
(IN PROVISIONAL LIQUIDATION) (THE "COMPANY")
AND IN THE MATTER OF
THE COMPANIES ACT 2006

NOTICE IS HEREBY GIVEN that the Company's scheme of arrangement (the "**Scheme**") under Part 26 of the Companies Act 2006 and sanctioned pursuant to an order of the English Court on 9 July 2015 terminated on 24 February 2021.

For queries in relation to the termination of the Scheme, please call +44 20 7583 5000.

Parametric risk transfer takes off as buyers seek catastrophe capacity

BY MATTHEW LERNER
mlerner@businessinsurance.com

Sharp increases in insurance pricing are driving more interest in alternative coverage, including insurance products for which claims triggers are based on data points, such as climatic data, usually provided by an independent, verifiable third party.

So-called parametric coverage is underwritten differently, using third-party index data instead of an insured's loss history, and the scope of application is expanding beyond core natural catastrophe coverage, experts say.

"Everybody is looking for additional resources to tackle risks," said Stephane Godier, Santiago, Chile-based regional head Americas, Axa Climate, a division of Axa SA, especially in areas where capacity is scarce, such as for tropical cyclone risk in the Gulf of Mexico.

The hardening market "does open the door for the conversation," said Evan Stait, commercial account executive at Hub International Ltd. in Kelowna, British Columbia, adding that roughly three in 10 prospects "pull the trigger."

"Certainly, the hardening market is causing clients to look at alternatives to traditional insurance," said Paul Ramiz, director of Aon PLC's innovations and solutions team in London. "If you are having a hard renewal, or if you are struggling for capacity, there's an alternate market you can talk to."

Parametric products applied to catastrophe risks "cycle based on factors including when general indemnity and conventional markets harden," said Chad Wright, head of risk analytics and alternative risk transfer in the United States and Canada for Marsh LLC in Atlanta.

There is more traction than prior to the hardening market to use parametric coverages, Mr. Godier said, especially using the products for a deductible buy down, "because this is where the solutions are more efficient." A policyholder can start with a first layer of parametric coverage and then attach higher on the traditional program, he said.

Parametric products for natural catastrophes such as earthquake and hurricane were the first to be introduced, about 20 years ago. More recently, parametric products have been developed for other perils, including hail, drought and other weather events, Mr. Wright said.

"Excessive rain, excessive snowfall, lack of snowfall are all solutions we have in our portfolio," he said, adding that Marsh also has a product for pandemic-related risks based on a parametric trigger.

For example, a parametric contract can be based on whether a specific location exceeds a given amount of snow within a defined time frame.

"There is an increase in people investigating alternative products — non-damage business interruption triggers, for example," said Mr. Ramiz of Aon (see related story). The mature end of the market, however, is in the weather and natural catastrophe perils, such as wind and earthquake, he said.

Aon had its "best year to date" for parametrics in 2020, and there has been a "huge uptick in inquiries," he said.

Aon placed more than $500 million in coverage through parametric products in 2020, including its biggest ever parametric deal for one client, north of $300 million in limit, Mr. Ramiz said.

"Years ago, you had to go to the capital markets for substantial limits," said Mr. Wright of Marsh. "Now, insurers are putting more and more money into these types of solutions. Some markets will do hundreds of millions of dollars, and there are limits as high as $500 million for earthquake."

Parametric coverage offers capacity "that wants to take risk," and as property insurance prices have hardened, there is less difference in pricing between traditional coverage and parametric coverage, he said.

The two types of coverage can also be employed in tandem.

"Parametric insurance can work in a great way to be a companion piece to complete a standard insurance offering," said Jonathan Charak, emerging solutions director in Schaumburg, Illinois, for Zurich North America.

Parametric coverage is generally used to supplement and complement traditional coverage, not to replace it, Mr. Ramiz said. There is precedent, however, for a client removing all wind from its traditional portfolio and replacing it with parametric cover, he said.

Scott Carpinteri, senior vice president, innovative risk solutions, at Swiss Re Corporate Solutions, said parametric insurance is a different product from an indemnity contract.

"It doesn't have a deductible, it doesn't really have exclusions, and it doesn't require a damage trigger," he said. In addition, the documentation is usually simpler and averages about 15 pages.

Swiss Re Corporate Solutions' online parametric hurricane coverage platform Pop Storm allows users to purchase coverage online based on trigger and payout tables.

Hub's Mr. Stait said parametric coverage also differs from traditional coverage because the underwriting process does not take loss history into account. "It's all data driven," he said.

Underwriters need at least 25 years of data without gaps, such as weather data from the U.S. National Oceanic and Atmospheric Administration, to cover the risks, Mr. Ramiz said. Data derived from other areas, such as through telematics, is still "immature" to underpin parametric insurance, he said.

TOP 5 STATES BY NUMBER OF MAJOR HAIL EVENTS IN 2020

Number of hail events with hailstones one inch in diameter or larger.

1	Texas	601
2	South Dakota	377
3	Kansas	341
4	Oklahoma	341
5	Nebraska	313
	United States	**4,611**

Source: U.S. Department of Commerce, Storm Prediction Center, National Weather Service

ALTERNATIVE OPTIONS CAN FILL GAPS IN TRADITIONAL POLICIES

Parametric insurance is being investigated by some to address nonphysical damage business interruption risks.

Parametric products can be used to insure risks not usually covered by the traditional insurance market, such as revenue losses that are not directly related to property damage, said Stephane Godier, regional head Americas, Axa Climate, a division of Axa SA.

For example, a transportation business dependent on agricultural transport for a material portion of its revenue, can be indirectly hit by the effect of climate change on crop production. "There is huge potential in the ag supply chain because a lot of players along the supply chain are exposed to systemic risk because of climate risk," Mr. Godier said.

"It's another way to look at business interruption exposure that isn't attached to property," said Evan Stait, commercial account executive at Hub International Ltd. in Kelowna, British Columbia.

A municipal snow removal budget, for example, exhausted early by excessive snowfall could be covered with a snowfall indexed coverage, he said. Conversely, a ski resort could be insured against a lack of snow on its slopes.

The COVID-19 pandemic, which has led to more than 1,000 lawsuits related to business interruption claims, has also caused some to consider parametric coverage.

"People are realizing because of the pandemic that there are bigger, broader nonphysical-damage business interruptions that can occur, and because these products are designed to pay based on an event occurring and not because you've suffered damage, people are taking a hard look at it now," said Chad Wright, head of risk analytics and alternative risk transfer in the United States and Canada for Marsh LLC in Atlanta.

Matthew Lerner

MARKET PULSE

CRC, life insurer partner on comp program

■ CRC Insurance Services Inc.'s 5Start Specialty Programs division has entered into a partnership with Pan-American Benefit Solutions to provide workers compensation coverage for the trucking industry, the Birmingham, Alabama-based wholesale and specialty insurer announced.

The partnership between 5Star and Pan-American Benefit Solutions, a division of New Orleans-based Pan-American Life Insurance Group Inc., will expand CRC's capacity to write trucking occupational accident coverage, and address issues with workers comp clerical class codes and commercial fleet risks, according to a statement.

Beazley launches D&O cover for SPACs

■ Beazley PLC launched a range of directors and officers liability coverages for special purpose acquisition companies.

A spokeswoman for the London-based insurer said in an email that Beazley would offer Side A, B and C coverage – which could cover individuals or corporate entities involved with SPACs – and would typically offer limits of $2.5 million or $5 million.

"These are bespoke policies designed for the unique characteristics of a SPAC to provide a simplified contract with clean, clear wordings and fewer endorsements," the email said.

SPACs, which are sometimes called blank-check companies, have seen a surge in popularity over the past year. A wide variety of companies have used the structures as a means of going public without going through a traditional initial public offering.

Beazley will offer up to 24-month initial policy terms "designed to cover the typical life cycle of a SPAC," the spokeswoman said, and the coverage is noncancelable by either party.

The coverage is available to U.S.-domiciled SPACs and the initiative is led by Jim Rizzo, executive risk underwriter at Beazley in New York.

According to the website SPACinsider.com, there were 248 SPACs formed in 2020, compared with 59 in 2019, and there have been 232 formed so far this year.

While SPACs are often viewed as a quicker and more efficient means of raising funds than an IPO, the Securities and Exchange Commission issued an investors bulletin on SPACs in December warning that the economic interests of a SPAC's management team and directors and officers "often differ from the economic interests of public shareholders."

Several SPAC-related shareholder lawsuits have already been filed.

PRODUCTS & SERVICES

Munich Re backs ransomware warranty

■ Cybersecurity company Deep Instinct said it will offer a Munich Re Group-backed ransomware warranty program of up to $3 million per company for a single breach, beginning March 31.

The New York-based company said in a statement the Munich Re-backed product, aiSure, allows Deep Instinct to guarantee the performance of its artificial intelligence software and add an additional financial component to its operational cyber risk protection products.

A spokeswoman said in a separate statement that those eligible for the warranty will be current paying customers that have experienced a ransomware event while using the most up-to-date product on an eligible device, with default settings set at moderate or higher.

To be eligible for the reimbursement, they must follow the reimbursement request process and Deep Instinct's mitigation instructions, including blacklisting eligible devices affected by the ransomware event within a certain agreed period, the statement said.

Software company, health manager partner

■ Sapiens International Corp. and Rising Medical Solutions announced they have collaborated on a health care management platform for workers compensation and property/casualty insurers.

Holon, Israel-based software company Sapiens and Chicago-based health care management company Rising developed the platform, which will combine Sapiens' workers comp and property/casualty software platforms with Rising's technology to combine the claims and medical management information to aid insurers in decision-making.

No date has been given on the platform's availability in the marketplace.

Aon teams up on cryptocurrency cover

■ Aon PLC is collaborating with Relm Insurance Ltd., a Bermudian specialist insurer, and Nayms Ltd., an insurtech platform for cryptocurrency investors insuring crypto risk, to offer coverage for cryptocurrency companies.

The collaboration will conduct a first pilot with Teller Finance, part of Teller Labs Inc., which uses its "algorithmic credit risk protocol for decentralized lending," to place tokenized, or blockchain-enabled, insurance.

Benjamin Peach, associate director and digital assets specialist, global broking center at Aon, said in the statement the broker wants to develop products for a "growing client base in the digital asset space."

Dan Roberts, CEO at Nayms, said the digital asset sector is approaching $1 trillion.

Relm was launched in 2019 to provide "dedicated capacity for digital asset and blockchain businesses," said Joseph Ziolkowski, CEO at Relm.

Munich Re, Allianz team with Google

■ Munich Re and Allianz SE units said they are offering a program that combines a new cyber policy with up to $50 million in limits with cloud data provided by a Google LLC unit.

The risk protection program has two parts, according to officials of Google Cloud, Allianz Global Corporate and Specialty and Munich Re: a diagnostic tool called Risk Manager that enables Google Cloud customers to measure and manage their risk and obtain a report on their security posture; and a quota share program to insure cyber risk jointly offered by Munich Re and Allianz that uses this data to streamline the underwriting process.

The program marries "technology and risk transfer to deliver a more transparent underwriting process and broader coverage," said Bob Parisi, Munich Re's New York-based head of cyber solutions.

He said the risk manager tool provides underwriters with information they can tap into that goes beyond the data provided by the questions they normally ask.

DEALS & MOVES

Amwins to buy Worldwide Facilities

Amwins Group Inc., the largest wholesale broker, has agreed to buy the fifth-largest wholesaler, Worldwide Facilities LLC.

Terms of the deal were not disclosed.

The purchase of Los Angeles-based Worldwide Facilities, which is Charlotte, North Carolina-based Amwins' 52nd acquisition, will expand the broker's casualty and professional lines businesses, particularly around construction, workers compensation, directors and officers liability, and errors and omissions insurance, an Amwins statement said.

The combined company will have more than 6,750 employees in about 155 offices and place more than $24 billion in premium annually, the statement said.

Relation purchases three agencies

Private equity-backed Relation Insurance Inc. announced the purchase of two agencies in Texas and one in Arkansas, adding about 30 staff to the brokerage.

Terms of the deals were not disclosed.

Walnut Creek, California-based Relation said it had bought InSource Insurance Agency Inc. in San Antonio and Shepard Insurance Agency in McAllen, Texas. Relation also announced it had bought Rogers, Arkansas-based The McKinney Group, a small personal and commercial agency.

Sedgwick buys building consultancy

Sedgwick Claims Management Services Inc. said it has acquired Construction Services Co.

Terms of the deal were not disclosed.

Roseville, California-based CSC is a regional building consulting firm serving the Western United States, including California, Arizona, Oregon, Colorado, Nevada and Washington, according to its website.

CSC provides loss assessment analysis including code and ordinance evaluations and determinations.

Davies acquires Texas-based TPA

London-based Davies Group Ltd. said it has acquired third-party administrator The Littleton Group of Austin, Texas.

Terms of the deal were not disclosed.

Littleton provides claims adjusting and third-party administration for insurers, managing general agents, off-shore and stateside captives, municipalities, private entities and self-insured businesses, the statement said.

COMMENTARY

Action needed as fatigue sets in

It's hard to understate the transformation in attitudes toward COVID-19 that has taken place over the past year or more.

Early in January 2020, many in the United States were puzzled and at most mildly concerned by reports of a new virus outbreak in a Chinese city that few had heard of. That changed when what we had learned to call the coronavirus spread to Europe and the U.S. late that month. By February, fear over the spread of a contagious disease began to ratchet up but fell short of panic levels.

By March, we were beginning to realize that this was like nothing most of us had experienced before, as lockdowns were imposed and, after some contradictory messaging, most of us were told to wear a mask if we had to venture out. The extreme measures were seen as necessary steps to create a firebreak that would quickly halt the virus' spread.

Gavin Souter
EDITOR

While there was a lull in the late spring, the spread of the virus soon accelerated and we came to terms with the fact that this was going to be a long slog.

Generally, people have adapted to social distancing protocols, and while there's still some resistance to mask wearing, for many the question is what type of mask one should wear or how many to put on at a time.

Inevitably, though, many people have begun to tire of the safety measures. As we report on page 10, pandemic fatigue is becoming a worrisome trend in workplaces. Unlike, say, a car seatbelt, which vastly improves safety with one click at the beginning of a journey, communicable disease safety requires multiple strategies and constant adjustment.

Left unchecked, masks slip, people move closer, cleaning gets sloppier and repeated testing becomes a chore. And decisions by a few states to lower or end safety restrictions for the general public bleed over into the workplace.

But particularly in industries where workers are in close proximity to others, such as the food processing sector, frightening levels of COVID-19 spread have been reported, and any slip in safety protocols could have tragic consequences.

The Occupational Safety and Health Administration, which previously issued guidelines on worker safety in the pandemic, has come under fire for its enforcement of safety rules during the crisis and last month missed a deadline to introduce a federal safety standard for COVID-19.

At this point during the pandemic, where an end might be in sight but remains a ways off, it's important to act quickly so employers know where they stand and can act to protect workers. By failing to meet the deadline, which some experts have regarded as a delay, OSHA missed an opportunity to effectively and urgently drive home the point that COVID-19 remains a deadly threat that, regardless of political distractions, must continue to be treated seriously by all.

VIEWPOINT

Innovation steps up in crisis

BY CLAIRE WILKINSON
cwilkinson@businessinsurance.com

If there's an upside to the pandemic it's that the use of technology and digital assets has accelerated and expanded at a rapid pace. While this trend was already underway before COVID-19, we're now into year two of a global remote working experiment made possible by Webex, Zoom, Slack and other platforms. There are numerous examples of where digital transformation has been critical to business continuity in the pandemic. Telemedicine and virtual schooling come to mind, and the neighborhood family restaurant pivoting to online ordering and curbside pickup and delivery. The shift to e-commerce has been unmistakable, especially if the frequent UPS delivery truck runs and package deliveries to nearly every doorstep on neighborhood streets is any gauge.

For risk managers and insurers, the pandemic has driven many to speed up their digital approaches. In a tough commercial insurance market especially, it is easy to see how an online renewal could prove difficult. Yet several risk managers tell of online negotiations with their insurers that were enhanced by the digital process because they allowed for greater efficiency and a personal connection to be forged in a work-from-home setting that previously had not been possible. This suggests a blend of technology and human interaction may be important. Meanwhile, for insurers the pandemic has seen a shift in policyholder behaviors and expectations. The need for speed and touchless claims handling has been aided by technological advances that automate processes, though challenges will be inevitable. The industry's ability to mobilize and work remotely in the early days of the pandemic was critical for business continuity, but the question now is how to sustain and adjust digital efforts to support long-term delivery of new insurance coverages.

Fortunately, as highlighted in this issue's risk management innovation special report starting on page 22, there are some promising signs of innovation as the industry looks to better manage emerging risks and to respond to what insurance buyers need going forward. Who would have thought a year ago that vaccine-tracking technology would be a thing? In addition to cloud-based tools to help employers keep track of the number of vaccine doses an employee receives, wearable devices are playing a role in keeping workers safe and in compliance with Centers for Disease Control and Prevention coronavirus guidelines. In any future pandemics, these will surely be used more widely.

As commercial insurance prices continue to rise, policyholders are also seeking alternative coverage. For strained natural catastrophe and non-physical-damage business interruption risks in particular, parametric insurance appears to be taking off. In such a contract, policyholders are insured against a specific event with the payout pre-determined and claims triggers based on index data points, such as rainfall or hail measurements, magnitude of earthquake, or reduced foot traffic levels related to a policyholder's business exposure. In this way the coverage is designed to pay based on an event occurring, rather than the level of damage incurred. While in the past, risk managers have said cost was a barrier to buying parametric coverage, ever-tightening commercial insurance market conditions appear to be closing that pricing gap. A hallmark of parametric coverage is the faster payout. Because it eliminates the need for claims adjustment, payment under a parametric coverage can be made in weeks, versus months or years with a standard indemnity contract. After more than a year of claims denied and lawsuits filed for business interruption coverage related to COVID-19, it's not surprising that the parametric alternative is gaining momentum.

Settling cases during the pandemic

Jeffrey Miller is a managing partner at Pillinger Miller Tarallo LLP in New York. Mr. Miller oversees the firm's litigation department. He can be reached at jmiller@pmtlawfirm.com.

Settling personal injury cases has been dramatically affected by the COVID-19 pandemic. Instead of the usual routine of cases going to court and eventually settling during pre-trial conferences or on the eve of trial, cases have stalled at the proverbial courthouse steps as courts have been closed or operating at a significantly reduced capacity over the past 12 months. Also, a reduction in judges and court personnel and jury trial limitations because of COVID-19 protocols have considerably slowed personal injury settlements. The filing of new cases last year in New York, for example, was approximately 25% less than the year before. Increasing caseloads for insurance adjusters are not driving settlements because the pending cases are relatively stable.

The insurance company perspective

The experience of insurers has been mixed. Anecdotal evidence suggests that some insurers are not upset or uncomfortable with fewer cases settling because it allows them to continue to delay paying claims and using the money for reserve purposes.

On the one hand, insurers may be comfortable with fewer active cases because it delays claims payments allowing them to use the money for reserve purposes. But our experience suggests this is not always the case.

One insurer who is a client of our firm, Greater New York Mutual Insurance Co., has found that the number of cases settled before and during the pandemic has been about the same. GNY has made a concerted effort to settle cases on the trial calendar using private mediation and dedicated adjusters for settlement. Once an offer has been made, they re-initiate contact with the plaintiffs attorney at a specified point in the future to further push the case for settlement. According to GNY, without the aggressive end-stage settlement, they would have settled fewer cases during the pandemic.

Another regional insurer used the pandemic as an opportunity to settle more cases earlier because plaintiffs needed money during the recession and their attorneys knew that it could be years before they could resolve cases in court.

Insurers often crave settlements because they reduce the number of pending cases and save defense costs, court fees and medical examination costs.

Defense law firm perspective

There is a commonly held misconception that defense attorneys don't want to settle cases. After all, every settled case represents a lost chance to bill and reduces

the number of pending cases a firm has.

There has been some truth to that notion over the years, and plaintiffs attorneys have long accused defense lawyers of not relaying their interest in resolving the insurers' cases. Our firm's perspective has been quite different. We worked with several of our insurer clients to settle a record number of cases last year, representing a 38% increase from 2019.

In one instance, for example, we chose 25 slip and fall and ceiling collapse cases from one habitation program, which involved back, neck and knee injuries, and settled 24 of 25 cases on the mediation days, and the last case settled later. Settlements were all within the insurer-extended authority.

Experience teaches there is a long way between the initial demand by a plaintiff and an ultimate resolution. Like a ritual dance, there is a process to a successful mediation.

Here's my list of "Six Things You Must Know — Resolving Cases During the Pandemic," highlighting points to help close cases that have been on dockets for too long:

1. Insurers are craving settlements.
2. Cavalry coming? Not a chance.
3. DIY — You need to get this done.
4. Too early to settle? Never!
5. Too late to settle? Never!
6. Case closed — music to everyone's ears.

In today's legal climate, we recognize that the cavalry is not coming. In previous times a judge may have spent time trying to settle individual cases, but due to the reduction in judges and court personnel, those days are long gone. We know that the emphasis is on individual attorneys, both plaintiffs and defense, to focus on resolving their cases.

Plaintiffs law firm perspective

The other group of stakeholders, plaintiffs attorneys, have also not been clamoring to resolve cases because they feel that they will not get the best offer from an insurer until a trial looms. Many plaintiffs lawyers think that insurers are cutting significantly harder deals now that they know the courts are essentially closed. Plaintiffs attorneys are not getting pressured by their clients because they understand that the courts are in a dormant state.

Jeffrey Block, a well-respected plaintiffs attorney from the firm Block O'Toole & Murphy, offers his perspective about settling cases during the pandemic. He told me his firm has settled the same number of cases as before the pandemic and that 2021 may well turn out to be a record year for settlements. He has found some insurers are more receptive to settling, while others seek discounts based on the pandemic and lack of access to courts. Mr. Block has said that his firm will not settle cases for less than 100% of the case's value and that there is no settling with insurers that want discounts to take advantage of the current economic distress. He recognizes it is in the insurer's interest to settle cases to free up reserve money for more expensive new policies.

Case closed

Experience teaches there is a long way between the initial demand by a plaintiff and an ultimate resolution. Like a ritual dance, there is a process to a successful mediation. Insurers are always looking for low-hanging fruit, that is, cases that can be resolved before defense costs mount. If you want a case settled, you must DIY it — do it yourself and push to get it done. No one will push to get it settled other than you. In my experience and my practice, clients want resolution. It is never too early to settle a case, especially when you know the facts of a case and can assess its value from multiple perspectives. It is also never too late to settle as injuries can lead to more surgeries, and defense costs can escalate.

I have often heard from adjusters, "This is the oldest pending case that I have." I hold the position that we are all in the resolution business. If you settle one case, two more will come along, and if you want to make a friend in this business, settle your case. The phrase "case closed" is music to everyone's ears.

"After working for extremely large brokers and underwriters, I am looking forward not only to bringing my experiences to benefit Hylant, but to having a voice and being heard."

UP CLOSE

Sherry Gonzalez

NEW JOB TITLE: President, Chicago office, Hylant Group Inc.

PREVIOUS POSITION: Madrid-based chief business officer and strategic development officer, Latin America at Axa International.

OUTLOOK FOR THE INDUSTRY: So much is happening in the world right now. I think the insurance industry has a real opportunity to provide creative ideas, whether that's using new technology tools and big data to help companies better predict risk and prepare for the impact, or thinking outside the box to design new ways to fund risk while protecting the bottom line.

GOALS FOR YOUR NEW POSITION: My priorities will see me develop further our footprint and capabilities in the Chicago area, paying close attention to how Hylant will serve its large national and multinational clients.

CHALLENGES FACING THE INDUSTRY: The global pandemic, increasing political unrest, cyberattack severity and frequency, climate change, mental health of employees, gig economy and other "new realities" have created plentiful, complicated risk challenges for companies of all sizes today. Likewise, insurers are under pressure from their shareholders, so they are looking for ways to strengthen performance, sometimes refusing to renew policies and often increasing cost. It creates opportunities for companies like Hylant to put their expertise to work in helping companies improve their risk profile as well as exploring innovative ways to transfer and fund risk.

FIRST EXPERIENCE IN THE INDUSTRY JOB MARKET: I started my career over 33 years ago at broker Johnson & Higgins. It was a great training ground. I worked in Los Angeles and was their first trainee brought straight into their international division.

ADVICE FOR A NEWCOMER: Take chances. If a new opportunity comes your way that scares you a bit, something you've never tackled before, I say jump in, sink or swim (you always learn you can swim).

DREAM JOB: Years ago, I started a nonprofit company in Los Angeles that focused on making volunteerism easier for busy professionals. Although it was something I ran in my spare time, we had 1,200 volunteers participating in over 150 charity events a year. The work was so enriching and rewarding. I feel a calling to return to nonprofit work at some point.

LOOKING FORWARD TO: The ability to act nimbly and in the best interests of our clients, wherever they do business in the world. To bring new solutions to them that they haven't thought of before. After working for extremely large brokers and underwriters, I am looking forward not only to bringing my experiences to benefit Hylant, but to having a voice and being heard.

COLLEGE MAJOR: International business/foreign trade policy and Spanish.

FAVORITE MEAL: My now-adult "kids" love a baked pasta dish I concoct, sans recipe, and ask for it whenever we are together.

FAVORITE BOOK: "The Art of Possibility," by Rosamund and Benjamin Zander, the book I have gifted more than any other. Good lessons for life and for leadership.

HOBBIES: Since the first chance I had to go abroad as an exchange student when I was 16, I have been an avid traveler.

TV SHOW: I am a big Trekkie. I have seen all the "Star Trek" episodes, way too many times.

ON A SATURDAY AFTERNOON: Mostly to take things easy, unwind from the work week. Saturday afternoons are good for cooking, running a few errands and connecting with family and friends.

SEE MORE ONLINE

Visit *www.businessinsurance.com/ComingsandGoings* for a full list of this month's personnel moves and promotions. Check our website daily for additional postings and sign up for the weekly email. *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 *editorial@businessinsurance.com*.

ON THE MOVE

Marsh LLC hired **Kevin Bryant** to lead its national public entity industry practice. Mr. Bryant replaces Jean Demchak, who will continue as global education industry practice leader. Previously, Mr. Bryant was executive vice president and resident managing director of Aon PLC's office in Greenville, South Carolina.

Zurich Insurance Group Ltd. named **Sierra Signorelli** CEO, commercial insurance. She succeeds James Shea, who left the company. Previously, Ms. Signorelli was group chief underwriting officer. She was named one of the *Business Insurance* Women to Watch in 2019.

McGriff, the retail brokerage business of Truist Insurance Holdings Inc., appointed Maitland, Florida-based **David Larson** national risk control director, a newly created role. Previously, Mr. Larson led the risk control and claim team at Lockton Cos. LLC.

Worldwide Broker Network named Atlanta-based **Olga Collins** CEO, succeeding Francie Starnes, who will serve as CEO emeritus through 2021. Previously, Ms. Collins was multinational practice head at Beecher Carlson Insurance Services LLC, a unit of Brown & Brown Inc. She was a *Business Insurance* Women to Watch honoree in 2019.

Hub International named former Allianz Global Corporate & Specialty SE executive **David Cloward** entertainment insurance practice leader. Based in Los Angeles, Mr. Cloward was most recently global entertainment product leader of live production at AGCS.

The Hartford Financial Services Group Inc. named Denver-based **Erin Rotz** to lead its new combined inland marine and builder's risk business. Previously, Ms. Rotz led The Hartford's construction and inland marine organization in the Western region.

Safety fine brought back down to Earth

The U.S. Occupational Safety and Health Administration broke a ceiling on safety citations by issuing a U.S. Postal Service post office a $10,423 fine over discolored ceiling tiles, according to a ruling made by an administrative law judge for the Occupational Safety and Health Review Commission that vacated the citation.

USPS was issued the one-item citation in 2019 after an OSHA inspector, looking into a water leak, found that the ceiling tiles at the Dora, Alabama, facility allegedly "were not kept in sanitary condition in that water stains and discoloration were observed."

But the judge concluded that after policy revisions in 2016, such discoloration — a sign of unsanitary conditions — only applies to "walking-working surfaces," and since ceiling tiles by definition were not "walking-working surfaces," the Secretary was not authorized to cite USPS.

Optimism at the end of pandemic tunnel

Eighty percent of employers are now more hopeful that things are beginning to return to normal, a jump from the 43% who believed so in July 2020, according to survey results released by Philadelphia-based Blank Rome LLP.

The national law firm received responses from 130 C-suite executives, in-house attorneys, and human resources professionals for its fourth COVID-19 survey, which compared the data with the results from the first three surveys conducted in March, April and July 2020.

The survey found that 87% of employers plan to take the COVID-19 vaccine themselves but are hesitant to institute a mandate for employees to receive them — only 15% plan to, 47% aren't sure.

Employers also are now more concerned about the pandemic's effect on the workforce and productivity than on a global recession.

BUCKNELL BRO, WEAR YOUR MASK

The head of the athletics and recreational center at Bucknell University in Lewisburg, Pennsylvania, found that getting the "grown adults" working at the center to manage the college students using its facilities during the pandemic was a difficult task.

So, he rushed in a few college fraternity brothers to work as "risk managers" to help monitor weight room occupancy and to ensure masks were being worn, according to an article published in the student newspaper The Bucknellian.

"Well, at first we had one of the guys from physical therapy monitoring everything, but that wasn't working too well," the Kenneth Langone Athletics & Recreation Center administrator told the student newspaper regarding how the center has been keeping up with enforcing the latest in COVID-19 protocols.

"Grown adults trying to do their jobs and college kids are like oil in water — they just don't mix," he continued, "but turns out, you throw a few Greek letters on a crew neck T-shirt and, bam, it's a world of difference."

Hitting brakes on endless workday

Employees can run the risk of burnout if work-life balance is out of whack, and the pandemic's push to telecommute has set the wheels in motion for trouble ahead as work and family time see no boundaries.

The solution could be a "fake commute," reports KTRK-TV, an ABC News affiliate in Houston, which profiled office worker Susan Jaworski, who said the longer she went on working into the evening, "the harder it was" to stop answering emails or sending messages.

"The blend between home and work was starting, and there wasn't really a transition," she told the news station. So she started doing a fake commute: riding her bike around her neighborhood before and after her workday.

Cereal brand gets slap on health claims

Post Consumer Brands has agreed to settle a class action lawsuit that claimed its so-called healthy cereals contain bunches of sugar.

The cereal company will pay $15 million to settle the 2016 suit that alleged it misled consumers by using nutrition claims to market its cereals, household names that include Post Selects, Great Grains, Honey Bunches of Oats, Shredded Wheat and Good Morenings, FoodBusinessNews reported.

Lakeville, Minnesota-based Post has also agreed to stop using terms such as "no high-fructose corn syrup," "less processed," "wholesome," "smart" and "nutritious" on its ready-to-eat cereal products where 10% or more of the calories come from sugar, according to the news site.

A federal judge in the Northern District of California has already granted preliminary approval for the agreement and a final hearing is scheduled for June 2021.