WORKPLACE
SEXUAL ASSAULT

Plight of victims raises concerns over liability under workers comp

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VIEW FROM THE TOP
Ramona Tanabe became president and CEO of the Workers Compensation Research Institute in May. She joined the Cambridge, Massachusetts-based organization in 1996, bringing a background in law and an interest in public policy research. Ms. Tanabe discusses WCRI’s research on a range of industry issues and the importance of “treating the whole person” in workers comp. PAGE 19

COVER STORY
Growing awareness of incidents of sexual assault in the workplace has led to a flood of litigation. Typically, employers turn to the workers compensation exclusive remedy as their first defense against the allegations, and some are questioning whether change is on the horizon. PAGE 20

BUSINESS INSURANCE (ISSN 0007-6464) Vol. 57, No. 8, Copyright © 2023 by Business Insurance Holdings, Inc. is published monthly by Business Insurance Holdings, Inc., 1000 Lake Avenue, Greenwich, CT 06831. Accounting, business, circulation and editorial offices: PO Box 1010, Greenwich, CT 06836. Email businessinsurance@omeda.com to subscribe or for customer service. Periodicals postage is paid at Greenwich, CT. Printed in the USA. POSTMASTER: Send address changes to Business Insurance, PO Box 260, Lincolnshire, IL 60069.
Increased privacy claims surrounding the collection and sharing of data by companies are reverberating through the cyber insurance sector as underwriters and policyholders take steps to stem losses. The deployment of data tracking and collection technologies by website operators and assertions of so-called “wrongful collection” and subsequent sharing of personally protected information are increasing as overall web usage and the development and use of such tracking technologies continue to grow.

As $18.4 million settle a case in September 2021 to resolve a class-action lawsuit against health care provider Mass General Brigham Inc. over the use of cookies, pixels, website analytics tools and associated technologies on several websites without first obtaining the consent of website visitors encouraged further privacy lawsuits. The “massive settlement prompted the plaintiffs bar to start attacking this technology in earnest,” said Christine Flammer, New York-based claims manager, cyber and technology claims, for Axa XL, a unit of Axa SA.

Broad interpretations of statutory language by courts have also helped fuel a rise in claims, sources said, as judges allow cases to move forward, placing insurers on the hook for defense costs. In response, underwriters are considering wider use of exclusions. “Motions to dismiss are not readily granted,” said Anjali C. Das, a partner in Chicago with Wilson Elser Moskowitz Edelman & Dicker LLP and co-chair of the firm’s national cybersecurity and data privacy practice.

She said courts are allowing cases to move into discovery to learn more about the new wave of claims and suits, some of which are based on arcane language in the Video Privacy Protection Act, or VPPA, a federal statute that was enacted in 1988 in response to the disclosure and publication of then-Supreme Court nominee Robert Bork’s video rental history without his consent.

“The recent wave of litigation over the past 18 to 24 months has courts still wrestling with the role of VPPA in the modern world,” Ms. Das said. One attraction of the VPPA to plaintiffs is that it provides for statutory damages of up to $2,500 per violation, she said.

A concern for insurers is that cyber insurance often contains provisions for defense costs, and class-action suits can be lengthy, potentially making insurers responsible for what could be substantial defense costs, Ms. Das said.

“There’s cover under many cyber policies for defense of these actions,” said Meredith Schnur, New York-based cyber brokerage leader, U.S. and Canada, at Marsh LLC.

The effect of the rise in claims and the uncertainty of courts’ positions with insurers has been “immediate,” said Bobby Bianconi, Rocky Hill, Connecticut-based head of U.S. technology and cyber at Aspen Insurance Holdings Ltd. “We are extremely selective on who we will choose to partner with if they continue to deploy” data collection and tracking tools, he said. Any such applicant receives added scrutiny and must answer an expanded set of underwriting questions about how data is collected and shared, the answers to which could result in a “wrongful collection” exclusion being inserted in the policy, he said.

“There is a host of underwriting questions about what the market is looking for and to understand, and if they feel that the responses and the control environment that is in place at an organization using tracking tools are not to their satisfaction, they will look to exclude it,” Ms. Schnur said.

Some organizations have removed tracking technology from their websites in response to the wave of claims, said Marissa Olsen, Jersey City, New Jersey-based senior vice president and global head of cyber claims at Axa.

Ms. Flammer of Axa XL said privacy claims began to accelerate over the past year but noted that coverage for such “tracking claims” is often subject to sub-limits or defense-only coverage.

Nadia Hoyte, New York-based national cyber practice leader with USI Insurance Services LLC, said regulatory agencies in other states, such as New York’s Department of Financial Services, are stepping up enforcement actions. In May 2023, the DFS announced a $4.5 million penalty against OneMain Financial Group LLC, alleging it “failed to effectively manage third-party service provider risk, manage access privileges, and maintain a formal application security development methodology, significantly increasing the company’s vulnerability to cybersecurity events,” in violation of the department’s Cybersecurity Regulation.

Matthew Lerner

### DATA PENALTIES

**Biggest data fines 2012-2023**

1. **FACEBOOK: $5B** (2019)
   - The fine was the largest set by the Federal Trade Commission and came after widespread public outcry over Facebook’s mishandling of user information.

2. **DIDI GLOBAL: $1.2B** (2022)
   - The Chinese government fined ride-hailing company Didi Global a total of 8 billion Yuan ($1.2 billion) for a series of violations related to data security and personal information protection.

3. **AMAZON: $886M** (2021)
   - The Luxembourg National Commission for Data Protection fined Amazon a record €746 million ($886 million) for violating the European Union’s General Data Protection Regulation.

   - Equifax was fined $700 million by the FTC in 2019 for its 2017 data breach. The fine was imposed on Equifax for failing to take adequate measures to protect the personal information of approximately 147 million people.

5. **EPIC GAMES: $520M** (2022)
   - Epic Games, the creator of Fortnite, was fined $520 million by the FTC in a settlement that involved the Children’s Online Privacy Protection Act.

### Regulators start to rein in data tracking activity

While litigation is driving concerns around online privacy claims, some risk managers and cyber security personnel also must respond to regulatory agencies and state lawmakers introducing new privacy rules and enforcing existing regulations.

“States are taking up the mantle on what kind of data regulations need to be in place to protect consumer information,” said Jeremy Barnett, Calabasas, California-based chief commercial officer for Lokker, which is owned and operated by Apomaya Inc., a data and technology security company.

California’s Consumer Privacy Act of 2018, which gave consumers more control over the personal information that businesses collect about them, was amended to provide consumers additional protections beginning Jan. 1, 2023, including the right to correct inaccurate personal information that a business has about them and the right to limit the use and disclosure of sensitive personal information collected about them, according to information on the California State Department of Justice’s website.

Mr. Barnett said other states, including Colorado, Connecticut and Virginia, are considering similar legislation and regulations to protect consumers.

In addition, Nadia Hoyte, New York-based national cyber practice leader with USI Insurance Services LLC, said regulatory agencies in other states, such as New York’s Department of Financial Services, are stepping up enforcement actions.
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Artificial intelligence poses risk to HR practices

BY JUDY GREENWALD
jgreenwald@businessinsurance.com

Artificial intelligence can be a valuable tool for employers in functions such as hiring, but it also poses significant risks of inadvertent discrimination, experts warn.

The use of generative AI tools — including ChatGPT — which learn patterns and relationships from massive amounts of data, has exploded to more than 100 million users, according to a report released in June by the U.S. Government Accountability Office.

In the employment context, AI is most likely to be used in hiring but is expected to play a greater role in related functions, including layoffs, promotions and succession planning.

“It’s quicker to have an AI source review all (job candidates’) resumes and sort them than pre-interview candidates. It makes the process quicker” and involves fewer human resources staff, said Mary Anne Mullin, New York-based senior vice president at QBE Insurance Group Ltd.

But it still requires some human oversight, experts say. The issue has attracted the attention of Congress and federal regulators as well as some state and local legislative bodies (see related story).

Its use will increase as the technology becomes more sophisticated, said Joni Mason, New York-based senior vice president and national executive and professional risk solutions practice leader for USI Insurance Services Inc.

Employers “want to make sure that their algorithm doesn’t discriminate against different groups,” said Scott M. Nelson, a partner with Hunton Andrews Kurth LLP in Houston.

He said a general, if simplistic, rule of thumb is the “4/5 rule,” under which a selection practice is considered to have a disparate impact if the selection rate for a certain group is less than 80% that of the group with the highest rate.

In a putative class-action lawsuit filed in U.S. District Court in Oakland, California, in February, Derek L. Mobley blamed Pleasanton, California-based Workday Inc.’s AI systems and screening tools for his failure to find employment despite applying for at least 100 positions since 2018.

“Wrongful employment decisions and, in particular, claims around discrimination are in the offing,” Kelly Thoerig, Marsh LLC.

Mr. Mobley charged that the tools administered by Workday and used by employers rely upon “subjective practices” that have had a disparate impact on applicants who are African-American, older than 40, and/or disabled.

There will be more lawsuits, experts say. “Wrongful employment decisions and, in particular, claims around discrimination are in the offing,” said Kelly Thoerig, Marsh LLC’s New York-based U.S. employment practices liability product leader.

She said that while there has not been a notable volume of AI-related employment claims to date, “the framework is there” for a creative plaintiffs bar.

Observers say employers will generally be held responsible for any perceived discrimination.

“It’s incumbent upon these companies to not just rely on the vendor that supplies the AI program,” Ms. Mullin said.

“It’s going to come down to having a very diverse and strong set of data,” said David Derigiotis, Detroit-based chief insurance officer for insurtech Embroker.

It has to be tested and tested and must be reported and the results found to be satisfactory before live production,” he said.

Employment practices liability policies will likely provide coverage if there is litigation, observers say.

“What insurists might want to look at is what kind of computer-related exclusions could be on the policy, and they need to talk with their broker to make sure that any wrongful claim that arises from AI is covered under the definition of wrongful employment, including claims and settlements,” Ms. Mullin said.

Technology errors and omissions coverage may also come into play, Mr. Derigiotis said.

“We have seen some questions around employers’ utilization of AI and AI-related technologies come up with more regularity” during underwriting, but generally speaking “it hasn’t created any outsize problems,” Ms. Thoerig said.

LAWMAKERS, REGULATORS SET RULES ON USING AI AS A RECRUITMENT TOOL

Artificial intelligence’s use in employment decisions has drawn the attention of federal, state and local regulators and legislators.

This includes:

- The Equal Employment Opportunity Commission in May issued guidance on how to avoid discrimination under Title VII of the Civil Rights Act of 1964 when using AI.
- During a June 13 hearing on AI, U.S. Democratic Sen. Jon Ossoff, of Georgia, chairman of the Senate Subcommittee on Human Rights & the Law, said AI’s potential impact on work could include fundamental shifts in recruitment, candidate screening and hiring.
- A New York City law, Local Law 144, which took effect July 5, requires employers and employment agencies that use AI to conduct a bias audit within one year of its use, make information about the audit publicly available, and provide employees or job candidates with certain notices about its use.
- Illinois’ Artificial Intelligence Video Interview Act, which became effective Jan. 1, 2020, regulates AI’s use in job applicant video interviews.
- Maryland’s Facial Recognition Services Law, which became effective Oct. 1, 2020, prohibits employers from using facial recognition technology during pre-employment job interviews without the applicant’s consent.
- In addition, the European Union has passed draft rules governing AI’s use for functions including making hiring decisions.

No comparable U.S. federal legislation is imminent.

Europe is taking a more unified approach than the United States, said Ernest Paskey, Washington-based partner and head of assessment solutions, North America, for Aon PLC.

AI-related uses have also been the focus of many state legislatures (see chart).

Some of the proposed legislation pinpoints hiring, while other measures are framed more broadly, addressing issues such as housing or credit, said Michael Fetter, Brunswick, Georgia-based associate partner, global science and analytics, for Aon.

Judy Greenwald
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AI technology builds momentum in claims sector

BY JON CAMPISI  jcampisi@businessinsurance.com

The insurance claims sector is tapping into technologies such as machine learning and artificial intelligence to increase efficiency, improve outcomes and detect fraud.

Whether it is a simpler version of AI that can be used to automate back-office processes or the newer generation AI, which can be used to analyze policyholder's claims history and policy preferences, these new technologies are becoming more widely used in the industry.

“There are a lot of policies that are written and a lot of claims that occur, which all have data around them,” said Stan Smith, president and CEO of Bassett Services Inc., which provides AI services for the insurance industry. “As I looked into it, claims were more of a challenge than underwriting. There was a lot of focus on how to get our claims costs under control.”

Yet “the vast majority of claims being processed or the newer generation AI, which can be used to automate back-office processes or the newer generation AI, which can be used to automate back-office processes,” said Stan Smith, president and CEO of Bassett Services Inc., which provides AI services for the insurance industry. “As I looked into it, claims were more of a challenge than underwriting. There was a lot of focus on how to get our claims costs under control.”

“One of the biggest challenges we have is processing claims in a consistent way,” said Stan Smith, president and CEO of Bassett Services Inc., which provides AI services for the insurance industry. “As I looked into it, claims were more of a challenge than underwriting. There was a lot of focus on how to get our claims costs under control.”

From one to the other, I think the new, generative AI models are going to complement our narrow AI models in a lot of ways,” Mr. Powell said.

Generative AI has the potential to improve the claims process because it enables claims professionals to “deliver a consistent product in an efficient way,” he said.

Mike Cwynar, Orange County, California-based senior vice president of product delivery for Mitchell Casualty Solutions Group, said AI can benefit back-office claims management as well as customer service and document digitization tasks.

“A lot (of our clients) are really putting a lot of emphasis on claims service and digitization tasks.”

Mr. Powell said.

AI, especially Microsoft OpenAI’s language model GPT, can be particularly useful in fighting fraud, since it can “analyze vast amounts of claims or communication data, spotting patterns and inconsistencies that may suggest fraudulent activity,” said Gregg Barrett, CEO of Kalispell, Montana-based insurance technology company Veje.

QBE North America partnered with Veje, Denmark-based DETECTsystem A/S after learning about that company’s fraud detection system, FDS, which uses advanced technology to detect image and document fraud in claims, said Brian Wilson, vice president and head of the special investigations unit at the New York-based insurer.

“You receive a lot of these (supplemental documents) with every single claim that comes in,” said Dan Gumprecht, Scottsdale, Arizona-based executive vice president of products and operations for DETECTsystem A/S. “It’s kind of like looking for a needle in a haystack.”

Putting a human on fraud detection would be “very inefficient in terms of cost,” whereas AI can complete the task quicker and more accurately, he said.

“All three are used differently so you’re spending more time on the complex claims,” Ms. Sawko said.

“There are things that could be done that could be automated with the use of AI.”

DATA TRENDS

According to management consultancy McKinsey & Co., four technology trends involving AI will help to reshape the insurance industry during the next decade.

- Increased prevalence of physical robotics, which is expected to reshape commercial insurance products.
- Open-source and data ecosystems are expected to be shared across industries.
- Advances in cognitive technologies will help process complex data streams in insurance products.

While the term AI is used broadly, it encompasses various platforms and processes. Automation and AI, for example, are sometimes used interchangeably, but they differ, said Leah Cooper, Chattanooga, Tennessee-based managing director of IT for Sedgwick Claims Management Services Inc.

“AI is just the tool,” Ms. Cooper said. “Automation is putting all of the pieces together.”

When rolling out AI pilot programs, Sedgwick saw success in document digitization and validation, reading for content, and automatic eligibility confirmation used to validate whether someone has proper coverage.

“AI is not going to replace someone’s job. What it’s going to do is take the red tape and the busy work off someone’s desk so that you change the story about that person’s job,” Ms. Cooper said.

She said AI is also being used to detect claims oddities and discrepancies that could potentially signal insurance fraud (see related story).

“There are a lot of different opportunities when it comes to plugging into tools that can spot abnormalities,” she said.

“Using AI, we’re able to spot the outliers, what’s not normal.”

The insurance industry traditionally lagged in technology, said Cherylle Turle, Tampa, Florida-based vice president of property/casualty and workers compensation for Sapiens International Corp.

“A lot of the problems have not changed,” Ms. Turle said. “It’s just technology and things like AI, data analytics, automation, these are all helping people in being proactive instead of reactive.”

New technologies such as AI have “terrific promise for our industry but if misused could be certainly damaging and counterproductive,” said Joe Powell, Fort Wayne, Indiana-based senior vice president for data and analytics with Gallahger Bassett Services Inc.

Mr. Powell drew distinctions between the different forms of AI, including “narrow” AI, or machine learning, where models are built or “trained” on data targeting a specific desired decision outcome, and generative AI, which can involve taking a “single, very general model and (applying) it to a whole host of use cases.”

“Those two are not substitutes for each other,” he said. “It’s not like we’ve moved from one to the other. I think the new, generative AI models are going to complement our narrow AI models in a lot of ways,” Mr. Powell said.

Generative AI has the potential to improve the claims process because it enables claims professionals to “deliver a consistent product in an efficient way,” he said.

Mike Cwynar, Orange County, California-based senior vice president of product delivery for Mitchell Casualty Solutions Group, said AI can benefit back-office claims management as well as customer service and document digitization tasks.

“A lot (of our clients) are really putting thought into how to make it a really user-friendly claims experience,” he said.

Insurance personnel considering using generative AI should start small. “I wouldn’t go in and try to rewrite your back-office process here,” Mr. Cwynar said.

“It’s key to partner with folks who understand not just the technology but the business domain, the problem that you’re trying to solve, and being really careful in what you end up going after,” he said.

Generative AI, he said, can generate content such as photos, video, text and code, and attempts to read questions and provide answers. But it can also suffer from what’s known as “hallucination,” a term referring to times when AI provides an answer not in line with what is expected.

“You really need to understand what you’re trying to get out of tools like this, because they’re tools right now,” Mr. Cwynar said. “I wouldn’t throw generative AI at the most complicated problem that I have out there. I’d use it to automate tasks and build my expertise and sophistication with it over time.”

MACHINE LEARNING POWERS FRAUD DETECTION

As artificial intelligence becomes more widely used in the insurance industry, one function that can benefit from its implementation is fraud detection.

Generative AI can look at various factors in claims filings to see if there are any indicators of fraud, such as “falsification of details around the damage level,” said Leah Cooper, Chattanooga, Tennessee-based IT managing director for Sedgwick Claims Management Services Inc.

AI can be used to detect atypical behavior, a sign of potential fraud, said Joe Powell, Fort Wayne, Indiana-based senior vice president for data and analytics with Gallahger Bassett Services Inc.

“What’s great about these AI systems is that they can learn what’s typical across a much broader spectrum of data than a human can ever look,” Mr. Powell said.

AI, especially Microsoft OpenAI’s language model GPT, can be particularly useful in fighting fraud, since it can “analyze vast amounts of claims or communication data, spotting patterns and inconsistencies that may suggest fraudulent activity,” said Gregg Barrett, CEO of Kalispell, Montana-based insurance technology company Veje.

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More buyers seek parametric wildfire cover

BY MATTHEW LERNER
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Parametric coverage for wildfire exposures is gaining traction amid a challenging environment for catastrophe-exposed property risks. Improved data sources and satellite imagery are also among the reasons for the broader uptake because better data translates to improved coverage trigger designs and increased confidence among users, experts say.

“Wildfire is a clear use case for parametric because it is easy to measure,” said Laurent Sabaté, co-founder and executive director of London-based Skyline Partners Ltd., an insurtech managing general agent that specializes in parametric coverage.

With the traditional property insurance market hardening, capacity for wildfire risks declining and retentions rising, parametric coverage can help provide additional capacity.

“We definitely are receiving more inquiries about parametric wildfire coverage, mainly due to the capacity reduction in the indemnity market,” said Jacob Choi, New York-based global head of analytics within Marsh Specialty’s parametric solutions group.

“Capacity weaknesses” in the property catastrophe market are likely to continue for “the foreseeable future,” said Paul Schultz, Chicago-based CEO of Aon Securities, a unit of Aon PLC, and parametric coverage provides another option to such challenges.

Underwriters in the wildfire sector are “tentative” and concerned about being compensated adequately for the risks they assume or weary of the volatility involved, prompting some to decrease writings, Mr. Schultz said.

“We see parametrics as one of our key strategies going forward,” particularly with wildfire, which is among the so-called “secondary perils” along with severe convective storm, he said.

As traditional underwriters turn away from wildfire, some commercial policyholders seeking coverage turn to the parametric market.

“We’re fielding increased numbers of inquiries about wildfire, inevitably due in part to the hardening indemnity market, but also because the risk environment is more complex due to climate change. The retreat of the current traditional market in California has reduced capacity available, with severe spikes in retentions and deductibles imposed by commercial carriers,” said Sébastien Piguet, chief underwriting officer for Paris-based Descartes Underwriting SAS, a parametric insurance managing general agent.

Several large personal lines insurers, including State Farm Mutual Automobile Insurance Co. and Allstate Insurance Co., recently announced they will stop writing new commercial and personal property insurance in California due to increased wildfire risks, among other things.

There has been a “very significant” increase in interest in parametric coverage, and that “translates into getting more deals done,” said Cole Mayer, San Francisco-based head of parametric for Aon PLC, who recently joined the brokerage from Swiss Re Corporate Solutions, part of Swiss Re Ltd.

There were 7.5 million acres in the U.S. burned by wildfire in 2022, near the 10-year average of 7.3 million acres, according to a June report from Gallagher Re, the reinsurance brokerage unit of Arthur J. Gallagher & Co. The number of fires reported rose to 68,988 from 58,985 in 2021, according to the report.

While Alaska and portions of the Southwest saw an active wildfire season, the rest of the nation saw below-average wildfire activity. California, which in 2020 and 2021 had wildfire losses of 4.4 million acres and 2.6 million acres, respectively, saw just 363,939 acres burned in 2022, report data showed.

Improved data in the forms of higher-resolution imagery and better availability also helped in the development of parametric coverage by allowing for better design of triggers and new indices, sources said, such as the percentage burned of an asset base of a forestry operation.

“We definitely are receiving more inquiries about parametric wildfire coverage, mainly due to the capacity reduction in the indemnity market.”

Jacob Choi, Marsh Specialty

“New data from commercial and public satellites like Sentinel 2 has contributed significantly to the market’s growth, offering high-resolution imagery efficiently,” said Kevin Dedieu, chief research and development officer for Descartes.

“The combination of enhanced data, more research, and improved modeling enables the insurance industry to detect and monitor wildfire events with increased accuracy in a near real-time basis,” Mr. Choi said.

Skyline’s Mr. Sabaté said Landsat is used extensively by the insurance industry. The Landsat program, jointly managed by NASA and the U.S. Geological Survey, is a series of Earth-observing satellite missions, which now consists of orbiting and active satellites Landsat 8 and Landsat 9, according to the USGS.

“Ultimately, data and information on the losses is what informs about the risk” and whether it can or should be covered, Mr. Sabaté said.

Sources said parametric coverage can be used by itself or in conjunction with traditional indemnity insurance.

“Our clients are able to use parametric wildfire as a standalone policy or as an additional coverage in order to fill gaps in coverage, such as non-damage business interruptions, or be used as a deductible buydown,” Marsh’s Mr. Choi said. Typical parametric clients can include forestry operations and wineries, he added.

“Parametric can help expand the scope of coverage and tools for risks like wildfire that previously our clients couldn’t adequately transfer,” Mr. Mayer said.
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Law enforcement liability concerns rise in changing claims environment

BY JUDY GREENWALD
jgreenwald@businessinsurance.com

LONG BEACH, California — Escalating claims alleging excessive force by police officers, rising liability awards and increased mental health concerns for officers are among the top risk management challenges for public entity risk managers, experts say.

The public is growing more willing to complain about issues such as police misconduct, said Holly Lerose, Hartford, Connecticut-based assistant vice president, public sector claims, business practice lead, for Travelers Cos. Inc.

About 65% of claims against police departments are for excessive force and charge civil rights violations, she said during a session of the Public Risk Management Association’s annual conference last month in Long Beach, California.

Heighened scrutiny after recent high-profile incidents has led to “an increased willingness to criticize police officers” and a rise in citizens coming forward, she said.

“We have definitely seen an uptick in terms of severity of those claims within our book,” she said. Several years ago, $500,000 claims accounted for about 5% of the total number but now account for more than 25% of claims, she said.

Staff retention was the focus of a session at the conference on navigating the changing landscape of law enforcement liability.

“We’ve got staff reductions as a huge issue,” said Dan Foster, Montgomery, Texas-based casualty loss control expert for Munich Re Specialty Insurance, a division of Munich Reinsurance Co.

The number of resignations that started two years ago, resulted in a 40.4% work force reduction, Mr. Foster said. While 2022 “stayed fairly stable,” agencies are “still dealing with deficits,” which has led some to change their qualification standards, he said.

Some departments may no longer require a bachelor’s degree or other educational qualification; will employ candidates with convictions for petty crimes or misdemeanors, such as marijuana use or possession; or change physical ability and residency requirements, he said.

In light of the changes, departments should keep training up to date, have well-developed internal investigation procedures, consistent documentation and operate with transparency, he said.

“If honestly I find it surprising that there are still agencies today that are reluctant to use body cameras when they provide ‘some of the best defense that we have,’ he said.

During another session, Chester Darden, an associate with Franklin, Tennessee-based Public Entity Partners, said measures law enforcement agencies should consider include more flexible work shifts.

“Each shift is a little bit different,” he said. The day shift, for example, may deal with fender benders and some shoplifting, while the night shifts are “dealing with some of the bad stuff,” such as domestic assaults, he said.

Mental health is the biggest challenge facing police departments, Mr. Darden said. If an officer says he is struggling “you’ve got to have a culture to say, ‘It’s OK, it’s not a sign of weakness, it’s not a sign of low testosterone to say, I’m not okay.”

Departments also need to do more training on police encounters with citizens with physical and mental disabilities, said Sara Dearing, Chicago-based senior claims attorney/claim litigation and coverage, for Genesis Management & Insurance Services Corp., during another session.

Police officers must adapt to specific situations, she said.

For example, when a police officer pulls over an individual who has a handicap plate on the car and asks that individual to get out of the vehicle, he should anticipate that the person “may need to go and reach for something to assist them out of the car.”

Future risk management challenges facing public entity risk managers include working from home, earthquakes and safe drinking fountains, says a risk manager.

Gary Rosenblum, associate vice president, risk management, at California State University, Sacramento, discussed these during a session on future trends in risk management at the Public Risk Management Association’s annual conference.

The Occupational Safety and Health Administration “doesn’t regulate the home workplace,” he said. People are putting in longer hours working from home, and they will become injured, he said.

“In the future, I think OSHA is going to wake up and try to do something about regulating home work,” Mr. Rosenblum said. “You’ll find out that this is going to be a big topic and it’s going to be very hard to regulate.”

Mr. Rosenblum said technology has developed to the point where there can be some warning of an impending earthquake. Those who are 30 miles away get 30 seconds of warning, for instance, and those 60 miles away, a minute, he said.

California has handled the development by creating an earthquake warning system that sends messages to people’s cell phones. But a better risk mitigation system for earthquakes is called for that would provide information that industry, hospitals and utilities could use, Mr. Rosenblum said.

“We could have every single elevator in the state of California have an earthquake protection connection,” he said. When an earthquake is imminent, an elevator could stop at the next floor and open its door.

Showing a picture of an older water fountain, Mr. Rosenblum said it dispenses unsafe amounts of lead, “and someday, somebody’s going to test it and tell you you’re killing them with lead.”

Mr. Rosenblum said, “In order to get ahead of that curve ... we ended up testing every single fountain on campus,” a total of 975. They are tested every four years, and a sticker on each provides information on how little lead it dispenses.

“This is the future of water fountains, and if you are an entity that has a lot of water fountains, keep that in mind.” Mr. Rosenblum said.

Judy Greenwald

Work-from-home settings pose challenges for public entities

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Judy Greenwald
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The Colombian insurance market ranked 42nd in the world by premium income in 2021 and 35th for nonlife business. Total market premium income in 2021 was COP 36.1 trillion ($8.54 billion). Nonlife business — excluding workers compensation, personal accident and health care — represented 45.8% of the total. No nonlife class of insurance showed significant deterioration of loss ratios during the two main years — 2020 and 2021 — of the COVID-19 pandemic, but since 2022 its longer-term effects, such as currency devaluation and inflation, have affected the pricing of major classes such as auto and property. The voluntary auto insurance market reportedly imposed rate increases of up to 30% last year, reflecting higher costs for spare parts and labor.

**Market Developments**

- The measures implemented by the Colombian government to contain the spread of COVID-19, together with the weakening world economic growth, hit the local economy. The effect of the pandemic on the nonlife insurance market was felt more in lower-than-planned premiums than higher claims. Despite a contraction of 6.9% in GDP in 2020, nonlife premiums grew by 3.2%, followed by 17.1% growth in 2021.
- Economic recovery during the first half of 2021 was hampered by violent demonstrations and road blockages countrywide, initially in protest against proposed tax reforms to recover some of the costs of the COVID-19 pandemic. Even though these proposals were quickly withdrawn, other causes, including indigenous rights and a reaction to authorities’ aggressive response to protests, fueled the disturbances, which led to almost 60 acknowledged deaths and thousands of injuries. The Colombian Insurers’ Federation (Fasecolda) estimated related losses at COP 374.3 billion ($88.5 million) from 6,337 cases.
- Compulsory personal accident insurance for victims of auto accidents, or SOAT, is an important and much-debated class. Among the problems it faces are evasion from over half the people supposed to buy cover, a high degree of claims fraud and suspected state-controlled pricing.
- With Decree 2497 of December 2022 confirming an already announced 50% reduction in premiums for many motorists and other categories, such as taxis and buses, loss ratios were seen as likely to continue deteriorating even though an element of additional claims would be borne by the state through established funds rather than by insurers directly.

**Market Practice**

Cross-border business is allowed in certain classes, subject to local registration of the insurers involved, and policymakers are also free to obtain insurance outside the country, with some exceptions.
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Single robocall ruled grounds to sue

The allegation of even one unwanted robocall is sufficient cause to sue under the Telephone Consumer Protection Act of 1991, a federal appeals court ruled in reinstating a putative class-action lawsuit against a utility.

Matthew Dickson initially alleged he had received 11 unwanted robocalls from Houston-based Direct Energy LP in violation of the TCPA, which restricts certain telemarketing practices, including using any automatic telephone dialing system or an artificial or prerecorded voice, according to the ruling by the 6th U.S. Circuit Court of Appeals in Cincinnati in Matthew Dickson v. Direct Energy LP, Total Marketing Concepts Inc., Silverman Enterprises LLC.

The U.S. District Court in Akron, Ohio, dismissed the lawsuit after an expert testified on Direct Energy’s behalf that Mr. Dickson had received only one ringless voicemail.

The lower court held that Mr. Dickson’s receipt of the call did not constitute a concrete harm because he could not recall what he was doing when he received it; he was not charged for it; it did not tie up his phone; and he “spent an exceedingly small amount of time” reviewing the call.

In reinstating the lawsuit, a three-judge appeals court panel held that Direct Energy’s unsolicited call “implicates Dickson’s common-law right to seclusion, that is, his right to be left alone from others, including by means of telephone communications.”

Direct Energy “invaded Dickson’s private sphere when it placed an unsolicited prerecorded call to his cellphone,” the panel said in concluding Mr. Dickson had successfully alleged an intangible harm and reinstating the lawsuit.

AssuredPartners unit sues former broker

An AssuredPartners Inc. unit has sued a former broker and the brokerage he established, charging violation of an employment agreement.

AssuredPartners of New Jersey LLC sued Edgar Ortiz for allegedly violating a restrictive covenants agreement, according to the complaint filed in U.S. District Court in Cedar Rapids, Iowa, in AssuredPartners of New Jersey LLC v. Edgar Ortiz and Silk Road Transportation Insurance LLC.

It charged that in September 2022, while still working for AssuredPartners, Mr. Ortiz violated his agreement by surreptitiously transferring AssuredPartners’ confidential and proprietary information to his personal electronic email addresses and started his own competing agency, Bellevue, Iowa-based Silk Road.

The complaint said Mr. Ortiz left AssuredPartners three months later to run Silk Road.

The lawsuit charges Mr. Ortiz with breach of contract and both him and Silk Road with tortious interference with contractual and prospective contractual relations and violation of Iowa’s Uniform Trade Secrets and DEFEND Trade Secrets Acts.

It seeks an injunction preventing further violation of the employment agreement and liquidated, punitive or exemplary damages, among other measures.

Biotech firm wins round in D&O suit

A federal district court in Los Angeles refused to dismiss directors and officers liability coverage litigation filed by a biotech company that incurred $1.4 million in legal fees and costs to date in defending a lawsuit filed by a former employee.

Partner Re Ireland Insurance DAC issued a D&O policy for the period December 2018 to December 2020 to San Diego-based Skye Bioscience Inc., according to the ruling in Skye Bioscience Inc. v. Partner Re Ireland Insurance DAC.

The policy provided coverage for losses resulting from any securities claim made against the company for a wrongful act, the ruling said.

During the policy period, Skye received a demand from a former Skye employee who alleged she had been wrongfully terminated after she complained about the company’s alleged misconduct, including various violations of federal securities law, the ruling said.

She alleged her termination amounted to retaliation under the 2002 Sarbanes OxyX Act, in a lawsuit filed against Skye in U.S. District Court in Santa Ana, California.

Partner Re denied coverage in the case based on its interpretation of the phrase “securities claim” in its coverage.

As result, Skye funded its own defense, paying about $1.4 million to date in defense costs and fees, while a jury awarded the employee $4.9 million in damages.

That lawsuit is ongoing, as the parties file post-trial motions and Skye continues to incur legal fees and costs in connection with its defense.

In its lawsuit against Partner Re, Skye charges the insurer with breach of its contractual duty to provide coverage.

“Skye has plausibly alleged” that the lawsuit is covered by the policy, the ruling said. “As Skye argues, Sarbanes OxyX is defined as a ‘securities law’ in the Securities Exchange Act of 1934,” it states.

PFAS-related suit sent back to state

An Ohio state court must decide whether Admiral Insurance Co. has to provide coverage to a company whose clothing products allegedly caused cancer in firefighters and their spouses, a federal appeals court ruled.

Medina, Ohio-based Fire-Dex LLC, which is facing an array of lawsuits over the firefighter clothing it manufactures, asked Admiral to defend or indemnify it, according to the ruling by the 6th U.S. Circuit Court of Appeals in Cincinnati in Admiral Insurance Co. v. Fire-Dex LLC.

The ruling noted that the case is a “small part of a developing national story,” with plaintiffs charging that per- and polyfluoroalkyl substances, also known as PFAS, which are used in manufacturing firefighting products, are linked to certain kinds of cancer.

Admiral denied Fire-Dex coverage, citing exclusions in its policy, primarily an occupational disease exclusion policy rider. It then filed suit in U.S. District Court in Cleveland, seeking a declaratory judgment it was not obligated to provide coverage.

The district court refused to exercise jurisdiction over Admiral’s complaint and was affirmed by a three-judge appeals court panel.

“Admiral’s suit would encroach upon state jurisdiction (in this case, Ohio’s),” the ruling said.

The district court correctly held that “Ohio courts have yet to answer questions tied to insurance liability for PFAS manufacturing” and that “those matters are best resolved by an Ohio court in the first instance,” it said.

“States, it bears reminding, are the masters of their own law, subject to certain constitutional and statutory restraints,” the panel said in affirming the lower court.

Docket

INSURER MUST DEFEND COMPANY IN BIPA SUIT

A federal appeals court affirmed that a Hanover Insurance Group unit must defend an information technology company in two putative class actions filed under the Illinois Biometric Information Privacy Act.

The 7th U.S. Circuit Court of Appeals in Chicago affirmed an April 2022 ruling by the U.S. District Court in Chicago in Citizens Insurance Co. of America v. Wynndalco Enterprises LLC, which held that a catch-all exclusion in the policy issued by Hanover unit Citizens was ambiguous and therefore the insurer had a duty to defend the policyholder.

Addison, Illinois-based Wynndalco was sued for allegedly setting information in violation of BIPA.

SCHOOL DISTRICT SETTLES EEOC SUIT

A Wisconsin school district agreed to pay $450,000 and raise salaries to settle a U.S. Equal Employment Opportunity Commission pay discrimination lawsuit.

The EEOC charged that the Verona Area School District paid nine female special education teachers and a female school psychologist lower salaries than more recently hired male colleagues. It said the teachers were paid $3,000 to $17,000 less per year than a male colleague, while the female school psychologist was paid at least $16,000 less per year than her male peer.

OSHA CITATION AGAINST CHEWY VACATED

A federal appeals court vacated a workplace safety citation issued to online pet supply retailer Chewy Inc. following a warehouse worker’s forklift fatality in December 2018.

The Atlanta-based 11th U.S. Circuit Court of Appeals ruled that the Occupational Safety and Health Administration improperly cited Chewy for inadequately protecting warehouse employees from “under-rides,” a type of forklift accident that occurs when the rear part of a forklift is short enough to pass under shelves without hitting them.
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The *Business Insurance* 2023 Women to Watch Awards celebrates leading women from every facet of the commercial insurance industry. Since its start as a recognition program in 2006, it has grown into an educational program, professional development, and networking conference aimed at the advancement of women in commercial insurance, risk management, and related fields.

To be considered, nominees must be working in the sector on November 1, 2023, and must have achieved significant professional success and possess exceptional leadership skills and expertise. Evidence of such must be provided in the nomination form, which should also include three recommendations from clients, managers, and/or coworkers.

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NOMINATIONS OPEN! SUBMISSIONS DUE AUGUST 18
In May, Ramona Tanabe became president and CEO of the Workers Compensation Research Institute, where she began working in 1996. During her tenure, she has helped the Cambridge, Massachusetts-based institute evaluate the workers comp industry by conducting studies on state policies and trends. Business Insurance Assistant Editor Louise Esola interviewed her recently on her work and what's to come. Edited excerpts follow.

**Q** Your background is in law. What was your career trajectory into the comp space?

**A** I changed from private practice at a law firm because of a move to Boston from Chicago. And I wasn't licensed in Massachusetts. I was looking for something that sparked my interest and made me feel like I was contributing to public policy research. One of the best classes I took in law school was about legislation and how it was created. Looking up legislative histories was fascinating to me. So, being able to work at a firm that did public policy research as a tool to help policymakers make those decisions, and make those decisions with more information, I thought, well, that's a pretty interesting thing. On workers comp, I learn something new every single day. It's been a wonderful and fascinating ride and I hope more people that are looking for career paths go into workers comp.

**Q** What surprised you about workers comp?

**A** Just how different every state is, and why they're all different. I just found it fascinating that there were so many different ways to operate within this umbrella of workers comp.

**Q** Which WCRI study have you been most excited about?

**A** I get excited about all of the work we publish because of the value we are providing to policymakers and other stakeholders. Our objective is to have WCRI research help them make informed decisions about state workers compensation systems and policy discussion. Our opioid research helped identify the unnecessary prescriptions of opioids to injured workers and tracked the various methods to stem the flow by jurisdictions. Our worker outcomes research gave us a first-of-its-kind window into the experience injured workers have within the system. Our attorney involvement studies found workers with injuries were more likely to seek a lawyer when they feared getting fired. Our annual benchmarking studies allow us to track the performance of state workers compensation systems.

**Q** What are some top issues to watch in comp?

**A** It's not unique to workers compensation — there are shortages in the medical workforce. The shortages happened in two waves — because of the great resignation at the beginning of the pandemic, and the second wave was the post-pandemic burnout among medical workers. The questions that one wants to ask about that are: How is that going to impact claim outcomes? How will it affect return-to-work timing? How does it affect access to care and good outcomes while operating within this shortage? There are also general labor shortages that will affect workers compensation because of increasing wages. There are longer shifts, lack of training and fatigue — all of that will affect claims.

**Q** What are some goals for WCRI in helping the industry better understand claims?

**A** We've been helping the industry understand the workers compensation system since 1983. We use data in order to analyze and provide insights. Recently, we started looking at some of the predictive assumptions, changes in the workforce and how that impacts workers compensation outcomes. That study uses statistical methods to create relationships between claim characteristics and economic conditions. And then it makes several assumptions about claim composition trends in the future and provides a prospective look at how the workers comp features might change. It's providing the insight into how the economic changes and demographic characteristics might influence the workers compensation systems.

**Q** What do you wish more employers understood about injured workers?

**A** It's not necessarily about injured workers but just about workers in general. Whether it's telecommuting or a hybrid workforce; there's a challenge of creating a continuity with communication and giving the workers tools that they can use to be more resistant to some of the things that come with working remotely, like loneliness or feeling disconnected from your employer. One has to imagine that happens in an injury situation in workers compensation where you're not in the workforce. And there is an important role that employers can take on to make sure that people feel connected. Creating those tools to increase the communication is always important.

Behavioral health is about how somebody reacts to a crisis or stress within their life. In workers comp, it's treating the whole person as opposed to the specific injury that they had, because that piece really affects the recovery of people.
WHEN SEX CRIMES TAKE PLACE IN THE WORKPLACE

Exclusive remedy in comp complicates legal and liability scenario as awareness of sexual assault rises after #MeToo

S exual assault in the workplace is a crime that can happen almost anywhere.

It happens in restaurants. It happens in offices and at retail stores. It happens to housekeeping staff in hotel rooms. It happens on business trips and in parking lots, advocates for assault victims and legal experts say.
“It happens so much more than it ever gets reported, and that coincides with any form of sexually inappropriate behavior that happens, whether it’s in the workplace or elsewhere,” said Sandra Henriquez, CEO of Sacramento, California-based ValorUS, formerly the California Coalition Against Sexual Assault, which has expanded across the United States.

“We’ve seen a lot of these types of issues develop over the past five years, and it’s obvious that we as a society had a #MeToo reckoning.”

Marshall Gilinsky, Anderson Kill

Oftentimes, victims attempt to sue employers. There’s no shortage of cases, especially in recent years, as the #MeToo movement — inspired in part by widespread and systemic sexual assault in the film industry — led to a flood of cases, especially in recent years, as the #MeToo movement — inspired in part by widespread and systemic sexual assault in the film industry — led to a flood of litigation, experts say.

And the lawsuits are increasing, said Marshall Gilinsky, a Boston-based shareholder for Anderson Kill P.C.

“We’ve seen a lot of these types of issues develop over the past five years, and it’s obvious that we as a society had a #MeToo reckoning.”

Employers grappling with lawsuits filed by workers who claim they were sexually assaulted in the workplace typically turn to workers compensation’s exclusive remedy in defense of allegations that could, if a jury finds the employer to be at fault, translate into millions of dollars in damages, legal experts say.

A 2010 case that went to trial in Tennessee resulted in a $3 million jury verdict against P.F. Chang’s China Bistro Inc.

The case involved a restaurant manager who was violently raped at gunpoint by a cook who had clocked out for the evening but jammed the back door of the restaurant where the alarm system had been repeatedly documented to be malfunctioning.

The plaintiff’s attorney, Gary Smith, of Memphis, Tennessee-based Gary K. Smith Law PLLC, said, “We knew from day one that exclusive remedy would be their first defense.”

A lower court and the Tennessee Court of Appeals in 2017, in Jane Doe et al. v. P.F. Chang’s China Bistro Inc., agreed that exclusive remedy did not apply because the company had numerous security failures, Mr. Smith said.

“We also thought that the risk of rape by a co-employee in a store that was closed after hours and not open to the public, was not a risk of the employment … and we prevailed on that,” he said.

A spokesperson for P.F. Chang’s said the company does not comment on litigation.

The Iowa Supreme Court in June came to a different conclusion in a case involving a call center worker who sued Cedar Rapids, Iowa-based Thomas L. Cardella & Associates, which operates call centers in several states, for negligence for allegedly failing to protect her from sexually-related assault and battery by two supervisors at its Ottumwa, Iowa location.

In case No. 22-0918, the woman said...
**ASSAULT**

Continued from previous page

she complained about the behavior of both men and quit when Cardella failed to offer a solution. The state's highest court ruled that exclusive remedy barred the suit, writing that “(w)hen an employee is injured by the tortious acts of another employee at work, the workers compensation exclusivity rule precludes a common law tort action against the employer for the resulting injuries, even when the co-employee’s conduct is intentional.”

The Iowa Supreme Court, which overturned a $400,000 verdict from a lower court, ruled that the case involved “recovery of mental health injuries caused by Cardella’s failure to protect her from injuries caused by assault and battery in the workplace: in other words, physical injuries.”

Cardella did not return requests for comment.

Legal outcomes often depend on the facts surrounding the assault. Was the perpetrator a coworker, an acquaintance or a stranger? Were there warning signs or security lapses? Where did the incident happen? Was a physical injury documented?

Jurisdiction is also an important factor in the success or failure of a case, legal experts say.

“There are a lot of questions that have to be answered,” said Jeff Adelson, a partner with the Newport Beach, California-based law firm Adelson McLean P.C., which represents employers. Cases in California often hinge on who the perpetrator was: a coworker, where the risk is not inherent, or a member of the public, in a public-facing business where violence is always a workplace risk.

“There’s a flood of people coming in retail stores all the time,” Mr. Adelson said. Most states allow for exclusive remedy defense in sexual assault cases, and the cases often see years of litigation. Compliance with the issue, many attorneys are determined to have resulted in mental injuries only and not all states allow for mental injuries in workers compensation.

That question arose in _Truman Arnold Companies v. Circuit Court_, which was heard by the Arkansas Supreme Court in 2017. The case was filed by a woman at a car wash who alleged her supervisor raped her. A circuit court assessed that the injury was mental, and Arkansas doesn’t accept mental-only workers comp claims. The state’s highest court sent the case back to the comp court for further evaluations on the type of injury, among other issues.

“The workers compensation system never intended to cover the kinds of injuries victims experience after a rape.”

Andrea Giampietro-Meyer, Loyola University Maryland

“One fact could change the outcome of whether or not it’s a work comp case,” said Zachary Rubinich, Philadelphia-based partner at Rawle & Henderson LLP, which represents employers.

William Anderson, Atlanta-based partner at Hamilton, Westby, Antonowich & Anderson LLC, said workplace sexual assault is “extremely fact sensitive and case specific” but added that change may be on the horizon.

“This is a very different conversation than people would have had 25 years ago,” he said. “I think the case law — many of the cases that we rely upon are 25 years old, 20 years old, 10 years old — is going to become more fluid.”

In addition, lawmakers in two states have attempted to remove the exclusive remedy defense through legislation. For the seventh consecutive year, New York lawmakers were presented with a bill that would override exclusive remedy in cases involving a “sexual offense,” as described in state law as a sexual act committed without consent, including “forcible touching.” S.B. 5698, introduced in March, stated that injuries from a sexual offense would be compensable under workers comp and would allow “such employee to pursue any other remedies available at law or in equity.”

**EXPERTS SAY EMPLOYERS LAG IN SEXUAL HARASSMENT PREVENTION TRAINING**

While the term sexual harassment has been in widespread use since the 1970s, some experts say employers still fail to adequately train employees on what constitutes improper behavior and it’s putting businesses at risk.

Incidents occur despite ever-increasing regulations on mandatory workplace training, they say.

“What’s happened is it has become a check-the-box exercise for the employers; it’s just another training that these employees all have to have,” said Renee Noy, co-owner of Calabasas, California-based Workwise Law P.C., which provides training. Companies often underestimate the risk of sexual harassment, mainly because they have a policy in place, she said.

“Nobody ever believes that this stuff happens because it’s insane that it does happen,” Ms. Noy said. “You would think with all these new rules and the zero tolerance policies that so many companies now have to have, or internally decide to have, that it would start to diminish a little bit, but it really hasn’t. It’s just gotten really, really bad.”

Government statistics show sexual harassment cases fell slightly in 2020 and 2021, but experts attribute that to the drop in attendance at offices and other workplaces during the pandemic (see box).

In a recent workplace sexual harassment case, the 9th U.S. Circuit Court of Appeals in San Francisco in June overturned an earlier ruling and found that loud “sexually graphic, violently misogynistic” music blared throughout the workplace can be considered sexual harassment. In _Stephanie Sharp et al. v. S&S Activewear_ LLC, eight former employees — seven women and one man working at a Reno, Nevada, location — sued apparel manufacturer S&S Activewear after they repeatedly complained of blasted music that denigrated women, glorified prostitution and described extreme violence. The sounds from commercial-strength speakers placed throughout S&S’s 700,000-square-foot warehouse were considered “motivational” music for workers, according to court papers. Ms. Sharp, a Reno-based lawyer who represented the plaintiffs in the case, said most companies have an anti-sexual harassment policy, but “usually what the companies have is a policy on a page in the personnel manual and it’s not enforced.”

“When you think about some rap music, it’s the implicit message that negates any training or any policy or any instructions that you’ve given,” he said, adding that the lyrics sometimes include details of graphic acts of violence toward women. The warehouse workers, in their complaint, said the music prompted male workers to imitate sexual acts. S&S did not return requests for comment. It does, however, tout employee-friendly policies on its website.

Richard Chapman, a Chicago-based employment litigation attorney with Clark Hill PLC who conducts sexual harassment training as a managing member of the training company Chapman Associates, said companies with no follow-through or disconnected sexual harassment training will see it manifested in the organization’s culture.

“If it’s just, ‘Here, sign a form, check in the box,’ then that’s what employees see,” he said. “Because they see it’s not important to the firm, and I think that’s a pervasive feeling that people have.”

Camille Oakes, Atlanta-based president and CEO of Better Safety LLC, which provides safety training, said that despite more and more training being mandated in many states and municipalities, “it feels like there’s been no change.”

Of training, she said, “there’s a concept in safety called work as prescribed versus work as done. There’s the stuff that we say we’re going to do on paper and then there’s the stuff that we actually do.”

Often, training materials don’t relate to job sites where they are used, said Kathleen Dobson, Detroit-based safety director at Alberici Constructors Inc.

Citing the example of videos that show harassment in an office setting, she said, “People on our job sites don’t act that way. They don’t respond that way. They don’t interact that way. And, so, that just becomes 20 minutes where people can just snore off because it’s not relevant to them.”

Ms. Dobson continued: “They need real people talking about real situations, bringing up the dirty little secrets that all construction companies have, where they can say, ‘Hey, on this occasion 15 years ago we had a problem with sexual harassment and here’s what happened, here’s how we dealt with it and we’ve learned from it.’”

Lance Ewing, vice president of enterprise risk management and operations for the San Manuel Band of Mission Indians in Highland, California and a longtime risk professional, said companies should audit themselves on compliance and follow through.

“There’s the spirit of the law and then there’s the actual letter of the law, and we think in this case, you’ve got to be in the spirit of the law and make sure that it gets down to the hundreds of thousands of employees,” he said. “Do you need to reach all of them? Yes. And ask yourself, ‘Is this a concrete block in our defense wall if something would happen?’”

Updating policies to stay ahead is also vital, said Michael Schmidt, a New York-based labor and employment attorney with Cozen O’Connor P.C.

“We are seeing ever-changing standards on dealing with sexual harassment and other types of harassment,” he said. “Companies not only need to look at their actual policies, but they need to look at the training that they’re giving to make sure that they’re doing what needs to be done and keeping up with changes in the law in their jurisdictions.”

And training, Ms. Oakes said, is only one piece of the puzzle; firing offensive workers is something companies are reluctant to do but should, she said.

“You can’t change a person by sending them through a computer-based training that tells them, ‘Don’t be racist, don’t be homophobic, don’t be sexist,’ because it’s already in them,” she said. “So, sometimes, if we really want to change culture we have to get rid of the people that are doing it.”

Loui Esola
It’s not always the act of sexual assault or harassment that puts companies at risk, as few have direct control over the intentional acts of others; it’s when companies don’t promptly respond to concerns that liability issues arise, experts say.

“It’s important that companies take immediate action in responding to these claims and address the concerns raised by the people who come forward,” said Marshall Gilinsky, a Boston-based shareholder at Anderson Kill P.C.

“That involves taking very seriously their allegations and assessments as to what’s happened and investigating them thoroughly to make sure that any problems that exist are identified and dealt with.”

Lance Ewing, vice president of enterprise risk management and operations for the San Manuel Band of Mission Indians in Highland, California, said an immediate response can help mitigate legal ramifications later on.

“Companies need to embrace the fact of sexual harassment and sexual assault, or even sexual bullying; they need to be aware of that and take immediate action,” he said.

Sometimes the response can be better security, experts say.

“It’s always important to determine what the employer has done to safeguard the employees in high-risk situations,” said Zachary Rubinich, Philadelphia-based partner at Rawle & Henderson LLP.

“It could be something as simple as additional security cameras, additional lighting in certain areas where you may have overnight workers, or you may have workers who work alone who could be susceptible to criminal activities.”

Panic buttons for hotel housekeepers, for example, are required in several jurisdictions, including New York and Illinois — mostly in response to complaints from workers facing sexual harassment or assault.

But companies don’t have to wait for regulations.

William Anderson, Atlanta-based partner at Hamilton, Westby, Antonowich & Anderson LLC, recalled a large chain-hotel client that implemented a “buddy system” for housekeepers — requiring them to work on the same floor in pairs.

“I thought it was a great idea, not only because of sexual assault but for other safety reasons, such as slips and falls,” he said.

Andrea Giampetro-Meyer, a professor in law & social responsibility at Loyola University Maryland in Baltimore, said she was glad to see states attempting to tackle the issue — which she researched for an article for the University of California-Los Angeles Women’s Law Journal in 2000: “Raped at Work: Just Another Slip, Twist, and Fall Case?”

For the analysis, Ms. Giampetro-Meyer and two co-authors examined cases in which courts determined that a woman’s only remedy for a workplace rape was workers compensation. The authors argued that “rape is an extraordinary injury and therefore should not be treated like purely physical injuries more commonly covered under workers compensation.”

“We were just ahead of our time apparently,” she said. “The workers compensation system never intended to cover the kinds of injuries victims experience after a rape.”

S.B. 5698 also would have clarified “that workers compensation should be exclusive remedy except when the employee suffers personal injury as a result of a sexual offense committed by a co-worker.” Legislative documents filed in support of the bill said that “while workers compensation should be available to those injured by a sexual offense, committed in the workplace, it should not be the exclusive remedy, since there are sometimes egregious instances of employer malfeasance and negligence in the workplace which tragically lead to the workplace sexual assault or injury.” In addition, “an already victimized employee should not be forced to endure an employer’s claim that a violent and repeated sexual assault was a natural condition of her employment.”

H.B. 3977, introduced in Texas in March, stated that an employee who is a victim of a sexual assault may sue their employer if the injuries “arose from the employer’s negligence.”

Both bills failed to progress, according to a spokesman for the American Property Casualty Insurance Association. Sponsors in both states did not return repeated requests for comment.

Andrea Giampetro-Meyer, a professor in law & social responsibility at Loyola University Maryland in Baltimore, said she was glad to see states attempting to tackle the issue — which she researched for an article for the University of California-Los Angeles Women’s Law Journal in 2000: “Raped at Work: Just Another Slip, Twist, and Fall Case?”

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Broker revenue grows as rate hikes continue

Insurance brokerages continued to benefit from a favorable business environment over the past year. Economic expansion, hardening rates in many lines and the effect of inflation on insured values all stimulated revenue growth.

But with rising interest rates slowing down the previously electric rate of mergers and acquisitions in the sector, growth through M&A will likely diminish, several experts say.

Brokerages may also be affected by the Federal Trade Commission’s recent proposal to ban noncompete clauses in employment agreements.

Rate hikes, particularly in the property insurance sector, are driving up revenue for brokers. While increased retentions and other program adjustments mean that higher premium rates don’t always directly correlate with higher commissions and fees, brokers are still seeing solid increases in organic growth.

John Howard, chairman and CEO of Charlotte, North Carolina-based Truist Insurance Holdings Inc., a unit of Truist Financial Corp., said there have been “significant” rate increases for catastrophe-exposed property.

“We are seeing a reduction in limits, a reduction in industry capacity. We are seeing tighter terms and conditions. As
a result of those things, our clients are retaining more risk and paying more for the coverage they purchase,” he said.

“My expectation is that the second half of this year is probably going to resemble the first half of this year,” in terms of rates and market conditions, Mr. Howard said.

Further rate increases in catastrophe-exposed regions will likely depend on what happens during the hurricane season, said J. Powell Brown, president and CEO of Brown & Brown Inc.

“I do believe, if we get through a moderate storm season in Florida, that there will be some mitigation of rates by year end or into early next year. I don’t know if that means a flattening of rates or a slight decrease, but I think it’s got to moderate at some pace,” Mr. Brown said.

“Professionally, we can explain what’s going on, but it doesn’t make the news any more bearable,” he said.


The hardening property market creates more work for brokers because it’s harder to place risks, said Meyer Shields, Baltimore-based managing director at Keefe, Bruyette & Woods Inc. “But, net net, it’s a tailwind to revenues.”

John Wepler, chairman and CEO of Woodmere, Ohio-based mergers and acquisitions consultancy Marsh, Berry & Co. Inc., said insurance brokers are under pressure because they have to deliver rate increases while buyers are scrutinizing purchases more closely.

Rate hikes stemming from higher property losses and increased court awards can be explained to clients, said J. Patrick Gallagher Jr., chairman, president, and CEO of Arthur J. Gallagher & Co.

“Professionally, we can explain what’s going on, but it doesn’t make the news any more bearable,” he said.

Retentions

Policyholders are retaining more risk as a result of the rate hikes, several brokerage executives said.

“Clients are actively engaging in other ways to finance the risk,” said Eric Andersen, president of Aon PLC. “They’ve gotten much more aggressive in how they finance it themselves or mitigate it themselves versus spending money in the marketplace.”

Marsh clients retain about $70 billion of risk in their captives, said Martin South, president and CEO of Marsh LLC.

“In the last couple of years, clients have had to retain more market risk,” he said.

Brokers are also benefiting from generally positive economic conditions, despite continued fears of a recession.

“The economic outlook seems probably better in the remainder of the year than we anticipated as the year started. I thought we might have a slowdown in the economy by Q3. I think that slowdown, if it happens, isn’t until next year,” Mr. Brown said.

Concerns about an economic slowdown are not showing through in Gallagher’s data, Mr. Gallagher said.

“Our commercial middle market clients are doing great,” he said. “I think we are in a good spot.”

With the disruption from the pandemic largely over, companies are trying to grow their business, which provides opportunities for brokers, and they are also more concerned about issues such as cyber risk and geopolitical risk, Mr. Andersen said.

Inflation

Inflation, which has come down from the peaks of 2022 but remains relatively high, is generally beneficial for insurance brokers, experts say. It drives up insured values and grows payrolls, which leads to higher premiums and, therefore, increased commissions.

“Inflation raising the value of assets is going to change the price of coverage,” said Carl Hess, CEO of Willis Towers Watson PLC.

“When you look at the overall profit margins, the discipline with respect to acquisitions and capital management, every one of these companies is as well-managed as they’ve ever been.”

J. Paul Newsome Jr., Piper Sandler & Co.

Inflation, interest rates, cyber risk and climate change are all “headwinds for everybody else and tend to be a tailwind for insurance brokers,” said Gregory L. Williams, CEO of Acrisure LLC. “It’s why you’re seeing such strong organic growth from insurance brokers over the last couple of years.”

Publicly traded brokerages are also benefiting from good management, said J. Paul Newsome Jr., managing director with Piper Sandler & Co. in Minneapolis.

See BROKERS page 30

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THURSDAY, SEPTEMBER 14, 2023
The Old Post Office, 433 W. Van Buren Street, Chicago

### A DECADE OF GROWTH*

The world’s 10 largest brokers posted a revenue gain of $5.6 billion, or 8.6%.

### WORLD’S 10 LARGEST INSURANCE BROKERS

Ranked by 2022 brokerage revenue

<table>
<thead>
<tr>
<th>Rank</th>
<th>2022 Rank</th>
<th>Company/office/website</th>
<th>Officers</th>
<th>2022 brokerage revenue</th>
<th>2021 brokerage revenue</th>
<th>% increase (decrease)</th>
<th>Employees</th>
<th>Offices</th>
<th>Commercial</th>
<th>Wholesale</th>
<th>Reinsurance</th>
<th>Personal lines</th>
<th>Employee benefits</th>
<th>Services</th>
<th>Investments</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>Marsh &amp; McLennan Cos. Inc. New York <a href="http://www.marshmclennan.com">www.marshmclennan.com</a></td>
<td>John Q. Doyle, president-CEO</td>
<td>$20,664,000,000</td>
<td>$19,859,000,000</td>
<td>4.1%</td>
<td>85,000</td>
<td>741</td>
<td>50.7%</td>
<td>0%</td>
<td>9.7%</td>
<td>0%</td>
<td>25.8%</td>
<td>13.5%</td>
<td>0.7%</td>
<td>(0.3%)</td>
</tr>
<tr>
<td>2</td>
<td>2</td>
<td>Aon PLC Dublin <a href="http://www.aon.com">www.aon.com</a></td>
<td>Gregory C. Case, CEO</td>
<td>$12,403,000,000</td>
<td>$12,185,000,000</td>
<td>1.8%</td>
<td>50,000</td>
<td>N/A</td>
<td>53.4%</td>
<td>0%</td>
<td>17.4%</td>
<td>0%</td>
<td>17.7%</td>
<td>0%</td>
<td>0.6%</td>
<td>10.9%</td>
</tr>
<tr>
<td>3</td>
<td>3</td>
<td>Willis Towers Watson PLC London <a href="http://www.wtwco.com">www.wtwco.com</a></td>
<td>Carl Hess, CEO</td>
<td>$8,726,000,000</td>
<td>$8,826,000,000</td>
<td>(1.1%)</td>
<td>46,600</td>
<td>N/A</td>
<td>31.1%</td>
<td>0.6%</td>
<td>0%</td>
<td>0.8%</td>
<td>57.6%</td>
<td>8.4%</td>
<td>0%</td>
<td>1.6%</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
<td>Arthur J. Gallagher &amp; Co. Rolling Meadows, Illinois <a href="http://www.ajg.com">www.ajg.com</a></td>
<td>J. Patrick Gallagher Jr., chairman-president-CEO</td>
<td>$8,377,600,000</td>
<td>$6,966,100,000</td>
<td>20.3%</td>
<td>43,640</td>
<td>760</td>
<td>37.9%</td>
<td>12.0%</td>
<td>11.8%</td>
<td>4.6%</td>
<td>17.4%</td>
<td>14.3%</td>
<td>2.0%</td>
<td>0%</td>
</tr>
<tr>
<td>5</td>
<td>5</td>
<td>Hub International Ltd. Chicago <a href="http://www.hubinternational.com">www.hubinternational.com</a></td>
<td>Marc Cohen, president-CEO</td>
<td>$3,758,202,000</td>
<td>$3,226,383,000</td>
<td>16.5%</td>
<td>16,901</td>
<td>542</td>
<td>48.0%</td>
<td>8.6%</td>
<td>0%</td>
<td>13.7%</td>
<td>28.5%</td>
<td>0.8%</td>
<td>0.4%</td>
<td>0%</td>
</tr>
<tr>
<td>6</td>
<td>8</td>
<td>Acrisure LLC Grand Rapids, Michigan <a href="http://www.acrisure.com">www.acrisure.com</a></td>
<td>Greg Williams, chairman-CEO</td>
<td>$3,619,152,426</td>
<td>$2,816,765,855</td>
<td>28.5%</td>
<td>14,923</td>
<td>929</td>
<td>74.6%</td>
<td>3.2%</td>
<td>2.8%</td>
<td>3.3%</td>
<td>13.4%</td>
<td>1.8%</td>
<td>0.8%</td>
<td>0%</td>
</tr>
<tr>
<td>7</td>
<td>6</td>
<td>Brown &amp; Brown Inc. Daytona Beach, Florida <a href="http://www.bbinsurance.com">www.bbinsurance.com</a></td>
<td>J. Powell Brown, president-CEO</td>
<td>$3,563,194,322</td>
<td>$3,047,522,000</td>
<td>16.9%</td>
<td>15,201</td>
<td>495</td>
<td>36.4%</td>
<td>35.2%</td>
<td>0%</td>
<td>5.3%</td>
<td>18.0%</td>
<td>4.8%</td>
<td>0.2%</td>
<td>0.1%</td>
</tr>
<tr>
<td>8</td>
<td>7</td>
<td>Trust Insurance Holdings Inc. Charlotte, North Carolina <a href="http://www.trustinurance.com">www.trustinurance.com</a></td>
<td>John Howard, chairman-CEO</td>
<td>$3,344,969,000</td>
<td>$2,862,673,000</td>
<td>16.8%</td>
<td>9,697</td>
<td>109</td>
<td>26.2%</td>
<td>53.9%</td>
<td>0%</td>
<td>6.7%</td>
<td>9.1%</td>
<td>3.1%</td>
<td>0.9%</td>
<td>0%</td>
</tr>
<tr>
<td>9</td>
<td>10</td>
<td>Alliant Insurance Services Inc. Irvine, California <a href="http://www.alliant.com">www.alliant.com</a></td>
<td>Thomas W. Corbett, chairman-CEO</td>
<td>$3,199,376,174</td>
<td>$2,613,966,706</td>
<td>22.4%</td>
<td>9,858</td>
<td>N/A</td>
<td>49.6%</td>
<td>13.1%</td>
<td>0%</td>
<td>14.0%</td>
<td>20.4%</td>
<td>2.1%</td>
<td>0.4%</td>
<td>0.3%</td>
</tr>
<tr>
<td>10</td>
<td>9</td>
<td>Lockton Cos. LLC Kansas City, Missouri <a href="http://www.lockton.com">www.lockton.com</a></td>
<td>Ron Lockton, executive chairman; Peter Clune, CEO</td>
<td>$3,049,717,000</td>
<td>$2,703,060,000</td>
<td>12.8%</td>
<td>10,757</td>
<td>130+</td>
<td>58.9%</td>
<td>6.0%</td>
<td>6.1%</td>
<td>0.6%</td>
<td>27.4%</td>
<td>0%</td>
<td>1.1%</td>
<td>0%</td>
</tr>
</tbody>
</table>

*Percentage of revenue may not add up to 100% due to rounding. *Restated. **Fiscal year ending April 30. N/A = not available.
Source: BI survey

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**PERCENTAGE OF REVENUE**

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>$36.2</td>
<td>$38.6</td>
<td>$41.1</td>
<td>$45.8</td>
<td>$46.1</td>
<td>$47.4</td>
<td>$50.1</td>
<td>$54.8</td>
<td>$56.7</td>
<td>$65.1</td>
<td>$70.7</td>
</tr>
</tbody>
</table>

*IN BILLIONS OF DOLLARS

---

Source: BI survey

---

*A DECADE OF GROWTH*

The world’s 10 largest brokers posted a revenue gain of $5.6 billion, or 8.6%.

---

### SOURCE

Source: BI survey
EXPERTS IN SKETCHY SITUATIONS.

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JencapGroup.com
### 100 Largest Brokers of U.S. Business

Ranked by 2022 brokerage revenue generated by U.S.-based clients

<table>
<thead>
<tr>
<th>Rank</th>
<th>Company</th>
<th>2022 U.S. brokerage revenue</th>
<th>% increase (decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Marsh &amp; McLennan Cos. Inc.</td>
<td>$10,125,360,000</td>
<td>8.5%</td>
</tr>
<tr>
<td>2</td>
<td>Aon PLC</td>
<td>$5,630,962,000</td>
<td>3.2%</td>
</tr>
<tr>
<td>3</td>
<td>Arthur J. Gallagher &amp; Co.</td>
<td>$5,445,440,000</td>
<td>16.7%</td>
</tr>
<tr>
<td>4</td>
<td>Willis Towers Watson PLC</td>
<td>$4,712,040,000</td>
<td>4.7%</td>
</tr>
<tr>
<td>5</td>
<td>Trust Insurance Holdings Inc.</td>
<td>$3,349,969,000</td>
<td>16.8%</td>
</tr>
<tr>
<td>6</td>
<td>Brown &amp; Brown Inc.</td>
<td>$3,334,472,247</td>
<td>11.4%</td>
</tr>
<tr>
<td>7</td>
<td>Acrisure LLC</td>
<td>$3,322,381,927</td>
<td>23.5%</td>
</tr>
<tr>
<td>8</td>
<td>Alliant Insurance Services Inc.</td>
<td>$3,128,989,898</td>
<td>19.9%**</td>
</tr>
<tr>
<td>9</td>
<td>Hub International Ltd.</td>
<td>$2,931,397,560</td>
<td>21.1%</td>
</tr>
<tr>
<td>10</td>
<td>USI Insurance Services LLC</td>
<td>$2,450,509,269</td>
<td>14.0%</td>
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<tr>
<td>11</td>
<td>AssuredPartners Inc.</td>
<td>$2,229,216,910</td>
<td>10.6%</td>
</tr>
<tr>
<td>12</td>
<td>Lockton Cos. LLC</td>
<td>$2,168,348,787</td>
<td>9.7%</td>
</tr>
<tr>
<td>13</td>
<td>NFP Corp.</td>
<td>$1,720,941,599</td>
<td>9.7%**</td>
</tr>
<tr>
<td>14</td>
<td>BroadStreet Partners Inc.</td>
<td>$1,302,300,000</td>
<td>13.7%</td>
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<tr>
<td>15</td>
<td>RSC Insurance Brokerage Inc., dba Risk Strategies Co.</td>
<td>$1,150,078,742</td>
<td>24.1%</td>
</tr>
<tr>
<td>16</td>
<td>Altra Group</td>
<td>$1,148,000,000</td>
<td>23.3%</td>
</tr>
<tr>
<td>17</td>
<td>Edgewood Partners Insurance Center, dba EPIC Insurance Brokers &amp; Consultants</td>
<td>$1,028,612,000</td>
<td>15.3%</td>
</tr>
<tr>
<td>18</td>
<td>Baldwin Risk Partners LLC</td>
<td>$1,014,500,000</td>
<td>41.0%**</td>
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<tr>
<td>19</td>
<td>Digital Insurance Inc., dba OneDigital</td>
<td>$750,321,223</td>
<td>11.6%</td>
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<tr>
<td>20</td>
<td>POF Insurance Services</td>
<td>$730,000,000</td>
<td>23.7%</td>
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<td>21</td>
<td>Higginsbeth</td>
<td>$576,499,000</td>
<td>28.0%</td>
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<td>22</td>
<td>SMA Financial Group Inc.</td>
<td>$557,775,736</td>
<td>24.5%</td>
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<td>23</td>
<td>The Hub Group LLC</td>
<td>$501,613,000</td>
<td>24.7%</td>
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<tr>
<td>24</td>
<td>Foundation Risk Partners Corp.</td>
<td>$496,350,000</td>
<td>21.8%**</td>
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<td>25</td>
<td>Leavitt Group</td>
<td>$418,117,000</td>
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<td>26</td>
<td>Patriot Growth Insurance Services LLC</td>
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<td>79.9%</td>
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<tr>
<td>27</td>
<td>High Street Insurance Partners Inc.</td>
<td>$384,674,000</td>
<td>32.3%</td>
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<td>28</td>
<td>World Insurance Associates LLC</td>
<td>$347,157,059</td>
<td>54.7%</td>
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<td>29</td>
<td>NR Automatic Data Processing Insurance Agency Inc.</td>
<td>$317,538,246</td>
<td>17.0%</td>
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<td>30</td>
<td>CBIZ Benefits &amp; Insurance Services Inc.</td>
<td>$304,100,000</td>
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<tr>
<td>31</td>
<td>Cottingham &amp; Butler Inc.</td>
<td>$295,674,000</td>
<td>10.8%</td>
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<tr>
<td>32</td>
<td>Insurance Office of America Inc.</td>
<td>$280,390,305</td>
<td>9.7%</td>
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<tr>
<td>33</td>
<td>Woodruff Sawyer &amp; Co.</td>
<td>$276,670,000</td>
<td>1.5%</td>
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<tr>
<td>34</td>
<td>Holmes Murphy &amp; Associates Inc.</td>
<td>$273,714,000</td>
<td>8.2%</td>
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<tr>
<td>35</td>
<td>Cross Financial Corp., dba Cross Insurance</td>
<td>$268,571,000</td>
<td>8.5%</td>
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<tr>
<td>36</td>
<td>Relation Insurance Inc.</td>
<td>$260,000,000</td>
<td>45.0%</td>
</tr>
<tr>
<td>37</td>
<td>Paychex Insurance Agency Inc.</td>
<td>$249,400,000</td>
<td>1.4%</td>
</tr>
<tr>
<td>38</td>
<td>CAC Group</td>
<td>$182,984,919</td>
<td>28.8%</td>
</tr>
<tr>
<td>39</td>
<td>Hylant Group Inc.</td>
<td>$179,724,786</td>
<td>11.5%</td>
</tr>
<tr>
<td>40</td>
<td>Unison Risk Advisors</td>
<td>$162,053,649</td>
<td>6.3%</td>
</tr>
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<td>41</td>
<td>Heffernan Group</td>
<td>$156,713,922</td>
<td>8.1%</td>
</tr>
<tr>
<td>42</td>
<td>Cadence Insurance10</td>
<td>$157,675,329</td>
<td>16.7%**</td>
</tr>
<tr>
<td>43</td>
<td>Newfront Insurance</td>
<td>$154,900,000</td>
<td>6.8%*</td>
</tr>
<tr>
<td>44</td>
<td>The Liberty Co. Insurance Brokers Inc.</td>
<td>$153,450,000</td>
<td>46.1%</td>
</tr>
<tr>
<td>45</td>
<td>Insurica Inc.</td>
<td>$152,634,328</td>
<td>10.5%</td>
</tr>
<tr>
<td>46</td>
<td>Keystone Agency Partners LLC</td>
<td>$137,821,000</td>
<td>72.3%</td>
</tr>
<tr>
<td>47</td>
<td>AmerTrust Group Inc.</td>
<td>$135,785,286</td>
<td>11.2%</td>
</tr>
<tr>
<td>48</td>
<td>Sunstar Insurance Group</td>
<td>$121,000,000</td>
<td>40.5%</td>
</tr>
<tr>
<td>49</td>
<td>Marsh &amp; Sterling Enterprises Inc.</td>
<td>$111,796,579</td>
<td>7.7%</td>
</tr>
<tr>
<td>50</td>
<td>TrueNorth Cos. LLC</td>
<td>$109,288,500</td>
<td>5.7%</td>
</tr>
</tbody>
</table>

OUT-WORK *verb*

To respond lightning fast, day or night

AT RT SPECIALTY, IT’S WHAT WE DO.

Our wholesale specialty risk professionals have the expertise and tenacity to craft superior coverages for retail brokers’ toughest risks, regardless of account size.

Contact your RT broker or underwriter at rtspecialty.com
**LEADING U.S. COMMERCIAL RETAIL BROKERS**
Ranked by 2022 commercial retail brokerage revenue from U.S. offices

<table>
<thead>
<tr>
<th>Rank</th>
<th>Company</th>
<th>2022 revenue</th>
<th>% increase (decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Marsh &amp; McLennan Cos. Inc.</td>
<td>$5,791,000,000</td>
<td>8.4%</td>
</tr>
<tr>
<td>2</td>
<td>Aon PLC</td>
<td>$3,049,000,000</td>
<td>2.6%</td>
</tr>
<tr>
<td>3</td>
<td>Acrisure LLC</td>
<td>$2,366,114,010</td>
<td>44.8%</td>
</tr>
<tr>
<td>4</td>
<td>Arthur J. Gallagher &amp; Co.</td>
<td>$2,119,164,000</td>
<td>13.1%</td>
</tr>
<tr>
<td>5</td>
<td>Alliant Insurance Services Inc.</td>
<td>$1,589,971,143</td>
<td>8.9%</td>
</tr>
<tr>
<td>6</td>
<td>Hub International Ltd.</td>
<td>$1,449,270,000</td>
<td>21.9%</td>
</tr>
<tr>
<td>7</td>
<td>Lockton Cos. LLC</td>
<td>$1,391,190,000</td>
<td>10.4%</td>
</tr>
<tr>
<td>8</td>
<td>AssuredPartners Inc.</td>
<td>$1,152,465,279</td>
<td>10.3%</td>
</tr>
<tr>
<td>9</td>
<td>Brown &amp; Brown Inc.</td>
<td>$1,144,237,160</td>
<td>9.2%</td>
</tr>
<tr>
<td>10</td>
<td>USI Insurance Services LLC</td>
<td>$1,135,662,967</td>
<td>10.4%</td>
</tr>
</tbody>
</table>

*Excludes revenue from placement of employee benefits. *Restated. **Fiscal year ending April 30.

**LARGEST BENEFITS BROKERS**
Ranked by 2022 global benefits revenue

<table>
<thead>
<tr>
<th>Rank</th>
<th>Company</th>
<th>2022 employee benefits revenue</th>
<th>% increase (decrease)</th>
<th>% of 2022 gross revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Marsh &amp; McLennan Cos. Inc.</td>
<td>$5,345,000,000</td>
<td>1.7%</td>
<td>25.8%</td>
</tr>
<tr>
<td>2</td>
<td>Willis Towers Watson PLC</td>
<td>$5,103,000,000</td>
<td>1.2%</td>
<td>57.6%</td>
</tr>
<tr>
<td>3</td>
<td>Aon PLC</td>
<td>$2,224,000,000</td>
<td>3.2%</td>
<td>17.7%</td>
</tr>
<tr>
<td>4</td>
<td>Arthur J. Gallagher &amp; Co.</td>
<td>$1,484,105,000</td>
<td>8.6%</td>
<td>17.4%</td>
</tr>
<tr>
<td>5</td>
<td>Alliant Insurance Services LLC</td>
<td>$1,083,487,775</td>
<td>20.0%</td>
<td>43.6%</td>
</tr>
<tr>
<td>6</td>
<td>Hub International Ltd.</td>
<td>$1,075,788,000</td>
<td>16.6%</td>
<td>28.5%</td>
</tr>
<tr>
<td>7</td>
<td>NFP Corp.</td>
<td>$977,324,438</td>
<td>9.6%</td>
<td>44.2%</td>
</tr>
<tr>
<td>8</td>
<td>Lockton Cos. LLC</td>
<td>$843,610,000</td>
<td>11.9%</td>
<td>27.4%</td>
</tr>
<tr>
<td>9</td>
<td>Alliant Insurance Services Inc.</td>
<td>$658,749,158</td>
<td>15.6%</td>
<td>20.4%</td>
</tr>
<tr>
<td>10</td>
<td>Brown &amp; Brown Inc.</td>
<td>$644,374,448</td>
<td>14.9%</td>
<td>18.0%</td>
</tr>
</tbody>
</table>

*Excludes revenue from placement of employee benefits. **Fiscal year ending April 30.

**LARGEST PRIVATELY OWNED BROKERS**
Ranked by 2022 brokerage revenue

<table>
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<tr>
<th>Rank</th>
<th>Company</th>
<th>2022 brokerage revenue</th>
<th>% increase (decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Hub International Ltd.</td>
<td>$3,758,202,000</td>
<td>16.5%</td>
</tr>
<tr>
<td>2</td>
<td>Acrisure LLC</td>
<td>$3,619,152,426</td>
<td>28.5%</td>
</tr>
<tr>
<td>3</td>
<td>Alliant Insurance Services Inc.</td>
<td>$3,199,376,174</td>
<td>22.4%</td>
</tr>
<tr>
<td>4</td>
<td>Lockton Cos. LLC</td>
<td>$3,049,717,000</td>
<td>12.8%</td>
</tr>
<tr>
<td>5</td>
<td>USI Insurance Services LLC</td>
<td>$2,475,261,888</td>
<td>14.0%</td>
</tr>
<tr>
<td>6</td>
<td>AssuredPartners Inc.</td>
<td>$2,279,595,981</td>
<td>11.7%</td>
</tr>
<tr>
<td>7</td>
<td>NFP Corp.</td>
<td>$1,933,642,246</td>
<td>12.2%</td>
</tr>
<tr>
<td>8</td>
<td>BroadStreet Partners Inc.</td>
<td>$1,302,300,000</td>
<td>13.7%</td>
</tr>
<tr>
<td>9</td>
<td>RSG Insurance Brokerage Inc., dba Risk Strategies Co.</td>
<td>$1,185,648,188</td>
<td>24.1%</td>
</tr>
<tr>
<td>10</td>
<td>Alera Group</td>
<td>$1,148,000,000</td>
<td>23.3%</td>
</tr>
</tbody>
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*Companies that derive more than 49% of revenue from personal lines are not ranked. **Fiscal year ending April 30. *Restated.

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**Mergers & acquisitions**

One of the issues that may slow growth is a reduction in M&As. Prior to the steady rise in interest rates that began last year, acquisitive insurance brokerages, many of which are backed by private-equity funds, pursued aggressive acquisition strategies, with some companies buying dozens of rivals in a year.

A slowdown in M&A activity began in the second half of 2022 and persisted in the first half of this year, as interest rates pushed up the cost of borrowing to fund the deals.

Brokers will likely have to continue to grow organically but accept slower growth through acquisitions, Mr. Shields said.

**Noncompetes**

The brokerage sector could also be affected by the FTC’s recent proposal to ban noncompetes because, the agency said, they prevent workers from freely changing jobs.

While brokerages usually use nonsolicitation and nondisclosure agreements rather than noncompetes, some fear the FTC may seek to broaden its proposed ban to include other types of restrictions. In addition, there has been a rise in litigation between brokers over alleged breaches of employment agreements over the past several years.

A shortage of staff among brokers, driven in part by private-equity-owned brokerages reaching a size where they need more managers, appears to have led to a rise in poaching suits, Mr. Shields said.

Most of the disputes are settled through cash settlements, which will likely continue, he said.

Brokerage executives say they need to be able to protect their businesses, especially when they purchase other brokerages.

“I am talking about professional services (companies) oftentimes we purchased at substantial multiples. I should have an expectation, and so should my shareholders, of ownership,” Mr. Gallagher said.

In addition, brokers seek to protect their data and teams that they have developed, Mr. Andersen said.

**Michael Bradford, Jon Campisi, Matthew Lerner and Claire Wilkinson contributed to this report.**

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**CLASSIFIED**

Paladin Reinsurance Corporation
This company advises all creditors that it is entering into a Commutation Plan under Section 1321(b) of the New York Insurance Law and Department Regulation 141 (11 NYCRR Section 128).

Any person who has and can provide details of a claim against this Estate should email by 14 July 2023 details of their claims to commutation@paladinreinsurance.com.
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2023 BROKERS PROFILES: 10 LARGEST INSURANCE BROKERS

1 Marsh McLennan

Marsh & McLennan Cos. Inc. delivered 9% organic growth last year, surpassed the $20 billion revenue mark and continued to pursue acquisitions, expanding its middle-market and international business.

Internally, the New York-based brokerage restructured, consolidating real estate, aligning its workforce and rationalizing technology. John Doyle, previously president and COO of Marsh LLC, its main brokerage unit, took over as president and CEO of Marsh McLennan on Jan. 1, 2023.

A decline in overall insurance sector mergers and acquisitions activity last year did not dampen Marsh McLennan’s long-held acquisition strategy. The company completed 20 acquisitions in 2022, many of them through Marsh & McLennan Agency LLC, its middle-market unit, according to SEC filings.

Last year’s deals included the acquisition of Hunt Valley, Maryland-based HMS Insurance Associates Inc., a top 100 brokerage with about $50 million in annual revenue. Marsh also made several international purchases last year, including in Chile and Japan, and increased its stake in a Moroccan-based brokerage.

In this year’s second quarter, its reinsurance brokerage unit, Guy Carpenter & Co. LLC, said it would acquire Israeli-based Re Solutions.

“We have a good pipeline of acquisitions. We look to companies that will make us better, grow faster, and in countries and geographies and segments where we would like to do it,” said Martin South, president and CEO of Marsh. The number of acquisitions completed by Marsh McLennan Agency since it was formed 15 years ago has crossed the 100 threshold, he said.

The deals helped Marsh McLennan grow its brokerage revenue to $20.66 billion in 2022, a 4.1% increase over 2021, and retain its No. 1 position in Business Insurance’s ranking of the world’s largest brokers.

In the first quarter of this year, its insurance and reinsurance broking units posted a combined 9% underlying growth rate, buoyed by continued rate increases, new business and strong retention despite the uncertain economic backdrop.

Last year’s revenue growth was “scale” about lower than the double-digit revenue growth delivered in 2021, analysts say. Marsh McLennan saw good growth in its insurance and reinsurance broking business in 2022 and in the first quarter of this year, said Elyse Greenspan, managing director, equity research, insurance, at Wells Fargo Securities LLC in New York.

The reinsurance market is as hard as it’s been in about 20 years and rate hikes at Jan. 1 persisted during the April and June renewal seasons, which “should be a tailwind” to organic revenue growth for Guy Carpenter, Ms. Greenspan said.

Broking growth should help offset any slowdown in the company’s consulting operations due to economic contraction, she said.

Cyber, construction and credit specialty areas have been significant growth drivers, but Marsh saw its representations and warranties and transactional risk business slow due to rising inflation and interest rates and the pullback in capital markets, Mr. South said.

A restructuring program announced in January is slated to deliver around $300 million of savings by 2024, at a total cost of $375 million to $400 million, Mr. Doyle said on the company’s first-quarter earnings call with analysts.

Marsh McLennan is adjusting expenses to what is expected to be a more sluggish pricing environment should the economy weaken, said Mark Dwelle, director, insurance equity research, at RBC Capital Markets LLC in Richmond. “I view it mostly as periodic housekeeping,” Mr. Dwelle said.

Marsh McLennan has hired more than 10,000 employees in the past two years, including over 6,000 at Marsh, and will hire at similar rates in future, Mr. South said.

“Like any professional services firm we can lose some talent, but there’s no question over the last few years we’ve been a net gain,” he said. Voluntary turnover has decreased slightly, perhaps due to the tight economy, which will slow down hiring, Mr. South said.

Claire Wilkinson

2 Aon

Aon PLC implemented more organizational changes over the past year, hired senior staff and made targeted acquisitions as it continued to rebound from its failed effort to buy rival Willis Towers Watson PLC.

The brokerage, which had revamped its organizational structure in 2021 after calling off the WTW deal, in May realigned its operations around two main categories: risk and capital, which includes commercial insurance and reinsurance; and wealth, which focuses on bringing in new capabilities to address emerging risks, including cyber, construction and credit specialties.

In addition, the brokerage completed 20 acquisitions in 2022, as some of its rivals’ gains, said John Doyle, president and CEO of Marsh. CSO and retaining its No. 1 position in Business Insurance’s ranking of the world’s largest brokers.

In addition, the company has a long track record of buying businesses with high profit margins, and it completed fewer deals over the past couple of years, he said.

"It may be that that process has peaked, and they’re hitting a plateau with room to go," he said. "They can only really come from pure efficiencies," Mr. Newcombe said.

Aon’s acquisition strategy focuses on bringing in new capabilities, Mr. Andersen said.

"In areas where we’ve got these new emerging risks that our clients are dealing with, for us to be able to match the risk and capital, you need insight," he said.

In May, Aon announced a realignment of its operations around two main categories: risk capital, which includes commercial insurance and reinsurance and is headed by Andy Marcell, and human capital, which includes health and retirement benefits consulting and human resources services, which is led by Lambros Lambrou.

As a result of the change, the company will be in a better position to offer services to address emerging risks, for example, by using reinsurance analytics capabilities to address concerns of risk management clients, Mr. Andersen said.

Among the acquisitions Aon completed in 2022 was ERN Evaluacion de Riesgos Naturales y Antropogenicos SA de CV, a Mexico City-based catastrophe modeling company.

Meanwhile, U.S. retail brokerage revenue was pressured in 2022 by reduced demand for transaction-related business, such as representations and warranties coverage and run-off services, which declined with a drop in mergers and acquisitions, according to Aon’s 10K filing with the U.S. Securities and Exchange Commission.

"It has grown to be a good business for us," said Mr. Andersen. "But that type of business is nonoccurring by nature, so you see a little bit of that volatility showing up from time to time." Aon made some notable senior hires over the past year, including Mindy Simon from Conagra Brands Inc. as chief operating officer.

In addition, the brokerage made some recent hires to address emerging risks, including Curtis Scott as future mobility growth accelerator leader and Patty Daberko, global business development and strategic operations leader. Both had previously worked at Lyft Inc. and Uber Technologies Inc.

Aon has also increased its efforts to hire and promote diverse candidates, Mr. Andersen said.

Since 2021, 20% of Aon’s senior executives’ short-term incentives have been tied to the success of diversity and inclusion efforts. Aon’s executive committee is equally split between male and female executives, Mr. Andersen said.

“We know it’s a long journey and it’s probably never over, but ultimately we wanted to take some steps internally so our colleagues knew we were serious about developing all kinds of talent,” he said.

As of Dec. 31, 2022, 25% of staff and 31% of new hires who disclosed their ethnicity were racially or ethnically diverse.

Eric Andersen

"It’s a high caliber group of professionals and a very strong senior management team, so I think they’ll weather this quite comfortably, but we are seeing some concern," Mr. Shields said.

Aon’s organic growth last year was “pretty good” but not as good as some of its rivals’ gains, said J. Paul Newsome Jr., managing director with Piper Sandler & Co. in Minneapolis.

In addition, the company has a long track record of buying businesses with high profit margins, and it completed fewer deals over the past couple of years, he said.

"It may be that that process has peaked, and they’re hitting a plateau with room to go," he said. "They can only really come from pure efficiencies," Mr. Newcombe said.

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Gavin Souter

As of Dec. 31, 2022, 25% of staff and 31% of new hires who disclosed their ethnicity were racially or ethnically diverse.
Willis Towers Watson PLC’s brokerage revenue slipped last year as it continued to rebuild its operations following its failed sale to Aon PLC, but its organic revenue growth accelerated in the second half of 2022.

The brokerage, which saw Carl Hess take the helm as CEO at the start of last year, also revamped its senior leadership, made changes to its North American corporate risk and broking arm and continued to work toward a new strategy.

High-profile hires included Michael Chang, formerly with Sompo International Holdings Ltd., as head of corporate risk consulting services, said Carl Hess.

Employee growth accelerated last year, and while WTW will always be in the market for talent, the rebuilding is largely complete, Mr. Hess said.

“We have always been a builder, not a buyer,” Mr. Hess said.

The company’s organic revenue growth accelerated to 10% in the third quarter and its earnings per share increased 7.6% for the year, said Elyse Peters, managing director-equity research, at St. Petersburg, Florida-based Raymond James & Associates Inc.

Once WTW’s management makes those revisions, the hope is that things will have “bottomed out” for the brokerage, Mr. Peters said.

WTW “no longer has a reinsurer in our line of business that we feel is pricing too high,” he said.

The company sold its reinsurer deals, Gallagher Re, along with its specialty business, and retained its position as the world’s third-largest brokerage.

In addition to greatly expanding its international acquisitions has slowed as the world’s third-largest brokerage.

In 2022, Gallagher saw 10 acquisitions, and it announced 10 more for revenue and profitability for 2024, and we see what the bridge is we have to construct to get there on that,” Mr. Hess said.

“We put together a series of targets not just for EPS but for revenue and profitability for 2024, and we see what the bridge is we have to construct to get there on that,” Mr. Hess said. 

Carl Hess

“Our fundamental strategy is on track,” Mr. Hess said.

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In 2022, Gallagher saw 10 acquisitions, and it announced 10 more

Arthur J. Gallagher & Co.’s revenue soared in 2022 as it absorbed the treaty reinsurance and longevity operations of Willis Towers Watson PLC, where Mr. Chang is set to continue this year as it completed another major acquisition.

The $660 million April acquisition of BCHR Holdings L.P., which does business as Buck, will significantly expand Gallagher’s benefits consulting business and its overall capabilities, the company’s top executive said.

The acquisitions will likely also help Gallagher, which is primarily known as a middle-market broker, grow its business with larger policyholders, analysts say.

The Willis Re deal has significantly grown Gallagher’s reinsurance brokerage business but has also improved its retail broking capabilities, said J. Patrick Gallagher Jr., chairman, president and CEO of the brokerage.

For example, the reinsurance teams have enhanced the analytics and reinsurance purchasing for Gallagher’s public sector pools business, he said.

“Probably 50% of our risk sharing pools around the United States have benefited either in structure, form, product, carrier utilization from the reinsurer people looking at them and saying, ‘Hey, have you thought about this?’” Mr. Gallagher said.

In addition, deeper relationships with reinsurers provide retail brokers with better market information, he said.

J. Patrick Gallagher Jr.

Gallagher’s reinsurance brokerage revenue leapt from $193.2 million in 2021 to $1.01 billion in 2022. The brokerage also made management changes at Gallagher Re, with James Kent, who had previously led Willis Re, transitioning to a wider role at Gallagher in March before leaving the company last month.

He was succeeded as CEO of Gallagher Re by Tom Wakefield.

The Buck deal will also help the brokerage’s retail business, Mr. Gallagher said.

In addition to greatly expanding Gallagher’s benefits business, Buck brings relationships with some large clients that Gallagher hadn’t served, he said.

Gallagher appears to be expanding its prospects to include larger companies, too, said J. Paul Greenspan, managing director, equity research, insurance, at Wells Fargo Securities LLC in New York.

The company sold its reinsurance business to Arthur J. Gallagher & Co. in late 2021.

WTW’s exit from Russia in March last year was another headwind that hit its margins and earnings per share expectations and guidance, she said.

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Gallagher appears to be expanding its prospects to include larger companies, too, said J. Paul Greenspan, managing director, equity research, insurance, at Wells Fargo Securities LLC in New York.
Hub International Ltd. continued its long-time growth strategy over the past year, buying dozens of smaller brokerages while also pursuing new initiatives.

The brokerage also brought in an additional private-equity investor, buying shares of some existing investors, and raised an additional $6.9 billion in debt refinancing.

"Hub’s main growth drivers are specifically organic growth and M&A, just as they have been in past years," said Marc Cohen, CEO of the Chicago-based brokerage.

“Our new business during the past three years has been stronger than it has been over the past 25 years," Mr. Cohen said. “The acquisitions that we made in the past have also worked out very well.”

Hub reported organic revenue growth of 8% in 2022.

Hub’s broker revenue grew 16.5% to $3.76 billion in 2022, which compared with the 19.6% increase it reported a year earlier. It retained its position as No. 5 in Business Insurance’s ranking of the world’s largest brokerages.

The company made 68 acquisitions last year, compared with 72 in 2021, and this year completed 22 deals as of mid-June.

Among its recent acquisitions was Troy, Michigan-based Project Motown Holding Co., an agency platform that owns seven agencies.

“We’re looking for firms that have great leadership and that have solid sales cultures, that have a proven history of strong organic growth and, most importantly, for firms that want to take advantage of all the resources, specialists and industry verticals that we’ve invested in," Mr. Cohen said.

“Our strategy has always been to find very good agencies, surround them with Hub’s shared resources, and help them outperform. It is really about finding those firms’ with the highest potential, he said.

Timothy J. Cunningham, managing partner at Optics Partners LLC in Chicago, said, “They’re a fairly disciplined acquisition company. They’re very good at the integration side post acquisitions. The outlook is very positive for them.”

Evelyn Ocasi Salazar, assistant vice president-analyst at Moody’s Investor Service Inc. in New York.

The mortgage business, which is largely related to new construction, was not hit as hard as the title operations that suffered from a slowdown in refinancing, Mr. Williams said. “The increase in interest rates was the most rapid and pronounced in 30 years, so it kind of changed those businesses overnight," he said.

“Rising property/casualty rates from a slowdown in refinancing, increased property/casualty rates, some economic headwinds are making the acquisitions that traditionally have fueled the company’s expansion less attractive, which is expected to dampen growth this year.

Higher interest rates and capital costs are likely to slow the pace of mergers and acquisitions, said Gregory L. Williams, CEO of the Grand Rapids, Michigan-based brokerage. “We’ll still do a number of deals and we’ll still have significant growth in 2023," he said, but it isn’t expected to reach the level of previous years.

Meanwhile, other changes at the company have helped fuel speculation that it will go public, maybe as soon as next year.

Acrisure made 116 deals last year, down from 155 in 2021. As of mid-June, the company had closed on or signed letters of intent on 40 acquisitions this year.

Organic growth reached nearly 10% last year, Mr. Williams said. That helped boost Acrisure’s 2022 gross revenue by more than $1 billion, to $4.12 billion. Brokerage revenue was up 28.5% to $3.62 billion, pushing Acrisure up two spots to No. 6 in Business Insurance’s ranking of the world’s largest brokerages.

"Because we are educating them well in advance of renewals, the key is to not let this be a surprise right before the policy expiration,” he said.

The brokerage is also assessing how developments in artificial intelligence could be used in the brokerage sector, Mr. Cohen said.

“We have a ‘pilot and learn’ culture at Hub, which forces us to be thoughtful around evolving technologies such as AI,” he said.

“We would like to learn how AI can assist in claims, client servicing, finance, even employee experience-related tasks. After careful assessment and understanding of the impact on our business, we will chart our course, utilizing AI where it makes the most sense for us.”

Hub announced in April that Los Angeles-based private-equity company Leonard Green & Partners would make a “substantial minority investment” in the broker, which is valued at $23 billion.

Hellman & Friedman, which invested in the brokerage in 2013, will continue to hold a controlling interest in Hub, and Altas Corp., which invested in it in 2018, will remain a significant minority shareholder.

Last month, Hub said it had raised $6.9 billion in debt to refinance its $6.4 billion term loan debt.

In addition, it increased its revolving credit facilities by more than $200 million to finance acquisitions and other investments in the brokerage, the company said in a statement.

Acrisure LLC posted a healthy rise in revenue in 2022, helping it jump two spots in the ranking of the world’s largest brokers, but economic headwinds are making the acquisitions that traditionally have fueled the company’s expansion less attractive, which is expected to dampen growth this year.

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Rising property/casualty rates helped grow Acrisure’s revenue but higher interest rates hurt its title and mortgage originations business, said Evelyn Ocasi Salaar, assistant vice president-analyst at Moody’s Investor Service Inc. in New York.

The mortgage business, which is largely related to new construction, was not hit as hard as the title operations that suffered from a slowdown in refinancing, Mr. Williams said. “The increase in interest rates was the most rapid and pronounced in 30 years, so it kind of changed those businesses overnight," he said.

"Acrisure’s investment in the upper-middle segment is the highest potential, he said.

"That clearly added some volatility and margin degradation to their results,” said Joseph Marinucci, senior director at Standard & Poor’s Global Ratings in Princeton, New Jersey. “Their core business performed well,” he said, “but those two lines are a bit more cyclical.”

Acrisure in May said it is reorganizing into a regional structure and rolling out a new brand strategy. The company has often allowed its acquisitions to operate under their own names, but the new strategy will see the Acrisure name applied to all of its units.

“We view this as credit positive,” Ms. Ocasi Salazar said of the reorganization. “In the long run, it’s going to be cost-efficient for the company. We’ve seen other brokers go this way and they see it in their margins. It’s a short-term drag but a long-term benefit.”

The new approach could signal that Acrisure leadership is positioning the company to go public, but a move that has long been discussed, said Joseph Marinucci, senior director at Standard & Poor’s Global Ratings in Princeton, New Jersey. “It’s what’s being talked about, obviously, because of their growth and where they’re intending to go in the next stage of development,” he said.

Recent press reports suggested that Acrisure would hold an initial public offering in 2024, but Mr. Williams was noncommittal. “This is probably a public company at some point in time. … Frankly, I don’t know that 2024 is the right time,” he said.

If Acrisure does go public, “it won’t be anytime soon,” Mr. Williams said. “I’m leaving all options open as it relates to timing, and, again, it’s not a foregone conclusion that that’s what we’ll do.”

Acrisure operates in 21 countries and is looking for opportunities to expand further outside the United States, Mr. Williams said.

The brokerage’s international footprint grew earlier this year with the acquisition of Warsaw, Poland-based Unilink SA, which distributes life and nonlife coverage in Eastern and Central Europe, he said.

Acrisure, which considers itself a fintech company, in 2020 purchased the artificial intelligence business of Tulco LLC and has since integrated AI throughout its operations, according to Mr. Williams. “It’s infused in and heavily transforming everything that we are doing,” he said.

Acrisure uses AI to handle a multitude of tasks, Mr. Williams said, with robotic processing work alone saving more than 5,000 hours a month. AI can predict products and services clients are likely to need and send those leads to sales personnel. The technology can also match those client needs with insurers’ appetite to provide coverage, he added.

AI has changed “every facet of the business,” Mr. Williams said. ""
Brown & Brown Inc.’s international expansion continued with significant acquisitions in 2022, and new business and rising insurance rates also contributed to solid revenue growth for the brokerage.

“We were really pleased with our performance last year, starting with the organic growth in the business of about 8.1%,” said J. Powell Brown, president and CEO.

That organic growth was less than the 10.4% in 2021 but was still high when compared with historical averages, said C. Gregory Peters, managing director-equity research with Raymond James & Associates in St. Petersburg, Florida. “Last year, from an operating perspective, they had a pretty good year,” he said.

Brown & Brown reported 2022 brokerage revenue of $3.56 billion, a 16.9% increase over 2021. Organic growth was 12.6%, a sharp rise from 7.8% during the comparable quarter in 2022. Despite this strong performance last year, Brown & Brown’s stock underperformed its peers, Mr. Peters said. However, it has rebounded this year and is outperforming the group, he noted.

The dull stock performance in 2022 may have been due to the market’s reaction to the acquisition of London-based brokerage Global Risk Partners Ltd., and how losses in captives in last year’s third quarter were communicated, Mr. Powell said. “Those are the two things that may have had a downward pressure on it, but I don’t know,” he said.

The acquisition of GRP — the largest yet for Brown & Brown — was one of 30 deals in 2022 that together represented combined annual revenue of $435 million. GRP, which is largely a retail broker, added $340 million in annual revenue and more than 2,100 employees across the United Kingdom and Ireland.

“The GRP acquisition was an interesting event because it represented a significant initiative to expand into Europe and specifically into the U.K. market,” Mr. Peters said.

Another notable deal last year was the acquisition of the operating companies of BDB Ltd., a Lloyd’s of London brokerage. “BDB does a lot of business in Italy,” Mr. Brown said, and is active in France, the Benelux region, England and Ireland.

Brown & Brown completed seven deals during the first quarter of this year, with estimated combined annual revenue of $11 million.

In May, the brokerage announced plans to further expand internationally, agreeing to buy London-based Kentro Capital Ltd. “Kentro is predominately a program administrator but they also have some trade credit capabilities in England, Ireland and Europe,” Mr. Brown said.

In June, the brokerage confirmed plans to further expand its commercial and professional liability business to office locations in London and Dublin.

The brokerage’s growth in 2022 was supported by an increase in commercial rates, which continues to be a challenge.

“In June, we probably had our best monthly performance since the market turned in December,” Mr. Peters said. “The second quarter will probably be the best quarter we have seen in several years.”

Mr. Peters expects the growth to continue in the second quarter.

Mr. Brown said, “we are well-positioned for that.”

As it grows abroad, the brokerage remains “very bullish on the U.S. in terms of acquisitions,” Mr. Brown said, noting that the deals made outside the country do not signal a move away from acquiring U.S.-based companies.

“The most important thing in any acquisition is cultural fit,” Mr. Brown said. “And we were really fortunate to find a number of businesses that fit culturally last year.”

Business is robust this year, which is surprising in some respects, Mr. Brown said. “We had thought that if you continue to increase interest rates, the economy has to sort of slow down. We haven’t really seen that yet, and the vast majority of our customers are really busy.”

Still, insurance market conditions remain challenging for the brokerage’s clients, particularly for those that need property catastrophe insurance, Mr. Brown said.

“Their presence in the Florida market, which is seeing skyrocketing property rates, has translated into a very strong revenue opportunity for them, and that’s likely to persist this year and maybe into next year,” said Mark Dwelle, director, insurance equity research at RBC Capital Markets LLC in Richmond, Virginia.

Mr. Dwelle doesn’t foresee headwinds that could stall Brown & Brown’s growth, but he noted that “at some point, pricing across the board will start to slow, and they’re certainly vulnerable to a slowdown in the economy, if that does ultimately emerge. But it certainly wasn’t apparent in the first-quarter numbers and it’s unlikely to be in the second-quarter numbers, either.”

Michael Bradford

8 Trust Insurance

A modified ownership structure at Trust Insurance Holdings Inc. should stimulate more growth at the bank-owned brokerage, which is a private-equity stake funding more acquisitions and bolstering existing operations, its top executive says.

The brokerage, which benefits from a broad client base and its large wholesale operations, is also positioned to grow organically, analysts say.

A combination of organic growth and acquisitions helped Trust Insurance increase brokerage revenue nearly 17% in 2022 to $3.34 billion. The brokerage is ranked No. 8 in Business Insurance’s ranking of the world’s largest brokers.

The February 2023 sale of a 20% stake in Trust Insurance to Stone Point Capital LLC for $1.95 billion values the brokerage at $14.75 billion.

The private-equity investment creates an equity vehicle tied to the broker’s performance as opposed to that of the parent bank, which should help with staff recruitment and retention, said John Howard, chairman and CEO of Woodmere, Ohio-based merges and acquisitions consultancy Marsh, Berry & Co. Inc., said the move helps “unlock” the value of the insurance business. “The valuation of Trust Insurance Holdings was not properly reflected within the market capitalization of the bank,” he said.

Trust Insurance reported 2022 organic revenue growth of 6.7%, as commercial retail brokerage revenue rose 22.4% to $885.4 million and wholesale revenue increased 14.8% to $1.82 billion. The brokerage’s growth last year was bolstered by two significant acquisitions.

In March 2022, Trust bought New York-based Kensington Vanguard National Land Services LLC, a title insurance agency, which added about $100 million in annual revenue to Trust’s title business.

In September 2022, Trust acquired Dallas-based BenefitMall, a wholesale employee benefits broker, which added approximately $150 million in annual revenue to the brokerage’s wholesale division. Financial terms were not disclosed in either deal.

As it grows abroad, the brokerage remains “very bullish on the U.S. in terms of acquisitions,” Mr. Brown said, noting that the deals made outside the country do not signal a move away from acquiring U.S.-based companies.

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Michael Bradford
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9 Alliant Insurance Services

Alliant reported 13.5% organic growth in 2022. Brokerage revenue increased 22.4% to $3.22 billion, moving it up one spot to No. 9 in the Business Insurance ranking.

And the company reported a total of 9,858 brokerage employees in 2022, up from 9,194 in 2021.

“Alliant has consistently been a good performer in the brokerage space, one of our better performers,” said Julie Herman, director in the financing services ratings group for New York-based S&P Global Ratings, a division of S&P Global Inc.

Like other brokers, Alliant benefited from favorable insurance pricing and inflation, she said. Alliant’s specialty focus helps it outperform many of its peers, Ms. Herman said. In addition, its strategy of hiring experienced producers with established books of business has spurred growth, she said.

“They have very strong verticals and strong programs that enable solid new business generation fairly consistently,” Ms. Herman said.

Alliant focuses on niche expertise and select industries, said Phil Trem, president of the financial advisory division at Woodmere, Ohio-based MarshBerry Inc.

“The one thing that we highlight when we think of Alliant is that they’re very specialized,” he said.

And while Alliant saw strong organic growth last year, it also grew through acquisitions, Mr. Trem said.

“They are a steady strategic acquirer,” he said. “They do acquire firms fairly consistently.” Alliant looks for growth opportunities by expanding internal programs and through acquisitions, said Ilene Anders, Alliant’s chief financial officer.

“For us, it’s really what makes sense from a specialty perspective and where are the opportunities to build or expand,” she said.

Alliant completed 14 acquisitions in 2022, including deals in the energy and nonstandard auto insurance sectors.

“We focused really from a discipline perspective on where there might be companies out there that together we believe can accelerate growth as a result of expanding specialization or geographic footprint,” Ms. Anders said.

While rising interest rates, which have increased steadily since last year, have affected the mergers and acquisitions market, Alliant remains “very opportunistic” in how it looks at deals and whether they make sense from a strategic standpoint, she said.

Oseda, Texas-based energy insurance brokerage McAnally Platforms LLC was a “very large acquisition” for Alliant in 2022, Mr. Trem said.

In addition to growing through acquisitions, Alliant for years has actively recruited from its rivals, and the brokerage has been subject to numerous lawsuits alleging new hires breached previous employment agreements. Ms. Anders said she cannot comment on specific lawsuits.

Ms. Herman said Alliant secures experienced producers with well-established books of business and tries to come to a commercial resolution with the former employer or litigate in situations where that is not possible.

“Alliant maybe takes a little bit of a different stance,” she said. “The strategy has been successful for them.”

Ilene Anders

“Fortunately, we’ve got a lot of other areas of diversification across Alliant that have continued to grow quite well, and so it’s more than making up for the slowdown,” she said.

Ms. Anders said she expects investment to continue flowing to the brokerage sector, heightening competition and spurring more consolidation. She also expects to see an easing of insurance rates over the next couple of years as conditions around the property market will likely soften.

Jon Campisi

10 Lockton

2023 BROKERS PROFILES: 10 LARGEST INSURANCE BROKERS

Percent increase: 12.8%

2022 brokerage revenue: $3.05B

Lockton Cos. LLC continues to focus on organic growth rather than acquisitions as it expands its business in the United States and internationally.

One notable exception in the past year was an acquisition the brokerage made in Brazil. The Kansas City, Missouri-based brokerage reported $3.05 billion in brokerage revenue for the year ended April 30. That was a 12.8% increase from 2021.

Despite the double-digit growth, Lockton slipped one position to the No. 10 spot in Business Insurance’s ranking of the world’s largest insurance brokers. Outside of the three largest brokers, its more acquisitive rivals posted bigger brokerage revenue gains.

A total of 95% of Lockton’s growth is organic, said Peter Clune, the broker’s president and CEO. “If you’re not out doing acquisitions, it’s the way to grow, through new business and retention,” he said.

Timothy J. Cunningham, managing director of Optis Partners LLC in Chicago, said Lockton is an “extremely impressive organization” that has quietly and deliberately built a significant international presence.

About 23% of Lockton’s commercial retail revenue is derived from non-U.S. offices.

In May, Lockton acquired Sao Paulo, Brazil-based full-service insurance and reinsurance broker THB Group Brazil from Aonwms Global Risks Group Ltd. for an undisclosed sum.

“That was part of an overall Latin America strategy,” Mr. Clune said, noting Lockton has increased its business in Argentina, Brazil and Chile.

Three years ago, Lockton hired Jose Otavio Sampaio, who is CEO of Lockton Brazil, and others from Willis Towers Watson PLC. Their addition “really changed the look and feel of Lockton’s business in Brazil, where it now has more than 500 people and its business has tripled over the past three years,” Mr. Clune said.

The brokerage has seen significant growth in its overall reinsurance operations. Its reinsurance brokerage revenue increased 30% to $186.8 million in fiscal 2022. Industry surveys showed significant reinsurance rate hikes during Jan. 1 renewals.

Wholesale revenue for the broker increased 20.4% to $184.8 million.

Lockton also has a “very robust presence domestically in the U.S., both P/C and benefits,” Mr. Cunningham said.

Mr. Clune said Lockton has a retention rate of more than 97% while also logging “record new business.” The broker surpassed the $3 billion revenue mark in its 57th year in business, with $1 billion of that being added in the past 24 months.

The brokerage has actively recruited, with its total staff increasing about 15% in 2022.

“When people are treated right, empowered to do their job and have a shareholder that’s willing to take a much lower margin, they can have the resources they need to do their job, that the culture’s no longer just some soft statements on the wall,” Mr. Clune said.

Among key hires, in December Lockton named Sara Romine, formerly assistant vice president with AT&T Corp.’s legal department, as U.S. general counsel. She succeeded Ann Abercrombie, who retired after 18 years with Lockton.

Chairman Ron Lockton said, “We spend a lot of time each year involved in taking advantage of artificial intelligence.

“We have a large amount of data at the heart of everything we do,” Mr. Clune said.

“We use AI to help us ask better questions, generate greater insights and produce better outcomes for our clients.”

“This is refined by the experience and wisdom of our associates, but AI for Lockton is all focused on a greater client experience.”

“We’re excited about the future of AI,” Mr. Lockton said. “We see it as an opportunity to add capabilities and large data sets” and perform better analyses.

Judy Greenwald

Peter Clune  Ron Lockton

Mr. Lockton said “the Lockton family, including myself, retains active client relationships. I’ve been a producer at Lockton since 1991, and still consider myself a producer,” he said.

Lockton works with its clients several years out “to determine the most efficient way to manage the total cost of risk,” so its clients have not been surprised by what has happened with rising rates,

Mr. Lockton said.

The brokerage is also actively involved in taking advantage of new technology.

“We have a large amount of data at the heart of everything we do,” Mr. Clune said.

“We use AI to help us ask better questions, generate greater insights and produce better outcomes for our clients.”

This is refined by the experience and wisdom of our associates, but AI for Lockton is all focused on a greater client experience.”

“We’re excited about the future of AI,” Mr. Lockton said. “We see it as an opportunity to add capabilities and large data sets” and perform better analyses.

Judy Greenwald
Broker M&A deals steady after slowdown

BY STEVEN E. GERMUNDSON, TIMOTHY J. CUNNINGHAM & DANIEL P. MENZER

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erger and acquisition activity in the first half of 2023 among North America’s insurance agents and brokers dipped below 2021 and 2022 levels but was nonetheless ahead of the pace set in earlier years.

While rising interest rates and a somewhat restrictive lending environment have led some buyers to stand on the sidelines over the past 12 months, there are plenty of others that are very active, including a large number of firms making their first deal.

The total number of U.S. and Canadian transactions involving property/casualty agents and brokers, benefits brokers, managing general agents, third-party administrators and related businesses during the first half of this year fell 24% from 474 during the first half of 2022 but was equal to the previous five-year average.

On a quarterly basis, there were 177 transactions during the second quarter, more than a third lower than the 275 reported in the same period in 2022. On a trailing 12-month basis, the deal count was 913, 11% lower than the 1,028 reported in all of 2022 and 24% below the 1,203 reported for the year-earlier period.

Buyers’ appetite beyond the traditional insurance distribution targets has expanded significantly over the past few years. The broad buy-side universe has a deeper degree of which firms appear to be most active: World Insurance Associates LLC, Risk Strategies Co. and NFP Corp. appear on the Top 10 list of most active buyers for the first time. Also in this category are PCF Insurance Services and Baldwin Risk Partners LLC, which is focusing more on integrating its purchased business than making new deals.

Historically active buyers whose transaction count dropped below their five-year average included Acrisure LLC, which is focusing more on integrating its purchased business than making new deals. Also in this category are PCP Insurance Services and Baldwin Risk Partners LLC, both of which have largely suspended dealmaking for the time being.

So far in 2023, there has been only one large transaction. In May, BroadStreet Partners acquired Canadian broker Westland Insurance Group Ltd. Westland and been a very active acquirer, having completed 47 deals since 2018. Among the very large brokers, there were two that reported significant minority investments by private equity. Trusist Insurance Holdings Inc. sold a 20% stake in its brokerage business to Stone Point Capital LLC, and Hub International announced it will sell a substantial minority interest to Leonard Green & Partners LP, with a closing scheduled for the third quarter of this year.

Despite the fact that some historically very active buyers have slowed or stopped deal activity, the total number of buyers remains robust. This includes very large privately held firms that are becoming more acquisitive. There is plenty of evidence to suggest that we are still in a seller’s market.

We anticipate deal activity to remain steady throughout the remainder of 2023. The number of deals closed may be 10%-20% off the peak in 2021, but it should still be well above the volume from earlier years.

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**Humans supply missing link for AI**

Human resources professionals have been trying to use more objective standards in recruitment for decades. Rather than relying on personal connections to find candidates and intuition to assess their abilities, organizations have turned to an array of methods to ensure they are either hiring or promoting the right person for the job. Some hiring aids have been more accepted than others. As someone with handwriting a 6-year-old would be ashamed of, I for one have always been skeptical of the value of graphology in assessing a job candidate’s suitability for a position, for example.

Others, though, have been widely acknowledged as successful methods to remove bias in hiring. Blind auditions, where musicians play to appraisers from behind a screen, have been shown to greatly reduce gender and racial bias in hiring by orchestras.

As we report on page 6, artificial intelligence is the latest tool being used to make recruitment more efficient and to reduce bias in the process.

But like many other technology applications, AI needs to be used in tandem with human assessments when it is tapped to help fill positions.

One of the major concerns with using AI in hiring and promotion is that despite the apparent objectivity of a machine, AI can introduce bias. That’s because the algorithms used are based on historical data that could include biases, and if the information is accepted unchecked it can perpetuate those biases rather than reduce or eliminate them.

In addition, anyone who has ever been involved in the hiring process knows that it’s an art as well as a science. While it’s imperative to be aware of potential preconceptions when making decisions, qualities such as the ability of candidates to be creative or collaborate are not easily assessed by an algorithm.

The same is true for promotions. While data on performance and achievements play an important role, issues such as leadership ability, interpersonal abilities and other soft skills must also be assessed.

Lawsuits alleging bias by companies that use AI in hiring have already been filed, more will follow and, if any are successful, a flood of litigation will no doubt begin.

In addition, states and municipalities are introducing measures to regulate the use of AI in hiring, and the Equal Employment Opportunity Commission has signaled that the issue is on its radar.

Recent decisions by major homeowners insurers to exit California’s property insurance market are concerning as millions across the U.S. continue to feel the brunt of extreme weather and natural catastrophes, including convective storms, dangerous levels of heat, tornadoes and wildfires.

As State Farm and Allstate recently announced they would stop issuing new home insurance policies in the Golden State, citing catastrophe exposures, inflation and higher construction costs, the repercussions are being felt in many parts of the country.

Just last month, I received mail from my homeowners insurer informing me of “important information” about my property insurance premiums. The upshot is that the insurer, like many others, has filed a request for a 35% rate increase on its property insurance product with New Jersey’s insurance regulator. Under the proposed filing, the average homeowners policy will see a rate change of 36.3%.

While it’s not yet clear whether the increase will be approved and how it will affect my renewal, what is clear is that the wider property insurance market is at a crossroads.

For storm-hit states like Florida and Louisiana, the exits and rate increases by insurers are all too familiar. The impact of major hurricanes through the years has resulted in heavy insured losses in both commercial and personal lines insurance markets.

While coverage in catastrophe-prone areas can still be found, it’s at a much different price point and with more restrictive terms and conditions. Swiss Re issued a report last month in which it openly acknowledged that U.S. property/casualty insurers are responding to higher inflation and natural catastrophe losses with rate increases when possible and exits when not. The focus may be on homeowners, but underwriting actions are extending to other lines, including commercial property, Swiss Re said.

Meanwhile, brokers report that rate increases, which commercial property owners have been dealing with for at least five years, accelerated in the first half of this year. Buyers are understandably frustrated, and some are reducing their limits and buying less coverage. The move to retain more risk is not for everyone, but long-recognized alternatives to the traditional market, including captives and parametrics, are becoming mainstream and seem set to play an even larger role in the evolving property market.

Property premium in captives has increased rapidly in recent years, and parametric coverages for various catastrophe exposures, including wildfire and flood, are said to be seeing significantly greater uptake.

As we report on page 10, the increased demand for parametrics is not just a response to accelerating prices, declining capacity and rising retentions in traditional property markets. Improved data is enabling parametric coverages to be structured more effectively with triggers that are better designed for organizations facing complex weather risks, which means buyers have more confidence in them.

While property markets could soften if this year’s hurricane season proves benign, and some stability could return, what may not return quite as quickly is the premium that has left the traditional market.

Creative ways to self-insure higher deductibles and retentions — and to plug gaps in programs — along with improved data and analytics are providing more options for organizations. Barricading a significant fall in property insurance premiums, they will remain a mainstay of hard and soft markets.
P
olicyholders often think that once their insurer has agreed to cover their claim, their obligations are done. That is not the case. Insurance policies generally contain provisions imposing a “duty to cooperate,” which requires policyholders to provide additional information and assist the insurers in their investigation. Unfortunately, far too often, insurers rescind coverage based on information policyholders provide in response to requests that seem innocuous. Given that insurers regularly use the gathered information to deny coverage, it is critical for policyholders to understand their obligations and limitations to ensure they don’t inadvertently give information insurers can use against them.

This article analyzes a policyholder’s duty to cooperate with its insurer, the extent of the obligations owed, insurer attempts to fish for information that can later be used to dispute coverage and what policyholders can do to protect themselves.

Duty to cooperate

Many insurance policies purport to impose a duty to cooperate on the policyholder. These provisions require the policyholder to cooperate with the insurer in the investigation of a claim and assist with the defense of a suit brought against the policyholder.

A common cooperation clause in a commercial general liability policy may state, “You must cooperate with us in the investigation or settlement of the claim or defense against the suit.” Insurers contend that such provisions are necessary to assist them in the adjustment of claims or to help them defend policyholders against underlying lawsuits.

A policyholder may breach the duty to cooperate by refusing to: provide any information to its insurers, attend examinations under oath, assist insurers in their investigation, participate in the defense of an underlying claim or otherwise stone-wall the insurers. Failure to cooperate may be grounds to deny coverage.

If a claim is made or a suit is filed, the insurer will often request information from the policyholder. While the insurer may appear to be gathering information about the claim, sometimes it may be fishing for information it could later use to deny the claim.

Insurer tactics

Though these tactics are employed by insurers in both first-party and third-party contexts, it is often more pronounced with third-party policies. For example, most third-party liability insurance policies impose a duty to defend upon the insurer, meaning the insurer has an obligation to hire defense counsel to defend the policyholder against a lawsuit brought by a third party. When a policyholder provides notice of a third-party suit, the insurer should be focused on providing a legal defense. However, insurers sometimes agree to defend under a reservation of rights, while gathering information that could be used to deny a claim.

In this regard, an insurer may ask the policyholder questions that could elicit responses that are later used to rescind coverage. For example, many CGL policies do not cover bodily injury or property damage known to have occurred prior to the policy period or is expected or intended from the standpoint of the policyholder. If an underlying suit alleges bodily injury or property damage, but is unclear regarding the time frame, an insurer may inquire as to when the bodily injury or property damage first occurred or when the policyholder first had knowledge of the damage or injury. As a practical matter, defense counsel is often the go-between for the insurer and the policyholder.

An insurer may literally have millions of reasons (read: dollars) to try to avoid providing a defense or paying for a judgment or settlement of a third-party suit against a policyholder. If your insurer has not agreed to provide a complete defense, its interests may not be aligned with yours. This situation can also raise privilege issues: If the policyholder provides documents and information to the insurer, some courts have held that this can constitute a waiver of attorney-client privilege — another important consideration for policyholders to keep in mind when communicating with their insurers.

Policyholders that receive a request for information from their insurer should try to understand the purpose behind the request. Is the request for information material to the defense of the third-party suit or the coverage investigation? Does the request seek information seemingly unrelated to the claim or defense? If it’s the latter, beware: Your answer may provide the insurer with an escape from its coverage obligations.

Policyholders should be especially cautious regarding requests for information related to timing or the policyholder’s knowledge of specific events. Policyholders should review the coverage triggers and exclusions of their policies to better understand the purpose behind insurer requests for more information and avoid making statements that the insurer can later cite as an argument for why a particular exclusion should apply.

If an insurer threatens to argue that a policyholder has breached its duty to cooperate, the policyholder should know that under applicable law the insurer must demonstrate that it suffered prejudice, or even substantial prejudice, from the alleged breach. This is a high bar. Forewarned is forearmed: better understanding their duty to cooperate and the purpose behind insurer requests for information can help policyholders better protect their interests and avoid talking themselves out of coverage.

Tips for policyholders

Many policyholders misunderstand their relationship with their insurers. While an insurance policy does create a contractual bond between the policyholder and insurer, it is an arm’s-length relationship.

Depending on the policy limit, an insurer may literally have millions of reasons (read: dollars) to try to avoid providing a defense or paying for a judgment or settlement of a third-party suit against a policyholder. If your insurer has not agreed to provide a complete defense, its interests may not be aligned with yours. This situation can also raise privilege issues: If the policyholder provides documents and information to the insurer, some courts have held that this can constitute a waiver of attorney-client privilege — another important consideration for policyholders to keep in mind when communicating with their insurers.

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Insurtech Corvus offers cyber risk endorsement

Insurtech Corvus Insurance Holdings Inc. said it is introducing an endorsement to its Corvus Signal cyber risk prevention program, which it introduced in May. The endorsement reduces by 25% the self-insured retention for policyholders that use the security tools available in Corvus Signal, the company said.

The Boston-based insurtech said eligibility for the endorsement is determined during the underwriting process.

Aviation program manager partners with SiriusPoint

Aviation insurance specialist Air Cent-

turion Services Inc. said that from Aug. 1, SiriusPoint Ltd. will provide capacity for its programs.

Previously, units of James River Group Inc. provided capacity for the Santa Bar-

dara, California-based program manager, which started operations in 2016 and writes coverage for U.S. airlines and gen-

eral aviation policyholders.

Air Centurion will also increase its li-

ability capacity to $25 million from $20 million, said President Jason Niemela, in an email.

“Aviation capacity has been flat, but

many companies are starting to offer larger lines on risks, so our plan is for moderate growth over the next 12 months,” he said.

The company offers $3 million in phys-

tical damage capacity.

Insurtrust launches private-equity division

Specialty brokerage Insurtrust

launched a private-equity division, which will be headed by former Marsh LLC cyber leader Florence Levy.

The division will place coverage and offer risk management services, including digital and cyber risk management, to private-equity firms involved in frequent merger and acquisition transactions, the Norcross, Georgia-based unit of Star-

wind, a CRC Group company, said in a statement.

Ms. Levy joined Insurtrust as an execu-

tive vice president in March.

Coalition launches cyber scoring system

Managing general agent Coalition Inc.

announced a vulnerability scoring system to help risk managers mitigate potential cyber threats.

The Coalition Exploit Scoring System uses real-time monitoring and dynamic scoring to determine which vulnerabil-

ites to patch first, Coalition said in a statement.

The system uses artificial intelligence and large language modeling to scan descriptions used within newly released Common Vulnerabilities and Exposures — a database of publicly known infor-

mation security vulnerabilities — and

compares them with previously published vulnerabilities to predict the likelihood that a business will be exploited.

The scores generated by the system give IT and security managers a prioritization list outlining which vulnerabilities pose the greatest threat.

“Thousands of new vulnerabilities are published monthly, and it’s nearly impos-

sible for IT and security teams to quickly understand and address them all,” Tiago Henriques, Coalition’s head of security research, said in the statement.

The online system is already being used by Coalition to evaluate risks and notify policyholders about them.

Chubb offers quoting platform for cyber risks

Chubb Ltd. introduced Cyber Central, a quoting platform designed for agents and brokers that specialize in cyber risks.

The insurer said in a statement the plat-

form simplifies the process of quoting and issuing cyber technology errors and omissions and miscellaneous professional liability coverages on a stand-alone basis.

A spokesman said in a statement that

limits can vary depending upon the type of business, the security controls the busi-

ess has in place, and the types of coverage

desired by the business.

Insurtech offers excess tech E&O capacity

San Francisco-based insurtech

Embroker Inc. said it would offer excess technology errors and omission coverage with up to $5 million in limits through its digital platform.

The minimum attachment point for the excess coverage, which is available to wholesale brokers, is $1 million.

Embroker, which launched in 2015, is

supported by a panel of eight reinsurers.

Cowbell, Skyward partner on cyber insurance

Cowbell Cyber Inc. said it is partnering with Skyward Specialty Insurance Group Inc. to offer an expanded version of its cyber insurance program.

A spokeswoman for the Pleasanton,

California-based insurer said in a state-

ment that Cowbell introduced Prime 250 Cyber Liability and Prime Tech in 2020 for small and medium-sized enterprises with annual revenue of up to $250 million.

She said the strategic partnership with Houston-based Skyward Specialty “will broaden our appetite to underwrite com-

paines with revenue up to $500M imme-

diately, and in the near future write tech E&O insurance.”

Hub acquires seven Michigan agencies

Hub International Ltd. said it has acquired Troy, Michigan-based Project Motown Holding Co., an agency plat-

form that owns seven agencies.

Terms of the transaction were not dis-

closed.

The acquisition consists of Johnston

Lewis Associates Inc., Business Benefits Resource LLC, Joseph Aiello & Asso-

ciates Inc., T. Souphis Insurance Con-

sulting LLC, Custom Results Corporate Consulting, Creative Benefit Solutions and Health Insurance Consultants.

Project Motown has more than 60 em-

ployees.

Core Specialty makes medical stop-loss buy

Core Specialty Insurance Holdings

Inc. said it has formed a medical stop-

loss division by acquiring Standard Life and Accident Insurance Co., the medical stop-loss managing general underwriter unit of American National Group.

Jim Stelling, who most recently was an executive vice president at American National Insurance Co., will join Core Specialty as president of the division.

King Insurance Partners buys New Jersey agency

Gainesville, Florida-based King Insur-

ance Partners said Wednesday it has acquired Pavese-McCormick Agency Inc. of Monmouth Junction, New Jersey.

Pavese-McCormick provides personal and commercial lines coversages, includ-

ing property and liability lines as well as specialties including cannabis.

Berkley sells division to AssuredPartners unit

W.R. Berkley Corp. unit Breckenridge IS Inc. said it sold its insurance services division to Accretive Insurance Solutions, a wholesale and program management unit of AssuredPartners Inc.

In a statement, W.R. Berkley said it will recognize an estimated pretax net realized gain on investment of $86 million on the sale in the second quarter. Other financial details were not disclosed.

The division specializes in property/ casualty wholesale brokerage, contract binding and program administration, and

includes Breckenridge Insurance Services LLC and Breckenridge Insurance Group Inc., which does business as Breckenridge General Agency.
Denise Perlman

NEW JOB TITLE: Richmond, Virginia-based president of national business insurance, Marsh McLennan Agency

PREVIOUS POSITION: Richmond, Virginia-based executive vice president of business insurance and national partnerships, Marsh McLennan Agency

OUTLOOK FOR THE INDUSTRY: We’ve seen a gradual shift in the industry from a focus on loss recovery to predictive analytics. Analytics help to inform better decision-making to prevent losses before they happen and to mitigate severity when losses can’t be avoided. It’s no surprise that good risk management practices lead to a better overall experience and healthy financial outcomes.

GOALS FOR YOUR NEW POSITION: Further engagement with all Marsh McLennan businesses to build the best solutions for our clients.

CHALLENGES FACING THE INDUSTRY: Our team just did an analysis on this question. We identified the top five challenges that mid-market business leaders should be tracking this year — economic inflation, catastrophic risk, corporate governance, litigation and cyber risk. The impact of these trends includes higher costs for goods and services, supply chain disruptions, greater scrutiny of business practices, exposure to costly lawsuits and attacks on digital systems. Through robust risk management and effective risk transfer, organizations can protect their people and property as well as preserve opportunities for near-term and long-term growth.

FIRST EXPERIENCE: I started my career as an intern my junior year of undergrad at Essex Insurance Co. Upon graduation, I came back to Markel Corp. as a full-time employee. My first experience in the field was in business development for Markel’s Mid-Atlantic region.

ADVICE FOR A NEWCOMER: Ask questions, be naïve and take it all in. Build your network and seek a mentor.

DREAM JOB: Food critic.

COLLEGE MAJOR: Bachelor of science in business administration in marketing for undergrad and MBA for grad school.

LOOKING FORWARD TO: The opportunity to spend more time on strategic initiatives for our business insurance team, our offerings and, in turn, delivering more innovative solutions to clients.

FAVORITE MEAL: Anything Italian: chicken Parmesan, angel hair spaghetti and sausage, pizza.

FAVORITE BOOK: “Great Expectations"

HOBBIES: Gardening, golf (I just started and really like it) and tennis.

FAVORITE TV SHOW: “Ozark”

ON A SATURDAY AFTERNOON: Being active. Spending time with my husband, daughter and miniature schnauzer, going to the park with my daughter and planting flowers. Sometimes on the weekends, I work at my parents’ garden center and nursery we’ve had for 29 years.
Pickleball injuries could cost American insurers hundreds of millions a year, as insurance companies are reporting a surge in hip replacements, knee surgeries and other elective procedures, according to the Daily Mail.

The recent surge of interest in the sport of badminton-meets-tennis-meets-pingpong coincides with what UnitedHealth Group reports as a “higher-than-expected” frequency of injuries resulting in surgeries. UBS Group analysts say some of the uptick, resulting in surges in health care costs between $250 million and $500 million, is likely because the number of pickleball players increased by 159% in three years. Of those, around one-third are seniors who are playing at least eight times a year, according to the Daily Mail.

The most common injuries from what has been dubbed “America’s fastest-growing sport” include strains, sprains and fractures, with the wrist and lower leg being the most susceptible, Bloomberg reported.

LeBron James-backed pizza chain is hoping to score in court after another restaurant chain allegedly committed trademark infringement, SF Gate reported.

Mr. James, of the Los Angeles Lakers, is a part owner of Blaze Pizza, a company that filed a lawsuit against Blaze BBQ for operating under a similar name, the newspaper reported.

The suit alleges that Blaze BBQ is running its business with the same brand color scheme, using an identical restaurant points system, and offering pizza on its menu, according to the newspaper.

“Defendants’ acts ... were clearly calculated to confuse consumers into believing that Defendants’ goods and services originate with or are otherwise affiliated with or sponsored or endorsed by Blaze,” the lawsuit reads.

More American workers would rather have more days off than health insurance from their employer, according to a survey by Pew Research Center.

The Washington-based group surveyed 5,902 workers in February with questions about their current job, experiences in the workplace and workplace benefits. Approximately 62% of workers said it’s important to have a job that offers paid time off, compared with 51% of respondents who said having employer-paid insurance is the priority.

For workers who said their employer offers them paid time off for vacation, doctor’s appointments, or to deal with minor illnesses, 48% said they take all the time off provided, while 46% said they take less time off than what’s allowed.

Lawsuit filed against a Colombian airline over an injury caused by a beverage cart flew off course, as the plaintiff’s attorney, instead of combing through legal volumes for case law, used a chatbot to locate cases to cite in his legal brief.

Avianca Airlines attorneys later discovered that the cases don’t exist.

As reported by the New York Times, a federal judge confirmed the phony citations in a court filing regarding sanctions for the plaintiff’s lawyer: “Six of the submitted cases appear to be bogus judicial decisions with bogus quotes and bogus internal citations.”

The plaintiff’s lawyer admitted in affidavits that he had used OpenAI’s chatbot for his research and to verify the cases. He said he asked the chatbot if it was lying, according to the article.

He later attested that he “greatly regrets” the incident.

LeBron cries foul in food fight

Seventy-eight percent of travelers are likely to purchase trip protection for their summer excursions, which will likely come with infamously nonrefundable show tickets, according to a survey by Allianz Partners USA.

Theater shows and music festivals are topping travelers’ wish lists for 2023 summer travel plans, according to the survey of 5,000 consumers, which found that 60% of travelers are bracing for entertainment “after years of restrictions.”

As the travel insurance company points out, “some of the world’s most famous music stars are announcing upcoming world tours while Broadway show classics are roaring back to life via sold-out shows.”

According to Allianz Partners’ survey, 39% of customers are planning to attend a theater or show, while 21% are purchasing tickets for a concert or music festival.
TOP 100 BROKERS

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