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IRL

INSURANCE RESEARCH LETTER

Today's "smart" or autonomous machines have the capability to learn from themselves or even other machines.

~ Nancy Bewlay

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A.B. Hodges

A.B. Hodges

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Editor's Letter

The Economics of Executive Compensation

By William A. Hodges

In early May I read an article in *The Wall Street Journal* that made me think about C-Suite broker compensation. While it is fact that the truly expansive companies of today generate much greater returns than in 1979, compensation for executives running these same firms has increased by an order of magnitude. For example, in 1979, the Chairman of Frank B Hall received total cash and equivalent remuneration of \$745,300. In today's dollars that's \$2,572,000. Most other C-Suite executives in 1979 received total compensation in the neighborhood of \$350,000 (2018: \$1,208,000). According to records Frank B Hall was the most generous of all the brokers in 1979, followed by Alexander & Alexander.

My father's first employer, Rollins Burdick Hunter, ranked at the bottom of executive pay in 1979 with an average total remuneration of \$130,000 (2018: \$448,000). Today all three of these companies are part of Aon, whose CEO made \$14,609,682 (1979: \$4,324,000) in total compensation in 2017. Of this total, \$1,500,000 was received as a salary, \$1,300,000 was received as a bonus, \$0 was received in stock options, \$11,086,351 was awarded as stock and \$723,331 came from other types of compensation.

So back to the *WSJ* article(s) on CEO remuneration: The CEO pay ratio rule requires companies to disclose the pay ratio of CEO pay to the median employee (ex-CEO) pay. The rule became effective in October 2015, but it did not require regulatory compliance until the end of the fiscal year post January 1, 2017. And now the cat is out of the bag. Shareholders and employees are beginning to take note, but how this will evolve is unknown. For now, the compensation game is still stacked in favor of a CEO and its board members. Outrage at the inequitable ratios will likely be subdued by firms' moves to shroud their executive compensation in the form of retirement packages. However, even the watered-down disclosures could rouse the fervor of political activists who see this issue, and the issue of present economic inequality, as inseparably related.

Now that we have a publically disclosable metric that compares an executive's compensation to that of his or her average employee, it may be easier to see how both of these trend with both that company's returns on the market, and average wages in the larger economy. Today's corporate world seems to value stakeholder theories and collaborative work environments over the more hierarchical or shareholder-centric doctrines of yesteryear. Paradoxically, though, it is still the leadership of the few that is most generously rewarded. In fact, since the 1970s, CEO pay has risen over 100% compared to the 11% rise in the average worker's pay. Today, six of the highest paid CEOs (all industries) make over 300 times the cash salary of the typical employee.

Boards and executives must take actions and make decisions with their shareholders in mind. It is therefore in no one's best interests to do anything that could be perceived as excessive and unfair. For this reason, firms have developed a way to hide and obscure the pay arrangements granted to executives. They use retirement benefits as a form of 'stealth' compensation for their executives. They rarely give representations of the accurate value of the retirement packages, and in what years they will vest. These figures then, belie the true sums paid to leadership. Despite the new requirement to disclose the executive-to-average employee compensation ratio, legal sleight of hand and complex compensation instruments will mean that this lack of transparency will continue. Most economic indicators suggest global economic inequality will continue to become more pronounced as well. Given this state of affairs, companies' hypocrisy in outwardly boasting about creating a more equitable company and world, while making their very own organizations less equal, will result in a dialogue that could lead to significant political, or even financial, fallout.

Highlights:

The #MeToo Movement

Learn how the #MeToo movement is impacting Employment Practices Liability and Directors' and Officers' Liability Insurance on [page 11](#)

NEWS Quizzical

- What level has inflation reached in Venezuela in 2018?
 - 10 percent
 - 120 percent
 - 650 percent
 - 13,000 percent
- What did King Mswati III of Swaziland rename his country?
 - Bigwait
 - eSwatini
 - Rigatoni
 - Swazil
- Europe's General Data Protection Regulation went into effect on May 25, 2018. Failure to comply may result in enforcement action, including fines of up how much?
 - €10 million or 2 percent of an organization's annual worldwide revenue
 - €20 million or 4 percent of an organization's annual worldwide revenue
 - €25 million or 4.5 percent of an organization's annual worldwide revenue

See *The Back Page* for the answers

Is GDPR's "right to be forgotten" Too Little Too Late?

Read why the EU's GDPR is a digitized version of whack-a-mole on [page 16](#).

Allianz Group Acquires 8% Stake in African Reinsurance Corporation (Africa Re)

In this month's article ([Page 9](#)) about Allianz acquiring a minority interest in African Reinsurance Corp (Africa Re), you can read a historical report about Africa's largest reinsurer by A. M. Best [HERE](#).

Rate x (the importance of accurate insurable) Value

Learn why for the Insured, it's more than just a Premium Calculation on [page 12](#)

Forensic Accounting: Why it's Vital and the Role it Plays in the Insurance World

Read what the role of a forensic accountant is in an insurance claim on [page 12](#)

Pioneering insurance protection for an autonomous world

XL Catlin says team of experts has created an insurance solution that supports the design, development, testing and implementation of autonomous technology. Is society ready for living in an autonomous world? Ready or not, it's here. In fact, it's been...Read more on [page 10](#)

The Impact of AI on Insurance

McKinsey & Co says insurance will shift from its current state of "detect and repair" to "predict and prevent," transforming every aspect of the industry in the process. Read this seemingly 'beyond the horizon' article in the **Recently Published** section on [page 7](#). The thing about this futuristic scenario is that all the required technologies already exist.

Words and Definitions to help insurance professionals

I recommend reading this piece in the [Back Page](#) section each month. You might learn a thing or two. This month's offering talks about *Wide area damage and business interruption insurance*.

Letter to the editor

"I especially liked the article (**Why JLT's New Structure Makes a Difference**, April 2018) in the Americas section about JLT's new structure. With more than five decades in the business, I have seen brokers become fixated with share price and quarter-to-quarter mentality one hand and producer centered compensation on the other hand. The model I most admire is the former Johnson & Higgins model that was not profit centered driven or producer driven, but rather client centered. J&H operated as a resource facility and would bring expertise to the client without regard to how the pie was cut or who would get the credit. As a privately held enterprise, J&H had the luxury of placing the client first. I wish JLT success, it would be fun to see them go back to the future."

~ *John R. Pacholick, Retired executive;
Aon and Marsh*



Have a question?

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YouTube: [The Insurance Research Letter Live!](#)

Testimonial: "Great videos – very interesting and informative." ~ [Robert Hartwig](#), Clinical Associate Professor & Co-Director, Center for Risk and Uncertainty Management at University of South Carolina & Former President and Economist, The Insurance Information Institute ([I.I.I.](#))

[Insurance Research Letter Blog](#)

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Nancy Bewlay
Pioneering insurance protection for an autonomous
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Nancy joined XL Catlin in 2017 as the Global Chief Underwriting Officer for Casualty. In her role, Nancy is responsible for the aggregated portfolio management of the Global casualty lines within XL Catlin. Responsibilities include the implementation of a common Casualty framework with focus on innovation, product development and business building. Prior to her present role, Nancy joined Swiss Re in 2013 as Head of Underwriting for Casualty, responsible for the underwriting and actuarial treaty teams in the US and Canada. In this role, her main focus was on pricing development, portfolio management and strategy development and deployment. Nancy also served as the President & Chief Executive Office of C.V. Starr & Company (California), responsible for the overall operations of the agency. Nancy joined CV Starr in 2006 as Manager of the East Coast offices and continued her tenure with advancing responsibilities and roles; including Executive Vice President & Director of Field Operations. Nancy has more than 27 years' experience in the insurance industry with a concentration in primary and excess specialty casualty lines working for companies such as General Star Management Company, Admiral Insurance Company and Marsh McLennan as a casualty insurance broker.

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Mark S. Crites, ASA, MRICS
Rate x (the importance of accurate insurable) Value – For the Insured; it's more than just a Premium Calculation
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Mark is President of Stemple Crites. Working in valuation since 1991, Mark has been engaged by companies encompasses all industries with facilities in Europe, North and South America, Africa, Middle East, Asia, and Australia. Mark has provided valuation opinions for insurable values, allocation of purchase price, merger and acquisitions, tax and financial compliance, property accounting, and liquidation analysis, et. al. Before forming StempleCrites in 2017, Mark was the Valuation Global Practice Leader for an international insurance brokerage company.

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James R. Higgins, Jr.
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Mr. Higgins is a Registered Patent Attorney with 30+ years' experience in Intellectual Property matters. He has litigated IP cases in 18 states and successfully argued cases in both state and federal appellate courts, including the U.S. Supreme Court where he was prevailing lead counsel in the landmark *Moseley v. Victoria's Secret* trademark dilution case. Mr. Higgins founded the Intellectual Property Section of his Firm, Middleton Reutlinger, P.S.C. of Louisville KY, which represents inventors and corporations nationally and worldwide.

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Carrie O'Neil
The #MeToo Movement: The Impact of Employment Practices Liability and Directors' and Officers' Liability Insurance
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Carrie is a SVP at JLT Specialty USA. Carrie joined the JLT Legal and Claims Practice in April 2016 as Senior Vice President. In addition to her national role in servicing and advising clients and brokers on complex management liability issues and claims, Carrie serves as US Financial Lines Product Leader, driving innovation and solutions in the fast paced world of management liability. Carrie has over 15 years of experience in the insurance industry. Prior to joining JLT, Carrie spent two years at Berkshire Hathaway Specialty Insurance where she served as Head of Product Development for the Executive and Professional Lines team. Her duties included drafting all insurance products, negotiating and drafting all endorsements and manuscript policies, and educating the E&P team on management and professional liability coverage issues. Previously to Berkshire Hathaway, Carrie was Managing Director of the Financial Services Group and Directors and Officers/Fiduciary Liability National Practice Leader at Aon in Denver, and Senior Vice President in the Financial Services Group at AON in San Francisco. Prior to that, Carrie served as Client Advisor and Claims Advocate at Marsh Risk Services for four years.

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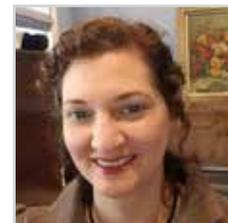
Rica de los Reyes Herrera
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Robert W. Fletcher
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Mr. Fletcher is the President and Chief Executive Officer of Intellectual Property Insurance Services Corporation, and has had a direct role in creating new products and finding partner backing, as well as the more routine tasks of analyzing, evaluating, and selecting patent licensing/enforcement opportunities, claims management, underwriting and product development. In addition to his other duties, Mr. Fletcher oversees the underwriting staff and actively participates in underwriting of special risk cases and cases needing final approval. Under Mr. Fletcher's direction, the Company serves as the Managing General Agent and Program Manager, and is responsible for underwriting intellectual property defense, enforcement and loss of value programs. Mr. Fletcher has been a frequent speaker on the valuation of patents and technology, the taxation of royalty income, intellectual property issues raised by the use and exploitation of the internet, as well as coverage and current trends in the insurance of intellectual property. He has authored numerous articles on these subjects. Mr. Fletcher is a registered Patent Attorney and has handled intellectual property-related matters since 1963. He holds Chemical Engineering and Law (J.D.) degrees from the University of Wisconsin and an MBA from the University of Louisville. He has served in the patent departments of General Electric Company, American Air Filter and Standard Oil of Indiana. Mr. Fletcher is a member of the State Bars of Wisconsin, Illinois, and Kentucky, and is admitted to practice before the U.S. Patent Office.



Marci De Vries-Todtz
Is GDPR's "right to be forgotten" Too Little Too Late?
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Marci is the CEO of Fraud Sniffr, Inc., a software company that locates, downloads & distributes social media content about WC/liability claimants to their adjusters. Her online technical and linguistic algorithm skills pre-date Google, which has allowed her to launch and sell two search technology companies prior to starting Fraud Sniffr. She was also an adjunct professor of Marketing & Social Media for six years at The Johns Hopkins University Whiting Engineering School. Fraud Sniffr has been one of the 50 fastest growing companies in Maryland for the past three years.

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Synopsis

Volume 29, Number 6, June 2018

Companies

NewsBriefs

AIG given green light for Brexit-proof restructure

AIG has been granted authorization to establish two new insurance companies in **Luxembourg** and the UK to ensure contract certainty for clients after Brexit. The two new entities will write business currently written by London-based AIG Europe Ltd. AIG's new European company in Luxembourg will be called AIG Europe SA. (Source: Commercial Risk)

Global Insurer Argo Group Switches Exchange Listing to NYSE

Trading at the New York Stock Exchange opened Monday May 7, 2018 with the traditional bell rung by San Antonio's **Mark Watson III**, president and CEO of [Argo Group International Holdings](#), a specialty insurance underwriter with offices downtown and around the world. Bermuda-based Argo Group, which has its U.S. headquarters in San Antonio, announced April 23 that it was transferring the listing of its shares to the NYSE from the NASDAQ Global Select Market. On Monday, Argo's **ticker symbol changed** from AGII to ARGO.

The Swedish Club announces P&I premium discount

Following the Swedish Club Board meeting in Shanghai on 23rd March 2018, the club's board has announced a 5 percent P&I premium discount to the 2018/2019 policy year estimated total call for current P&I members. This follows the announcement of an expected 104 percent combined ratio and investment returns of 7.7 percent, which produced an overall surplus of USD 22.7 million, or USD 18.8 million after the P&I discount, for the 2017/ 2018 policy year. (Source: Aon)



Wu Xiaohui

Anbang Insurance Group, which had gained a reputation for ambitiously expanding into hotels, real estate and insurance. (Source: IB America)

Zurich North America names Brian Benjamin to lead Management Solutions Group

Brian Benjamin, a longtime insurance executive with extensive experience in professional liability lines, has joined [Zurich North America](#) as Head of Management Solutions. Benjamin will be accountable for the direction, management and performance of the Management Solutions Group (MSG) unit, which is part of Specialty Products in North America Commercial Insurance. He will report to **Brian Winters**, Head of Specialty Products, Zurich North America Commercial Insurance. He will also have global responsibilities for financial lines, reporting to **Jim Shea**, Zurich Global Head of Commercial Insurance, in this capacity. Zurich's Management Solutions Group provides solutions that help customers mitigate their risk in areas such as management liability, employment practices liability, healthcare, fiduciary and crime. The Specialty Errors and Omissions (E&O) unit is also a part of MSG and includes professional liability E&O, employed lawyers and security and privacy, as well as captive life insurance agents.

Brian Benjamin



Karl Hennessy

**Worldwide Facilities Completes Acquisition of The Sullivan Group**

[Worldwide Facilities](#), a national insurance

Agent-Broker-Consultant Review

RIMS is moving

The Risk & Insurance Management Society ([RIMS](#)) is moving to **1407 Broadway, 29th Floor New York, NY 10018** starting at 12:00pm (eastern time) on Thursday May 31st. RIMS will close the office and suspend its servers as it physically moves its new space. Please note, during this time the entire website and member community will be unavailable. This includes its Risk Knowledge library, Opis, the RIMStore, membership applications and updates, the RIMS-CRMP and all educational courses and events. Registration for the RIMS Canada Conference, the NextGen Forum, the Cyber Forum, the Legislative Summit and the ERM Conference will also be unavailable during this time. The systems will be back up and running no later than Monday, June 4th. All contact info remains as before.

Aon Creates New Carrier Solutions Group

Aon announced the appointment of **Karl Hennessy** as CEO of the firm's newly created Carrier Solutions group. The newly formed group will

support and grow Aon's proprietary network of Managing General Agents (MGAs) and Managing General Underwriters (MGUs) to better deliver innovative products, streamline transaction processes and provide access to new and diverse sources of risk capital. Hennessy will work with carriers as well as broking leaders and reinsurance colleagues around the world to further develop and execute the global strategy for MGAs and MGUs. He brings more than 25 years of global insurance market experience and most recently served as President of Aon Broking.

wholesale broker and managing general agent, announced that it has completed the acquisition of The Sullivan Group ([Gerald J. Sullivan & Associates, Inc.](#)), a national specialty intermediary. Formed in 1981, Sullivan is an insurance program manager, contract binding authority manager and wholesale broker offering its products and services nationally through retail insurance agents and brokers. Sullivan has been dedicated to providing retail producers the best possible service, professionalism and expertise, based on strong, lasting relationships with insurance companies and retail producers. **Jerry Sullivan**, Chairman of Sullivan, is being retained as a consultant / Non-Executive Director to Worldwide Facilities. **Hank Haldeman**, President of Sullivan, joins Worldwide Facilities as Senior Executive Vice President and will continue to lead the Sullivan programs divisions as well as assume corporate responsibilities at Worldwide Facilities. **Kevin Davis**, President of Kevin Davis Insurance Services ([KDIS](#)) joins as Executive Vice President and will continue to lead the KDIS division.

AJ Gallagher Acquires Ohio Agency

[Arthur J. Gallagher](#) has announced that it has acquired Ohio-based A.J. Amer Agency. Founded in 1916, A.J. Amer Agency is a retail property and casualty agency and employee benefit consultant. It offers coverage to businesses and individuals throughout northeast Ohio. **Hamilton Amer**, **Charles Tennent** and their team will continue to operate from their current location.

They will report to **Cindy LaMantia**, president of Gallagher's Great Lakes employee benefits consulting and brokerage operations.

People

Aon Appoints Eric Andersen and Michael O'Connor as Co-Presidents of the Firm

[Aon plc](#) announced the appointments of **Eric Andersen**, Chief Executive Officer of Aon Benfield, and **Michael O'Connor**, Chief Executive Officer of Aon Risk Solutions, as Co-Presidents of the firm, effective immediately. As co-presidents, O'Connor and Andersen will continue to report to Aon's Chief Executive Officer, **Greg Case**, whose contract was recently extended by the Board of Directors until April of 2023. Aon also announced it will retire the firm's remaining business unit brands – **Aon Risk Solutions** and **Aon Benfield**, which follows the retirement of the Aon Hewitt business unit brand in 2017 – and create an integrated global Operating Committee, co-led by Andersen and O'Connor. Both moves are designed to increase the rate of innovation across the firm and make it easier for colleagues to work together to bring the best of Aon to clients. Aon previously announced a single P&L structure, which is part of an ongoing effort to increase colleague connectivity and accelerate reinvestment in innovation that serves clients. Aon's global CFO **Christa Davies**, whose contract was also recently extended by the Board of Directors until April of 2023, is overseeing this effort.



Gerald J. Sullivan



Hank Haldeman

Recently Published

Aon's annual Terrorism and Political Risk Maps now available

Blockades, tourist targets and world of greater uncertainty – See it all [HERE](#)

Insurance 2030 – The impact of AI on the future of insurance

[McKinsey & Company](#) recently published this article that declares the industry is on the verge of a seismic, tech-driven shift. A focus on four areas can position carriers to embrace this change. McKinsey lists four major technology drivers likely to impact the insurance industry in ways that will change claims processing, underwriting, risk management and many other high cost functions inherent today. It is highly likely that the insurance industry will be impacted but more likely it will be used to reduce the high cost of staff (actuaries, underwriters, claims processing, etc.) Read [HERE](#)



Distracted driving

Background on distracted driving

Activities that take drivers' attention off the road, including talking or texting on mobile devices, eating, conversing with passengers and other distractions, are a major safety threat. The use of mobile phones and other electronic devices while driving has emerged as one of the leading causes of distracted driving related crashes. However, research shows that using a cellphone when driving is just one of many types of distracted driving that may lead to crashes and near crashes. Read the I.I.I.'s take on distracted driving [HERE](#)

Commercial insurance pricing increased in Q1 2018

[Marsh](#) released its [Global Insurance Market Index](#) for the first quarter of 2018. Highlights include:

- Following four-and-a-half years of price decreases, global commercial insurance prices rose, on average, for the second consecutive quarter. This was largely driven by property insurance pricing, which continued to be affected by 2017 catastrophe losses and increases in financial and professional lines.
- Overall, the market remained stable with first quarter prices increasing on average by nearly 1 percent.
- Globally, property insurance pricing increased nearly 3 percent on average. Financial and professional lines pricing increased approximately 2 percent on average in the quarter, driven by increases in the UK, Latin America, and Australia. Casualty pricing declined by nearly 2 percent on average.
- Most regions showed either a moderate increase in pricing in the first quarter, or a lessening of the pace of decrease. The one exception was Asia, which had a greater decrease compared to the previous quarter.

A M Best TV: Risk Panel: *Cyber Is Growing Into the Risk That Connects Them All*

Insurers and analysts in a panel organized by A.M. BestTV said more insurers are becoming aware of, and are asking for, broader coverage for the many forms of loss that can be triggered when an organization's network is compromised. Click [HERE](#) to view video (14:45) and hear experts from Aon, Marsh and others discuss Europe's General Data Protection Regulation (GDPR).

IRL Note: "Note to the bureaucrats who invented GDPR - nobody is going to complete all of the consent forms we are being deluged with. One thing that is perfectly clear is that most organisations and companies haven't a clue what it is about - how else can you begin to explain the huge variation

in forms we are all being asked to complete. However well intentioned, it is obviously a very badly written law if it produces such widespread confusion." ~ David Worsfold, UK-based Worsfold media

Aon's short video take on the GDPR [HERE](#)

The EU has introduced strict new measures to protect its citizens by enforcing rules for any organization globally handling the personal data of EU individuals. The GDPR went into effect on May 25, 2018. Key actions that organizations need to consider:

- Understand where and how they use and store European personal data
- Assess their third parties' personal data security standards
- Be prepared to report personal data breaches within 72 hours
- Adhere to new duties for data processors & data subjects

Note: Failure to comply may result in enforcement action, including fines of up to €20 million or 4 percent of your organization's annual worldwide revenue.

Clements Worldwide Risk Index 2018 published

[Clements Worldwide](#), a leading provider of international insurance solutions, produces the *Clements Worldwide Risk Index* once a year in an effort to gather top concerns from both our clients and like-minded international organizations on the topic of global risk. This information provides a barometer for risk managers to validate current thinking on institutional risk, including top concerns, categories of loss, and levels of preparation for different risk types. The 5th edition of the *Clements Worldwide Risk Index* indicates that there is *an increase in risks associated with management liability losses and a shifting political environment*. To access the full *Clements Worldwide Risk Index* 2018 edition you will need to give them your name and email [HERE](#).

Global Briefs



China – Willis Towers Watson first foreign broker to receive full license in China

The China Banking and Insurance Regulatory Commission (CBIRC) granted U.K.-based insurance broker Willis Towers Watson (WTW) a full license to conduct business across all insurance lines, Asia Insurance Review reported. Willis Towers Watson is the first foreign broker to receive a full license to operate in China.

China – Online insurance premiums soar 31% in 1Q 2018

In a sign of the times, China's [online property insurance premiums](#) increased substantially in the first quarter of 2018, reversing a slight decline last year, official data show. Premium income from online property insurance sales jumped by 30.9 percent year on year to CNY14.46 billion (\$2.27 billion) in the first three months, reports the Xinhua News Agency citing data from the [Insurance Association of China](#). Auto insurance accounted for 58.16 percent of the total and grew by 13.17 percent, while premiums from non-auto insurance sales online surged by 41.84 percent. Accident and health insurance and return shipping insurance were among the most popular products. [More consumers bought insurance products via](#)

[mobile terminals such as apps and third-party platforms, rather than insurers' websites.](#)

Hong Kong – Insurance regulator goes on hiring spree

Since its establishment in June 2017 the new regulatory body [[Insurance Authority \(IA\) of Hong Kong](#)] has already recruited 50 staff but [needs at least 80 more](#) to bring it up to strength and cope with the increasing demands it faces across licensing, regulation and disciplinary work. The strengthening of the insurance regulatory regime is central to the efforts of Hong Kong to further establish its brand and reputation as a leader in the industry in Asia. The new recruits will also help IA with its three main areas of focus:

- Implementing the new direct licensing regime for insurance intermediaries that is due to take effect by mid-2019
- Working with industry stakeholders in helping implement the new policyholders' protection scheme
- Developing the new risk-based capital regime for Hong Kong

India – Lack of say deters foreign investors from insurance market

Foreign insurance companies from Asia, Canada and Europe are said to be hesitant about entering the Indian market three years after the insurance law was amended to allow a higher foreign investment limit in insurance companies in the country. Foreign investors are reportedly deterred by a requirement for Indian management control for all domestic insurance companies. The Insurance Laws (Amendment Bill) 2015 was passed in March 2015, [increasing the foreign direct investment ceiling in an insurance company from 26 percent to 49 percent](#). But *there is a caveat* that insurance



companies in India must have Indian management control. Soon after the Insurance Act was amended in 2015, there were reports of how the Indian insurance market would receive at least millions in funds over the next six to eight months from foreign insurers seeking to set up ventures in the country. Reports were that two insurers from South East Asia, one from Canada and two from Europe were leading the queue in 2015. So far, none of them has set foot in the Indian market.

Asia Insurance Review

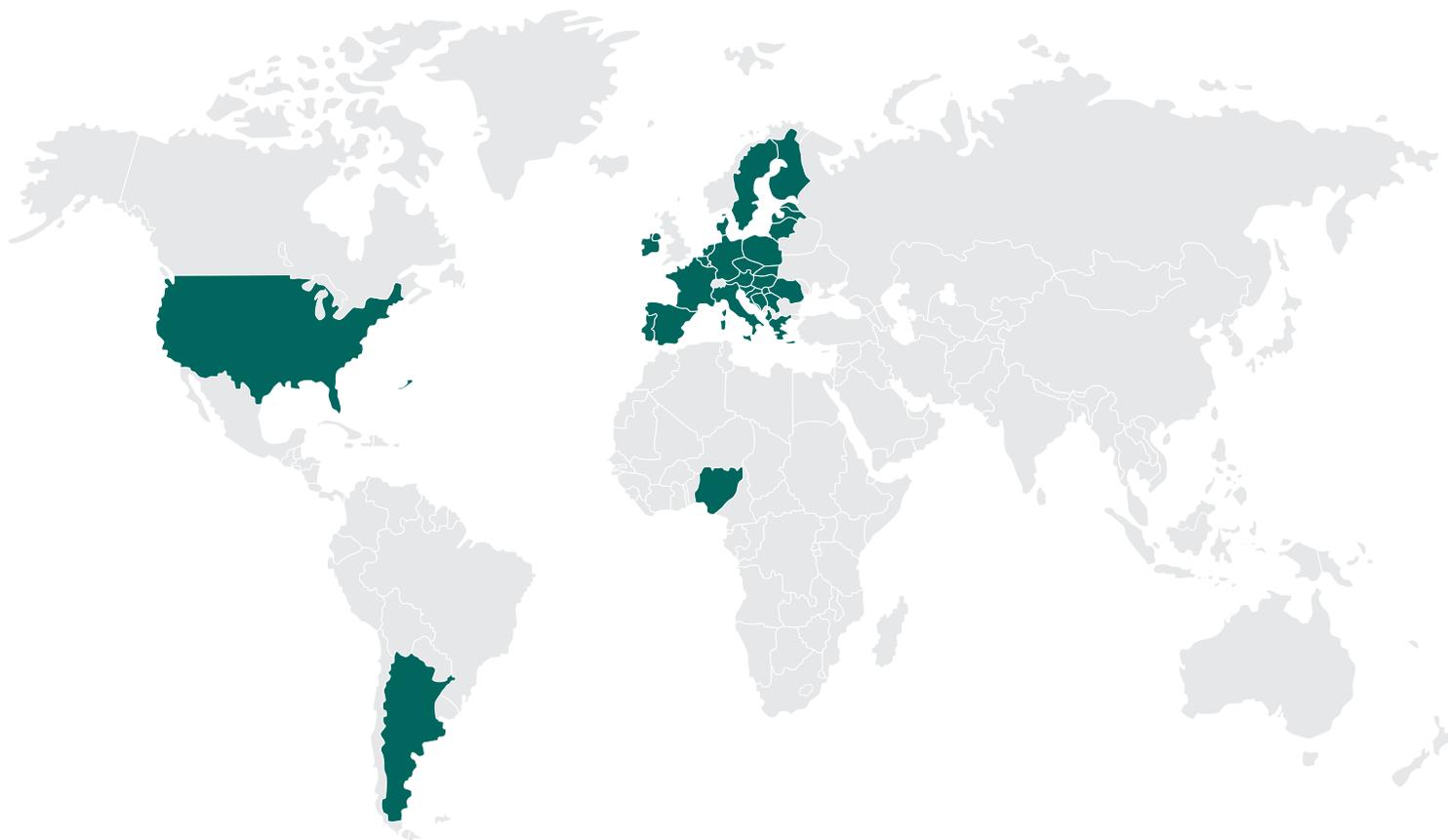
Note: From the editor's large collection of useless currencies

Venezuela – Inflation to hit 13,000% in 2018

Not since the economic turmoil of the early 1980s (specifically 1982/3) has such havoc reigned in the country. With inflation that has already hit 13,000 percent this year, and an economic contraction that could reach 9.2 percent, it is imperative that local property values be updated and regularly adjusted due to the hyperinflation. While this is shutting the barn door after the horses have already escaped, political risk (nationalization, currency inconvertibility etc.) and trade credit insurance would have been a prudent buy. On May 15, 2018 Kellogg's joined other international companies that have left Venezuela and closed down its operations in Venezuela.



WORLD NEWS



Africa

NIGERIA

Allianz Group Acquires 8% Stake in African Reinsurance Corporation (Africa Re)

Allianz sourced

- Africa Re and Allianz aim to continue supporting the economic development of Africa

- Africa Re is the premier reinsurer in Africa with a strong financial position and large commercial network on the African continent
- Transaction makes Allianz one of the largest shareholders of Africa Re
- The investment is another step by Allianz to increase its presence in fast-growing African markets

Allianz Group signed an agreement on May 30, 2018 to acquire 8 percent in Africa's leading reinsurer [Africa Re](#). Under the terms of the agreement, the total cash consideration payable at closing would amount to USD 81 million (or €69 million).



Photo from signing event © Allianz SE

First row (left to right):

Corneille Karekezi, CEO Africa Re
Hassan Boubrik, Chairman of the Board Africa Re
Oliver Bäte, Chairman of the Board of Management of Allianz SE (CEO)
Niran Peiris, Member of the Board of Management of Allianz SE, Global Insurance Lines & Anglo Markets, Reinsurance, Middle East, Africa

Second row (left to right)

Hicham Raissi, Head of Business Division Africa Allianz SE
Coenraad Vrolijk, CEO Allianz Africa
Delphine Traore Maidou, COO Allianz Africa
Mady Kaba, Corporate Secretary Africa Re
Lars Pilz, Group M&A Allianz SE
Nandini Wilcke, Head of Legal Allianz Africa

Niran Peiris, Member of the Board of Management of Allianz SE, responsible for Global Insurance Lines & Anglo Markets, Reinsurance, Middle East, Africa, said of the transaction, “Having identified Africa as one of the future growth markets, we continue to invest step-by-step in the continent. This investment in Africa Re is a major milestone for Allianz’s long-term growth strategy in Africa.”

Through cooperation and innovation in various areas, Allianz and Africa Re aim to jointly support insurance penetration in Africa and the economic development of the continent.

“This partnership with Allianz Group, a reliable and strong partner with a global network, particularly in agriculture and the emerging field of cyber insurance, will definitely strengthen Africa Re’s capacity to offer its clients services of higher quality,” Corneille Karekezi, Africa Re’s Group Manag-

ing Director and Chief Executive Officer, said.

The partnership, built on mutual business support, will enable co-operation in areas of reinsurance, business development, sharing of best practices, risk management tools, as well as training and technical support, especially in emerging areas and underserved markets.

Africa Re, after 42 years operational experience on the continent, has in-depth business knowledge of the African markets and an expansive network across both regions and linguistic communities, allowing it unmatched proximity to its clients.

“This partnership with Africa Re is a strategically complementary one for both companies, as well as being beneficial to our clients on the continent, who can rely on the support, experience, and cooperation of both Allianz and Africa Re,” Niran Peiris said.



Americas

BERMUDA



Pioneering insurance protection for an autonomous world

By Nancy Bewlay, Global Chief Underwriting Officer, Casualty, XL Catlin

Is society ready for living in an autonomous world? Ready or not, it’s here. In fact, it’s been with us for a while. The better question for those of us in the insurance industry to ask is whether we’re ready for it. While society is getting acquainted with the advantages and the risks of piloting and adopting autonomy and its implications, we need to be ready to address the risks and liabilities associated with it.

As with all technological advances, before products and services hit the consumer market, they operate in some capacity in industry. The same is true with autonomous machines, artificial intelligence and robotic technology, which is already in play to varying degrees in logistics, construction, agriculture, professional services, manufacturing transportation—and of course the most widely talked about, self-driving vehicles. The rapid advancement of technology has been so pervasive that, in 2017, the North American Industry Classification System (NAICS) updated the industry classifications to incorporate the impact of industries engaged in the production of advanced technologies. So not ‘new’; just new to us.

Shifts and challenges

There’s no question that our clients are pioneering the use of advanced technologies such as robotics and autonomous machines. But there’s no denying that it presents a shift in liability and a challenge to our legal systems, which have historically focused on causation - what caused a third party injury, business interruption, etc., to occur and who is responsible.

Until recent times, machines have typically been built for a specific rea-

son with a defined deliverable - a tool for a person to use. The machine was a “dumb machine” that could not learn from itself or from other machines. It had no level of personal accountability because it was incapable of any type of autonomous action. When there was a defect, it could generally be tracked back to either defective programming or incorrect operation of the machine. This allowed for an easier identification of liability when a machine malfunctioned.

Today’s “smart” or autonomous machines have the capability to learn from themselves or even other machines. The more autonomous they become, they act less upon preset instructions and more on a set of rules that may never have anticipated the specific circumstances under which the machine might actually be operating. This makes it more difficult to attribute their behavior to the human programming and design or to what the machine learns on its own.

Autonomous machines will challenge existing models of liability. Most of the world’s legal systems focus on causation when determining who is responsible for a loss. It will be increasingly difficult to determine if the design of the machine was responsible for the cause of loss or if the machine itself was the cause. This creates a gray area of liability, challenging our traditional coverages.

When we look at how the law interprets it, our clients who are working to advance an autonomous society, we see clearly the potential for elevated risk and runaway legal defense costs particularly from casualty and professional liability because they are intertwined in the manufacturing of the autonomous machine.

Groundbreaking protection

This is a new area for risk—and one that we, at XL Catlin, have been looking at closely.

Our exclusive, global multi-year partnership with [Oxbotica](#) (one of

the world's leading autonomy companies) and the DRIVEN consortium uniquely positions us to gain deeper insight and truly pioneer the evolution of insurance and new capabilities to help innovators, businesses and individuals thrive in an autonomous world.

Just this April, [DRIVEN](#) successfully completed [its first public demonstration of the capabilities its fleet of autonomous vehicles has to interact and 'talk' to each other](#). In the future, they will share data and information back and forth so each vehicle is able to plot more effective routes, avoid potential hazards, and anticipate conditions more effectively. The trials now taking place in and around Oxford – and ultimately on roads and inner city environments between Oxford and London – will also give us the opportunity to create a risk assessment tool to enable the user of the autonomous vehicle to make decisions about what level of autonomy and speed is appropriate for a wide set of driving conditions.

Oxbotica, along with the UK government which is offering grant money to stimulate development of new autonomous technologies, are asking all the right questions. What are the liabilities? What do we need to be thinking about as a government? What risks do we need to worry about controlling? Where's the separation of public and private data amassed by these 'machines'? This kind of collaboration, development and experimentation is both exciting and tells us it's where we need to be as an organization.

And in fact we are already insuring an autonomous pilot project currently underway at London's Gatwick Airport. The pilot is testing a fleet of autonomous vehicles to transport staff around the airport's airfields. Currently, no passengers are involved in the pilot. The pilot is intended to demonstrate that autonomous vehicles can work safely in a complex environment, like an airport, where a wide range of different vehicle types operate in all directions, on and off road systems.

Moving Changes

We truly believe that, not only will autonomous technology fundamentally change how the world will move people and goods over the next 20 years; it's going to improve safety, increase mobility and transform lives, businesses and public services. Just think of the advantages:

- It's estimated that there were 40,000 traffic deaths in 2017 due to vehicular crashes at the hands of human operators. This statistic -could be drastically reduced with AVs and, what's more, we can actually extend mobility to a segment of our society who currently cannot drive because of a disability.
- In 2016, OSHA reports there were 4,693 worker fatalities, and 2.9 million nonfatal private industrial and manufacturing workplace injuries and illnesses. Consider the potential of the safety improvements autonomy can bring to high hazard activities; For instance, online retailers and supermarkets are increasingly turning to more automated, "dark" warehouses, a term used for a storage facility that does not require the use of lighting for normal operation. Cold storage or freezer warehouses, such as those used in the food and beverage or pharmaceutical sectors, are particularly suitable to 'go dark,' requiring less people to work in adverse conditions like sub-zero temperatures. ([Read more about dark warehouses on Fast Fast Forward](#).)
- Understandably there is some skepticism as to what this will mean to the workforce and jobs. Autonomy will redistribute and redefine the types of jobs and skills needed, and challenge us all to create new business models and provide support to reskill workers. [A 2017 study](#) by Intel and analyst firm Strategy Analytics forecasted that the new wave of autonomous technology could add up to \$7 trillion in additional economic activity by 2050. Likewise, NAICS' updated classifications acknowledge the importance of these electronic industries, their rapid growth over the past several decades, and the likelihood that these industries will, in the future, become even more important in the economies of the US, Canada and Mexico.

Changing how the world moves

Undoubtedly, autonomous robotic technology, and autonomous vehicles in particular, will fundamentally change how the world moves people and goods over the next 20 years. And the potential is big. Autonomy has the potential to greatly improve safety, increase mobility and transform lives, businesses and public services.

Because we believe so strongly in the societal good of advancing autonomy, we, at XL Catlin, challenged ourselves to develop an insurance solution to support the greater adoption of autonomous technologies, particularly in insuring pilot projects that are helping pioneer autonomous technology in business and industry.

We have learned, working with some of these early adopters, that while there are no two similar uses of autonomy and each requires a tailor made approach, there is a real need for a structured solution spanning our expertise across multiple classes of insurance. As a result, we've launched an initiative to provide tailored, multi-line coverage for the risks associated with designing, developing, testing and implementing autonomous systems.

Given our new insights into autonomy gathered from our partnership with Oxbotica and our multiline insurance products, XL Catlin is well positioned to take on the risk of the autonomous revolution and ready to be the market leader for insuring autonomy. As more of our clients start incorporating autonomous technologies into their operations, in one form or another, we'll be ready.

For autonomy to advance there has to be companies willing to take on the risks of autonomous technologies, especially as they evolve. It's an assumption of risk faced with challenges about conventional concepts about liability and causation.

THE UNITED STATES

The #MeToo Movement: The Impact of Employment Practices Liability and Directors' and Officers' Liability Insurance

By Carrie O'Neil, SVP at JLT Specialty USA

This past year the media has captured global attention around the #MeToo movement, which is a powerful grass roots campaign that has put a spotlight on the prevalence of sexual assault and sexual harassment and encourages all to speak out against this behavior.

The #MeToo movement caught fire in 2017 when allegations of rampant sexual misconduct in Hollywood surfaced. As celebrities bravely began to divulge their personal exposure to sexual assault and sexual harassment in the workplace, victims throughout the country began telling their stories too. Stories detailing sexual harassment and/or assault by high profile executives have been published in leading media outlets such as the New York Times and Wall Street Journal. The public exposure of egregious sexual misconduct in the workplace has, in turn, resulted in legal action being brought against the executives and the companies for which they work. As the #MeToo movement matures, it is critical for management of impacted companies to understand what types of insurance coverage may be available for them individually, and for the company itself.

Claims brought by victims of sexual harassment in the workplace typically trigger a company's Employment Practices Liability insurance (EPLI) policy, and such policy should be reviewed and noticed if appropriate. If the claim is brought against the company and/or an individual, it is important to not only review the company's EPLI policy but also its Directors' and Officers' Liability (D&O) policy in order to determine if notice is required.

Public company D&O policies provide, among other things, coverage for any actual or alleged wrongful act of an insured person. In most D&O policies, the "wrongful act" of an individual insured is defined broadly enough to include alleged sexual harassment. If, according to its terms and

conditions, a D&O policy is triggered as a result of a claim against an executive for sexual harassment, it should be noticed accordingly. In this type of claim, any available D&O coverage will sit excess of the employment practices coverage.

In the wake of the #MeToo movement, companies and their executives are not only facing direct claims for sexual harassment but also securities class actions and derivative actions are being filed. The patterns leading to these claims typically begin with media outlets exposing rampant sexual misconduct in a given public company which results in the accused executive being either fired or providing a resignation. In the end, the company experiences the loss of talent, business and shareholder value.

In order to preserve the right to tap insurance coverage for both direct claims for sexual harassment and follow-on D&O claims, companies benefit from robust internal reporting of sexual misconduct allegations. In the event an allegation is made the counsel for the company should review all insurance coverage available to see if a claim (as defined in such policy) has been made and should therefore be reported to the insurer.

While any allegation of sexual harassment against an executive is very sensitive in nature, if the allegation constitutes a claim (as defined in the D&O policy), failure to notice it to the insurers can have disastrous consequences. Here is why. D&O policies are typically written on a claim made and reported basis which simply means that if a claim is made against an insured for a wrongful act, such claim must be noticed during the policy period. If notice is not given in the proscribed time period, the insurer can, in most jurisdictions, deny the claim *and any future claim which is interrelated thereto*. In the event a claim is made against an executive for sexual harassment, and such claim triggers the D&O policy but is not noticed to such policy, coverage for any follow-on securities class action and/or derivative action brought against other executives and the company itself may be denied because it is an interrelated claim to a claim (the underlying sexual harassment claim against the executive) that was not noticed in a timely manner.

One can easily imagine scenarios in which, despite all efforts, a claim against an executive is not disclosed to a D&O insurer. Policyholder advocates are working with public company D&O insurers to fashion contractual solutions that will help secure coverage for a securities claim that is deemed interrelated to an employment claim against an executive that was not properly noticed to the D&O policy. The solutions offered by insurers to date may not be perfect, however the #MeToo movement has brought critical attention to these claims and insurers are taking steps in the right direction to improve solutions.

Forensic Accounting: Why it's Vital and the Role it Plays in the Insurance World

By *Rica de los Reyes Herrera, RGL Forensics*

What do lawyers, doctors and forensic accountants have in common? All three can specialize in one or more different areas in their respective fields.

For example, an attorney can specialize in maritime, criminal, personal injury or tax law. A doctor can specialize in cardiology, neurology, pediatrics, or plastic surgery.

The same is true for a forensic accountant. A forensic accountant can specialize in one or more different fields of forensic accounting, such as criminal investigations, shareholder and partnership disputes, personal injury/wrongful death matters, matrimonial disputes, business/employee fraud, and insurance claims such as business interruption.

So what is the role of a forensic accountant in an insurance claim?

Many insurance claims can be reviewed and settled by the insurance

adjuster. However, when the claim is complex, or has multiple facets of accounting that overlay multiple areas of insurance coverage, the adjuster may look to an expert for assistance, such as a forensic accountant.

Forensic accountants provide an independent and objective analysis of an economic loss. And they don't take things at face value. The forensic accountant will ask the questions who, what, when, why and how? They look at the business from many different angles, combining both accounting and investigative skills in their approach to identify the facts and quantify the loss.

Throughout the process, forensic accounting consultants work closely with the claimant and the adjuster. They try to set expectations by discussing the forensic accountant's role, outlining the review process and discussing the types of financial documents that may be available for review. Sometimes the forensic accountant will also work with other consultants retained by the adjuster, such as construction consultants or forensic engineers, to help ensure that claim components and work efforts are not duplicated.

Oftentimes "customized reports" or summaries are prepared specifically to support the claim. The forensic accountant will perform due diligence on the data to confirm whether the information that is represented is accurate and the application of the data is appropriate to the purpose of the loss analysis. Due diligence often includes testing back to source documents and cross referencing to third party information, such as tax returns, audited financial statements, bank statements, vendor/customer contracts, etc.

In addition to considering financial documents the forensic accountant looks beyond the numbers. This may involve researching market trends, industry information, and also conducting interviews with the business owner, its employees, and sometimes vendors and customers. They consider the business' history and any special circumstances that could affect the loss measurement. If factors are identified that may affect the loss measurement these factors are communicated to the adjuster which allows the adjuster to address any issues in a timely manner.

Most insurance claims also necessarily include certain assumptions about future events, such as the level of sales growth or operational costs. The forensic accountant will also evaluate these assumptions and challenge those that are not realistic or based in unrealistic expectations.

When a lawyer or doctor explains a complex matter to their client or patient, they rely on their expertise to communicate the information in a way their audience can easily understand. The same is true for a forensic accountant. When a claim is complicated, forensic accountants draw upon their specialties to present the facts in a concise, easy to understand manner so that all parties can make an informed decision.

Rate x (the importance of accurate insurable) Value

By *Mark Crites, StempleCrites LLC*

For the Insured, it's more than just a Premium Calculation

Simplicity states that insurance premiums for commercial properties are set by this unassuming equation: $R \times V = \text{Premium}$.

R, Rate, a numerical value, which correlates to the perceived level of risk inherent to a specific property. V, Value, is the replacement cost (reported by the insured) of the property (building and its contents) being insured.

The level of risk is a measure (and modeled) based on key factors, i.e. COPE [Construction, Occupancy, Protection, Exposure] data. COPE data is easy to figure out and report, at least the quantitative data anyway.

1. PML – Probable Maximum Loss

2. MFL – Maximum Foreseeable Loss

3. RMS risklink / AIR Worldwide – most prevalent natural catastrophe models used within the industry

The other side of the equation is the reported Value. The Value part of the equation seems to be generally neglected, over simplified or its importance discounted. Why? No matter the COPE, which does not generally vary, Value is constantly changing. If the Value reported is too high (over insured) money is wasted in excess premium payments. Reported too low (under insured) can lead to the insured being out of pocket as a result of uninsured losses, not to mention future higher rates due to under reporting.

Either way, inaccurate or even the perception of unvetted Values reporting results in lower confidence in the underwriting process – producing vetted Values reduces uncertainty, allowing underwriters to price and provide coverage terms at their most competitive levels.

Hence, other than spending capital on risk protection systems, Value is the most cost effective and critical factor allowing you and your broker to procure the optimal property coverage and priced in the most advantageous way.

Think of all the decisions made based on Value.

- When an engineer estimates a PML¹, MFL², they multiply the likelihood of loss times the report Value
- When the underwriter models (RMS risklink / AIR Worldwide³), the output is based on how and what was represented in the Values, by building, by content, by location (along with appropriate COPE)
- When deciding on appropriate limits and sub-limits, everyone is looking to the Values
- When deciding if additional coverages are needed and their expense, the Value of specialties are needed (e.g. certain land improvements, underground assets like tunnels, specialty items like towers, shared resources, etc.) or conversely can be / should be excluded.
- When self-insuring, the money “set aside” for a loss may be influenced by the Values (need to do financial modeling here) as well as traditional loss estimate
- When analyzing which locations are “most important”, Value can tell you
- Appropriate allocation of premiums to business units/location
- When marketing property, every potential insurer is relying on the Values presented to understand the whole risk
- When deciding on blanket coverage, Values for the largest location(s) is reviewed
- After a loss reported, Value is the benchmark to which reimbursement is ultimately compared

The Value component impacts many different aspects of policy coverage and risk management. How far off an insured is on its Values is directionally proportional to how far off they are in business and buying decisions.

Rate X Value? Yes, the right V is important.

Supreme Court Rules IPRs Are Constitutional

By James R. Higgins, Jr. and Robert W. Fletcher

But Review of Fewer Than All Challenged Claims Is Improper

In 2012, Congress passed the American Invents Act (AIA), signed into law September 12, 2012 and effective March 16, 2013. One of the most significant parts of the AIA is a procedure to challenge issued patents through the use of Inter Partes Review (IPR) before the Patent Trial & Appeal Board (PTAB), an administrative (not judicial) arm of the U.S. Patent & Trademark Office (PTO) Agency.

Accused infringers rapidly adopted the IPR procedure as an effective tactic to respond to claims of infringement by patent owners. Early IPR results were startling: the vast majority (over 75%) of IPR requests were granted, and over 80 percent of challenged claims were invalidated by the PTAB. Patent owners ingloriously labeled the PTAB as the “Patent Death Squad.” Patent challengers countered that the invalidated claims should never have been issued in the first place.

Not surprisingly, given these statistics, IPR filings surged and soon overwhelmed the PTAB’s ability to efficiently – and statutorily (an IPR must be decided within one year) – handle them. In response, the PTAB created and instituted a policy of “partial” reviews, where only the strongest of invalidity arguments in an IPR Petition were accepted for review.

Challenges to both the PTAB’s administrative jurisdiction and the PTAB’s “partial review” practice were mounted. Patent owners argued that patents have long been treated as “property” under the law, and invalidating a patent through an IPR is the same as “taking” it. But only a court of law – with a jury if requested – has Constitutional authority to “take” property, so the PTAB does not have the Constitutional authority to “take” a patent through the IPR procedure. For their part, patent challengers argued that the PTAB’s partial review policy violated the AIA because that statute by its terms required the PTAB to review all challenged claims.

Both challenges wound their way through the courts, culminating on April 24, 2018 when the Supreme Court decided both challenges.

In *Oil States Energy Services v. Greene’s Energy Group*, the Supreme Court ruled 7-2 that the PTAB as an administrative agency authorized by Article I of the U.S. Constitution (as opposed to a court of law authorized by Article III) does have the Constitutional authority to review and even invalidate a patent through the IPR procedure. The Supreme Court reasoned that a patent is “public property” created by an act of a properly authorized agency of the United States Government (i.e., the PTO). The “public property” holding was issued despite prior Supreme Court cases holding that patent rights were “private property of the patentee.” However, the Supreme Court ruled those prior cases did not control because they were decided at a time when the detailed administrative review provisions were not part of the patent statute, but that is now changed under the AIA.

Because a patent is issued as public – not private – property, the grant of a patent “confer[s] only the rights that [the AIA] statute prescribes⁴.” As such, under AIA Congress has “significant latitude to assign adjudication ... to entities other than Article III courts.” Consequently, a granted patent right is subject to the administrative review requirements of the AIA, including IPRs. In making this distinction, the Court stated that administrative review of a “public property” patent is not a “taking” of that patent. “Taking” a patent by the government must still be adjudicated by and in an Article III court.

The dissent questioned the majority’s distinction that patents were “public property” and preferred to hold to the statement in prior cases that patents are “private property of the patentee.”

The Supreme Court took pains to state that its ruling in *Oil States* was a narrow one, focusing only on the specific jurisdictional challenges raised.

In *SAS Institute v. Iancu*⁵, the Supreme Court ruled 5-4 that the PTAB’s policy of “partial” institution of IPRs violates the express terms of the AIA, and is therefore unconstitutional.

As mentioned, the PTO/PTAB adopted a policy allowing for partial review. In SAS, the Petitioner challenged all 16 claims of the patent, but the PTAB relied on its partial review policy and instituted review of only claims 1 and 3-10. In its Final Written Decision, the PTAB invalidated

4. All quotes are from the actual Supreme Court Opinions discussed in this article.

5. Adrei Iancu is the current Director of the PTO, confirmed by the Senate February 5, 2018.

claims 1, 3 and 5-10; claim 4 was held patentable. Nothing was said about claims 11-16. SAS, the patent challenger sought Supreme Court review of the PTAB's partial review policy.

The Supreme Court focused on the particular language of the AIA, noting that the actual statutory language recited: “[i]f an inter partes review is instituted . . . , the [PTAB] shall issue a final written decision *with respect to the patentability of any patent claim challenged* by the petitioner . . . “. If the PTAB finds there is a reasonable likelihood that just one claim in the challenged patent would be unpatentable after review, “the language [of the AIA] anticipates a regime where a reasonable prospect of success on a single claim justifies review of all.”

The Supreme Court rejected the PTAB's argument that its partial review policy promoted efficiency (which it surely does), stating “[p]olicy arguments are properly addressed to Congress, not this Court.” At the end of the day, the PTAB is an administrative agency that is required to follow the dictates of the statute which gives it its reviewing power. Applying its case law interpreting the Administrative Procedure Act, the Supreme Court held that the PTAB's partial review policy was “not in accordance with law” and/or “in excess of the statutory jurisdiction, authority or limitations” of the AIA. The express language of the AIA requires the PTAB to review “any patent claim challenged by the petitioner”, not just those the PTAB deems worthy of review.

The dissenting justices stated they believed the majority's treatment of the AIA was “wooden” and there was “no cause to believe Congress wanted the Board to spend its time so uselessly.”

So what does this mean for the future? At a minimum, the holdings in *Oil States* and *SAS* express the Supreme Court's acceptance of the concept that “[s]ometimes, bad patents slip through” the PTO. Given that concept, under *Oil States* patent challenges through the IPR process will continue to be processed through the PTAB.

The impact of *SAS* is not so clear. Some speculate that the “no partial review” requirement will make it harder to convince the PTAB to take on a patent challenge if the Petition includes less-than-strong challenges. Others predict that patent challengers will hone their IPR challenges to present only the strongest arguments, and that will mean even more patent claims will be invalidated through the IPR process. The Supreme Court majority opinion itself suggests that a re-write of the AIA statute to permit the PTAB to determine “whether and to what extent” *inter partes* review should be instituted would authorize the “partial review” the PTAB favors. Stay tuned . . .

In all events, the IPR process is here to stay and patent owners need to be prepared for them both cost-wise and strategy-wise. Being prepared cost-wise means devoting significant resources to both mounting and defending an IPR challenge. According to the American Intellectual Property Law Association (AIPLA), the average cost of an IPR in 2016-17 was \$ 334,000 per side. In a prior article in this magazine (IRL April 2016), one author counseled that intellectual property disputes are typically not covered by a Comprehensive General Liability (CGL) policy. Consequently and typically, the cost of defending or prosecuting an IPR would not be covered by normal insurance. However, one way to plan for and deal with such a cost is to arrange for either a Defense Policy or an Abatement Policy through Intellectual Property Insurance Services Corporation (IPISC), as discussed by the other author in another prior IRL article (March, 2016). See www.patentins.com.

Chicago Cubs and Gallagher Announce “Gallagher Way”

Arthur J. Gallagher sourced

Multi-year strategic partnership includes naming rights to “Gallagher Way,” iconic Wrigley Field’s Western Gate, Left Field Bullpen Door and Videoboard Feature sponsoring late inning insurance runs. Gallagher to become Cubs’ official insurance brokerage, benefits and risk management services partner



J. Patrick Gallagher, Jr.

The 2016 World Series Champion Chicago Cubs and the Ricketts family announced a landmark multi-year Legacy Partnership with Gallagher, a global insurance brokerage, risk management and consulting services firm, beginning with the home opening day of the 2018 Chicago Cubs season.

In this new partnership, Gallagher becomes the official insurance brokerage, benefits and risk management services partner of the Chicago Cubs and will have exclusive marketing and sponsorship rights to Ricketts family real estate properties, including Wrigley Field, the adjacent outdoor entertainment plaza, office tower and Hotel Zachary. The deal includes multi-year exclusive naming rights to the entertainment plaza, Wrigley Field's Western Gate, now named “*Gallagher Way*,” the Left Field bullpen door and a videoboard feature sponsoring late inning insurance runs which will gain Gallagher high visibility during select broadcasts.

Formerly called “*The Park at Wrigley*,” Gallagher Way is a key component of the Ricketts' vision to transform the neighborhood into an attractive year-round destination for tourists, residents and Cubs fans. The space is quickly becoming Chicago's new town square with family-friendly programming, a new mixed-retail development, multiple new restaurants with award-winning chefs, and the boutique Hotel Zachary at Gallagher Way which opened in early April.

“My family is thrilled the Chicago Cubs can partner with Gallagher. We admire their 90-year history of business and civic leadership and we share their deep ties to Chicago,” said Chicago Cubs Chairman Tom Ricketts. “Most importantly, we share their commitment to the community. Gallagher's investment will ensure we can offer a great experience to families all year-round—from enjoying game days to ice-skating in the winter. Countless fans, neighbors and visitors to our great city will be warmly greeted in the heart of Wrigleyville's town square now called Gallagher Way.”

“We are excited to participate in this strategic business and marketing partnership with the Chicago Cubs and the Ricketts family,” said J. Patrick Gallagher, Jr., Chairman, President and CEO of Gallagher. “We strongly believe that Gallagher is aligning with a globally-known baseball franchise and brand that shares our values, has a rich heritage, and leads by example with its civic and community investments and philanthropy. Through our partnership with the Chicago Cubs, not only will we be part of the special Wrigley experience and neighborhood, we will have the opportunity to work closely with Chicago Cubs Charities on a variety of projects that benefit community causes across the city and beyond.”

In 2017, through Wrigley Field's Western Gate, now renamed Gallagher Way, close to 700,000 fans and visitors were welcomed to Cubs games, concerts and tours when it was constructed. Sitting in the heart of the North Side of Chicago, Gallagher Way offers a beautiful open-air destination for neighbors, fans and tourists to enjoy. In just its first eight months of being open, nearly 500,000 enjoyed year-round programming at Gallagher Way including movie nights, farmers markets, concerts, a fitness series, watch parties, a Winterland with Christkindlmarkt and ice rink, and more.



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Editors John Salisbury and John Foehl have more than **50 years of combined expertise** in the captive arena.

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Europe

EUROPEAN UNION



Is GDPR's "right to be forgotten" Too Little Too Late?

By Marci De Vries-Todtz

GDPR became enforceable on May 25th. One of the primary tenets is the Right to Be Forgotten (RTBF), otherwise known as the ability for an individual to request the destruction of their records when there is no compelling justification for its continued processing by a company.

In the light of Cambridge Analytica, the RTBF seems like the right move – It feels like consumers should be able to opt out of the relentless hounding by advertisers and politicians, and by extension control all of their records with business entities.

However, RTBF may be too little too late. The kinds of personally identifiable data online RIGHT NOW are so vast and varied that it is possible to locate someone's home address and children's names with a dataset that only includes (for instance) someone's initials, a computerized map of their upper lip and one of their friend's names. GDPR's legislation captures only a few data sets and could be easily sidestepped because the data sets used in the legislation are "so 2016."

The great and horrible truth about personal data is that it doesn't exist in

a magical world with an 'on/off' switch. An individual could, for instance, engage in an RTBF campaign to erase themselves from all companies. But, while these requests are processed, new data would proliferate about them at an even faster rate, sometimes generated and posted online by that person themselves.

Further complicating the matter, in order to engage in RTBF requests, an individual would need to be aware that data had been generated, which in the vast majority of instances, they are not.

We also are waiting to see if RTBF will be misused by consumers attempting to rewrite their personal history by allowing only positive content to be preserved. As a case in point, with social media we see content spoliation coincide with court dates – Plaintiffs often go back into their social media profiles and change the content about their injury to reflect their position. Our company even built software that pulls a full grab of profiles early in the claim in order to highlight this spoliation because this practice is so widespread. This "designer history" practice could have far reaching consequences in our legal and banking (credit score) system.

As consumers edit and fine-tune their total histories, it is inevitable that a counterbalance legislation regarding truth in personal history will be needed. And then round and round we go. It's a digitized version of whack-a-mole, simply sped up by GDPR.



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News Quizzical Answers (page 3)

1.d*; 2.b; 3.b

- According to Bloomberg, inflation hit 13,000 percent this year, and an economic contraction that could reach 9.2 percent.



Of Interest

Ever thought of buying a car from a vending machine?

Well, that day has arrived. Check out The Carvana Car Vending Machine “Vending Fresh Car Daily” at <https://www.carvana.com/vendingmachine>. (NYSE: CVNA)

Notable Quotes

“Whenever we go abroad, people refer to us as Switzerland.”

~ King Mswait III, explaining the renaming of his country eSwatini from Swaziland. The King announced the change during a celebration of his 50th birthday and the 50th anniversary marking its independence from Britain.

“Wherever man goes to dwell, his character goes with him.”

~ African proverb

Did you know?

Reporters Without Borders (RSF)

Since January 2018:

- [29 journalists killed](#)
- [6 citizens journalists killed](#)
- [2 media assistants killed](#)

FARS News Agency

If you want a different look at the news in the Middle East (specifically Iran) go [HERE](#). It's a little twisted but interesting nonetheless.

Words and Definitions *to help insurance professionals*



Wide area damage and business interruption

By Keith Purvis

Natural disasters, such as flooding, earthquake and windstorm, cause damage over wide areas, and this immediately brings to mind loss accumulations. The discussion of “wide area damage” (WAD) in the context of business interruption (BI) insurance, however, centers on the effect of natural disasters on individual enterprises and related coverage issues, rather than on the big picture.

BI in its standard form only covers perils insured in the property policy, and even contingent business interruption for customers and suppliers restricts these to perils agreed for the property policy. Taking widespread flooding as an example, however, we are faced with situations, which we might also call “perils”, that are not relevant for the policyholder’s property policy. For example, the business may not be accessible for weeks or even months – “denial of access” is the technical term for this risk. If the insured object is a hotel, and potential visitors either cannot reach it because of flooding or are afraid to approach it after an earthquake, there is “loss of

attraction”. If the utilities fail to deliver or the authorities close the business because of an epidemic, there is also a BI loss. There is a clear case for extending classical business interruption policies to cover such cases, irrespective of perils in the property policy. There are, however, some issues to consider.

The first of these is the definition of “damage”. Damage in an insurance sense is physical: something must be changed for the worse. It need not be permanent: the damage can be reparable, but the duration must be significant. Is floodwater that prevents access to a business “damage” in the normal sense of the word? How deep must the water be? Must the road itself be damaged, or even swept away? What should the radius of flooding be from the business, and should it be measured by the distance on roads, or as the crow flies? Traditional BI policies are not inflexible. They have an “other circumstances” clause that allows policyholders to bring factors such as market trends into the calculation of gross profit, but WAD induced losses go beyond this, and for these to be covered, customized clauses are needed. Industrial vapor cloud explosions can have similar catastrophic effects and severe windstorms are not unknown, after which a trip to the forest could be a life-threatening experience for quite some time. Do hotels and forester’s lodges in such areas include loss of attraction in their BI covers?

* Keith Purvis for [Versicherungswirtschaft](#) May 2018 (a Presse Internationale des Assurances Member publication)



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~ Patrick G. Ryan, Chairman and CEO, Ryan Specialty Group (RSG)

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