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AM BEST'S MONTHLY INSURANCE MAGAZINE

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March 2022 • Volume 123 • Issue 3
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AM BEST'S MONTHLY INSURANCE MAGAZINE

SHOCK VERDICTS

Insurers sound the alarm as billion-dollar jury awards drive up claims costs.
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Shock Verdicts Focus Insurers' Attention

Third-party litigation funding and escalating jury awards are driving up claims costs for insurers. The March issue also includes coverage of asset management and an interview with the top executive of the National Flood Insurance Program.

It's not quite an 1980s-style liability crisis … yet. But soaring jury awards and shock verdicts have insurers worried. As claims costs and premiums rise, insurers have been speaking up about the issue, campaigning for tort reform and discussing the impact of increasingly sophisticated litigation funding programs.

In "Shock Verdicts: Insurers Sound the Alarm as Billion-Dollar Jury Awards Drive Up Claims Costs," *Best's Review* spoke with insurers and legal experts about recent developments and the impact on the insurance market.

"There is little awareness of the costs to consumers and insurance customers of the rising costs of social inflation," said Thomas Holzheu, chief economist Americas, Swiss Re.

Litigation funding has been identified as one reason for the increasingly litigious environment.

For more about third-party litigation funding, see "Insurers: Third-Party Litigation Is Fueling Rise in Shock Verdicts."

In "Mortality Trends Raise Underwriting Questions for Life Insurers," *Best's Review* examines how mortality numbers are raising questions for the industry. "The third quarter was a rough quarter, extraordinarily rough for certain demographics," said Tim Bischof, chief actuary at OneAmerica. "The fourth quarter wasn't exactly a reprieve. The fourth quarter was better overall, but it wasn't a whole lot better."

In "NFIP Senior Executive: We Want to Continue to Work With the Private Sector," *Best's Review* spoke with David Maurstad, deputy associate administrator for federal insurance and mitigation and senior executive of the National Flood Insurance Program, about the NFIP's Risk Rating 2.0 methodology and efforts to work with the private sector.

Delegated underwriting authority enterprises (DUAEs), such as MGAs and coverholders have proliferated in the last few years. AM Best released a new performance assessment for DUAEs, which provides a framework for differentiating among delegated underwriting authority enterprises.

"AM Best believes DUAEs are an increasingly important part of the insurance ecosystem, with a higher proportion of insurance revenue being generated through DUAEs in many global regions," said Matthew Mosher, president and CEO of AM Best Rating Services.

Andrea Keenan, EVP and chief strategy officer, and Greg Williams, senior director, discuss the new type of non-credit opinion in "AM Best: New Performance Assessment Provides Tool for Differentiating Among DUAEs."

Special Notes: Due to potential global paper supply issues, the size of *Best's Review* editions may change in coming months.

Best's Ranking, "Largest 30 Surety Insurers — 2022 Edition," published on page 47 of the February 2022 edition of *Best's Review*, was incorrect. The correct information can be found on page 53. BR

Patricia Vowinkel
Executive Editor
patricia.vowinkel@ambest.com

The Question:

Some insurers have been shuttering offices in favor of working from home. What competitive advantages or disadvantages will companies possess if they maintain a traditional office environment?

Email your answer to *bestreviewcomment@ambest.com* or scan the QR code to submit your response.
Responses will be published in What Readers Say in a future issue.

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Cover design and photo illustration by Angel Negrón.

NCOIL, ACLI Meetings to Be Held in Las Vegas

March 1-2: D&O Symposium, Professional Liability Underwriting Society, New York.

March 3-6: NCOIL Spring Meeting, National Council of Insurance Legislators, Las Vegas.

March 6-8: CICA 2022 International Conference, Captive Insurance Companies Association, Tucson, Ariz.

March 6-8: 2022 AIFA Annual Conference, Association of Insurance and Financial Analysts, Naples, Fla.

March 6-9: ReFocus Conference 2022, American Council of Life Insurers, Las Vegas.

March 14-16: VIRTUAL. Ratemaking, Product and Modeling Seminar, Casualty Actuarial Society.

March 16-19: 2022 MPL Association CEO/ COO Meeting, Medical Professional Liability Association, Paradise Valley, Ariz.

March 17: Katie School Hall of Fame Dinner, Katie School of Insurance and Risk Management, Illinois State University, Chicago.

All events subject to change as organizations monitor developments regarding COVID-19. For a full list of conferences and cancellations, visit *www.bestreview.com/calendar.*

Attending Exhibiting Speaking Hosting Sponsoring Video

March Is Insurance Claims Awareness Month
Shock verdicts, once rare, are now becoming a more frequent reality. Insurers and their advocates are responding to the social inflation and its impact on claims costs with a variety of strategies. Coverage begins on page 40.

After 60-Year Insurance Career, Geico's Executive Chairman Retires

Also, CoverWallet CEO, co-founder steps down, Axis names successor to departing chief executive officer and Chubb hires new treasurer and CIO.

Tony Nicely, who served as Geico's chairman and chief executive officer for 25 years before becoming executive chairman in 2018, has stepped down.

The move, which came at the end of December, capped a six-decade career in insurance, which has drawn praise from several industry watchers.

"Tony Nicely was the key that unlocked the growth for Geico and made that company what it is today," said Robert Hartwig, clinical associate professor of finance in the Moore School of Business at the University of South Carolina.

Tony Nicely

Brian P. Sullivan, editor with Risk Information Inc., said Nicely was "parsimonious" when it came to operating expenses, yet also willing to go big and spend on advertising at the same time.

"Warren Buffett may have provided the money, but Tony Nicely made Geico what it is today," Sullivan said in an email. "Undaunted, he learned from the mistakes and kept moving forward. That became a hallmark of Geico: try a new idea, honestly assess the resulting successes and failures, make an adjustment, and try a better-informed new idea."

During Nicely's tenure at the helm, Geico grew into a household name and the second-largest U.S. automobile insurer with nearly 17 million policyholders. Today, Geico insures more than 18.6 million policyholders, the company said in a statement.

Nicely first joined Geico in 1961 as a teenager with a posting as an endorsement clerk in the company's underwriting department. He initially envisioned it as a short-term job he'd taken to save money to attend college and pursue an engineering degree, according to the company.

When he was named CEO in 1993, the company had 1.9 million auto policies and was the seventh-largest automobile insurer in the United States.

Geico has become the second-largest all private-passenger auto insurer in the United States, with 13.54% market share, according to BestLink.

Geico was founded in 1936 as a direct-marketing insurer focused on government employees and has grown to insure more than 28 million vehicles in all 50 states and the District of Columbia, the company said. Along the way, its trademark gecko and catchphrase—"15 minutes could save you 15%"—became ubiquitous, it said. It also has expanded its lines to homeowners, renters, condo, flood, identity theft, term life, and more coverages written through nonaffiliated insurance companies and secured through the Geico Insurance Agency Inc.

Nicely would grow Geico to be among the largest of national players, the company noted. Its associate headcount swelled more than eightfold to about 40,000 people at 18 locations across the country during his time at the helm of Geico. It currently has 43,000 employees, the company said.

One of his biggest milestones occurred in 1996 when Buffett, Berkshire Hathaway chairman and chief executive officer, announced the holding company would buy out the last 49% of Geico shares it didn't already own and it became a wholly owned subsidiary.

In an annual letter to Berkshire Hathaway shareholders in 2018, Buffett praised Nicely as "a model for everything a manager should be." Earlier, Buffett capped a plaudit for an exceptional year of profitability and growth by saying, "If you have a new son or grandson in 2006, name him Tony."

Nicely also served with several industry groups, including the Insurance Information Institute, the American Property Casualty Insurance Association and the Insurance Institute for Highway Safety. He was inducted into the Washington Business Hall of Fame for his achievements.

—Terrence Dopp

Former Geico CEO Dies at 85

Louis Simpson

Louis A. Simpson, former president and chief executive officer of Geico and the man who, along with Warren Buffett, for years controlled all of Berkshire Hathaway's investments, died on Jan. 8 at the age of 85.

Born in Chicago, Simpson received a bachelor's degree in economics and accounting in 1958 from Ohio Wesleyan University and a master's degree from Princeton University, according to his obituary in the *Chicago Tribune*.

He then embarked on a 50-year financial career, working at a Chicago investment firm as partner then leaving for Los Angeles, where he joined an asset management company in 1970, according to the *Chicago Tribune* obituary.

In 1979, Geico CEO Jack Byrne was looking for a new chief investment officer to run Geico's investment portfolio. He identified four candidates who he then sent to Omaha, Nebraska, to meet Buffett, a shareholder. "I sent three of the four to meet Warren," Byrne recalled. "And after a four-hour interview with Lou, he called me and said: 'Stop the search. That's the fella.'"

Simpson was elected president and CEO, capital operations, of Geico in May 1993, according to his Northwestern University bio.

Three years later, Geico became a wholly owned subsidiary of Berkshire Hathaway, which paid $2.3 billion to buy the half of the company that it didn't already own, according to the *Chicago Tribune* obituary.

Simpson was the only person other than Buffett to control investments made by Berkshire Hathaway, and the stock portfolio that Simpson managed outperformed the S&P 500 Index in 18 of the 24 years between 1980 and 2004, according to the obituary.

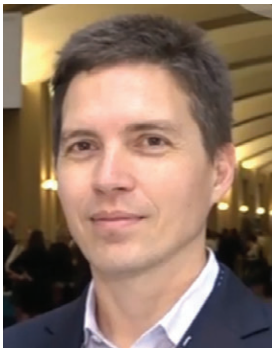
In a 2010 Berkshire Hathaway annual letter, Buffett announced Simpson's planned retirement, calling him "one of the investment greats."

After leaving Geico, Simpson founded SQ Advisors, a small money management firm

In addition to his investment activities, Simpson and his wife, Kimberly Querrey, were active in philanthropic causes, most notably related to biomedical research. Five years ago, *The Chronicle of Philanthropy* named the couple to its list of the top 50 most generous Americans, according to the *Naples Times*.

Simpson was divorced from his first wife, Margaret. He is survived by his wife, three sons, five grandchildren and three great-grandchildren.

CoverWallet CEO, Co-Founder Steps Down



Inaki Berenguer

Inaki Berenguer, CoverWallet co-founder and chief executive officer, left the company at the end of 2021.

The commercial, digital broker was acquired by Aon two years ago.

"We started from scratch, with the naivete that is needed to reinvent industries, and quickly became market leaders in a new category. A ride of a lifetime," Berenguer said in an online post announcing his departure from the company.

Before starting the company, he said he knew just two things about insurance: that humans hope for the best but rarely plan for the worst and insurance is mandatory for small-and medium-size enterprises like those he started. Berenguer shared how his dad lost a honey business in the 1970s when he forgot to renew a policy and a wildfire burned a mountain next to the family's hometown in Spain.

In January 2015, Berenguer started a largely self-taught, crash course in insurance and the industry, beginning with the book *Insurance for Dummies*. "I emailed my friend Borja Borrero, an insurance executive, telling him that I had bought six books about insurance and my goal was to become an expert in six months," he said.

Berenguer said he also absorbed as much as possible from multiple solid industry research reports, annual reports, insurance newsletters and blogs and listened to "some boring podcasts and panels of insurance conferences on YouTube" during daily runs. He shopped multiple insurance agencies incognito and, with co-founder Rashmi Melgiri, completed a 95-hour property/casualty insurance sales pre-licensing course.

"Later we ended up recruiting our insurance instructor," he said. In September 2015, the business partners formalized CoverWallet.

They moved out of "stealth mode" in March 2016 after raising $2 million in seed funding. At the time, Berenguer said he wanted to change a business that is important, but "can easily be frustratingly analog, time-consuming and painful," according to *BestWire.*

"Most successful startups reinventing traditional industries have been started by entrepreneurs outside the industry. Consider Uber with taxis, Airbnb with hotels, PayPal with financial institutions … Zillow with real estate, Tripadvisor with travel, Amazon with retail, Netflix with video … the list goes on and on.

"All of these companies were obsessed with learning everything they could about the industry, becoming experts in a short period of time. Balancing naivete about the industry with everything they could learn and recruiting some experts and executives from the field along the way. And that is what I tried to do," Berenguer said in his online post.

Aon acquired CoverWallet in early 2020, saying it would leverage the insurtech's technology and data and analytics capabilities as it developed and increased digital client services, according to *BestWire*.

CoverWallet started in New York City and expanded to Rochester, New York; Madrid; and Valencia, Spain. Aon added colleagues across the U.S. and in the United Kingdom, France, Singapore, Australia and Argentina.

The company has enjoyed growth as an Aon subsidiary, aided by Aon's scale, Berenguer said. "I believe CoverWallet's brightest and most innovative days are ahead of it and couldn't be more excited about its future."

Axis Selects Future Chief Executive Officer

Axis Capital Holdings Ltd. named Vincent Tizzio to succeed Peter Wilson as chief executive officer of Axis Insurance on June 1.

After he steps down as CEO in June, Wilson, who has been with the company for eight years, will continue working with the company on a consultative basis through Dec. 31, timed to the completion of his contract, according to a company statement.

Vincent Tizzio

Tizzio already has joined the company as senior adviser–insurance market strategy and will serve as a strategic counselor. He will not have direct reports or profit and loss responsibility for the insurance segment until June 1, the company said.

Tizzio most recently served as executive vice president and head of global specialty at Hartford Financial, where he led a multibillion-dollar business focused on delivering a broad range of specialty products through wholesale and retail channels. Previously, he had served for seven years as president and CEO of Navigators Management Co., leading the organization until its acquisition by Hartford in 2019, the company said.

Chubb Appoints New Treasurer, CIO

Chubb Ltd. named Drew Spitzer, chief financial officer for North America insurance, to succeed Mark Hammond as treasurer. Hammond left the company after 12 years.

Drew Spitzer

Kevin Harkin also was named to succeed Spitzer as CFO for North America financial operations. Both appointments are effective March 1.

In addition, Chubb named Shekar Pannala as vice president, Chubb Group and global chief information officer.

Spitzer will be responsible for all treasury-related functions of the company globally. He has more than 25 years of experience in finance, accounting and insurance. Prior to serving as CFO of Chubb's North American operations, he was CFO of Combined Insurance, a Chubb affiliate that sells personal accident and supplemental health insurance coverages to consumers in North America, according to a company statement.

Harkin has more than 20 years of experience in corporate finance and accounting. As senior vice president, North America financial operations, he provided finance support for field operations and distribution management in the region, including overseeing the strategic use of technology and data in finance integration initiatives.

In his new role, Pannala will be responsible for the strategic direction and execution leadership of Chubb's global technology function across applications, operations and architecture as well as furthering the company's digital technology capabilities.

Pannala has more than 25 years of technology experience. He was previously executive vice president, global technology where he was responsible for application development, architecture and digital technology globally.

In other company news, Chubb named Paul Johnstone, formerly Chubb Canada's executive vice president, personal risk services, to the newly created role of Chubb Canada chief operating officer.

In his new position, Johnstone will have executive operating responsibility for the organization's retail property/casualty insurance business, including its high-net-worth personal lines segment in Canada, and he will also provide oversight for the businesses' accident and health offerings that are provided to Canadian-based clients, served by independent brokers and agents through Chubb's four Canadian branches, according to a company statement.

Johnstone has almost 27 years of experience in the Canadian insurance market, spanning the reinsurance and P/C sectors. Prior to Ace's acquisition of Chubb in January 2016, he served as senior vice president, Canada personal risk services, where he oversaw the modernization of PRS operating systems and strategic expansion of Chubb's distribution. He joined Chubb in 1994 as an associate in commercial insurance, the company said.

Melanie Wilcox, previously senior vice president and assistant region manager for Chubb Canada PRS, was chosen to succeed Johnstone as head of personal risk services, Canada.

Markel Names Managing Director, Investments

Markel Corp. appointed Tyler Brown as managing director, investments.

Tyler Brown

He succeeds Saurabh Madaan, who left the company to pursue another opportunity.

Brown will report to Tom Gayner, co-chief executive officer, and will assist Gayner in managing the company's investment portfolio and manage investor relations. He will be based in Markel's corporate headquarters in Glen Allen, Virginia.

Brown joins the company from Thompson, Siegel & Walmsley, where he was a research analyst. His responsibilities included leading research for a long/short strategy called WPS Direct. Before TSW, he worked at Lawton Park Capital Management, a long/short hedge fund, where he performed deep fundamental analysis on targeted companies for possible investment. His other experience also includes various roles at Bank of America and Merrill Lynch, according to a company statement.

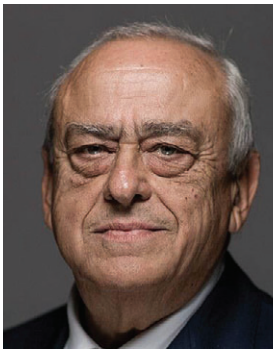
Three Resign from Generali's Board of Directors

Three members of Assicurazioni Generali S.p.A's board of directors resigned in January.

Francesco Gaetano Caltagirone, deputy vice chairman and a non-independent director, and Romolo Bardin, an independent director, blamed strategy and policy differences with the board of directors as the reason for their exits, Generali said in a statement.

A third board member, Sabrina Pucci, also an independent director, cited personal reasons for her resignation, the multiline insurer said.

Caltagirone was a member of the appointments and remuneration, corporate governance, social and environmental sustainability, investments and strategic operations committees, Generali said, while Bardin was a member of the appointments and remuneration, investments, strategic operations and related party transactions committees. Pucci was a member of the remuneration and appointments and risk and control of the board, the insurer said.



Francesco Caltagirone

In a letter to board chairman Gabriele Galateri di Genola, Caltagirone said he was "prevented from making his own critical contribution and from ensuring adequate control," referring to the working methods of the board, Generali said.

In particular, Caltagirone had differences over the presentation and approval of the strategic plan; the procedure for the presentation of a list by the board; the approach to the application of the legislation on privileged information; and the approach toward media relations and large shareholders, even if the holders of equity investments are below the thresholds of relevance, the insurer said.

"Bardin referred to operating procedures and some choices of the board and in the committees in which he participates, in particular, the process for the formation of the board list, as reasons for his decision to step down," according to the company.

"The board, by majority, categorically rejected the groundless and often offensive allegations made in their resignation letters," the insurer said.

Bardin is the chief executive officer of Delfin S.à r.l., which holds a 6.62% stake in Generali. Delfin is a multinational holding company under Luxembourg law and owned by the Del Vecchio family, according to its website. Delfin invests in companies operating in multiple sectors, it said.

Generali lists Delfin as Del Vecchio Group on Generali's website, according to *BestWire*.

Either directly or through companies related to him, Caltagirone holds an 8.04% stake of the share capital of Generali, the insurer said.

According to its website, Generali's largest institutional shareholders are Mediobanca Group, with a 12.82% stake; Caltagirone Group, with 7.98%; Del Vecchio Group, with 6.62%; and Benetton Group, with 3.97%.

Former AIG Leader Returns as Senior Vice President-Treasurer

American International Group Inc. said Marilyn Hirsch has returned to the company as senior vice president, treasurer.

Marilyn Hirsch

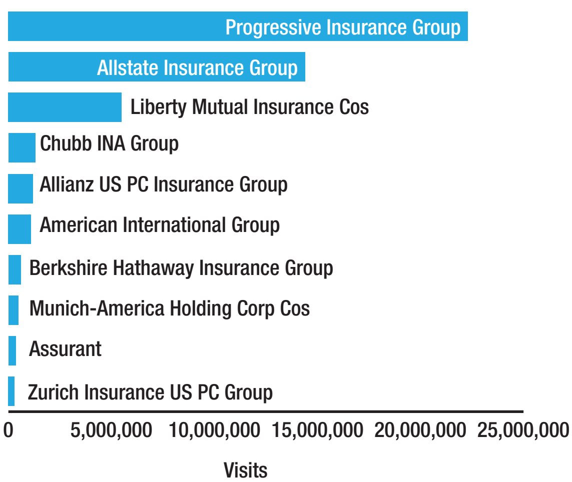
Hirsch leads AIG's global treasury activities, including financing plans, banking and rating agency relations, and management of capital and liquidity, according to the company.

Hirsch has over 30 years of experience and rejoins AIG from Allstate Corp., where she served as SVP and treasurer. Her responsibilities included treasury, corporate financial planning and analysis, corporate development, corporate expense management and start-up engagement. Hirsch held various leadership positions at AIG from 2011 to 2015, the most recent being head of strategy–AIG property/casualty.

AIG also named Kathleen Carbone to succeed Elias Habayeb as vice president and chief accounting officer, effective March 1. Habayeb was named CFO for AIG's life and retirement business in October 2021. BR

Web Traffic: Visits to Private Flood Insurers Sites

Progressive Insurance Group leads web analytics provider Semrush's ranking of the Top Private Flood Insurers based on 2020 direct premiums written.



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AMERICAS (NCSA)

WORLD HEADQUARTERS
1 Ambest Road,
Oldwick, NJ 08858
Phone: +1 908 439 2200

MEXICO CITY
Av. Paseo de la Reforma 412 Piso 23,
Col. Juárez, Alcadía Cuauhtémoc, C.P. 06600, México, D.F.
Phone: +52 55 1102 2720

EUROPE, MIDDLE EAST & AFRICA (EMEA)

LONDON
12 Arthur Street, 6th Floor,
London, UK EC4R 9AB
Phone: +44 20 7626 6264

AMSTERDAM
NOMA House, Gustave Mahlerlaan 1212,
1081 LA Amsterdam, Netherlands
Phone: +31 20 308 5420

DUBAI*
Office 102, Tower 2, Currency House, DIFC,
P.O. Box 506617, Dubai, UAE
Phone: +971 4375 2780
*Regulated by the DFSA as a Representative Office

ASIA-PACIFIC (AP)

HONG KONG
Unit 4004 Central Plaza,
18 Harbour Road, Wanchai, Hong Kong
Phone: +852 2827 3400

SINGAPORE
6 Battery Road,
#39-04, Singapore
Phone: +65 6303 5000

ADVERTISING

SENIOR ACCOUNT MANAGERS
Christine Girandola: +1 908 894 9563, *christine.girandola@ambest.com*
Brian McGoldrick: +1 908 894 9552, *brian.mcgoldrick@ambest.com*
SALES INQUIRIES
+1 908 439 2200, ext. 5399 ***advertising_sales@ambest.com*** ***www.ambest.com/advertising***

EDITORIAL

EXECUTIVE EDITOR **Patricia Vowinkel, +1 908 439 2200, ext. 5540**
EDITOR **Lynna Goch** MANAGING EDITOR **Tom Davis** COPY AND PRODUCTION EDITOR **Amy Baratta**
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GROUP VICE PRESIDENT, PUBLICATION AND NEWS SERVICES **Lee McDonald**
CIRCULATION **Linda McEntee**
NEWS INQUIRIES ***news@ambest.com***

PRODUCTION SERVICES

SENIOR MANAGER **Susan L. Browne**
LEAD DESIGNERS **Andrew Crespo, Angel Negrón** DESIGNERS **Amy Herczeg, Barbara Marino, Laura-Ann Russello, Jenica Thomas**

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Kimball Hughes President: Jingles Create Emotional Ties Between Consumers, Companies

A successful advertising jingle also helps companies build their brand and distinguish themselves from the competition, Gary Kimball said.

by Lori Chordas

While there are many new and evolving approaches to marketing and advertising, including the rise of digital tools, some traditional advertising tactics are still vital to building a company's brand and attracting new customers.

Jingles are a musical marketing tool and an often-used advertising device in insurance that deliver a catchy, memorable and easily recognizable message that gets stuck in the minds of audiences.

Gary Kimball

AM Best Audio spoke with Gary Kimball, president of Kimball Hughes Public Relations, about advertising jingles. Following is an edited transcript of the interview.

What impact do advertising jingles have on a company's brand?

The impact they have really depends on the jingle itself and how the company uses it. If you look at what Nationwide did, they already had a very memorable jingle, and in 2014, they started an advertising campaign with Peyton Manning. Everybody probably remembers—he hums along and sings his own words to the tune. I think that was, at the time, the most successful advertising campaign they had ever had. It really reinforced what they were already doing.

If you look at it in terms of how the jingle is used as part of the overall brand strategy and marketing strategy, it can have a big impact, but if you look at somebody like NJM Insurance, their motto is, "No mascots and no jingles." They say that they don't need them, because they're ranked No. 1 in customer service. I think everybody can use it in a different way, but if you do use one, use it well. There's certainly instances where people don't.

How can insurers use their jingles to tout their company mission, attract new customers and stand out in their competitive industry?

It's all about how they're trying to use it to differentiate themselves and try to get in and to make it memorable, and something that people are going to remember. It's all about building a brand, and then it's one component.

When you think of Geico, you don't think of a jingle. You think of the gecko. You think of saving 15%, and you think that the commercials you watch are going to be really funny. People remember them for that. When you think of Allstate, you think of Mayhem, and not necessarily a jingle.

There are different ways to do it. I really think it's about differentiating yourself and being consistent with what you do. If you've built a jingle, and you have a good one, and it's memorable, into your branding and your marketing, it just really can help establish you for how you want to be seen. BR

Lori Chordas is a senior associate editor. She can be reached at *lori.chordas@ambest.com*.

AM Best Audio

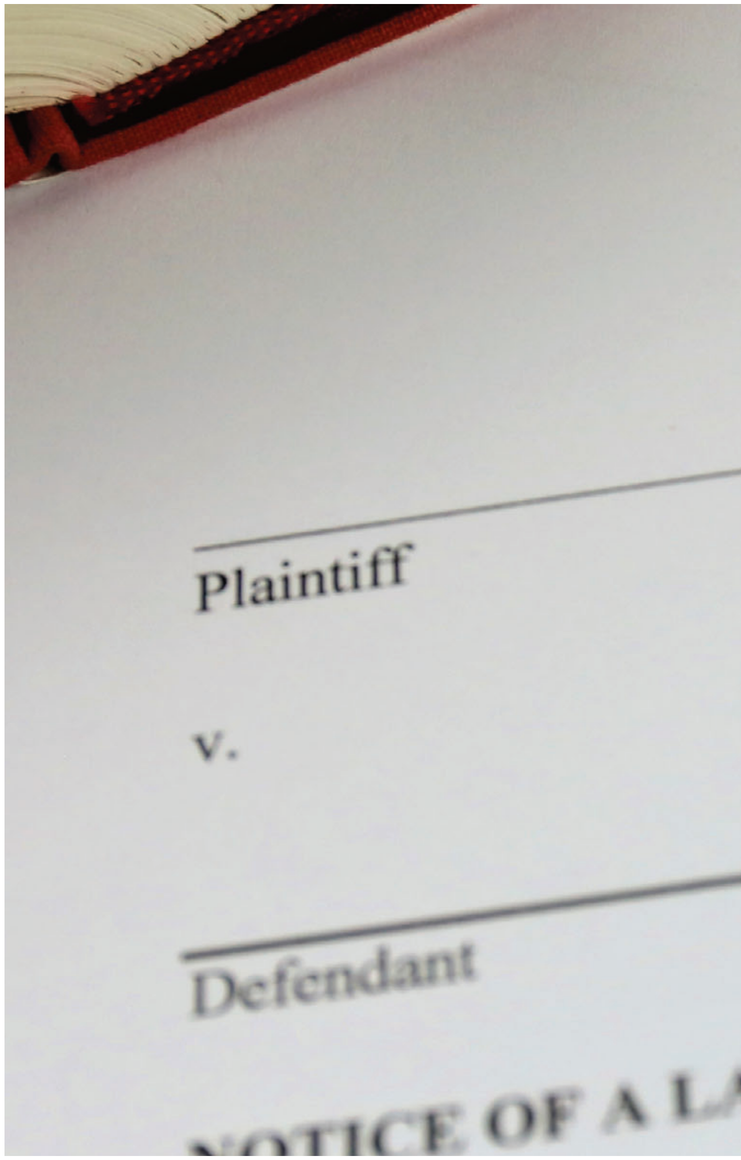
Go to *www.bestreview.com* to listen to the interview with Gary Kimball.

At Large

Lawsuits Elevate Social Inflation to New Levels of Concern

The insurance industry must raise awareness of social inflation to ensure a healthy and robust economy going forward.

By **Tony Kuczinski**



The insurance industry has long been cognizant of social inflation as a significant risk, but we are quickly reaching a point where the public must be made aware of potential dangers of this growing trend.

As a recent R Street Policy Study explains, social inflation is not just an insurance issue: It is becoming a broader societal issue impacting businesses of all sizes and trickling down to affect consumers as well. While the general inflation rate is tracked and measured specifically by the Consumer Price Index, "social inflation" is a broader term, basically referring to all the factors that drive claims costs above the general inflation rate.

There isn't a "Social Inflation Price Index," but current drivers of social inflation include a growing anti-corporate bias, shifting judge and jury attitudes leading to "nuclear verdicts," an increase in class action lawsuits, aggressive tactics used by plaintiff's attorneys and a significant rise in third-party litigation funding.

While the negative impact of social inflation is felt across industries and lines of business, a particularly striking example of this dangerous trend can be found in the trucking industry. According to an American Transportation Research Institute 2020 report, the average verdict in the U.S. trucking industry soared from just over $2.3 million to nearly $22.3 million between 2010 and 2018—a 967% increase!

Best's Review contributor **Tony Kuczinski** is chief executive officer of Munich Re US P&C Cos. He can be reached at *bestreviewcomment@ambest.com.*

Verdict Trends

In analyzing "nuclear verdict" cases from a variety of industries, experts have identified a trend: It is primarily emotion driving the decisions, not facts.

Often jurors mistrust corporations and may also have a sense of social justice and income inequality. There is a perception that businesses and insurance companies have "deep pockets" and therefore can easily afford to pay these disproportionate sums.

I fully sympathize with victims and agree that

bad actors should pay for wrongdoing. However, the focus on outsized awards and the "deep pocket" theory, supported by an aggressive and active trial bar, is the wrong approach. The general sentiment may be that "someone has to pay," but in the long run, it is society that pays.

Although we saw a temporary reprieve during the height of COVID-19 restrictions, the activity level in the court is clearly picking back up. While experts across the industry are highly focused on managing the risk of social inflation, the likelihood of future lawsuits is elevating social inflation to new levels of concern.

Consequences

If insurance companies are forced to pay out claims that have not been priced based on risk, society will pay the price.

If the trend of nuclear verdicts continues to escalate, insurers will be unable to offer various types of coverage or will have to price coverage so high that it won't be affordable to businesses or consumers.

Without insurance coverage, many businesses could falter. Subsequently, jobs could be lost and consumers would have fewer choices.

When people hear about a nuclear verdict, they might call the sum outrageous or they might think the plaintiff deserves the large payout. But whatever their personal opinion, most people do not consider the larger ramifications.

It is incumbent on the insurance industry to raise awareness of the impact of social inflation, not for the purpose of avoiding appropriately filed and adjudicated claims, but to ensure a healthy and robust economy going forward. BR

Risk Adviser

A Reawakened Economy: What It Means for Workers' Comp

The U.S. labor shortage is causing lower hiring standards, creating an unseasoned and undertrained labor force that poses many risks.

By Richard W. Lavey

During the pandemic, certain industries struggled while others flourished. Now, we're seeing more economic stabilization as we enter a period of reawakening and a return to something closer to normal. This new phase certainly brings challenges for workers' compensation clients. Fortunately, independent agents have the experience necessary to help them.

The data is clear. New employees are far more likely to be injured than tenured employees. With the labor market experiencing an unprecedented migration, many companies are being forced to lower hiring standards—sacrificing educational qualifications, training, prior experience and more. Consequently, this unseasoned and undertrained labor force poses a big risk, especially in industry sectors like manufacturing, construction and commercial auto.

In addition, in response to the labor shortage, many companies are asking employees to assume broader responsibilities and longer hours, increasing fatigue and stress. Much like unseasoned labor, employees with expanded roles and hours, without the appropriate training, represent an increased risk.

Best's Review columnist **Richard W. Lavey** is president of Hanover Agency Markets at The Hanover Insurance Group Inc. He can be reached at *bestreviewcomment@ambest.com.*

At the same time, many companies are paying higher wages to attract or retain talent, which means higher premiums. California, for example, has seen a significant increase in its statewide average weekly wage and maximum compensation rate. Nationwide, benefit dollars have increased by 50% to 100% between 2000 and 2018, according to the National Council on Compensation Insurance. Historically, workers' compensation has been a profitable line for agents. Margins may get compressed, however, as the lack of skilled labor combines with increases in payroll and benefits.

With evolving risks on the workers' comp horizon, experienced agents offer great value, taking proactive measures to help their clients.

First, they are working even harder to understand clients' operations. Turnover, job openings, use of temporary labor and average tenure can

help agents and carriers better understand and manage workforce hazards. With the changes in classifications caused by the pandemic, agents are validating class codes to help ensure they reflect new operations, such as "hybrid" workforces.

Second, agents are emphasizing hiring and training discipline. Businesses are at a significant disadvantage if they cannot invest in training. A safety-first culture, combined with updated policies, manuals and procedures, job descriptions, and hiring practices, along with formal training programs, effective communication and strong return-to-work programs, can go a long way in protecting businesses.

Third, experienced agents are taking full advantage of carrier resources. Carriers offer various risk management information and programs for insureds—understanding what each provides can help reveal the true value proposition. Top agents partner with carriers that offer top-tier workers' comp capabilities, including online resources, consultation and customized plans developed with claims and risk management experts. For example, some carriers offer AI-assisted ergonomics, which apply AI to recorded footage of work and prioritize corrective measures to reduce risk. Similarly, carrier-provided wearables can improve ergonomic safety by alerting the wearer to incorrect postures and movements.

The dynamic workers' compensation market presents challenges, but agents are a valuable resource for clients looking to navigate the economic reawakening and enhance their risk management practices. Combined with the right carrier partnerships, insureds can feel confident they have great protection for their needs. BR

Regulatory/Law

Courts Favor Insurers in COVID-Related BI Lawsuits

Clear wording in business interruption policies is key to courts' rulings supporting insurers.

By Alan Rutkin

The range of issues covered in this column over the years would not be complete if I did not discuss COVID-related insurance claims. When addressing these claims, courts throughout the country have been true to policy language. Courts have enforced policy terms tying coverage to "direct physical damage" and upheld insurers' denials.

A good context for considering these issues is a recent decision from the prominent U.S. Court of Appeals for the 2nd Circuit, *10012 Holdings v. Sentinel Insurance*. There, the issue was whether the insured's business losses were covered where closure did not result from physical damage to its property or the neighbors' adjoining property.

The insured ran an art gallery. COVID-related restrictions required the gallery to close. The insured demanded coverage under its business property insurance policy for its lost business income. The insurer disclaimed and the trial court found that the insurer was correct in denying coverage. The 2nd Circuit affirmed the trial court. The claim concerned three coverage grants: "business income," "extra expense" and "civil authority." The insured contended that the policy applied whenever it was denied access to its business property. But the policy tied both "business income" and "extra expense" to "direct physical loss of or physical damage." The insurer argued that these coverages did not apply because COVID-19 did not physically harm the gallery.

The 2nd Circuit agreed with the insurer. Based on intermediate state court precedent, it found that these provisions were clearly limited to situations when the insured's property suffered direct physical damage.

It also noted that all courts applying New York law have rejected arguments that business closures due to executive orders constitute physical loss or damage to property.

The insured argued that "physical loss" meant a loss of physical possession and that the mere "loss of use" of property triggered this coverage. But while "loss of use" was part of other coverage grants in the policy protecting against the insured's third-party liability, it was omitted from the

Best's Review contributor **Alan Rutkin** is a partner in the law firm Rivkin Radler LLP. He can be reached at *alan.rutkin@rivkin.com.*

APPEALS COURT: The Thurgood Marshall United States Courthouse, center, houses the U.S. Court of Appeals for the 2nd Circuit, which heard the business interruption case *10012 Holdings v. Sentinel Insurance.*

"business income" and "extra expense" sections. Thus, the court rejected this argument.

The third coverage area where the insured claimed rights was the "civil authority" provision. This applied when access to premises "is specifically prohibited by order of a civil authority as the direct result of a Covered Cause of Loss to property in the immediate area of."

The key phrase is "Covered Cause of Loss to property." Since the policy excludes property owned by the insured, the court recognized that this provision was tied to a loss of property to others. The court found that COVID restrictions were not addressing possible losses to third-party property, and, thus, this element of coverage did not apply.

The 2nd Circuit's ruling follows all other federal circuit courts that have addressed this issue. The 6th, 7th, 8th, 9th, 10th and 11th circuits have all found that similar business interruption provisions require some physical damage to the insured's property.

Many courts have expressed sympathy for the COVID hardships endured by small businesses. But insurance policies are contracts and the court's role is not to change the parties' bargain, but to enforce the language as written. And courts nationwide have adhered to that role when addressing coverage for pandemic-related business interruption losses. They have applied the policy's plain language.

Pandemic-related loss claims continue to make their way up to intermediate appellate courts. Some appeals are pending before state high courts. We expect the trend favoring insurers to continue. BR

Special Advertising Section

BEST'S REVIEW®

ISSUES & ANSWERS: EXCESS AND SURPLUS LINES

Industry experts discuss the advantages of the excess & surplus lines market.

Interviewed Inside:

Dixon Gillis
A-G Administrators

David Harrell
Philadelphia Insurance Cos.

John Lopes
Nationwide E&S/S

Davis Moore
WSIA

Rick J. Lindsey
Prime Insurance Co.

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Solutions for College Sports

Dixon Gillis, Chief Executive Officer, A-G Administrators, said that he has noticed that mental health is becoming an important issue in college sports. “Mental health is a medical expense that colleges and universities are assuming financial liability for these days,” he said. Following are excerpts from an interview.

Dixon Gillis
Chief Executive Officer
A-G Administrators

“Our service is supreme, and our cost containment can only be described as innovative in this space.”

Go to the Issues & Answers section at *www.bestreview.com* to watch an interview with Dixon Gillis.

A-G Administrators recently conducted a survey for college sports. What did you find?

One of the main things we found was the fact that no program is created equal. We had a great response and accumulated a lot of data! We have found that within college sports there is money for a program to either assume financial liability, utilize a discounting strategy or have primary insurance take some liability off of their budgets. What we’re trying to ascertain is what that level of primary insurance is for each division within each conference. We’re seeing that is the No. 1 offset of expenses for a university’s athletic insurance program. We’ll be publishing the results of that survey very shortly.

How has innovation played a part in protecting student-athletes when it comes to risk management?

Just think about innovation in the sense of the medical community. Look how far the aspect of delivering care has come—to not only students and student-athletes but to everyone around us. It’s remarkable. With that innovation, the insurance and financial industries are a little bit behind the medical community as far as providing the innovative applications that’s appropriate for that niche. What we’ve done at A-G Administrators is have that nuance for each program to be innovative in the way that we’re managing a claim or to be innovative in the way that we’re delivering data. Data is obviously the king of all of these scenarios, but it doesn’t mean that much if you’re not using it appropriately.

Why do agents need to partner with accident specialists for college student-athletes?

Agents primarily have the responsibility of managing the relationship at the highest level within an institution. We feel the accident medical programs are such a niche and it’s so nuanced that you need to have a partner who understands it. We feel here at A-G, we understand it in a way that no other program is providing for within our offerings. That means that we’re hiring folks that are in athletic institutions and athletic training who understand the day-to-day operational aspects of a program and the medical expenses assumed by these institutions. That specialty, that nuanced sense of offering is important for a partner to then deliver to the agent to make their unique competitive advantage truly supreme.

Can you tell us about your state-of-the-art proprietary claims management application?

EGBAR is our proprietary claims management platform. EGBAR allows a user to have full transparency and visibility into the life of their program and the accident medical expenses that are running through their operation. By delivering that value to the end user, we’re hopeful that they can provide more value internally and have that transparency, whether it be from submitting a claim or working through the tracking of a claim or managing all the different components that could be associated with the life of a medical expense or an injury or an illness, for a student-athlete.

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Philadelphia Insurance Companies is the marketing name for the property and casualty insurance operations of Philadelphia Consolidated Holding Corp., a member of Tokio Marine Group. All admitted coverages are written by Philadelphia Indemnity Insurance Company. Coverages are subject to actual policy language.

The PHLY Difference

David Harrell, Vice President of Excess Casualty, Philadelphia Insurance Cos., said speed of service is paramount to the company's overall business. "That is our absolute focus: making sure that we're able to get to the broker as quickly as possible," he said. Following are excerpts from an interview.

PHILADELPHIA INSURANCE COMPANIES

A Member of the Tokio Marine Group

David Harrell
Vice President of Excess Casualty
Philadelphia Insurance Cos.

"We expect the surplus lines market to continue to grow in 2022, just maybe at a slower pace."

Go to the Issues & Answers section at *www.bestreview.com* to watch an interview with David Harrell.

What does the current E&S market look like?

We expect the surplus lines market to continue to grow in 2022, just maybe at a slower pace. The growth will continue to come from former standard market business that entered the E&S market due to various changes, such as appetites, lower capacity offerings and rate increases. Overall, we think that excess will continue to experience the growth pretty much in the same manner with businesses continuing to move out of standard markets with continued risk appetite changes and underwriting profitability results, of course. PHLY specifically attributes our growth over the periods to these opportunities that have been created by that market change.

What are the challenges that you see in the overall marketplace in 2022?

This is and always will be a relationship business. In some ways, the pandemic interrupted our ability to consistently stay in contact with our business partners. The challenge has been trying to find ways to stay relevant to our agents and brokers, especially when you're out marketing a placement. In the case of morale for the team, that's been a concern. It's something that we felt that we needed to address because people always, frankly, didn't have the greatest time working from home. Some people also felt isolated. We had to find ways to go about and be creative to make everyone feel the same way it would if we could be in the office and seeing each other every day.

How is PHLY E&S addressing those challenges?

One way is to embrace the new technology; all types of virtual platforms that we have that will allow us to have face-to-face contact. We've hosted interactive webinars where it allows us to not just talk at our agents and brokers but allowed them to ask questions of us, just like we would in a normal format. We've also held virtual happy hours with them. We just are constantly trying to find ways that we're able to use the technology to make people feel as normal as possible.

How will PHLY differentiate itself in 2022?

Speed of service is paramount to our overall business. In the past, we were able to respond to brokers and agents quickly. That is our absolute focus: making sure that we're able to get to the broker as quickly as possible. For example, in the past, in the way that our business works, we may have been able to wait for all of the quotes to come in or all of the questions to be answered before we offered our premium option. What we've been doing is really trying to speed that up. My team has split things up into what are the wants and what are the needs and addressing the needs first, being able to get that information—then that allows us to be able to release an indication, a quote, whatever the nature of that will be. If we find out that that is competitive, then we will create the quote and search for the wants that we have to complete the documentation of the overall file.

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Innovation Is Key at Nationwide

John Lopes, Executive Vice President, Programs & Alternative Ventures for Nationwide E&S/S, said that during his long career he's only seen a handful of new products that have scaled to a mainstream program. "It's more about innovation—taking an existing product and modifying it for new exposures that are coming in and increasingly better analysis of data," he said. Following are excerpts from an interview.

Nationwide®

- Fortune 100 company
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- A top five domestic specialty (Excess & Surplus) commercial lines insurer

John Lopes

Executive Vice President, Programs and Alternative Ventures
Nationwide E&S/S

"We feel very strongly in the program model that we're here for more than just providing capital and financial rating."

Go to the Issues & Answers section at *www.bestreview.com* to watch an interview with John Lopes.

What prompted you to branch out into these new opportunities?

One of the great things about working for a company like Nationwide is we get approached on opportunities from a number of areas. We take a look at them, and there are very few that we act on. But two made sense to us for a variety of reasons. The first, Geneva Re, came from RSG, one of our largest distribution partners. They wanted to share risk on a large portfolio of program business while leveraging their in-house expertise. The other opportunity was N2G, a multinational opportunity in partnership with Generali. When you take two very large carriers with household names and stellar paper, we thought it made sense to partner together to provide those solutions across the globe.

How are things such as data mining, telematics, blockchain and other technologies playing out in the program's market?

From our standpoint, we embrace technology in both directions. Externally, a lot of that work is being done within the insurtech space and with our program managers. Many of them are sophisticated and they're investing in their businesses, which is something we expect of our partners. Within Nationwide, we also have tremendous capabilities, with numerous resources working on those same elements. We feel very strongly in the program model that we're here for more than just providing capital and financial rating. We believe that we need to be a value-add provider, so our job is to make our program managers as profitable as they can be, just as their job is to make sure we're making a profit. Technology is an integral part of that alignment.

How do new entrants in insurtechs influence the kind of opportunities you consider?

We value what they bring to the table. If you go back 10 years ago, a lot of people would have used the term insurtech along with the word disrupter. At the Nationwide level, we have a Ventures group that makes investments in this space. We work very closely with them. There are a lot of smart, creative people out there who are adding value by being able to do risk management and analysis while improving the customer experience in terms of ease and efficiency of doing business. Our experience is that insurtechs have been very helpful with new program opportunities while enhancing what we can do today—which is really what we want as we move into the future.

New Trends in E&S

Davis Moore, WSIA President, Vice Chairman, brokerage, Amwins, said it's important to remember that the E&S segment is designed for innovation. "So in a time of rapidly developing technologies and emerging risks, the E&S industry naturally excels," he said. Following are excerpts from an interview.

Davis Moore
WSIA President, Vice Chairman, Brokerage
Amwins

"Cyber exposure isn't new, but its impacts are evolving and expanding, and insureds need customized coverages, which is what we do best."

What is the current financial outlook for the surplus lines segment?

According to the recently released 2021 Stamping Office Annual Report, the market continues to experience record premium levels. The 15 states with surplus lines stamping offices just recorded a 22% premium increase for 2021 over the previous year, and they reported a 6.6% increase in transactions. Coupled with the 17.5% increase reported for the market in the AM Best 2021 Special Report for 2020, the figures continue to be strong, and the financial strength and stability of the market is clear.

Where is that growth coming from and what trends are you seeing?

Growth seems to be coming, in varying degrees, from across the board. Both overall premium and total filings are up, so it's not being driven by pricing alone. According to the stamping offices, there's growth in demand in D&O, professional, excess liability, property, residential flood, wildfire and cyber coverages. It seems that an increased frequency of weather-related events, social inflation, nuclear verdicts and cyberincidents are also likely at play. Also, economic growth is certainly a component of the growth we are experiencing.

It's also important to remember that this segment is designed for innovation, so in a time of rapidly developing technologies and emerging risks, the E&S industry naturally excels. Cyber exposure isn't new, but its impacts are evolving and expanding, and insureds need customized coverages, which is what we do best.

What advice would you offer regarding accessing the wholesale distribution system?

We have always known that wholesale distribution delivers tremendous value to retail agents and insureds, and WSIA members are specialists who can offer access to markets, coverages and options that just aren't available in the standard market. In late 2021, WSIA partnered with Conning Inc. to update an analysis of data from 2016-2020, which confirmed that wholesale distribution does not increase the cost of the transaction to the insured. That analysis determined that the cost of wholesale distribution was lower than retail distribution by 1.8 percentage points, which makes consulting a wholesale expert a common-sense approach for insurance buyers, particularly in emerging risks. There is never a cost to seek a wholesale quote, but there is high value when buyers need an expertly crafted solution from the wholesale market.

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The Prime Difference

Rick J. Lindsey, CEO, Prime Insurance Co., says the company has cracked the code on remaining profitable while insuring high-risk businesses that other companies avoid. “This isn’t a magic trick. It is simply executing first-class business practices such as getting the little things right,” he said. Following are excerpts from an interview.

PRIME INSURANCE COMPANY

Rick J. Lindsey

CEO
Prime Insurance Co.

“We take seriously the idea of knowing and collaborating with the customer in a real partnership; fighting for the customer; and motivating capable employees to perform well while creating a business culture of excellence.”

Go to the Issues & Answers section at *www.bestreview.com* to watch an interview with Rick Lindsey.

How has Prime Insurance Co. handled the challenges and market disruptions in the last few years?

Prime Insurance Co. is an excess and surplus lines specialty liability company. While many others in our industry seem to take solace—and make excuses—in repeating how challenging the last couple of years have been, we have accepted and met these challenges head-on and enjoyed record new levels of production and expansion. Our underwriting protocol follows simple but important guidelines, such as not competing with low pricing and exclusionary terms, but by providing the services that actually work in today’s heavy litigation environment, and ensuring that we create and maintain a close working relationship with our clients.

How can Prime be profitable while insuring high-risk businesses that other companies won’t touch?

It isn’t anything magical. It is simply executing first-class business practices such as getting the little things right; knowing and collaborating with the customer in a real partnership; fighting for the customer and motivating capable employees to perform well; and creating a business culture of excellence and pride. Quality control and service is of the utmost importance and all business processes are executed in-house, including underwriting, policy issuance, risk management, legal work and claims adjudication. Prime provides “full contact” customer service. Clients receive regular visits and communications. Clients have 24/7 accessibility and support because bad things can happen at any time.

How is Prime different?

A major business differentiator is our willingness to fight for clients in court against plaintiffs’ attorneys, rather than quickly settle frivolous or exaggerated claims. We believe the industry inclination to settle even frivolous lawsuits has damaged the industry and the people and businesses who are insured. The rush to settle encourages frivolous lawsuits and higher settlement demands, resulting in a downward spiral in fairness and costing more in the long run. The industry is threatened by a tsunami of litigation that increases the cost of insurance and makes companies fearful of insuring high-risk activities. We will go to court and fight hard for clients who are in the right, even if it costs more than settling. Prime is not afraid of the legal system and is not afraid of spending money to win in court. Prime does not allow its clients to be taken advantage of. Prime reverses the pressure and tactics of the plaintiffs’ lawyers. It will cost them more to fight Prime.

Can you tell me how Prime is impacting the relationship between carrier, producer and insureds?

Prime’s significantly lower-than-average loss & LAE ratio is a result of the partnerships formed with policyholders during underwriting and risk management review. Case management is greatly enhanced through this partnership approach. We engage all stakeholders and demand complete transparency by all concerned. With this approach, we are changing the insurance world. The result is that, even though Prime insures categories and enterprises that engage in risky activities that other companies reject, we perform far above average. Prime’s unique ability to supply a stable market beyond the boundaries of other insurance carriers opens options for a larger book of business.

NAIC Revisions to Capital Requirements Widen Opportunities for Real Estate Investments by Life Insurers

The small shift could make the sector more attractive as a long-term place to realize gains, although the COVID-19 pandemic has injected some uncertainty into the picture.

by Terrence Dopp

A new set of revisions to the National Association of Insurance Commissioners requirements that govern real estate investments on the part of life insurers could be teeing up the asset class for growth in the future, as barriers to entry are lowered.

Late last year, the NAIC released a set of changes to its risk-based capital requirements that, for life insurers, lowered the factor for life and health companies. For so-called Schedule A investments—properties owned outright by carriers—the required set-aside was lowered to 11% from 15%. In the case of Schedule BA investments, such as partnerships and funds where the carrier isn't the sole owner, that figure went down to 13% from 23%.

The risk-based capital requirements governing life insurers' investments across lines and asset

Key Points

Lower: Companies will now need to set aside smaller sums of cash under the NAIC's risk-based capitalization rules, designed to ensure companies are adequately protected against investment shock.

Effect: With barrier to entry lowered, such investments could become more attractive to an industry that needs to look at things with a long horizon.

Uncertainty: As with almost every aspect of life, the COVID-19 pandemic has injected some uncertainty as real estate values continue to climb in the residential market while the commercial sector faces cloudiness over the future of office space.

Terrence Dopp is a senior associate editor. He can be reached at *terry.dopp@ambest.com*.

classes essentially govern how much cash companies must put up alongside investments to buffer against surprise losses. The driving force behind the shift was the American Council of Life Insurers, which advocated for and negotiated the changes at the request of members.

The RBC rules are designed to identify companies deemed to be weakly capitalized, and to make sure policyholders receive promised benefits. At a base level, the guidelines are used to determine the amount of coverage a given carrier can write and the minimum capital required to support operations.

Jeannette Mitchell, insurance trust solutions leader at multinational PwC, said the revised guidelines "open the door" for some insurers to increase their holdings of real estate investments while also potentially making them more attractive to insurers who traditionally haven't put money in the class. The new standards went into effect this year.

"The asset class works nicely with respect to life insurance liabilities," Mitchell said. "They're longer-term liabilities. Generally, in real estate, you have the opportunity for longer cash flows, particularly in commercial real estate coming from leases and other places. So it does lend itself to the liabilities."

"Will they really increase their allocations by quite a bit? Probably not because while real estate may have attractive returns, it's not good for portfolios that have to maintain liquidity, especially annuity-backed products."

George Hansen
AM Best

Big and Small

First, the large number—Mitchell said some clients have mentioned doubling their allocation to real estate in a field of investments that runs from ownership and mortgage lending to real estate investment trusts. Now, the reality check—the real estate class represents just a fraction of investment portfolios, which are typically heavily invested in bonds, so any hypothetical increase is unlikely to represent a major swing in allocations, she said.

Luke Schlafly, global head of insurance investment solutions at PineBridge Investments, a firm with $148.7 billion in assets under management, said the new rules will be a tailwind as insurers eye the asset class under the new guidelines. However, he said carriers' analysis of the investments goes beyond simply looking at the RBC factors. While they may not cause a stampede in demand for real estate investments, lowering the capitalization requirements for life insurers will spur some increased interest in them as they lower one potential cost of entry.

"There are certain sectors, whether residential or industrial, that have greatly benefited from a number of tailwinds," Schlafly said. "A lot of new investment is going into those areas and it's becoming crowded, or certainly more competitive. Whereas, there are other sectors that many investors have really shied away from, whether it's hotels or more hospitality-based properties such as shopping malls."

Schlafly said he expects all real estate investors, including insurance companies, to grow more targeted and do more diligence before tying up money in real estate.

Because the category is diverse and somewhat well-established in the life insurance sector, a full accounting of individual real estate investments isn't possible, though looking at some recent noteworthy deals shows a healthy demand.

On the larger end of insurance investments, American International Group Inc. and investment

“There was a real need for this. It will encourage some insurers to look into real estate even though it’s still a bit higher than bonds and other investments.”

Steve Clayburn
American Council of Life Insurers

firm Blackstone said in December they closed on a $5.1 billion deal for Blackstone Real Estate Income Trust, a yield-oriented, perpetual-life investment vehicle affiliated with Blackstone, to acquire AIG’s interests in a U.S. affordable housing portfolio.

On the smaller end, in January, New York Life announced a commitment of $50 million in long-term capital to Century Housing Corp., a U.S. Treasury-certified Community Development Financial Institution and provider of capital for lending in low-income communities across California. New York Life’s investment saw the purchase of 10-, 15-, and 20-year senior unsecured notes. The money, in turn, will be used to offer loans to finance affordable and workforce housing developments and for general corporate purposes.

And that doesn’t factor in the billions of dollars life insurers have invested in areas ranging from real estate investment trusts to lending tied to properties and other vehicles.

‘Real Need’ For Change

Steve Clayburn, senior actuary, health insurance and reinsurance at the ACLI, said an unintended outcome could be seen in the burgeoning environmental, social and governance investing sector, which uses financial investments to prod movement on social justice issues as well as diffuse areas such as environmentalism and income inequality. The revision could make such affordable housing projects, and economic development projects in underserved American cities in general, more attractive for insurers.

Clayburn said the revisions were the result of about six years of deliberations as they took a back seat to another set of changes made at the same time that shifted capitalization requirements pertaining to bonds. When RBC was first developed three decades ago, he said there simply wasn’t enough experience to base the numbers on.

“There was a real need for this,” he said. “It will encourage some insurers to look into real estate even though it’s still a bit higher than bonds and other investments.”

After two decades with real-world experience around real estate investments, some carriers asked the group to advocate for the shift based on this track record and increased familiarity on the part of insurance companies. That proposal sat quietly until 2021, when it was negotiated between regulators and ACLI in just over four months, Clayburn said.

“We would have liked it to be lower, but not to be greedy, we had to have some kind of endgame,” he said. “To have both of those factors lowered is a positive result, and there is plenty of opportunity in two years to run the model with two years’ data and adjust accordingly.”

As of 2020, life and annuity insurers had $8.15 trillion in invested assets, with an overall net return on that sum of 4.1%, according to *Best’s Rankings US Life/Health—2020 Asset Distribution*. Meanwhile, *Best’s Rankings US Life/Health—Industry 2020 Investment Returns—2021 Edition* reports mortgages had a return of 4.42% compared to 4.22% for bonds.

George Hansen, senior industry research analyst, AM Best, said life insurers traditionally have only placed about 6% of their portfolios in BA real estate products and less than 1% in Schedule A real estate investments. Whether there’s any increase and by how much will likely be tied to which segments of the industry carriers are in, but Hansen said he doesn’t expect a huge increase.

Lowered capitalization requirements won't change carriers' need to evaluate individual investments and whether they fit in line with what they are hoping to accomplish, he said.

"Will they really increase their allocations by quite a bit?" he said. "Probably not because while real estate may have attractive returns, it's not good for portfolios that have to maintain liquidity, especially annuity-backed products that are very interest rate sensitive. During periods of elevated policyholder outflows, the ability to sell real estate in a short period of time may be difficult."

Hansen said the impact is likely to be larger in the Schedule BA investments, which will see a larger RBC reduction and may become more attractive to some insurers.

To be clear, the U.S. economy has faced mixed messages as it emerges from the COVID-19 pandemic with inflation at 40-year highs at the same time the real estate market remains elevated.

Chief among the sectors that asset managers have invested in is commercial real estate, which has faced some level of uncertainty as the pandemic has brought talk of traditional office patterns changing and a greater role for remote work. Yet real estate giant CBRE in a recent report found that expansions in primary markets such as Manhattan, Boston, Chicago and Los Angeles, among others, increased to 24% by square footage last year from 17% in the final three quarters of 2020, after the pandemic struck.

At the same time, CBRE found relocations within a market, rather than lease renewals, grew to 33% from 23%. So the market, while potentially seeing a shift, likely hasn't flatlined either as companies seek more space.

In residential real estate, the total value of private residential real estate in the U.S. grew by $6.9 trillion in 2021 to $43.4 trillion, according to research from home-buying website Zillow. Housing more than doubled in value over the last decade since hitting lows amid the Great Recession.

Diverging Investments

Mitchell, of PwC, said the impact of inflation on the real estate sector could prove beneficial to some investments as prices overall go up and lending rates rise, yet in some other cases prove detrimental as climbing prices increase competition for a more expensive asset.

Both she and PineBridge's Schlafly said no particular sector of the broader real estate investment space or single product has emerged as an odds-on favorite at this point.

"When it comes to investments it all comes down to price and returns," she said. "You could look at that question a few different ways."

The COVID-19 pandemic has shifted to investment calculus on due diligence as investment managers eye its impact on property values and which markets they want to put their money in, Schlafly said.

"The pandemic has had major effects on different real estate sectors, and all real estate investors—not just insurers—are assessing the longer-term implications of this," he said. "Clearly, with real estate being a less-liquid assets class, there's just a lot of upfront work that needs to be done when making an investment."

More broadly, Mitchell said a move by the Federal Reserve to raise rates in an attempt to check inflation would primarily impact new money mortgage lending, which could prove profitable for those life insurers playing in that space. Any impact of inflation, good or bad, would be indirect, she said.

Fed Chairman Jerome Powell has signaled a rate increase could be on tap in March to stave off inflation that hit a nearly 30-year high as the consumer price index reported by the U.S. Bureau of Labor Statistics rose 7% at the end of 2021.

An increase by the Fed in interest rates meant to deter inflation is good for life insurers more broadly in terms of money flowing in, Mitchell said. Rising values are not directly impacted by rising rates, but rising prices are not helpful to those looking to enter the asset class, she said.

Mitchell said some clients view the face value of real estate investments as the cost of entry and secondary to the potential flow of money some real estate investments in the commercial and residential sectors can generate.

"If the cash flow capability is increasing because there continues to be pressure on demand and therefore they have steady lease payments or rent payments and prices are going up on the monthly rents and leases, they'll make it up that way," she said. "They'll put the money to work and hopefully they'll see the return on that." BR

Mortality Trends Raise Underwriting Questions for Life Insurers

For the United States as a whole, and life insurers in particular, 2021 was a year marked by higher mortality as the COVID-19 pandemic enters a third year. The Centers for Disease Control and Prevention reported deaths up across many categories, higher even than 2020.

by Terrence Dopp

Last year proved historically deadly in the United States, as excess mortality continued to climb at the same time many hoped to catch a glimpse of the COVID-19 pandemic's end stages.

Terrence Dopp is a senior associate editor. He can be reached at *terry.dopp@ambest.com*.

Key Points

Deaths: The CDC reported more than 3.42 million deaths from all causes in 2021, up from 3.39 in the prior year and far off the 2.85 million in pre-pandemic 2019.

Causes: While excess mortality tends to rise with COVID-19 numbers, insurers see some level of disconnect and are scratching their heads over whether the excess mortality reflects an undercount of virus-related deaths.

Underwriting: The increase, which was substantial enough to lower life expectancy in the United States, could bring about future changes in underwriting practices. However, it remains too early to tell what the lasting impacts will be.

"The industry went into this crisis pretty well capitalized and is coming out of it even better capitalized, including a lot of new capital coming in."
Michael Porcelli
AM Best

The mortality numbers also beg a question that can prove murky at best, especially for the data-driven world of life insurers, one in which quantification is a science of sorts. The open-ended question is whether in a year dominated by the COVID-19 pandemic and the quest to avoid infections, the official counts are in fact off to some degree, leaving unclear the potential true death count wrought by the illness.

According to preliminary statistics from the Centers for Disease Control and Prevention, a total of 3,422,279 people died in 2021, though the figures could be revised upward as more data comes in from the final weeks of the year. In the year prior, at the height of the pandemic, 3,389,062 people died, both well above the 2,852,349 people the CDC cited for 2019, the last year considered pre-pandemic.

Those figures are for the broader U.S. population rather than among the insured population. Still, the peaked death rates for the two years were enough that the CDC data lowered life expectancy to 77 years in 2020, a decrease of 1.8 years from 2019 figures.

"The third quarter was a rough quarter, extraordinarily rough for certain demographics," said Tim Bischof, chief actuary at OneAmerica. "The fourth quarter wasn't exactly a reprieve. The fourth quarter was better overall, but it wasn't a whole lot better."

The mortality trend was so stark that OneAmerica announced deaths in its group life business had risen a full 40% in the 18-64 age group, a trend that began in the second half of 2021 and continued through the remainder. Bischof said longer term, the trend could potentially bring alterations in underwriting or pricing if it doesn't subside. The Indianapolis-based company offers retirement plan products and record-keeping services, individual life insurance, annuities, asset-based long-term care solutions and employee benefit plan products.

Uncertainty

Bischof said looking at the data, there is a very real possibility of COVID-19 deaths being underreported. The results aren't reflected as much in insured data, but in uninsured numbers, OneAmerica is still seeing a notable amount of excess. "Maybe people don't do a COVID test," he said. "Maybe it's a comorbidity that they just don't test for. Or maybe it's someone who had COVID and then recovered, and then they died within the next year."

In the fourth quarter, Reinsurance Group of America Inc. saw COVID-19 claims eat into what was otherwise a solid performance. RGA said COVID-19 impact estimates, which include mortality and morbidity claims, totaled approximately $351 million before taxes during the quarter primarily in the U.S. and Latin America segments.

Jonathan Porter, RGA's global chief risk officer, said the mortality figures through the end of 2021 still reflected the delta variant, which is particularly strident and causes more severe outcomes, though the more transmissible omicron variant—which is believed to lead to less-severe COVID-19 cases—became the dominant strain during the tail end of the fourth quarter.

The company's "rule of thumb" is that every 10,000 general population COVID-19 deaths will mean a cost of about $10 million to $20 million for RGA. Porter said the cost ended up being about $19 million in the fourth quarter alone.

"We continue to believe that the majority of these excess deaths are related directly or indirectly to COVID-19," Porter said on a recent conference call. "One of the things that makes us believe that these really are direct or indirect COVID is the causes of death tend to be comorbid with COVID. Alzheimer's, diabetes, things like that, but in addition they tend to move with the COVID deaths."

The latest numbers continued a trend that really took hold in the third quarter of 2021, when life insurers began noting increased mortality in their group life segments as COVID-19 deaths crept down from seniors into the working-age population. A key point to note is that while deaths are up, from an earnings standpoint, the industry hasn't cratered and gains in other lines have offset the negative impacts of any increased claims activity tied to the disease.

"The industry isn't really set up to determine the primary cause of death at the point where it is collected. They don't control that data," said AM Best Senior Director Michael Porcelli. "COVID deaths often involve other comorbidities so there's a lot of other factors around what the actual cause of death is."

3,422,279

people died in 2021.

Source: Centers for Disease Control and Prevention

The larger industry needs to understand what they think will happen from a mortality experience and whether changes are warranted, such as modifications to group coverage pricing or becoming more selective in selecting individual risks. “To some extent, it’s following the playbook but we definitely need to modify the playbook a bit.”

Tim Bischof
OneAmerica

Ebb and Flow

After a brief dip to the seventh-leading cause of death in the United States during the summer of 2021, COVID-19 crept back up to second place by January, according to the Kaiser Family Foundation. Since the onset of the pandemic in March 2020, it has remained somewhere in the top three of all rankings.

In fact, during December the virus was the leading cause of death in U.S. adults aged 45-54 and was in the top seven spots for all age groups with the exception of children 4 and under.

Still, the latest data on mortality isn’t good news for the industry or society.

The Society of Actuaries said through 2020 the overall age-adjusted mortality rate for all causes was 16.8%, which marked the highest increase dating to 1900. For comparison, during the 1918 Spanish influenza pandemic, population mortality in the United States increased 11.7%.

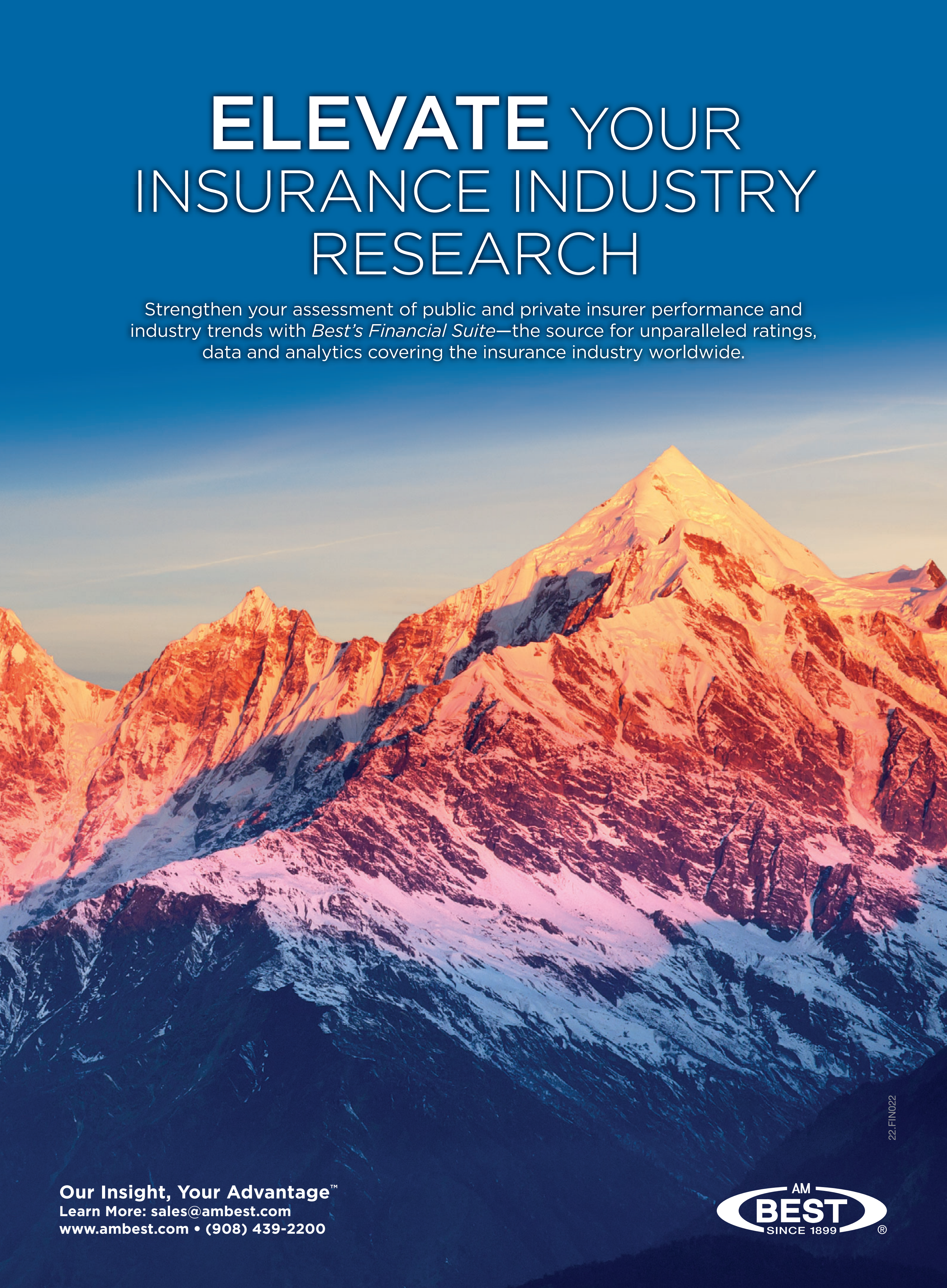
About 12% of the group life claims filed during the pandemic period involved COVID-19, and group life claim incidence rates were up 17.6% on a seasonally adjusted basis compared to 2017-2019 rates, the SOA found.

“Excess mortality has down-shifted toward the younger and middle adult ages during 2021, which has a higher intersection with group life mortality,” the SOA said in an email. “Group life mortality was lower in the start of the pandemic, and it now has higher excess mortality.”

Porcelli said the companies he speaks with are keenly watching their mortality statistics. He commonly hears questions over how much of the increase can be solely attributable to the virus and what level of danger that poses from a business perspective. “However, the industry went into this crisis pretty well capitalized and is coming out of it even better capitalized, including a lot of new capital coming in,” he said.

Looking ahead, OneAmerica’s Bischof said the company needs time to figure out whether trends revert to historical levels or any changes to underwriting are warranted. He said the larger industry needs to understand what they think will happen from a mortality experience and whether changes are warranted, such as modifications to group coverage pricing or becoming more selective in selecting individual risks.

“To some extent, it’s following the playbook but we definitely need to modify the playbook a bit,” he said. BR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Shock Verdicts: Insurers Sound the Alarm as Billion-Dollar Jury Awards Drive Up Claims Costs

Insurers say they're struggling to restrain social inflation—fueled by a rash of so-called "shock verdicts"—that has harmed the industry and threatens the overall economy.

by Tom Davis

Illustration by Angel Negrón.

Tom Davis is managing editor. He can be reached at *tom.davis@ambest.com.*

Key Points

Rising Premiums: Largely because of social inflation, several lines of insurance have had, on average, premium hikes anywhere from 5% to 25% every quarter since mid-2019 after premiums were largely flat for five years, according to a Swiss Re report.

Reduced Coverage: Trucking companies that paid for $50 million in coverage a few years ago now can't get any more than $1 million. The cost of that sharply reduced coverage, meanwhile, is as much as 300% higher than what truckers were paying five years ago, insurers say.

Economic Disruptions: Without insurance, fewer truck drivers and their employers will be available to satisfy the public's consumer needs when they're already challenged by supply chain disruptions, according to the Insurance Information Institute.

Someone had to pay. In this case, it was Beer Belly's Sports Bar, a Texas establishment that gave a man too much to drink one November night in 2017. He ran a red light and killed a woman and her 16-year-old granddaughter with his car.

It was left up to a jury in December to decide how much. And decide they did: $300 billion, quite possibly the highest damage award in U.S. history, a number that matches Apple Inc.'s entire 2021 revenue.

Just a few years ago, getting close to $1 billion in a liability case seemed impossible. But these so-called "shock verdicts," once rare, are now becoming a more frequent reality. Insurers say they've come with a hefty price that goes way beyond what the jury awards.

Insurers and their advocates are responding to the increase in shock verdicts with a variety of strategies, including campaigning for tort reform, pushing for greater transparency about increasingly sophisticated litigation-funding programs and building better alliances with business groups and legislators.

"What we want to make sure of is that what comes out of that is fair to not only the defendant but also the plaintiff, in that things aren't excessive," said David Perez, chief underwriting officer, Liberty Mutual Global Risk Solutions. "Once we get too excessive in the tort system—and it's happening now—that cost ultimately gets paid by customers in general."

Facing the consequence of rising premiums and growing claims costs, insurers say they're sounding the alarm that shock verdicts also have had a devastating economic impact, extracting hundreds of millions of dollars in damages from the transportation industry in recent years as it struggles to operate amid supply chain disruptions and sharply reduced insurance coverage.

"There is little awareness of the costs to consumers and insurance customers of the rising costs of social inflation," said Thomas Holzheu, chief economist Americas, Swiss Re.

Higher Premiums and Reduced Coverage

In a sample of cases taken from 2010 to 2019, the share of verdicts that resulted in awards of more than $5 million rose from 29% to 37% for general liability, and from 22% to 29% for vehicle negligence cases, according to a December 2021 Swiss Re report, *US Litigation Funding and Social Inflation.*

The median award for verdicts larger than $1 million rose from $8.2 million to $10.3 million for general liability awards, and from $6.1 million to $7.9 million for vehicle negligence cases, the report said.

What are also called "nuclear verdicts" have particularly impacted the medical field, said Holzheu.

"Medical malpractice is clearly an area where we have a lot of large-scale verdicts where insurance prices have been affected over a longer time," Holzheu said. "The availability and the price of [medical malpractice] cover affects physicians, OB-GYNs. They're struggling with that. It's availability of medical services. The affordability is affected and so on."

Plaintiff awards in the commercial trucking industry—which has been blamed for driver mistakes that have led to tragic accidents—have risen dramatically in number and size.

The American Transportation Research Institute, in a 2020 report entitled *Understanding the Impact of Nuclear Verdicts on the Trucking Industry*, looked at litigation data on 600 cases between 2006 and 2019. It found 26 cases during the first five years of the study where the awards exceeded $1 million; in the last five of those years, there were nearly 300.

In many cases, insurers are now paying out more money in claims than they're receiving from premiums. Conning Inc., a U.S. insurance asset manager and provider of insurance research, estimated the average combined ratio for U.S. general liability in 2020 at 105.0 and for medical malpractice at 112.7, the seventh consecutive year of underwriting losses for both lines, according to the Swiss Re report.

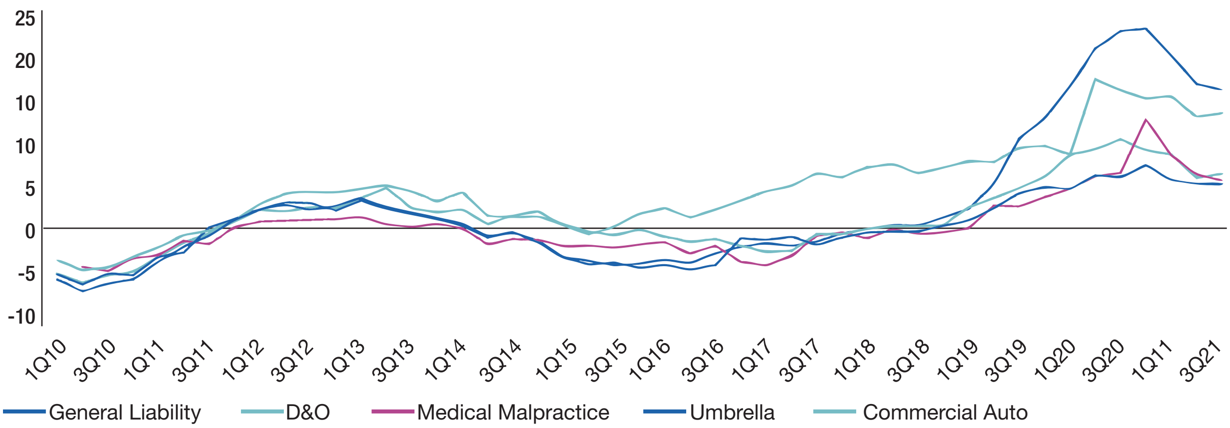
In response, directors and officers, umbrella and commercial auto insurers have, on average, raised premiums anywhere from 5% to 25% every quarter since mid-2019 after being largely flat for five years, according to the Swiss Re report.

The challenges of social inflation will likely force the transportation industry to cut capacity,

Large Legal Awards to Plaintiffs Cause Escalating Insurance Claim Losses to Defendants' Insurers

Conning Inc., a U.S. insurance asset manager and provider of insurance research, estimated the average combined ratio for U.S. general liability in 2020 at 105.0, and for medical malpractice at 112.7, the seventh consecutive year of underwriting losses for both lines, according to a Swiss Re report.

U.S. commercial insurance premium trends, 1Q 2010 to 3Q 2021 (year-on-year percentage change)



Sources: Council of Insurance Agents & Brokers (CIAB), Swiss Re Institute

"There's a sense of using large verdicts as an instrument to create justice, and that inequality has been an issue."

Thomas Holzheu
Swiss Re

insurers say. Trucking fleets are assuming higher risk levels through higher deductibles, self-insurance, expanding use of insurance captives and lower levels of excess liability coverage, said Perez. Trucking companies are buying less coverage, or they're leaving the business entirely. Or, even worse, they're driving without insurance, Perez said.

Perez said there are cases of trucking or logistic companies that may have purchased up to $50 million in limit for liability in coverage a few years ago that now can't afford more than $1 million. The cost of that sharply reduced coverage, meanwhile, is as much as 300% higher than what truckers were paying five years ago, said Craig Dancer, managing director, transportation industry practice leader, Marsh.

Without insurance, fewer truck drivers and their employers will be available to satisfy the public's consumer needs when they're already challenged by supply chain disruptions, said Dale Porfilio, chief insurance officer, Insurance Information Institute. "That's only going to make the challenge harder for commercial trucking firms to do what they do, to supply everything, whether it's your grocery store, Target, or Lowe's, Home Depot, or anything else. If you get to the point that prices can't be sustained, then you get into areas where availability can become a problem," Porfilio said.

Growing Mistrust

Amid the rise of large verdicts, corporate policyholders "are most frequently required to pay because they purchase high levels of insurance coverage," according to Porfilio. Those areas of insurance affected the most include commercial auto, professional liability, product liability and directors and officers liability.

In a post on its website entitled "3 Factors Fueling Today's Supersized Verdicts," Liberty Mutual cited "corporate mistrust" as likely playing a role in pushing juries to feel more sympathy for injured plaintiffs—and wanting to punish the so-called "offending companies."

Liberty Mutual, in its website post, cited a study called the *2019 Edelman Trust Barometer* that says only one in five respondents believes that "the system" is working for them, with nearly half believing the system is actually failing them. "This sentiment leads to a loss of faith and a desire for change, the report suggests, which may be spurring people to shift their trust to things they can exert control over—like verdicts," according to the website.

Holzheu said plaintiffs also are hiring attorneys who are deploying a successful strategy before juries "that's more appealing to emotions rather than the pure legal merits of a claim."

"It's applied psychology, basically. They have been successful in trying, testing and applying this to a lot of cases. We see there is a trend," he said. "Then, it's also matched by changing attitudes of juries. They're more sympathetic toward plaintiffs. They are more critical toward corporations and institutions. There's a sense of using large verdicts as an instrument to create justice, and that inequality has been an issue."

Thanks to social media and an increase in attorney advertising, Holzheu said, the public also is learning more about these cases and they're increasingly mobilized by a sense of disenchantment, dissatisfaction, unfairness and inequality. "Social media plays a role. It's easy to

(Continued on page 46)

What Attorneys, Insurers Should Know Amid Rise of Shock Verdicts

A lawyer who has represented insured companies talked with *Best's Review* about what's led to the exponential rise of social inflation over the past decade and what litigators and insurers should know as they deal with juries that may be sympathetic to a plaintiff's cause.

The image of a corporation on its knees forced to fork over billions of dollars in a liability case may appeal to a public that's grown distrustful of big business. But litigators say the rash of "shock verdicts" in court has come with a hefty price for insurers that are forced to raise premiums and reduce coverage as a consequence.

Clyde & Co. partner Jeff Fegan, who has spent more than 15 years representing insured companies and other corporations as a New York-based litigator and trial attorney, talked with *Best's Review* about what's led to the rise of social inflation over the past decade and what litigators and insurers should know as they deal with juries "giving away a lot of other people's money." Following is an edited transcript of the interview.

Insurers say they're working to help their customers who ultimately will pay for what's become a rash of shock verdicts in court. The plaintiffs may see this as fighting against big business. Where do you stand on this?

It's a very broad issue, these shock verdicts, nuclear verdicts, big verdicts—whatever you want to call them—how they're rising, and how jurors and regular people, everyday-type people that are coming in and getting the power to make these decisions, have become very, very comfortable giving away a lot of other people's money.

It's become very embedded in people's culture nowadays. I think the first step anybody defending cases needs to take is to recognize that [awarding big verdicts] is part of the game now baked into the cake, to recognize that and then try and figure out ways to deal with it. It doesn't look like it's going away, in my experience.

Insurers say that, in recent years, what's also known as nuclear verdicts or social inflation has particularly affected insurers and their industry policyholders. Some of these clients are big companies that are likely targeted because they're tagged as having deep pockets. Is that a fair assessment of what's happening?

I think part of it is people nowadays—probably as we're going to come out of lockdowns in many places—are feeling like they have a lot less control over their lives, over where they live, what they can do, what kind of medicines they have to take nowadays. They have less of a stake in things than they might have had a few decades ago.

I heard someone say recently we're becoming a nation of renters. There's a lot less ownership going around, and it's harder to make your own business. Maybe there's more of a buffer between what people see and do and what they have to deal with on a daily basis in terms of living their lives.

It becomes a little bit easier for people to make choices like that in this environment. That's something we're going to have to deal with more and more, the way things are going. Identifying it—that's what I'd say is part of it. It's a loss of control and it's a public-type narrative over the last couple of decades that has swung against people defending cases.

If you look at television, if you look at books, what you're going to see is there's always a good guy and a bad guy, which is true. Jurors—one thing that I found definitely over the last 10, 15 years is they need a good guy, good person, and a bad person. If they're giving up weeks or even months, as I've seen, of their life to make a choice, they're going to send someone a message. You have to take that into account.

Is there anything that the insurers or the insured could do to perhaps better educate the public that what's happening could ultimately be passed down to them, and that they may end up paying for it?

You don't want to make it like there's a negative consequence for someone, but at least seeing what's at stake here. How is this going to affect me? As we were talking about before, people who have a lot less control over what's going on in their life don't see that easily because they don't have to. It doesn't affect them. It's always somebody else's problem. It may become their problem, but they're not going to find that out while they're sitting in a jury box for the first time. It's too late when you've gotten there. It's more of a macro issue and a cultural issue that is going to take a long time to change if it's going to change.

Are plaintiffs hiring attorneys who essentially appeal to people's emotions rather than the legal merits of the claim?

If you're looking especially in tort litigation, which is a lot of what we're talking about, this is not new. If you've got someone who's been injured by a product, by some kind of chemical, or it could be anything—a fall on the sidewalk—all of these claims have a very high emotional appeal to them from the plaintiff's side. They're going to say, "I'm here to ask for justice here. Mr. Smith or Mrs. Jones got hurt, and somebody needs to make it right." This is not new.

What's becoming more new about it, or something that's evolving about it, is it's becoming a lot more advanced. It's becoming commoditized in a way that it wasn't before. It's a lot easier for different types of lawyers to access information on how to hone their craft, so to speak, that was hard to do 20 to 30 years ago. It's not hard to do now. There's a lot of information out there, and there's a lot of trials going on, so people are getting a lot of experience doing it.

On the defense side, something I've seen over my career is a tendency to underestimate the adversary. That's a huge mistake in my experience. The people that are representing parties in these cases know what they're doing. They're very good at it, and that's why they're still here. That's why they're making money. It's not a new thing. It's getting better, and the other side's got to get better, too.

Insurers say they feel like the defense side has gotten better at this, but they also feel like the plaintiff's side knows too much. They know, for instance, how much a party is insured for ahead of time, so they're going to sue for a certain amount and probably get half that. On the defense side, is this a situation that they have to deal with, and are they dealing with it?

I would say yes and no. The bottom line in terms of defending cases is lawyers and their clients, on both sides—but in particular in defending cases where you're seeing a lot of them—there's a lot of volume across a wide spectrum and portfolio of types of cases. They need to be honest with their clients upfront. Their clients need to be honest about what they want in terms of what they're able to do, what they're facing, and how they're going to do it. There's a lot of lawyers out there on both sides, but it's very true on the defense side. There's a lot of people out there that are doing this work.

In the end, you get what you pay for. Your lawyers need to know what they're supposed to do, and they need to be capable of doing it. Part of it is getting the people in place to tell our side of the story. As I've found, there's always a good side of it. Some cases have to be tried, some don't, but there's always something to say. If you've got someone that knows how to do it, you'll be in a better position.

AM Best TV

Go to *www.bestreview.com* to watch the interview with Jeff Fegan.

"The insurance industry exists to take care of policyholders in those moments of truth, when accidents happen and losses occur. It's always been hard for the insurance industry, claims adjusters and lawyers alike to figure out, 'How do you value a liability injury?'"

Dale Porfilio
Insurance Information Institute

(Continued from page 43)

get information," Holzheu said. "Then, information about signature cases also spreads more quickly. We know more about large verdicts, and that may contribute to what is anchoring the new normal. It's a question of changing expectations."

Conversely, the defense side lacks the funding and coordination to counter the plaintiffs' bar, said Paul Horgan, head of U.S. National Accounts, Zurich North America. They're getting better at their work, but the defense has been routinely outplayed in liability cases in recent years, he said. Plaintiffs, through the discovery process, can ascertain how much insurance the defendant has—and how much they'll be able to pay if their insured is proven to be liable, he said.

What happens as a result? Horgan described it this way: In a liability case, if the insured has $20 million in coverage from insurer A, insurer B and insurer C, the plaintiffs know they can sue for that amount—at the very least. So they'll ask for a $20 million settlement, regardless of the injury. "It's ridiculous. There's no way this is worth $20 million," Horgan said.

Insurance claims adjusters are trained to be sympathetic to policyholders who are looking for fair compensation—and, in some cases, justice—following a loss or tragedy. Helping their customers, Porfilio said, is what insurance companies are supposed to be about.

"The insurance industry exists to take care of policyholders in those moments of truth, when accidents happen and losses occur. It's always been hard for the insurance industry, claims adjusters and lawyers alike to figure out, 'How do you value a liability injury?'" Porfilio said.

Figuring out fair compensation for a fatality is even harder, Porfilio said. "My mom was a stay-at-home mom for all of her life before she died from being struck by a car while bicycling," he said. "She never earned an income. How do you value her life? It's her role as a mother, as a wife, as a grandmother, as a volunteer. There is no exact science to determine fair compensation for a loved one lost."

Porfilio said insurers work to maintain a delicate balance of helping an aggrieved public while also trying to protect themselves and their consumers. "That's what we're talking about. What is life and health worth?" he said. "I don't want to be unduly critical of anybody in this entire equation because it's not cut and dried what these payouts ought to be."

"To say that it's based on compensation alone minimizes what a person's contribution may be in all aspects of their life," he added. "This is not easy. It is always going to be a difficult decision when we're talking about loss of life or severe injury."

And getting the money may still be an issue. In the $300 billion Texas bar case, the family expects to get little to no compensation because the liquor license for Beer Belly's expired in September 2019 and the license has been canceled, a lawyer for the family, Craig Sico, told CNN. The attorney told the network that Texas does not require bars and restaurants that serve alcohol to have insurance.

The attorneys for the family, however, made it clear that the case was about justice. "The family hopes bartenders and alcohol servers will see the verdict as a message to take better care of their patrons and the public," the law office of the plaintiff's attorney, John T. Flood, said in a Facebook post. BR

Insurers: Third-Party Litigation Is Fueling Rise in Shock Verdicts

Third-party litigation is becoming its own industry, insurers say, with hedge fund managers adding in-house legal funding investment units to beef up their growing operations.

by Tom Davis

Insurers point to the rise of third-party litigation—where outside financiers such as hedge fund managers and venture capitalists are treating multibillion-dollar lawsuits as valuable investments—as the primary reason for the sharp uptick in shock verdicts in recent years.

Third-party litigation is becoming its own industry, insurers say. Financiers are using advertising—blasting pitches like "Get cash from

Tom Davis is managing editor. He can be reached at *tom.davis@ambest.com.*

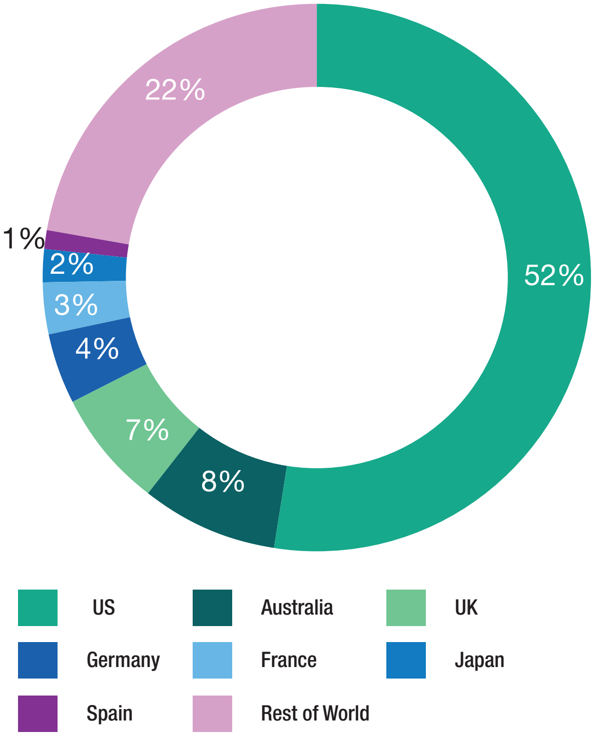
"The idea that it rides in on a white horse and gives the little guy a chance for justice he wouldn't have otherwise is a great narrative but the plaintiffs' bar managed just fine before the arrival of litigation funding."

John Bonnie
Weinberg, Wheeler, Hudgins, Gunn & Dial LLC

your case now" to the public on websites—to get people's attention, and hedge fund managers are adding in-house legal funding investment units to beef up their growing litigation investment operations, said David Perez, chief underwriting officer, Liberty Mutual Global Risk Solutions.

The US Is the World's Largest Third-Party Litigation Market, Accounting for More Than Half (52%) of Global Activity

TPLF investment globally rose 16% year-on-year to $17 billion in 2021.



Note: The sum of percentages may not add up to exactly 100% due to rounding.
Sources: Research Nester, Swiss Re Institute

Third-party litigation finance, as a result, globally rose by 16% to $17 billion in 2021 despite disruptions in legal proceedings caused by the COVID-19 pandemic, according to a December 2021 Swiss Re report, *US Litigation Funding and Social Inflation*.

"Where litigation funding has now grown is that hedge funds and venture capital folks are investing here because they can earn such a high return on their money," said Dale Porfilio, chief insurance officer, Insurance Information Institute. "If that's the capital you're attracting—because that's worth more than investing in the creation of new businesses—then we need some limits in place."

For investors, said Thomas Holzheu, chief economist Americas, Swiss Re, the returns can exceed what the average venture capital and private equity investments would yield. "It is sophisticated investors. It is hedge funds and family offices, and wealthy individuals, or someone who can deal with making bets and investments," Holzheu said.

It's leading to a significant escalation in class actions and a lot more expense on all sides of the equation, Porfilio said. "A third party that's not even involved, that has not been hurt in any way or responsible for trying to make injured parties whole—somebody in the middle is making a significant amount of money," he said.

AM Best also has noted the rise in nuclear verdicts being fueled with financial resources provided by litigation funding firms. However, AM Best Associate Director David Blades noted the challenges of the underlying market conditions in the D&O segment, which included a decade of underpriced rates that have proven largely inadequate, coupled with lawsuit activity stemming from initial public offerings, mergers and acquisitions activity and the #MeToo movement.

"From a social inflation standpoint, you have juries becoming even more desensitized to larger verdicts against corporations," Blades said. "When you combine all of these aspects, that's really where the underwriting performance has been clobbered in the D&O segment."

Defenders of third-party financing say it's a matter of equality and fairness that broadens litigants' access to legal remedies as they do battle against a multibillion-dollar industry. "I believe litigation funding is a way for consumers to get an equal footing with insurance companies. Insurance companies have a lot of financial resources to pull, and any one individual consumer doesn't," Porfilio said. "But we need a better way to balance the interests of claimants, insurance companies and the litigation funding investors."

Attorney John Bonnie of Weinberg, Wheeler, Hudgins, Gunn & Dial LLC, who leads the firm's Insurance Coverage Practice Group and represents insurers of large corporations, acknowledges the narrative of the plaintiffs' bar that "legal accountability of big business is overdue and accomplished not just by hitting back, but hitting back hard."

"If that's your perspective, whatever indirect, societal costs flow from a nuclear verdict are a necessary effect of the right team winning on a legal playing field they say has historically been maintained to favor big business," he said.

Bonnie also acknowledges that the impact of litigation funding is disputed. However, "the idea that it rides in on a white horse and gives the little guy a chance for justice he wouldn't have otherwise is a great narrative but the plaintiffs' bar managed just fine before the arrival of litigation funding," he said.

But something that may have started out with a worthy purpose, insurers say, has turned into something else. "Most of the involved parties for most of these cases are businesses, investment businesses, the legal business," Holzheu said. "The law firms are business, the plaintiffs are often business, and the defendants are business. A lot of this does not benefit families or individuals in need."

What is viewed as leveling the playing field, insurers say, ultimately disrupts the fairness of the process and may push insurers to do more than they need to do. Liberty Mutual, on its website, said litigation funders "may exert control and contribute to more cases going to trial. Plaintiffs may also be more inclined to seek treatments and procedures like physical therapy, MRIs, and CTs, which can boost claim severity."

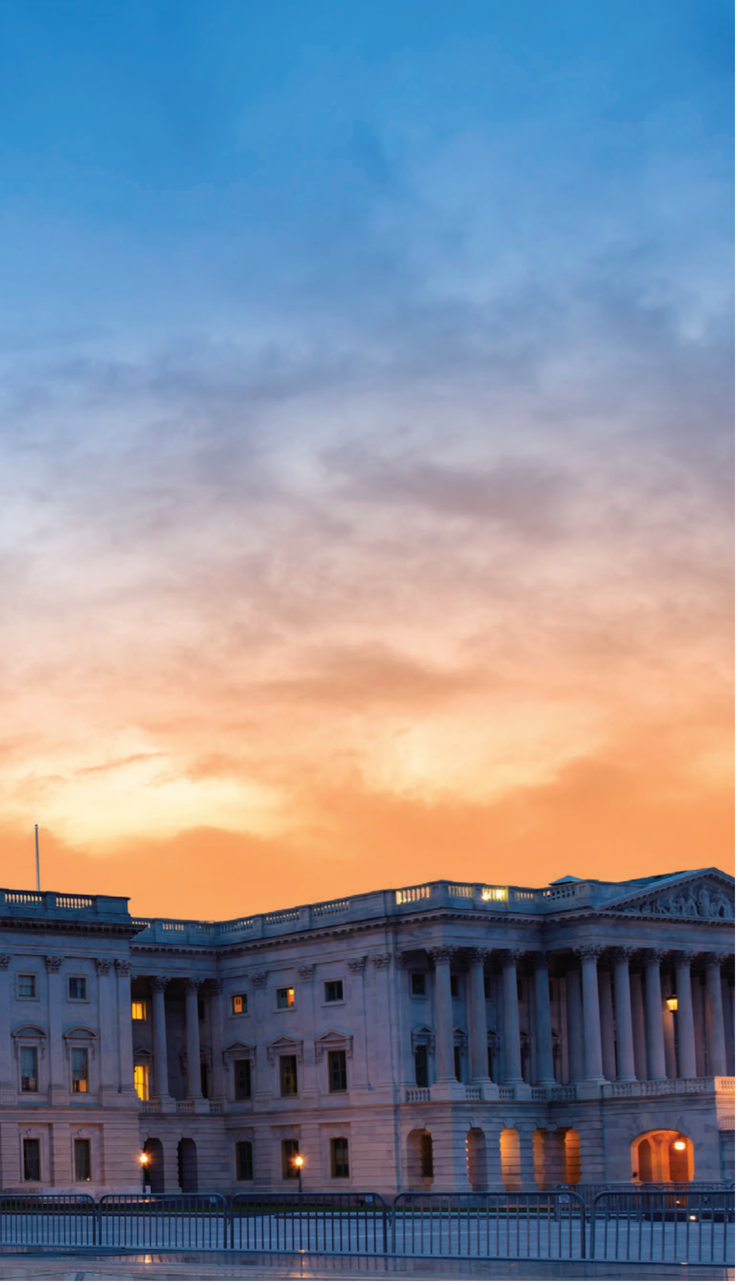
"The insurance industry has to react. The industry is writing losses. Underwriting results have been negatively affected for a couple of years. Premium rates go up to react to that, covers get restricted, but the insurance industry will be on a rearguard game here if these things continue," Holzheu said. BR

Insurers Call for Reform, Public Awareness in Fight to Curb Shock Verdicts

Insurers have called for greater transparency, and making sure everybody involved in the case is aware when third-party litigation funding is involved. They've also revived the idea of tort reform and setting limits on damages in lawsuits.

by Tom Davis

Tom Davis is managing editor. He can be reached at *tom.davis@ambest.com.*



Insurers say they're ready to exert pressure on lawmakers—and on each other—to fend off shock verdicts that have led to reduced liability coverage and higher legal liability risks. They're also working to educate the public on how these cases are ultimately damaging to them.

Swiss Re has called for greater transparency, and making sure everybody involved in the case—especially the public—is aware when third-party litigation funding is involved. "That is also important [for dealing with] potential conflicts of interest," said Thomas Holzheu, chief economist Americas, Swiss Re. "Otherwise, corporations or wealthy individuals could simply get involved in lawsuits for other reasons than either the case or just an investment."

The December 2021 Swiss Re report *US Litigation Funding and Social Inflation* said plaintiffs often do not see the benefit of higher awards, estimating that up to 57% of third-party litigation finance-involved tort costs go to lawyers, funders and others. The report says the result is an "opaque, bottom-up wealth transfer from consumers to sophisticated investors, and a less-efficient legal system, paid for through higher prices and insurance premiums."

"The public and policymakers don't know about this industry, which acts mostly unknown to the public, since often even stakeholders in a legal dispute don't know about the involvement of TPLF," Holzheu said. "Creating transparency at the case level will be an important first step for more analysis on the effects of TPLF on litigation outcomes and more information for lawmakers and the public."

Third-party litigation, said Dale Porfilio, chief insurance officer, Insurance Information Institute, is an area that should also "welcome government or regulatory assistance to put some controls and limits in place."

"Not to shut it down entirely—there are some worthy times where [third-party litigation] could be used. You've got an insurance company that has deep resources, you've got a consumer group that doesn't. This is a way to balance the equation," Porfilio said. "But it needs to be done within limits."

Paul Horgan, head of U.S. National Accounts, Zurich North America, said the industry needs to "identify those legislators, Democrat or Republican, who are more open to the rule of law" and committed to bringing fairness to the process. "Same thing with elected judges: We need to identify those egregious elected judges and support candidates that are more pro-business or pro-equity and fairness, whatever you want to call it. Zurich has a full-blown task force on this now led by our head of claims," Horgan said.

Calls for government intervention have brought back the idea of tort reform, an initiative that essentially ended more than 30 years ago, insurers say. "It happened back in the '80s, when liability was running so rampant that a number of professions could not get insurance for them to be able to have peace of mind in doing their job. It happened to medical, police, teaching," Porfilio said.

Setting limits on damages and other tort reform measures, he said, would allow the industry and consumers to go "back to a balance of things. Since the 1980s, however, those tort reforms have been

"That's why we need our industry groups to lean in. We need the broader business community to lean in. It's like everything in politics—it's going to take money."

Paul Horgan
Zurich North America

eroded inch by inch a little bit," he said.

Gary Flaherty, vice president, E&S Commercial Auto at Nationwide, said tort reform may be necessary, but it will take years to see impact and "there's no silver bullet to solve the issues we are seeing impact the trucking and insurance industries."

"Both trucking and insurance companies alike need to act today to combat the environment we are facing," Flaherty said. "Working together day in and day out to lower frequency is a strong step in the right direction. When a loss does happen, it is vital for both parties to work together and be extremely responsive to conducting a good, thorough investigation upfront."

Banding together also could help build a strong legislative push, Horgan said. He said Zurich hopes to collaborate with external business partners—including brokers, customers, trade associations, other insurers and defense-oriented groups—and develop a broad-based coalition to push for change and educate the public on the impact of third-party litigation. Action committees that are typically used to fund political activities, he said, also could help the cause and raise money from the industry's supporters.

"That's why we need our industry groups to lean in. We need the broader business community to lean in. It's like everything in politics—it's going to take money," he said.

The industry plans to hold a conference during the spring that will address the issue and "we're syndicating a lot of what we're doing now," he said. "We're going to try to bring it all together with a group of the willing and then see if we can create momentum," Horgan said.

To help lead this effort, Zurich North America recently named Allen Kirsh as head of Claims Judicial and Legislative Affairs. Kirsh will advocate for changes in the law consistent with tort reform issues, supporting judges and legislators who fairly balance industry and social interests, and collaborating with business leaders and trade associations to drive a fair legal process for claim adjudication, Horgan said.

Zurich is advocating for a variety of tort reform proposals that vary based on jurisdiction and opportunity for success. Among the proposals is phantom damages reform or what is known as billed versus incurred damages, Horgan said. Damages should reflect actual losses and not a theoretical amount that is billed but not actually paid, he added.

Third-party litigation financing is another issue where reform, or at least disclosure, would provide for better-informed resolution to cases, Horgan said. Currently, it is possible in some cases for there to be a lack of clarity about decision-making authority among legal representation or a third-party financial backer, he added. Zurich is working with customer and coalition partners to educate policymakers about the implications for needed tort reforms.

Porfilio said the industry certainly has the power to solve its own problems. Every insurance company, for instance, has a government relations team that keeps in touch with its legislators and industry trades like APCIA and NAMIC that do a lot on behalf of the industry and could exert pressure on lawmakers, Porfilio said.

"There is a significant lobby and discussion with regulators, but it is always a delicate dance on how much should we be trying to influence," Porfilio said. "We don't want to be seen as using too heavy of a hand to try to balance the equation in our favor. But to me, it's about fairness." BR

Best's Ranking "Largest 30 Surety Insurers – 2022 Edition," published on page 47 of the February 2022 edition of *Best's Review,* was incorrect. The correct information appears in the list below.

Best's Rankings

Largest 30 Surety Insurers – 2022 Edition

Ranked by 2020 market share.

(US$ thousands)

Rank	Company	AMB#	2020 Direct Premiums Written ($000)	Market Share (DPW) (%)
1	Liberty Mutual Insurance Companies (G)	000060	918,719	13.25
2	Travelers Group (G)	018674	908,250	13.10
3	Zurich Insurance US PC Group (G)	018549	549,759	7.93
4	CNA Insurance Companies (G)	018313	507,160	7.32
5	Chubb INA Group (G)	018498	373,920	5.39
6	Tokio Marine US PC Group (G)	018733	290,444	4.19
7	Hartford Insurance Group (G)	000048	225,649	3.25
8	Intact US Insurance Group (G)	018458	184,373	2.66
9	Fairfax Financial (USA) Group (G)	003116	181,297	2.62
10	IAT Insurance Group (G)	018567	163,211	2.35
11	Argo Group (G)	004019	156,751	2.26
12	Sompo Holdings US Group (G)	018878	146,569	2.11
13	Swiss Reinsurance Group (G)	003262	139,133	2.01
14	Merchants Bonding Co (Mutual) Group (G)	018618	131,079	1.89
15	Markel Corporation Group (G)	018468	128,926	1.86
16	Great American P & C Insurance Group (G)	004835	128,311	1.85
17	Arch Insurance Group (G)	018484	116,079	1.67
18	RLI Group (G)	003883	114,903	1.66
19	W. R. Berkley Insurance Group (G)	018252	96,176	1.39
20	Berkshire Hathaway Insurance Group (G)	000811	91,957	1.33
21	Old Republic Insurance Group (G)	000734	82,136	1.18
22	Westfield Group (G)	000730	75,488	1.09
23	Nationwide Group (G)	005987	72,542	1.05
24	Hanover Ins Group Prop & Cas Cos (G)	004861	71,693	1.03
25	The Cincinnati Insurance Companies (G)	004294	63,415	0.91
26	Aspen US Insurance Group (G)	018783	58,669	0.85
27	Indemnity National Insurance Company	013137	56,718	0.82
28	Alleghany Corporation Group (G)	018640	56,527	0.82
29	Everest Re U.S. Group (G)	005696	48,212	0.70
30	LD Investments Group (G)	018948	38,180	0.55

Note: Reflects Grand Total (includes Canada and U.S. Territories).
Source: BESTLINK

HIGH WATER: Flooding caused by 2017's Hurricane Harvey inundates buildings and streets in Spring, Texas.

NFIP Senior Executive: We Want to Continue to Work With the Private Sector

David Maurstad, deputy associate administrator for federal insurance and mitigation and senior executive of the NFIP: "We need to reduce needless disaster suffering by working with the private sector in the ways that we can to collectively close the insurance gap."

by John Weber

While some insurers have expressed concerns over the National Flood Insurance Program's Risk Rating 2.0 insurance methodology, insurers and reinsurers should view the private flood market as a large opportunity, given the NFIP reaches only a fraction of the potential market for flood coverage, according to David Maurstad, deputy associate administrator for federal insurance and mitigation and senior executive of the NFIP.

He spoke with AM Best TV in the Federal Emergency Management Agency headquarters in Washington, DC. Following is an edited transcript of the interview.

John Weber is a senior associate editor. He can be reached at *john.weber@ambest.com.*

Where does implementation of Risk Rating 2.0 stand at this point?

We're excited that "Risk Rating 2.0: Equity in Action" started last Oct. 1 for new policies written in the program. Then for existing policyholders whose policy renewed between October and

April 1 of this year, if Risk Rating 2.0 would be of a benefit to them, then they can have their policy renewed with the Risk Rating 2.0 pricing. That's phase one.

Phase two is now coming not too far from now. On April 1, all policies, new policies and existing policies—when they come up for renewal between April 1 and March 30 of next year—will all come under and be priced according to the new methodology.

What changes to the previous system will Risk Rating 2.0 bring?

We're bringing Risk Rating 2.0 into the 21st century. The old methodology was in place going clear back to the 1970s. Now we're going to price the cost of NFIP flood insurance based on the individual characteristics of a property instead of where that property may be located in a zone on a flood insurance rate map.

We're using far more variables. In the past, it was essentially the height of the first floor to the base flood elevation and where it stood in relationship to a 1% annual chance event. Now we're using multiple flood frequencies. We're using multiple flood sources, catastrophe models, new data that's available now that wasn't available before, new technology.

We now have a means by which we can make the program equitable for all of our policyholders. Inadvertently, over the years, lower-value homes were paying more than they should. Higher-value homes were paying less than they should. Equity in Action corrects this inequity so that no longer will lower-value, lower-income policyholders subsidize higher-value, higher-income policyholders.

Private market insurers have shown greater interest in offering private flood coverage in special flood hazard areas but say their participation is significantly impeded by the NFIP's refusal to return any premium when a private market policy replaces an NFIP policy midterm. They say that it's unfair to consumers and to the private market not to have an NFIP reason-for-cancellation code that allows midterm replacement of coverage with its associated return premium. How do you respond to that?

We are a government program. Of course, the program was established through the National Flood Insurance Act. We have regulations that are in line associated with that statutory authority. Unfortunately, our regulations don't allow us to have a midterm cancellation for that reason.

We're working with Congress because it will need congressional action. We're working with Congress to give us the ability to be able to do that and craft a manner in which, very similar to normal industry practices, where there'd probably be a short-rate cancellation penalty. But we're looking to do that.

More importantly, I don't think that's the big reason that there isn't more private flood insurance being provided in the special flood hazard area. The program only writes about one out of three properties that are in the special flood hazard area. That means there's two properties for every one property that the program's writing that's available for the private sector to write that the NFIP is not infringing on in any way.

We want to continue to work with the private sector, as we have over the course of the last five or six years, to help close the insurance gap. I've been to far too many flooding events...There are two distinctly different paths that those homeowners now have moving forward. The person with the flood insurance has the financial resources to rebuild or replace their home. But their neighbor without the coverage doesn't.

We need to reduce needless disaster suffering by working with the private sector in the ways that we can to collectively close the insurance gap and make sure we have more disaster survivors that have the flood insurance coverage that's so important to them.

How big a role do you see the private sector playing? Does the private sector have the appetite for that role?

We're seeing some increased interest by the private sector, generally speaking, through the excess and surplus lines market. There aren't a lot of admitted carriers that are writing residential flood insurance; especially none of the large property companies are providing the coverage at this point in time.

I think the last Wharton study indicated that about 4% of residential flood insurance was covered by the private sector. Over 95% was being provided by the NFIP. But again, the most important thing is 95% of the properties in America do not have flood coverage. There is plenty of market out there. I'm certain that as soon as the risk appetite for private companies is such that they believe it's in their best interest for themselves and their stockholders, there will be more involvement in residential flood insurance coverage. But I think it's a ways down the road.

Some insurers have criticized Risk Rating 2.0 because of the upper limits of $12,125 in flood premium benefits. They say it benefits affluent property owners who receive greater coverage at a fixed cost. What are your thoughts on that?

There are those that, for whatever their reasons may be, are not supportive of the transformational change that we're making. They want to compare Risk Rating 2.0, quite frankly, to something that didn't exist. Under the old methodology there was no upper cap. We had tens of thousands of policies clear up to $40,000-plus range for the coverage. Now through the new methodology, the actuaries have determined that an upper boundary can be put in place to help cap that limit.

Most importantly, what's not understood is, because we're now including replacement cost as one of the factors, the $12,125 will only apply to those homes that have a replacement cost value beyond $600,000. If you're below $600,000, your cap actually will be less than the $12,125. The lower-value homeowners won't have the same cap as those higher-value homeowners. So it's fair.

"We're seeing some increased interest by the private sector, generally speaking, through the excess and surplus lines market. There aren't a lot of admitted carriers that are writing residential flood insurance; especially none of the large property companies are providing the coverage at this point in time."

David Maurstad
NFIP

Another complaint is the 10-year implementation period, which insurers say may be too long. Are there plans to make any changes to that?

Again, I think there's just a little misunderstanding of what the 10-year is all about. Once a property reaches its full risk rate under Risk Rating 2.0, the increases for the risk factor of the premium stops, unlike the program before where the only thing a policyholder could count on was their premium was going to go up year after year after year.

In the first year of Risk Rating 2.0, a little bit more than 25% of our policyholders—26% we estimate—will reach their full risk rate. Their rates won't increase any more beyond that first year. About 50% of our policyholders will reach their full risk rate at year five; 90% will reach the full risk rate by year 10. So there is no real 10-year implementation. We've implemented it right now. The 10 years is when 90% of our policyholders will finally get to full risk rate.

Why is that? That's because Congress has in place—it's a government program—an 18% cap on how much any policyholder's premium can go up in any one year. There's a glide path for policyholders. If they're starting out at a premium less than their full risk rate, they're on an 18% glide path until they get to their full risk rate.

It is going to be beyond 10 years before all of our policyholders are at their full risk rate. But that's, quite frankly, because of the way that the law is written and Congress' decision to not have policyholders have the shock of reaching their full risk rate immediately, but instead have that glide path to adjust to the cost of their insurance until they reach their full risk rate.

Risk Rating 2.0 continues something called community rating. Is there any chance to continue or change that methodology?

The community rating system has been in place now for 30 years or so. It's the opportunity for communities to help make their communities more resilient. It also gives them the ability if they take actions that go above and beyond the minimum federal limits that their policyholders in their communities receive a discount in the premiums that they pay. Individuals can take mitigation actions that can lower their premium. The communities that they live in can also take actions that can help make the cost of the insurance for the policyholders more affordable.

Right now there is not a change in the community rating system. There's about 1,750 of the 22,500 communities that actually participate in the community rating system. They represent over 75% of our policies. But right now there aren't changes. However, just like we're doing across all of the National Flood Insurance Program, we're looking at ways that we can improve the program, transform the program, make the program more fiscally sound and sustainable into the years.

Last August, we put out a request for information through the public record for people to comment on the community rating system, [say] what's good about it, what's not so good about it, what ideas they might have to change and improve it. We're looking at the community rating system to see what changes we can make to make it even stronger for the program in the years to come.

Do you think that the gradual implementation of Risk Rating 2.0 offers too many incentives to still build, however, in high-risk areas?

Again, in comparison to the way that it was before, there's really not much difference. If we would not have changed anything the same incentives or disincentives would be in place that are going to be in place with Risk Rating 2.0. Personally, I don't see any slowdown in people wanting to live on the coasts. People like to live near the water. I think that the program itself or the availability of NFIP insurance is not that strong of a factor on where people decide to either build and/or live.

The important thing now is, because of the changes that we made, and we know the intensity and frequency of storms are increasing, now Risk Rating 2.0, the way we price flood insurance, will be able to adapt over the years to climate change and the changing conditions: sea level rise, subsidence. That also makes the program stronger in the years to come.

My last point on this one would be, of course, the NFIP is not just an insurance operation. It's also about risk identification, mitigation grants and flood plain management, which means for communities that participate in the NFIP new construction has to be at the base flood, the minimum federal standard, or higher. That doesn't change in the Risk Rating 2.0 either.

What do you think insurers and reinsurers should be doing to address flood?

It's a shared responsibility. Of course, the NFIP does participate in the reinsurance market, both through traditional reinsurance and through insurance-linked securities or cat bonds. We're working with the private sector. We're spreading the flood risk of the program, about $2 billion, across about 27 reinsurance companies.

Not only is it beneficial for us because we're able to transfer that risk to the private sector, it's also beneficial to the reinsurance companies and the private market because they know far more about our program now after participating in this program and the reinsurance program for five years.

They can use that information and that knowledge to work with their customers, the property companies, to encourage more companies to take a look at the flood risk and see if they can determine a manner in which they can provide that protection and help close the flood insurance gap. BR

AM Best TV

Go to *www.bestreview.com* to watch the interview with David Maurstad.

California Farms and Wineries Now Qualify for FAIR Plan Fire Coverage

The Department of Insurance is changing how the FAIR Plan operates as part of a broader solution to help protect rural businesses, especially those vulnerable to climate-intensified wildfires.

by Timothy Darragh

Farms, wineries, ranches and other outdoor agricultural businesses in California now qualify for FAIR Plan basic fire coverage after Insurance Commissioner Ricardo Lara approved extended coverage.

New commercial coverage for farm structure risks was slated to begin Feb. 1, the California Department of Insurance said in a statement. The coverage could be a lifeline for agricultural businesses left without an insurance option after carriers left the market, which has been hit hard by wildfires.

"We worked with Sen. (Susan) Rubio, legislative leaders and the governor to pass SB 11 to help address these issues," Lara said in a statement of the need to find an insurance solution for rural businesses. "The Department of Insurance is changing how the FAIR Plan operates as part of a broader solution to help protect these businesses, especially those vulnerable to climate-intensified wildfires."

To expedite the rollout of the plan, the department left some regulatory approvals pending, it said. However, its goal is to be ready to "take all comers," it said.

"Now that our rate filing has been approved, the FAIR Plan can finalize the complex programming and testing needed to insure farm properties, which we expect to complete by Feb. 1. The FAIR Plan is committed to continue working as quickly as possible so farmers who are unable to obtain property insurance from other carriers can access basic fire insurance through the FAIR Plan," Anneliese Jivan, president of the California FAIR Plan Association, said in a statement.

Timothy Darragh is an associate editor. He can be reached at *timothy.darragh@ambest.com*.

OMINOUS SCENE: Smoke from the 2020 Walbridge Fire near Santa Rosa, California, hovers behind one of the many vineyards located in the northern part of the state.

Best's Rankings

Top 10 U.S. Private Crop Insurers – 2022 Edition

Ranked by 2020 market share.

Company Name	AMB #	2020
Zurich Insurance US PC Group (G)	018549	19.94
Sompo Holdings US Group (G)	018878	16.88
FMH Insurance Group (G)	018171	12.78
QBE North America Insurance Group (G)	005658	12.52
Chubb INA Group (G)	018498	11.35
American International Group (G)	018540	9.42
Great American P & C Insurance Group (G)	004835	7.49
Tokio Marine US PC Group (G)	018733	3.92
Fairfax Financial (USA) Group (G)	003116	1.86
COUNTRY Financial Property Casualty Grp (G)	000302	1.49

Source: BESTLINK

Top 10 U.S. Multiperil Crop Insurers – 2022 Edition

Ranked by 2020 market share.

Company Name	AMB #	2020
Chubb INA Group (G)	018498	17.87
Sompo Holdings US Group (G)	018878	17.72
QBE North America Insurance Group (G)	005658	15.11
Zurich Insurance US PC Group (G)	018549	14.63
Great American P & C Insurance Group (G)	004835	8.44
FMH Insurance Group (G)	018171	6.04
Fairfax Financial (USA) Group (G)	003116	5.52
Tokio Marine US PC Group (G)	018733	4.87
American International Group (G)	018540	4.80
XL Reinsurance America Group (G)	018557	1.50

Source: BESTLINK

The FAIR Plan, the state's property insurer of last resort, is funded by admitted property insurers in California. But the new law doesn't set the rate for the new coverage. Rather, it said the program may provide an assessment of all members "in amounts sufficient to operate the facility, and may establish maximum limits of liability to be placed through the program, reasonable underwriting standards for determining insurability of a risk, and commission to be paid to the licensed producer designated by the applicant."

The FAIR Plan Association and Lara are at odds on the commissioner's order to provide a "quasi" homeowners policy. The association is appealing Lara's order in court, saying it would raise rates across the state and violate its statutory mission of not competing against the private market. The appeal challenges portions of a ruling by the Los Angeles Superior Court in July that gave Lara authority to order the FAIR Plan to offer coverage, including liability coverage, only if it related just to property.

Also last year, Lara issued another order increasing the coverage limits prescribed for the FAIR Plan commercial property program, from $4.5 million to $8.4 million and, for its Division II business-owners program, from $3.6 million to $7.2 million. The adjustments are an effort to stay current with inflation, Lara's office said in a statement. BR

AM BEST ANNOUNCEMENT: Andrea Keenan, EVP and chief strategy officer, and Greg Williams, senior director, discuss AM Best's new type of non-credit opinion, which assesses a DUAE's relative ability to perform services on behalf of its insurance partners.

AM Best: New Performance Assessment Provides Tool for Differentiating Among DUAEs

AM Best is turning its attention to the Delegated Underwriting Authority Enterprises market because it is becoming an increasingly important part of the insurance ecosystem.

by Kate Smith

AM Best has released a new methodology, Best's Performance Assessment for Delegated Underwriting Authority Enterprises. This new assessment provides a framework for differentiating among DUAEs, a blanket term that includes MGAs, MGUs, cover holders and other organizations that hold the underwriting pen for carriers.

Kate Smith is associate director, Public Relations, AM Best Rating Services. She can be reached at *kate.smith@ambest.com.*

Andrea Keenan, EVP and chief strategy officer, and Greg Williams, senior director, discussed AM Best's new type of non-credit opinion, which assesses a DUAE's relative ability to perform services on behalf of its insurance partners, with AM Best TV. Following is an edited transcript of the interview.

What is the Best Performance Assessment for Delegated Underwriting Authority Enterprises?

Williams: The performance assessment is a forward-looking, independent, and objective non-credit opinion indicative of a DUAE's relative ability to perform services on behalf of its insurance partners. These services could include binding coverage, underwriting, pricing, claims settlement, and/or appointing retail agents.

How is this different than a financial strength rating?

Williams: A financial strength rating evaluates the carrier's ability to meet ongoing policy and contractual obligations. The performance assessment evaluates a DUAE's ability to perform services on behalf of carriers. Unlike a rating, a performance assessment does not address creditworthiness.

Why has AM Best turned its attention to the DUAE market?

Keenan: DUAEs are becoming an increasingly important part of the insurance ecosystem. Given the increase in premiums generated by the segment, AM Best believes independent assessments will add value to the marketplace by providing a tool for differentiating between these organizations.

Can you outline the process for assigning a performance assessment to a DUAE?

Williams: The assessment is based on five key components, those being underwriting capabilities, governance and internal controls, financial condition, organizational talent, and depth and breadth of relationships.

Points are given in each of these five key component areas. The sum of those points determines the performance assessment tier. There are five PA tiers with PA-1 being exceptional all the way down to PA-5 being weak.

What if a DUAE doesn't do well on its assessment? Is that going to impact the rating of its insurance carrier partners?

Williams: No. We do not expect that the PA for a DUAE will impact the rating of an insurance carrier as any material, relevant information on DUAEs are already factored into the insurance carrier's issue or credit rating.

If a DUAE is interested in attaining an assessment, what steps should they take?

Keenan: For information on engagement, please speak directly with AM Best's business development team whose contact information is available on our website [*www.ambest.com*]. BR

AM Best TV

Go to *www.bestreview.com* to to watch the interview with Andrea Keenan and Greg Williams.

Author: Culture Is Key to Driving Results, Employee Engagement

In their book, Mark Miller and Ted Vaughn talk about the importance of creating the right culture to grow a brand.

Mark Miller

Culture Built My Brand

Company leaders often settle for adequate employee performance and unremarkable earnings, but that doesn't have to be the case, said Mark Miller, co-founder of brand strategy and design partner Historic Agency. By building an efficient, structured culture inside their company walls, organizations can engage their teams and achieve better results, he said.

Management thought leader Peter Drucker once said: "Culture eats strategy for breakfast."

"But we found that culture also eats brand for lunch," said Miller, who, along with Historic Agency co-founder Ted Vaughn, wrote the book, *Culture Built My Brand*. "After doing some research, we discovered that the patterns companies do to be successful don't deal specifically with a marketing campaign, tactic or strategy but rather focus on internal culture."

Following is an edited transcript of the AM Best TV interview with Miller.

How did the idea for the book come about?

Companies often fail at implementing great work and then try to figure out why that was the case. It turns out it's culture. We coined the term "marquee culture," because the organizational culture was so bright, like a marquee sign, that it was drawing both talent and customers to the brand, the organization or its products or services.

How can insurers unleash the power of culture to propel their brand forward and stand out?

First, you have to understand the term "culture." We look at it as the stuff that an organization inherently does. When you're in it, like a fish, a fish doesn't know it's in water until it's out of water. Many executive leaders don't take the time to cultivate the culture that is going to be a lift for everybody, but instead just focus on their KPIs and outcomes that the board has required of them.

If you're a smaller organization, you have to focus on the day-to-day grind and the things that you think are going to make a big difference. But what happens is you end up not valuing the things that you say you're about. For example, we say we value people, but we make them work 80 hours a week. When your employees start to see that "Jekyll and Hyde" behavior, they start to operate out of that space and do things for your organization that are misaligned with your values and what you stand for.

What do you hope readers will take away from the book?

We hope that readers will learn that they need to first start with their internal culture to make their company special to its customers. For example, I can buy insurance online and not interact with somebody, but at some point I'm going to have a question and it becomes human. It's important for companies to ask, "Is our culture ready to handle that? Are we able to be a brand that values the people interaction side of things?" BR

—Lori Chordas

Lori Chordas is a senior associate editor. She can be reached at *lori.chordas@ambest.com.*

AM Best TV

Go to www.*bestreview.com* to watch the interview with Mark Miller.

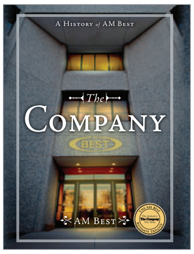
AM Best Trilogy

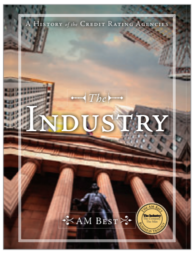
AM Best details the history of AM Best, the history of credit rating agencies, and the life of Alfred M. Best.

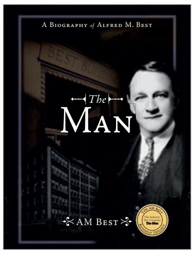
The Company—A History of AM Best

The Industry—A History of Credit Rating Agencies

The Man—A Biography of Alfred M. Best







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Send us your book recommendations at *bestreviewcomment@ambest.com*.

available at amazon

App Helps Insurers, Homeowners Address Water Damage to Property

The app collects data that helps underwriters and homeowners identify changes in eligibility, pricing and coverage.

Water Damage App

Water damage is the second most common type of non-weather loss experienced by homeowners, according to claims data from insurer QBE North America. To help people avoid the often-devastating effects of water damage to property, QBE is building on its partnership with Flyreel Inc. to offer in-home water-focused inspections for policyholders through the use of an app.

Mark McCormick, vice president, risk solutions, QBE North America, recently spoke about how the app also collects data that helps underwriters identify changes in eligibility, pricing and coverage. Following is an edited transcript of the interview with McCormick.

How does the app work, particularly with documentation and identification of risks and hazards?

The process starts with the policyholder receiving an email invitation from QBE. Then the download begins from the policyholder's side, which is really easy to do. The policyholder begins scanning. What's important to know about the scanning: It's conversational text that's guiding the policyholder around collecting information about the house. There's not just a hunt-and-peck for it.

What makes it user-friendly?

It's really, really easy to use. A benefit also of this is, when you're using the Flyreel app, you don't have to wait for an inspector to come to the home. There's no appointment-making. You don't have to take off work. That's been some good feedback from us as well. Policyholders can conduct the self-inspection from Flyreel at their own convenience. They can even pause it. If they run into some issues, they can pause it, do it another hour, do it another day. It's fast. It usually takes anywhere from 20 to 30 minutes to complete the self-inspection.

I suppose it can be useful for businesses as well?

It can. In that case, it's easier to collect the data by putting the data in the hands of the policyholders. With this data, underwriters can identify changes in eligibility, pricing [and] coverage, helping to reduce our losses and also improve our profitability.

How was this tool useful for homeowners during the COVID pandemic?

We launched the Flyreel app in March of [2020] just as the pandemic was starting. We've got a lot of good, positive feedback from the policyholders. They're very thankful, very grateful that they don't have to have an inspector who they don't know that would come into their house to do the survey.

How does this put a spotlight on climate risks?

We're not burning fossil fuel with our inspectors going in and out of homes in different areas. I think that has a significant impact on climate. BR

—Tom Davis

Tom Davis is managing editor. He can be reached at *tom.davis@ambest.com.*

AM Best TV

Go to *www.bestreview.com* to watch the interview with Mark McCormick.

Top Trending News Includes Features on Innovation, Inflation and Embedded Insurance

Other trending content includes *Best's Review*'s ranking of the top global insurance brokers and coverage of a NotPetya court ruling.

Trending: *Best's Review*

1. Top Global Insurance Brokers - 2021 Edition
2. In Innovation, It's Not the Most Obvious Changes That Make the Biggest Impacts
3. Life Insurers Not Free of COVID-19 Yet, as Virus Impacts Younger Populations
4. Insurers Confront Inflation for the First Time in Ages
5. Embedded Insurance Gaining Steam as Insurers Build Distribution Partnerships


Global Brokers

Trending: BestWire $

1. New Jersey Court Rules Against Chubb Affiliate in $1.4 Billion Merck NotPetya Cyber Liability Case
2. Cyber Capacity Constrained as Cautious Reinsurers Said to Hold Line on Primary Insurers
3. Jury Adds $150 Million Punitive Damages Against Farmers Insurance in Wrongful Firing
4. Update: State Farm Wins New Trial in Shannen Doherty $6.35 Million Fire Claims Lawsuit
5. John Hancock to Pay $123 Million in Overcharging Settlement


Cyber Liability

Trending: AM Best Webinars

1. Benchmarking Discussion: How Current and Emerging Auto Insurance Trends Will Affect Carrier Results
2. How Identity Management Drives Customer Experience and Reduces Risk for Commercial Insurers


Auto Insurance

Trending: AM Best TV - News Coverage

1. Joint Industry Forum Gathers Old Friends to Ponder New Risks
2. Why AM Best Has a Stable Market Segment Outlook for Global Reinsurance
3. WSIA Flood Panel on Risk Rating 2.0: "It's Going to Take a Long Time to Fill That Hole"
4. Argo Pro's Henderson: Professional Liability Sector Losses Pressure Rates
5. ESG: A Review of Frequently Asked Questions & Incorporation Into the Ratings Process


Conferences

These were the top trending items from Nov. 23, 2021, to Jan. 23, 2022. Features, news articles and videos were based on page views. Webinars were based on webinar attendance.

The above content can be viewed on demand at *www.bestreview.com*, or by visiting AM Best's home page at *www.ambest.com*.

$ Payment or subscription required.

Go to *www.ambest.com/advertising* to learn more about how to advertise in *Best's Review*, BestWire, AM Best Webinars and AM Best TV.

Trending Research Includes a Commentary on Secondary Perils

Other trending research includes reports on insurance innovation after COP26, derivatives and market segment outlooks.

Trending: Best's Special Reports

1. Insurance Innovation Under the Spotlight After COP26
2. First Look: Nine-Month 2021 Life/Annuity Financial Results $
3. Notional Value of Derivatives Exceeds $3 Trillion $


COP26

Trending: Best's Market Segment Reports

1. Market Segment Outlook: Global Reinsurance
2. Market Segment Outlook: US Commercial Lines
3. Market Segment Outlook: US Personal Lines
4. Market Segment Outlook: US Life/Annuity
5. Market Segment Outlook: US Health Insurance


Global Reinsurance

Trending: Best's Commentary

1. Secondary Perils Increasingly Responsible for Largest US Catastrophes
2. Tornado Outbreak Adds to 2021 Insurance Losses but Appears to Be Earnings Event
3. Demand Surge and Inflation Will Amplify Colorado Wildfire Losses
4. Changes to China's Solvency Framework to Be Credit Positive for Insurance Market
5. Brand Profile and Pricing Models in Focus as UK Insurers Adjust to New FCA Rules


Secondary Perils

Trending: AM Best TV - Research Coverage

1. Complete Return to Normalcy Evades Personal Auto Insurance Segment in 2021
2. Improved Results Remains a Waiting Game for Commercial Auto Insurers
3. Secondary Perils Account for Large Share of Catastrophe Losses
4. Insurers Increased Private Equity Investments in 2020
5. COVID-19, Social Inflation, Cat Activity Shape Reinsurance Environment


Auto Insurance

These were the top trending research and commentary reports from Nov. 23, 2021, to Jan. 23, 2022.

$ Payment or subscription required.

Best's News & Research Service subscribers can download PDF copies of all Best's Special Reports, Best's Commentaries and Best's Market Segment Reports along with supporting spreadsheet data at *www.ambest.com.*

Panelists Examine How Investments, Use Cases Are Utilized to Drive Innovation

Professionals also explore key factors driving rating trends in the U.S. market and discuss ESG and its relationship to the ratings process.

On Demand

Unlocking Insurance Value From Data at Speed

Just one in six insurers can claim to be a Data Master and is, on average, 63% more profitable. Panelists explore which types of investments and use cases are being prioritized to drive innovation and discuss what sets apart a Data Master. Highlights from a global survey of over 500 insurance executives at more than 200 companies also are revealed. **This complimentary AM Best Webinar was sponsored by Capgemini.**

AM Best's 2022 US Market Outlook Briefing – Key Factors to Consider

Senior AM Best analytical staff members address key factors driving rating trends, including interest rates, hardening pricing environment, the post-pandemic economic recovery, rising litigation costs and capacity. The discussion includes outlooks for the health, life and annuity, personal lines, commercial lines and reinsurance segments. Moderator Stefan Holzberger, chief ratings officer, is joined by panelists John Andre, managing director; Jackie Lentz, director; and Michael Porcelli, Sally Rosen and Carlos Wong-Fupuy, all senior directors.

AM Best's Briefing – ESG: A Review of Frequently Asked Questions and Incorporation Into the Ratings Process

Chief Ratings Officer Stefan Holzberger moderates an interactive discussion about the relevance of environmental, social and governance to financial strength and the incorporation of ESG into the ratings process. Topics include ESG rating factors that are relevant and material to financial strength; where ESG is captured in the ratings process; frequently asked questions; and inclusion of ESG in Best's Credit Reports. Panelists include AM Best Rating Services staff members Maura McGuigan, director, criteria, and Jessica Botelho-Young, associate director, analytics.

Webinar Highlights

How Innovation and Customer-Centric Technology Are Improving Outcomes for Commercial Insurers

A panel of technology and insurance professionals explores how customer-centric technology and innovation support the desire to drive improved customer experience and protect the bottom line. **This complimentary AM Best webinar was sponsored by LexisNexis Risk Solutions.**

COVID-19's Impact on the Future of Insurance Claims Management

Insurance and technology experts discuss insights from the LexisNexis 2021 Future of Claims study and learn how to turn disruption into an advantage. **This complimentary AM Best webinar was sponsored by LexisNexis Risk Solutions.**

Bridging the Troubled Water Protection Gap: How New Data, Tools Enable Better Insurance Flood Coverage

A panel of reinsurance, product and risk management experts discuss the increase in the severity of flooding, as well as solutions and what the industry can do to spur consumers to purchase the coverage. **This complimentary AM Best webinar was sponsored by Munich Re.** BR

For details or to register for webinars, go to *http://www.ambest.com/conferences/webinars.asp*

Best's Review delivers a comprehensive package of property/casualty and life/health insurance industry news, trends and analysis monthly. Find us on the internet at *www.bestreview.com.*

The latest edition of *Best's Guide to Understanding the Insurance Industry* is available on Amazon.

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LIMRA: Amid COVID, Economy Concerns, Insurers Riding High on Wave of Consumer Confidence

Also, professionals discuss the industry outlook for 2022 and examine the state of gender diversity in the insurance world.

On Demand

LIMRA's Salka: Consumers Highly Confident in Insurers Amid Growing Concerns About COVID, Economy

Investments in technology and customer experience are driving the highest level of confidence in insurers since October 2008, said Alison Salka, senior vice president and director of LIMRA Research.

Alison Salka

Conning: All Sectors Should See Premiums Increase in 2022

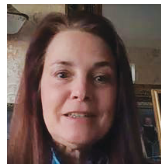
Richard Sega, global chief investment strategist, and Steven Webersen, managing director and head of insurance research, both of Conning, discuss the industry outlook for the year ahead and the impact that interest rates, inflation and a lingering pandemic could have on the insurance industry.

Richard Sega

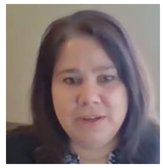
Steven Webersen

Saint Joseph's Maguire Academy: Gender Diversity Increasing, but Not There Yet

Karen Hogan and Deborah Vesneski of the Maguire Academy of Insurance and Risk Management at Saint Joseph's University in Philadelphia discuss a paper on gender diversity they wrote that shows while the insurance industry is making strides on the issue, more can be done.



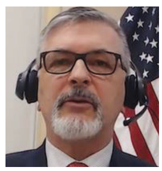
Karen Hogan



Deborah Vesneski

Expert: High-Profile Police Incidents Impact Coverage

"Considerations such as the abolishment of qualified immunity" may impact the types of insurance that will be needed, said David Bloodgood, risk control manager at Wright Insurance Group.



David Bloodgood

Visit *www.ambest.com/ambtv* to see new and archived video from AM Best TV.

EIS: Benefit Providers Should Be More Agile as They Look to Change Product Offerings

Also, AM Best Audio explores a new report that highlights technology as the Achilles' heel of insurance carriers.

The Future of Employee Benefits

Samantha Chow, global market lead for life, annuity and health at EIS, explains that benefit providers must be more nimble and flexible and switch from group and voluntary products to individual products.

Wellfleet, EIS Report Puts Insurance Carriers on Notice

James Ocampo, executive vice president, Wellfleet, says a new joint report with EIS indicates that carriers must strengthen relationships with brokers and customers through technology. BR

Visit *www.ambest.com/ambaudio* to listen to new and archived audio from AM Best Audio.

This edition lists all Credit Rating actions that occurred between Jan. 1 and Jan. 31, 2022. For the Credit Rating of any company rated by AM Best and basic company information, visit the AM Best website at *www.ambest.com/ratings/access.html* or download the ratings app at *www.ambest.com/sales/ambmobileapp*.

Operating Companies

Rating Action	Business Type	Company Name/ Ultimate Parent	AMB#	Current FSR ICR	Current Outlook/ Implications	Previous FSR ICR	Previous Outlook/ Implications	Domicile
AMERICAS LIFE/HEALTH								
Upgrade	L	Bankers Conseco Life Insurance Company CNO Financial Group, Inc.	060002	A a	Stable Stable	A- a-	Positive Positive	New York
Upgrade	L	Bankers Life and Casualty Company CNO Financial Group, Inc.	006149	A a	Stable Stable	A- a-	Positive Positive	Illinois
Upgrade	L	Colonial Penn Life Insurance Company CNO Financial Group, Inc.	006240	A a	Stable Stable	A- a-	Positive Positive	Pennsylvania
Outlook Change	H	Delta Dental of Minnesota Stratacor	064440	A a	Negative Negative	A a	Stable Stable	Minnesota
Outlook Change	H	Delta Dental of Nebraska Stratacor	064448	A a	Negative Negative	A a	Stable Stable	Nebraska
Upgrade	L	Family Life Insurance Company Manhattan Life Group, Inc.	006360	B++ bbb	Stable Stable	B+ bbb-	Positive Positive	Texas
Rating Withdrawal	L	Hannover Life Reassurance Bermuda Ltd	088859	NR nr		A+ aa	Stable Stable	Bermuda
Rating Affirmation	H	LifeMap Assurance Company Life and Specialty Ventures, LLC	009345	A- a-	Positive Positive	A- u a- u	Developing Developing	Oregon
Rating Withdrawal	L	Lincoln Life Assurance Company of Boston	006627	NR nr		A+ aa-	Stable Stable	New Hampshire
Upgrade	L	Manhattan Life Insurance Company Manhattan Life Group, Inc.	006686	B++ bbb	Stable Stable	B+ bbb-	Positive Positive	New York
Upgrade	H	ManhattanLife Assurance Co of America Manhattan Life Group, Inc.	006222	B++ bbb	Stable Stable	B+ bbb-	Positive Positive	Arkansas
Under Review	L	National Security Insurance Company National Security Group, Inc.	006802	B++ u bbb u	Developing Developing	B++ bbb	Negative Negative	Alabama
Upgrade	L	Standard Life and Casualty Insurance Co Manhattan Life Group, Inc.	007408	B+ bbb-	Positive Positive	B bb+	Positive Positive	Utah
Upgrade	H	Washington National Insurance Company CNO Financial Group, Inc.	007218	A a	Stable Stable	A- a-	Positive Positive	Indiana
Upgrade	L	Western United Life Assurance Company Manhattan Life Group, Inc.	008588	B++ bbb	Stable Stable	B+ bbb-	Positive Positive	Washington
AMERICAS PROPERTY/CASUALTY								
Rating Withdrawal	P	21st Century Auto Ins Co of New Jersey	011684	NR nr		A a	Stable Stable	New Jersey
Rating Withdrawal	P	21st Century Indemnity Insurance Company	011768	NR nr		A a	Stable Stable	Pennsylvania
Rating Withdrawal	P	21st Century Pacific Insurance Company	002359	NR nr		A a	Stable Stable	Colorado
Initial Rating	P	Accelerant Re Ltd. Accelerant Holdings LP	071758	A- a-	Stable Stable			Bermuda
Downgrade	P	Alaska National Insurance Company CopperPoint Mutual Insurance Holding Co	002648	A a	Stable Stable	A a+	Stable Stable	Alaska
Under Review	P	Arizona Automobile Insurance Company Western National Mutual Insurance Co	012682	A+ u aa- u	Negative Negative	A+ aa-	Stable Stable	Arizona
Rating Withdrawal	P	Associated Indemnity Corporation	002178	NR nr		A+ aa	Stable Stable	California
Initial Rating	P	Greater Mid-Atlantic Indemnity Company Greater New York Mutual Insurance Co	020982	A+ aa-	Stable Stable			New York
Initial Rating	P	Greater Midwestern Indemnity Company Greater New York Mutual Insurance Co	020981	A+ aa-	Stable Stable			New York
Rating Affirmation	P	Lancer Indemnity Company	002596	A- a-	Stable Stable	A- u a- u	Developing Developing	New York

Outlook: Positive, Negative, Stable. **Implications:** Positive, Negative, Developing. **Business Type: P** = Property/Casualty (Nonlife); **L** = Life; **H** = Health; **T** = Title; **C** = Composite.

Rating Action	Business Type	Company Name/ Ultimate Parent	AMB#	Current FSR ICR	Current Outlook/ Implications	Previous FSR ICR	Previous Outlook/ Implications	Domicile
AMERICAS PROPERTY/CASUALTY (CONTINUED)								
Rating Affirmation	P	Lancer Insurance Company Core Specialty Insurance Holdings, Inc.	002641	A- a-	Stable Stable	A- u a- u	Developing Developing	Illinois
Rating Affirmation	P	Lancer Insurance Company of New Jersey Core Specialty Insurance Holdings, Inc.	014364	A- a-	Stable Stable	A- u a- u	Developing Developing	New Jersey
Outlook Change	P	Marysville Mutual Insurance Company	000578	A- a-	Positive Positive	A- a-	Stable Stable	Kansas
Outlook Change	P	Mountain West Farm Bureau Mutual Ins Co Mountain West Farm Bureau Mutual Ins Co	000986	B++ bbb	Stable Stable	B++ bbb	Negative Negative	Wyoming
Under Review	P	National Security Fire and Casualty Co National Security Group, Inc.	000687	B++ u bbb u	Developing Developing	B++ bbb	Negative Negative	Alabama
Under Review	P	Omega One Insurance Company, Inc. National Security Group, Inc.	011413	B+ u bbb- u	Developing Developing	B+ bbb-	Negative Negative	Alabama
Initial Rating	P	Pedcor Assurance Company Pedcor Financial Bancorp	020964	B++ bbb	Stable Stable			Vermont
Rating Withdrawal	P	ProAssurance Specialty Ins Co, Inc.	011697	NR nr		A a+	Stable Negative	Alabama
Initial Rating	P	Shield Indemnity Incorporated Shield Holdings, LLC	020933	A- a-	Stable Stable	NR nr		Ohio
Rating Affirmation	P	StarStone National Insurance Company Core Specialty Insurance Holdings, Inc.	002512	A- a-	Stable Stable	A- u a- u	Developing Developing	Delaware
Rating Affirmation	P	StarStone Specialty Insurance Company Core Specialty Insurance Holdings, Inc.	011432	A- a-	Stable Stable	A- u a- u	Developing Developing	Delaware
Upgrade	P	Texas Hospital Insurance Exchange	003650	A- a-	Stable Stable	B++ bbb+	Stable Stable	Texas
Initial Rating	P	Universal Fire & Casualty Insurance Co Shield Holdings, LLC	012635	A- a-	Stable Stable	NR nr		Indiana
Initial Rating	P	Westfield Select Insurance Company Ohio Farmers Insurance Company	021169	A a+	Stable Stable	NR nr		Ohio
EUROPE, MIDDLE EAST & AFRICA								
Rating Withdrawal	P	Accelerant Insurance Limited Accelerant Holdings LP	071760	NR nr		A- a-	Stable Stable	Malta
Rating Withdrawal	P	Swiss Re Corporate Solutions Ltd	091982	NR nr		A+ aa	Stable Negative	Switzerland
ASIA-PACIFIC								
Rating Affirmation	P	EFU General Insurance Limited EFU General Insurance Limited	077151	B+ bbb-	Stable Stable	B+ u bbb- u	Negative Negative	Pakistan
Outlook Change	P	Halyk Insurance Company JSC Holding Group Almex JSC	091215	B++ bbb	Stable Stable	B++ bbb	Negative Negative	Kazakhstan
Upgrade	P	Hotai Insurance Co., Ltd. Ho Tai Motor Co., Ltd.	086271	A a	Stable Stable	A- a-	Positive Positive	Taiwan
Downgrade	P	PT Asuransi Jasa Indonesia PT Bahana Pembinaan Usaha Indonesia	078591	C ccc+	Stable Negative	B u bb+ u	Negative Negative	Indonesia

Holding Companies

Rating Action	Company Name	AMB#	Current FSR ICR	Current Outlook/ Implications	Previous FSR ICR	Previous Outlook/ Implications	Domicile
Upgrade	CNO Financial Group, Inc.	058030	bbb	Stable	bbb-	Positive	Delaware
Rating Withdrawal	Independence Holding Company	058054	nr		bbb- u	Developing	Delaware
Under Review	National Security Group, Inc.	058428	bb u	Developing	bb	Negative	Delaware

Outlook: Positive, Negative, Stable. **Implications:** Positive, Negative, Developing. **Business Type: P** = Property/Casualty (Nonlife); **L** = Life; **H** = Health; **T** = Title; **C** = Composite.

GUIDE TO BEST'S FINANCIAL STRENGTH RATINGS – (FSR)

A Best's Financial Strength Rating (FSR) is an independent opinion of an insurer's financial strength and ability to meet its ongoing insurance policy and contract obligations. An FSR is not assigned to specific insurance policies or contracts and does not address any other risk, including, but not limited to, an insurer's claims-payment policies or procedures; the ability of the insurer to dispute or deny claims payment on grounds of misrepresentation or fraud; or any specific liability contractually borne by the policy or contract holder. An FSR is not a recommendation to purchase, hold or terminate any insurance policy, contract or any other financial obligation issued by an insurer, nor does it address the suitability of any particular policy or contract for a specific purpose or purchaser. In addition, an FSR may be displayed with a rating identifier, modifier or affiliation code that denotes a unique aspect of the opinion.

Best's Financial Strength Rating (FSR) Scale

Rating Categories	Rating Symbols	Rating Notches*	Category Definitions
Superior	A+	A++	Assigned to insurance companies that have, in our opinion, a superior ability to meet their ongoing insurance obligations.
Excellent	A	A-	Assigned to insurance companies that have, in our opinion, an excellent ability to meet their ongoing insurance obligations.
Good	B+	B++	Assigned to insurance companies that have, in our opinion, a good ability to meet their ongoing insurance obligations.
Fair	B	B-	Assigned to insurance companies that have, in our opinion, a fair ability to meet their ongoing insurance obligations. Financial strength is vulnerable to adverse changes in underwriting and economic conditions.
Marginal	C+	C++	Assigned to insurance companies that have, in our opinion, a marginal ability to meet their ongoing insurance obligations. Financial strength is vulnerable to adverse changes in underwriting and economic conditions.
Weak	C	C-	Assigned to insurance companies that have, in our opinion, a weak ability to meet their ongoing insurance obligations. Financial strength is very vulnerable to adverse changes in underwriting and economic conditions.
Poor	D	-	Assigned to insurance companies that have, in our opinion, a poor ability to meet their ongoing insurance obligations. Financial strength is extremely vulnerable to adverse changes in underwriting and economic conditions.

* Each Best's Financial Strength Rating Category from "A+" to "C" includes a Rating Notch to reflect a gradation of financial strength within the category. A Rating Notch is expressed with either a second plus "+" or a minus "-".

Financial Strength Non-Rating Designations

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F	Status assigned to insurers that are publicly placed via court order into liquidation after a finding of insolvency, or the international equivalent.
S	Status assigned to rated insurance companies to suspend the outstanding FSR when sudden and significant events impact operations and rating implications cannot be evaluated due to a lack of timely or adequate information; or in cases where continued maintenance of the previously published rating opinion is in violation of evolving regulatory requirements.
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 Version 121719

GUIDE TO BEST'S ISSUER CREDIT RATINGS – (ICR)

A Best's Issuer Credit Rating (ICR) is an independent opinion of an entity's ability to meet its ongoing financial obligations and can be issued on either a long- or short-term basis. A Long-Term ICR is an opinion of an entity's ability to meet its ongoing senior financial obligations, while a Short-Term ICR is an opinion of an entity's ability to meet its ongoing financial obligations with original maturities generally less than one year. An ICR is an opinion regarding the relative future credit risk of an entity. Credit risk is the risk that an entity may not meet its contractual financial obligations as they come due. An ICR does not address any other risk. In addition, an ICR is not a recommendation to buy, sell or hold any securities, contracts or any other financial obligations, nor does it address the suitability of any particular financial obligation for a specific purpose or purchaser. An ICR may be displayed with a rating identifier or modifier that denotes a unique aspect of the opinion.

Best's Long-Term Issuer Credit Rating (Long-Term ICR) Scale

Rating Categories	Rating Symbols	Rating Notches*	Category Definitions
Exceptional	aaa	-	Assigned to entities that have, in our opinion, an exceptional ability to meet their ongoing senior financial obligations.
Superior	aa	aa+ / aa-	Assigned to entities that have, in our opinion, a superior ability to meet their ongoing senior financial obligations.
Excellent	a	a+ / a-	Assigned to entities that have, in our opinion, an excellent ability to meet their ongoing senior financial obligations.
Good	bbb	bbb+ / bbb-	Assigned to entities that have, in our opinion, a good ability to meet their ongoing senior financial obligations.
Fair	bb	bb+ / bb-	Assigned to entities that have, in our opinion, a fair ability to meet their ongoing senior financial obligations. Credit quality is vulnerable to adverse changes in industry and economic conditions.
Marginal	b	b+ / b-	Assigned to entities that have, in our opinion, a marginal ability to meet their ongoing senior financial obligations. Credit quality is vulnerable to adverse changes in industry and economic conditions.
Weak	ccc	ccc+ / ccc-	Assigned to entities that have, in our opinion, a weak ability to meet their ongoing senior financial obligations. Credit quality is vulnerable to adverse changes in industry and economic conditions.
Very Weak	cc	-	Assigned to entities that have, in our opinion, a very weak ability to meet their ongoing senior financial obligations. Credit quality is very vulnerable to adverse changes in industry and economic conditions.
Poor	c	-	Assigned to entities that have, in our opinion, a poor ability to meet their ongoing senior financial obligations. Credit quality is extremely vulnerable to adverse changes in industry and economic conditions.

** Best's Long-Term Issuer Credit Rating Categories from "aa" to "ccc" include Rating Notches to reflect a gradation within the category to indicate whether credit quality is near the top or bottom of a particular Rating Category. Rating Notches are expressed with a "+" (plus) or "-" (minus).*

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Rating Categories	Rating Symbols	Category Definitions
Strongest	AMB-1+	Assigned to entities that have, in our opinion, the strongest ability to repay their short-term financial obligations.
Outstanding	AMB-1	Assigned to entities that have, in our opinion, an outstanding ability to repay their short-term financial obligations.
Satisfactory	AMB-2	Assigned to entities that have, in our opinion, a satisfactory ability to repay their short-term financial obligations.
Adequate	AMB-3	Assigned to entities that have, in our opinion, an adequate ability to repay their short-term financial obligations; however, adverse industry or economic conditions likely will reduce their capacity to meet their financial commitments.
Questionable	AMB-4	Assigned to entities that have, in our opinion, questionable credit quality and are vulnerable to adverse economic or other external changes, which could have a marked impact on their ability to meet their financial commitments.

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f	Status assigned to insurers that are publicly placed via court order into liquidation after a finding of insolvency, or the international equivalent.
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Acquisitions and Name, Ownership and Domiciliary Changes

Rx Life and Boston Indemnity are among the North American life/health and property/casualty insurers that have experienced a corporate change.

LIFE/HEALTH

Name Change

Assurant Life of Canada (AMB# 066882), Toronto. This company changed its name to TruStage Life of Canada on Jan. 1, 2022.

Acquisitions & Ownership Changes

Madison National Life Insurance Co. Inc. (AMB# 006678), Madison, Wis. This company was acquired by Horace Mann Educators Corp. from Independence Capital Corp., a subsidiary of Independence Holding Co., on Jan. 1, 2022.

Rx Life Insurance Co. (AMB# 008946), Scottsdale, Ariz. This company was acquired by Fortitude Group Holdings LLC from Heritage Life Insurance Co. on Jan. 3, 2022.

Standard Security Life Insurance Company of New York (AMB# 007075), New York. This company was acquired by Reliance Standard Life Insurance Co. from Independence Capital Corp., a subsidiary of Independence Holding Co., on Jan. 1, 2022.

PROPERTY/CASUALTY

Domiciliary Changes

Family Security Insurance Co. Inc. (AMB# 014985), St. Petersburg, Fla. This company redomesticated to Florida from Hawaii on April 2, 2021.

UMIA Insurance Inc. (AMB# 002582), Salt Lake City. This company redomesticated to Utah from Oregon on Oct. 26, 2021.

Boston Indemnity Co. Inc. (AMB# 021160), Parker, Colo. This company redomesticated to Colorado from South Dakota on Oct. 24, 2021. BR

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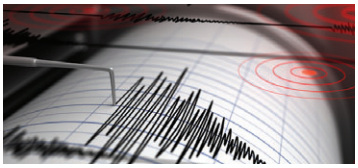

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Business Insurance
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Emerging Risks
Perfect storm pushes LNG sector into near crisis
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Is Pet Insurance Worth It?
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Rough volatility moves to exotic frontiers
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Insurance Age
CFC Underwriting tops the Insurance Age broker cyber poll
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Insurance Post
Intelligence: Is it boom time for special purpose acquisition companies in the UK?
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London's fading star in reinsurance – Part II
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Trading Risk
Resilience bonds: A concept too ambitious or ahead of its time?
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Bermuda: Re+ILS
Bermuda Captive Network launches
https://www.bermudareinsurancemagazine.com/

Captive International
How the US government will use captives to tackle the crisis in social care
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Intelligent Insurer
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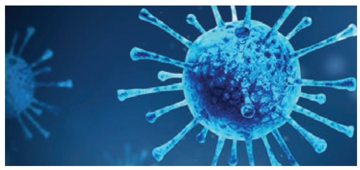

Reinsurance News
Covid-19 prompts investment rethinking for insurers
https://www.reinsurancene.ws/

Artemis
Should reinsurers always make hay while the sun shines?
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Province considers allowing captives
http://thompsonsnews.com/

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Setting the climate agenda for 2022
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Insurers Hope to Head Off Claims With IoT Devices
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An Innovator's Journey: From Star Litigator to Litigation Finance
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Vacancysoft: 2021 Insurance Recruitment in United Kingdom Was Up 74%

The highest number of vacancies came in the broking industry.

Vacancies in the U.K. insurance industry hit roughly 23,000 last year, and recruitment was up 74% year-over-year in 2021, according to a labor market report published by Vacancysoft. The number of vacancies were up significantly over the five-year average, and included an increase of about 10,000 from 2020, according to the report.

The increase in recruitment came after the market was down 24% year-on-year in terms of hiring levels in 2020.

August saw record levels of monthly hiring, with the publication of over 2,400 new vacancies. This was a 124.6% year-on-year rise.

The issues facing the industry are being felt across the job market as a whole.

"Businesses are trying to navigate their way through strategies to get people to return to offices, albeit on a flexible basis," the report read. "A competitive jobs market, meanwhile, means that recruiting the right people—especially those with advanced IT, digital and data analytics skills—is difficult."

To see growth in 2022, Vacancysoft says the industry will have to find a way to respond to issues such as sustained inflation and environment, climate change, diversity, inclusion and how insurers can manage investments in their people and emerging technologies.

The highest number of vacancies came in the broking industry, where recruitment was up 121.6% year-on-year. There was an increase of 126.2% in the hiring of risk specialists.

NFU Mutual posted a little more than 1,240 new vacancies—the most of any company, at an increase of 64.1% year-on-year.

The Ardonagh Group saw the most growth among the biggest firms, at 482.5% year-on-year. It had the second most vacancies in the United Kingdom last year.

The smallest increase in vacancies came in the field of actuarial positions, which grew by 44.5% last year in relation to 2020.

BGL Group saw the smallest increase in vacancies of any company in 2021, at 26.2% year-on-year.

While the London market continues to dominate U.K. recruitment for insurance vacancies, the northeast has been the fastest-growing region.

—Anthony Bellano

Florida Lawmakers Again Tackle No-Fault Auto

Trade groups still oppose repeal.

Months after Gov. Ron DeSantis vetoed a bill to repeal Florida's s no-fault automobile insurance law, state lawmakers are back at it again. Bills in the state House (HB 1525) and Senate (SB 150) are getting lawmakers' attention. The House Civil Justice and Property Rights Subcommittee took up Rep. Erin Grall's bill, which seeks to repeal the no-fault law and replace it with a requirement that motorists carry bodily injury coverage starting July 1, 2023. The measure moved on to the House Judiciary Committee.

The American Property Casualty Insurance Association came out strongly against the bill, saying it is addressing the wrong issue.

It was familiar ground for the APCIA, which pressed DeSantis last year to veto a no-fault repeal bill that it said would raise insurance premiums substantially. The governor said the measure carried unintended consequences with it.

APCIA Assistant Vice President for State Government Relations Logan McFaddin said in a statement that the organization is disappointed the House would take action on a measure that "remains so substantially similar" to the legislation vetoed by DeSantis last year.

"Approximately 40% of Florida drivers, mostly those who are low-income and purchase minimum limits, could see their auto insurance costs skyrocket between 48% and 77%. Additionally, APCIA is concerned about the impact this legislation could have on the number of uninsured drivers in our state and the safety of our roads," she said. Florida lawmakers should focus on reducing consumer costs, preventing fraud and lawsuit abuse and ensuring policyholder rights are protected, McFaddin said.

—Timothy Darragh

US and UK Pension Risk Transfer Markets Saw Strong Second Half in 2021

The increase in the U.S. was spurred by a jump in the number of large-to-jumbo transactions.

The pension risk transfer markets in both the United Kingdom and the United States each saw strong second halves in 2021, including a potential record-breaking year for the United States, according to analysts with the Legal & General Group.

The U.S. market saw an estimated $38 billion to $40 billion in total annual transaction volume last year, compared with $27 billion the previous year, according to the latest edition of the *Global PRT Monitor.*

Chris DeMarco

The last time the market saw numbers this high was in 2012, when the total annual transaction volume reached a then-record of $36 billion. The following year, it dipped below $5 billion, but has been climbing ever since, including a more than $5 billion increase from 2016 to 2017.

Last year's increase was spurred by a jump in the number of large-to-jumbo transactions, including 10 transactions that were close to or greater than $1 billion to close the year.

The funding status of defined benefit pension plans improved due to strong investment returns and rising interest rates. The *Monitor* projects this may incentivize more plan sponsors to move forward with transferring their pension risk in 2022.

The fourth quarter is projected to have generated between $12 billion and $14 billion, with about 90% of premiums coming from lift-outs, compared to plan terminations.

The *Monitor* projects a continued increase in de-risking ambitions in the U.S. market for 2022, with a number of transactions more than $750 million already projected.

"The story in 2022 will be the acceleration of deal volume of all sizes, as plan sponsors take advantage of an increase in funding status and rising interest rates," George Palms, president, Legal & General Retirement America said in a statement. "A robust pipeline in the first quarter provides early evidence of this strong demand. We also anticipate an upswing in plan-terminations — the final step in the de-risking journey. Plan sponsors contemplating a risk transfer should consider the unique opportunity the next year presents, as financial market conditions and competitive market dynamics remain favorable."

The U.K. market also saw a historic period, with about £22 billion ($29.8 billion) of retirement income secured in the second half of 2021 alone. The *Monitor* projects nearly £30 billion in transaction volume for the year, a rapid growth of £25 billion since 2011. The baseline of £25 billion has been well-established since 2018. Not all transactions in 2021 had been publicly announced as of early February. The U.K. increase was spurred by improved pension scheme funding levels, with more plans moving closer to their endgame, as well as competitive longevity reinsurance pricing, among other factors.

The *Monitor* projects the U.K. increase will also continue due to market movements, asset availability and the number of large pension plans coming to market. It said the more than £1 billion in transactions that occurred in 2019 showed the market can handle higher volumes and numerous multibillion-pound transactions.

"We believe the market will go from strength to strength as more schemes move closer to their endgame and full buyout, with new innovations bringing increased flexibility and affordability," Chris DeMarco, managing director UK PRT, Legal & General Retirement Institutional, said in a statement. "The experience of the past two years has underlined the fundamental purpose of insurance: protecting the retirement income of members during one of the most uncertain periods in living memory."

In the United States, AM Best in a Best's Market Segment Report pointed to pension risk transfer deals as a bright spot for the industry due to stated record levels of capitalization and improved earnings. BR

—Anthony Bellano

MASTHEAD
BACKSTAY

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AM Best Business Development

Representative	Mobile Phone	Email Address	Office	Area Covered
RATING SERVICES				
Brad Mazur, Managing Director	+1 (908) 268-0763	brad.mazur@ambest.com	USA (NJ)	BMU; CAN; CAR; USA & US Territories (PR & VI)
Brendan Tyne, Senior Account Manager	+1 (908) 323-1412	brendan.tyne@ambest.com	USA (NJ)	BMU; CAN; CAR; USA & US Territories (PR & VI)
Arthur Snyder IV, Account Manager	+1 (908) 894-8040	arthur.snyderIV@ambest.com	USA (NJ)	BMU; CAN; CAR; USA & US Territories (PR & VI)
Daniel Giunta, Account Manager	+1 (908) 455-6249	daniel.giunta@ambest.com	USA (NJ)	BMU; CAN; CAR; USA & US Territories (PR & VI)
Nick Charteris-Black, Managing Director	+44 20 7397 0284	nick.charteris-black@ambest.com	London	EMEA
Edem Kuenyehia, Director	+44 20 7397 0280	edem.kuenyehia@ambest.com	London	Sub-Saharan Africa
Riccardo Ciccozzi, Director	+44 20 7397 0309	riccardo.ciccozzi@ambest.com	London	Southern Europe
William Mills, Director	+44 20 7397 0323	william.mills@ambest.com	London	Northern Europe
Róisín Gallagher, Associate Director	+44 20 7397 0261	roisin.gallagher@ambest.com	London	Europe
Carlos De la Torre, Senior Director	+52 55 7903 5420	carlos.delatorre@ambest.com	Mexico City	Latin America
Scott Ryrie, Managing Director	+65 9636 3678	scott.ryrie@ambest.com	Singapore	AP & US Territories (AS, GU & MP)
Jillian Toh, Senior Analyst	+65 6303 5011	jillian.toh@ambest.com	Singapore	Oceania; Southeast Asia & US Territories (AS, GU & MP)
Vasilis Katsipis, General Manager	+971 4375 2782	vasilis.katsipis@ambest.com	Dubai	MENA; South & Central Asia

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Representative	Mobile Phone	Email Address	Office	Area Covered
INFORMATION SERVICES				
Chris Pini, Senior Director	+1 (908) 295-5637	christopher.pini@ambest.com	USA (NJ)	BMU; CAN; CAR; USA & US Territories (PR & VI)
Bryan Martyn, Director	+44 20 7397 0292	bryan.martyn@ambest.com	London	EMEA, AP and US Territories (AS, GU and MP)

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Representative	Mobile Phone	Email Address	Office	Area Covered
Bryan Martyn, Director	+44 20 7397 0292	bryan.martyn@ambest.com	London	EMEA, AP and US Territories (AS, GU and MP)
Aidan Porter, Senior Account Manager	+44 20 7397 0311	aidan.porter@ambest.com	London	UK
Christine Girandola, Senior Account Manager	+1 (908) 894-9563	christine.girandola@ambest.com	USA (NJ)	BMU; CAN (Eastern Provinces); CAR; USA (Eastern Region) & US Territories (PR & VI)
Brian McGoldrick, Senior Account Manager	+1 (908) 894-9552	brian.mcgoldrick@ambest.com	USA (IL)	CAN (Western Provinces); USA (Western Region)

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Representative	Mobile Phone	Email Address	Office	Area Covered
Doug Doremus, Associate Director	+1 (908) 229-9965	doug.doremus@ambest.com	USA (NJ)	Non-US; USA & US Territories (PR & VI)
Rich Petri, Account Representative	+1 (908) 872-5174	rich.petri@ambest.com	USA (NJ)	Non-US; USA & US Territories (PR & VI)
Heather Prasch, Associate	+1 (908) 947-5429	heather.prasch@ambest.com	USA (NJ)	USA (Western Region)
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Representative	Mobile Phone	Email Address	Office	Area Covered
Maryrose Paar, Director	+1 (908) 894-8039	maryrose.paar@ambest.com	USA (PA)	BMU; CAN; CAR; USA & US Territories (PR & VI)
Kellie Bodmer, Senior Account Manager	+1 (908) 328-6098	kellie.bodmer@ambest.com	USA (NJ)	BMU & USA (NY)
Jay Eihausen, Senior Account Manager	+1 (908) 894-9587	jay.eihausen@ambest.com	USA (IL)	USA (Mid-Western Region)
Debbie Giordano, Account Manager	+1 (908) 335-0938	debbie.giordano@ambest.com	USA (PA)	USA (Mid-Atlantic Region)
Danny Heffernan, Senior Account Manager	+1 (908) 894-9560	christopher.heffernan@ambest.com	USA (GA)	CAR; USA (South Central Region) & US Territories (PR & VI)
Sue Kjaer, Senior Account Manager	+1 (908) 894-9557	sue.kjaer@ambest.com	USA (MA)	USA (New England Region)
Mark Kuhlman, Senior Account Manager	+1 (908) 894-9561	mark.kuhlman@ambest.com	USA (TX)	USA (Western Region & TX)
Patrick McCahill, Account Manager	+1 (908) 268-0765	patrick.mccahill@ambest.com	USA (NJ)	USA (South Atlantic Region & NY)
Alan F. Pacer, Senior Account Manager	+1 (908) 894-9589	alan.pacer@ambest.com	USA (IL)	USA (IL)
Jennifer Rudy, Account Manager	+1 (732) 266-8644	jennifer.rudy@ambest.com	USA (MI)	CAN & USA (North Central Region)
Brian Schlesinger, Associate Director	+1 (908) 894-9586	brian.schlesinger@ambest.com	USA (NJ)	BMU; CAR; USA (Eastern Region) & US Territories (PR & VI)
Bryan Martyn, Director	+44 20 7397 0292	bryan.martyn@ambest.com	London	EMEA, AP and US Territories (AS, GU and MP)
Aidan Porter, Senior Account Manager	+44 20 7397 0311	aidan.porter@ambest.com	London	UK
Darren Hewitt, Account Representative	+44 20 7397 0303	darren.hewitt@ambest.com	London	EMEA, AP and US Territories (AS, GU and MP)

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Bryan Martyn, Director	+44 20 7397 0292	bryan.martyn@ambest.com	London	EMEA, AP and US Territories (AS, GU and MP)
James McMyne, Senior Account Manager	+1 (908) 255-8764	james.mcmyne@ambest.com	USA (NJ)	BMU; CAN; CAR; USA & US Territories (PR & VI)
Barry Finan, Account Manager	+1 (908) 300-7343	barry.finan@ambest.com	USA (NJ)	BMU; CAN; CAR; USA & US Territories (PR & VI)

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Representative	Mobile Phone	Email Address	Office	Area Covered
Brenda Nickel, Supervisor	+1 (201) 572-3070	brenda.nickel@ambest.com	USA (NJ)	USA & US Territories (PR & VI)
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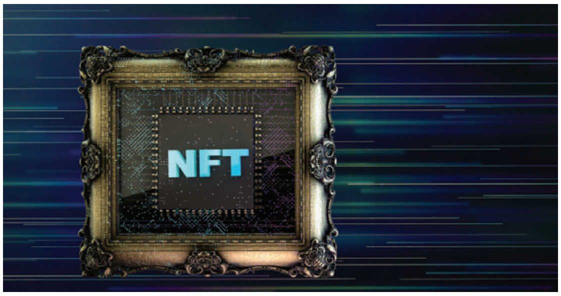
AM Best Audio's podcast addresses how nonfungible tokens, a non-interchangeable unit of data stored on a blockchain, is insured and how NFTs can be protected in the future.

by John Weber

Nonfungible tokens, or NFTs, are fetching eye-catching prices these days. But they also present new challenges for insurers.

AM Best Audio recently spoke with Mary Pontillo, national fine art practice leader at Risk Strategies, and Rob Rosenzweig, national cyberrisk practice leader at Risk Strategies, about how the non-interchangeable unit of data, which is stored on a blockchain, is insured. Following is an edited transcript of the interview.



Art is insurable. Is digital art insurable?

Pontillo: We almost consider any digital art something that's shown on a computer screen, a TV screen that has some programming behind it. Those things are insurable and have been around for quite a long time.

Does this fall under cyber liability perhaps?

Rosenzweig: If there's unauthorized access to wherever the NFT is being custodied, that certainly would be a triggering event under a cyber policy. I can foresee situations where the digital asset is in some way corrupted, altered in a way that could trigger elements of a cyber policy.

But if the real concern is the actual loss or theft, the private key being compromised, I would view that more akin to a traditional crime loss because we're really, at the end of the day, talking about the loss of a physical asset—money, securities, other tangible property.

Do you see a market for insuring NFTs?

Pontillo: Long cold-storage custodians like Malca-Amit have been able to insure NFTs after they've secured the crypto insurance. That means that those custodians have really been well vetted by their underwriters.

One could say, "If that custodian is so well vetted, do you even need the insurance anymore?" But at least that's a mechanism by which you can protect your investment.

Now, one of the problems that we see is valuation because, in the NFT and the crypto market the values are all over the place on any given day. Malca-Amit has some appraisal solution that they're being very secretive about. I'm not exactly sure what that is yet. The other option that we do see that's been developed recently is for dealers or auction houses where they can purchase coverage for their hardware wallet, a physical hardware wallet, with the NFTs included on it. In that case it's an actual physical device. Then it gets us back in line with that physical loss or damage aspect of the fine art insurance marketplace.

How fast do you think this is going to change?

Pontillo: It changes monthly, weekly with every submission we put in. As quickly as people are creating the marketplace for selling these in more traditional places, like auction houses that are well known and galleries that are well known, we're seeing the need and the requirement for underwriters to get creative and provide some sort of solution. It's changing almost daily. BR

John Weber is senior associate editor. He can be reached at *john.weber@ambest.com*.

AM Best Audio

Go to *www.bestreview.com* to listen to the interview with Mary Pontillo and Rob Rosenzweig.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