ROBOTICS: Safety concerns rise as machines work alongside people - PAGE 4

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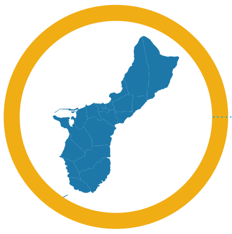

VIEW FROM THE TOP

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Industrial robot safety under scrutiny

BY CLAIRE WILKINSON
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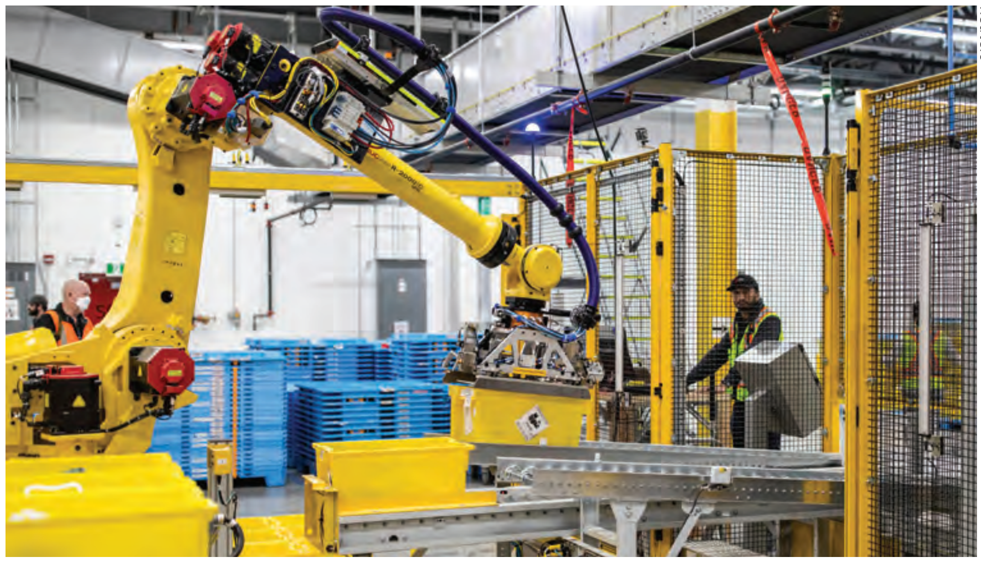


Reuters

The growing use of industrial robots by manufacturers in the automotive and other sectors has helped improve overall productivity and workplace safety, but companies need to assess the risks of individual robotic applications they deploy to ensure adequate safety protections are in place, experts say.

Collaborative robots, known as cobots, that interact directly with workers in a shared workspace are becoming more widely used at manufacturing facilities and require close monitoring and extra attention to safety.

Amazon.com Inc.'s use of robots in its warehouses in recent years has come under scrutiny, with analysis of U.S. Occupational Safety and Health Administration data by several news organizations suggesting a higher rate of serious injuries among its workers at locations where robots are deployed.

And a case in which a robot broke a 7-year-old boy's finger while they were playing chess during a tournament in Moscow in July illustrates how interaction between a robot and an individual in close quarters can result in injury.

A University of Pittsburgh study released in July found that robots may reduce workplace injury rates but noted that workers exposed to robots are more likely to suffer adverse mental health effects.

The belief is that there is greater efficiency and better productivity when humans and robots work together, said Brian Kramer, manufacturing industry practice lead at Hartford Financial Services Group Inc. in Hartford, Connecticut.

There is a wide range of robotic applications, including robotic arms that stack boxes on a pallet, versus a worker lifting those boxes; mobile robots that handle inventory retrieval, instead of manual picking and carrying; and cobots that perform repetitive and hazardous tasks, sometimes operating at a height with close precision, Mr. Kramer said.

Robots present unique exposures, but they also prevent workplace injuries, though this can be hard to quantify, he said.

In the past, robots were designed to be cordoned off from workers, but in the past 10 years that has transitioned to cobots and employees working in close proximity, said Daniel Hornback, Atlanta-based workers compensation/fleet LOB leader at Zurich Resilience Solutions, a unit of Zurich Insurance Group Ltd.

Over that time, sensors and other technology designed to prevent injuries have advanced, "whether it's a proximity device, or presence-sensing device that is able to recognize that a person has entered the space so (the robot) can slow down to a safe or a stop mode depending on how they are programmed," Mr. Hornback said.

The biggest safety concern is an employee entering the "envelope" or range of the robot, said Christina Villena, vice president of risk solutions at Hanover Insurance Group Inc., based in Worcester, Massachusetts. "If there's not some type of protection, whether it be a floor sensor or guardrail around the robot, there can be a collision-type injury with the employee," Ms. Villena said.

There have been some cases of employees pinned in areas by robots, but typically these occur during non-routine tasks, such as during maintenance or when adjustments are being made to the robot, she said.

OSHA found only 48 cases of robot-related accidents between 1984 and 2021, while National Institute for Occupational Safety and Health researchers identified 61 robot-related fatalities between 1992 and 2015 based on keyword searches of the Bureau of Labor Statistics' Fatal Occupational Injuries database. NIOSH researchers are in the process of updating this analysis, according to a spokeswoman.

Many people don't pay the respect to robots that they deserve, especially when it comes to safety, said David Barry, Overland Park, Kansas-based national director for casualty risk control at Willis Towers Watson PLC.

"All robots know is to complete a program. Unfortunately, people will mistakenly enter areas where robots are because they don't have the training and processes in place to know the lockout tag standard applies to robots," he said (see related story).

Problems can also arise when the programming of a machine is incorrect, Mr. Barry said. "I've seen some situations where advanced electronic safety devices like light curtains or proximity sensors or interlocks on doors will be part of a machine process, but won't necessarily be interlinked with the robot, so somebody could trip a light curtain and the robot will continue with the work process," he said.

Many employers struggle to ensure that their safety procedures and devices work well together to stop a machine if a sensor is tripped, Mr. Barry said.

When it comes to workplace accidents involving robots, many relate to workplace design and human interface, said Edmund Cordova, Houston-based senior risk control consultant at Lockton Cos. LLC.

"If we go back and talk about different events, more often than not they can be attributed to human error, control issues, unauthorized access, mechanical hazards and environmental hazards," Mr. Cordova said.

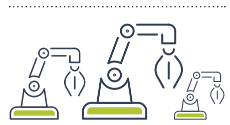
With cobots the process, quota and speeds with which work is conducted speed up, which can lead to injuries that aren't necessarily robot-related, he said.

There are currently no specific OSHA standards for the robotics industry, though various safety guidelines and manuals are provided online, experts said.

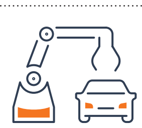
Other entities, including the American National Standards Institute, the International Organization for Standardization and the Robotics Industry Association, provide general standards related to robotics and safety.

BY THE NUMBERS

Data from the nonprofit International Federation of Robotics shows:



More than **300,000** industrial robots are in operation in the U.S. and more than **3 million worldwide**.



The **automotive sector** drives the demand for industrial robots in the U.S., accounting for 10,494 of the 31,000 units installed in 2020, followed by the electrical/electronics and food sectors.

Robot density in manufacturing in the U.S. is **255 per 10,000 workers**.

TRAINING, RISK APPRAISAL CUT CLAIM FREQUENCY

Employee training and risk assessment are critical in preventing robotics-related workplace injuries, experts say.

Training is essential for any employee who will be working near robots, said David Barry, Overland Park, Kansas-based national director for casualty risk control at Willis Towers Watson PLC.

"You can't take for granted that everybody understands how a robot works, what their limitations are and what the expectations are for safety," Mr. Barry said.

Employee tenure matters, said Brian Kramer, manufacturing industry practice lead at Hartford Financial Services Group Inc. in Hartford, Connecticut.

"When Hartford looks at its own data, we know less-tenured employees, those with one year experience or less, drive about a third of claim frequency across our manufacturing portfolio. That comes down to training," he said.

Risk assessment is also critical, Mr. Kramer said. Hartford's risk engineers work with manufacturers to assess the risks and potential outcomes of deploying robots, he said.

Robotics manufacturers will have best practices for a safety and maintenance protocol for a specific type of robot, said Christina Villena, vice president of risk solutions at Hanover Insurance Group Inc., based in Worcester, Massachusetts.

Hanover also partners with third-party companies to help determine best practices when designing risk mitigation for a specific robot in a workplace, Ms. Villena said.

"We provide that service at no cost to policyholders," she said.

Claire Wilkinson

Assailant coverage evolves as shootings rise

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Interest in active assailant insurance coverage has risen among an expanding range of organizations in the wake of several recent mass shootings.

Most demand comes from businesses and organizations in the United States, which has seen high-profile shootings in New York, Texas, Illinois and elsewhere over the past several months. U.S. policyholders account for 80% or more of the coverage bought, experts say.

The insurance products, which were often called active shooter policies when they were launched about seven years ago, have been expanded and wider definitions applied as attackers employed different methods including knife and vehicle attacks.

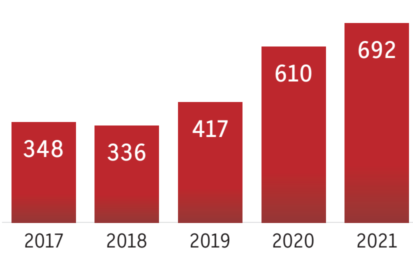
There is "absolutely" more interest in this coverage, said Morgan Shrubb, New York-based head of terrorism for Axa XL, a unit of Axa SA. Her team now offers active assailant coverage on all of its quotes for terrorism insurance and the take-up rate has doubled this year, she said.

Beazley PLC deployed a team of four people in the U.S. earlier this year to market its active assailant insurance product and inform potential policyholders and brokers, said Chris Parker, head of terrorism and deadly weapon protection for the insurer in London.

"It's never been busier," Mr. Parker said. With mass shooting numbers increasing in the U.S. every year, "there's more interest in the product," with both inquiries and binding up, he said.

ACTIVE SHOOTING INCIDENTS

NUMBER OF MASS SHOOTINGS



Source: The Gun Violence Archive

Reuters

A memorial at Robb Elementary School in Uvalde, Texas, to the 19 children and two teachers killed in a May 24 mass shooting. Purchase of active assailant coverage has grown for a variety of organizations, including schools.

Policy language varies, but exposures covered by the insurance can include property damage — in some cases including rebuilding costs of schools or other buildings demolished after an event — business interruption, legal liability, loss of attraction or access and various response-related costs. There is no standard coverage form used by the market (see related story).

Purchased limits in the range of $1 million to $2 million were available when the Beazley coverage was introduced in 2016, but the average limit has risen to between $3 million and $5 million, Mr. Parker said. The largest limit available — incorporating nearly every underwriter in the market — is $100 million, which Beazley writes for two policyholders, he said.

Aspen Insurance Holdings Ltd. offers a maximum limit of $25 million, and the average limit purchased is $7.8 million, said Tim Strong, London-based head of crisis management at the insurer.

Mr. Strong said that inquiries and submissions usually rise by about 15% to 20% after an event, "but given the steady frequency of events in the U.S., submissions counts have been pretty constant," he said.

Interest in Hiscox Ltd.'s active shooter and malicious attack coverage has grown along with the increase in attacks, said Atlanta-based Elise Barton, head of war, terrorism & malicious acts at Hiscox USA.

> "In the past six months in particular, there's been a real increase and divergence in the types of clients which are asking about and binding the coverage."
>
> Jo Holliday, Willis Towers Watson PLC

The types of organizations looking at active assailant covers are also widening. When the coverage was first offered, many of the buyers were schools, municipalities and other public entities, sources say. More recently, interest has grown in the corporate sector, said Jo Holliday, managing director and global head of crisis management for Willis Towers Watson PLC in London.

"In the past six months in particular, there's been a real increase and divergence in the types of clients which are asking about and binding the coverage," she said.

Beazley's Mr. Parker said there is no category of industry where an organization has not bound coverage.

Historically, municipalities and schools had been the buyers of coverage from Axa XL, but the coverage is increasingly being bought by private sector companies, Ms. Shrubb said. Those buying active assailant insurance include apartment building owners, condominium associations, hotels, retailers and entertainment companies, she said.

The broad interest reflects how many locations are potential targets, including religious organizations and others, said Hiscox's Ms. Barton.

The risk management community is also showing growing concern and awareness of the issue.

"As risk managers, I think it's important for us to bring these topics up to our executives," said Kristen Peed, corporate director of risk management at Cleveland-based CBIZ Inc. and a board member of the Risk & Insurance Management Society Inc.

"We need to have proper training for our employees to know how to react if faced with this," she said. "We can't ignore what's going on because the events are happening it feels like on a more regular basis, so we are forced to look at and address the risks."

RIMS has an active shooter report and is increasingly incorporating programming on active assailant issues into its events and educational efforts, according to a spokesman for the organization.

As with other property market coverages, the cost of active assailant coverage has increased, said Jennifer Rubin, New York-based head of terrorism for Liberty Specialty Markets, a unit of Liberty Mutual Insurance Co., which offers the cover as a sublimit of war and terrorism policies.

The market for active assailant coverage is smaller and less mature, making it less available and thus subject to higher rates, she said.

LACK OF STANDARDIZED FORMS, EXCLUSIONS A CHALLENGE FOR BUYERS

The active assailant insurance market is still in its early stages, and there remains a lack of standardization in policy language and forms among insurers, experts say.

"Carriers' offerings are all differentiated; there is no standardized form," said Morgan Shrubb, New York-based head of terrorism for Axa XL, a unit of Axa SA.

Insurers have different definitions of coverage and triggers, and policy terms and language are frequently updated as the market evolves, Ms. Shrubb said. "It's still such a new product in the marketplace, that markets are still adjusting and evolving their wording," she said.

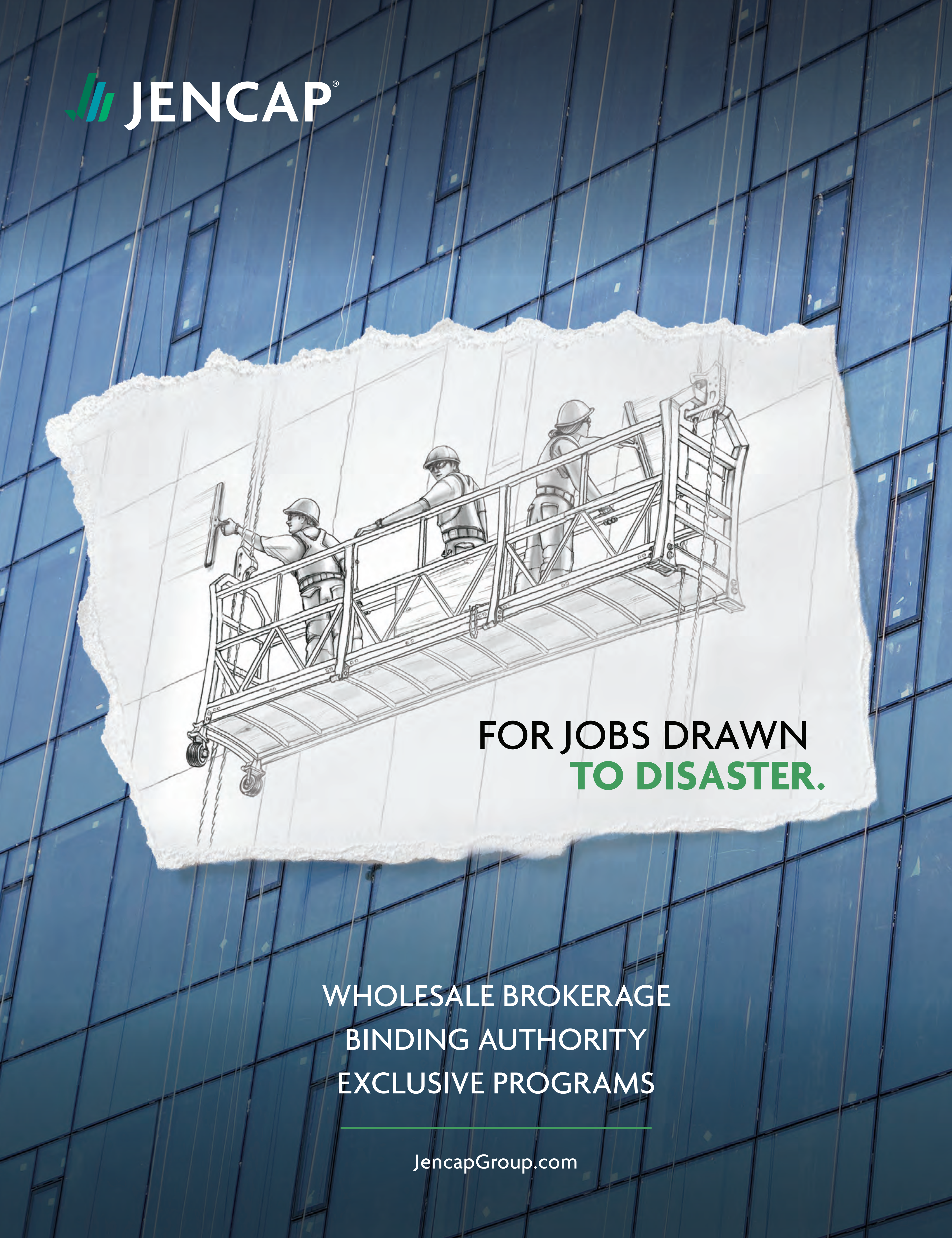
Organizations should be careful when choosing insurance products because of the differences in policy language — including exclusions — among the various forms in the market, said Kristen Peed, corporate director of risk management at Cleveland-based CBIZ Inc.

"Risk managers should really be aware of those differences and exclusionary language and make sure to purchase the right type of coverage for their business," she said.

Building a larger, more established market to allow brokers and policyholders to better and more quickly understand their choices will likely require greater standardization of language and terms, said Tim Strong, head of crisis management in London for Aspen Insurance Holdings Ltd.

"To take the market forward will require more syndication," he said.

Matthew Lerner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NEWS ANALYSIS

Laws barring noncompete clauses spreading

BY JUDY GREENWALD
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Colorado is the latest state to enact a law curbing noncompete and nonsolicitation agreements, but it will not be the last, experts predict.

H.B. 22-1317, "Concerning Restrictive Employment Agreements," was signed into law in June and took effect Aug. 10. It eliminates noncompete agreements for employees earning less than $101,250 a year and provides for the protection of trade secrets.

The law, which is prospective, also applies to customer nonsolicitation agreements unless they are entered into by someone who earns at least 60% of the threshold for highly compensated workers, or $60,750. Workers must also be provided notice of the law before they accept employment.

Companies that apply noncompetes that do not meet statutory requirements are subject to penalties of $5,000 per worker.

> "It's always a difficult balance, with employers seeking to protect their business, trade secrets and goodwill on the one hand, and on the other the employee's right to work freely wherever they choose."
>
> Amber Gonzales,
> Crowell & Moring LLP

The new law is more stringent than the one it replaced, under which noncompetes could, for instance, be used to recover the expense of educating an employee who worked for the employer for less than two years.

Colorado employers have expressed frustration with the new law, said Carrie Hoffman, a partner with Foley & Lardner LLP in Dallas. "Nobody likes being told when they're about to hire someone" that that person does not make enough to be eligible for a noncompete, she said.

While some complain the law is vague, Ms. Hoffman said, "Employers at least know what they can and cannot agree to."

Ms. Hoffman said also the $101,250 a year salary threshold can be a challenge in cases involving lower-level salespeople.

The Colorado law "falls within a trend that has been occurring within the states to set wage floors for noncompetes," said Erik W. Weibust, a partner at Epstein

Becker Green P.C. in Boston.

Experts say the Colorado law falls in the middle of the pack in terms of its stringency among the states that have enacted similar legislation.

They note, however, that Colorado sets itself apart with another law, which became effective in March, that criminalizes restrictive covenants, including noncompetes; the misdemeanor carries a $750 fine per violation, possible punishment of 120 days in prison, or both.

To date, Illinois, Maine, Maryland, Massachusetts, Nevada, New Hampshire, Oregon, Rhode Island, Virginia, Washington and Washington D.C. have all enacted noncompete measures.

More states are expected to address the issue, according to experts, who recommend that multistate employers be careful to comply with each state's laws (see sidebar).

Ms. Hoffman said Democratic-leaning states are more likely to enact such legislation.

Observers say that while President Biden issued an executive order in July 2021 ordering the Federal Trade Commission to explore the issue of noncompetes, there has been little federal action so far on the issue.

Legislative activity in the area of noncompetes will likely remain focused on the state level for at least the next four to five years, said Jeanne Fugate, a partner with King & Spalding LLP in Los Angeles.

Observers say insurance brokers are among the types of business most likely to be affected by the laws.

Numerous brokers have sued former employees who joined rivals in the past several years. In August, for instance, Marsh LLC filed a poaching lawsuit against Lockton Cos. LLC and the official who led its special purpose acquisition company group, charging violation of noncompete agreements and solicitation of Marsh clients.

Other industries most affected by the laws include health care organizations, financial advisers and data-oriented companies.

"It's always a difficult balance, with employers seeking to protect their business, trade secrets and goodwill on the one hand, and on the other the employee's right to work freely wherever they choose," said Amber Gonzales, a litigator with Crowell & Moring LLP in Denver.

> "Employers at least know what they can and cannot agree to."
>
> Carrie Hoffman,
> Foley & Lardner LLP

States updating their restrictive covenant laws often do not want to eliminate noncompetes but also want to avoid having individuals railroaded by them, said Eric Barton, a partner with Seyfarth Shaw LLP in Atlanta.

Pointing to the salary restrictions, Bennett Pine, a shareholder with Anderson Kill in New York, said, "It's one thing to restrict an executive making $500,000. It's another thing to prevent a file clerk making $35,000 a year from going to a competitor."

EMPLOYERS MUST EXAMINE, TRACK AGREEMENTS

Colorado employers should review their noncompete agreements in light of the law that went into effect last month, experts say.

And, with several other states having enacted their own noncompete laws, multistate employers should ensure they meet the legal provisions of each state in which they operate.

The Colorado law "shines a hard light" on what is and is not a trade secret, said Mary L. Will, deputy counsel with Faegre Drinker Biddle & Reath LLP in Denver.

"Many employers think they have trade secrets, and sometimes they may not," she said. They are "going to have to have their ducks in a row in terms of what they want to protect."

Multistate employers should introduce tracking mechanisms to ensure they're familiar with each relevant state law and what to do in response, said David C. Roth, an associate with Fisher Phillips LLP in Denver.

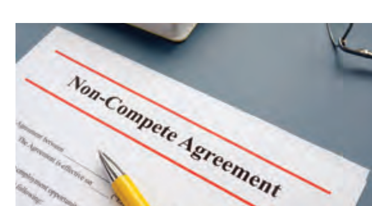
Ms. Will noted, for instance, that a March ruling by the 5th U.S. Circuit Court of Appeals in New Orleans in *Rouse Enterprises LLC v. James B. Clapp II* said employers cannot have candidates sign noncompete agreements before they are actually employed.

But the new law in Colorado, which is not in the 5th Circuit's jurisdiction, calls for agreements to be signed before candidates start work.

"Employers need to get creative about how to impose restrictions to protect themselves against individuals" in whom they have made significant investments, or who have been allowed access to trade secrets, to protect themselves against such employees leaving, said Maxwell N. Shaffer, a partner with Holland & Knight LLP in Denver.

Some noncompete agreements he has reviewed are "lazy and generic," Mr. Shaffer said.

Judy Greenwald




CRC Group
PODCAST

COVID workers comp legislation trails off

BY LOUISE ESOLA
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This year's dearth of enacted COVID-19 legislation that would affect workers compensation is an indication that lawmakers have lost their appetite for measures to address the pandemic's effect on worker infections, insurance experts say.

In particular, workers comp presumptions for COVID-19 appear be to waning. And the U.S. Centers for Disease Control and Prevention has substantially loosened its guidance on preventing infections (see related story).

Steve Bennett, Washington-based assistant vice president for workers compensation programs and counsel for the American Property Casualty Insurance Association, said "there's no reason" for COVID-19 presumptions in most cases, especially as workers are no longer facing lockdowns.

"In 2020, there were a lot of quarantines; people were not going anywhere. But certainly in 2022, people are in their social mix. They are going on vacations or going to wedding receptions or parties, and just living their life now," he said.

"It's really hard to say if you get a contagious disease that it was not at the party, sporting event, concert or dinner party you attended, that we are going to presume it was work-related," he said.

Last year, states passed 13 bills related to workers compensation, workplace safety and COVID-19, following a wave of legislation approved in 2020, according to legislative analyses by the National Council on Compensation Insurance. Most of the new laws were presumptions.

While this year saw a similar push, with more than a dozen bills introduced nationwide, only four have passed; most extend previously enacted presumptions and other measures, and one deals with comp rates, according to a mid-year NCCI report.

Five states introduced legislation for presumptions for infectious diseases but none have gained traction, according to legislative records.

Laura L. Kersey, executive director of regulatory & legislative analysis for the Boca Raton, Florida-based NCCI, said that as of August only two states — Minnesota and Virginia — had enacted COVID-19 presumptions this year. A few states are still in session and have COVID-19 workers compensation legislation pending, she said.

Presumptions, which the insurance industry typically opposes, had a place early in the pandemic, Mr. Bennett said.

"Most of the presumptions that passed in 2020 and 2021 were very reasonably limited to health care providers and first responders," he said.

Brian Allen, Salt Lake City-based vice president of government affairs, pharmacy solutions, for Mitchell International Inc., a subsidiary of Enlyte Group, said lawmakers also learned that some of the legislative pushes were unnecessary.

"Over the last two years, we've had some time to see how the presumption laws work, and in states without presumption laws how COVID claims have been handled. What we found was evidence that the workers comp system has actually worked fairly well even without a presumption for COVID," Mr. Allen said.

Most of the presumptions were rebuttable, and in some states this led to between 30% and 50% of claims being denied, according to data from several states.

In 2020 and 2021, 18 states established COVID-19 presumptions through legislation, directives, emergency rules and/or executive orders, according to the NCCI. Two additional states — Tennessee and Washington — established a more general "infectious disease presumption."

"The experience of COVID has taught us that, first of all, the workplace fears were probably a little bit exaggerated, and, secondarily, a lot of things were in place to help mitigate the impact," Mr. Allen said, pointing to a variety of workplace safety measures mandated by both federal and local agencies.

According to NCCI data, COVID-19 infections among workers were minor for the most part.

Mr. Allen said states are managing COVID-19 infection surges and new variants with less-restrictive regulations, as opposed to laws, as regulations are easier to manage in terms of expiration dates and other parameters.

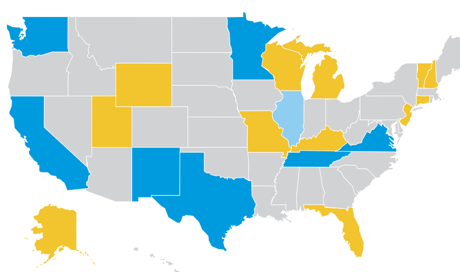
Still, those working to better understand the implications of long COVID say employers and the workers compensation industry will be dealing with myriad health issues related to the pandemic for years to come. It has been estimated that upwards of 30% of those who get COVID will have longer term health problems that include cardiovascular and neurological symptoms.

"People want to be done with COVID and, unfortunately, they're not," said Terri Rhodes, CEO of the San Diego-based Disability Management Employer Coalition, which has created a think tank of medical professionals, employers and workers comp insurance executives to study ways to manage long COVID. The NCCI is also studying long COVID and plans to release a report on it.

Ms. Rhodes said long COVID disability data is "staggering" and that "employers are going to have to accommodate individuals if they can."

COVID-19 PRESUMPTIONS

Several of the COVID-19 presumptions that were enacted or adopted in 2020 and 2021 have expired. Other states have enacted, or are considering legislation, to extend their presumptions. Seven states had a COVID-19 or infectious disease presumption in effect as of June 1, 2022.



- Presumption expired
- Presumption still in effect
- Presumption may still be in effect*

*Exposure/contraction of COVID-19 on or after March 9, 2020, and on or before June 30, 2021.

Source: Based on NCCI data

CDC GUIDANCE ALLOWS EMPLOYERS TO EASE UP ON DISEASE PRECAUTIONS

The U.S. Centers for Disease Control and Prevention last month overhauled its guidelines on COVID-19, giving employers the green light to scale back quarantines and other measures many enforced rigidly for fear of legal repercussions.

Specifically, the CDC is now saying those who do not have symptoms but were exposed to someone with COVID-19 no longer need to quarantine; that vaccinated and unvaccinated individuals are to be treated the same when it comes to quarantines; that people who test positive for the virus can end their quarantine after five days; and that COVID-19 screening tests used to catch asymptomatic infections are no longer recommended "in most community settings."

The Occupational Safety and Health Administration as of late August had yet to make any changes to its COVID-19 guidance since Aug. 13, 2021. OSHA, which typically follows the CDC's lead, said on its website that updates will be forthcoming.

Workplace safety legal experts say employers should follow the CDC, along with local guidance.

"Because OSHA's guidance is premised on the CDC's recommendations, the agency will be forced to acknowledge the significant change, even if it takes OSHA a period of time to update their guidance," said Andrew C. Brought, a Kansas City, Missouri-based attorney with Spencer Fane LLP. Employers following the CDC guidance "will be able to demonstrate that they are providing a workplace free from recognized hazards," he said.

That's vital, experts say, as OSHA has in the past two years cited employers under the catch-all general duty clause, which calls for employers to maintain a safe workplace. Following OSHA's guidance on COVID-19 has met the bar for a safe workplace, experts said.

The latest news may cause some confusion for employers, according to Jenifer Bologna, a White Plains, New York-based attorney for Jackson Lewis P.C.

"Absent some specific state or local rule or standard, employers have very limited other guidance. So employers are best off trying to follow some layered prevention standards along with the CDC," she said.

Given the realities of COVID-19, "we're going to be living with it," she said.

Louise Esola

NEWS ANALYSIS

Catastrophe threats limit cover for old roofs

BY CLAIRE WILKINSON
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Insurers are increasing their scrutiny of the age and condition of commercial building roofs and imposing more restrictive terms under property policies.

Commercial buildings with older roofs that haven't been updated and those located in regions exposed to windstorms, severe convective storms and wildfires are seeing insurance coverage for roof damage limited by a variety of policy provisions, experts say.

And coverage restrictions have accelerated in the wake of numerous named windstorms, tornados and hail events in recent years, according to several brokers.

Properties located in the south Florida tri-county region, comprising Broward, Miami-Dade and Palm Beach counties, are seeing the most restrictive roof coverage in policies, said Jeff Buyze, Fort Lauderdale, Florida-based national property practice leader at USI Insurance Services LLC.

Changes include covering older roofs on a depreciated, actual cash value basis rather than on a replacement cost basis, Mr. Buyze said. Initially, this applied to roofs that were more than 15 years old, but insurers are now limiting payouts to actual cash value on buildings with roofs that are just five years old, he said.

The definition of roof covering has also broadened to include roof decking, so that any damage to decking falls under the quote on roof covering, he said.

"Picture a 10,000-square-foot commercial real estate building. … The delta between replacement cost and actual cash value is quite often massive. You could be talking about hundreds of thousands of dollars," Mr. Buyze said.

Occupancy classes seeing more restrictive roof terms include habitational accounts and public entity business, especially municipalities and school districts, said Peter Fallon, national property practice leader at brokerage Risk Strategies Co. Inc. in Boston.

"It's those accounts where … they just haven't put the money into the maintenance to make sure their roofs can withstand hail and wind damage, so underwriters are saying, 'We are going to have to do something,'" Mr. Fallon said.

Tighter roof terms are affecting admitted as well as non-admitted risks, he said. "We're seeing it in the standard market, too," he said.

Changes tend to be dependent on roof age, especially those that are more than 15 years old, Mr. Fallon said. Where coverage applies on an actual cash value basis, insurers may also impose a surcharge and a higher deductible, he said. Insurers may also add component deductibles to reflect an additional exposure such as water damage, he said.

Underwriting scrutiny based on roof materials is a focus in areas exposed to windstorm, hail and wildfire, said Michael Korn, global property and marine leader at EPIC Insurance Brokers in San Francisco.

> "Picture a 10,000-square-foot commercial real estate building. … The delta between replacement cost and actual cash value is quite often massive. You could be talking about hundreds of thousands of dollars."
>
> Jeff Buyze, USI Insurance Services LLC

In the case of wildfire, underwriters are concerned that embers can travel miles from a wildfire and land on a combustible roof and start a fire in a different area, Mr. Korn said.

Many roofs on buildings in California are constructed of wood or with shingles, he said.

Valuations are increasing to help cover the rising costs of roofs and to ensure buildings are insured to value adequately, said Randy Doss, Houston-based senior broker at CRC Insurance Services Inc.

"Let's say the norm five years ago was $65 a square foot for frame buildings. Nowadays they're up to $100 or $110 per square foot for frame buildings to kind of offset some of those roof costs," Mr. Doss said.

Variations in building codes in different states and problems with roofing contractors in certain states might also affect the terms that are available, he said.

Values overall have become a focal point for the market, specifically on roofs in high-hazard zones that are subject to the vagaries of wind, rain and water damage, said Henry Daar, Chicago-based executive vice president and head of property claims at Willis Towers Watson PLC.

"Carriers don't want to pay for the same thing twice or three times," Mr. Daar said.

In the case of a roof that has been previously subject to loss but hasn't been repaired, insurers will either exclude from coverage pre-existing unrepaired damage or limit what they cover to a percentage of the damage, he said.

Other clauses limit the amount insurers will pay out for so-called cosmetic damage to a roof — for example if a hailstorm results in pock marks but is not determined to have caused loss of structural integrity, he said.

Roof claims can be costly and based on the roof composition and building structure run the gamut anywhere from a $25,000 loss to a $5 million loss, Mr. Daar said.

INSURERS ENLIST ARTIFICIAL INTELLIGENCE TO BETTER GAUGE STRUCTURAL RISK

Advances in technology are helping underwriters better analyze and understand roof exposures, experts say.

Insurers are using new tools to evaluate the conditions of roofs, not just as a snapshot, but over a period of time, said Jeff Buyze, Fort Lauderdale, Florida-based national property practice leader at USI Insurance Services LLC.

They are incorporating satellite imagery and artificial intelligence to identify certain conditions, such as ponding; where a roof has been patched; tree overhang; and if there are solar panels or other equipment present, he said.

"Technology is playing a big role in helping carriers assess what they're exposed to," Mr. Buyze said.

In the 30 years since Hurricane Andrew, building codes have been improved, and much has been learned about the structures of buildings, how different types of roofs respond to wind and wind-driven rain, and how they can be strengthened, said Robert Tull, Philadelphia-based assistant vice president, lead property consultant, global risk solutions, at QBE North America.

By using an enhanced version of Google Earth Pro, QBE can tell if water is ponding on a roof, if there is discoloration due to debris, or if there is venting that would be susceptible to wind-driven rain, Mr. Tull said.

Policyholders are encouraged to have their roof inspected by a professional at least once a year to look for deterioration of the roof covering itself, to check whether the flashing needs any repairs, and to see if drains are clear and operative, he said.

Underwriters are getting creative and doing things they haven't done before to understand better what their exposure is, said Peter Fallon, national property practice leader at brokerage Risk Strategies Co. Inc. in Boston.

They are using technology, such as drones, to gain an aerial view of a roof's condition and in some cases pulling construction permits to see what kind of work may have been done to a roof and to check for repairs, he said.

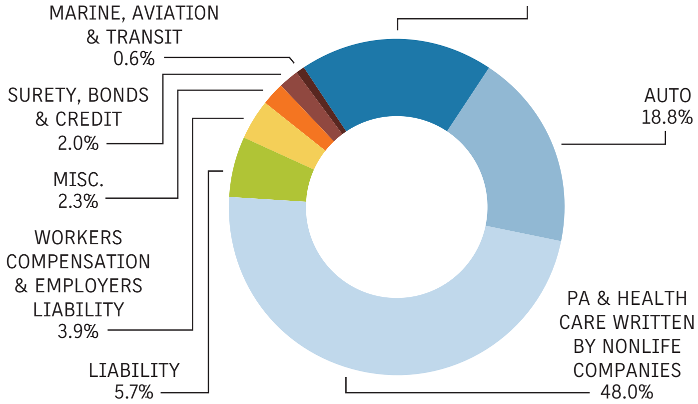
Claire Wilkinson

PROFILE: GUAM

108
GLOBAL P/C MARKET RANKING

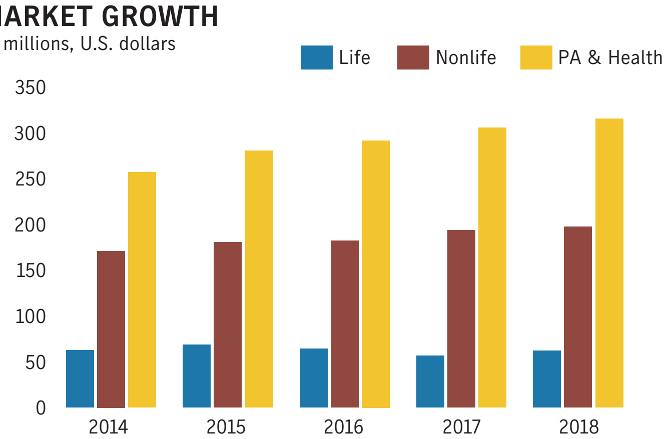
Both the overall economy and the nonlife insurance market in Guam are dependent on the buildup of the U.S. military presence on the island and on tourism. There is no notable manufacturing industry in Guam, although insurance of utilities involves large risks of industrial dimensions. Although local property underwriting capacity is not particularly extensive, underwriters try to avoid placing facultative reinsurance in the international market to keep primary property insurance pricing as low as possible. Major utilities and leisure facilities such as hotels and shopping malls are routinely reinsured in the European and London markets, and reports suggest the latter remains negatively influenced by the typhoon risk, although there have been no major super typhoon events in Guam since 2002.

MARKET SHARE



MARKET GROWTH

In millions, U.S. dollars



Source: Axco Global Statistics/Industry Associations and Regulatory Bodies

AREA

210

square miles

POPULATION

169,086

MARKET CONCENTRATION

77.91%

market share of top five insurers

2022 GDP CHANGE (PROJECTED)

N/A

MARKET DEVELOPMENTS

Updated August 2022

- The effects of the COVID-19 pandemic on the local nonlife insurance market are not yet fully known. As Guam is a major tourist destination, with a number of locally situated multinational hotel groups — some of which carry global coverage in addition to locally issued policies — future business interruption claims cannot be ruled out. As far as the local market is concerned, the general principle is that a material damage loss must precede any business interruption claim, so that major business interruption losses affecting insurance placed in the local market are considered to be unlikely.
- Public Law No 35-65 made changes to compensation rates payable for occupational injuries and diseases. The law also states that compensation rates will be automatically adjusted in accordance with changes in the minimum wage.
- Bill 112-26, introduced in April 2021, aims to reduce time delays caused by mandatory arbitration prior to presenting a medical malpractice lawsuit. The bill would replace the mandatory three-person arbitration panel with a simpler procedure of allowing a local magistrate to confidentially examine prospective claims. It is argued that this would reduce the preliminary costs of patient accessibility to legal recourse. The medical community is strongly opposed.
- The military buildup in Guam entails a partial redeployment of U.S. marines based in Okinawa, Japan. The transfer of 5,000 marines from Okinawa together with an estimated 1,300 dependents, as well as other government workers, is forecast to increase the island's population by 7,000 to 9,000 by 2028.

COMPULSORY INSURANCE

- Auto third-party liability
- Workers compensation
- Professional indemnity insurance for life, accident and health insurance brokers.

NONADMITTED

By law insurers must be locally licensed to carry on insurance business in Guam. However, there is nothing in the law to indicate that insurance must be purchased from locally licensed insurers, with some exceptions. This is generally interpreted to mean that insurers can issue policies from outside the territory, with exceptions, if approached by an out-of-territory intermediary or directly by the buyer.

INTERMEDIARIES

Local brokers and agents are required to be locally licensed to do insurance business. They are not permitted to place business with nonadmitted insurers, with some exceptions. Overseas intermediaries can be involved in the placement of local insurance business after obtaining a nonresident producer license.

MARKET PRACTICE

Most businesses obtain their coverages in Guam other than risks such as professional indemnity, public utility, airport liability, and large and specialized risks.

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

Marsh files poaching suit against Lockton

■ Marsh LLC filed a poaching lawsuit against Lockton Cos. LLC and the official who led its special purpose acquisition group, charging violation of noncompete agreements.

Lockton announced in July that it had recruited Machua Millett as chief innovation officer and alternative investment practice leader in its financial services group. He was previously chief innovation officer, FINPRO U.S., at Marsh.

Mr. Millett signed several agreements with Marsh between 2010, when he joined the brokerage, and this year that restricted him from soliciting certain Marsh clients for a one-year period after his separation from the brokerage and prevented him from using or disclosing Marsh's confidential information, according to the lawsuit filed Aug. 5 in U.S. District Court in New York in *Marsh USA Inc. v. Michael Machua Millett and Northeast Series of Lockton Cos. LLC.*

The lawsuit charges that after he resigned from Marsh in June, Mr. Millett immediately began soliciting its clients, using confidential information he learned at Marsh on Lockton's behalf.

The lawsuit charges that Lockton's "modus operandi" is to poach employees from its direct competitors, and that it has been a defendant in "dozens of lawsuits" by Lockton competitors that have made similar allegations since 2006.

The lawsuit charges Mr. Millett with breach of contract and fiduciary duties, Lockton with tortious interference with contract and both defendants with tortious interference with existing and prospective business relationships and unfair competition.

Loyola students can pursue COVID case

■ A federal appeals court reversed a lower court and held in a divided opinion that students at Loyola University in Chicago can pursue breach of contract litigation in connection with the COVID-19-related cancellation of their in-person classes.

Students filed a putative class-action lawsuit in U.S. District Court in Chicago against the university for breach of contract and unjust enrichment, seeking a refund of tuition and fees for the portion of the semester that took place remotely, according to the ruling by the 7th U.S. Circuit Court of Appeals in Chicago in *Andrea Gociman et al. v. Loyola University of Chicago*.

Full-time students who attended classes on campus paid $1,050 to $1,383 per credit hour while online students paid $693 per credit hour, according to the lawsuit.

The district court granted the university's motion to dismiss the complaint, holding the students' claim for breach of contract failed because it was barred by the "educational malpractice" doctrine and that the students "fail to allege a specific contractual promise for in-person instruction."

The majority concluded that the students were not making educational malpractice claims because they did not challenge the quality of their remote education. It also concluded they had sufficiently pleaded breach of contract.

"To begin, Loyola's 2019-2020 catalog indicates that many courses will take place in-person and identifies specific rooms on campus. … Loyola's online registration portal likewise supports a reasonable inference of in-person instruction," it said in remanding the case for further proceedings.

The dissenting opinion stated the course catalog and online portal "indeed contain language suggestive of in-person instruction but nothing definite enough to amount to a contractual guarantee."

Alpharetta says Argo destroying its business

■ A lawsuit filed in state court in Georgia charges Argo Group with first undermining and then competing with its former construction program manager, leaving it "dead in the water."

In 2016, Alpharetta Underwriters LLC, which specializes in underwriting complex coverage for the construction industry, entered into a program administrator agreement with an Argo Group US Inc. subsidiary that included a mutual exclusivity provision that could be terminated or materially changed only for certain reasons and with 180 days' notice, according to the lawsuit filed in Atlanta. The case is *Alpharetta Underwriters LLC and Venbrook Group LLC v. Argonaut Management Services Inc. et. al.*

In 2012, Alpharetta began to explore the possibility of selling itself. After Argo opted not to make a bid for Alpharetta, Venbrook Group LLC said in November 2021 it had purchased the business for an undisclosed amount.

Before purchasing Alpharetta, Venbrook received Argo's assurance that it did not anticipate any changes that would materially impact Alpharetta's underwriting results, the lawsuit said.

But in early 2022, Argo "undertook a series of actions that destroyed Alpharetta's business" when it sought to "unilaterally impose commercially unreasonable changes to Alpharetta's underwriting guidelines."

These included moving from having no restriction on writing coverage for tract homes to limiting the total to 25, when Argo knew that most, if not all, new housing projects have more than 25 units, the lawsuit said.

When Alpharetta protested the changes, stating they would likely destroy its business, Argo "retaliated by sending a letter purporting to terminate" the program administrator agreement.

Then in mid-June Alpharetta learned Argo was marketing middle-market construction business "on its own, under the guise of 'Argo Construction,'" the lawsuit said.

The suit charges the Argo units with breach of contract, indemnification, promissory estoppel, unfair competition and unfair or deceptive acts or practices and negligent misrepresentation.

Paramount, insurer settle COVID case

■ Paramount Pictures Corp. has settled its coverage litigation with a Chubb Ltd. unit over COVID-19-related delays in the production of the movie "Mission Impossible 7."

Details of the settlement were not released.

Los Angeles-based Paramount had more than $100 million in coverage for a single loss under its inland marine policy with Chubb unit Federal Insurance Co., which did not include a virus exclusion, according to the complaint in *Paramount Pictures Corp. v. Federal Insurance Co.*, which was filed in U.S. District Court in Los Angeles in August 2021.

The complaint said production of the movie was suspended seven times because of crew illness and COVID-19-related government closure orders.

It stated that Federal paid $5 million for the losses associated with one covered person's illness in February 2020 but otherwise refused to provide coverage, contending there was no evidence cast and crew members could not continue their duties despite being infected with the virus.

The complaint charged Federal with breach of contract and breach of the implied covenant of good faith and fair dealing.

DOCKET

APPLEBEE'S FRANCHISEE SETTLES EEOC LAWSUIT

A Florida franchisee of Applebee's Restaurants LLC has agreed to pay $100,000 to settle a sexual orientation and race discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission. According to the lawsuit, two staff members of a Plant City, Florida, Applebee's restaurant operated by Tampa-based Neighborhood Restaurant Partners Florida LLC verbally harassed a Black employee by subjecting him to racial and homophobic epithets on a consistent basis. One of the harassers wore Confederate flag paraphernalia while working at the restaurant, the EEOC said.

ADA LAWSUIT AGAINST MOTEL DISMISSED

A federal appeals court overturned a lower court and held a plaintiff who charged a Connecticut motel with violating the Americans with Disability Act cannot pursue her litigation because she had no definite plans to visit the facility. Deborah Laufer sued Woodstock, Virginia-based Ganesha Hospitality LLC in July 2020, alleging it violated the ADA, according to the ruling by the 2nd U.S. Circuit Court of Appeals in New York in *Deborah Laufer v. Ganesha Hospitality LLC*. In April, another federal appeals court had ruled in the plaintiff's favor in a similar case.

RLI MUST COMPENSATE INJURED TRUCK DRIVER

A federal appeals court affirmed a lower court ruling and held that RLI Insurance Co. must pay a $2.4 million settlement to a worker who lost both legs following an accident and did not have workers compensation coverage. Ryan Marshall was seriously injured in June 2014 while working as a truck driver at a plant in Duquesne, Pennsylvania, according to the ruling by the 6th U.S. Circuit Court of Appeals in Cincinnati in *P.I. & I. Motor Express, Inc. v. RLI Insurance Co.*

John Mina joined the insurance industry as a broker in 1986 and spent much of his career at Willis Towers Watson PLC and its predecessor companies before joining Boston-based brokerage Risk Strategies Co. as president in 2017. He was named CEO in 2019. Risk Strategies, which marked its 25th anniversary this year, has grown rapidly since private-equity firm Kohlberg & Co. invested in the brokerage in 2013. The brokerage has made 135 acquisitions over the past 12 years and stands at No. 16 in *Business Insurance*'s ranking of the Top 100 brokers of U.S. business, with close to $1 billion in revenue. Mr. Mina recently spoke with *Business Insurance* Editor Gavin Souter about the future of Risk Strategies and how to navigate the insurance market. Edited excerpts follow.

John Mina

RISK STRATEGIES

Q&A

Q Risk Strategies has been built up over the past 25 years. What's your vision for the next 10 years?

A Long term, I'd like Risk Strategies to become a top five global broker. I think it's going to take longer than 10 years, but if we're going to start with long-term aspirations, that would be where I would set my goalpost. My background is international, and I view that as an important aspect or element of being a broker.

For the next 10, I think Risk Strategies is going to evolve in a couple of ways. We're going to continue to make investments in technology to deliver on how tomorrow's clients want to be served. We're all starting to see that shift in buying habits where buyers are increasingly technology natives. Over that same 10 years, we'll continue to grow within our specialty practices and go even deeper and deliver more industry and product expertise for clients. And we'll likely expand into a few new industry verticals where we don't currently do a lot of business, and we'll likely do that by strategic acquisitions.

Q Any particular verticals in mind?

A Infrastructure, agriculture, technology and energy are probably the top four right now. There are a couple of others as well, but I view all of those as having a long-term need within the United States.

Q And you mentioned international. Do you see international growth, too?

A I do. Our typical approach to expand into a new vertical or geography is to find the right partner first and use that as a cornerstone to build from. We're not going to rush into it, we've got lots of opportunities here in the United States, but we will probably go into international waters certainly within that 10-year period.

Q You mentioned growing into a top five broker. Presumably that would require some pretty sizable acquisitions.

A Yes, and if I look at the consolidation that takes place in the industry it isn't likely to end anytime soon. If we look at history and what happened in the 1990s, at some point there comes the consolidation of the consolidators. So, the number where we are right now at 16 to the top five might see some players consolidating within that space or even ourselves.

Q Are changing conditions, such as the rise in interest rates, affecting the price of brokerage mergers and acquisitions?

A I think the interest rates will eventually cool the market a little, especially if they start rising to upper single-digit rates, but they don't seem to be having much effect to date. The multiples are as high as they've ever been, and I don't see any trend right now indicating that they're decreasing.

Q Commercial insurance market rates have been going up for the past four or five years. Do you think we're beginning to move into the next phase of the pricing cycle?

A If the next phase means significant decreases or a sustained soft market, I don't think we're there yet. Rates are not increasing at the same rate that we've seen over the past couple of years. They're certainly tempering and for some clients there are some decreases.

Some lines of business, like cyber, homeowners and catastrophic property, those continue to be stressed. What's interesting is I don't see it as a capacity constraint as much as underwriters are more intently trying to determine what exactly is the underlying risk and then how to properly underwrite it. But I would say it's slowing; it's not reversing yet.

Q With that in mind, what advice would you give to commercial policyholders to help them navigate the market?

A I would give three recommendations. Clients need to do a real assessment of how much risk they can take as a business, and I don't see this done very often. If you're confident with your exposure and your ability to mitigate your risks, that's a good place to start when considering deductibles, for example. Too often I see clients just renewing at expiring and not accounting for whether their risk tolerance or their approach to risk mitigation has changed.

Second, I would say when vying for the best price with limited capacity a quality submission absolutely matters. It's a lot of work to put together a good story for underwriters that properly assesses the risk but glossing over the details only adds uncertainty and that comes with increases in price, reductions in capacity or both. So, partnering with your broker to build the best and most accurate picture of your risk possible is critical. And with that, get it out in the market early; don't run out of time.

And then the last thing I would say, and I would be remiss if I didn't say, that choosing a broker and ensuring you have a quality guide to the marketplace is critical. Less effective is having multiple brokers shopping the same risks and muddying the waters trying to find the best price.

I've experienced very few insureds that have the time to compare quotes from different insurers, much less multiple brokers, and even fewer have the ability to drill into the details that can really make a difference when comparing those options.

I think the interest rates will eventually cool the market a little, especially if they start rising to upper single-digit rates, but they don't seem to be having much effect to date. The multiples are as high as they've ever been, and I don't see any trend right now indicating that they're decreasing.

INSURTECH INVESTMENT DOWNTURN

Interest in technology remains high, but companies look to shift strategies as investors scrutinize insurance sector

BY MATTHEW LERNER
mlerner@businessinsurance.com

Investment in insurtech companies plummeted in the second quarter compared with the explosive growth in the same period last year, but interest in the sector remains high as companies continue to look for ways to make better use of technology throughout the insurance industry.

While second-quarter funding dropped by about 50% from last year's record levels, it was still the second-highest second-quarter investment total on record, illustrating the stresses on the sector and pointing to a possible inflection point for capital flow, sources say.

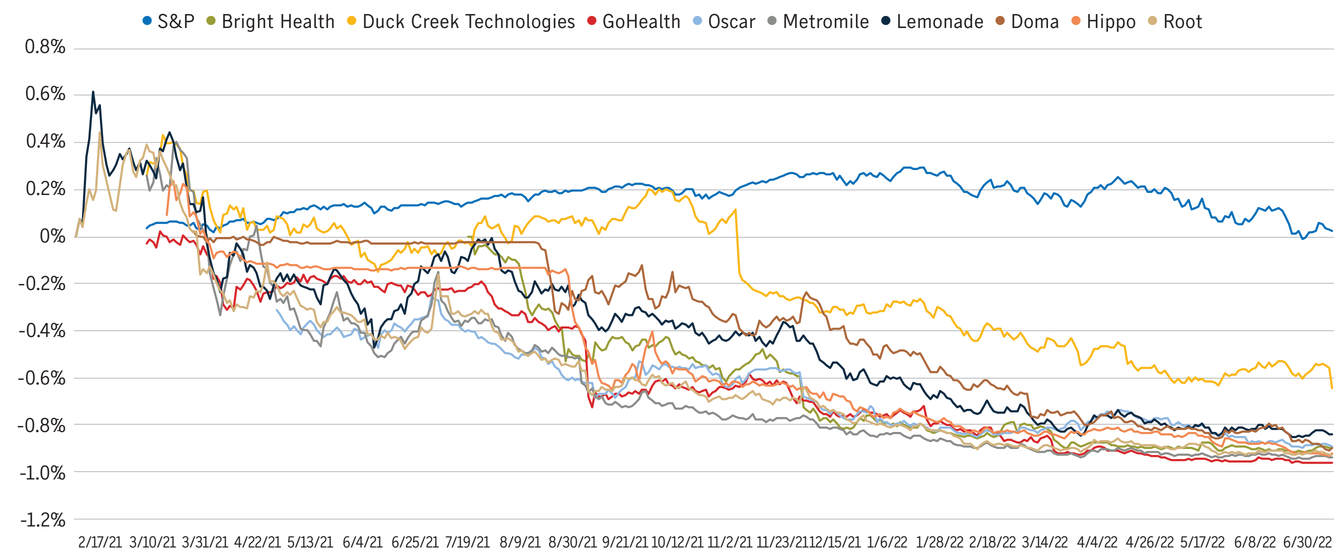
Looking forward, investors and market participants will likely focus more on profitable growth, they say.

Insurtech stock price drops also wiped billions of dollars in value from publicly traded companies (see chart), but those losses should be seen in the context of the wider sharp fall in technology stocks, they say.

> "Insurtechs are being forced to reevaluate their growth strategies. In some cases that may mean having less lofty growth goals and actually focusing on things like revenue and profitability if they want to survive."
>
> Andrew Johnston,
> Gallagher Re

INSURTECH STOCK PRICE CHANGES

Relative/comparable insurtech stock price changes over time pegged to zero beginning January 2021, including S&P 500 to benchmark



Source: Arthur J. Gallagher & Co.

A report last month from Gallagher Re, a unit of Arthur J. Gallagher & Co., that showed a sharp decline in funding in insurtechs sounds a warning for the sector, but it will likely recover and remain promising for investors, experts say.

"Insurtechs are being forced to reevaluate their growth strategies. In some cases that may mean having less lofty growth goals and actually focusing on things like revenue and profitability if they want to survive," said Andrew Johnston, Nashville, Tennessee-based global head of insurtech at Gallagher Re.

Mr. Johnston said there has been a relative drying up of capital that has previously funded losses. "Companies are going to have to start generating their own income to that extent," he said.

"There are macro factors and market factors that have driven more of a shadow, and I do think that has impacted the level of activity," said Emmalyn Shaw, managing partner with Flourish Ventures, a San Francisco-based venture capital firm with interests including insurtech and data and analytics.

"I don't like to focus on any one particular quarter, but second quarter has had the strongest early warning signs of an inflection point at which valuations become more realistic and there is a greater focus on revenue and profitability," Mr. Johnston said.

Still, most sources agree that there is ample capital flowing into the sector.

Parker Beauchamp, founder and managing partner of Boulder, Colorado-based Markd VC LLC, a venture capital firm focused on insurtech that launched a $100 million investment fund in March, said he has deployed about $20 million of capital across 12 deals either completed or committed to, mainly early-stage investments.

"Maybe this year people are working less with later-stage startups with high (cash) burns and lofty expectations. Those are the opportunities catching more grief this year than they would have last year," he said.

Macroeconomic factors, such as persistent inflation, are causing uncertainty for investors, but that is not unique to insurtech or technology in general. "They're off like everyone else," Mr. Beauchamp said.

Mr. Johnson noted that trillions of dollars of value had been wiped off public markets worldwide and said the crunch has taken a toll on the insurtech sector. "What we're seeing is some insurtechs are laying off staff, and there are some clear strategies in place to try to preserve capital," he said.

Amelia Gandara, senior investment professional in Columbus, Ohio, with Nationwide Mutual Insurance Co.'s venture capital team, said that with second-quarter funding of $2.4 billion, "there's still capital flowing into insurtech."

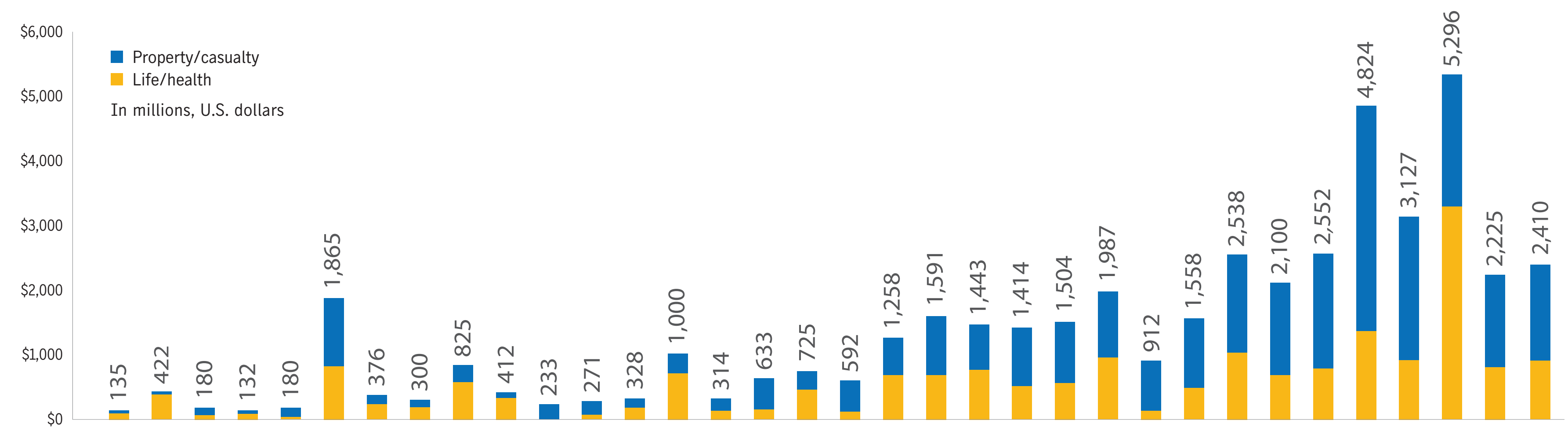
In 2021, with capital ample, "boards focused on growth, which requires and burns a lot of capital," she said. Concerns about a possible recession "can make folks more conservative" and make them more likely to try to preserve capital.

Some insurtechs are raising extra capital as a hedge against deteriorating market conditions, and this can allow investors to potentially invest at more favorable valuation than previously, Ms. Gandara said.

Last year, Nationwide substantially increased its commitment to the insurtech sector, expanding its venture capital fund

See **INSURTECHS** page 21

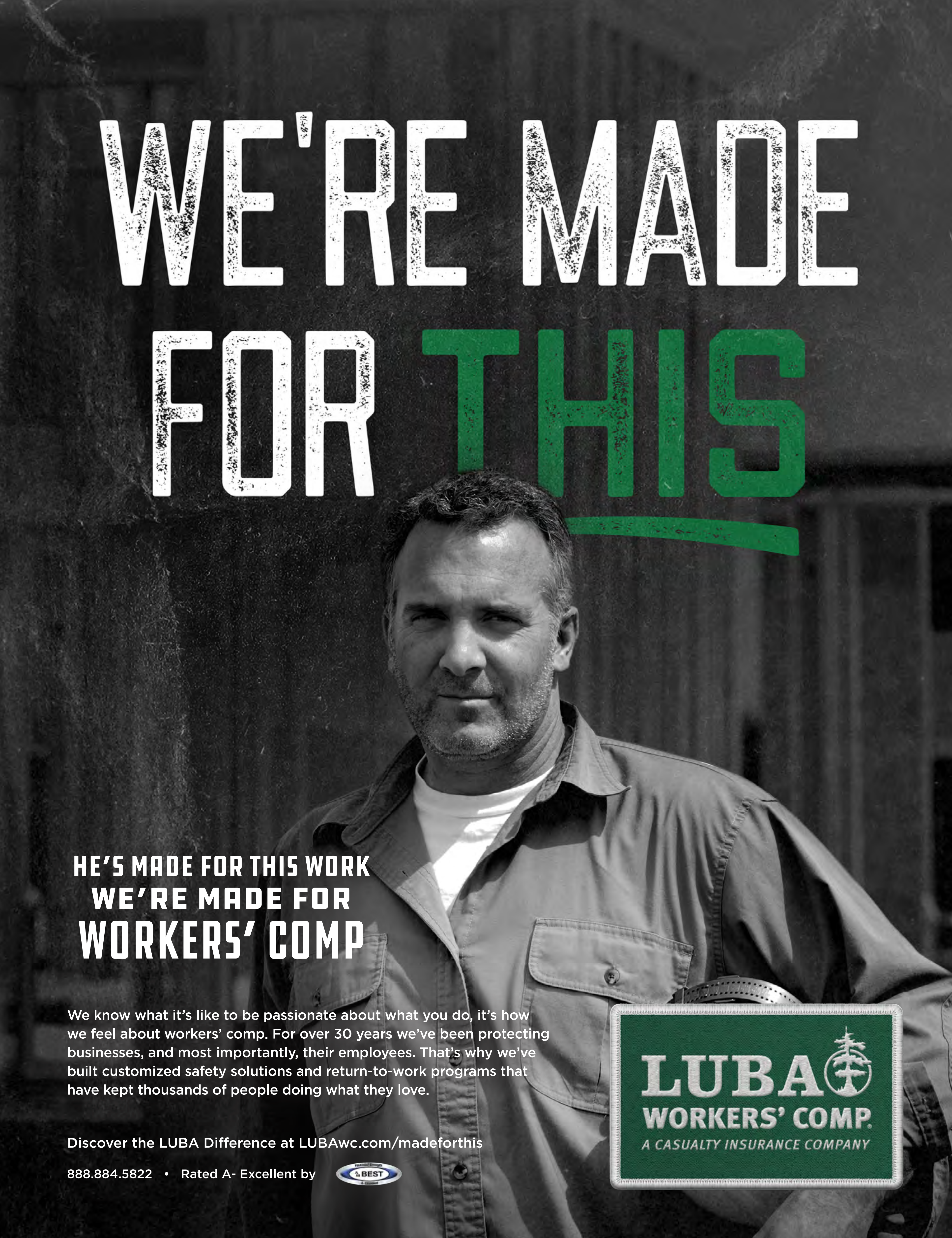
QUARTERLY INSURTECH FUNDING VOLUME (ALL STAGES)



	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015	Q4 2015	Q1 2016	Q2 2016	Q3 2016	Q4 2016	Q1 2017	Q2 2017	Q3 2017	Q4 2017	Q1 2018
P/C:	10	7	16	8	17	13	16	21	44	18	33	29	26	37	29	45	44
L/H:	9	15	14	15	11	19	15	20	16	17	6	13	17	32	21	11	24

	Q2 2018	Q3 2018	Q4 2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019	Q1 2020	Q2 2020	Q3 2020	Q4 2020	Q1 2021	Q2 2021	Q3 2021	Q4 2021	Q1 2022	Q2 2022
P/C:	46	40	41	58	49	52	40	72	54	74	75	107	119	80	101	106	92
L/H:	27	17	23	29	20	31	35	24	20	30	28	39	43	33	41	37	40

Source: Gallagher Re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INSURTECHS

Continued from page 19

to $350 million after starting in 2017 with $100 million.

The commitment to insurtech is also expanding at Axa XL, a unit of Axa SA, said Rose Hoyle, Irvine, California-based head of construction innovation.

> “Maybe this year people are working less with later-stage startups with high (cash) burns and lofty expectations.”
>
> Parker Beauchamp, Markd VC

“What we started here in construction we’re expanding now across all of our other business units,” Ms. Hoyle said. Customers from across Axa XL’s business lines are looking to make better use of technology, she said.

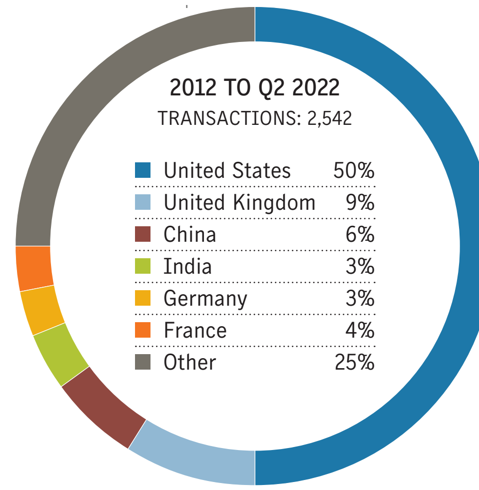
Axa XL usually tries to connect a client with a specific technology that may enable the insurer to offer more favorable terms, she said.

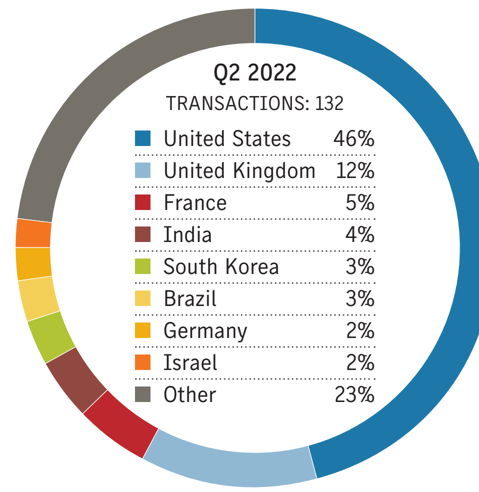
While premium savings will never cover the cost of the technology, she tries to emphasize to policyholders that future saving can be significant in terms of reducing or even preventing claims.

Water mitigation is one of the most tangible technologies with which to prove a return on investment, as potential extensive water damage can be mitigated or avoided using sensors and automated shut-off, Ms. Hoyle said.

Other technologies, such as scheduling analytics, are far harder to measure, she said.

QUARTERLY INSURTECH TRANSACTIONS BY TARGET COUNTRY





Source: Gallagher Re

Results vary as insurtech sector evolves

The term insurtech is used to describe organizations of many types, including so-called full-stack insurtechs, which underwrite and distribute their own insurance products through a technology platform, and other, lower-profile companies that focus on enhancing the operations of existing insurers and brokers.

As the sector matures, the different strategies are yielding diverging results.

Some of the full-stack insurtechs may be saddled with higher costs and are experiencing high loss ratios, which makes them potentially more vulnerable to market downturns, while technology firms that supply services to a particular function of core operations, such as a specific application program interface, may be better positioned to weather any storms, experts say.

About 15% of insurtech investments are deployed toward providers of products — such as a specific API — that enhance an insurer’s existing technology and make it more efficient, said Emmalyn Shaw, managing partner with Flourish Ventures, a San Francisco-based venture capital firm with interests including insurtech and data and analytics.

Such services for traditional insurers may include software, APIs and business process automation. “While that is a smaller percentage of capital deployed, those are the types of companies that will continue to have value because they’re ultimately serving a very important need for these incumbent insurance providers,” Ms. Shaw said.

Over time, “you will see a move toward the infrastructure and technology enablement solutions to help drive more efficiency and automation into traditional incumbent insurance providers,” Ms. Shaw said.

“Companies providing incremental improvements in many facets of a business can do really well in insurtech,” said Parker Beauchamp, founder and managing partner of Boulder, Colorado-based Markd VC LLC, a venture capital firm focused on insurtech that in March launched a $100 million investment fund.

From creating small gains in process efficiency to improving methods of transferring data and continuing to build on improvements, a company can establish “a culture of incrementally improving things continuously,” Mr. Beauchamp said.

While some insurtechs seek to become full-stack operations underwriting risk, others focus on a particular part of the insurance process.

For example, certificates of insurance may be “unglamorous,” but the ability to look one up online instantly can be advantageous and convenient for policyholders and others, said Amelia Gandara, senior investment professional in Columbus, Ohio, with Nationwide Mutual Insurance Co.’s venture capital team. “You’re seeing the digitization of all the different elements of insurance,” she said.

Matthew Lerner

PCF IS MY GROWTH ENGINE

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Our business model is based on welcoming entrepreneurial, high-performing agencies that are committed to sustained, long-term growth.

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pcf

*As of June 30, 2022, and agencies under letter of intent

BUSINESS INSURANCE INNOVATION AWARDS

Insurers, brokers and other risk management service providers continue to strive to get ahead of the risks facing commercial insurance buyers.

Nominations for the *Business Insurance* 2022 Innovation Awards featured numerous products and services designed to tackle issues such as climate change, cyber risk, social concerns and international insurance coverage, reflecting the often volatile global operating conditions challenging organizations.

In addition, many of the offerings use state-of-the-art technology to streamline processes and access vast sources of data to improve risk management protocols.

The awards program, which is in its 13th year, highlights innovation across the risk management and commercial insurance sector and recognizes outstanding work performed by a broad range of service providers.

The 12 winners were selected by an independent panel of judges composed of professional risk managers, who assessed the more than 80 entries.

The 2022 Innovation Awards judges were Courtney Davis Curtis, assistant vice president, risk management and resilience planning, at the University of Chicago; Luke Figora, vice president for operations at Northwestern University; Kristen D. Peed, corporate director, risk management and insurance, at CBIZ Inc.; Audrey Rampinelli, senior vice president, risk management and insurance services, at Mastercard Inc.; Jennifer Reno, global risk manager at QVC Inc.; Lori Seidenberg, director, global real assets insurance, at BlackRock Inc.; Carlos Sintes, claims manager at Fortune Brands Home & Security; and Dave Wingo, senior director of risk management at Terex Corp.

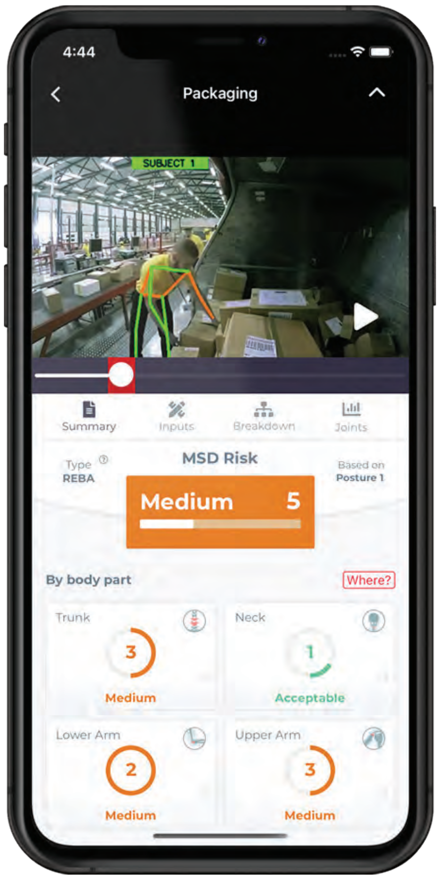
The winners will be recognized at the U.S. Insurance Awards dinner in New York on Sept. 14. For more information, visit businessinsurance.com.

Gavin Souter, editor

THE WINNERS

AF Group

ERGOVIEW



Workers compensation insurer AF Group cut its budget for site safety visits by half in one year after introducing technology in 2021 that enabled on-site risk professionals to remotely gauge workers' ergonomics to prevent injuries.

Once data is available, the insurer also expects to see a reduction in musculoskeletal injuries tied to the implementation.

AF Group worked with technology company TuMeke Inc. to create ErgoView, a program that enables on-site safety professionals to shoot video of workers in action — in such industries as manufacturing and construction — to spot troublesome movements and apply artificial intelligence to suggest modifications. Experts have long pegged musculoskeletal injuries as among the most common — and often most costly — in the workers comp sectors.

"ErgoView has helped to really limit those kinds of injuries, such as sprains and strains, that take people off of jobs," said Sam Hosey, Lansing, Michigan-based manager of innovation for AF Group.

"ErgoView is a tool that helps identify unsafe work habits and practices, whether it's lifting and squatting and twisting. It really helps to limit and mitigate some of those injuries," he said.

Mr. Hosey said the pandemic helped spur development of the tool.

"Our folks were unable to get on-site to conduct these ergonomic assessments because they would normally drive to locations, fly into cities, and go into these facilities to look at the work habits and make sure things were safe," he said. "During the pandemic, no one was moving anywhere. To have a remote tool like this, it was really kind of exactly what was needed."

ErgoView cut AF Group's travel budget for safety site visits from $1.7 million in 2019 to $843,000 in 2021, while adding six more site visits a month since the spring of 2021, he said.

Having set its sights on improving ergonomic practices in manual labor jobs, AF Group also saw potential in administrative, office settings, Mr. Hosey said. The company is working with San Mateo, California-based TuMeke to address ergonomic safety for people who sit and type for a living and are at risk for injuries such as carpal tunnel syndrome.

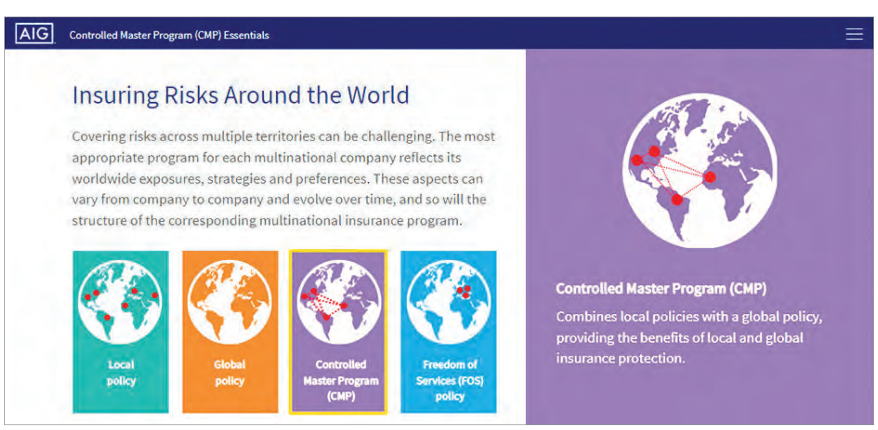
Sam Hosey

The company is "digging into those fine motor skills now, where initially we were looking at those larger joints, the lumbar, knees, and arms and shoulders; now we're getting much more into the weeds around hand positioning and hand movements."

Louise Esola

American International Group

NAVIGATING MULTINATIONAL RISKS



Designing and implementing global insurance programs is made difficult by regulations and reinsurance requirements that vary across jurisdictions, the complexities of using captive insurers and other challenges that require expertise to ensure coverage is suitable and legally sound.

Those are among the reasons American International Group Inc. created its "Navigating Multinational Risks" training program to help policyholders and brokers understand the process for structuring global programs, said Elke Vagenende, AIG's London-based global head of multinational.

"It's seen as a complex area that very few people understand," she said.

To fill what AIG saw as a gap in the market for flexible training that provides risk managers and brokers with the knowledge to structure sound multinational programs, the insurer developed a curriculum of three self-paced, free modules.

The first module covers the basics — defining multinational business, identifying insurable risks and outlining such elements as local policies, global policies and controlled master programs. "That's to really familiarize yourself with the options and what you can do," Ms. Vagenende said.

The second module deals with program design, covering such issues as compliance, principles of coverage, the roles of program stakeholders and finer details of controlled master programs.

A final, advanced-topic session is instructor-led and can be taken in person or through a webinar. It focuses on some of the complex elements of building a multinational program such as understanding local requirements and using captive insurers. "The final module is more interactive," Ms. Vagenende said. "So, if you've got a lot of questions around specific territories, we can work through that with you."

The curriculum stresses flexibility in designing multinational programs, Ms. Vagenende said. "You can decide what the best solution is for your company," she said.

Users are eligible for continuing professional development credits upon completion of the curriculum, which is accredited by the CEU Institute in the U.S. and accreditation bodies in other countries.

Elke Vagenende

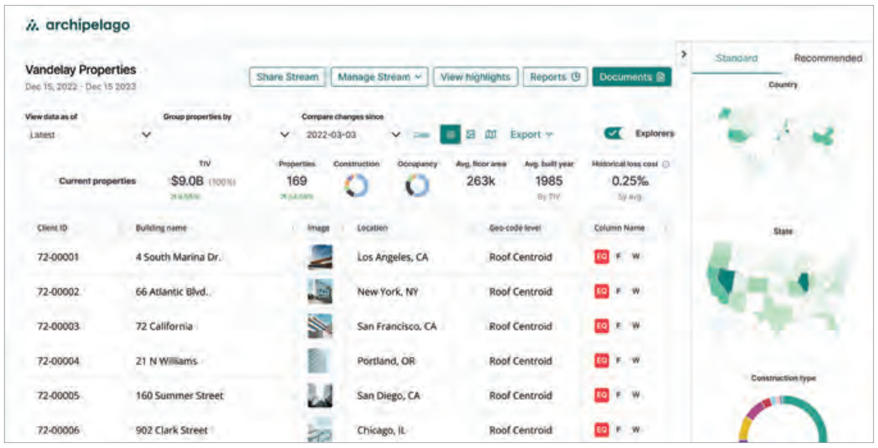
In its first 11 months, the training curriculum drew participants from about 60 countries — about 1,000 online, self-paced users and 700 who participated in person or through a webinar.

Feedback regarding the program has been "overwhelmingly positive," Ms. Vagenende said. "We're going to keep going with this, and we're looking forward to expanding it."

Michael Bradford

Archipelago Analytics

AI-DRIVEN COMMERCIAL PROPERTY RISK PLATFORM



Large commercial property owners with multiple locations have voluminous amounts of documents and data that they use to manage their risks. Much of the information must be forwarded to brokers and insurers, a traditionally time-consuming and inefficient way of making sure underwriters have accurate property details.

Archipelago Analytics Inc. created its artificial intelligence-driven commercial property risk platform seeking to end the often duplicative and costly tasks needed to locate and transmit such risk data.

The platform is in place at some of the world's largest commercial property owners, helping them gather and distribute the information insurers need, said Hemant Shah, CEO of San Francisco-based Archipelago.

"Rather than hunting down information, asking people questions, updating spreadsheets and reading documents, we've mapped out a life-cycle model for a physical property," that risk managers can add to their loss control arsenal, he said.

Archipelago's platform maintains and manages detailed information on a property owner's various locations. "All the different details about each and every single one of their physical assets, ranging from detailed information about its location and localized hazards, to information about the construction of the building, roof systems, fire-protection systems" and much more, Mr. Shah said.

The documentation that property owners compile throughout the life of a building includes details about construction, repairs, maintenance, engineering and other information about the structure's history, he said. "We make it really easy to tap into those original source documents and use machine learning to extract and connect all the pertinent data about those assets," he said.

That makes managing the risks around properties much easier, according to Mr. Shah. For example, instead of conversations with a due diligence team to sort out information on an acquired property that needs to be listed as an insured asset, a risk manager can send a link through Archipelago that allows documents related to the acquisition to be uploaded.

Hemant Shah

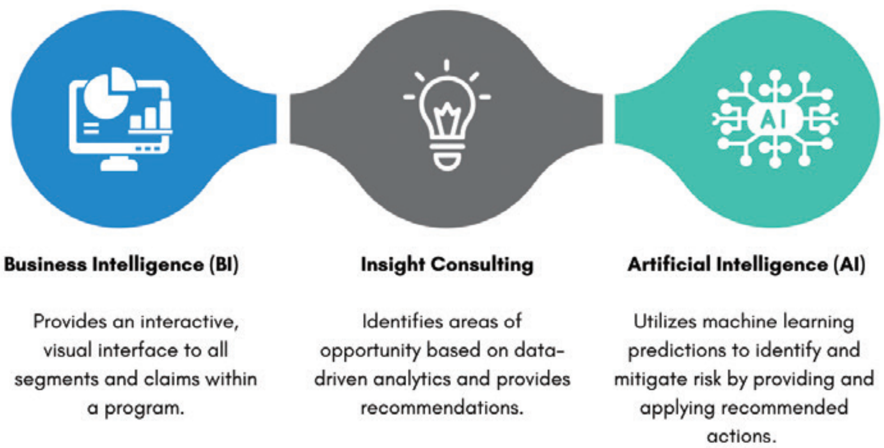
The platform then extracts the necessary information from the records and arranges it for the risk manager.

"They can not only make more proactive decisions internally about how they view the risk and exposure of their physical assets," Mr. Shah said, "but they also are able to share permission via the Archipelago platform for access to those rich data sets by all of their insurance partners."

Michael Bradford

CorVel

COGENCYIQ



CorVel Corp. says it designed Cogency IQ to help clients strengthen their existing claims programs and prepare them for the future.

CogencyIQ is a liability claims management service that uses artificial intelligence and predictive analytics to examine data and gain insights in order to develop solutions for risk managers and claims professionals.

"When we talk about CogencyIQ, it's about business intelligence — the tools that can be created visually to help our customers see the data and be able to manipulate the data," said Jeff Gurtcheff, Atlanta-based vice president of enterprise comp services at CorVel. "It's what we call strategic insight managers, within the CogencyIQ group, that act as consultants for our customers."

The program spans the spectrum of the company's coverage lines, but the heaviest area of concentration is in workers compensation, he said. It also supports liability claims and clients that manage their own customers.

CogencyIQ helps customers that have "information coming at them from many directions at light speed," Mr. Gurtcheff said. "It's difficult for them to decipher what it all means for their program."

One customer it helped was concerned about billing practices of a specific provider group, said Trevor Gill, Irvine, California-based vice president of finance at CorVel.

"In the workers comp sector, the most cautious reaction is to turn events into psychologically based events. So, it's no longer physical, it's now mental," he explained.

In investigating the customer's concerns, the CogencyIQ group found that the physician group was more likely to default an injury claim to a psychological claim, "which is nearly impossible to bring to a positive resolution, because, if the issue is in the injured person's mind, it's not physically something we can impact," he said.

"It also takes away a lot of options from the carrier or the employer to get the person back to the best health they can be in."

Mr. Gurtcheff added, "The goal is not for us to deny or injure the claimant, it's to bring the claim to the best resolution possible for the injured worker, the employer and the carrier so we can move forward with a resolution."


Jeff Gurtcheff


Trevor Gill

Customers using Cogency IQ tools also see lower litigation rates and better outcomes, Mr. Gurtcheff said. "We've been able to objectively show that it reduces litigation rates because of the advocacy we take in the early stages of claims," he said.

Caroline McDonald

FM Global

SIMZONE ON TOUR

Businesses face rising challenges from climate risks, with floods, hurricanes and wildfires causing billions of dollars in property damage each year and disrupting supply chains.

FM Global's SimZone — a warehouse-sized risk management training facility in Norwood, Massachusetts — opened in 2011 to provide risk professionals with hands-on training by simulating property hazards and helping them take steps to mitigate risk. Its success led to a second SimZone facility in Singapore that opened earlier this year.

But what if a wider group of risk managers, C-suite executives and others could get the same interactive experience without having to hop on an airplane? That's how the SimZone on Tour was born.

In a world of restricted travel due to tight budgets and the pandemic, taking the SimZone on the road enables more risk professionals to see how they can control the impact of climate risk on their business, said Connor Gormley, staff vice president and brand experience program manager at FM Global in Johnston, Rhode Island.

"The motivation for this was to have a broader reach. Rather than maybe just one or two people being able to travel to our facility, when we show up right outside of a client location, we might see 100 or more per day," Mr. Gormley said.

"It helps us spread the message and gets everyone across the organization in alignment on how they contribute to protecting property," he said.

Risk managers stepping on board the 53-foot expandable tractor trailer might begin their experience at the insurer's global flood map, which offers an aerial view of what their flood exposures could be.

They then work through a flood scenario at a facility, getting their hands wet at an interactive model flood table and learning how flood barriers and other devices can prevent loss. When the facility is re-flooded, they see just how successful they were at reducing loss. They also get to test and compare different materials and products to protect their buildings.

Since its launch at the Risk and Insurance Management Society Inc. conference in San Francisco in April, the SimZone on Tour has visited about a dozen states and hosted 400 to 500 risk managers per month, mostly at policyholder locations, Mr. Gormley said.

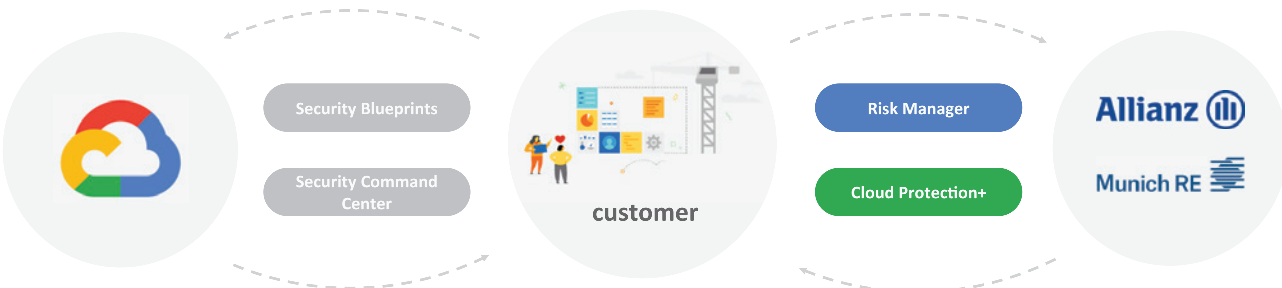

Connor Gormley

The experience, which is offered at no cost to the mutual insurer's policyholders, can be customized to each business based on its exposures. More than 50% of its focus is on climate, specifically flooding, high winds and wildfire, Mr. Gormley said.

Claire Wilkinson

Google, Munich Re & Allianz

RISK PROTECTION PROGRAM




Loren Nickel


Monica Shokrai

Google LLC teamed with Munich Reinsurance Co. and Allianz Global Corporate & Specialty to create the Risk Protection Program, which provides underwriters with previously unavailable data while streamlining Google Cloud users' underwriting process.

The two elements of the collaboration are a risk manager diagnostic tool, with cybersecurity information provided by cloud users, and a quota share policy designed by Munich Re and the Allianz SE corporate risk unit.

The program offers up to $50 million in limits and provides broad first- and third-party cyber coverages, as well as Google Cloud specific coverage enhancements. It is initially intended for companies with $500 million to $5 billion in annual revenue.

"We really wanted to create an ability for our cloud customers to get the benefit of our better security," said Loren Nickel, director of business risk and insurance for Google in Menlo Park, California.

Changes customers previously made to improve security have not always been reflected in their cyber insurance products and pricing, he said. "We wanted to change that dynamic," he said.

Monica Shokrai, head of business risk and insurance for Google Cloud, said the company is able to create a situation where insurance acts as an incentive for customers to be more cyber secure.

Developing the program, which took about a year, was challenging. "Just getting the insurance industry to think about cyber insurance in a different way took a bit of time," Mr. Nickel said.

It was also necessary to balance customers' needs and help evaluate their risks, while protecting their privacy and providing insurers with the data they need to improve their decision-making, he said, adding that this created "a very complex system" to work through.

Bob Parisi, New York-based head of cyber solutions for Munich Re, said the program "allows us to get a deeper look" into applicants' data and to have a more data-driven underwriting process.

"It really is the way for us to move forward to make cyber a sustainable product," he said.

The program has been well received by risk managers, Google officials said.

Pointing to the difficult cyber market, Mr. Nickel said, "I think everyone's pretty excited about the ability to have more control" of their cyber insurance through the program, which the company aims to expand.

"It's a great solution, really, in a time of need," said Tresa Stephens, New York-based regional product leader, cyber, tech & media, North America, for Allianz Global Corporate & Specialty.

Judy Greenwald

BUSINESS INSURANCE

Voices of Innovation

WHAT DRIVES INNOVATION IN YOUR ORGANIZATION?

Sam Hosey, AF Group: From the top down, AF Group continues to work on "democratizing" innovation. Meaning, we know that innovation needs to come from all areas of the business — not just the Innovation team. While the team drives our innovation efforts, the culture at AF Group empowers our employees to challenge, and when necessary, disrupt the status quo — in an effort to proactively look for better ways to anticipate and solve customer needs. We use innovation surveys, host innovation contests and hackathons, and consistently meet with various teams to keep the organization engaged and to reinforce everyone's critical role in exploring innovation.

Michael Combs, CorVel: Innovation has been a pillar of CorVel since our inception over 30 years ago. CorVel's decentralized structure is designed to encourage the entrepreneurial spirit. As a result, our team continually challenges the status quo by creating innovative solutions when they see opportunities. Additionally, our environment allows team members to try new things, fail quickly, and advance to the next iteration.

Jessica Hamilton, Zurich North America: Innovation is driven by every single individual that interacts with Zurich — our employees, our customers, brokers, competitors, and the general public. We have a bold aspiration to be one of the most responsible and impactful businesses in the world and this starts with innovation to support the delivery of better products, services, and experiences to all our stakeholders.

Innovation is driven by all our employees with intellectual curiosity to best support our customers and brokers. Zurich North America has been able to support a culture of innovation by appointing strong leadership to drive innovation within many of our business units or functions. Our leadership team at Zurich North America supports and promotes organic innovation within each function of their respective business. The flexibility and adaptability of each of these leaders is crucial to react to the rapidly evolving risks our customers face, so we can deliver effective risk transfer, risk mitigation, and risk recovery products and services to our customers and distributors.

FROM YOUR PERSPECTIVE, WHERE DO THE BEST IDEAS FOR INNOVATION COME FROM?

Sam Hosey: While ideas often come from the Innovation team, the best ideas are generated when teammates from various departments put their heads together. AF Group has an "Innov8" group that meets frequently to ideate and brainstorm — and we have an "Innovation Think Tank" (led by the Innovation team), that focuses on specific organizational, customer or industry challenges. Experts from across the organization, agents, customers, and even insurance vendors play a large part in coming up with and helping to drive great, innovative ideas for AF Group.

Michael Combs: Our innovative ideas have come from our internal teams and working in tandem with our partners. Technology is advancing, and the market is dynamic, so we always look for opportunities to improve. Our team actively tracks industry and technology trends and works with our partners to proactively determine approaches to address their current and emerging needs.

Jessica Hamilton: I am a firm believer that we work better together. The best ideas are a result of collaboration both internally between our employees and externally with others such as brokers, customers, insurtechs, and companies in other industries. The benefit of working for a company such as Zurich North America is that we have the resources to bring ideas to life — built on creative, solution-oriented ideas.

Historically, we have sourced innovation through a mix of different sources. For example, on an annual basis, we facilitate the Zurich Innovation Championship to encourage partnership with new, innovative players in the insurtech space. For 2022, we have identified two finalists with whom we are pursuing partnerships to provide the necessary resources to support their growth.

Additionally, we support front-line innovation, as our market facing employees see firsthand the risks that our customers and brokers are facing. Within each respective team at Zurich North America, management teams foster open conversations to allow each employee to speak up regarding their ideas.

HOW DOES YOUR ORGANIZATION APPROACH INNOVATION IN SERVING RISK PROFESSIONALS' NEEDS?

Sam Hosey: It is important for us to leverage the culture of continuous innovation we have created and also ensure there is a clear path from discovery to implementation. There is partnership with all of our business units to understand their pain points and what tools or processes they could benefit from. The Innovation team also has a seat at the table of our enterprise strategy groups which help to inform Innovation's strategic direction, at which market insights are shared to help guide organizational direction. At the same time, our Customer Experience team continuously surveys customers and the market to generate ideas. This enables the Innovation team to match customer and internal employee needs with innovative ideas that flow in our pipeline. This holistic method allows for both an inside-out and outside-in approach at innovation. From there, it's essential that we align the proper resources internally to ensure the success of each innovation initiative.

Michael Combs: At CorVel, we are fortunate to own our technology platform, allowing innovation to come to fruition as ideas are generated. We have also created a Business Operations team to work with our Product Managers to ensure our development roadmap addresses our customers' needs. We can harness ideas from our teams across the country and from our end users. We are leveraging process mapping in conjunction with artificial intelligence and machine learning to eliminate redundant tasks and streamline historically manual tasks, which allows users of our system to spend more time helping employees navigate the care continuum.

Jessica Hamilton: Innovation is rooted in solving a problem. We must be clear on the business need and be flexible in how we serve these needs. It is important to create formal processes to support a culture of innovation; however, to be successful, you must also find areas to innovate opportunistically to ensure no missed opportunities.

As mentioned previously, we support the Zurich Innovation Championship which allows us to connect with hundreds of startups to collaborate on partnership opportunities to best combat the evolving risks we are seeing daily. Many of the startups present partnership opportunities with our teams such as Zurich Resilience Solutions or Sustainability Underwriting.

In addition, we have resources to

support opportunistic innovation. For example, in our Schaumburg, Ill., headquarters, we have an innovation lab which provides physical collaboration space and resources to innovate together with customers and brokers.

Generally speaking, opportunistic innovation is open to all employees, but it is Zurich's job to encourage and provide resources to make this easy and accessible. For example, our Canada business recently launched a platform where employees can contribute their ideas and receive support from both their managers and a central team to take the next steps regarding any ideas.

Beyond supporting our employees, we also support customer innovation through product offerings from Zurich Resilience Solutions. For example, we recently launched a new service called the Zurich Workplace Diversity, Equity, and Inclusion Service which helps our customers strategically assess DEI in their organization and work towards the ISO standard as well as their unique DEI goals. We are proud to announce that this service recently won an award from *Business Insurance* as part of the 2022 Innovation Awards.

WHAT ARE SOME MYTHS OR MISPERCEPTIONS PEOPLE HAVE ABOUT INNOVATION IN RISK MANAGEMENT?

Sam Hosey: Many people use large commercial innovation tactics — the disruptive or splashy products — as the barometer of success for innovation teams. Additionally, we sometimes get lost in searching for new technology solutions. But insurance is still very much a relationship business, and accordingly strives to be human where it matters and digital where it counts. Things like the invention of the iPhone or a major disruptor like Uber are continuously used as great innovation examples. However, innovation can also be found in the small corners of our industry — such as a small change in a process that gets information to the customer faster or a follow-up text on a claim status. There are so many ways to be innovative to improve customer experience and efficiencies for the business. At AF Group, we certainly explore "moon shots" to deliver disruptive innovations, but we also push the business incrementally to ensure that the change management challenges that go along with implementing better ways to get our jobs done and improve customer experience are included in our process.

Michael Combs: Many would assert that the insurance industry is slow to adopt change. However, we've been fortunate to have partners who embrace change and challenge us to increase the pace of innovation. Moreover, when the impact and value of change can be demonstrated, we have found Risk Managers are more than willing to adapt.

Jessica Hamilton: One misperception often made by individuals outside the insurance industry is that insurance isn't innovative. Every industry, even commercial insurance, can provide creative solutions to better their products, services, or offerings. This is a critical mindset change that we need to see within risk management. As risks evolve, customers are going to look for new, innovative offering that support their needs. Whichever provider can service these needs first, will hold the position as a market leader.

Everyone plays a role with innovation in insurance. We often hear a general sentiment that insurtechs are here to disrupt traditional insurers and pose a challenge to companies such as Zurich North America. This is far from the truth — Insurtechs are not a challenger, but instead an enabler, focused on evolving specific parts of the value chain. Meanwhile, traditional Insurers provide the customers base, stability, and resources needed to partner with Insurtechs, making the customer experience as seamless as possible.

WHAT ADVICE WOULD YOU OFFER TO OTHER ORGANIZATIONS THAT WANT TO BECOME MORE INNOVATIVE?

Sam Hosey: A culture that promotes and rewards innovation — including its failures — is key. It absolutely takes courage. Not every innovative idea ends up returning the desired results, but there are always lessons learned. There must also be divergent thinking at the foundation. For example, having people who think the same, look the same or have the same background creates groupthink and a monolithic approach to innovation, which is not the goal. Everyone, especially the executive staff, has to be comfortable, supportive, and involved in the ideation pipeline and vetting process. AF Group is also a big proponent of establishing and/or empowering a dedicated innovation department. Without that entity partnering and pushing business units to think differently, innovation can sometimes get pushed aside in favor of just getting the job done or doing what we've always done in the name of expedience or comfort. Lastly, Innovation teams should be careful to not dedicate their resources (time, money, personnel, etc.) to ideas that the customer or business don't need, didn't ask for or simply can't use. It is important to communicate and stay connected to the customer and business needs and allow that help guide some of the ideas that are pursued. If there are "solutions" being built and presented that have no applicability to the business, then that becomes a waste of resources.

Michael Combs: I would encourage organizations that want to become more innovative to listen attentively. Listen to your team members on the front lines, listen to your partners, and listen to the market. All your stakeholders are expressing opportunities for innovation if you pay attention and then ask good questions. So often, people know the outcome they want but don't know how to articulate it, which requires a bit of digging and creativity. It is like Henry Ford's quote, "If I had asked people what they wanted, they would have said faster horses." To be more innovative, it is necessary to explore new ways to travel, not just improve the current method.

Jessica Hamilton: Failure isn't a bad thing as long as you learn from it and continue to innovate. In fact, failure is at the foundation of many success stories and our ability to pivot and evolve demonstrates the resilience it takes to lead in the marketplace.

Build a foundation to allow for innovation. Innovation needs to be embedded within an organization's values — it starts with support from leadership. Encourage small wins — a culture of innovation is built over time.

Once your foundation is built, you can support internal innovation with outside perspectives. Innovation is about creating value and sometimes the value is already in the market, and you can provide the support or collaboration to accelerate the impact.

Always remain opportunistic. Innovation can happen anywhere. Listen to your employees, customers, brokers. This includes understanding companies in your own industry and others. You should remain aware of how the world is evolving daily and be aware of how this may affect your business or your customers.

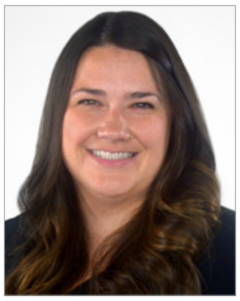
Finally, don't be afraid to take risks. Risk is a fundamental to innovation. Most innovations begin with a risk that others were not willing to take.

Sam Hosey
Manager, Innovation
AF Group

AF Group

Michael Combs
President and CEO
CorVel Corp.

CORVEL



Jessica Hamilton
VP Innovation and
Business Development
Zurich North America

ZURICH®

LineSlip Solutions

LINESLIP TOTAL COST OF RISK

LineSlip Solutions Inc.'s Total Cost of Risk service was designed to allow users to easily calculate expenses beyond risk transfer costs.

The service is an extension of the New York-based company's existing technology platform, which focuses on extracting and presenting key data to risk managers.

LineSlip was formed in 2016 and launched its first product, LineSlip PE, in 2018, followed by LineSlip Risk Management in 2019, said Leo Bernstein, co-founder and CEO of LineSlip.

"We extract data on an automated basis and present it back to the customer in a way to understand, manage and report on their insurance programs," he said.

The company uses a combination of natural language processing and proprietary algorithms to "teach" systems to recognize relevant insurance terminology, he said.

The LineSlip Risk Management product, which won a *Business Insurance* Innovation Award in 2020, enables customers to summarize and view the risk transfer portion of their insurance programs. The TCOR extension allows the system to incorporate whatever self-insured portion of a program exists — such as a captive, retention or deductible — that the organization uses to manage its high-frequency, low-severity incidents and claims.

The total cost of risk is presented to users, including overheads such as expenses for maintenance, administration and the risk professionals themselves.

The idea arose in mid-2021 as a result of client feedback, Mr. Bernstein said. It took about six months to craft the software and functionality, which included much work on the client-facing portion of the product, he said.

There is no extra charge for the TCOR extension, Mr. Bernstein said.

LineSlip's products are hosted on Microsoft's Azure Web Apps cloud computing-based platform, which allows publishing applications running on multiple frameworks and written in different programming languages, including Microsoft's proprietary and third-party products. LineSlip is a software as a service product, with software and capabilities housed on the company's systems and delivered via a web browser to clients' laptops or handheld devices, Mr. Bernstein said.

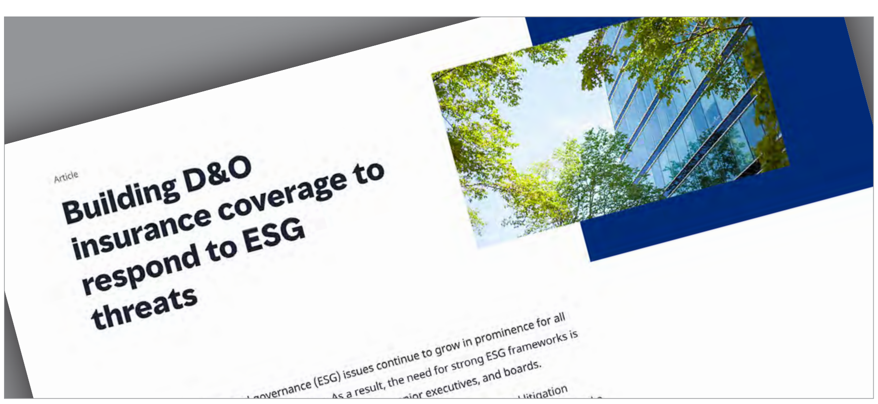

Leo Bernstein

Client data is extracted using natural language processing from documents provided to LineSlip by its client insurers and others. Future iterations of the systems will be able to import data directly from client systems without the use of paper documents, Mr. Bernstein said.

Matthew Lerner

Marsh

D&O ESG INITIATIVE



Companies that show a willingness to build stronger frameworks to address environmental, social and governance issues could find potential rewards in enhanced directors and officers liability insurance as part of an initiative by Marsh LLC.

Inspired by a business magazine article about companies that prioritized social concerns ahead of profits during the COVID-19 pandemic, Marsh was spurred to act, said Maureen Gorman, New York-based managing director in the broker's FINPRO practice. "It got us thinking maybe there was a way for us to do something as an insurance broker to recognize our clients that were going above and beyond," she said.

That led Marsh to work with law firms and insurers to create the initiative that was launched last year to connect companies with outside advisers to help build or strengthen their ESG frameworks. Those companies that demonstrate a high level of commitment to managing ESG risks can be considered for preferred D&O policy terms and conditions from insurers that include American International Group Inc., Axis Capital Holdings Ltd., Berkshire Hathaway Specialty Insurance Co., Hartford Financial Services Group Inc., Liberty Mutual Insurance Co., Sompo International, Starr Insurance Cos. and Zurich North America.

While potential policy enhancements vary, they include reduced retentions and more favorable D&O policy limits than those typically offered.

"Firms that take the initiative to work with outside advisers, whether it's to build or fortify the ESG frameworks they already have in place" are making themselves a "better risk" by potentially reducing the chances of litigation, Ms. Gorman said. "If they're making that type of investment in time and money to do that, that's a real positive."

Law firms including Norton Rose Fulbright LLP and Orrick, Herrington & Sutcliffe LLP advise Marsh clients as part of the initiative, offering such services as board of directors training and reviews of ESG disclosures that may help identify and correct weaknesses in ESG frameworks.

Marsh makes the connection with the law firm but doesn't pay for the services they provide. The insurers in the program may reward policyholders with lower costs because they become a better risk.


Maureen Gorman

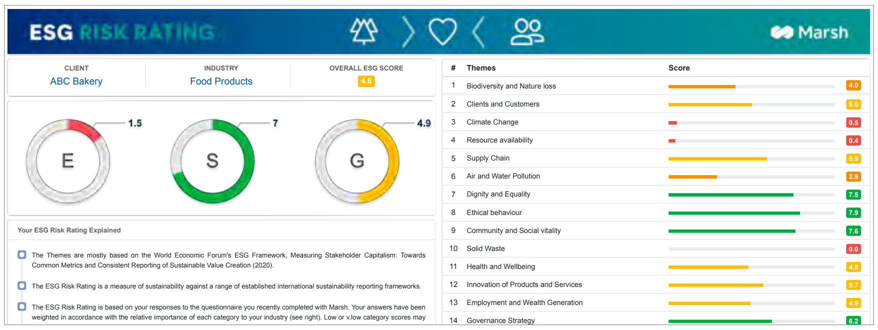
Helping risk managers strengthen their ESG frameworks is not a one-size-fits-all process, Ms. Gorman said.

"It's a very bespoke process," she said. "Depending on the client, they could be anywhere along the ESG journey. Some companies could be in the earlier stages," while others may have a more mature risk management approach already in place.

Michael Bradford

Marsh

ENVIRONMENTAL, SOCIAL AND GOVERNANCE RISK RATING



A hard-to-satisfy demand for information on private companies' environmental, social and governance practices prompted Marsh LLC to create a tool to help manage ESG risks and tap additional insurance capacity.

Marsh's Environmental, Social and Governance Risk Rating, launched in March, gives smaller private companies a free tool that gauges how they measure up to international ESG standards.

Marsh's largest clients generally are rated by agencies that rely on publicly available information to assess their ESG performance, said Amy Barnes, head of climate and sustainability strategy at Marsh in London.

"There wasn't a good solution for private companies," which typically don't get the same attention as large public companies from rating agencies, and as demand for ESG-related information has grown, the broker saw the need for "a mirror that showed ESG performance relative to international frameworks," she said.

"Our tool doesn't give Marsh's view of what good ESG is," Ms. Barnes said. Instead, it measures against more than 10 international frameworks including those from the Global Reporting Initiative, the World Economic Forum and the United Nations' Principles for Sustainable Insurance.

"It sets a high bar because some of the smaller private companies wouldn't typically hold themselves to some of those very high reporting standards," Ms. Barnes said.

When an organization completes a confidential self-assessment, it receives an overall ESG risk score as well as a rating on 18 individual themes that include biodiversity and nature loss, climate change, supply chain, dignity and equality, and governance strategy. The theme scores allow companies to pinpoint areas where attention is most needed.

The scorecard also considers controls in place to comply with ESG laws and regulations, how an organization reports ESG-related metrics and its resilience in identifying and addressing the risks.

Organizations are able to benchmark their performance by industry and geography, Ms. Barnes said.

Insurers are offering further benefits to organizations with an ESG rating.

Liberty Mutual Insurance Co. offers climate-related and sustainability risk advisory services to Marsh clients in the United States and Canada that hold the ratings. Specialty insurer Beazley PLC offers additional global insurance capacity through its Lloyd's of London Syndicate

Amy Barnes

4321 to clients whose ESG scores meet a threshold.

Even though the tool was built with smaller companies in mind, it has attracted larger organizations. A recent look at user demographics revealed that more than 20% of respondents have annual revenue of more than $1 billion, and 27% are global companies. "A real mix," Ms. Barnes said.

Michael Bradford

Supply Wisdom

SUPPLY WISDOM ESG

Managing potential supply chain risks related to environmental, social and governance exposures in real time can create challenges for risk managers and insurers.

Supply Wisdom Inc. built on its existing technology, which was designed with artificial intelligence and machine learning, to create a monitoring system for supply chain ESG risks that automatically warns risk managers when potential exposures arise.

When the New York-based company was launched five years ago by founder and chairman Atul Vashistha, it offered another way to identify and manage risks that had the potential to cause disruptions along an organization's supply chain. At the time, risk managers were largely relying on questionnaires from third-party providers to create a picture of their supply chain risk, potentially leading to delays in identifying problems, Mr. Vashistha said.

"So, we said, OK, we're going to build an application to provide real-time continuous intelligence to our customers," he said. "We're going to build it in the cloud and use data science and automation so that we can be timely and highly accurate, providing not just intelligence but actionable intelligence."

ESG concerns such as climate change and diversity and inclusion were among those monitored by Supply Wisdom after its 2017 launch, but they were spread among the "risk domains" of cyber, compliance, operations and others that the technology monitored.

By 2021, companies had become more concerned about the "ESG health" of their suppliers, Mr. Vashistha said, and Supply Wisdom ESG was created as an independent domain, allowing users to examine those potential supply chain exposures in one place rather than tracking them through different domains.

Supply Wisdom ESG's "always-current monitoring" is a significant change from the traditional questionnaires that risk managers relied on, he said.

Using AI and machine learning, the technology examines millions of pieces of publicly available data and alerts risk managers when an ESG concern warrants consideration. For example, if Supply Wisdom ESG finds that a supplier has moved an operation to an area that has water-supply issues or is under a regulatory sanction, it will assess the potential for a disruption, Mr. Vashistha said. Risk managers are then emailed an assessment of whether the potential is low, medium or high.

Atul Vashistha

Users also have access to an online dashboard that includes a scorecard, reports and other information that identifies risks needing attention. And, Mr. Vashistha said, risk profiles can be generated to show insurers how well the risk of disruption is being managed.

Michael Bradford

Zurich North America

INTERNATIONAL TOWERS BY ZURICH

A rise in lawsuits against directors and officers of companies in the United States and overseas over the past 10 years has created issues for multinational organizations.

The surge in litigation has meant that companies whose D&O liability insurance programs provide a single coverage limit for their U.S. and foreign exposures are vulnerable, said Brian Zink, senior vice president, head of management liability, at Zurich North America. If a large claim in the U.S. erodes a company's policy limits, directors and officers in other countries are left without protection.

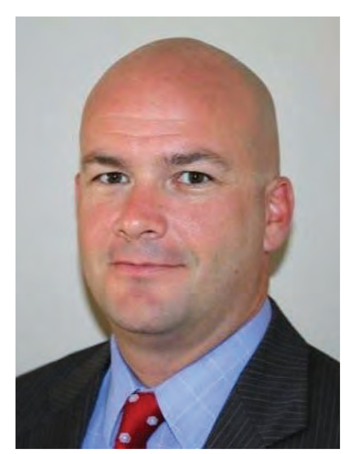
"In the 2010 time frame, you could count on one hand how many countries had D&O claims," Mr. Zink said. "Now, you can count on one hand how many countries do not have D&O claims."

Around that time one-third of Zurich's primary customers purchased some type of international coverage. "Today that number has increased to about 85%," he said.

To obtain a separate D&O limit for foreign exposures, U.S.-domiciled companies had to access the London Market for multinational coverage. That required a broker in the United Kingdom, which lengthened the time needed to obtain policies and could mean higher costs.

Zurich identified an opportunity to provide an insurance option for its U.S.-based multinational clients. In late 2021 the company launched International Towers by Zurich, a standalone D&O limit that excludes U.S. claims, protecting foreign limits from a U.S. loss. Operating like a traditional international program, local policies are included to provide admitted, licensed coverage in each country where the policyholder does business.

ITZ also addresses a related issue. "In the past few years, with the rise in claims, you were starting to see the carriers reduce the limits," Mr. Zink said. "This created a demand internationally for more capacity."



Brian Zink

Zurich offers the coverage even if it is not on the U.S. contract, Mr. Zink said. "It's another avenue to capacity, to solve the insurance needs of our customers."

Having coverage from the U.S. "greatly simplifies things for organizations," he said. "They don't have to deal with yet another broker, and if they do have a claim, they can go to their U.S. team as a liaison, even if the claim is overseas."

Caroline McDonald

Zurich North America

WORKPLACE DIVERSITY, EQUITY AND INCLUSION SERVICE

A survey of new and current customers' needs led Zurich North America's unit focused on resilience to create a diversity, equity and inclusion program for policyholders that approaches DEI from a risk management perspective.

"We found that more than half of the customers we communicated with believed that a service around diversity, equity and inclusion would be valuable to their organization," said Lisa Dutkanych, head of strategy, business planning and resilience solutions.

"We learned that we could help our customers by offering consulting and identifying focus areas to advance their diversity, equity and inclusion and impact the development of policies and programs for DEI," she said. The Workplace Diversity, Equity and Inclusion Service, which was rolled out in January, is the first non-traditional risk engineering service to be developed by Zurich.

Julia Oltmanns, director of workplace diversity, equity and inclusion services at Zurich Resilience Solutions, said knowledge about DEI is increasingly relevant for businesses. "The organizations that Zurich works with may lose business if they are not able to adequately provide DEI information and demonstrate their commitment to it," she said.

It's important for customers and brokers to know that "there are increasing recoveries in discrimination lawsuits," Ms. Dutkanych said. More shareholder derivative actions include allegations around environmental, social and governance priorities and disclosures, "and DEI fits as a component in each of these areas."

Shareholders and investors are asking for more information about what companies are doing around DEI and what their employee representation looks like, she said.

There has also been a rise in discrimination and harassment lawsuits, "and those recoveries are significant today," Ms. Oltmanns said, noting that more regulators at both state and federal levels are emphasizing DEI.

As DEI has traditionally been viewed as a human resources responsibility, one of the goals has been to make sure that policyholders and brokers understand that this is not just an HR issue, Ms. Oltmanns said. "Risk managers also need to be considering the risks of a lack of attention to DEI."

The program is designed to help risk managers understand that DEI is an enterprise risk and should be viewed from a risk management perspective.


Lisa Dutkanych


Julia Oltmanns

It includes an assessment process to provide organizations pursuing DEI initiatives with an external review to identify areas they might have missed and opportunities they can benefit from.

Organizations that are starting a DEI program or do not yet have one in place can get help establishing their strategy and developing an effective program, Ms. Oltmanns said.

Caroline McDonald

SPECIAL REPORT

EXCESS & SURPLUS LINES

E&S market swells even as rate hikes ease

INSIDE

- ***BI* RANKINGS**
  Top 10 U.S.-based surplus lines insurers, wholesalers and MGAs, state premium trends and more. **PAGES 36-44**
- **RISKS ESCALATE**
  Inflation, supply chain disruptions, catastrophes and climate risks bring challenges. **PAGE 35**
- **E&S SECTOR DRAWS NEW CAPACITY**
  Investors have flocked to the surplus lines market, but will pace of entrants slow? **PAGE 46**

BY JUDY GREENWALD
jgreenwald@businessinsurance.com

Excess and surplus lines insurance buyers, who have paid significantly more for their coverage over the past five years, still face higher rates, but competition is increasing and there has been some moderation in price hikes.

Despite the higher prices, business continues to flow into the sector from the admitted markets.

Experts say higher inflation, bigger jury awards, possible hurricane losses, earlier and more damaging wildfires, supply chain disruptions and courts reopening since the pandemic lockdowns are among the factors likely to have a still indeterminate impact on the sector (see story, page 34).

More difficult-to-place coverages placed in the surplus lines market include the sometimes overlapping lines of natural catastrophe risks, cyber, habitational and commercial real estate, construction — particularly in New York — transportation, auto, trucking, hospitality and senior health care.

Meanwhile, more capital is entering the market, often through managing general underwriters and managing general agents, although some experts believe general economic concerns may slow that trend (see story, page 46).

Surplus lines premiums increased to $31.4 billion in the first half of 2022, a 32.4% increase over the same period last year, and the number of transactions increased 9.4%, according to reports by state surplus lines stamping offices.

The premium and transaction increases "are two very strong indicators that the market continues to be firm and robust across multiple lines and that more business is flowing into the channel," said Timothy W. Turner, president of Chicago-based Ryan Specialty Group Holdings Inc. "The flow into the E&S channel is as robust as it's ever been."

The move into the sector continues "because the marketplace obviously is wrestling with a lot of emerging and complex risk, and commercial carriers are continuing to rationalize their portfolios," said Matt Dolan, Boston-based president of North America Specialty, a unit of Liberty Mutual Insurance Co.

Mr. Dolan said issues facing the market, including inflation, the threat of a recession and supply chain risks, are leading people to look for bespoke, custom-crafted risk management solutions, to which the E&S market "is uniquely qualified to respond."

For example, cyber "epitomizes an emergent risk dynamic and the evolving nature of risk response found in the E&S marketplace," he said.

The trajectory of rate increases is beginning to moderate, Mr. Dolan said, "but continuing to, in general, keep pace with projections around loss costs."

David Bresnahan, Boston-based chief operating officer of Berkshire Hathaway Specialty Insurance Co., said, "We are seeing some lines which are still difficult, where the rates are still double-digit, and other lines where the rates have moderated to single digits," but the overall market is "still rate positive."

While rates may not be increasing to the same degree as the past two or three years, Markel is getting the rate it needs to stay ahead of loss trends, said Bryan Sanders, president of U.S. insurance at the Richmond, Virginia-based insurer.

Some policyholders have seen rate reductions, said Christopher J. Cavallaro, executive chairman of Jericho, New York-based wholesaler ARC Excess & Surplus LLC.

"If you're very difficult to underwrite to, you're not going to see any reduction," but successful companies will see some, he said.

Rates vary by jurisdiction, said Gary

See **SURPLUS** page 46

CLAIMS COSTS CONCERNS REMAIN AMID VOLATILE ECONOMY

The excess and surplus insurance market is affected by macroeconomic trends, including inflation, supply chain risks, climate change, catastrophes, rising jury awards and the war in Ukraine, all of which could raise its claims costs, observers say.

The difficult economic environment puts more pressure on underwriters, said David Blades, associate director of the industry research team at Oldwick, New Jersey-based rating agency A.M. Best Co. Inc.

The outside factors add an additional level of uncertainty and complexity for underwriters who have to recognize patterns and gain other insights to deal with exposures that have limited loss histories, said Matt Dolan, Boston-based president of North America Specialty, a unit of Liberty Mutual Insurance Co.

"The things that we are concerned about would be where claims costs are going," and the effect of inflation and rising jury awards and settlements, said Bryan Sanders, president of U.S. insurance for Richmond, Virginia-based Markel Corp.

"There are fewer and fewer jurisdictions" in the country where jury verdicts and changing laws have not affected the industry's claims costs, with jury awards in the "mega millions," said Gary Resman, Atlanta-based vice president, U.S. casualty, for Aspen Insurance Holdings Ltd.

It is "truly a concern" what happens when the court systems get caught up in their dockets post-pandemic, said Joel Cavaness, president of Rolling Meadows, Illinois-based Risk Placement Services Inc., a unit of Arthur J. Gallagher & Co.

The conflict in Ukraine is also raising concerns for policyholders and insurers. "At the end of the day, the capital that goes after insurance is global," and when events such as the war in Ukraine occur, it has a direct impact, said Dave Obenauer, CEO of wholesaler CRC Group in Mendham, New Jersey.

In addition, the National Oceanic and Atmospheric Administration predicted an above-normal number of hurricanes this year.

Wildfires are also causing concerns. Fires seem to be starting earlier and proliferating in areas beyond the "usual suspects" of California, Oregon and Washington, which is causing some insurers to pause "and maybe reassess their risk appetite," Mr. Blades said.

American International Group Inc., for example, has moved some of its catastrophe-exposed property coverage for wealthy individuals from admitted to nonadmitted paper.

Judy Greenwald

LARGEST SPECIALTY INTERMEDIARIES*

Ranked by 2021 wholesale premium volume from property/casualty and employee benefits placements

Rank	Company/Principal officer	2021 total premium volume	Percent change	2021 wholesale property/casualty premium	Percent change	Percent from property/ casualty	Percent from employee benefits	PERCENTAGE OF TOTAL BUSINESS: Underwriting manager	Wholesale broker	MGA	Lloyd's of London coverholder	Wholesale employees
1	**Amwins Group Inc.** Charlotte, North Carolina www.amwins.com Scott M. Purviance, CEO	$29,294,483,130	10.9%	$23,839,400,267	23.9%	81.4%	18.6%	0%	72.4%	26.6%	1.0%	6,490
2	**CRC Group**[1] Charlotte, North Carolina www.crcgroup.com Dave Obenauer, CEO	$24,457,198,803	18.9%	$14,749,606,120	33.6%	60.3%	39.7%	2.0%	74.0%	15.0%	9.0%	4,361
3	**Ryan Specialty LLC** Chicago www.ryansg.com Patrick G. Ryan, chairman-CEO	$16,700,000,000	26.5%	$16,700,000,000	26.5%	100%	0%	0%	65.1%	29.5%	5.4%	3,546
4	**Risk Placement Services Inc.** Rolling Meadows, Illinois www.rpsins.com Joel Cavaness, president	$5,500,000,000	22.2%	$5,500,000,000	22.2%	100%	0%	20.0%	41.0%	34.0%	5.0%	3,000
5	**Brown & Brown Inc.** Daytona Beach, Florida www.bbinsurance.com J. Powell Brown, president-CEO	$4,192,415,000	17.0%	$4,192,415,000	17.0%	100%	0%	0%	65.0%	25.0%	10.0%	1,594
6	**Victor Insurance Holdings** New York www.victorinsurance.com Brian Hanuschak, CEO	$2,950,000,000	13.5%	$2,950,000,000	13.5%	100%	0%	69.0%	0%	31.0%	0%	N/A
7	**Specialty Program Group LLC**[2] Summit, New Jersey www.specialtyprogramgroup.com Chris Treanor, president-CEO	$2,621,315,094	148.2%	$2,085,996,946	134.6%	79.6%	20.4%	35.0%	43.0%	21.0%	1.0%	600
8	**One80 Intermediaries Inc.** Boston www.one80intermediaries.com Matthew Power, president	$2,236,352,697	86.3%	$2,098,654,394	N/A	93.8%	6.2%	43.0%	9.0%	39.0%	9.0%	675
9	**Burns & Wilcox Ltd.** Farmington Hills, Michigan www.burnsandwilcox.com Alan Jay Kaufman, chairman-president-CEO	$2,185,000,000	9.3%	$2,185,000,000	9.3%	100%	0%	7.5%	40.0%	46.0%	6.5%	1,431
10	**AmRisc LLC** Houston www.amrisc.com Brian Reid, CEO	$2,169,015,915	25.6%	$2,169,015,915	25.6%	100%	0%	19.0%	0%	62.0%	19.0%	378

*Companies listed in *BI* directory. N/A = not available. [1]Formerly CRC Insurance Services Inc. [2]Includes Program Brokerage Corp.

Source: *BI* survey

LARGEST PROPERTY/CASUALTY WHOLESALERS

Ranked by 2021 wholesale premium volume from property/casualty placements*

							PERCENTAGE OF TOTAL BUSINESS				
Rank	Company/Principal officer	2021 premium volume	Percent change	2021 gross revenue	Percent change	Percent surplus lines	Underwriting manager	Wholesale broker	MGA	Lloyd's of London coverholder	Wholesale employees
1	**Amwins Group Inc.** Charlotte, North Carolina www.amwins.com Scott M. Purviance, CEO	$23,839,400,267	23.9%	$1,893,796,707	13.2%	68.3%	0%	72.4%	26.6%	1.0%	6,490
2	**Ryan Specialty LLC** Chicago www.ryansg.com Patrick G. Ryan, chairman-CEO	$16,700,000,000	26.5%	$1,432,800,000	40.7%	72.7%	0%	65.1%	29.5%	5.4%	3,546
3	**CRC Group**[1] Charlotte, North Carolina www.crcgroup.com Dave Obenauer, CEO	$14,749,606,120	33.6%	$1,670,798,782	30.2%	70.0%	2.0%	74.0%	15.0%	9.0%	4,361
4	**Brown & Brown Inc.** Daytona Beach, Florida www.bbinsurance.com J. Powell Brown, president-CEO	$4,192,415,000	17.0%	$403,417,000	14.3%	80.0%	0%	65.0%	25.0%	10.0%	1,594
5	**Jencap Group LLC** New York www.jencapgroup.com John Jennings, CEO	$2,100,000,000	29.6%	$206,000,000	28.8%	65.0%	0%	52.0%	40.5%	7.5%	900
6	**Brown & Riding Insurance Services Inc.** Los Angeles www.brownandriding.com Chris A. Brown, chairman; Jeffrey J. Rodriguez, president-CEO	$1,565,145,726	25.3%	$117,574,068	23.4%	82.4%	0%	98.3%	1.3%	0.4%	253
7	**U.S. Risk Insurance Group LLC** Dallas www.usrisk.com Randall Goss, CEO	$1,101,000,000	7.9%	$82,800,000	6.0%	72.0%	0%	65.0%	35.0%	10.0%	N/A
8	**ARC Excess & Surplus LLC** Jericho, New York www.arcbrokers.com Christopher Cavallaro, executive chairman; Michael Cavallaro, president-CEO	$994,000,000	19.0%	$96,000,000	17.1%	45.0%	10.0%	80.0%	10.0%	0%	203
9	**Socius Insurance Services Inc.** Walnut Creek, California www.sociusinsurance.com Patrick E. Hanley Sr., president	$382,000,000	27.1%	$34,547,064	22.8%	60.0%	0%	100%	0%	0%	107
10	**Evolution Insurance Brokers LC** Sandy, Utah www.eibdirect.com Rick J. Lindsey, president-chairman-CEO	$252,651,919	55.1%	$35,060,601	55.4%	95.0%	0%	100%	0%	0%	225

*Companies deriving more than 50% of their premium from wholesale brokerages. N/A = not available. [1]Formerly CRC Insurance Services Inc.

Source: *BI* survey

LARGEST MULTILINE WHOLESALERS*

Ranked by 2021 total premium volume including property/casualty and employee benefits

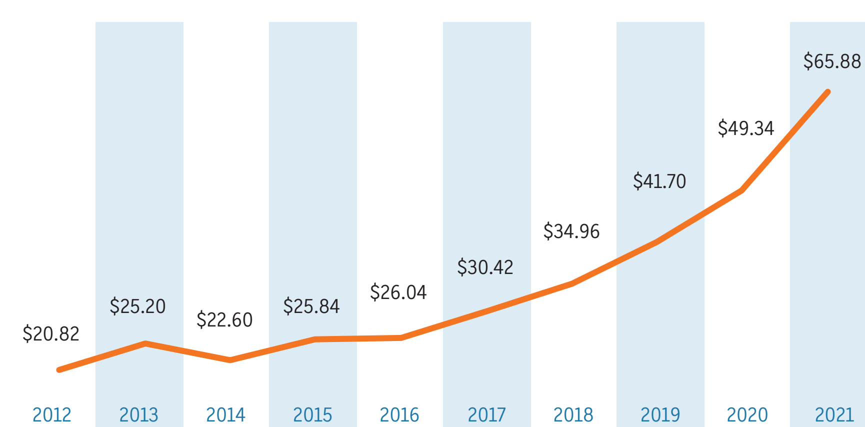
Rank	Company	2021 premium volume	% increase (decrease)
1	Amwins Group Inc.	$29,294,483,130	10.9%
2	CRC Group[1]	$24,457,198,803	18.9%
3	Ryan Specialty LLC	$16,700,000,000	26.5%
4	Brown & Brown Inc.	$4,192,415,000	17.0%
5	Jencap Group LLC	$2,100,000,000	29.6%
6	Brown & Riding Insurance Services Inc.	$1,565,145,726	25.3%
7	U.S. Risk Insurance Group LLC	$1,101,000,000	7.9%
8	ARC Excess & Surplus LLC	$994,000,000	19.0%
9	Maximum Independent Brokerage	$385,480,189	19.1%
10	Socius Insurance Services Inc.	$382,000,000	27.1%

*Companies deriving more than 50% of their premium from wholesale brokerages. [1]Formerly CRC Insurance Services Inc.

Source: *BI* survey

PREMIUM TRENDS

Written premiums of the top 10 property/casualty wholesalers, in billions of dollars



Source: *BI* survey

LARGEST MGAs/UNDERWRITING MANAGERS/LLOYD'S COVERHOLDERS

Ranked by 2021 wholesale premium volume from property/casualty placements*

Rank	Company/Principal officer	2021 premium volume	Percent change	2021 gross revenue	Percent change	Percent surplus lines	PERCENTAGE OF TOTAL BUSINESS: Underwriting manager	Wholesale broker	MGA	Lloyd's of London coverholder	Wholesale employees
1	**Risk Placement Services Inc.** Rolling Meadows, Illinois www.rpsins.com Joel Cavaness, president	$5,500,000,000	22.2%	$532,000,000	23.7%	65.0%	20.0%	41.0%	34.0%	5.0%	3,000
2	**Victor Insurance Holdings** New York www.victorinsurance.com Brian Hanuschak, CEO	$2,950,000,000	13.5%	N/A	N/A	17.0%	69.0%	0%	31.0%	0%	N/A
3	**Burns & Wilcox Ltd.** Farmington Hills, Michigan www.burnsandwilcox.com Alan Jay Kaufman, chairman-president-CEO; Daniel J. Kaufman, president	$2,185,000,000	9.3%	$545,000,000	13.5%	80.0%	7.5%	40.0%	46.0%	6.5%	1,431
4	**AmRisc LLC** Houston www.amrisc.com Brian Reid, CEO	$2,169,015,915	25.6%	$305,343,903	23.0%	72.0%	19.0%	0%	62.0%	19.0%	378
5	**One80 Intermediaries Inc.** Boston www.one80intermediaries.com Matthew Power, president	$2,098,654,394	N/A	$270,644,312	N/A	42.0%	43.0%	9.0%	39.0%	9.0%	675
6	**Specialty Program Group LLC**[1] Summit, New Jersey www.specialtyprogramgroup.com Chris Treanor, president-CEO	$2,085,996,946	134.6%	$300,000,000	89.9%	84.0%	35.0%	43.0%	21.0%	1.0%	600
7	**Johnson & Johnson Inc.** Mount Pleasant, South Carolina www.jjins.com Francis Johnson, CEO	$801,124,091	15.1%	$167,701,215	20.1%	85.0%	30.0%	15.0%	30.0%	25.0%	440
8	**SageSure** Jersey City, New Jersey www.sagesure.com Terrence McLean, CEO	$794,900,000	30.2%	$225,400,000	27.1%	4.1%	100%	0%	0%	0%	400
9	**XPT Specialty** New Haven, Connecticut www.xptspecialty.com Mark Smith, president	$511,000,000	38.9%	$45,000,000	32.4%	74.0%	33.0%	42.0%	19.0%	6.0%	251
10	**K&K Insurance Group Inc.** Fort Wayne, Indiana www.kandkinsurance.com Ron Norton, president-CEO	$368,000,000	4.8%	$85,000,000	(17.5%)	5.0%	90.0%	10.0%	0%	0%	281

*Companies that derive more than 50% of their wholesale premium from acting as a managing general agent, underwriting agent or Lloyd's of London coverholder. N/A = not available. [1]Including Program Brokerage Corp.

Source: *BI* survey

MANAGING GENERAL AGENTS

Ranked by percentage of MGA business

Rank	Company	Percent
1	AmRisc LLC	62%
2	Distinguished Programs	50%
3	Burns & Wilcox Ltd.	46%
4	Jencap Group LLC	41%
5	XS Brokers Insurance Agency Inc.	40%

Source: *BI* survey

UNDERWRITING MANAGERS

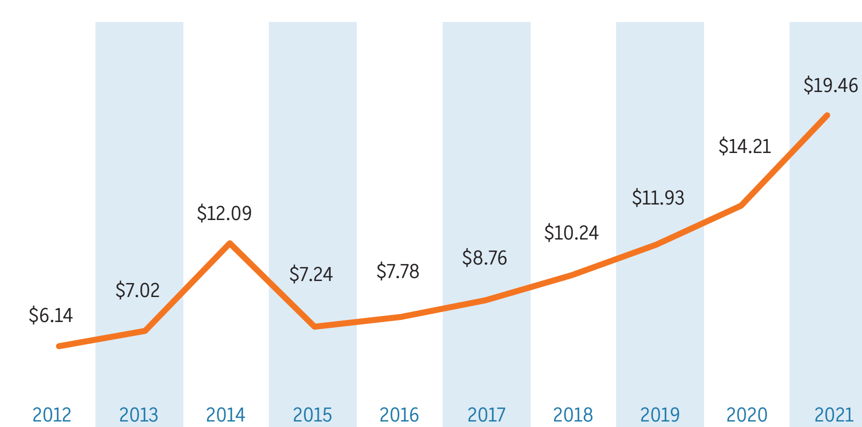
Ranked by percentage of underwriting business

Rank	Company	Percent
1	SageSure	100%
2	K&K Insurance Group Inc.	90%
3	Victor Insurance Holdings	69%
4	Distinguished Programs	50%
5	One80 Intermediaries Inc.	43%

Source: *BI* survey

PREMIUM TRENDS

Written premium of the top 10 MGAs/underwriting managers, in billions of dollars



Source: *BI* survey

LARGEST U.S.-BASED SURPLUS LINES INSURERS

Ranked by 2021 nonadmitted direct written premiums

Rank	Company/Principal officer	2021 nonadmitted direct premiums	2020 nonadmitted direct premiums	Percent change	2021 gross premiums	2020 gross premiums	Percent change	2021 net income	2020 net income	Percent change
1	**National Fire & Marine Insurance Co.** Omaha, Nebraska www.nationalindemnity.com Donald F. Wurster, president	$3,409,023,818	$2,898,724,442	17.6%	$3,602,314,864	$3,088,555,467	16.6%	$153,080,584	($51,382,770)	(397.9%)
2	**WRB**[1] Greenwich, Connecticut www.berkley.com William R. Berkley, executive chairman; W. Robert Berkley Jr., president-CEO	$2,841,668,138	$2,255,698,796	26.0%	$2,845,262,575	$2,282,233,303	24.7%	$15,760,843	$14,672,837	7.4%
3	**Nationwide Excess and Surplus**[2] Scottsdale, Arizona www.nationwideexcessandsurplus.com Russ Johnston, president	$2,598,959,050[3]	$2,227,135,434[3]	16.7%	$7,162,984,867[3]	$5,950,470,436[3]	20.4%	$11,066,726[3]	$90,140,667[3]	(87.7%)
4	**AEGIS (Associated Electric & Gas Insurance Services Inc.)** East Rutherford, New Jersey www.aegislink.com William P. Cullen, president-CEO	$2,377,763,000	$2,092,383,000	13.6%	$2,377,763,000	$2,092,383,000	13.6%	$229,784,000	$112,267,000	104.7%
5	**Chubb Group Ltd.**[4] Philadelphia www.chubb.com John J. Lupica, chairman-president; Drew Spitzer, treasurer-CFO	$2,368,078,979	$1,884,490,000	25.7%	$2,449,405,275	$1,947,106,227	25.8%	$9,745,715	$12,188,307	(20.0%)
6	**Lexington Insurance Co.** Boston www.lexingtoninsurance.com Louis D. Levinson, president-CEO; Thomas Connolly, senior vice president-CFO; Brian P. Rucker, senior vice president-statutory controller	$2,352,015,808	$2,078,951,079	13.1%	$9,036,242,945	$8,737,834,587	3.4%	$793,280,191	$112,986,953	602.1%
7	**Liberty Mutual Holding Co. Inc.** Boston www.libertymutualgroup.com Matthew Paul Dolan, president-CEO, North America Specialty	$2,191,882,900	$1,703,756,086[5]	28.7%	$2,224,056,921	$1,771,105,246	25.6%	$11,099,270	$12,862,249	(13.7%)
8	**Markel Corp.** Glen Allen, Virginia www.markelcorp.com Thomas S. Gayner, co-CEO; Richard R. Whitt III, co-CEO	$2,056,583,744	$1,687,908,485	21.8%	$2,760,478,111	$2,244,358,285	23.0%	$416,021,837	$390,890,720	6.4%
9	**Indian Harbor Insurance Co.** Stamford, Connecticut www.axaxl.com Joseph Tocco, president-CEO	$1,915,384,066	$1,665,848,063	15.0%	$2,010,315,801	$1,764,148,858	14.0%	$14,857,112	($12,947,161)	(214.8%)
10	**AIG Specialty Insurance Co.** Chicago www.aig.com Michael D. Price, president-CEO	$1,387,651,276	$892,788,089	55.4%	$1,454,157,250	$932,243,921	56.0%	$2,089,222	$912,844	128.9%

[1]Formerly W.R. Berkley Corp. [2]Includes Freedom Specialty Insurance Co., National Casualty Co., Scottsdale Indemnity Co., Scottsdale Insurance Co., Scottsdale Surplus Lines Insurance Co. [3]From annual statements. [4]Includes Chubb Custom Insurance Co., Executive Risk Specialty Insurance Co., Illinois Union Insurance Co., Westchester Surplus Lines Insurance Co. [5]Restated.

Source: *BI* survey

NET INCOME

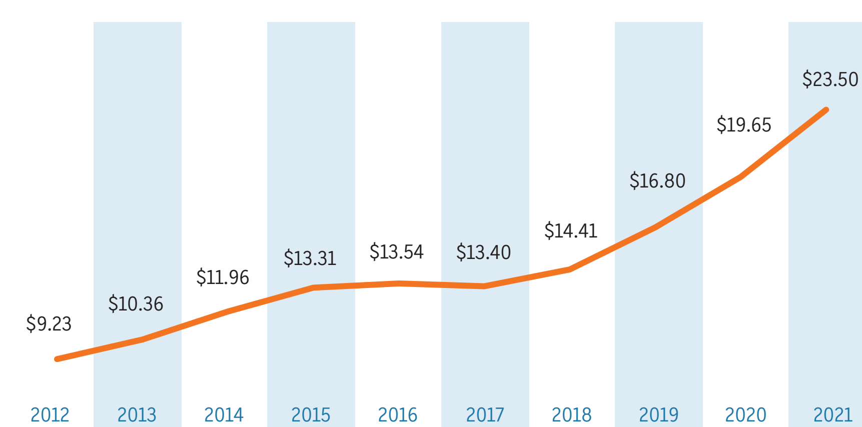
Top surplus lines insurers, ranked by 2021 net income

Rank	Company	2021 net income
1	Lexington Insurance Co.	$793,280,191
2	Markel Corp.	$416,021,837
3	AEGIS (Associated Electric & Gas Insurance Services Inc.)	$229,784,000
4	RSUI Indemnity Co.	$191,167,508
5	National Fire & Marine Insurance Co.	$153,080,584
6	Mt. Hawley Insurance Co.	$61,026,569
7	Western World Insurance Co.	$53,106,543
8	Energy Insurance Mutual Ltd.	$52,292,845
9	Prime Insurance Co.	$49,921,714
10	The Cincinnati Specialty Underwriters Insurance Co.	$47,029,091

Source: *BI* survey

PREMIUMS TRENDS

Nonadmitted direct premiums of the top 10 U.S.-based surplus lines insurers, in billions of dollars



Source: *BI* survey

SURPLUS LINES PREMIUMS AND TAXES BY STATE

	GROSS SURPLUS LINES PREMIUMS WRITTEN				SURPLUS LINES TAXES COLLECTED			
State	2021	2020	2019	Percent change 2020-2021	2021	2020	2019	Percent change 2020-2021
Alabama	$835,245,068	$661,266,230	$553,216,558	26.3%	$54,935,012	$46,315,099	$43,312,868	18.6%
Alaska	$197,309,957	$169,278,241	$146,346,406	16.6%	$4,416,063	$3,663,724	$3,121,204	20.5%
Arizona	$1,049,173,399	$762,416,961	$717,999,613	37.6%	$31,188,799	$22,473,019	$20,427,757	38.8%
Arkansas	$390,301,425	$322,134,345	$283,958,230	21.2%	$15,233,270	$12,355,608	$10,990,642	23.3%
California	$11,948,313,335	$12,600,364,589[1]	$10,723,343,883[1]	(5.2%)	$321,974,425	$350,515,296[1]	$293,312,227[1]	(8.1%)
Colorado	$1,611,138,768	$1,182,383,332	$1,083,348,454	36.3%	$48,457,302	$36,217,453	$33,347,884	33.8%
Connecticut	$667,536,098	$504,725,005	$445,000,000	32.3%	N/A	N/A	$22,983,755	N/A
Delaware	$325,377,172	$189,821,410	$185,828,516	71.4%	$9,378,110	$5,276,864	$5,359,920	77.7%
District of Columbia	$354,655,326	$369,426,850	$358,087,650	(4.0%)	$7,093,107	$7,388,537	$7,161,753	(4.0%)
Florida	$9,550,707,093	$7,562,394,241	$6,668,194,699	26.3%	$413,038,167	$336,707,168	$296,834,629	22.7%
Georgia	$2,037,205,121	$1,645,677,101	$1,473,700,185	23.8%	$81,488,205	$65,827,084	$58,948,007	23.8%
Hawaii	$377,065,009	$295,925,218	$281,618,611	27.4%	$17,646,642	$14,375,736	$13,164,029	22.8%
Idaho	$259,543,347	$211,420,085	$155,652,523	22.8%	$3,893,774	$3,171,761	$2,335,381	22.8%
Illinois	$2,954,549,226	$2,108,551,065	$1,913,459,079	40.1%	$103,420,805	$73,803,436	$66,975,167	40.1%
Indiana	N/A	$784,068,523	$718,696,495	N/A	N/A	$19,601,713	$17,967,412	N/A
Iowa	$457,014,539	$406,387,108	$244,134,312	12.5%	$5,088,110	$4,068,433	$3,635,759	25.1%
Kansas	$442,143,299	$369,724,742	$290,541,737	19.6%	$26,506,583	$18,057,634	$17,432,504	46.8%
Kentucky	$372,712,671	$307,141,693	$263,978,643	21.3%	$11,178,992	$9,214,252	$7,919,359	21.3%
Louisiana	$2,172,638,076	$1,825,832,509	$1,709,004,530	19.0%	$105,372,889	$88,552,828	$82,886,696	19.0%
Maine	$149,611,604	$123,297,317	$142,836,684	21.3%	$4,202,787	$3,468,939	$3,734,222	21.2%
Maryland	$869,499,223	$632,765,160	$631,825,987	37.4%	$25,952,377	$18,913,790	$18,954,780	37.2%
Massachusetts	$1,451,587,840	$1,390,676,725	$1,340,461,104	4.4%	$58,063,514	$55,627,069	$53,618,444	4.4%
Michigan	N/A	N/A	N/A	N/A	$27,550,640	$23,007,217	$19,406,810	19.7%
Minnesota	$909,318,753	$756,297,742[1]	$628,968,723	20.2%	$27,279,563	$22,688,932[1]	$18,869,062	20.2%
Mississippi	$663,504,676	$568,865,095	$469,003,426	16.6%	$26,538,538	$22,756,348	$18,760,410	16.6%
Missouri	$847,098,000	$740,994,000	$775,833,892	14.3%	$41,316,801	$36,565,258	$36,339,632	13.0%
Montana	$183,129,750	$174,631,053	$95,760,738	4.9%	$5,036,068	$4,738,655	$2,902,549	6.3%
Nebraska	$312,304,747	$257,302,849	$202,699,534	21.4%	$9,062,331	$7,451,289	$6,080,986	21.6%
Nevada	$553,881,662	$440,622,911	$413,506,324	25.7%	$19,385,647	$15,421,850	$14,472,301	25.7%
New Hampshire	$171,796,274	$126,805,410	$113,209,684	35.5%	$5,153,944	$3,804,162	$3,396,290	35.5%
New Jersey	$2,335,259,205	$2,039,653,054	$1,912,240,217	14.5%	$111,362,803	$97,934,184	$91,522,308	13.7%
New Mexico	$202,204,601	$169,273,334	N/A	19.5%	$6,524,612	$5,303,709	N/A	23.0%
New York	$6,644,874,018	$5,118,021,821	$4,879,351,152	29.8%	$233,442,178	$180,227,952	$172,302,334	29.5%
North Carolina	$1,359,142,801	$1,009,020,889	$928,596,053	34.7%	$67,427,909	$49,872,671	$45,939,124	35.2%
North Dakota	$163,025,751	$134,871,667	$129,066,783	20.9%	$2,852,941	$2,360,273	$2,258,620	20.9%
Ohio	$1,524,722,168	$1,217,305,888	$980,862,630	25.3%	$75,953,750	$60,364,791	$48,497,081	25.8%
Oklahoma	$748,557,652	$733,836,638	$657,828,818	2.0%	$44,913,459	$44,030,198	$39,469,729	2.0%
Oregon	$740,120,891	$589,263,333	$477,673,455	25.6%	$15,009,613	$13,553,043	$10,986,564	10.7%
Pennsylvania	$2,999,157,407	$1,750,528,348	$1,575,227,438	71.3%	$63,782,249	$51,451,413	$46,309,157	24.0%
Rhode Island	$251,374,936	$100,069,008	$134,429,937	151.2%	$9,630,304	$3,876,099	$5,131,854	148.5%
South Carolina	$1,143,687,030	$1,007,847,583	$807,817,183	13.5%	$70,275,131	$60,470,855	$48,469,031	16.2%
South Dakota	$112,756,422	$87,501,134	$80,785,201	28.9%	$2,857,554	$2,205,496	$2,038,044	29.6%
Tennessee	$1,112,731,125	$954,700,935	$705,653,752	16.6%	$55,452,654	$46,376,202	$34,440,019	19.6%
Texas	$9,324,351,959	$8,004,173,121	$7,053,466,457	16.5%	$440,473,583	$383,676,539	$336,600,126	14.8%
Utah	$590,847,736	$480,231,389	$350,530,703	23.0%	$25,110,029	$20,409,834	$14,323,624	23.0%
Vermont	$106,426,137	$78,750,684	$61,574,358	35.1%	$3,192,784	$2,362,521	$1,847,231	35.1%
Virginia	$1,127,960,468	$1,073,164,704	$876,067,000	5.1%	$26,366,370	$24,922,529	$21,180,000	5.8%
Washington	$1,789,413,015	$1,371,009,664[1]	$1,233,179,099[1]	30.5%	$35,792,266	$27,420,958[1]	$24,664,339[1]	30.5%
West Virginia	N/A	$149,710,948	$149,957,001	N/A	N/A	$6,573,092	$6,587,556	N/A
Wisconsin	$697,862,286	$527,656,471	$410,363,170	32.3%	$20,935,869	$15,829,694	$12,310,895	32.3%
Wyoming	$118,164,039	$94,755,340[1]	$72,791,826[1]	24.7%	$3,544,921	$2,842,660[1]	$2,183,755[1]	24.7%

[1]Restated. N/A = Not available.
Source: *BI* survey

SURPLUS

Continued from page 35

Resman, Atlanta-based vice president, U.S. casualty for Aspen Insurance Holdings Ltd., referring to E&S primary casualty. "Some will say the market is harder, while others will say it's softening, and every region of the country has its own set of risk issues."

But while there has been some rate moderation, lines such as property cat and cyber continue to be very tight, said Alex Bargmann, CEO and co-founder of Pathpoint Inc., a San Francisco-based digital excess and surplus brokerage that focuses on small account business.

Business continues to move into the sector, observers say.

"The flow will continue," said Scott Meyer, senior vice president of Chubb Group and president of Westchester Surplus Lines Insurance Co., its excess and surplus lines unit.

"Things aren't getting any easier. Interest rates and inflation are making things more complex," catastrophe modeling is still being worked out, and the extent to which the admitted market is becoming, in certain cases, a "little more conservative" creates more opportunities for the wholesale sector, he said.

Most cyber liability risks are being written in the excess market, observers say. Mr. Cavallaro estimated that of the 40 markets that write cyber, 35 do so on an excess basis.

Mr. Turner said property cat risks — including wind, flood and wildfire risks — are increasingly written on a nonadmitted basis as the standard market scales back.

With the uncertainty around the economy and rate adequacy, there may be some moderation in pricing "but certainly not a market turn," said Sabrina Hart, Atlanta-based president of Munich Re Specialty's excess and surplus lines business.

"The market will continue to be strong through '23," said Alan Jay Kaufman, chairman, president and CEO of H.W. Kaufman Financial Group Inc. in Farmington Hills, Michigan. Certain large risks will become more competitive, but those rates will flatten rather than decrease, he said.

Some observers say there are signs of a structural change in the market. There is some underlying shift in the way admitted insurers are positioning themselves not to write complicated risks. This will work in combination with the market's traditional cyclicality, Mr. Bargmann said.

NEW ENTRANTS FUEL MARKET GROWTH

New managing general agents and underwriters have entered the excess and surplus lines insurance market in increasing numbers over the past two years, but some foresee a slowdown in coming months.

"If you look at the last 18 to 24 months, I would say we have seen close to two dozen new entrants on the casualty side, with many on the MGA side, with various papers behind them," said Bryan Sanders, president of U.S. insurance for Richmond, Virginia-based Markel Corp.

Generally, the new entrants have not sought to slash rates, he said.

Some of the new entrants have put an emphasis on technology.

In January, for instance, Chicago-based Agman, an investment company, introduced Aurenity, a tech-enabled managing general agent targeting casualty and professional liability lines in the E&S market, with $10 million in seed money.

Observers say the MGAs and MGUs have attracted talented and experienced personnel who can narrowly focus on particular lines.

"Because it's a hard market, you can enter and price profitably from the get-go," said Alex Bargmann, CEO and co-founder of San Francisco-based Pathpoint Inc.

Mr. Bargmann said there has been a proliferation of underwriting expertise in the sector, "and now sophisticated capital is pouring in," which creates great opportunities for someone wanting to start an MGA or MGU.

These entities "have a variable expense model that the capital providers are attracted to," said Timothy W. Turner, president of Ryan Specialty Group Holdings Inc.

Expenses, underwriting, distribution and services are all outsourced, so the insurer is just providing the risk capital, "which is attractive to many risk-bearing entities," he said.

"There will always be new entrants into the marketplace, especially in this pricing environment," said James Drinkwater, Charlotte, North Carolina-based president of Amwins Group and executive chair of Amwins Global Risks.

Some observers say, though, that economic factors may slow the entry of new MGAs and MGUs, and there will be failures among entrants.

Higher interest rates and capital costs, and "perhaps a growing acknowledgement that some of the social inflation trends are hitting the loss side of the ledger," will discourage potential new entrants, said David Bresnahan, Boston-based chief operating officer of Berkshire Hathaway Specialty Insurance Co.

"There's a cap on the number of markets necessary to meet the market's needs," said Eric Bublitz, Kansas City, Kansas-based head of excess and surplus for AmTrust Financial Services.

Some experts struck a cautionary note. "What keeps us up at night is whether the current discipline will remain," although "so far it has," said Gary Resman, Atlanta-based vice president, U.S. casualty, for Aspen Insurance Holdings Ltd., referring to E&S primary casualty.

Judy Greenwald

CLASSIFIED

IN THE HIGH COURT OF JUSTICE **CR-2022-001261**
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMPANIES COURT (ChD)

IN THE MATTER OF AGF INSURANCE LIMITED
- and -
IN THE MATTER OF CATALINA LONDON LIMITED
- and -
IN THE MATTER OF CATALINA WORTHING INSURANCE LIMITED
- and -
IN THE MATTER OF PART VII OF THE FINANCIAL SERVICES AND MARKETS ACT 2000

Notice is hereby given that on 13 July 2022 an Application was made under section 107 of the Financial Services and Markets Act 2000 (the **Act**) in the High Court of Justice, Business and Property Courts of England and Wales, Companies Court (ChD) in London by AGF Insurance Limited (**AGF**) and Catalina London Limited (**CLL**) (together the **Transferors**) and Catalina Worthing Insurance Limited (**CWIL**), for orders:

(1) under section 111 of the Act sanctioning a scheme (the **Scheme**) providing for the transfer to CWIL of the entire general insurance and reinsurance business written and/or assumed by each Transferor; and

(2) making ancillary provisions in connection with the Scheme pursuant to sections 112 and 112A of the Act.

Each of AGF, CLL and CWIL are UK-authorised insurers in run-off. AGF was formerly known as the Employers' Mutual Insurance Association Limited, N.E.M. Insurance Company Limited and NEM Insurance Company Limited and acquired the business of the National Employers Mutual in 1989. CLL was formerly known as American Re-Insurance Company (UK) Limited, Aetna Re-Insurance Company (UK) Limited, The Imperial Fire & Marine Re-Insurance Company Limited and Alea London Limited. CLL also acquired the business of KX Reinsurance Company Limited and OX Reinsurance Company Limited. CWIL was formerly known as Hartford Financial Products International Limited and in 2015 acquired the business of Excess Insurance Company Limited, a portfolio originally written by London & Edinburgh Insurance Company from Aviva Insurance UK Limited and the business written by the London branch of Hartford Fire Insurance Company.

A copy of the report on the terms of the Scheme prepared in accordance with section 109 of the Act by an Independent Expert (the **Scheme Report**), a statement setting out the terms of the Scheme and a summary of the Scheme Report, and the Scheme document may be obtained free of charge by contacting the Transferors and CWIL using the telephone number or addresses set out below. These documents and other related documents, including sample copies of the communications to policyholders, are also available at www.catalinaworthing.co.uk/PartVII.html. This website will be updated for any key changes to the proposed transfer.

Any questions or concerns relating to the proposed Scheme should be referred to the Transferors and CWIL by email to PartVIITransfer@catalinare.com, by telephone at +44 1903 836804, or in writing at Part VII Enquiries, Catalina Services UK Limited, 1st Floor, 1 Alie Street, London E1 8DE, United Kingdom. When calling the helpline number, please leave a short message stating the nature of your query and your contact details and we will endeavour to return your call within 48 hours (excluding Saturdays, Sundays and public holidays).

If you are in any doubt as to whether your insurance policy is included in the proposed transfer please contact the parties at the contact details set out above.

The Application is due to be heard at the **High Court of Justice of England and Wales, 7 Rolls Buildings, Fetter Lane, London, EC4A 1NL, United Kingdom** on **18 November 2022**. Any person who thinks that he or she would be adversely affected by the carrying out of the Scheme, or objects to the Scheme, may attend the hearing and express their views, either in person or by a representative. It is requested that anyone intending to do so informs the Transferors and CWIL (using the contact details set out above) as soon as possible and preferably before **11 November 2022** to set out the nature of their objection. This will enable the Transferors and CWIL to provide notification of any changes to the hearing and, where possible, to address any concerns raised in advance of the hearing.

Any person who objects to, or considers they may be adversely affected by, the Scheme but does not intend to attend the hearing may make representations about the Scheme by giving written notice of such representations to the Transferors and CWIL at the address provided above or by calling the telephone number provided above, in each case as soon as possible and preferably before **11 November 2022**.

The Transferors and CWIL will inform the UK's Financial Conduct Authority and Prudential Regulation Authority of any objections raised in advance of the hearing, regardless of whether the person making the objection intends to attend the hearing.

If the Scheme is sanctioned by the Court, it will result in the transfer of all the contracts, property, assets and liabilities of the Transferors to CWIL save where otherwise specified in the Scheme, notwithstanding that a person would otherwise be entitled to terminate, modify, acquire or claim an interest or right or to treat an interest or right as terminated or modified as a result of the transfer of business effected by the Scheme. Any such right will only be enforceable to the extent the order of the Court makes provision to that effect. Subject to the sanction of the Court, the Scheme is currently anticipated to be effective at **23:59 GMT** on **30 November 2022**.

5 August 2022

Norton Rose Fulbright LLP, 3 More London Riverside, London, SE1 2AQ, United Kingdom

Solicitors acting for AGF Insurance Limited, Catalina London Limited and Catalina Worthing Insurance Limited

Ref: RAXH/1001168254

Preventable falls frustrate safety officials

INSIDE

BY LOUISE ESOLA

lesola@businessinsurance.com

Falls from heights are the No. 1 cause of death for workers, but the hazard remains the most-cited workplace safety violation year after year despite being relatively easy to prevent.

Federal regulators and workplace safety advocates say preventing falls is a priority, as several organizations have recently announced efforts aimed at demystifying the root causes. Meanwhile, citations — in many cases for repeat violations — continue to stack up.

The Occupational Safety and Health Administration issued 5,295 fall protection citations in 2021, the 11th consecutive year that the hazard was the most-cited violation. The Bureau of Labor Statistics reported that "falls from elevation" accounted for 351 of the 1,008 deaths among construction workers last year, or about one-third of construction-related deaths.

It's an issue Doug Parker, OSHA's assistant secretary of labor, calls the most "frustrating" for workplace safety advocates.

Aiming to increase awareness, OSHA issued 14 press releases between May 1 and Aug. 1 on companies cited for violating fall protection guidelines. On July 11, the agency announced a new initiative to conduct surprise safety inspections for fall hazards at residential construction sites in Colorado, Montana and

See **FALLS** next page

FALLS

Continued from page 47

South Dakota.

The latest push for surprise inspections, targeting "weekend work" when companies have been known to have lax safety protocols, follows a similar program last year in the Denver area. That initiative included 68 surprise inspections that resulted in 54 citations for fall hazards, 10 of which were repeat citations for construction companies. Jennifer Rous, OSHA's Denver area regional administrator, said in an email that the initiative helped remove some 200 workers from the risk of dangerous falls.

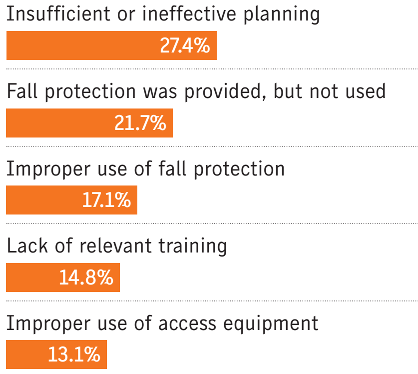
> "I can't think of a rule or hazard where (there are) so many deaths and so much noncompliance."
>
> Doug Parker, OSHA

Still, do inspections spur widespread change? Not really, according to experts — including OSHA's leader.

"About 50% of our inspections are in construction" and "about half of those inspections … have identified a fall hazard," Mr. Parker said at the American Society of Safety Professionals' annual conference in Chicago in June. "I can't think of a rule or hazard where (there are) so many deaths and so much noncompliance."

Adding to the fall protection compliance conundrum is that failing to use protective equipment is among the most "visible" workplace safety violations, said John Ho, a labor and employment attorney and chair of Cozen O'Connor P.C.'s OSHA practice in New York. "If you've got folks working on a building and an OSHA inspector drives by, or even a member of the public or another co-worker sees it, this is very visible," he said.

TOP FIVE CAUSES OF FALLS



Source: The Center for Construction Research and Training, CPWR

According to experts, the scene is common: a worker, at an elevation, not protected by a use of a harness or other apparatus.

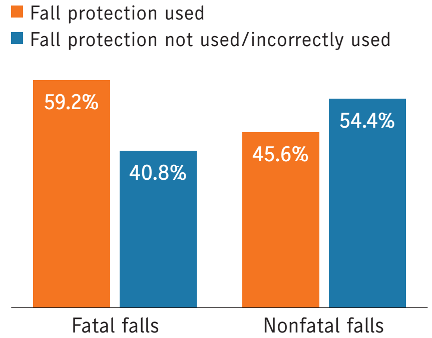
In some cases, it's a matter of accidental oversight; in others, it's overconfidence, said Kristina Brooks, of counsel and a workplace safety and health attorney in the Albuquerque, New Mexico, office of Jackson Lewis P.C., who also worked as a litigator for OSHA for 15 years.

"We've seen companies that have very robust programs in place and they still have accidents," she said. "And then you have people who have been doing this for a very long time. So, they just get that false sense of safety and say, 'We've never had an issue. We're just going to continue to do it this way.'

"Even though they know they've got the equipment in their truck. Even though they know they can go to the yard or to wherever they need to ensure that the fall protection (equipment) is in place for everybody."

The Silver Springs, Maryland-based Center for Construction Research and Training has been looking deeper into the issue, surveying the construction industry to understand why fall protection practices are so lax.

USE OF FALL PROTECTION



Source: CPWR

Jessica Bunting, who leads the organization's Campaign to Prevent Falls in Construction, said the most recent data, culled from interviews with 671 workers, has provided insights.

One of the most important findings was that company culture often determined whether a worker used fall protection equipment, she said.

"Having heard from contractors and others, saying, 'You know, we provide everything but then employees aren't using the fall protection,' (we found) that it really comes down to the employer," she said.

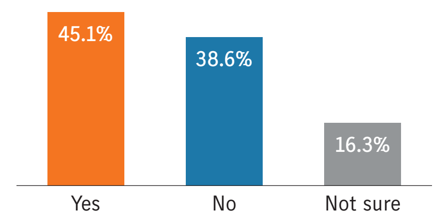
The survey found that "when employees believed that their company's fall prevention policy was strongly associated with the use of fall protection and they believed that fall protection was required, they were eight times more likely to use fall protection compared to those who did not believe that it was required," Ms. Bunting said.

Mr. Ho said employers often state in challenging citations that employee misconduct led to lapses in safety. "Somebody takes a shortcut. … They don't really think of (fall protection), but they have all the equipment provided. For some reason, it wasn't being used, and sometimes people aren't trained properly on how to use it. And if they do use it, they're misusing it."

Jessica Martinez, Los Angeles-based co-executive director of the National Council for Occupational Safety and Health, said investigations must go beyond an individual worker's behavior. Lapses in fall protection protocols usually reflect a systemic failure, she said.

GRASP OF FALL PROTECTION

Did the individual who fell believe that fall protection was required by company safety policy for the task that led to the fall?



Source: CPWR

"Let's suppose the worker is injured or killed falling from a height, and suppose an investigation shows the worker was not wearing a safety harness at the time. If we're going to blame the worker and focus on the worker's behavior, then the reason he or she was injured or killed was because he or she failed to wear the safety equipment. Case closed, right? But that's completely wrong."

> "We've seen companies that have very robust programs in place and they still have accidents."
>
> Kristina Brooks, Jackson Lewis P.C.

An investigation "must inquire why hazardous conditions occurred," she said.

"Why is it that the worker assigned to work at a height was not wearing their safety harness? Did the employer provide the safety harness and provide training on how to properly fit and use safety harness? Did the employer supervisors inspect the workplace and ensure that any safety harnesses are available?"

Construction industry web complicates safety

Holding employers responsible for lax fall protection practices has long been considered one way to increase compliance — yet courts remain split on the issue of whether general contractors or subcontractors are at fault.

Under the Occupational Safety and Health Administration's Multi-Employer Citation Policy, more than one employer may be cited for a hazardous condition that violates an OSHA standard under certain conditions, including fall protection lapses.

"The direct employer, the employer of record who pays the actual paychecks, has the greater responsibility," said John Ho, a labor and employment attorney and chair of Cozen O'Connor P.C.'s OSHA practice in New York. Yet "OSHA recognizes that as the general contractor, you still have some responsibility," he said.

Kristina Brooks, of counsel and a workplace safety and health attorney in the Albuquerque, New Mexico, office of Jackson Lewis P.C., said it depends on the state in which the work is being performed, as some state courts have ruled that the general contractor holds responsibility. Generally, she said, it's a best practice for the general contractor to oversee safety.

In many cases, it comes down to the issue of control of the worksite, which can include multiple subcontractors. One example, Ms. Brooks said, is when one subcontractor is hired to paint and a different subcontractor is hired to erect the scaffolding — who is responsible when something goes wrong, or someone trips and falls?

The general contractor is always held to some oversight, she said, adding "so they have a general responsibility to check in with their contractors.

Louise Esola

High courts largely rule for employees in slate of recent workers comp disputes

BY SHERRI OKAMOTO

Workers compensation systems are creatures of statute, and state supreme courts throughout the country have recently addressed how to interpret laws relating to sovereign immunity, special circumstances warranting benefit increases, admissibility of medical reports, and the compensability of mental injury claims.

Missouri

The Missouri Supreme Court in a July 12 decision had to define "employer" in *Poke v. Independence School District*, a case involving the firing of a school custodian who tested positive for marijuana after being injured at work in December 2019.

After he was terminated, Travis Poke filed a lawsuit alleging the school district retaliated against him for filing a workers comp claim. The district filed a motion for summary judgment claiming sovereign immunity shielded it from retaliatory discharge claims.

A trial judge agreed with the district, but the state Supreme Court did not.

Missouri Revised Statutes Section 287.780 prohibits all employers from engaging in retaliatory conduct and creates a civil action for damages against all employers that ignore this prohibition. Another statute, Section 287.030, includes school districts in the definition of employer.

"Consequently, considered together, Sections 287.780 and 287.030 reflect an express showing of legislative intent to waive the school district's sovereign immunity for Poke's workers compensation retaliation claim," the high court said in reversing the trial court.

Kentucky

The Kentucky Supreme Court in a June 25 decision also addressed a case involving an injured worker who was terminated for cause.

The question in *Tractor Supply v. Wells* was whether Patricia Wells' termination for allegedly filing false information on a company report prohibited her from receiving treble benefits.

Ms. Wells was on work restrictions for an August 2018 injury when she was fired in January 2019 for allegedly providing her employer false information in a matter not related to her claim.

Kentucky Revised Statutes Section 342.370(1) includes a mechanism to triple the permanent partial disability benefits owed to workers who are physically unable to return to their time-of-injury jobs.

The court found the statute does not include a provision allowing consideration of the reasons underlying a termination decision when determining whether the multiplier should be applied. In affirming the lower court's decision, the high court said Ms. Wells was entitled to the benefit bump because she was incapable of meeting the physical demands of her old job.

By contrast, the court in a June 16 decision, *Helton v. Rockhampton Energy LLC*, ruled that a worker laid off for economic reasons in September 2019 wasn't entitled to double benefits.

Section 342.730(1)(c)2 requires doubling permanent partial disability benefits owed to a person who returned to work after an injury only for the employment to subsequently end.

The high court said Jarvis Helton, by definition, could not "return" to work because he never missed any time for cumulative injuries he sustained while working for Rockhampton. Therefore, he wasn't entitled to the benefit multiplier the high court said in a decision that affirmed decisions of the Workers' Compensation Board and the Court of Appeals.

The Kentucky Supreme Court on June 16 in *Toler v. Oldham County Fiscal Court* addressed the statutory definition of "physician" in a case finding a doctor not licensed in the state is not authorized to submit a report as evidence in a workers comp proceeding.

Section 342.0011(32) defines "physician" to include physicians, surgeons, psychologists, optometrists, dentists, podiatrists, osteopaths and chiropractors acting within the scope of their state-issued license.

The Workers' Compensation Board and the state Court of Appeals both allowed a report from an out-of-state doctor who opined on the impairment rating for Tracy Toler. Mr. Toler objected to the report.

The Court of Appeals said a statutory caveat in KRS 342.0011(32) — "unless the context otherwise requires" — allows the administrative law judge sufficient discretion to accept a report from an out-of-state doctor.

The high court disagreed, saying the General Assembly can widen the pool of physicians qualified to provide medical opinions in workers comp cases, but existing law "is limited so that only physicians licensed in Kentucky may provide such evidence."

The "unless the context otherwise requires" language allows judges to consider medical opinions from specialists not recognized in statute, such as an audiologist, the court said. It does not require or allow admitting reports from physicians not licensed in the state, the court said.

Iowa

The compensability of mental injuries was before the Iowa Supreme Court in a June 3 decision in *Tripp v. Scott Emergency Communication Center*.

The case involved Mandy Tripp, a longtime emergency dispatcher who filed a claim for post-traumatic stress disorder after taking a call from a mother who had just come across her murdered child.

The split court overturned its precedent on mental injury claims, declining to continue enforcing a higher bar on emergency responders to be eligible for benefits for trauma-induced mental injuries suffered on the job than for workers in other roles with identical injuries.

Iowa Code Section 85.3(1) provides for the payment of compensation for "personal injuries sustained by an employee arising out of and in the course of the employment," the court said.

Section 85.61(4) does not provide a precise definition of an "injury," the court noted, but its case law has established that mental conditions qualify as injuries under the statute. The court's case law has also established that causation of a mental injury at issue must be "based on a manifest happening of a sudden traumatic nature from an unexpected cause or unusual strain."

Since nothing in the text of Section 85.3(1) makes the "unexpectedness" of the traumatic event dependent on the employee's own job duties, the court ruled that Ms. Tripp was entitled to benefits for her trauma-induced mental injuries, even though dispatchers routinely take calls involving death and traumatic injury.

Utah

A case law-developed standard of what is "usual" and "ordinary" for workers was at the center of the June 4 decision in *JBS Carriers v. Utah Labor Commission*.

The Utah Supreme Court's precedent had described an injury as compensable if it occurs because of "exertion required by the employment increases the risk of injury which the worker normally faces in his everyday life."

In the JBS case, the court clarified it had not meant to narrow the circumstances relevant to legal causation to only those actions specifically required by the employer.

The court said it had meant to use the phrase "required by the employment" at a general level, meaning "conditions, exertions or activities that are employment-related as opposed to those activities that are not associated with work."

Since David Hickey's job as a truck driver required long drives that were an unusual activity when compared with nonwork life, the Supreme Court ruled he was entitled to benefits for his deep vein thrombosis that developed while he was making a three-day haul to California.

PERSPECTIVES

Liability for COVID still playing out in courts

Jeffrey Adelson is general counsel and co-managing shareholder at Adelson McLean APC in Newport Beach, California, and can be reached at jadelson@adelsonmclean.com.

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It remains to be seen whether an employer can be found liable for an employee contracting COVID-19 and passing it along to a relative, who then suffers from or succumbs to the disease — more reason for employers to pay attention to workplace safety regulations when it comes to infectious diseases and nuanced presumption laws.

A Dec. 21, 2021, ruling by the California Court of Appeal, Second Appellate District, is worth careful consideration by all California employers, as it implicates their potential liability for civil and personal injury damages to third parties arising from work-related infections in allowing a derivative injury lawsuit against an employer to proceed.

As relayed in the wrongful death civil lawsuit *See's Candy Inc. v. Superior Court (Ek)*, See's Candy Inc. employee Matilde Ek claimed she became infected with COVID-19 because her employer allegedly failed to provide its employees with reasonably adequate protection from contracting the virus from co-workers, and that her husband died as a result.

Meanwhile, a California district court in the similar *Kuciemba v. Victory Woodworks Inc.* on May 7, 2021, ruled the employer would not be liable for the severe COVID-19 hospitalization of the wife of a worker at Victory Woodworks, who allegedly contracted the illness at work and brought the virus home.

On appeal, the 9th U.S. Circuit Court of Appeals on April 21, 2022, said the *Kuciemba* matter belongs in the hands of the California Supreme Court, which has yet to move on the issue.

Both cases are ones to watch, as there are currently at least 22 similar ones filed in 10 states, with the ultimate decision in California likely rippling across the country.

To put the issue in proper context, for more than a hundred years, workers compensation laws have held that when an employee suffers a work-related injury, that employee's exclusive remedy is, with very few exceptions, a claim for workers compensation medical and indemnity benefits against the employer until the worker is restored.

This "workers compensation bargain" entitles employees to these remedies without having to prove any fault on the part of the employer, for having caused an injury or illness. In exchange, employers gain immunity from potentially large liabilities for civil personal injury damages, which often include an award for the injured person's pain and suffering, full loss of earnings, and even punitive damages in cases of outrageous misconduct.

In addition, this bargain has protected

employers from large civil liabilities to the heirs of employees who die as a result of their industrial injuries or illnesses. Indeed, the heirs cannot recover anything from the employer unless they demonstrate financial dependency on the deceased employee. Even when they can, the remedy does not compensate for the loss of the love, companionship, and guidance the deceased employee would have provided his or her heirs, had the employee survived. By contrast, juries often highly evaluate such damages when rendering verdicts in civil wrongful death trials.

Both cases are ones to watch, as there are currently at least 22 similar ones filed in 10 states, with the ultimate decision in California likely rippling across the country.

In California, the labor code embodying this civil damage immunity states the workers compensation remedy is "in lieu of any other liability whatsoever to *any person*." (Emphasis added). In furtherance of this apparent intent to broadly immunize employers from civil liability for industrial injuries, not only to injured employees but "to others," the courts have held that a workers compensation claim by the injured employee, or by his or her dependents, is also the exclusive remedy "for certain third-party claims deemed collateral to or derivative of the employee's injuries."

This "derivative injury doctrine" immunizes California employers from claims by the heirs of deceased workers for civil wrongful death damages. It prevents the spouses of injured employees from suing employers in civil court for loss of consortium damages, which include the loss of love and sexual relations.

Cases such as *See's Candy*, especially, appear to weaken this immunity.

See's challenged the lawsuit right from the outset. Its lawyers argued that even if all of the complaint's allegations were assumed true, the legal immunity afforded by the labor code and the derivative injury doctrine precluded Ms. Ek's claims. To the surprise of many, both the trial judge and the Court of Appeal disagreed and allowed the case to proceed.

The thrust of the court's opinion distinguishes between a third person suffering damage as a direct result of an employee's industrial injury or illness, which would trigger the derivative injury doctrine, and a third party suffering an injury as a direct result of the employer's negligence in exposing that third person to a toxin, which exposure the court concluded would have occurred whether or not Ms. Ek herself became sick.

The court reasoned that it was not Ms. Ek's suffering symptoms of an illness that caused her husband's or their children's wrongful death damages, but her infection that rendered her a conduit for spreading COVID-19 as a result of See's alleged negligence. The derivative injury doctrine did not necessarily afford See's exclusive remedy immunity from civil damages.

As a result of the different outcomes in *See's* and *Kuciemba*, the California Supreme Court is now asked to clarify: If an employee contracts COVID-19 at his workplace and brings the virus home to his spouse does California's derivative injury doctrine bar the spouse's claim against the employer? And under California law, does an employer owe a duty to the households of its employees to exercise ordinary care to prevent the spread of COVID-19?

One of the unexpected consequences of the many COVID-19 presumptions across the nation will be the ease with which the plaintiff will be able to overcome the obstacle of causation.

In addition to further eroding the exclusive remedy rule that protects California employers from civil liabilities arising from work-related injuries, there are other takeaways: Employers must adhere to workplace safety policies and procedures recommended by county, state and federal agencies, and create and preserve documentary evidence of compliance with these guidelines and regulations.

In the context of the current COVID-19 pandemic, those employers that can produce believable records evincing regular training of employees about safe distancing, masking, testing and vaccination, as well as records that demonstrate proper equipping of employees and enforcement of safety protocols, should be able to successfully defend civil lawsuits that are now likely to follow in the wake of the *See's* decision.

MARKET PULSE

PRODUCTS & SERVICES

Demex offers products for snow removal risks

■ The Demex Group, based in Washington, launched insurance to cover risks related to snow removal.

Demex Revenue Protection Insurance is created for snow removal contractors and snow-dependent businesses. Claims are triggered when snowfall is extremely low.

Demex Cost Control Insurance is designed for property owners, facility managers and municipalities. Claims are triggered when snowfall is extremely high.

Snowfall triggers vary by location, according to an email statement from Carlos Oliveras, head of insurance at Demex.

For the cost protection coverage, the trigger is expressed as a deductible, the cost of snow removal that the insured must incur before coverage responds. For revenue protection, the trigger is calculated for each policy based on historical revenue and snow at selected locations, Mr. Oliveras said.

Both policies are backed by nonadmitted paper from Evanston Insurance Co., a subsidiary of Markel Inc.

Parametrix unveils downtime insurance

■ Parametrix Insurance Services LLC, a provider of technology downtime insurance, said it has launched Parametrix CDN Downtime Insurance to protect businesses from potential losses tied to third-party content delivery network outages.

The coverage is aimed at organizations such as digital native companies with online presence, content and transactions such as e-commerce, travel, e-mobility, media, health care and fintech companies, and other online retailers, a statement said.

Limits are available "from tens of thousands to several millions depending on the client's architecture and business requirements," according to an email from Yonatan Hatzor, CEO and co-founder of Parametrix.

Mr. Hatzor said in a company statement that because global businesses rely heavily on third-party content delivery networks, this exposes them to CDN downtime risks.

Verisk adds to, revises businessowners program

■ Verisk Analytics Inc. said it is adding more than 160 business classifications and 57 endorsements to its ISO Businessowners Program and making revisions to some existing endorsements and changes to the base coverage form.

Cowbell, Swiss Re forge partnership on cyber cover

■ Cowbell Cyber Inc. said it has partnered with Swiss Re to provide cyber coverage and risk monitoring for businesses with up to $750 million in revenue that use the Amazon Web Services.

The coverage, which is tailored to small and medium-sized businesses running in cloud environments, offers up to $5 million in available limits.

In addition to cyber coverage, businesses will have access to Cowbell Factors, which provides a relative rating of their risk profile against a monitored risk pool of 25 million U.S. businesses.

The program also provides risk monitoring and risk scoring via Cyber Guardian, Swiss Re's cyber risk technology platform.

A credit toward a subscription to Amazon Web Services security hub is included as part of the program.

There will also be expansion, consolidation and elimination of some existing classes. Verisk said the changes are "designed to provide added flexibility," as businesses change and new industries emerge.

Examples of such are new endorsements for unmanned aircraft and cannabis, while there will also be new endorsements for additional insureds and abuse or molestation.

Commercial dynamics have changed, and insurers face a wide range of unique exposures that may not have existed a decade ago, Greg Palumbo, senior manager, commercial lines underwriting, at Verisk, said in a statement.

Marsh adds facility for hydrogen projects

■ Marsh said it has launched a facility providing up to $300 million of coverage per risk for green and blue hydrogen energy projects led by American International Group Inc. and Liberty Specialty Markets, part of Liberty Mutual Insurance Group.

The facility provides flexible coverage for the construction or startup phase of hydrogen projects globally, or a combined risks policy that extends to first-year operations, Marsh said.

The coverage available includes property damage, marine cargo, business interruption, general third-party liability and contingent delay-in-start-up insurance.

Cyber insurer expands E&O coverage offerings

■ Insurtech managing general agency At-Bay Inc. said it is introducing miscellaneous professional liability coverage backed by a Markel Corp. unit.

The San Francisco-based MGA said in a statement it is offering customized coverage and pricing across more than 50 classes of business.

The product line provides up to $5 million in limits for businesses with up to $25 million in revenue, according to a spokeswoman.

The program, which is backed by Markel Insurtech Underwriters, is the first time At-Bay has expanded its products beyond its cyber liability and technology and omissions coverage, the statement said.

Environmental liability MGU launches

■ Magnolia Grove Insurance Services LLC, a managing general underwriter offering environmental liability limits up to $11 million, launched.

Backed by London-based Beat Capital Partners Ltd., the Charlotte, North Carolina-based MGU is led by Justin Crawford, former environmental underwriting manager for Dual Commercial LLC. It will issue policies backed by Trean Insurance Group Inc., a recently established excess and surplus lines insurer, a Magnolia Grove statement said.

The MGU will offer contractors pollution coverage, site pollution, products pollution, commercial general liability, professional liability and excess liability, the statement said.

Magnolia Grove offers coverage in 40 states and plans to expand to 50, a spokeswoman said in an email.

DEALS & MOVES

Japanese insurer buys US fronting company

Tokyo-based Mitsui Sumitomo Insurance Co. Ltd. said it has agreed to buy Warren, New Jersey-based fronting insurer Transverse Insurance Group LLC.

Mitsui will pay $400 million for the company, which links reinsurers to managing general agents, according to a note on the deal from law firm Willkie Farr & Gallagher LLP, which represents Mitsui Sumitomo.

Transverse, which was founded in 2018 with backing from private equity firm Virgo Investment Group, is headed by Chairman and CEO Erik Matson.

IMA grows in Northeast with York purchase

IMA Financial Group Inc. said it has bought Harrison, New York-based York International Agency LLC, expanding its operations in the New York metropolitan area.

Terms of the deal were not disclosed.

The purchase of York International, which is the 96th-largest broker of U.S. business, according to *Business Insurance*'s most recent ranking, will add about $32 million in brokerage revenue to No. 22-ranked IMA.

The Denver-based brokerage expects to exceed $500 million in revenue in 2022.

AssuredPartners buys Wisconsin brokerage

AssuredPartners Inc. announced it has bought Madison, Wisconsin-based brokerage Avid Risk Solutions Inc.

Avid was founded in 2012 and has 57 employees. It places commercial lines coverage, including offering captive insurance services, benefits business and personal lines insurance.

Brock Ryan, president and CEO of Avid, and Ben Shortreed, executive vice president, will continue to lead the operations, an AssuredPartners statement said.

PCF acquires Ohio-based agency

PCF Insurance Services Inc. said it has acquired Solon, Ohio-based Z Inc., which does business as Zinc Insurance Agency.

Founded in 2008, Zinc specializes in insurance and risk management for the trucking, construction, contracting and motor sports industries, a statement said.

OPINIONS

COMMENTARY

Experience informs pandemic response

Much of the world appears to have moved on from COVID-19, even if COVID has not moved on from the world.

The absence of protective gear on display, the return of handshakes and hugs, and a perceptible lack of concern have replaced the urgency that was prevalent even this time last year.

While traveling in June, I was surprised by how many people on airplanes chose not to wear masks after airlines lifted the requirement to cover up. I still wore mine but felt conspicuous sitting among other passengers alternately smiling and grimacing as we readied for takeoff and endured an hour-long delay.

Not that masking up did me much good – on returning home I tested positive, but fortunately the symptoms were negligible, which seems to be the story with many who contract the virus. Vaccines may not have ended the pandemic, but they often are effective in preventing the worst of its consequences.

With the return to almost normal, it's easy to forget that there are still hundreds of people with COVID-19 dying each day in the United States. Even acknowledging that sobering fact, clearly, we are in another phase of pandemic response, and lawmakers and companies are responding to the change.

Gavin Souter
EDITOR

As we report on page 10, there has been a sharp decline in pandemic-related legislation introduced in state legislatures, and many of the presumption laws passed in 2020 have expired, eliminating the rule that workers in certain jobs were presumed to have caught COVID-19 on the job for workers compensation purposes.

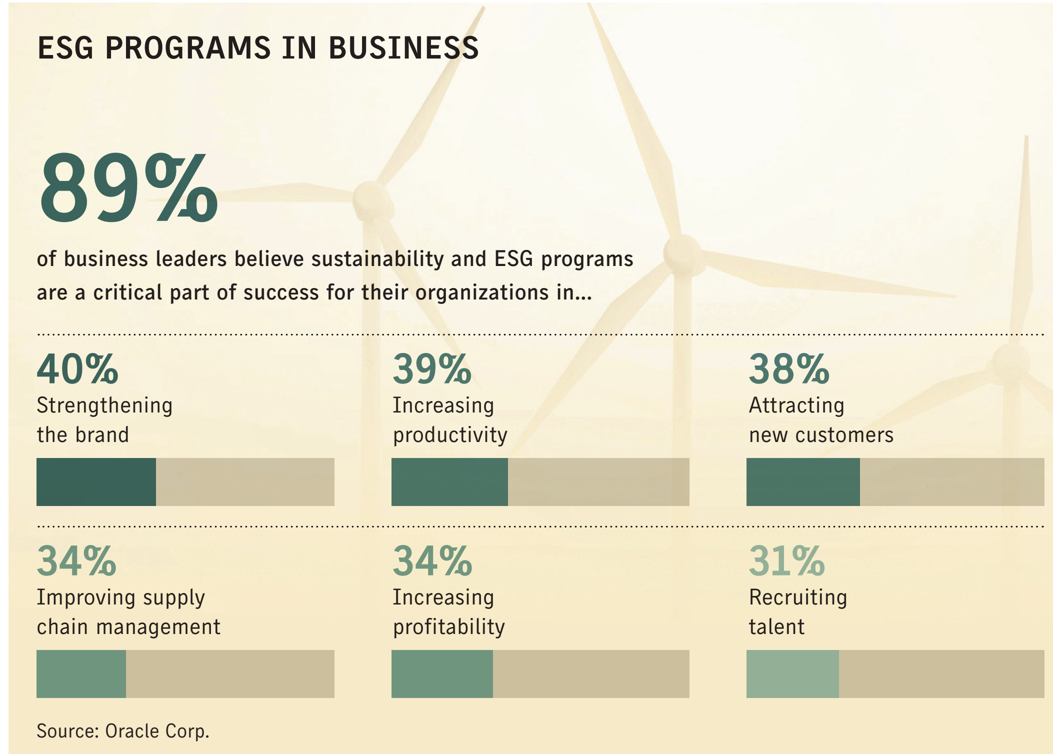
In addition, the U.S. Centers for Disease Control and Prevention has scaled back its recommendations for employers on issues such as quarantines.

It's much too soon, though, for employers to turn the page on COVID-19. According to the CDC, only two-thirds of the U.S. population is fully vaccinated. The figure rises to nearly 80% for people over 18, but that means millions of workers are still vulnerable to serious illness.

In addition, there remains a legacy of lawsuits in the courts. Outside of business interruption cases, many of which are still being heard, workplace safety-related lawsuits also are yet to be resolved (see the analysis on page 50).

Finally, the issue of the long-term effects of COVID-19, whether they be so-called long COVID or yet to be determined consequences of the disease or new variants, are still hanging over all of us as we wait to see what happens in the too-soon-to-be-coming winter months.

The good news is that employers and workers are in a much better position to deal with any future outbreaks, having seen what worked and what didn't, witnessed underreactions and overreactions and generally learned way more about preventing disease spread than anyone would have predicted three years ago.



VIEWPOINT

Rewards of ESG adherence

BY CLAIRE WILKINSON
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Companies that build strong environmental, social and governance practices are slowly starting to see rewards in the shape of enhanced insurance coverage. That might mean preferred terms and conditions, broader coverage, access to increased insurance capacity and, yes, even a better price. As demonstrated by a growing number of *Business Insurance* 2022 Innovation Award winners, advances in the risk management and commercial insurance sector are increasingly taking this approach.

Whether developing coverage to respond to ESG-related risks or giving companies the tools to help manage the risks, insurers and brokers are stepping up. Directors and officers liability coverage is one of the first areas to have drawn interest from insurers looking at ESG exposures. This is not surprising given that stakeholders on all sides, including customers, employees, regulators and investors, are demanding that companies and their boards be held accountable on various issues such as the sustainability of their products, the accuracy of their climate-related disclosures, and their progress on diversity, equity and inclusion.

It makes sense that companies that commit to developing strong ESG frameworks might have more success in reducing their exposure to litigation and other D&O-related claims. Brokers and insurers in the D&O sector anecdotally say they have seen those efforts translate to improved claims experience, which is why they believe companies that have strong ESG frameworks in place are a better risk.

Research released by Moody's Analytics in June indicates the insurance and risk management community is on the right track. Companies that develop responsible ESG practices and work to reduce these risks experience fewer noteworthy controversial events such as chemical spills or corruption and bribery cases, and potentially generate better shareholder returns, according to its findings. Moderate-to-severe ESG events generate abnormal stock market losses of 1.3% to 7.5% over 12 months, representing a loss of around $400 million for a typical-sized company, based on Moody's analysis of 3,000 public companies from 2013 to 2019.

Momentum is building, which is a positive development, though there are clearly broader applications and different ways in which insurance coverage will need to respond. Other innovation-winning entries that advanced ways for companies to manage ESG threats focused more broadly on supply chain risks, workplace diversity, equity and inclusion services, and understanding better how private companies measure up to international ESG standards.

In recent months, *Business Insurance* has covered various other industry initiatives such as a Marsh LLC facility backed by American International Group Inc. and Liberty Mutual Insurance Group providing up to $300 million of coverage per risk for green and blue hydrogen energy projects, FM Global's move to offer $300 million in climate credits to policyholders collectively to help them invest in mitigation, and more insurers offering additional D&O capacity to those organizations that opt to use ESG risk rating tools.

All this comes at a time of enhanced regulatory scrutiny and as insurers themselves wrestle with how best to move forward with their own ESG strategies. From brokers' and insurers' perspectives, areas such as renewable energy offer the potential of enormous growth. What is less clear is how much an insurer's values will sway a corporate insurance buyer's decision to choose it over another risk provider. Maybe that's the next step in the evolutionary process.

Incorporating resilience in building design helps mitigate threat of climate change

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While climate change may still be a disputed topic in the political realm, insurers have been aware of the risks posed by it for years.

More than half of U.S. state insurance regulators believe that climate change will likely have a high or extremely high impact on both the future scope of insurance coverage and the related underwriting assumptions, a Deloitte Center for Financial Services survey found.

In addition, the National Oceanic and Atmospheric Administration estimates that U.S. residents experienced 20 separate major weather and climate disasters in 2021, at a cost of $145 billion. The American Meteorological Society, which publishes an annual review of extreme events and their connection to climate change, has found that many extreme weather events have been affected by climate change.

Although climate change poses several threats, rising water levels is the most pressing facing many communities. Higher sea levels bring more storm surge, higher risks of flooding, saltwater intrusion and other destructive consequences. Meanwhile, as our atmosphere warms, it can hold more moisture, meaning more rain during a rainstorm. Combine those more intense rainfalls with the non-permeable surfaces that characterize modern towns and cities, and we see increased flooding.

Rising sea levels have received much of the focus in climate change discussions. While the global sea level rose approximately 6.7 inches in the 20th century, compared with the previous century — with an evident acceleration since the early 1990s — regional sea level rise was more or less than that average depending on several factors. In parts of the Northeast, sea levels have already risen up to 16 inches in the past century, with that rise expected to continue.

Nor are inland areas immune from climate change-related water damage. The Third National Climate Assessment from the U.S. Global Change Research Program reported that rainfall events have become heavier and more frequent. These increases have been greatest in the Northeast, Midwest and upper Great Plains — with an increase in flooding in those same areas. The past two years have demonstrated the unfortunate new reality we face, as heavy rainfalls first devastated Tennessee, where flooding killed 28 people. Hurricane Ida was the second most damaging hurricane to make landfall in the United States, causing at least $75 billion in damage and 95 deaths and shutting down much of the New York City subway and nearby public transit systems. The recent tragic flooding in Kentucky is yet another example of what is becoming a far too common experience for too many people. Inland flooding is also estimated to be the most costly of severe weather events, with an average price tag of $6.9 billion per year. Most building codes are not equipped to handle climate change's financial consequences. They set the minimum requirements, are updated infrequently and are based on historical climate data instead of future climate estimates. Likewise, flood maps issued by the Federal Emergency Management Agency are based on historical flooding data. Such flood maps ignore the importance of evaluating and disclosing future flood risks. These failures not only increase the risk of damage to lives and buildings but may also affect buildings' values. A 2020 study concluded that homes vulnerable to flooding are currently overvalued by $34 billion, potentially impacting the future stability of real estate markets.

Until there are binding government requirements, it is up to project developers, engineers and contractors — along with their insurers — to understand the financial risks projects face due to climate change. Planning with future climate estimates in mind and incorporating resilience above and beyond what building codes require will be crucial.

Building designs, especially for new structures, should not just be based on historical climate data but also on future climate projections. Mitigation strategies exist and are not complex; they also provide a return on investment after a disaster. A few examples include elevating critical equipment to mitigate flood damage, building thicker building envelopes to deal with extreme heat, and incorporating power and water redundancy to better deal with utility interruptions.

Failure to prepare for climate change-related consequences can also increase the likelihood of construction-related litigation, which can be time-consuming and costly.

A recent study by design consultancy Arcadis found that the value of construction disputes in North America doubled from 2019 to 2020, jumping from $18.8 million to $37.9 million. The study found that the leading cause of disputes remained the same in 2020 as in 2019: a failure by the parties to the construction relationship — owners, contractors, subcontractors, etc. — to understand and/or comply with their contractual obligations.

In construction dispute cases, there is typically at least one insurer — and usually multiple insurers — that has been brought into the case. Parties to construction litigation often look to their insurers for coverage — both to cover the cost of legal fees and to pay any potential damages. On top of the usual disputes over insurance coverage for construction cases comes the challenge of whose coverage will insure construction issues related to climate change and extreme weather.

Insurers are preparing for the potential financial ramifications of climate change and, as part of that, are focusing on their clients' potential liability for negligence related to climate change issues. This new focus means incorporating climate risk considerations into underwriting for their clients — demanding that clients incorporate risk mitigation efforts into their projects.

Uncertainty regarding which party to a lawsuit bears responsibility for a problem increases the costs of litigation. As these extreme weather events continue, and until there is certainty as to which construction party bears the burden of planning for such future events, weather-related construction litigation and its ever-increasing costs will only become more of a problem for insurers.

To address this problem, a key mitigation effort insurers should demand is the incorporation of resilience into construction projects.

While some developers may hesitate about adding costs to a project to address climate risk, there is enough data available to justify initial costs associated with resiliency efforts and to make evident the consequential benefits such as business continuity, minimized building repairs, occupant safety and comfort, and reputation.

Some Texas businesses did just that when they invested in measures to keep water out of sensitive equipment prior to Hurricane Harvey in 2017. Keeping resiliency in mind allowed those businesses to avoid the fate many Houston companies faced after Tropical Storm Allison in 2001, which dumped over 40 inches of rain on the city. At that time, sensitive materials and electrical equipment were kept in basements, with the rain and flooding causing serious damage as a result.

As extreme weather becomes more prevalent, prudent insurers must ensure that their clients are acknowledging and evaluating their climate change-related risks and incorporating resiliency into their projects. With all the available data and resources today, paying no attention to climate change and resiliency during the design phase is tantamount to asking for a lawsuit.

PEOPLE

"Insurance has its own language. It takes time to master it. But don't be discouraged as you are starting out in the industry — as the days and years go by, you will see how fluent you become in the business and industry."

UP CLOSE

Vikram Sidhu

NEW JOB TITLE: New York-based partner, Mayer Brown LLP.

PREVIOUS POSITION: New York-based partner and office managing partner, Clyde & Co.

OUTLOOK FOR THE INDUSTRY: For such a mature industry, the insurance industry continues to evolve, grow and develop impressively to meet the needs of individuals, businesses and other insureds, including to address emerging and growing risks such as cyber and climate change and demand for new types of coverages.

GOALS FOR YOUR NEW POSITION: I am very excited to have rejoined Mayer Brown's top-notch insurance group, where my insurance transactional and regulatory practice fits in very well. My goal is to draw upon the rich offering at Mayer Brown to assist clients as they evaluate and deploy their strategies for growing their businesses in the U.S. and globally.

CHALLENGES FACING THE INDUSTRY: The insurance industry is certainly subject to the same headwinds as faced by financial services and other industries, including due to the COVID-19 pandemic, Ukraine war, and economic and financial troubles facing the global economy. Despite these challenges, given the highly regulated nature of the business and the prudent way in which most insurance businesses are managed, the industry should come through strongly.

FIRST EXPERIENCE: My first experiences with insurance were working on insurance arbitrations involving political risk policies under which claims were brought due to the Argentine financial crisis of 2001-02 as well as regulatory investigations into reinsurance and broker practices in the industry in the early 2000s.

ADVICE FOR A NEWCOMER: Insurance has its own language. It takes time to master it. But don't be discouraged as you are starting out in the industry — as the days and years go by, you will see how fluent you become in the business and industry.

DREAM JOB: I would love to be a history professor at a college/university.

COLLEGE MAJOR: Economics and international relations.

LOOKING FORWARD TO: Rebuilding my relationships with old friends and colleagues with whom I had worked for many years before leaving Mayer Brown in 2014, as well as forming connections with new colleagues.

FAVORITE MEAL: Pizza or North Indian food or a simple Mediterranean platter — such as with olives, hummus, cheese and bread.

BOOK: E.M. Forster's "Maurice."

HOBBIES: I love to go hiking — often in the Berkshires and Hudson Valley — or just taking long walks in the countryside. I also enjoy baking — especially sourdough breads. I started before the pandemic but definitely joined the bread-baking bandwagon fully during the pandemic.

TV SHOW: After a hard day's work, I usually prefer to watch easygoing series on one of the streaming services. One of the series that I enjoyed the most recently was "Money Heist" from Spain.

ON A SATURDAY AFTERNOON: Take a good, long nap … if I can get away with it, which is rare.

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ON THE MOVE

Hudson Insurance Group named former Willis Towers Watson PLC senior vice president **Emily Lowe** to the newly created role of senior vice president and cyber practice leader for its HudsonPro unit. Boston-based Ms. Lowe was most recently senior vice president and New England regional leader for corporate risk and cyber at Willis. She was a *Business Insurance* Break Out Award winner in 2020.

Corvus Insurance Holding Ltd. named New York-based **Madhu Tadikona** CEO, succeeding Phil Edmundson, who will become executive chair and chair of the board of the Boston-based cyber managing general underwriter. Previously, Mr. Tadikona was president.

Argo Group International Holdings Ltd. named **Jessica Snyder** president, U.S. insurance, a new position. Previously, Ms. Snyder was president and CEO at West Des Moines, Iowa-based GuideOne Insurance Co.

Axa XL Insurance, a unit of Axa SA, named former Liberty Mutual Insurance Co. executive **Matthew Waters** to the newly created role of head of the commercial insurer's U.S. middle market. Based in Boston, Mr. Waters was most recently executive vice president, general manager, for Liberty Mutual's middle-market business.

Gallagher Re, the reinsurance business of Arthur J. Gallagher & Co., named **Kelli Morash** executive vice president in North America, a new position. Dallas-based Ms. Morash was most recently vice president of underwriting at Asurion LLC.

Willis Towers Watson PLC recruited former Lockton Cos. LLC energy executive **Blake Koen** as managing director, global client advocate, for its North American natural resources business in Houston. Mr. Koen had been a senior vice president in the North American energy team at Lockton.

Not keeping up with sanitary standards

This didn't go over well with cosmetics safety watchdogs.

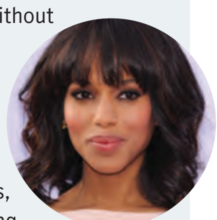
The image of sultry Kylie Jenner in a lab coat, her mermaid-esque hair draping to her side and her kempt fingernails on full display, examining colorful beakers — her own cosmetics — telling Kylie Cosmetics fans on social media that she's in "the lab creating new magic for you guys … better than ever." (Heart emoji, heart emoji.)

The 24-year-old influencer and Kardashian crew member is now facing backlash over the photos, allegedly taken at a manufacturing lab in Milan, Italy, according to People magazine.

Followers questioned Ms. Jenner about her safety protocols, wondering why she wasn't wearing protective equipment such as gloves, a mask and hair net.

One makeup artist accused Ms. Jenner of "gaslighting her followers into thinking she is creating cosmetics."

Actress a hero to colleagues in need



Superhero Kerry Washington was up for the job when it came to helping a pair of actors without health insurance.

The Emmy-winning actress, known for portraying Alicia Masters in Marvel's "Fantastic Four" films, used her guest-hosting gig on the July 20 episode of "Jimmy Kimmel Live!" to help two fellow Screen Actors Guild members qualify for health insurance, according to IndieWire.com.

To obtain SAG health care coverage, an actor must meet income requirements and performance metrics. That being the case, Ms. Washington invited to the show two fellow actors who were close to qualifying for coverage.

"And they will get there if they deliver just one more line of dialogue on TV," she said.

And so they did.

INSURER PICKS A GEM FOR ITS ADVERTISEMENTS

Who-oooo will launch your latest ad campaign?

For Mercury Insurance, it's the music artist Jewel.

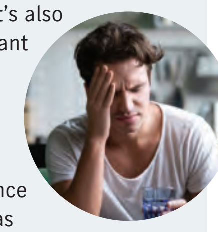
The insurer and Live Nation Entertainment announced a partnership to connect music fans with the artists they love through Mercury's "My First Car" series, an intimate look at popular musical artists and their first memories behind the wheel.

Jewel is the first artist featured in the video series.

"My first car was a 1969 VW bus," Jewel says in the ad. "It was my first real ride, and it also became my home, so it was a pretty big deal. I was homeless at the time (and) this van represented safety and shelter.

"I wrote a lot of songs in that van, and it's amazing to think that those songs became my first album. Those songs ended up changing the entire trajectory of my life. I will always think of a lot of music when I think about (that) van."

Hangover leave? Gimme a break



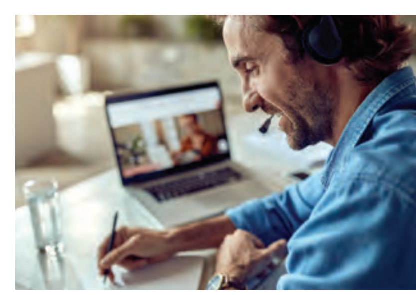
Human resources folks and the C-suite are on notice: breaking up is hard to do, it's also awful when your plant dies, and when you have a hangover.

A new poll by human resources regulatory compliance company Trusaic has ranked the kind of unusual new job benefits that employees would like to see employers offer — including "breakup leave," "hangover leave" and "houseplant bereavement leave."

A quarter of all respondents voted for "paid celebration recovery leave," or "hangover leave" as a fantasy job perk they would like to see employers offer, according to Trusaic.

Seventeen percent of respondents chose "breakup leave" as a desired job perk.

Among other pain points: 9% of respondents want time off to mourn a favorite sports team's major loss, and 5% want a day to mourn the loss of a beloved houseplant.



What else are they supposed to do?

Employers are not going to like this: 75% of employees admit they are doing other things during remote meetings, 38% of whom say they are browsing social media.

Other distractions included reading the news (39%) and reading books (38%), according to the resume services web site LiveCareer.com, which released the results of its survey of 1,000 employees nationwide on their feelings about workplace meetings.

Distractions aside, 61% of those surveyed said they believe workplace meetings still benefit them and 70% said online meetings are a great opportunity to see and talk with people when working remotely, with 46% saying they keep their cameras on.

Overall, the survey found that half of the respondents prefer attending in-person meetings, while 31% confess that they find online meetings more stressful.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